

**INTERNATIONAL COURT OF JUSTICE**

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**CASE CONCERNING  
APPLICATION OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION  
OF THE FINANCING OF TERRORISM AND OF THE INTERNATIONAL CONVENTION  
ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

**(UKRAINE V. RUSSIAN FEDERATION)**

**VOLUME III OF THE ANNEXES  
TO THE MEMORIAL  
SUBMITTED BY UKRAINE**

**12 JUNE 2018**



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# Annex 43

U.N. General Assembly Resolution 68/262, U.N. Doc. A/RES/68/262 (27 March 2014)





# General Assembly

Distr.: General  
1 April 2014

Sixty-eighth session  
Agenda item 33 (b)

## Resolution adopted by the General Assembly on 27 March 2014

[without reference to a Main Committee (A/68/L.39 and Add.1)]

### 68/262. Territorial integrity of Ukraine

*The General Assembly,*

*Reaffirming* the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations,

*Recalling* the obligations of all States under Article 2 of the Charter to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, and to settle their international disputes by peaceful means,

*Recalling also* its resolution 2625 (XXV) of 24 October 1970, in which it approved the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and reaffirming the principles contained therein that the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force, and that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter,

*Recalling further* the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki on 1 August 1975, the Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons (Budapest Memorandum) of 5 December 1994,<sup>1</sup> the Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation of 31 May 1997<sup>2</sup> and the Alma-Ata Declaration of 21 December 1991,

*Stressing* the importance of maintaining the inclusive political dialogue in Ukraine that reflects the diversity of its society and includes representation from all parts of Ukraine,

<sup>1</sup> A/49/765, annex I.

<sup>2</sup> A/52/174, annex I.

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*Welcoming* the continued efforts by the Secretary-General and the Organization for Security and Cooperation in Europe and other international and regional organizations to support de-escalation of the situation with respect to Ukraine,

*Noting* that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014 was not authorized by Ukraine,

1. *Affirms* its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders;

2. *Calls upon* all States to desist and refrain from actions aimed at the partial or total disruption of the national unity and territorial integrity of Ukraine, including any attempts to modify Ukraine's borders through the threat or use of force or other unlawful means;

3. *Urges* all parties to pursue immediately the peaceful resolution of the situation with respect to Ukraine through direct political dialogue, to exercise restraint, to refrain from unilateral actions and inflammatory rhetoric that may increase tensions and to engage fully with international mediation efforts;

4. *Welcomes* the efforts of the United Nations, the Organization for Security and Cooperation in Europe and other international and regional organizations to assist Ukraine in protecting the rights of all persons in Ukraine, including the rights of persons belonging to minorities;

5. *Underscores* that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol;

6. *Calls upon* all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the above-mentioned referendum and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.

*80th plenary meeting  
27 March 2014*



# Annex 44

OHCHR, Report on Human Rights Situation in Ukraine (15 April 2014)



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

**Report on the human rights situation in  
Ukraine**

**15 April 2014**

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## I. EXECUTIVE SUMMARY

1. During March 2014 ASG Ivan Šimonović visited Ukraine twice, and travelled to Bakhchisaray, Kyiv, Kharkiv, Lviv, Sevastopol and Simferopol, where he met with national and local authorities, Ombudspersons, civil society and other representatives, and victims of alleged human rights abuses. This report is based on his findings, also drawing on the work of the newly established United Nations Human Rights Monitoring Mission in Ukraine (HRMMU).

2. Underlying human rights violations, including lack of accountability for past human rights violations committed by security forces, the lack of independence of the judiciary and a perceived denial of equal rights and protection, including though mismanagement of resources and through corruption, lack of a system of checks and balances and the lack of free elections, were among the root causes of the popular protests that took place throughout Ukraine, and in particular on Independence Square (Maidan) from November 2013 to February 2014. While the protests were initially triggered by the Yanukovich Government's refusal to sign an Association Agreement with the European Union, the excessive use of force by the Berkut special police and other security forces at the end of November initially against largely peaceful protestors on the Maidan led to a significant radicalisation of the protest movement. The violence on 30 November transformed the protests, from demonstrations in favour of signing the EU Association Agreement, to include demands to reform the system of authority and punish those responsible. Serious human rights violations were committed including during the Maidan protests, which resulted in the death of 121 individuals (this number includes 101 Maidan protesters, 17 officers of the internal affairs/police, 2 were members of NGO "Oplot" that attacked the Maidan in Kharkiv and a Crimean Tatar found dead). There have been also numerous reports of torture and ill-treatment of protesters. The Maidan protest movement<sup>1</sup> also revealed historical, but still relevant divisions within Ukrainian society and long-standing grievances with respect to the lack of good governance and the rule of law of previous Governments.

3. Since the Government took power at the end of February 2014, tensions have decreased, along with the allegations of human rights violations. However, some developments could have a detrimental impact if not promptly addressed, especially in light of the presidential elections scheduled for 25 May.

4. For instance, the advocacy of national, racial or religious hatred by some political parties, groups and individuals, that constitutes incitement to discrimination, hostility or violence and nationalistic rhetoric witnessed during the Maidan protests may have an adverse impact on the situation in Ukraine. An attempt by the new ruling coalition in Parliament on 23 February 2014, to repeal the Law on the Principles of State Language Policy, and thus make Ukrainian the sole State language at all levels, was seen as a hostile move against the Russian-speaking minority. Acting President Turchynov however declined to sign and approve the Parliament's decision to repeal the law, on 2 March 2014. The drafting of new language legislation must not be hurried and must include the active involvement of representatives of minorities at the very outset.

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<sup>1</sup> The Maidan protest movement refers to the various groups that participated in demonstrations and centred on Independence (Maidan) square in the centre of the Kyiv. This initially included persons demonstrating for Ukraine to enter the Association Agreement with the European Union, hence the fact that there is often a reference made to "Euro-Maidan". However, over time the movement included a number of other elements, including anti-Government, anti-corruption, far right wing groups and others, some of whom did not necessarily share the same pro-European aspirations.

5. Similarly, in a bid to break away from the past, the Parliament has taken initial steps to adopt legislation regarding a lustration policy that would apply to some public officials affiliated to the previous Government. There are concerns that this law, if adopted, could be used to vet out large numbers of officials. It is essential that any new legislation and policies be adopted through an approach based on the rule of law and human rights, without any spirit of revenge. It is crucial to ensure that human rights violations are not dealt with any form of human rights violations.

6. In Crimea, a number of concerns relating to human rights could be observed before and during the 16 March referendum. On 27 March, the General Assembly in paragraph 5 of resolution 68/262 concluded that the referendum “had no validity”. In addition to this, the presence of paramilitary and so called self-defence groups as well as soldiers in uniform without insignia, widely believed to be from the Russian Federation, was not conducive to an environment in which voters could freely exercise their right to hold opinions and the right to freedom of expression. There have also been credible allegations of harassment, arbitrary arrest, and torture targeting activists and journalists who did not support the referendum. Furthermore, seven persons were reported as missing; the HRMMU is verifying their whereabouts. The situation of the Tatar community is also one that remains somewhat ambiguous following the referendum. While the Tatar community was promised numerous concessions, including Government positions as well as the recognized status as indigenous peoples, the majority of the members of the community chose to boycott the referendum.<sup>2</sup> Statements from authorities in Crimea and officials in the Russian Federation indicate plans to relocate or resettle within Crimea some of those Crimean Tatars who in protest against the slow progress of the restitution of land lost following forced relocation of their land, have occupied land illegally in recent years.

7. In eastern Ukraine, where a large ethnic Russian minority resides, the situation remains particularly tense with ethnic Russians fearing that the central Government does not represent their interests. Although there were some attacks against the ethnic Russian community, these were neither systematic nor widespread. There are also numerous allegations that some participants in the protests and in the clashes of the politically opposing groups, which have already taken at least four lives, are not from the region and that some have come from the Russian Federation.

8. Irrespective of the fact that systemic shortcomings may be only remedied in the longer-term, it will be important to immediately take initial measures to build confidence between the Government and the people, and among the various communities, and reassure all people throughout Ukraine that their main concerns will be addressed.

9. In addition to combatting speech that advocates national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and introducing impartial reporting on the on-going human rights situation, it will be critical to counter the deepening divide in the country by ensuring inclusivity and equal participation of all in public affairs, including political life. In this respect, legislation on minorities, in particular on linguistic rights, should be adopted following full consultation with all those concerned and according to relevant international and regional human rights standards.

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<sup>2</sup> OHCHR was informed by representatives of Crimean Tatars that no more than 1000, out of a population of 290,000-300,000, participated in the 16 March referendum.

10. While the situation requires attention in particular in eastern Ukraine and in Crimea, there are positive changes underway or under reflection. There are, for example, indications of a willingness to ensure a break with past injustices and to elaborate a new vision for Ukraine's future. Strengthening the rule of law, democracy and human rights will be key to any lasting change. Legislative and institutional reforms should be carried out in a comprehensive, transparent and consultative way, and therefore not be rushed. Furthermore, they should be sustained through consistent and accountable implementation.

11. The international community, including the United Nations, can play a role in supporting an environment where the human rights of all, including minorities and indigenous peoples, may be best promoted and protected. In particular, it will be important to ensure that the 25 May elections take place in an environment conducive to free and fair elections. Without an independent, objective and impartial establishment of the facts and circumstances surrounding alleged human rights violations, there is a serious risk of competing narratives being manipulated for political ends, leading to divisiveness and incitement to hatred.

12. Among other means to address these challenges and at the request of the Government of Ukraine, OHCHR established the UN Human Rights Monitoring Mission in Ukraine (HRMMU). This mission became operational on 15 March and will consist of 34 staff, including national staff, deployed in Lviv, Kharkiv, Odesa and Donetsk, and seeks also the presence of a sub-office in Simferopol. In the meantime, HRMMU continues to monitor the situation in Crimea, in accordance with the General Assembly resolution 68/262 of 27 March on the Territorial Integrity of Ukraine.

13. In addition to monitoring the human rights situation, the Office of the United Nations High Commissioner for Human Rights stands ready to provide technical assistance for legislative and other reforms.

## II. INTRODUCTION

### A. Context

14. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has been closely following the human rights situation in Ukraine since November 2013, when mass protests started in Kyiv further to the Government's announcement that it would not sign the Association Agreement with the European Union (EU). These protests subsequently spread to other parts of the country, and by mid-February had escalated into violent clashes between riot police and other security forces and protesters.

15. The excessive use of force by the Berkut special police and other security forces was met with impunity and led to a significant radicalisation of the protest movement. Over time, protest called for the resignation of President Yanukovich and his government, and for overall change. Violence escalated after 16 January 2014, following the adoption of a set of more stringent anti-protest laws. Anti-government demonstrators occupied several government buildings, including the Justice Ministry and the Kyiv City Hall, and demonstrations spread across the western and central parts of Ukraine. The violent clashes that occurred between security forces and protesters from 18 to 20 February, including the actions of snipers, resulted in the death of 121, mostly protesters, but also law enforcement officials. Hundreds of people were injured and had to be hospitalised, and some of them remain in critical condition. According to the General Prosecutor's Office of Ukraine, more than 100 persons remain unaccounted for as at 2 April.

16. On 21 February, President Yanukovich and opposition leaders signed a compromise agreement setting out elections by the end of the year and a return to the 2004 Constitution. On the same day, the Ukrainian Parliament reinstated the 2004 Constitution. After President Yanukovich's departure from Kyiv, on 22 February, the Parliament decided that he had "withdrawn from performing constitutional authorities" and decided to hold presidential elections on 25 May<sup>3</sup>. In the meantime, Parliament elected Mr Oleksandr Turchynov as Speaker and thus acting President of Ukraine. A new Government was formed on 26 February.

17. While a number of domestic and international initiatives were undertaken during the Maidan events, they did not manage to prevent conflict escalation and bloodshed. The departure of former President Yanukovich put an end to the deadly confrontations, but daunting new challenges emerged.

### Events in Crimea

18. Following the dismissal of President Yanukovich at the end of February, unidentified armed men began taking over strategic infrastructures in Crimea. Ukrainian Authorities alleged that the armed men were Russian armed forces and/or allied local paramilitary groups.

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<sup>3</sup> After long discussions mediated by EU foreign representatives, President Yanukovich stated on 21 February that he had reached a deal with the opposition which would "settle the crisis". On 22 February 2014, 328 of 447 members of the Ukrainian parliament (MPs) voted to "remove Viktor Yanukovich from the post of president of Ukraine" on the grounds that he was unable to fulfill his duties<sup>1</sup> and to hold early presidential elections on 25 May. The vote came an hour after Mr. Yanukovich stated in a televised address that he would not resign. He subsequently declared himself as "the legitimate head of the Ukrainian state elected through a free vote by Ukrainian citizens. However, later that day he fled the capital for Kharkiv, then travelled to Crimea, and eventually to southern Russia.



The Russian Government insisted that the forces did not include Russian troops, but only local self-defence groups. As Russia refused to recognize the new Government of Ukraine, but instead recognized the legitimacy of former President Victor Yanukovich, his request for intervention was taken into consideration by the Russian authorities.

19. On 27 February 2014, in a contested situation including the presence of armed persons around its building, the Parliament of the Autonomous Republic of Crimea dismissed the former local government and appointed Mr Sergey Aksyonov as “prime minister”. The same day, it also decided to hold a referendum on 25 May 2014, on the future status of Crimea. The Ukrainian Central Electoral Committee declared this decision as contrary to the Ukrainian Constitution. On 14 March the Constitutional Court of Ukraine ruled that the decision to hold a referendum was unconstitutional. On 15 March the Ukrainian Parliament terminated the powers of the Verkhovna Rada. The date of the referendum was brought forward first to 30 March, and finally to 16 March. At the referendum, voters were asked to choose between two options: firstly, “Do you support the reunification of Crimea with Russia with all the rights of the subject of the Russian Federation?”; or, secondly, “Do you support the restoration of the 1992 Constitution of the Republic of Crimea and the status of the Crimea as part of Ukraine?”. On 11 March, the Supreme Council of Crimea voted to secede from Ukraine.

20. On 1 March, the Federation Council of the Russian Federation (upper chamber of the Russian Parliament) approved a request from President Vladimir Putin permitting the usage of Russian armed forces to protect the Russian speaking population. According to reports, the Russian Federation also started boosting its military presence in Crimea. Unidentified armed men, without military insignias, took control of the administrative border between Crimea and the rest of Ukraine and blocked several Ukrainian military bases. Ukrainian Authorities alleged that the armed men were Russian armed forces and/or allied local paramilitary groups. The Russian Government justified its involvement to be in response to the will of the local population and as an effort to protect ethnic Russians and Russian-speakers in the region.

21. On 5 March 2014, the Shevchenko district court of Kyiv issued arrest warrants for Mr. Sergey Aksyonov and the Chair of the Supreme Council (Crimean Parliament), Vladimir Konstantinov. The Security Service of Ukraine was requested to bring them to court. Ukraine’s new Government also warned the Crimean Parliament that it faced dissolution unless it cancelled the referendum. In response, the authorities in Crimea stated that the new Government in Kyiv came to power illegitimately through a coup d’état. On 11 March, they also closed the airspace over Crimea for flights from the rest of Ukraine. On 15 March, the Ukrainian Parliament took the decision to dissolve the Supreme Council of Crimea.

22. On 16 March, the Supreme Council of Crimea voted to secede from Ukraine, and held a referendum on whether Crimea should join the Russian Federation or remain part of Ukraine with the degree of autonomy it had in 1992. The referendum resulted in a reported turnout of over 81%, where based on reports over 96% of voters supported Crimea joining the Russian Federation. However, the OHCHR delegation received many reports of vote rigging. Ukraine refused to recognize the results of the Crimean referendum, claiming that it was in violation of its Constitution.

23. On 27 March, the UN General Assembly adopted resolution 68/262 upholding the territorial integrity of Ukraine and underscored that the referendum held on 16 March 2014 had no validity. In addition, the resolution’s operative paragraph 4 welcomed the UN and OSCE assistance to Ukraine in protecting the rights of all persons, including minorities.

## **B. Universal and regional human rights instruments ratified by Ukraine**

24. Ukraine is a party to most core international human rights instruments, including: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of all Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the Convention on the Rights of Persons with Disabilities.

25. Ukraine is a party to a number of regional European treaties, including: the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR); Protocol No. 6 to the ECHR concerning the abolition of the death penalty in times of peace; Protocol No. 12 to the ECHR concerning the general prohibition of discrimination; Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances; Framework Convention on the Protection of National Minorities; the European Charter for Regional and Minority Languages; the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment; the Council of Europe Convention on Action against Trafficking in Human Beings.

26. It has not yet become a party to the following instruments: the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.

27. Ukraine has not availed itself of the right of derogation under article 4 of the International Covenant on Civil and Political Rights, and therefore the rights contained therein are fully applicable.

## **C. UN human rights response**

28. In light of the deteriorating situation, it was assessed that the UN can play an important role in deescalating tensions, including through human rights monitoring. Assistant Secretary-General (ASG) Ivan Šimonović, planned to undertake a mission to Ukraine in March, which was requested by the Secretary-General to be moved forward due to the rapid deterioration of the situation. Several high-level UN visits took place from mid-February to mid-March, including respectively, Senior Adviser Robert Serry; Deputy Secretary-General, Jan Eliasson; and Under-Secretary-General for Political Affairs Jeffrey Feltman and the Secretary-General, Ban Ki-Moon. The latter two visits took place at the same time as that of ASG Šimonović.

29. The UN offers a neutral platform and professional expertise which can add significant value to the efforts to ensure that human rights are respected and protected in Ukraine. Independent monitoring and analysis of the human rights situation will outline technical, legal or other assistance needs, which will complement recommendations received by Ukraine from UN human rights mechanisms, and may contribute to addressing the root causes of the violence. These endeavours can and should be undertaken in cooperation with regional organizations, including the OSCE and the Council of Europe.

30. ASG Šimonović mission to Ukraine had the following overall objectives: to assess the human rights situation; to raise the issue of accountability and bring visibility to human rights violations and concerns; to make strong calls for the protection of human rights (including those of minorities); and to place human rights promotion and protection as a critical factor in deterring pre-electoral, electoral and post-electoral violence and possible further violations.

31. ASG Šimonović arrived in Kyiv on 6 March and left on 18 March. The delegation led by the ASG visited Kyiv, Kharkiv, and Lviv. It sought access to Crimea, but was not able to go, as the authorities informed the delegation that they would neither receive the mission nor ensure its security. On 14 March, a second request for access to Crimea was sent to the authorities. They then confirmed their readiness to meet with ASG Šimonović, with a view to discussing measures for human rights protection, which could lead to the de-escalation of tension. In all locations, the ASG and his delegation met with stakeholders from across the cultural, ethnic, linguistic and political spectrum - high-level officials, the Ombudsperson, civil society organizations representing various communities, representatives of regional organizations and the diplomatic community. Information from these meetings as well as documents gathered form the basis for this report. The delegation met and heard accounts from victims of human rights violations committed during the demonstrations in Kyiv and elsewhere. The delegation also met with the UN Country Team (UNCT). On Friday 14 March, ASG Šimonović held a press conference in Kyiv and another through VTC in New York. The same day, he also briefed representatives of the Kyiv diplomatic community on the preliminary findings of his mission. On 19 March 2014, ASG Šimonović briefed the Security Council on his mission.

32. ASG Šimonović undertook a second mission to visit Crimea from 21 to 22 March.

33. In the meantime, OHCHR deployed a Human Rights Monitoring Mission in Ukraine (HRMMU) as of 14 March, upon the invitation of the Government of Ukraine. The objectives of the HRMMU are to: monitor the human rights situation in the country and provide regular, accurate and public reports by the High Commissioner on the human rights situation and emerging concerns and risks; recommend concrete follow-up actions to relevant authorities, the UN and the international community on action to address the human rights concerns, prevent human rights violations and mitigate emerging risks; establish facts and circumstances and conduct a mapping of alleged human rights violations committed in the course of the demonstrations and ensuing violence between November 2013 and February 2014 and to establish facts and circumstances related to potential violations of human rights committed during the course of the deployment.

34. Mr. Armen Harutyunyan was appointed to lead the mission. Nine international staff members are deployed in Ukraine as of early April 2014. The entire team, once fully operational will comprise 34 staff, including national professional staff and 12 drivers. HRMMU is currently deployed in Lviv, Kharkiv, Odesa and Donetsk and it seeks also the presence of a sub-office in Simferopol. In the meantime, HRMMU continues to monitor the situation in Crimea, in a manner consistent with the General Assembly resolution 68/262 of 27 March 2014, on the Territorial Integrity of Ukraine.

#### **D. Methodology**

35. The present report contains preliminary findings on the human rights situation in Ukraine up to 2 April 2014. It is based on the two missions of ASG Ivan Šimonović to Ukraine (from 6 to 18 March and from 21 to 22 March to Crimea) and on the first weeks of

operation of HRMMU. Although information continues to be gathered and verified, the present report with its preliminary findings is being publicly released already now with a view to contributing towards establishing the facts and defusing tensions. Impartial reporting on the human rights situation can help not only to trigger accountability for human rights violations, but it also aims at the prevention of manipulation of information, which serves to create a climate of fear and insecurity and may fuel violence. This is especially important with regard to eastern Ukraine.

**36.** In accordance with its objectives, HRMMU is gathering and verifying information with regards to particular cases of human rights violations and, more broadly, the overall human rights situation. Information is then assessed and analysed, thus contributing to accountability and reinforcing State responsibility to protect human rights. HRMMU is providing reports on the basis of information verified as credible and from reliable sources, and is advocating for measures to be taken by respective state institutions with a view to providing appropriate remedies. HRMMU is also undertaken in line with the Secretary-General's Rights Up Front Plan of Action, to ensure that the UN is aware of the human rights context and that OHCHR regularly provides analysis of main human rights concerns and risks of violations, and that a UN strategy is developed as necessary to address the situation at country, regional and global levels. The present report, in line with the UN General Assembly resolution on the "Territorial Integrity of Ukraine", underscores also the obligation of authorities in Crimea to ensure the protection of all the rights to which individuals there are entitled within the context of Ukraine's ratified universal and regional human rights instruments.

### **III. UNDERLYING HUMAN RIGHTS VIOLATIONS**

#### **A. Corruption and violations of economic and social rights**

**37.** Corruption remains one of the most serious problems in Ukraine and has affected all human rights, whether civil, political, economic or social, exacerbated inequalities, eroded public trust in state institutions including the justice system, led to impunity and undermined the rule of law. It may be noted that in 2013, Transparency International ranked Ukraine 144<sup>th</sup> out of 176 countries (the country being ranked first is considered the least corrupt).

**38.** There has been only patchy implementation of international commitments to tackle corruption made under the UN Convention against Corruption, which entered into force in December 2005 and was ratified by Ukraine four years later. A National Anti-Corruption Strategy for 2012 – 2015 was adopted by presidential decree in October 2011, but there is currently no comprehensive anti-corruption law in Ukraine. The Ministry of Justice informed the OHCHR delegation that a draft law containing provisions applicable to corruption in both the public and private sectors would be presented by the end of March.

**39.** Corruption has disproportionately affected the poor and the most vulnerable. It impacts negatively on the enjoyment by all of economic and social rights, including the right to health services. Health service allocations make up 3.5% of the country's GDP, which falls well short of the minimum recommended by the WHO (7%). The poorest segment of the population cannot afford costly treatment in a situation where the country has no medical insurance system.

**40.** The Ministry of Health supports reform of management of medical services to move away from a centralized medical system and enable greater medical self-governance.

Insufficient salaries for employees in the health service have led to emigration of qualified staff. It has also affected professional competency and fed corruption practices, thus leading to inequalities in access to health care.

41. More generally, the socio-economic situation in Ukraine is of concern and constitutes one of the causes of recent events. In its 2008 review of the implementation of the International Covenant on Economic, Social and Cultural Rights in Ukraine, the Committee on Economic, Social and Cultural Rights expressed a number of concerns. In particular, it referred to a finding that 28 per cent of the population reportedly lived below the official poverty line, that the minimum wage does not provide an adequate standard of living, and that unemployment benefits amount to 50 per cent of the minimum subsistence level. It also expressed concern at the inadequate level of social assistance, and that several hundreds of thousands of children below the age of 15 were working in the informal and illegal economy and several thousands of children living in the street.

42. These concerns should constitute priorities for any new Government in Ukraine in the coming months and years. The Ukrainian Authorities must, as a matter of priority, put in place measures to eradicate corruption, while ensuring good governance and the rule of law. In addition, efforts should be made to redress disparities in standards of living and ensure equal access to, and quality of, health, education, employment and social support structures for all, including marginalised communities throughout the country.

#### **B. Lack of accountability for human rights violations and rule of law institutions**

43. The justice system in Ukraine has traditionally been marred by systemic deficiencies, including corruption, lack of independence and a lack of equality of arms between prosecution and defence in criminal proceedings. Other major concerns relate to the excessive use and length of pre-trial detention, numerous reports of cases of torture and ill-treatment, a significant reliance on suspects' confessions during criminal proceedings, insufficient or inadequate legal reasoning in indictments and overall underfunding of the justice system.

44. A new Code of Criminal Procedure (CCP) entered into force in November 2012. The new code responds to some of the major concerns expressed by UN human rights mechanisms (e.g. the UN Human Rights Council, Universal Periodic Review, or the UN Human Rights Committee). It introduces an adversarial system; supports the presumption of innocence, including the need to specify the circumstances suggesting reasonable suspicion that would justify a deprivation of liberty; and provides increased safeguards for timely access of detainees to a lawyer and a doctor. Alternative measures to deprivation of liberty are also provided.

45. A round-table discussion organized in November 2013 by the Ombudsperson's office on the occasion of the first anniversary of the entry into force of the new CCP identified the substantial decrease in the number of pre-trial detentions as a clear achievement since the entry into force of the new code. However, dozens of people who participated in the Maidan demonstrations were arrested and held in police custody and lengthy pre-trial detention, subjected to torture and ill-treatment, and deprived of their right to a fair trial and due process, in violations of the new CCP.

46. Other challenges remain. The provisions of the new CCP are not applied to all cases. Those opened before November 2012 are still processed under the former Code. The lack of

effective implementation of the new CCP provisions and examples of political interference in legal proceedings (“new provisions, old instructions”) also constitute a challenge.

47. According to the current provisions of the Constitution, judges are appointed for an initial period of five years by the President, upon recommendation of the High Council of Justice, based on a proposal from the High Qualifications Commission for Justice. After this five-year probation period, they become eligible for life tenure by Parliament, upon proposal of the High Qualifications Commission. This system opens the possibility for undue influence on the decision-making of judges during their probation period. The role and composition of the High Council of Justice and High Qualifications Commission as currently provided for in the Constitution are also a cause for concern. The Minister of Justice is represented on the High Qualifications Commission and can exercise considerable influence on the appointment of, as well as on disciplinary procedures against, judges. The High Council of Justice is composed of 20 members, the majority of whom have institutional links to the executive branch.

48. It should be noted that the CCP in place until 2012, conferred considerable discretion to the Prosecutor throughout criminal proceedings, including with regard to decisions on pre-trial detention. In addition, the public prosecutor’s multiplicity of roles is also a cause of concern raised by many international human rights mechanisms. Aside from his responsibility to conduct criminal investigations and prosecute persons formally accused, s/he oversees the legality and human rights compliance of those investigations.

49. Complaints and allegations of torture or ill-treatment are examined by the Public Prosecutor’s office which is reluctant to pursue complaints and, through its work on criminal investigations, has very close links with police forces. Article 216 of the new CCP provides for the creation within five years (as of 2012) of a State Bureau of Investigation to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. However, no progress has yet been made towards its creation.

50. In March 2014, the Ukrainian Parliament prioritized the adoption of legislation related to prosecution, anti-corruption and law enforcement reform.

51. The prevalence of impunity for human rights violations perpetrated by law enforcement forces has been an issue for a long time in Ukraine. An overall reform of the security sector needs to be undertaken. In this context, law enforcement officers should receive adequate training with regard to international human rights norms and standards. All acts of torture or ill-treatment should be investigated while also condemned firmly and publicly by the Ukrainian Authorities.

52. There has been a culture of effective impunity in Ukraine for the high level of criminal misconduct, including torture and extortion, often committed by the police in the course of their work. Structural shortcomings, widespread corruption, close functional and other links between prosecutors and police, non-existent or flawed investigations into criminal acts committed by the police, harassment and intimidation of complainants, and the subsequent low level of prosecutions all fuel this lack of accountability for human rights violations. There is a large number of detentions, many of which are not registered. Allegations of torture may not be investigated effectively and promptly and complaints of such violations were generally ignored or dismissed for alleged lack of evidence.

## **IV. HUMAN RIGHTS VIOLATIONS RELATED TO THE MAIDAN PROTESTS**

### **A. Violations of the right to freedom of assembly**

53. There have been notable failures to respect the right to freedom of peaceful assembly in line with international human rights standards since protests started in November 2013. In some cases, local authorities sought to ban or restrict public gatherings through court decisions. On 22 November, the Kyiv district administrative court banned the use of “temporary structures such as tents, kiosks and barriers” from 22 November to 7 January. Local authorities in Odesa applied to a court to ban a demonstration that had attracted several hundred people on 23 November. On 24 November, the court endorsed the ban and the remaining demonstrators were violently dispersed by the police.

54. The Ukrainian Authorities attempted to disperse the demonstration in Kyiv twice, on 30 November and on 11 December, respectively. On 30 November, the Authorities justified the decision to disperse the demonstration by claiming that a New Year tree needed to be erected in the square. On 11 December, the Minister of Interior stated that the decision to remove barricades from the roads surrounding the Maidan was in response to citizens’ complaints that the demonstration was blocking traffic. There have also been reports of individuals having been prevented from attending demonstrations or who were harassed for having done so.

55. While article 39 of the Ukrainian Constitution guarantees freedom of assembly, no post-independence laws regulate it. In the absence of such a law, courts have referred to local authority regulations or to the Decree of the Presidium of the Supreme Soviet of the USSR of 28 July 1988 on the procedure for organizing and holding meetings, rallies, street marches and demonstrations in the USSR.

### **B. Excessive use of force, killings, disappearances, torture and ill-treatment**

56. The first instance of excessive use of force against demonstrators took place in the early hours of 30 November 2013, when 290 riot police officers (known as ‘Berkut’) dispersed Maidan protesters, mainly students and youths. Witness testimony and footage of the incident shows that the riot police used excessive force to clear demonstrators, forced assessed as both indiscriminate and disproportionate, including through chasing and beating demonstrators who ran away. The violence escalated on 1 and 2 December and there were serious clashes in nearby streets between demonstrators and riot police, and an attempt to storm the presidential administration building. At least 50 riot police and hundreds of protestors were injured, and twelve persons detained on charges of “organizing mass disorder”. A third instance of excessive use of force and violent clashes occurred on 10 and 11 December 2013, when the riot police attempted to remove barricades, and left 36 persons hospitalized, including 13 policemen. Violent clashes resumed on 19 January 2014, following the adoption of controversial new laws on 16 January limiting the ability to conduct unsanctioned public demonstrations. Demonstrators, many of whom were linked to the far right wing “Right sector” group, attacked governmental buildings, throwing stones, firecrackers and Molotov cocktails at the police. The response of the police included the use of water cannons, in sub-zero temperatures and live fire, as a result of which five demonstrators were killed.

57. The violence in Kyiv reached its peak between 18 and 20 February 2014, when mass violent clashes took place mainly on Institutska Street. During these three days around 90 people were killed, mostly from sniper shots allegedly from rooftops. The new Minister of

Health, Mr. Oleg Musii, indicated to OHCHR that, as chief of the medical services on Maidan, he saw law enforcement officers removing the bodies of individuals who are still unaccounted for. He noted that snipers were aiming to kill (targeting the head and vital organs of the victims) and also depicted cases of police brutality, including beatings of medical staff and preventing medical personnel from attending the wounded. According to information gathered so far, in the period from December 2013 to February 2014, in total 121 people were killed, either as a result of severe beating or gunshots. This number includes 101 Maidan protesters, 17 officers of the internal affairs/police, 2 members of NGO “Oplot” that attacked Maidan in Kharkiv and a Crimean Tatar found dead.

58. Most acts of severe beatings, torture, and other cruel, inhuman or degrading treatment were attributed to the ‘Berkut’ riot police. For example, one demonstrator was stripped naked, roughly pushed around and forced to stand still on the snow in freezing temperatures while a police officer filmed him with a mobile phone. At the same time, there were a number of examples of members of the broad Maidan protest movement around the country taking control of local state administrations and forcing regional governors to sign their applications for resignation letters, while in parallel protesters took over Regional Administration buildings. One example of such actions was from the Right Sector activist Alexander Muzychko, who filmed himself intimidating and physically assaulting the prosecutor of Rivne district on 27 February 2014.<sup>4</sup>

### **C. Accountability and national investigations**

59. The Ukrainian Authorities have committed to shedding light on all cases of excessive use of force and arbitrary killings, including from unidentified snipers, torture, disappearances and other human rights violations that occurred during the Maidan events. There were also cases of abductions by unidentified individuals in or outside hospitals, and persons were later found dead.

60. The newly appointed Prosecutor-General launched investigations into the killings of protesters, including regarding the responsibility of high-ranking officials. An investigation by the Interior Ministry is looking into the fate of persons who disappeared during the protests and cases of abuse of power by law enforcement officials. The OHCHR delegation was informed that a group of 75 victims are included in one single criminal investigation targeting responsibility of former senior officials, including the former President, former Interior Minister and several other officials, while there are also 65 separate cases filed against police for the abuse of power and brutality.

61. While OHCHR was provided with general information about the cases launched by the Office of the Prosecutor-General, it also heard from civil society representatives that some of the victims have not yet been contacted by relevant authorities for investigation purposes. According to NGO sources, there are also concerns regarding the collection and preservation of evidence and forensic examinations which may not have been systematically carried out regarding cases of those killed during recent events. Such examinations would have been essential to help determine criminal responsibility, including with regard to the so-called snipers whose identity and affiliation remains to be clarified. Involvement of international experts can be helpful both in terms of capacity as well as impartiality and credibility. Concerns have been raised by local interlocutors in relation to the fact that the investigation is

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<sup>4</sup> Mr Muzychko died in a police raid in Rivne on 24 March. The exact circumstances will require further investigation.



concentrating exclusively on the issue of persons killed by snipers on 20 February, and that it is not looking into issues related to responsibility for excessive force used on other occasions during the course of demonstrations between November 2013 and January 2014.

## **V. CURRENT OVERALL HUMAN RIGHTS CHALLENGES**

### **A. Protection of minority rights**

62. According to the 2001 census, ethnic Ukrainians constitute about 78 per cent of Ukraine's population, ethnic Russians constitute around 17 per cent, and around 5 per cent belongs to other ethnic groups. While 67 per cent of the population declared Ukrainian as their native language, well over one-third of the population (including many ethnic Ukrainians) speaks Russian in their daily life. Russian is the predominant language of communication in eastern and southern regions of the country, as well as in central Ukraine, including capital Kyiv. As a result, Ukraine is largely a bilingual society, as was confirmed by stakeholders met by the delegation throughout Ukraine. Consequently, nationalistic rhetoric and hate speech may turn the ethno-linguistic diversity into a divide and may have the potential for human rights violations.

63. The diversity of Ukrainian society – as in any society is enriching – and needs to be promoted and protected as a positive factor rather than a divisive one. According to a law adopted in August 2012, any local language spoken by at least a 10% minority could be declared official within the relevant area (oblast, rayon or municipality). Russian was within weeks declared an official language in several southern and eastern oblasts and cities. The 2012 Law also recognised 17 other languages as regional languages.

64. As already noted, Ukraine is a party to the Council of Europe's Framework Convention for the Protection of National Minorities and to the European Charter for Regional or Minority Languages. Both the Advisory Committee on the Framework Convention and the Committee of Experts on the European Charter, while acknowledging progress, have found that there was great scope for improvement regarding the protection of the rights of minorities in Ukraine.

65. In its third opinion released in 2012, for example, the Advisory Committee on the Framework Convention recalled its previous observations on the need to remove legal obstacles to wider representation of national minorities and more effective participation of persons belonging to national minorities in elected bodies. It regretted that the numerous recommendations made by international bodies for the introduction of a regional proportional system based on open lists and multiple regional constituencies, to allow for stronger regional, including minority, representation, had not been taken into account.

66. The OHCHR delegation met with some interlocutors who conveyed a perception that the right of minorities to participate in political life is not fully taken into account. While the *Batkivshchyna* and *Svoboda* parties, currently part of the new majority coalition, are largely affiliated with western Ukraine, the Party of Regions is seen as prevalingly being supported by the population of eastern regions. The composition of the current Cabinet is perceived by some people in eastern and southern Ukraine as not being inclusive, as most of its members come from western Ukraine. According to various reports, a number of high level officials – governors, mayors, and senior police officers – have been replaced by supporters of the new coalition parties, many coming from western Ukraine.

67. A motion of the new ruling coalition in Parliament on 23 February 2014, attempted to repeal the Law on the Principles of State Language Policy, adopted on 3 July 2012, and make Ukrainian the sole State language at all levels. On 2 March, Oleksandr Turchynov, acting President and Chair of the Parliament, declined to sign and approve the Parliament's decision to repeal the law. The 2012 law continues to apply for the time being, but a new law is being prepared. The motion, though never enacted, raised concerns among Russian speakers and other minorities in Ukraine, and was largely considered a mistake. Despite deepening divides between some social groups, there are also civil society actions against it, emphasising the need for tolerance, mutual respect and solidarity. In Lviv, the delegation was heartened by its meeting with Mr. Volodimir Beglov, who had launched a campaign for people across Ukraine to speak Russian for a day in protest against the repeal of the Law on Languages, and in solidarity with Ukraine's Russian-speaking minorities. This individual initiative shows that there is a way forward and that transcending ethnic and linguistic differences is possible in Ukraine.

## **B. The right to freedom of expression, peaceful assembly and the right to information**

68. Demonstrations have continued to take place since early March, in particular in eastern Ukraine. At least four persons were killed as a result of violence that broke out between anti-government protestors and supporters of the Government, who allegedly travelled to Donetsk and Kharkiv from western and central regions of Ukraine. The OHCHR delegation was told by several interlocutors about allegations according to which people were brought in buses and paid to take part in protests and conduct them according to specific scenarios, including causing violent incidents. Some protestors allegedly come from the Russian Federation, according to information received from local authorities and confirmed by the central authorities.

69. Reports have been made of arrests during demonstrations that have taken place during the week starting on 10 March in Donetsk and in Kharkiv<sup>5</sup>. Police moved to clear protests sites and arrested the leader of protests in Donetsk<sup>6</sup>. Since the start of the Maidan protests, and particularly after the beginning of the Crimea crisis, the human right to information needs to be carefully monitored. While the distorted anti-Maidan discourse of the media controlled by the supporters of former President Viktor Yanukovich ended with the latter's dismissal in the end of February, new concerns emerged whereby pro-Maidan politicians or activists would exert pressure on the media to air or voice 'patriotic' discourse. For example, on 18 March 2014, the representative of Svoboda political party MP Igor Myroshnichenko and other Svoboda party members arrived to the National Television Company of Ukraine and intimidated and assaulted its Head Mr Olexander Panteleimonov, forcing him to sign a resignation letter. The Acting Prosecutor General committed to investigating the attack, which was also condemned by the Authorities.

70. The OHCHR delegation was provided with various accounts of events that have been perceived by some interlocutors as indicating attempts to limit freedom of expression. While cases under previous Governments were numerous, recent ones include:

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<sup>5</sup> <http://rus.ozodi.org/archive/news/20140201/11266/11266.html?id=25287436>

<sup>6</sup> [http://obs.in.ua/index.php?option=com\\_content&view=article&id=4859:ukr-world&catid=3:reg-news&Itemid=11](http://obs.in.ua/index.php?option=com_content&view=article&id=4859:ukr-world&catid=3:reg-news&Itemid=11)

- On 13 March, the Pechorski District Court of Kiev placed Mr. Hennady Kernes, Mayor of Kharkiv, under house arrest under three articles of the Criminal Code. However, Mr. Kernes believes that he is a victim of selective justice due to his political views;

- On 10 March, the police arrested Mr. Mikhail Dobkin, former Governor of Kharkiv, allegedly on suspicion of a crime under article 110 (2) of the Criminal Code of Ukraine (“Offence against the territorial integrity and the inviolability of borders of Ukraine, committed by an individual in his capacity as a State official”).

71. The delegation was unable to obtain further clarification on the aforementioned cases, although Mr. M. Dobkin was eventually released. Irrespective of the actual facts of these specific examples, it will be important, in particular in the preparation of the 25 May elections, to ensure free communication of information and ideas about public and political issues between citizens, candidates and elected representatives. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.

72. New restrictions on free access to information came with the beginning of the Crimea crisis. Media monitors indicated a significant raise of propaganda on the television of the Russian Federation, which was building up in parallel to developments in and around Crimea. Cases of hate propaganda were also reported. Dmitri Kiselev, Russian journalist and recently-appointed Deputy General Director of the Russian State Television and Radio Broadcasting Company, while leading news on the TV Channel “Rossiya” has portrayed Ukraine as a “country overrun by violent fascists”, disguising information about Kyiv events, claimed that the Russians in Ukraine are seriously threatened and put in physical danger, thus justifying Crimea's “return” to the Russian Federation. On 6 March, analogue broadcasts of Ukrainian television channels (notably Ukraine's First National Channel, Inter, 1+1, Channel Five etc.) were shut off in Crimea, and the vacated frequencies started broadcasting Russian TV channels. On 12 March, Ukrainian broadcasters blocked three leading television channels – the 1 Channel, NTV and Rossia TV - in Kyiv and other locations in Ukraine. As a result, there are serious concerns that people – both in Russia and Ukraine and especially in Crimea – may be subject to propaganda and misinformation, through widespread misuse of the media, leading to a distortion of the facts. OHCHR shall analyse the recent decision of the Kyiv District Administrative Court to suspend broadcasting by First Channel, Worldwide Network, RTR Planeta, Rossiya 24 and NTV Mir, in line with applicable provisions against advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. During the month of March 2014, in several regions, the authorities have reacted to anti-Government protests and attempts to forcefully take over administrative buildings by detaining perpetrators. In some cases, persons were charged under the Criminal Code article sanctioning offences against the territorial integrity and inviolability of the borders of Ukraine (articles 110). There is concern that this article may sometimes have been used to restrict freedom of speech. On 22 March the local police in Donetsk arrested Mikhail Chumachenko, described as the leader of the “Popular Militia of the Donbas”. Material is reported to have been seized demonstrating Chumachenko’s intention to take over the regional administration building and proclaim himself the ‘people’s governor’. In addition to being charged for attempting to forcefully overthrow the authorities and/or the constitutional order (article 109 of the Criminal Code), he was also charged under article 110.

### **C. Incitement to hatred, discrimination or violence**

73. During its mission, the OHCHR delegation was informed that there had been some cases where members of the Russian minority have been harassed or even attacked, such as in the case of the attack against a member of Parliament. While it seems that these violations are neither widespread nor systemic, the delegation endeavoured to collect information on cases of incitement to intolerance or hatred and related violence against all minorities. It noted the following instances:

- Ukrainian businessman and politician who on 4 March was reportedly detained and beaten by the Crimean police and who allegedly called on the crowds in Independence Square, to “shoot at the heads of Russian citizens who are in Crimea... using snipers”;

- On 10 March, in Luhansk, Mr Oleh Lyashko, Leader of the Radical Party of Ukraine and a member of the Ukrainian Parliament, who is supportive of the new coalition Government, together with a group of armed men, allegedly detained Mr Arsen Klinchayev, member of the Luhansk Regional Council and activist of the Young Guard believed to be a pro-Russian organization. The detention was allegedly accompanied with violence and threats<sup>7</sup>;

- In another alleged incident in early March, Mr. Dmytro Yarosh, leader of the Right Sector<sup>8</sup>, who declared his intention to run for presidency during the upcoming elections on 25 May, posted a call on a Russian-language social network vkontakte.com. He allegedly wrote: “Ukrainians have always supported the liberation struggle of the Chechen and other Caucasian peoples. Now it’s the time for you to support Ukraine... As the Right Sector leader, I urge you to step up the fight. Russia is not as strong as it seems”. The Right Sector later denied that its leader made such statements, explaining that his website had been hacked. According to other reports, Mr. Yarosh also allegedly stated that “non-Ukrainians” should be treated according to principles set forth by Ukrainian nationalist leader Stepan Bandera, although such statements were publicly refuted by Mr Yarosh himself.

74. Only isolated anti-Semitic incidents have been reported before and after the recent period of unrest. In February 2014, a Molotov cocktail was thrown at the synagogue in Zaporizhzhya (central Ukraine)<sup>9</sup>. On 13 March, a Jewish rabbi was attacked by two unidentified young men in the Podol neighbourhood of Kyiv<sup>10</sup>. Another attack was reported in the same neighbourhood in Kyiv on the following day against a Jewish couple<sup>11</sup>. However, when interviewed by an impartial and reliable source representative of the various Jewish communities in Ukraine, it appears that these communities do not feel threatened, as confirmed also by the Association of Jewish Organisations and Communities of Ukraine, publicly in a letter to the President of the Russian Federation on 5 March 2014.

75. On 1 March, OHCHR received information about alleged attacks against Roma in the Kyiv Oblast. On 27 February, a young Roma was beaten up in Pereslav-Khmelnytsk. His attackers accused him of being ‘apolitical and indifferent to the country’s political life’. According to reports, around 15 masked and armed persons raided Roma houses in Korostena,

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<sup>7</sup> <http://news.meta.ua/cluster:35037395-Liashko-v-Luganske-zaderzhal-lidera-prorossiiskoi-organizatsii/>

<sup>8</sup> Right Sector (Ukrainian: Pravyi Sektor) is a Ukrainian nationalist paramilitary collective of several organizations, described as having far right views. The group's membership has been growing and has been estimated to be about 5,000. The group first emerged at the end of November 2013 at the Euromaidan protests in Kiev, as an alliance of far-right Ukrainian nationalist groups.

<sup>9</sup> <http://www.vaadua.org/news/neizvestnyy-kinul-kokteyl-molotova-v-zdanie-sinagogi-v-zaporozhe#sthash.45DHa1qx.dpuf>

<sup>10</sup> <http://112.ua/kriminal/v-podolskom-rayone-kieva-napali-na-ravvina-34122.html>

<sup>11</sup> <http://112.ua/obshchestvo/v-kieve-soversheno-esche-odno-napadenie-na-evreev-34609.html>

on 28 February, allegedly with the same motivation. Roma victims stated that they had called the police for protection, to no avail. Several Roma families have reportedly left town after receiving threats.

76. Recent developments in the eastern part of Ukraine and in Crimea are likely to have an impact on radical groups with possible signs of nationalistic sentiments and rhetoric and therefore need to be closely monitored. The OHCHR delegation heard from various sides about concerns with regard to the “Right Sector”, a right-wing group that expresses paramilitary ambitions and is known for statements which could be considered extremist. Their active participation in the defence of Maidan and suggested increasing popularity are causing concerns for the Russian-speaking minority. While there has been no confirmed evidence of attacks by the “Right Sector”, including any physical harassment, against minorities, there were numerous reports of their violent acts against political opponents, representatives of the former ruling party and their elected officials. The role of the group during the Maidan protests was prominent; they were often in the first line of defence or allegedly leading the attacks against the law enforcement units. Their alleged involvement in violence and killings of some of the law enforcement members should be also investigated. However, according to all accounts heard by the OHCHR delegation, the fear against the “Right Sector” is disproportionate, although parallels have been drawn by some between this group and past right wing nationalistic movements at the time of the Second World War. On 1 April, the Ukrainian Parliament adopted a decision by which all armed groups, including the Right Sector, must disarm.

#### **D. Lustration, judicial and security sector reforms**

77. In a bid to break away from the past, the new Government has taken initial steps to implement a lustration policy that would apply to all public officials. A lustration committee under the Cabinet of Ministers was established in February 2014 but is not yet functioning. The committee in its current form is composed of representatives of civil society and lawyers. The head of the Committee, Mr. Yegor Sobolev, emphasized that a “special act” on the judiciary would be prepared as a priority, with the assistance of Council of Europe experts. The draft law should determine the status of the lustration committee and include provisions to ensure its effective functioning.

78. During discussions with the Vice-Speaker of the Verkhovna Rada, Mr. Ruslan Koshulinskii, he expressed the view that the draft lustration law may also refer to other senior officials, including officials who worked closely with the administration of Mr. Yanukovich, held senior positions in the former Soviet Union and its former Communist Party, and former KGB officials. The Deputy Minister of Justice mentioned during a meeting that the notion of lustration was “too generic” and that specific language would be used to address vetting needs for different categories of state services.

79. All reforms and new policy measures must be taken through an approach based on the rule of law and human rights, without any spirit of revenge. It is crucial to ensure that human rights violations are not addressed with any form of human rights violations. In particular, any lustration measure must be taken fully respecting human rights. This should include: an individualized review process, and that employees subject to a review should be granted a fair hearing, with the burden of proof falling on the reviewing body to establish that a public employee is not suitable to hold office.

## VI. SPECIFIC HUMAN RIGHTS CHALLENGES IN CRIMEA

80. ASG Šimonović visited Crimea on 21 and 22 March and travelled to Bakhchisaray, Sevastopol and Simferopol. The main objectives of the visit, were to: discuss the presence and operation of the UN Human Rights Monitoring Mission's sub-office in Simferopol and, in this context, present Mr. Harutyunyan as the Head of the UNHRMM in Ukraine who will be based in Kyiv; discuss the human rights concerns and allegations collected so far, and inquire about actions undertaken by the authorities to address them; and finally, to discuss measures pertaining to human rights which would contribute to addressing urgent protection concerns and thus also alleviating tensions and leading to the de-escalation of situation in and around Crimea.

81. ASG Šimonović collected first-hand information through meetings with the authorities in Crimea, leaders and members of the Crimean Tatar community, other representatives of civil society and journalists, and Ukrainian military officers and officers without insignia. Additional information has been gathered from a variety of reliable sources, including some through extensive telephone and Skype discussions.

82. The political aspects of recent developments in Crimea are beyond the scope of the assessment of this report. At the same time, however, these developments have a direct impact on the enjoyment of human rights by all people in Crimea. The delegation met with sources, who claimed that there had been alleged cases of non-Ukrainian citizens participating in the referendum, as well as individuals voting numerous times in different locations.

83. Preliminary findings, based on publicly available information as well as reports from civil society representatives in Crimea, suggest that the referendum of 16 March raised a number of concerns in terms of respect for human rights standards. Such concerns relate to the free communication of information and ideas about public and political issues. This implies a free press and other media are able to comment on public issues without censorship or restraint and to inform public opinion. A local Ukrainian journalist reportedly received threats through posters, which were disseminated near his place of residence. According to other reports, people in Crimea had limited access to information during the week prior to the referendum. According to some reports, Ukrainian TV channels were blocked since 10 March.

84. For the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the International Covenant on Civil and Political Rights, it is necessary to ensure, *inter alia*, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign and to advertise political ideas. Bloggers and local civil society representatives reported cases of human rights violations regarding journalists and civil society representatives who were perceived to be against the referendum.

85. Reports included a number of cases of abduction, unlawful arrest and detention by unidentified armed groups, harassment, and violence against peaceful demonstrators. Some activists and journalists were arbitrarily detained or disappeared. According to information provided by civil society groups, seven persons were known to have gone missing. Some previously considered missing were later released but found to have been subjected to torture or other ill-treatment. Some victims were kept in the Military Drafting Center (Voenkomat) in Simferopol. For example, on 9 March, two persons – Mr. Andrei Schekun and Mr. Kovalski – were allegedly kidnapped and later released on the administrative border with Kherson Oblast – with signs of ill-treatment or torture. However, the media reported soon after the referendum about the disappearance of a Crimean Tatar, Mr Reshat Ametov, who had been

missing for several days. Reportedly, he was taken away by uniformed men. Mr. Ametov's body was found on 16 March in the village of Zemlyanichne, in the Belogoski district of Crimea, with alleged signs of torture, hand-cuffed and with adhesive tape over his mouth. The HRMMU is verifying the whereabouts of all those who went missing.

86. The presence of paramilitary and so called self-defence groups as well as soldiers without insignia, widely believed to be from the Russian Federation, was also not conducive to an environment in which the will of the voters could be exercised freely. According to reports, some individuals had their documents/ passports taken away before the poll by unidentified militias, and searches and identity checks were conducted by unauthorised or unidentified people, in the presence of regular police forces<sup>12</sup>.

87. The ASG was assured that the authorities in Crimea will conduct thorough investigations of all human rights violations. These investigations should also cover crimes and human rights abuses allegedly committed by members of self-defence units. All cases of abductions and forced disappearances, arbitrary detentions, torture and ill-treatment, reportedly by so-called self-defense militia and disbanded Berkut, should be fully and impartially investigated and the results of these investigations made public. The authorities in Crimea should react promptly to any similar violations that may occur in future and decisively condemn them.

88. The protection of the rights of Crimean Tatars regarding restitution of property, including land or compensation for its loss related to their deportation from Crimea during times of USSR has been a concern since their return after the independence of Ukraine. Recent events have led to a renewed sense of uncertainty among Tatar representatives. According to Mr. Refat Chubarov, chairman of the Mejlis of Crimean Tatars, and other civil society actors in Crimea, there are reports of unidentified uniformed men claiming rights on properties and land. Several statements from the authorities in Crimea and officials in the Russian Federation, indicate plans to relocate or resettle within Crimea some of those Crimean Tatars who have occupied land illegally in recent years while waiting for their land to be returned. The authorities in Crimea have assured the Crimean Tatars that their rights would be protected, including through positive measures such as quotas in the executive and legislative organs. However, Crimean Tatar representatives have expressed reservations regarding the reality of these assurances. In addition to land squatting issues, concerns were also raised with regard to recent statements by some authorities that certain land segments will be alienated for public purposes.

89. It is widely assessed that Russian-speakers have not been subject to threats in Crimea. Concerns regarding discrimination and violence were expressed by some ethnic Ukrainians members of minorities, and especially Tatars, as indigenous peoples. In a meeting with authorities in Crimea these concerns regarding inter-ethnic tensions were dismissed, assuring that ethnic Russians, ethnic Ukrainians and Crimean Tatars and other minorities receive sufficient protection, with their three languages recognized as official languages. Despite this, Tatars largely boycotted the referendum and remain very concerned about their future treatment and prospects. Although there was no evidence of harassment or attacks on ethnic Russians ahead of the referendum, there was widespread fear for their physical security. Photographs of the Maidan protests, greatly exaggerated stories of harassment of ethnic Russians by Ukrainian nationalist extremists, and misinformed reports of them coming armed

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<sup>12</sup> There are numerous reports about the searches by the self-defense groups (sometimes in the presence of uniformed police) of the personal belongings of people arriving by train to Simferopol or by car travelling from the mainland.

to persecute ethnic Russians in Crimea, were systematically used to create a climate of fear and insecurity that reflected on support to integration of Crimea into the Russian Federation.

90. During the ASG's visit to Crimea, the situation of the remaining Ukrainian military personnel in Sevastopol and Bakhchisaray was discussed. The authorities in Crimea confirmed that although there were some complaints of the previous period, the blocked garrisons had sufficient food and access to healthcare, though some experienced shortages in drinking water. The reported pressure on them and their families had allegedly decreased. Some officers and soldiers with whom the delegation was able to meet stressed their fear of being accused of defection or desertion and being criminally prosecuted upon return to mainland Ukraine.

91. Notwithstanding the adoption of General Assembly resolution 68/262 on the Territorial Integrity of Ukraine, there are a number of measures taken in Crimea that are deeply concerning in terms of human rights. For example, measures such as the introduction of Russian citizenship, making it difficult for those who opt to maintain their Ukrainian citizenship to stay in Crimea, give rise to issues of legal residency and loss of related social and economic rights, including the right to work. The current situation also raises concerns with regard to land and property ownership, wages and pensions, health service, labour rights, education and access to justice. In particular, civil society representatives have drawn attention to the difficulties arising from the location of the central property register in Kyiv and the severing of communication between the local administration and the administration based in Kyiv. The authorities in Crimea indicated during discussions that human rights will be fully respected, including those pertaining to citizenship and property rights.

92. The overall climate of uncertainty, including human rights and protection concerns, has led some people, predominantly Tatars and ethnic Ukrainians, to leave Crimea. For example, in the Lviv region alone, the local authorities and private citizens have already accommodated some 639 Crimeans, among them a majority being Crimean Tatars who have left and gone to the Lviv region; others have left for Turkey. The number of Crimean Tatars currently displaced is estimated to have reached 3000.

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

### **A. Conclusions**

93. There is an urgent need to ensure full respect for the rule of law and human rights in Ukraine in order to guarantee the enjoyment of human rights for all, including minorities, while also contributing to de-escalate tensions in eastern Ukraine and Crimea. In doing so, it is proposed that immediate recommendations on overcoming human rights challenges be implemented as a matter of priority. However, underlying human rights violations that are among the root causes of the protests and continue to negatively impact on the situation must also be addressed in the long-term. It is important that the Government demonstrates commitment and pursues a public and inclusive debate on necessary legal and policy reforms, and where possible, takes concrete steps towards the implementation of some of the long-term recommendations, as outlined in this report.

94. As a matter of priority for the Government during this crucial period, is to immediately address possible instances of speech that advocates national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence in order to de-escalate tensions and ensure an environment that is conducive to the holding of free and fair elections. Political leaders should be encouraged to send messages of inclusiveness and counter hate speech and



other manifestations of extremism. That will play an important role in promoting a culture of tolerance and respect. Any public statements that incite national, racial or religious hatred should be unequivocally condemned, promptly investigated and adequately sanctioned, to ensure that such discourse is not condoned in society.

95. During this sensitive period for the country, the protection of minority rights is clearly both a human rights imperative and key to conflict prevention. In the current context, the adoption of measures to reassure all members of minorities regarding respect for their right to equal participation in public affairs and public life is urgently needed. The conduct of public affairs covers all aspects of public administration, as well as the formulation and implementation of policy at international, national, regional and local levels. Therefore, a mechanism should be put in place to ensure full consultation of minorities, including numerically smaller minorities, in decision-making processes at the central, regional, and local levels,

96. Violations related to the Maidan protests should be investigated and addressed in order to ensure accountability of perpetrators. In light of numerous attacks against journalists during the Maidan demonstrations, and ahead of the referendum in Crimea, measures should be taken to ensure that their right to security of the person, as well as freedom of expression are protected and promoted. The Government should send out a strong public message in this regard. It should clearly inform that all acts of aggression, threats and intimidation against journalists and other media professionals, as well as human rights defenders, will be immediately investigated, prosecuted and punished. Journalists and human rights defenders, who are victims of such acts, should be provided with adequate remedies.

97. With respect to Crimea, it will be important for the authorities in Crimea to both publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions. It is crucial that the cases of missing persons are resolved, and that access to places of detention is granted, including the Military Drafting Center (Voenkomat) in Simferopol, to all international organisations requesting it. The protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars, must be assured.

98. The actions carried out by members of paramilitary groups in Crimea, raise serious concerns. The rule of law should be urgently restored in Crimea and security of all individuals and public order ensured. Permitting unregulated forces to carry out abusive security operations violates that obligation and basic respect for human rights. The authorities in Crimea should immediately disarm and disband all paramilitary units operating outside of the law, protect people from their illegal actions, and ensure that all law enforcement activities are carried out by the police. The authorities should ensure that any self-defence units that are created operate in accordance with the law and that the public is aware of the units' chain of command structure and accountability mechanisms. The authorities in Crimea confirmed their intention to disarm and disband all armed groups (including self-defense groups).

99. Independent and impartial monitoring and reporting of the human rights situation in Crimea would deter violations, stimulate accountability and prevent the spreading of rumours and political manipulations. Mr. Rustam Timirgaliev was informed on the structure and the mandate of the envisaged UN Human Rights Monitoring presence and had promised to revert. However, in the meantime, the Russian Federation communicated through diplomatic

channels that any UN human rights presence should be discussed with it and that it does not support the deployment of human rights monitors in Crimea. Nonetheless, UN HRMMU will continue to seek the presence of a sub-office in Crimea, in consultation with the Government of Ukraine and various interlocutors in Crimea, and continue to monitor the human rights situation from outside the Autonomous Republic of Crimea.

100. There is also serious concern about violations of the civil and political rights of the inhabitants of Crimea, in particular with regard to those who oppose recent events. Recent events also create major concerns of effective statelessness, as well as concerns of the loss of rights of those who wish to be considered citizens of Ukraine.

101. Underlying human rights violations by previous Governments were among the root causes of the popular demonstrations that took place throughout Ukraine and in particular in the centre of Kyiv on Maidan from November 2013 to February 2014. There are now clear indications of a willingness by the present Government to ensure a break with past injustices and to elaborate a new vision for Ukraine's future. Strengthening the rule of law, democracy and human rights will be key to any lasting change and to avoid any spirit of revenge. Legislative and institutional reforms should be carried out in a comprehensive, transparent and consultative way, and therefore not be rushed. Furthermore, they should be sustained through consistent and accountable implementation.

102. A number of priority human rights concerns and corresponding reforms need to be addressed in the short, medium and long term. Irrespective of the fact that systemic shortcomings may be only remedied in the medium and long-term, it will be important to pave the way immediately through a series of initial measures that will build confidence and reassure all people, including minorities, that their concerns will be addressed.

103. The international community and the UN in particular, can and should play a role in supporting an environment where the human rights of all, including minorities and indigenous peoples, can be best promoted and protected. Without an independent and objective establishment of the facts and circumstances surrounding alleged human rights violations, there is a serious risk of competing narratives being manipulated for political ends and leading to divisiveness and incitement to hatred.

104. In this context, OHCHR engagement and provision of information and analysis of the human rights situation through the UN Human Rights Monitoring Mission on the ground will allow the UN to undertake further steps to respond to the situation in Ukraine in line with the Secretary-General's Rights Up Front approach. In providing an impartial and authoritative human rights assessments, it can contribute to establishing the facts, de-escalating tensions, and paving the way for an environment that is conducive to the holding of free and fair elections. OHCHR is ready to assist in the implementation of the recommendations contained in this report.

## **B. Recommendations**

### **To the Government of Ukraine:**

#### **(i) Recommendations for immediate action**

##### Accountability and the rule of law

1. Ensure accountability for all human rights violations committed during the period of unrest, through securing of evidence and thorough, independent, effective and impartial investigations, prosecutions and adequate sanctions of all those responsible for these violations; ensure remedies and adequate reparations for victims.
2. Ensure that any lustration initiatives are pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.

##### Inclusivity, equal political participation and rights of minorities

3. Ensure inclusivity and equal participation of all in public affairs and political life, including members of all minorities and indigenous peoples and establish a mechanism to facilitate their participation.
4. Ensure that legislation on minorities, in particular on linguistic rights, is adopted following full consultation of all minorities concerned and according to relevant international and regional human rights standards.

##### Freedom of expression and peaceful assembly

5. Ensure the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the International Covenant on Civil and Political Rights. A conducive environment to the forthcoming elections will also require the Freedom of expression, assembly and association, which are essential conditions for the effective exercise of the right to vote and must be fully protected. This includes: freedom to engage in political activity individually or through political parties and other organizations; freedom to debate public affairs; to hold peaceful demonstrations and meetings; to criticize and oppose; to publish political material; to campaign for election; and to advertise political ideas.
6. Ensure freedom of expression for all and take all measures that will ensure the safety of journalists, media professionals and human rights defenders so that they are able to play their full role in the run-up to elections, in shaping the future of their country.
7. Adopt legislation and other measures needed to ensure the right to peaceful assembly in compliance with the requirements of article 21 of the International Covenant on Civil and Political Rights. In particular, ensure that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management of peaceful assemblies.
8. Prevent media manipulation by ensuring the dissemination of timely and accurate information. Take action against deliberate manipulation of information, in compliance

with international standards of freedom of expression and in full respect of due process guarantees.

#### Combatting hate speech

9. Combat intolerance and extremism and take all measures needed to prevent advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and punish such incitement or acts of violence, which is of fundamental importance. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.
10. Take resolute steps to prevent negative stereotyping of minority communities in the media, while fully respecting the freedom of the press. Efforts to train media professionals must be increased, including by further promoting the visibility and effectiveness of the work of the national union of journalists in this regard.

#### Corruption

11. Put in place, as a matter of priority, all legislative and policy measures needed to effectively eradicate corruption.

#### Cooperation with HRMMU

12. Closely cooperate with the HRMMU and act upon its recommendations and steps needed to provide protection for persons at risk.

#### To the authorities in Crimea:

13. Publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions.
14. Actively resolve cases of missing persons, and grant access to places of detention, including the military facilities and offices in Simferopol and Sevastopol, to all international organisations requesting it.
15. Act to re-establish the rule of law, including by the effective disbandment of any and all 'self-defence forces' and/or para-military groups.
16. Take all measures to ensure that the human rights of Ukrainian soldiers based in Crimea are also fully respected.
17. Take all needed measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to access to citizenship, right of residence, labour rights, property and land rights, access to health and education.

18. Investigate all allegations of hate speech and media manipulation, and take appropriate measures to prevent them and take appropriate sanctions while fully ensuring and strengthening freedom of expression.
19. Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.
20. Grant access to independent and impartial human rights monitors, including by OHCHR.

**(ii) Long-term recommendations:**

Engagement with the international human rights system

- 21.. Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.
22. Ratify international human rights instruments to which Ukraine is not yet party. These include, the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.
23. Implement recommendations of international human rights mechanisms. The recommendations and concerns expressed in the past few years by several human rights mechanisms continue to be of relevance and should be taken into account by the authorities when considering various reforms that will greatly impact on the protection of human rights for all people in Ukraine:
  - a. In particular, the UN Human Rights Committee issued several important recommendations in July 2013 when it considered the latest periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights;
  - b. The recommendations adopted by the UN Human Rights Council following the Universal Periodic Review of the human rights situation in Ukraine in October 2012 should also be taken into consideration.
  - c. The report of the UN Sub-Committee on the Prevention of Torture following its visit to Ukraine in 2011 should be made public immediately and taken into consideration by the authorities when considering issues related to torture, ill-treatment, and detention related matters.
  - d. Ukraine has issued a standing invitation to special procedures. It should accommodate requests for such visits.
  - e. Encourage the development of a national human rights action plan, with clear timelines and benchmarks, addressing every recommendation resulting from the international and regional HR systems to be implemented within a certain time-frame - with the support of the international community, regional and bilateral actors, and the UN system.

Legislative and policy reforms:

24. Reform the administration of justice system so that it functions independently, impartially and effectively; reform the security sector so as to ensure that it functions in full respect of international norms and standards; provide for full accountability for human rights violations.
25. Strengthen rule of law institutions so that they fully comply with relevant international and regional human rights norms and recommendations of human rights mechanisms.
26. Review legislation and policies applicable to the management of peaceful assemblies, and if necessary, modify them to ensure their compliance with human rights standards. In particular, these should specify that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management. In this regard, particular attention should be paid to the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
27. Ensure that such policies, practices and instructions are observed through rigorous training for the personnel involved. In particular, effective internal oversight mechanisms must be put in place in order to review all incidents of injury or loss of life resulting from the use of force by law enforcement personnel as well as all cases of use of firearms during duty.
28. Ensure the institutional independence of the State Bureau of Investigation, under Article 216 of the new CCP, which provides for its creation within five years (as of 2012) to enable it to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. It will be very important to ensure that this new body is independent from the Prosecutor's Office. Public accountability and sufficient resourcing is essential to enable it to function effectively, promptly, independently and impartially.

Economic and social rights:

29. Take concrete steps to redress disparities in standards of living and equal access to and quality of health, education, employment, and social support structures for all, including marginalised communities throughout the country.

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# Annex 45

OHCHR, Report on Human Rights Situation in Ukraine (15 May 2014),





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

**Report on the human rights situation in Ukraine  
15 May 2014**

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## I. EXECUTIVE SUMMARY

1. The present report is based on the findings of the United Nations (UN) Human Rights Monitoring Mission in Ukraine (HRMMU)<sup>1</sup> covering the period of 2 April - 6 May 2014. It follows the first report on the human rights situation in Ukraine released by the Office of the UN High Commissioner for Human Rights (OHCHR) on 15 April 2014.
2. Since the issuance of the first report, the HRMMU has noted the following steps undertaken by the Government of Ukraine to implement some of the recommendations from the report. These include: the drafting of legislation on peaceful assembly; and the development of a policy to prevent the negative stereotyping of minority communities in the media.
3. The HRMMU also notes the ongoing investigation by the Office of the General Prosecutor into the gross human rights violations that were committed during the violent Maidan clashes between November 2013 and February 2014 that resulted in the killing of protesters and police, as well as allegations of torture and reports of missing persons. These investigations need to be completed in a timely, independent, effective and impartial manner to ensure accountability and justice for all, both victims and alleged perpetrators; the process and the results of these investigations must be transparent.
4. OHCHR appreciates that the Government of Ukraine has welcomed the HRMMU, offering open and constructive cooperation. It has been forthright in providing information and discussing with the HRMMU human rights concerns: right to life, liberty and security of person, the freedoms of movement, peaceful assembly, expression and association, as well as right to fair trial and equal access to justice without discrimination and the protection of the rights of all minorities.
5. The main findings and conclusions for the period covered by this report are:
  - i. The Government of Ukraine is taking steps to implement the provisions of the Geneva Agreement concluded on 17 April 2014.<sup>2</sup> On the same day, the Cabinet of Ministers of Ukraine issued an Order "On the organization of the discussion of amendments to the provisions of the Constitution of Ukraine on decentralization of State power". On 18 April, a parliamentary coalition suggested to all political parties represented in the parliament to sign a memorandum of understanding regarding ways to resolve the situation in eastern Ukraine. According to acting President and Speaker of Parliament Turchynov, the initiative was not supported by members of the opposition. On 22

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<sup>1</sup> Concept note on the HRMMU is attached.

<sup>2</sup> The Geneva meeting took place on 17 April 2014. As the result of the negotiations between the representatives of Ukraine, EU, USA and Russian Federation in Geneva on 17 April 2014, an agreement was reached on initial concrete steps to de-escalate tensions and restore security for all: (1) All sides must refrain from any violence, intimidation or provocative actions; (2) All illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public offices must be vacated; (3) Amnesty granted to the protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) The announced constitutional process will be inclusive, transparent and accountable carried out through a broad national dialogue.

April, the draft law “On prevention of harassment and punishment of persons in relation to the events that took place during mass actions of civil resistance that began on 22 February 2014” was registered in Parliament.

- ii. Armed groups continue to illegally seize and occupy public and administrative buildings in cities and towns of the eastern regions and proclaim “self-declared regions”. Leaders and members of these armed groups commit an increasing number of human rights abuses, such as abductions, harassment, unlawful detentions, in particular of journalists. This is leading to a breakdown in law and order and a climate of intimidation and harassment.
- iii. In the aftermath of the 16 March unlawful “referendum”<sup>3</sup> in the Autonomous Republic of Crimea, Ukraine, there are increasing reports of residents being affected by the changing institutional and legal framework. Human rights concerns relate to citizenship, property and labour rights, access to health and education. Of concern to the HRMMU, are the increasing reports of on-going harassment towards Crimean Tatars, and other residents who did not support the “referendum”. The reported cases of Crimean Tatars facing obstruction to their freedom of movement, as well as the recent attack on the building of the parliament of the Crimean Tatar people are worrying developments. Legislation of the Russian Federation is now being enforced in Crimea, in contradiction with UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”. In addition, its differences with Ukrainian laws will have a significant impact on human rights, posing in particular limitations on the freedoms of expression, peaceful assembly, association and religion.
- iv. The Government of Ukraine needs to carry out a prompt, transparent and comprehensive investigation into the violent events in Odesa and ensure that the perpetrators are brought to justice in a timely and impartial manner. The impact of the 2 May violence in Odesa has hardened the resolve of many, and strengthened the rhetoric of hatred. In its aftermath, a call was made for mobilisation to join local armed groups in the eastern regions of Donetsk and Luhansk. Referenda on the “recognition” of the so-called “Donetsk People’s Republic and “Luhansk People’s Republic” were planned in both regions for 11 May.
- v. Many peaceful demonstrations have been observed by the HRMMU in the country. A tendency has been observed for a peaceful protest to suddenly turn into a violent confrontation. Increasingly the result of such violent acts and confrontation leads to numerous deaths and injuries. All too often, the police appear unable to guarantee the security of participants, and ensure law and order. Peaceful assemblies must be permitted, both as a matter of international law and as a way for people to express their opinion. Policing should facilitate such assemblies, ensuring the protection of participants, irrespective of their political views.

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<sup>3</sup> UN General Assembly Resolution 68/262 on the territorial integrity of Ukraine, OP 5: “*Underscores* that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol”.

- vi. In eastern Ukraine, freedom of expression is under particular attack through the harassment of, and threats to, journalists and media outlets. The increasing prevalence of hate speech is further fuelling tensions. Both these factors are deepening divisions between communities and exacerbating the crisis. All parties must take immediate steps to avoid incitement and radicalisation.
- vii. Campaigning for the 25 May Presidential elections is well underway. Some candidates report arbitrary restrictions, conflicts and incidents, which impacts and curtails their ability to campaign with voters. Transparent, fair and democratic Presidential elections on 25 May are an important factor in contributing towards the de-escalation of tensions and restoration of law and order.

## **II. METHODOLOGY**

6. The report on the human rights situation in Ukraine was prepared by the HRMMU and covers the period from 2 April to 6 May 2014.
7. This report is prepared pursuant to the objectives of the HRMMU as set out in the concept note (see annex), and in line with UN General Assembly Resolution 68/262, entitled “Territorial integrity of Ukraine”, as adopted on 27 March 2014.
8. During the reporting period, the HRMMU has continued to operate from a main office in Kyiv, with sub-offices in Donetsk, Kharkiv, Lviv and Odesa (which also covers Crimea) with the same staff capacity (34).
9. The HRMMU coordinates and cooperates with various partners in Ukraine, in particular the UN Country Team (UNCT) and the OSCE Special Monitoring Mission (SMM) to Ukraine.
10. The HRMMU monitors reports of human rights violations by conducting on-site visits (where access and security allow), carrying out interviews, gathering and analysing all relevant information. The HRMMU exercises due diligence to corroborate and cross-check information from as wide a range of sources as possible, including accounts of victims and witnesses of human rights violations, state actors, the regional authorities, local communities, representatives of groups with diverse political views, the Ombudsman Institution, civil society organisations, human rights defenders, regional organisations, UN agencies and the diplomatic community. The HRMMU also collects information through secondary sources, such as media reports and information gathered by third parties. Wherever possible, the HRMMU ensure that its analysis is based on the primary accounts of victims and/or witnesses of the incident and on-site visits. On some occasions, primarily due to security-related constraints affecting access, this is not possible. In such instances, the HRMMU relies on information gathered through reliable networks, again through as wide a range of sources as possible that are evaluated for credibility and reliability.
11. Where the HRMMU is not satisfied with the corroboration of information concerning an incident, it will not be reported. Where information is unclear, the HRMMU will not report on the incident and conclusions will not be drawn until the information obtained has been verified.

12. The cases presented in the report do not constitute an exhaustive list of all cases being monitored by the HRMMU but are rather considered emblematic of current human rights concerns, pointing to existing or emerging trends and patterns of human rights violations. The HRMMU works through an electronic database to support its analysis of cases and reporting.

### **III. INVESTIGATIONS INTO HUMAN RIGHTS VIOLATIONS RELATED TO THE MAIDAN PROTESTS**

*Amnesty for those responsible for ordering the violent crackdown on Maidan protesters on 29 - 30 November 2013 to be reviewed*

13. On 2 April, the Kyiv City Appeal Court cancelled, and sent back for further review, the decision of the Pecherskyi District Court on the amnesty for persons, responsible for ordering the violent crackdown and dispersal of demonstrators by the riot police "Berkut"<sup>4</sup> on the night of 30 November 2013. This was the first instance of excessive use of force against peaceful demonstrators during the Maidan demonstrations. At least 90 persons were injured; 35 protesters were detained and later released. This violent incident is widely viewed as triggering further Maidan protests. A new hearing is scheduled at the Pecherskyi District Court on 14 May.

*Criminal proceedings into the killings of 19-21 January and 18-20 February 2014*

14. Following the violent clashes on 1-2 December and 10-11 December 2013, and the clashes and killings of demonstrators that took place on 19-21 January, violence in Kyiv reached its peak 18 and 20 February. More than 120 people (three of them women) were killed and hundreds were injured – demonstrators and police officers. Some died later in hospital from their injuries.

15. The HRMMU has been following the two separate criminal proceedings opened by the Office of the General Prosecutor: one for the killing of demonstrators and one for the killing of police officers.<sup>5</sup>

16. The Office of the General Prosecutor has opened a criminal investigation based on Articles 115 (Murder), 121 (Intended grievous bodily injury) and 194 (Wilful destruction or damage of property) of the Criminal Code. This is looking at the killing of protesters (75 persons) and injuries caused by the use of firearms between 19 January to 20 February on Hrushevskoho and Instyutaska streets.

17. According to the preliminary investigation, the Berkut special unit killed 46 persons during the protests. As of 24 April 2014, three Berkut officers were arrested and officially charged with murder (article 115). Information received by the HRMMU from the Office of the Prosecutor General suggests that additional Berkut officers are under investigation.

18. The Investigative Department of the Office of the General Prosecutor continues to investigate the excessive use of force and degrading treatment by law enforcement officials

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<sup>4</sup> The "Berkut" unit was the Special Forces within the Ministry of Interior. On 25 February 2014, Minister of Interior Arsen Avakov signed a decree dissolving the unit.

<sup>5</sup> As of 6 May, criminal proceedings were underway, with no further details available.

against Maidan activist Mr. Havryliuk, who was stripped naked, roughly pushed around and forced to stand still in the snow in freezing temperatures while a police officer filmed him with a mobile phone. In this case, a serviceman of the internal troops of the Ministry of Interior is under suspicion based on article 365 (Excess of authority or official powers) of the Criminal Code.

19. The Office of the General Prosecutor informed the HRMMU that it is verifying claims that foreigners participated in the above-mentioned crimes, particularly in the targeted killings in February. In January-February, a number of attacks, abductions, severe beatings and killings of Maidan activists, as well as arson of cars belonging to the Auto-Maidan were committed by the so-called “titushky”, also referred to as an “Anti-Maidan” group. This includes the attack against the journalist Viacheslav Veremiy, who was beaten and shot on the night of 18 February and died in hospital on 19 February. In this case, three suspects are wanted by the Office of the General Prosecutor in the context of an investigation into the activities of the criminal group – one is arrested, while two remained at large.

*Request to the International Criminal Court to investigate the Maidan violence*

20. On 9 April, the Government of Ukraine submitted a request to the International Criminal Court (ICC) to investigate the events that occurred on Maidan from 21 November 2013 to 22 February 2014. The Registrar of the ICC received a declaration lodged by Ukraine accepting the ICC jurisdiction with respect to alleged crimes committed on its territory during the above mentioned period. The declaration was lodged under article 12(3) of the Rome Statute, which enables a non-party to the Statute to accept the exercise of jurisdiction of the Court. The Prosecutor of the ICC has decided to open a preliminary examination into the situation in Ukraine in order to establish whether the Rome Statute criteria for opening an investigation are met. On 15 April, the Minister of Justice officially stated that there was unanimous support within the Government for the ratification of the Rome Statute, which Ukraine signed in 2000 but not yet ratified.

*Missing persons*

21. According to the NGO EuroMaidan SOS, which has maintained a list of missing persons since the early days of Maidan, as of 5 May 2014, 83 persons (including four women) still remained unaccounted for. There is no official information from the Ministry of Interior or the Office of the General Prosecutor on the number of people still missing relating to Maidan, as investigations were on-going.

22. Initially in the aftermath of the Maidan, 314 persons were registered as missing, according to the Office of the General Prosecutor. A large number have since been found alive; some were recognised as killed or dead. It is critical to identify the whereabouts and fate of those who remain missing from Maidan.

23. An International Advisory Panel<sup>6</sup> has been initiated by the Secretary-General of the Council of Europe, Thorbjorn Jagland, to oversee the judicial investigations into the violent clashes during the Maidan events from 30 November 2013 to 21 February 2014. Information has been requested by the Panel into violent acts committed by any person during three

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<sup>6</sup> The members of the panel are: Sir Nicolas Bratza, Chairman, a former President of the European Court of Human Rights; Mr. Volodymyr Butkevych, a former Judge of the European Court of Human Rights; and Mr. Oleg Anpilogov, a member of Kharkiv Regional Council.

periods: the night of 30 November/1 December 2013; 1 December 2013; and 18-21 February 2014. The Panel will hold its first meetings in Kyiv at the end of June 2014.

#### **IV. HUMAN RIGHTS CHALLENGES**

##### **A. Rule of law**

24. During the reporting period, the HRMMU monitored a number of measures within the sphere of the rule of law. These included: the introduction of amendments to the Constitution; Criminal Code amendments to toughen sanctions regarding violations of territorial integrity; legislation on the restoration of the credibility of the judiciary; laws providing for amnesties, as well as the law on occupation in the aftermath of the 16 March unlawful referendum in Crimea.

##### *Constitutional reform*

25. On 17 April, the Cabinet of Ministers issued an Order “On the organization of the discussion of amendments to the provisions of the Constitution of Ukraine on the decentralization of State power”. By 1 October 2014, senior government officials, the regional administrations and the Kyiv city administration are to organise debates on the planned constitutional amendments<sup>7</sup> that would propose the decentralization of power. This Order accelerates the implementation of the Concept on reforming local government and territorial organization of power in Ukraine, which was adopted on 1 April 2014.

26. Public parliamentary hearings were held on amendments to the Constitution of Ukraine on 29 April, with the main areas of reform aiming to empower local governments, strike a balance between all branches of State power, ensure the independence of the judiciary, and oversight of the work of public authorities. Political parties agreed that by 25 May proposals on constitutional amendments will be finalised, with a Parliamentary session on constitutional reform to be held after this date. Further steps towards the delegation of broad powers to the local authorities are being made. On 23 April, the Government approved the first draft law “On cooperation of the territorial communities” that envisages five forms of possible cooperation within communities, based on an earlier Concept on the Reform of Local Self-Government and Territorial Organisation of Powers in Ukraine, approved on 1 April by the Cabinet of Ministers.

27. On 5 May, Prime Minister Arseniy Yatseniuk, submitted to the Parliament a draft law “On a national survey”, to be conducted on 25 May, the same day as the Presidential elections, on issues of concern for all Ukrainians: national unity, territorial integrity of the

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<sup>7</sup> According to the Parliamentary Interim Commission on Constitutional Reform, the main areas of the Constitutional reform are: extension of powers of local self-government, to achieve a balance between all branches of power; the development of an independent judicial branch; oversight of public authorities. Under a new Constitution regional and district state administrations will be dissolved. Local territorial communities would elect regional and district councils (local parliaments) and their heads. The executive committees of local councils would serve as local governments. State power and authority, as well as the functions of setting the local budget would be delegated to such structures. At the same time, state representative bodies would be created and located at the territorial level. They will maintain control over the adherence to legislation in a certain territory but would have no financial or economic influence in the region.



country and the decentralisation of power.<sup>8</sup> On 6 May, Parliament decided not to adopt the initiative.

#### *Criminal Code amendments toughen sanctions for violations of territorial integrity*

28. On 16 April, the acting President of Ukraine signed the Law "On amendments to the Criminal Code of Ukraine", which entered into force on 19 April. It includes provisions that increase penalties related to the encroachment and inviolability of the territorial integrity of Ukraine, as well as for high treason and the undermining of national security (Sabotage and espionage).

#### *Law on Lustration*

29. On 7 April, approximately 150 activists of Maidan self-defence unit, the Right Sector and Auto-Maidan picketed, blocked and stormed the Supreme Court building, at the time of the scheduling of an extraordinary session of the Congress of Judges. The protesters along with Yegor Sobolev, head of the Lustration Public Committee of Maidan, demanded the lustration of judges and appointment of new ones. On 8 April, the Right Sector and Auto-Maidan activists blocked the Parliament calling on its members to speed up the adoption of the lustration legislation.

30. On 8 April, the Parliament passed the Law "On the restoration of the credibility of the judiciary in Ukraine" (the Law on lustration of judges) with 234 votes<sup>9</sup> and it entered into force on 10 May (while the proposed law on lustration for public servants was taken off the Parliamentary agenda). Its purpose is to strengthen the rule of law, to restore confidence in the judiciary, and to combat corruption in the courts through the dismissal of judges whose gross violations of professional and ethical standards have discredited the judiciary. The Law also determines the legal and organisational framework by which judges are to be vetted. It sets out the aim, objectives and timelines for the vetting of judges, as well as the bodies authorised to conduct these procedures, the content of the vetting, and the measures to be taken following the results of the vetting. According to the Law, the process of lustration is to be carried out by an Interim Special Commission. It is foreseen to consist of 15 members; five candidates from each of the following institutions: the Supreme Court, the Parliament and the Governmental Commissioner on the Issues of the Anti-Corruption Policy.

31. The HRMMU is concerned that immediate dismissal of judges may put in jeopardy the administration of justice. The implementation of the Law can lead to the unjustified and non-motivated dismissals of judges. The Law does not follow some generally recognized requirements in the area of judicial proceedings: it implements retrospective liability for actions which were not considered punishable before the Law's adoption; the adopted court decisions mentioned in the Law are to be scrutinized by the Interim Special Commission. Also, the text of the Law uses the term "political prisoner", which is not defined in current Ukrainian legislation. The HRMMU reiterates its earlier recommendation that any lustration initiatives be pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.<sup>10</sup>

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<sup>8</sup> The idea to conduct such survey was announced by Mr. Yatseniuk on 30 April during the opening of a session of the Government. He stated that, "in framework of the decentralisation of power, Ukrainian authorities are ready for the additional guarantees on the respective territory for the Russian-speaking population and other national minorities".

<sup>9</sup> In total, there are 450 members of Parliament.

<sup>10</sup> OHCHR report on the human rights situation in Ukraine, 15 April 2014, p. 25 (available online at [http://www.ohchr.org/Documents/Countries/UA/Ukraine\\_Report\\_15April2014.doc](http://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15April2014.doc)).

## *Amnesties*

32. The annual legislation “On Amnesty in 2014” entered into force on 19 April. Administered by the courts, it applies to minors, pregnant women, persons having children under 18 or children with disabilities, persons with disabilities and persons infected with tuberculosis or with an oncological disease, persons having reached the age of retirement, war veterans, combatants and invalids of war, liquidators of the accident at the Chernobyl nuclear power plant, persons having parents over 70 or with disabilities. In addition some military personnel imprisoned for committing medium gravity offences will be released. Persons who have committed grave criminal offences will not be eligible for such an amnesty. The Parliamentary Committee on Legislative Support of Law Enforcement estimates that between 23,000 – 25,000 convicts could be eligible for an amnesty.

33. From 9 to 23 April, five drafts laws on ‘amnesty’ for the activists who have participated in the protests after 22 February were submitted to the Parliament by different political parties.<sup>11</sup> While the proposed drafts varied all seek amnesty legislation that covers: actions to overthrow legal government (article 109); organisation of riots (article 294); seizure of administrative and public buildings (article 341). The majority of the proposals considered that cases of “separatism”, as violations against the territorial integrity of Ukraine (article 110), should fall within the scope of an adopted amnesty law.

34. All drafts aim to ease tensions and resolve the crisis in Ukraine, particularly in the east and south of the country, and for the most part give a date of 22 February from where acts as provided for should be applicable. The Committee on Legislative Support of Law Enforcement is now responsible for preparing the draft legislation.

## *Law on Occupation*

35. The Law “On guaranteeing citizens’ rights and freedoms and legal regime in the temporarily occupied territory of Ukraine” was adopted on 15 April. Its provisions and implications are analysed in section VI on “Particular Human Rights Challenges in Crimea”.

### **B. Law enforcement sector reform**

36. The ongoing events and violence in various parts of the country have resulted in an increasing erosion of law and order. The most recent example is the tragic events that took place in Odesa during the afternoon and evening of 2 May, where 46 people were killed in violent clashes, and a fire in the Trade Union building where many people had taken refuge.<sup>12</sup>

37. In order to develop a concept for the reform of the law enforcement bodies, an Expert Council “on the issues of human rights and reformation” was established in the Ministry of Interior on 4 April. It has a membership of 14 people, of which four are women, and includes human rights defenders. It will submit to the Government a concept of the reform of law enforcement bodies by November 2014. The reform package should reinforce the rule of law; de-politicise, de-militarise, de-centralise and strengthen the structure of the law enforcement bodies through accountability, transparency, and closer cooperation with the public and local

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<sup>11</sup> 9 April Draft Nr. 4667(Party of Regions); 10 April Draft Nr. 4667-2 (non-affiliated MP Rudkovsky); 18 April Draft Nr. 4667-3 (Cabinet of Ministers); 22 April Draft Nr. 4667-4 (Party of Regions); 23 April Draft Nr. 4667-5 (Communist Party).

<sup>12</sup> Official death toll as of 4 May 2014.

communities; and professionalise the staff. The HRMMU has been included into the Council with an observer status.

38. On 23 April, the Ministry of Justice suspended, pending the investigation of allegations of torture that occurred in 2013, the heads of a number of penitentiary facilities, including those of the Dnipropetrovsk pre-trial detention facility and Penitentiary Colony No. 3 in Krivii Rig, Dnipropetrovsk region. On 24 April, the head of the pre-trial detention facility in Odesa was dismissed. The Government ordered the establishment of a special commission under the Ministry of Justice, which should focus on improving the legislative framework for torture prevention. This will support the work of the National Preventive Mechanism, established under the Ombudsman Institution.

39. Experts and human rights defenders continue to stress that conditions in places of the deprivation of liberty do not meet international norms and standards. The use of torture and ill-treatment in pre-trial detention facilities is often attributed to the fact that police officers are still evaluated on quantitative indicators.

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

40. In April and early May, rallies and peaceful demonstrations have continued to take place. While many are peaceful – some gathering in large numbers, some consisting of a few picketers – a tendency can be observed in some urban areas of simultaneous rallies of opposing groups ending in violent confrontations.

41. The continuation of protests reflects a variety of demands, some supporting the unity of Ukraine, some opposing the Government of Ukraine, and some seeking decentralisation or federalism, with others looking at separatism.

42. The HRMMU has observed various rallies in support of Ukraine, its unity and territorial integrity that took place between 17-21 April in various towns, including Kyiv, Donetsk, Luhansk, Poltava, Dnipropetrovsk, Sumy, Khartsyzsk (Kharkiv region) and Odesa. Each peacefully gathered approximately 300 - 2,000 people. Further examples of peaceful protest took place on 28 and 29 April in Chernivtsi and Uzhgorod (western Ukraine) against the deployment of military and riot police to the south-east regions of Ukraine.

43. The HRMMU observed other rallies that aimed to: promote social and economic rights; demand an increase to social benefits and salaries; an end to corruption; and the improvement in governance. On 9 April, a peaceful protest of some 200 representatives of small businesses took place in Zaporizhzhya (south Ukraine) seeking an end to illegal markets and corruption. On 1 May in Kyiv, a peaceful rally took place demanding political change, constitutional reform, early Parliamentary elections, an increase of salaries and social benefits.

44. A number of peaceful assemblies supporting “federalism” have been observed by the HRMMU in Donetsk, Kharkiv, Luhansk and Odesa.

45. At the same time there were a number of examples when such peaceful rallies turned violent. The HRMMU is concerned with repeated acts of violence against peaceful participants of rallies, mainly those in support of Ukraine’s unity and against the lawlessness

in the cities and villages in eastern Ukraine. In most cases, local police did nothing to prevent violence, while in some cases it openly cooperated with the attackers. For example, on 6 April, 1,000 pro-Russian activists attacked an improvised gathering by several dozen supporters of Ukraine's unity in Severodonetsk in Luhansk Region. Six of the pro-Ukrainian activists sought medical assistance.

46. On 13 April, pro-Russian activists attacked a peaceful rally in support of Ukraine's unity in front of Mariupol City Police Department. Nineteen participants of the rally were taken to the hospital with injuries of varying severity.

47. On 13 April, the HRMMU observed pro-Russian and pro-Ukrainian rallies being held at the same time in close proximity in Kharkiv. While the presence of the police had for most of the time managed to keep the two sets of supporters apart, the situation broke down towards the end of both events. As many of the pro-Ukrainian activists were leaving their rally, they were attacked by the pro-Russian activists who broke through the police chain. Some people who did not manage to escape, were surrounded and then beaten severely. At least 16 persons were wounded; with some admitted to hospital. The police initiated criminal proceedings on the grounds of hooliganism that led to people being injured, under Part 4 of article 296 of the Criminal Code.

48. On 27 April in Donetsk, approximately 500 protesters demanded a referendum on the status of the Donetsk Region and to release those detained by the Ukrainian authorities, including Pavel Gubarev (former self-proclaimed Governor of the Donetsk region). It was from this demonstration that protesters then moved to the building of the State TV-Radio company "Donbass". Having been joined by a group from the movement "Oplot", the protesters stormed the building demanding the re-launch of the broadcasting of Russian TV channels.

49. On 27 April, in Kharkiv opposing activists organised meetings in nearby squares. On the main square, 500-600 protesters gathered, while at the same time another group supporting the unity of Ukraine rallied in a slightly larger number on a neighbouring square. Two groups of football fans from Kharkiv and Dnipropetrovsk joined the pro-Ukrainian gathering. As the latter marched towards the football stadium, clashes erupted despite the efforts of the police to separate the two groups. As a result, 14 people were injured, including two police officers. Protesters in the main square tried to build a tent settlement on the main square (Freedom square) in Kharkiv but were prevented from doing so by the police. Criminal proceedings were started under article 294 (Riots). As of 5 May, no one was charged or detained.

50. On 28 April, participants of a peaceful rally in support of Ukraine's unity in Donetsk were attacked and violently beaten by the supporters of the self-proclaimed "Donetsk People's Republic", who were armed with metal sticks, noise grenades, baseball bats and pistols, while the police was reluctant to prevent the clash. As a result, two persons were hospitalised, dozens wounded, and five participants of the rally (reportedly students) were abducted and held in the local office of the Party of the Regions; they were released the next day.

51. The most tragic of all incidents occurred in Odesa on 2 May where what was initially a rally spiralled into violent clashes and a fire, which claimed 46 lives.<sup>13</sup>

52. While article 64 of the Constitution provides for the freedom of peaceful assembly, there is no law that regulates the conduct of such assemblies.<sup>14</sup> The HRRMU has observed that this gap in the legislative framework creates confusion, irregularities and an *ad hoc* approach to policies and practices that regularize and manage peaceful assemblies. These include: the organisation/preparation of a peaceful assembly; cooperation with the police during a peaceful assembly; the terms of notification for a peaceful assembly; the appeal procedure when an assembly is rule to be prohibited.

53. The HRMMU has observed that in some cases the local authorities turned to administrative courts to decide on the prohibition of assemblies.<sup>15</sup> Such decisions are motivated by an inability to ensure the safety of participants, the lack of police staff. However, such practices lead to the violation of the human right to peaceful assembly.

54. Legislation on peaceful assembly, in line with international norms and standards needs to be adopted. Police should then be trained in policing regulations for such events, so as to facilitate peaceful assemblies, protect the security of participants, and provide space for such events in a manner that is non-discriminatory and participatory.

#### **D. Freedom of expression**

55. The HRMMU is concerned about the curtailment of freedom of expression, harassment and threats to security incurred by journalists working in Ukraine, especially in the east. Below are some cases that the HRMMU is following, illustrating the pressure, intimidation and danger that journalists and media outlets are coming under in the struggle for control of the media, and what information the general public can access and obtain. For more cases, particularly in the Donetsk region see section V on “Particular Human Rights Challenges in the east”:<sup>16</sup>

- a) On 9 April, journalists in Kharkiv protested against violations of press freedom after the local TV channel ATN was attacked by a group of armed persons who beat up and threatened Oleg Uht, the TV director of ATN. A suspect has been arrested in the investigation of this case.
- b) On 15 April, a newspaper editor was severely beaten by unidentified persons in Sumy. He suffered severe injuries to the head and an open fracture of his arm.

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<sup>13</sup> See below under section IV. E.

<sup>14</sup> According to Article 39 of the Constitution of Ukraine citizens have the right to assemble peacefully without arms and to hold meetings, rallies, processions and demonstrations, upon notifying in advance the bodies of executive power or bodies of local self-government. This provision is the only legislation in Ukraine that governs the exercise of the right to peaceful assembly. A draft law on peaceful assembly is currently included on the Parliamentary agenda.

<sup>15</sup> The court in Zaporizhzhya has prohibited conducting any rallies and assemblies from 25 April till 18 May, allegedly to avoid possible scuffles. The decision was also announced on 27 April during the rally on Lenin square.

<sup>16</sup> See section V.

- c) On 16 April, the TV station “Center” in Horlivka (Donetsk region) reportedly terminated broadcasting its programs due to an increased number of attacks against its journalists. Journalists have reported to the HRMMU that they feel increasingly threatened each time they showed their Ukrainian ID.
- d) On 23 April, unknown assailants reportedly threw Molotov cocktails at the premises of the local newspaper “Province” in the town of Konstantinovka, Donetsk region. The newsroom was burned down. Prior to the incident, staff of the newspaper had faced certain threats and intimidation. On 18 April, the front door of the paper was reportedly painted with the words “Enough lying!” and “Here you can sign up for membership in the Right Sector”.
- e) On 25 April, a Russian journalist and cameraman were deported from Ukraine on the basis that their activities were “harming the security and territorial integrity of the country”.
- f) On 4 May, in Odesa, a Channel 5 journalist was attacked by pro-federalism activists, while reporting on events in the city. The Office of the Regional Prosecutor initiated a criminal investigation under article 171 (prevention to the legal journalists’ activity).

56. Incitement to hatred continues to fuel tensions. This is particularly prominent in the eastern regions of the country.

57. Acting President Oleksandr Turchynov, issued a Presidential decree 28 April “On measures to improve the formation and realisation of State policy in the sphere of informational safety of Ukraine”.<sup>17</sup> It foresees the development of further laws and policies to regulate the media environment and activity of journalists, particularly of foreign media outlets.

### **E. Right to life, liberty and security**

58. The breakdown in law and order, and the surge in violence are leading to more deaths and a deteriorating situation in Ukraine. Armed groups have increasingly committed human rights abuses, including abductions, torture/ill-treatment, unlawful detentions and killings as well as the seizing and occupying of public buildings.

59. On 5 May, the head the police in Cherkasy region, announced that suspects had been identified in the investigation of the murder of Vasily Sergiyenko. He was abducted from his home on 4 April by three unknown persons in Korsun-Shevchenkivskiyi, Cherkasy region. On 5 April, his body was found in a forest about 150 kilometres outside Kyiv, with reported signs of stab wounds and torture.

60. On 15 April, a NGO activist was assaulted in Drohobych (Lviv region) by unknown perpetrators and consequently hospitalised. The attack is thought to be linked to the work of the activist on abuse of power by officials. The case was reported to the police by the medical staff in the hospital.

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<sup>17</sup> Presidential Decree No. 449/2014

61. On 28 April, Hennadiy Kernes, the Mayor of Kharkiv, a well-known pro-unity supporter, was shot as he was cycling near his home by unknown persons and severely injured and, flown to Israel for treatment on 29 April. To enable his medical evacuation, the Pecherskyi District Court in Kyiv had to lift his house arrest, which he had been under since 13 March. He is charged under articles 127 (Torture), 129 (Death threats) and 146 (Unlawful arrest) of the Criminal Code for beating a Maidan activist.

62. The current deteriorating economic situation and unemployment level, with the ongoing crisis, could see a rise in the number of cases of violence against women, domestic violence and trafficking in humans, as vulnerabilities become much more acute. This requires particular attention and support in eastern Ukraine, where historically there has been less active participation and involvement by NGOs to date. For example, in Donetsk the only shelter for victims of trafficking and domestic violence is run by the authorities, with space for 13 individuals.

### *Odesa violence*

63. On 2 May, a national unity rally gathered around 1,500 people, including many fans from the football clubs of Chornomorets Odesa and Metalist Kharkiv<sup>18</sup>, as well as city residents. Among the crowd there were reportedly also some radical members of the Right Sector and Maidan self-defence unit armed with bats and metal sticks. Shortly after the rally began, the latter were provoked by approximately 300 well-organized and armed pro-federalism activists; the rally turning into a mass disorder, which lasted for several hours. As a result, four protesters in support of Ukraine were killed by gunshots (a fifth died later in the hospital from his injuries). Many were injured during the afternoon (mostly protesters supporting federalism). During the evening, violent clashes between the two sides continued on the main square (Kulikove polje), which ended in a fire at the Trade Union building where protesters supporting federalism had taken refuge. As a result of the events, 46 people died of whom 30 (including 6 women) were trapped and unable to leave the burning building and 8 (including one woman) died from jumping out of the windows. In total, 38 died at the scene of the fire. At least 230 were injured.<sup>19</sup> As of 5 May, 65 remained in hospital, including two minors. Nine were in critical condition, including one policeman.

64. The list of missing persons, initially 13 persons, is now maintained by a special hotline organised by the Mayor's office. On 5 May, it contained 45 names, but the figure constantly changes due to numerous mistaken reports or initial calls from worried parents and subsequently solved cases of missing children.

65. The Office of the General Prosecutor has opened an investigation into the events of 2 May in Odesa. The same day, 114 persons were taken by police from the location of the incident, reportedly for their own protection. The police investigation department informed the HRMMU that only 11 have been officially detained under part 2 of article 294 (Riots leading to death).

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<sup>18</sup> Joint marches among fans are a regular tradition before all football matches.

<sup>19</sup> According to the Odesa City Council Health Department, 230 persons requested medical aid, out of them 214 were delivered to hospitals in ambulances.

66. In the context of the events in Odesa, the role of the police and the lack of preparedness and protection were highly questionable.<sup>20</sup> The Office of the Prosecutor has opened criminal proceedings against the police officers under article 367 (Neglect of official duty). On 3 May, the head of the regional police, Mr Lutsiuk, was dismissed.

67. On 5 May, Arsen Avakov, the Minister of Interior, announced that a special unit of the National Guard (400 persons) arrived in Odesa to protect the integrity of the region and restore public order. It will be under supervision of the head of Odesa Regional Administration. The unit comprises armed volunteers, which is of concern given their lack of training in handling mass protests.

## **F. Political rights**

### *Human rights in the electoral process*

68. On 4 April, the Central Election Commission (CEC) confirmed the registration<sup>21</sup> of 23 candidates (20 men and 3 women) for the Presidential elections scheduled on 25 May.<sup>22</sup>

69. Several candidates have reported facing arbitrary restrictions, hate speech, intimidation and violent attacks during their election campaigning. Some examples of such cases are listed below.

- a) On 10 April, Oleg Tsariov (non-affiliated candidate from eastern Ukraine) following a press conference in Odesa was reportedly prevented from leaving the location by “Right Sector” activists. Scuffles broke out between the latter and supporters of Mr. Tsariov. The police managed to transfer Mr. Tsariov out of the hotel.
- b) On 14 April, Mykhailo Dobkin (Party of Regions) and Oleg Tsariov were attacked in Kyiv at the ICTV (national TV channel) media building. Both are known for their pro-Russian stance and for supporting federalism.
- c) On 11 April in Rivne, there were reports of “Right Sector” activists who picketed, burned documents and then sealed the office of the Communist Party. They demanded activities of the party be banned for as long as Petro Symonenko, Head of the Communist Party, supported separatist activities in south-east Ukraine.
- d) On 22-23 April in Krasnodon and Alchevsk (Luhansk region) unknown persons attacked campaigning tents of Anatoliy Hrytsenko (Civic Position party). On 30 April, in Mykolaiv his campaigners were verbally harassed with demands to remove the campaign tents by unknown persons.

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<sup>20</sup> The preparedness of the State Emergency Service of Ukraine and its ability to deal with arson is also questionable. Whereas the medical help (first aid provided by ambulance and medical help in the hospitals) was assessed as highly effective.

<sup>21</sup> CEC denied registration to 17 candidates as they did not comply with the procedural norms. There were no claims of unlawful refusal in registration.

<sup>22</sup> On 25 May there will be elections of mayors in some of the towns (namely Kyiv, Cherkasy, Chernivtsi, Odesa, Kherson, Mykolaiv, Sumy and a number of smaller towns throughout Ukraine. During the presidency of Viktor Yanukovich, the results of the mayors’ elections in these towns were illegitimate, but the early elections were blocked through the administrative pressure. The towns were governed by the secretaries of the city halls.



- e) On 28 April in the village Perehrestivka (Romensky district, Sumy region), the pro-unity campaign team of Oleh Liashko (Radical Party) was threatened and their property destroyed. He cancelled his campaigning activities in the area.
- f) Also on 28 April, Mykhailo Dobkin, was prevented from leaving the plane at Kherson airport by some 250 pro-unity activists. The police claimed they were prohibited from accessing the runway, and could not provide security to the Presidential candidate. A criminal case has been opened against the aforementioned activists (still being identified) under article 279 (Blocking transport communications by placing obstacles preventing normal functioning of transport or creating danger to human life or the onset of other serious consequences) of the Criminal Code.

70. The HRMMU has concerns about the security of the candidates and space for their pre-election activities, as well as how voters are able to access comprehensive information about the presidential candidates.

71. The NGO “Opora” has highlighted that the Presidential election campaign is often accompanied by intolerance, which could lead to more social tension and outbursts of violence. The HRMMU is concerned at the reports of billboards being posted by Oleh Liashko with the slogan “Death to occupants”. They have been sighted in in the regions of Chernivtsi, Ivano-Frankivsk, Rivne, and Ternopil.

72. On 1 May, Oleg Tsariov and Natalia Korolevska officially withdrew as candidates from the Presidential elections.<sup>23</sup> On 16 April, two criminal proceedings were initiated against Oleg Tsariov based on articles 109 (Actions to overthrow a government) and 110 (Separatism). As of 5 May, 21 candidates (19 men and 2 women) were confirmed as running for the Presidential post.

73. On 26 April, the CEC announced that in order to vote in the Presidential elections, Ukrainian citizens living in Crimea would have to register in person at any polling station on mainland Ukraine no later than five days prior to the election day, i.e. 19 May. This implies that residents of Crimea will have to travel to another region twice (to register and to vote) or to spend one week there. This is the only option provided to ensure their participation. The procedure for registration was simplified for the residents of Crimea, compared to other citizens of Ukraine who want to vote in another location. The citizens in Crimea do not have to provide any additional supporting documentation. As of 5 May, approximately 727 residents of Crimea have registered to vote on mainland Ukraine. The over 7,000 IDPs from Crimea will be able to vote where they are now settled.

74. On 30 April, Andriy Mahera, Deputy Chair of the CEC, announced that Presidential elections would be conducted whatever the circumstances and their outcome would be legally binding. Furthermore, in order to prevent the disruption of the electoral process, as well as to hinder any possible unlawful referendums in support of the various self-proclaimed "people's" republics (e.g. Donetsk People’s Republic) the decision had been made to block the access to the State Voter Register in several towns in Donetsk and Luhansk regions.<sup>24</sup>

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<sup>23</sup> Oleg Tsariov claimed that elections were not possible at a time of “civil war” in the country. Natalia Korolevska gave the reason for her decision as being that the elections were dividing the country.

<sup>24</sup> The access to the State Voter’s Registry in 7 towns of Donetsk region was blocked on 24 April and in 7 towns of Luhansk region on 30 April. The access to the registry in Crimea remains blocked since 6 March.

### *Women's participation*

75. Women represent 54 % of the Ukrainian population, but they are underrepresented in politics as leaders. Ukraine is falling short of fulfilling its 2015 Millennium Development Goal commitment of having 30% of top leadership positions filled by women. Of the 21 Presidential candidates, only two are women. Only 10% of the members of Parliament are women. The current Cabinet of 18 Ministers includes only two women, although its composition was completely revisited in February. Women are better represented in local government: 12% of regional councillors; 23% of district councillors; and 28% of city councillors; and in village councils women making up 50% of the councillors.

76. The HRMMU has not noted any discriminatory language towards women either during the campaigns for the presidential or Kyiv mayor elections. At the same time, there were no systematic efforts to promote women in campaigning positions, as election commission members or as election observers. NGOs report that the election campaign has not sought to promote women and have expressed concern that the issue of gender equality is becoming lost amid the enormous reform agenda.

### *Political parties*

77. On 21 April, Viacheslav Ponomariov, the self-proclaimed Mayor of Slovyansk, reportedly banned the election campaigning activities of the (pro-Maidan) political parties, such as "Udar", "Svoboda" and "Batkivshchyna" in Slovyansk.

78. On 30 April, the District Administrative Court of Kyiv issued a decision to terminate the activities of the political party "Russian Unity".<sup>25</sup> The Ministry of Justice provided evidence that the leader of the party, Sergey Aksionov (current "governor" in the Autonomous Republic of Crimea), had conducted an anti-State policy, aimed at the violation of the territorial integrity and independence of the country. The court hearing on the "Russian Block" is to resume on 12 May.

## **G. Minority rights**

79. The UN Special Rapporteur on Minority Issues, Rita Izsák, conducted a mission to Ukraine on 7-14 April 2014, visiting Kyiv, Uzhgorod, Odesa and Donetsk (she was unable to access Crimea). In her press statement at the conclusion of the visit, she noted that inter-ethnic and inter-faith relations were harmonious; and that the legislative and policy environment was conducive to the protection of minority rights, including cultural rights. However, she also observed that considering the great diversity of population groups in Ukraine, the institutional attention to minority issues was currently insufficient and had declined or been downgraded in recent years. She further noted that the recent developments in Ukraine had created an environment of uncertainty and distrust that may create fractures along national, ethnic and linguistic lines and threaten peaceful coexistence if not resolved. She warned that in some localities the level of tension had reached dangerous levels and must be diffused as a matter of urgency.<sup>26</sup>

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<sup>25</sup> On 15 April, the Ministry of Justice filed a lawsuit prohibiting the activities of the political parties Russian Bloc and Russian Unity in Ukraine. Allegedly the leadership of the political parties was seeking to change the constitutional order by force, to undertake activities violating the sovereignty and territorial integrity of Ukraine, to illegally seize State power, to undertake war propaganda, violence, and incitement to ethnic, racial or religious hatred – all of which are contrary to Article 5 of the law "On Political Parties in Ukraine".

<sup>26</sup> Press statement of 16 April 2014, by the Special Rapporteur on minority issues, available online at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14518&LangID=E>.

80. The HRMMU has received credible reports that Crimean Tatars are experiencing significant pressure, examples of which are provided in section VI on “Particular Human Rights Challenges in Crimea”.

81. The importance of using one’s mother tongue freely in private and public without discrimination is of high importance. Generally communities expressed satisfaction that minority schools or specialized classes have been established and function freely according to national law. They frequently noted that the use of minority languages is a significant and valued feature of Ukrainian society and is in no way incompatible with the teaching and use of Ukrainian as the state language. However, the Special Rapporteur on Minority Issues referred to the concerns voiced by ethnic Russians that there were relatively few Russian schools in relation to their numbers. On 11 April, while in eastern Ukraine, acting Prime Minister Yatseniuk emphasised that the law “On the Basics of State Language Policy” so called “Kolisnechenko-Kivalov law”, remained in force. However, this remains a contentious issue in eastern Ukraine, with many not grasping that the use of languages is to be considered by region.

82. There have been individual cases of hostility and anti-minority acts reported to the HRMMU. These remain isolated incidents, but which can contribute to an atmosphere of mistrust and fear, which in turn can generate discrimination and violence, and potentially hate crimes.

83. The HRMMU has observed a number of cases motivated by hatred against minorities:

- a) In Odesa on 7 April, an incident when graffiti with swastikas was painted on Jewish tombs, the Holocaust memorial and on houses next to the Synagogue was monitored by the HRMMU. The signature of the Right Sector allegedly appeared next to the graffiti. On 8 April, the leaders of Right Sector from Kyiv and of the Ukrainian National Assembly personally met with the Chief Rabbi, Avraam Volf, to assure him that these organisations had not participated in these acts. Together with the municipal service and pro-unity activists, they washed off the graffiti from the tombs. The Jewish community believes these acts were a provocation and not part of a broader threat. On 8 April, the police opened a criminal investigation into the case based on article 296 of the Criminal Code (Hooliganism).<sup>27</sup>
- b) On 15 April, in Donetsk, anti-Semitic leaflets<sup>28</sup> with the stamp of the “Donetsk People’s Republic” were circulated near the local synagogue. The self-proclaimed leaders of the “Donetsk People’s Republic” denied their involvement in the incident; its self-proclaimed Governor, Serhiy Pushylin, called it a provocation. On 18 April, the Security Service of Ukraine announced that the materials of this case were added to the on-going criminal proceedings under articles 110 (Trespass against territorial integrity and inviolability of Ukraine) and 294 (Riots).

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<sup>27</sup> Criminal Code also foresees accountability for such criminal offences as: violation of graves (article 297), illegal desecration of religious sanctities (article 179), and violation of citizens’ equality based on their race, nationality or religious preferences (article 161).

<sup>28</sup> The text of the leaflet obliged all Jews of Donetsk region to pass registration by 3 May, which costs 30 USD. If not passed, they will be deprived of citizenship and deported from the Donetsk People’s Republic with the confiscation of their property.

84. The HRMMU in Odesa, Kyiv, Donetsk and Lviv met with representatives of the Jewish communities (the World Jewish Congress, Rabbis, and cultural centres). In all locations, it was informed that, apart from a few anti-Semitic incidents over recent years, they had not experienced significant violations or threats. However, one of them expressed concerns that the political party –“Svoboda” – which made anti-Semitic statements in the past - was now represented in the Parliament and the Government.

85. The HRMMU visited the Zakarpattya region, which is the most ethnically diverse area in Ukraine. In meetings with national and ethnic communities no information was received that suggested they were facing tension or hostilities. The largest national and ethnic communities (Hungarians, Russians, Ruthenians, Poles and Slovaks) described positive inter-ethnic relations. However, the HRMMU received allegations from representatives of the Roma community that they frequently face discrimination and stigmatisation, as well as arbitrary arrest and ill-treatment from law enforcement officials in Zakarpattya. They do not usually report such incidents due to their lack of trust in the law enforcement bodies and fear of further persecution.

86. In Donetsk region, the HRMMU has been monitoring the situation of the Roma community particularly following the attack during the night of 18 April on the Roma community in Slovyansk (Donetsk region), reportedly by an armed group of persons. NGO representatives reported to the HRMMU that seven households were attacked by armed men demanding gold, money and other valuables. The Roma Council of Ukraine has claimed that this was the most recent attack on the Roma community in the past months. One of the families has registered a complaint with the police. Two later reports of attacks on Roma communities received by the HRMMU could not be verified. Reports indicate that many Roma families have apparently left Slovyansk for unspecified reasons; the situation for those remaining in the town remains unverified.

87. The HRRMU has received credible reports of ongoing reports of hate speech, harassment and hate-motivated violent attacks against LGBT persons, including organised attacks by groups specifically targeting LGBT persons, and limited investigations into such attacks by law enforcement officials or remedy for victims. The issue of the protection of the rights of LGBT persons has repeatedly been misrepresented and used in a derogatory manner by political actors to discredit opponents. The LGBT community is concerned that the political programmes of the two right-wing parties – Svoboda and Right Sector (leaders of both are running for the Presidency) – clearly state combating homosexuality as one of their goals. Reportedly, the Communist Party of Ukraine has also made negative statements regarding sexual orientation. The LGBT community in Kharkiv informed the HRMMU that they have been receiving threats from both radical right-wing groups and pro-Russian movements. Both sides are quite similar in their negative attitude towards LGBT and their use of hate speech.

88. On 15 April, a draft law on the prohibition of propaganda of same-sex sexual relations aimed at children, which has been condemned by the UN human rights mechanisms, as well as the Council of Europe, was withdrawn from Parliament. However, another draft law (Nr. 0945), contemplating similar provisions, technically remains under consideration, despite a motion for its withdrawal.

89. Acknowledging the need for confidence-building between various communities in society, there have been some attempts by human rights NGOs in the Donetsk region to

organize discussions aimed at breaking the stereotypes that exist in the society about tensions between different groups and to engage in dialogue. On 16 April in Lutsk (western Ukraine), local civil society activists held a round table discussion on mutual understanding with representatives of national minorities of the region. Representatives of the local chapter of the Right Sector, Community Sector, Auto-Maidan, the Russian Cultural Centre and the Polish Cultural Society took part in this event.

## V. PARTICULAR HUMAN RIGHTS CHALLENGES IN THE EAST

### A. The right to life, liberty and security

90. The HRMMU has received credible reports regarding the increasing numbers and presence of well-organized armed persons in eastern Ukraine, particularly in the Donetsk region, which in some towns are forming so-called “self-defence” units. These armed groups are seizing and occupying more and more public and administrative buildings, including those of the Donetsk regional administration, the Prosecutor, the Security Service of Ukraine, as well as police departments in various towns, mostly in the northern part of the Donetsk region and parts of Luhansk region. These illegal take-overs of administration buildings (such as the Donetsk Regional State Administration and the Regional Department of the Security Service of Ukraine in Luhansk) by both armed and unarmed persons were done so with political demands for regionalisation, and at times reportedly separatism.

91. A number of regions self-proclaimed their “sovereignty”, for example on 7 April, there was the announcement by those occupying the Regional Administration Building in Donetsk of the establishment of the so-called “Donetsk People’s Republic”; on 27 April a similar announcement was made in Luhansk concerning the establishment of the so-called “Luhansk People’s Republic”.

92. The acquiescence of law enforcement bodies in the illegal seizure and occupation of public and administrative buildings in the Donetsk and Luhansk regions has been observed, raising questions regarding its implications for the administration of justice and the rule of law, including the prompt and effective investigation into reported criminal acts. This raises serious concerns regarding residents’ access to legal remedies, due process and overall guarantees for human rights protection.

93. This has contributed to a situation where armed persons, now formed into illegal groups, operate and run towns with impunity, for example in the town of Slovyansk located in the northern part of the Donetsk region. There has been a noted shift of apparent ‘control’ from the ‘political base’ of the “Donetsk People’s Republic” in Donetsk, to the “armed operations base” of the “Slovyansk self-defence unit” in Slovyansk.

94. The HRMMU is concerned with the undermining of human rights protection and guarantees of fundamental freedoms for the population of the town where buildings are occupied by armed persons, as well as the broader population of eastern Ukraine. Specifically, the HRMMU is concerned about the rise in the number of reported cases of intimidation, harassment and killings, as well as the wave of abductions and unlawful detentions of journalists, activists, local politicians, representatives of international organizations and members of the military.

*Security and law enforcement operation*

95. The Government first announced a “counter-terrorist” operation in eastern Ukraine, namely Donetsk region, on 13 April. The ensuing security and law enforcement operation was ceased by the authorities in observance of the Easter holidays and in the aftermath of the Geneva meeting and statement.<sup>29</sup> Following the discovery of the bodies (with alleged signs of torture) of Volodymyr Rybak<sup>30</sup>, Horlivka city councillor, and Yuriy Popravko<sup>31</sup>, a student and Maidan activist from Kyiv, in a river near Slovyansk on 19 April, acting President Oleksandr Turchynov ordered the resumption of the “counter-terrorist” operation in eastern Ukraine on 24 April.

96. On 28 April, the body of another student, Yuriy Dyakovskiy, was discovered in the river near Slovyansk with similar signs of torture. He had arrived in Slovyansk on 16 April with three other friends and was allegedly abducted on 17 April.

97. The security and law enforcement operation has since then particularly concentrated on the town of Slovyansk, which serves as the “armed operations base” of the so-called “Slovyansk self-defence unit”. According to the law enforcement bodies of Ukraine, these armed groups are well organised and heavily armed, and have managed to down two Ukrainian helicopters with shoulder-held missiles. On 28 April, the Ministry of Interior reported that three checkpoints had been taken and that “five terrorists were destroyed” by Ukrainian security forces as they attempted to gain control of Slovyansk. Such use of force raises concerns as to whether other non-violent means could have been used, in line with relevant international norms and standards. Furthermore, the HRMMU is also concerned about information it has received regarding alleged cases of enforced disappearances in eastern Ukraine reported to have been carried out by the Ukrainian army as part of these operations. As security and law enforcement operations continue, increasing concerns are raised regarding the protection of the local population.

98. In Kostyantynivka on 3 May, during the security and law enforcement operations the Security Service of Ukraine reported wounded persons, not disclosing the exact number. According to local sources in the hospital in Kostyantynivka, there were a number of casualties as a result of those operations. The HRMMU is trying to further verify this information.

99. In Kramatorsk according to the Department of Public Health of the Donetsk Regional State Administration, six individuals among the local population were reportedly killed and 15 wounded in the course of a security and law enforcement operation that took place on 3 May.

100. On 16 April, during an attempt to take over a military unit in Mariupol by local pro-Russian protesters, reportedly three persons were killed, 13 wounded and 63 were detained by law enforcement officers. There are allegations that the protesters were armed. According to relatives of those detained, the protesters were not armed, and they allege more were killed by law enforcement bodies. The HRMMU is seeking to verify information in this case.

### *Unlawful detentions*

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<sup>29</sup> See footnote 2.

<sup>30</sup> Mr Rybak - a well-known supporter of the unity of Ukraine - was abducted by unknown persons on 17 April, and his whereabouts since that time had remained unknown. On 23 April, the State Security Service opened an investigation into the killing of Mr. Rybak.

<sup>31</sup> Mr Popravko went missing on 18 April. Allegedly was tortured and drowned the same day.

101. Of grave concern, is the increased number of cases of abductions and unlawful detentions in the eastern regions, with journalists appearing to be particularly targeted. The illegal “Slovyansk self-defence unit” appears to be responsible for controlling these illegal activities. Information on the unlawfully detained was from time to time confirmed by the self-proclaimed mayor of Slovyansk, Viacheslav Ponomariov. The unlawful detention of a group of OSCE military observers and their Ukrainian five counterparts came to an end with their release on 3 May, after 10 days in captivity. One was released in the first 24 hours on medical grounds. Despite such releases, the HRMMU remains deeply concerned that there is little or no information on the reported cases of detentions, including of three officers from the Security Service of Ukraine apparently still detained by the “Slovyansk self-defence unit”. These acts are in violation of national laws and international standards. The HRMMU continues to receive reports of cases of abductions and unlawful detention of individuals whose whereabouts cannot be accounted for by relatives and colleagues. As of 5 May, the HRMMU was aware of at least 17 persons who were still reportedly unlawfully detained in the Donetsk region; however, the actual number of those unlawfully detained may be higher.

102. Some examples of cases which have and continue to be monitored by the HRMMU include:

- a) On 19 April, a railway police officer, left home in Slovyansk and has never returned. Criminal proceedings have been opened under article 46 of the Criminal Code (Illegal abduction or deprivation of liberty);
- b) In Kramatorsk, on 21 April an armed group abducted a police officer; criminal proceedings were initiated under article 349 of the Criminal Code (Capture of representative of government law enforcement agency as a hostage);
- c) On 29 April, a local activist, was allegedly abducted by unidentified persons, and is now unlawfully detained by an armed group in the occupied building of the State Security Service in Luhansk;
- d) On 29 April, an armed group abducted a member of the Svoboda party and a local election commission representative in the town of Konstantinovka. The next day, an armed group abducted a second Svoboda party representative. Unofficial sources told relatives that the two men are unlawfully detained in Slovyansk;
- e) On 2 May in Donetsk an armed group abducted an activist and aide. He was unlawfully detained, beaten and interrogated for three days. He was released on 5 May;
- f) On 3 May, pro-unity activists were unlawfully detained, beaten and interrogated in Luhansk. They were released on 4 May;
- g) On 4 May, a group of armed men abducted six residents of Novogradovka in Donetsk region, including town councillors and trade union members. They were severely beaten and tortured while unlawfully detained in the occupied building of the Regional State Administration in Donetsk and some of them were released on 5 May.

#### *Detentions and cases of alleged enforced disappearances*

103. The HRMMU has received credible reports of the detention and transfer to Kyiv by the Security Service of Ukraine of a number of persons. At times between their detention and confirmation of whereabouts, a number of these individuals had been held in conditions amounting to enforced disappearance. Examples of such cases are:

- a) On 26 April, an activist from the Artyomivsk self-defence unit, was reportedly detained by the Ukrainian military and transported by helicopter to Kramatorsk. He was

interrogated and released on 27 April after one day of enforced disappearance. The HRMMU interviewed the activist in the Artyomivsk hospital where he has been undergoing medical treatment for injuries sustained while in detention. According to him, Ukrainian special military units (allegedly “Alfa”) searched him at a checkpoint, which had been operated by an armed group. He was reportedly unarmed. His membership card from the Ukrainian branch of the Don Cossacks organization was found. He was beaten, blindfolded and taken to Kramatorsk where he was interrogated about his alleged connections to the Russian Federation. The local police in Artyomivsk registered the case. No criminal investigation has been opened, as he has refused to file an official complaint for fear of retaliation;

- b) An activist of the “Donetsk People’s Republic” was detained on 3 April by the Security Service of Ukraine and transferred to the Security Service of Ukraine pre-trial detention center in Kyiv. He has since been charged under article 294 (Civil unrest), and article 341 (Illegal occupation of government or public buildings and installations) of the Criminal Code. His relatives were not informed about his detention and transfer to the SBU in Kyiv for some time - HRMMU is verifying the timeframe. The National Preventive Mechanism has confirmed to the HRMMU that his state of health is satisfactory and he receives legal aid.

104. Pavel Gubarev, self-proclaimed “People’s Governor” of Donetsk region, was arrested on 6 March by the Security Service of Ukraine. According to his lawyer, the manner in which his detention took place presented a number of violations of the requirements of the Criminal Procedure Code of Ukraine. However, the HRMMU also received information according to which this would not be the case.

## **B. Freedom of expression**

105. The struggle for control of the media outlets, and who is able to broadcast where, continues inside Ukraine, particularly in the east. The latest incident was the seizure of a TV centre in Donetsk on 27 April by pro-Russian protesters with the demand that it switches back to broadcasting Russian TV, which followed an earlier decision by the Kyiv administrative court to prevent such broadcasting and only permitting Ukrainian TV channels.

106. The environment for journalists working in eastern Ukraine is deteriorating. Journalists, bloggers and other media personnel either based in the region, or visiting, are facing increasing threats and acts of intimidation, including abduction and unlawful detention by armed groups. According to information received by the HRMMU, the so-called “Slovyansk self-defence unit” has been unlawfully detaining journalists since 15 April. There are reports that at the check-points of Slovyansk, there are lists of journalists and others that the armed group is seeking, with photographs and personal data. Allegedly, in this way many journalists have been detained. Most are accused by the armed groups who detain them of working for the CIA, FBI, the Right Sector or of being one-sided about their reports from Slovyansk.

107. The HRMMU is aware of at least 23 journalists, reporters, photographers (both foreign and Ukrainian nationals) who have been abducted and unlawfully detained by armed groups, primarily in Slovyansk. As of 5 May, 18 of them were known to have been released.



They have reported that those still kept in unlawful detention, including journalists, by the “Slovyansk self-defence unit”, had been subjected to ill-treatment.

108. The exact number of the journalists still unlawfully detained remains unknown. As of 5 May, the HRMMU was following the cases of a number of journalists, including: 1) journalist with the Open Dialogue Foundation who went missing on 16 April but was released on 6 May; 2) staff member of the “Hidden Truth TV, went missing on 20 April. Both were reportedly seen by a journalist who was then released<sup>32</sup> in the basement of the seized building in Slovyansk; 3) a journalist with the Lviv-based media outlet “ZIK” was unlawfully detained by unknown persons on 25 April on the main square of Slovyansk; and 4) a journalist with the Lutsk-based “Volyn Post” newspaper, went missing on 26 April in Slovyansk. The whereabouts of at least two of these journalists remains unknown.

109. On 2 May, several journalist crews were briefly abducted by unknown persons in the Donetsk region: the production team of SkyNews and CBS as well a “Buzzfeed” news website journalist and his interpreter. The HRMMU interviewed most of the victims after their release and return to Donetsk. During their unlawful detention, the journalists and local staff were blindfolded, held at gun point, interrogated, and threatened. One female journalist was reportedly sexually harassed.

110. The impact of the developments in eastern Ukraine on the most vulnerable groups is being closely monitored by the HRMMU. Attacks by an armed group on Roma communities in Slovyansk that were reported, resulted in many Roma families leaving the area, with others remaining in the city fearful to cross checkpoints.

### **C. Investigations related to events in the east**

111. Information provided to the HRMMU by the Office of the General Prosecutor showed that law enforcement agencies had registered 247 criminal proceedings concerning cases of “separatism”. 17 of these are under investigation by the Regional Prosecutors of Donetsk, Luhansk, Kherson and Dnepropetrovsk: eight concern violent acts to overthrow or change the constitutional order as stipulated or to seize state power (article 109 of the Criminal Code), or the infringement of Ukraine’s territorial integrity and inviolability (article 110 of the Criminal Code), and one criminal proceeding for high treason (article 111 of the Criminal Code). The remaining eight criminal proceedings concern excessive use of powers (article 365 of the Criminal Code) by police officers in connection with allegedly supporting an act of “separatism” (linked to either article 109 or 110 of the Criminal Code).

112. The HRMMU is following up on a number of cases where individuals were detained under these criminal proceedings related to events in the east. On 30 April, the HRMMU received information from the National Preventive Mechanism regarding ten detained persons. It was stated that they are held in the pre-trial detention centre of the Security Service of Ukraine based on respective court decisions, and, reportedly, are in satisfactory health condition and receive legal aid.

113. In addition, the HRMMU verified allegations made by a Russian senator claiming that Pavel Gubarev, the self-proclaimed governor of Donetsk, who was detained in Donetsk by

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<sup>32</sup> Journalist of the VICE News (USA) who was detained on 22 April and released on 24 April.

police on 6 March and transferred to Kyiv, had been tortured and was in a critical condition. The HRMMU spoke with the lawyer of Pavel Gubarev and the head of the National Prevention Mechanism; both denied the torture claim. On 30 April, the lawyers of Mr. Gubarev announced that Shevchenkivskiy District Court in Kyiv had prolonged the detention period of Mr. Gubarev until 28 June.

#### **D. Economic and social rights**

114. Public services are reported to be operating in most towns in the east, despite the seizure of public and administrative buildings. The impact on the access to, and the quality of, services provided by public institutions for residents in a non-discriminatory way continues to be observed, including in those towns either already controlled by armed groups, or with administrative buildings occupied by armed and unarmed opponents of the Government. The presence of armed groups and their particular control of towns such as Kramatorsk and Sloviansk is resulting in the disruption of many aspects of daily life. There are reports that many shops are closed; public services are fully operational, including public transport, schools and healthcare and medical facilities. Several major banks terminated operations in various parts of eastern Ukraine due to numerous instances of attacks on their offices.

115. The HRMMU heard of concerns regarding the on-going crisis from representatives of Women's NGO in both Kyiv and Donetsk. Their sense is that there is very little participation and inclusion of women in efforts to resolve the current crisis in Ukraine, particularly in the eastern regions. Their more active inclusion in such activities is viewed by many as critical to the success of possible steps to secure good governance, respect for human rights and the rule of law. Advocacy is necessary at all levels to ensure the inclusion of women into any effective efforts at national reconciliation and dialogue.

116. One gap raised in particular in Donetsk, is the inclusion of Women's NGOs in the Donetsk region so that they are more connected both geographically, e.g. with NGOs in Kyiv – the HRMMU has facilitated this connection. In Donetsk itself, the HRMMU has included a representative of the women's NGO coalition in regular NGO meetings it has initiated with members of the civil society in Donetsk to discuss human rights.

#### **VI. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

117. In line with UN General Assembly Resolution 68/262, adopted on 27 March 2014, entitled "Territorial integrity of Ukraine", the HRMMU monitors the human rights situation in the Autonomous Republic of Crimea. On 28 April, a law, adopted by Parliament on 15 April "On guaranteeing citizens' rights and freedoms and legal regime in the temporarily occupied territory of Ukraine" entered into force (hereafter "Law on Occupied Territory"). According to the Law, the Autonomous Republic of Crimea and the city of Sevastopol, the airspace above them, domestic waters and territorial sea of Ukraine, including underwater space, are all defined as a temporarily occupied territory. It foresees that the temporarily occupied territory is an inalienable part of the soil of Ukraine where Ukrainian laws remain in effect. The Law stipulates that the responsibility for the violations of human rights and the destruction of cultural property lies with the Russian Federation as the occupying State according to the norms and principles of international law.

118. The Ombudsman reported that since the unlawful “referendum” in the Autonomous Republic of Crimea, the number of people seeking help has significantly increased. However, as of 7 April, the regional office of the Ombudsman in Crimea was forced to stop working and had to close, due to its eviction from its office and the overall obstruction faced by its staff in their work. The representative of the Ombudsman Institution in Crimea continues to receive information on Crimea through human rights defenders and NGOs. The HRMMU is concerned about the gap in human rights protection as a result of the closure of the Ombudsman regional representation.

#### **A. Internally displaced persons from Crimea**

119. UNHCR reports that as of 29 April there were 7,207 internally displaced persons (IDPs) registered in all 24 regions of Ukraine. With no official centralised registration process, there are concerns that this figure may not reflect the reality, with some IDPs not registering with local authorities. Registration with a local authority is only required should people wish to access state services, such as healthcare, or register for housing and employment. Most of IDPs have settled in Kyiv (1968 persons) and Lviv region (1207 persons); 445 persons registered in Poltava, 386 in Vinnytsya, 374 in Kharkiv, 300 in Dnipropetrovsk, 243 in Ivano-Frankivsk, 196 in Chernivtsi. The majority of IDPs are Crimean Tatars; although there are reports of an increased registration of ethnic Ukrainians, ethnically mixed families, and ethnic Russians. Most IDPs are women and children.

120. The local authorities of the regions where IDPs have settled have endeavoured to provide essential needs and services, including accommodation, schooling, social benefits and, in some cases, employment.

121. Common challenges that the IDPs face are: interruptions in the provision of, and access to, social benefits, including pensions, maternity benefits, and child assistance payments, difficulties in obtaining documents, e.g. university documents for students, and not being able to access their bank accounts in branches based on mainland Ukraine.

122. The Law “On the rights and freedoms of citizens and the legal regime on the temporarily occupied territory of Ukraine” refers to these people as the “citizens of Ukraine who have resettled from the temporarily occupied territories”. The Law also addresses other issues of concern to IDPs, such as how they can receive unemployment benefits, exercise their right to vote, and replace their identity documents. In addition, various ministries have adopted specific regulations and procedures to facilitate the access of persons from Crimea to education (including higher education), medical care, and social benefits. Nevertheless, a number of key issues, particularly residence registration and the related issue of business registration, still need to be addressed through legislation/regulations.

123. The HRMMU has received reports that some IDPs are planning to apply for asylum in Europe and Turkey; others plan to settle in their location; while others are looking to return to Crimea.

#### **B. Rights of Crimean residents**

124. As the legislation of the Russian Federation is being enforced on the territory of Crimea, at variance with the UN General Assembly resolution 68/262, this is creating difficulties for Crimean residents, as there are many differences with Ukrainian laws. One particular example concerns the treatment now available to HIV/AIDS patients in Crimea. In

Ukraine, people who use drugs have access to opioid substitution therapy (OST) as an integral part of the widespread implementation of harm reduction programmes. These programmes are an essential element in controlling HIV/AIDS and other infectious disease among injecting drug users in Ukraine, as elsewhere in Eastern Europe. In 2013, the Ukrainian State Service for drug control reported that approximately 8,000 people in Crimea were infected with HIV/AIDS. As of 1 March, there were 806 people using OST in Crimea; as of 6 May, the OST programmes in Crimea stopped. The majority of former OST patients now face deterioration in their health condition due to the fact that this treatment has been curtailed. This raises serious concerns for HIV/AIDS patients in particular, questioning how they may now access and gain quality healthcare treatment.

### *Right to citizenship*

125. Citizenship issues became more critical following the agreement between the Russian Federation and the authorities in Crimea, which stipulates that the citizens of Ukraine and stateless persons permanently residing in Crimea or in Sevastopol as of 18 March 2014 shall be recognized as the citizens of the Russian Federation, with the exception of persons who within one month thereafter declare a desire to maintain their or their minor children's active citizenship or to remain stateless persons.

126. The deadline for Crimean residents to refuse Russian citizenship expired on 18 April, after which applications for refusing Russian citizenship were no longer accepted.

127. The HRMMU was informed of constraints faced by Crimean residents who refuse to acquire Russian citizenship: (1) the period granted for initiating the procedure of refusing Russian citizenship (18 April) was too short; (2) instructions from the Russian Federal Migration Service (FMS) on the refusal procedure were only available as of 1 April; (3) information about FMS points was not available until 4 April; (4) from 4 - 9 April only two FMS points were functioning - in Sevastopol and in Simferopol; (5) as of 10 April, 9 FMS points were working: Sevastopol, Simferopol, Yalta, Bakhchisaray, Bilogorsk, Evpatoriya, Saki, Kerch and Djankoy; (6) some requirements in the procedure of refusing Russian citizenship evolved over time, such as the necessity to be make the application in person, and that both parents were required for the application of a child. The HRMMU is concerned that there may be problems with regard to the right to citizenship and will closely monitor any related cases.

128. Article 5 of the adopted Law "On Occupied Territory" states that the forced automatic acquirement of Russian citizenship by Ukrainian residents living in Crimea is not legally accepted by Ukraine, and is not deemed as grounds for the withdrawal of Ukrainian citizenship.

129. The HRMMU is concerned with reports that those who did not apply for Russian citizenship are facing harassment and intimidation. It will be critical that they are ensured their property and land rights, access to education and healthcare and face no curtailment to the array of social benefits associated with citizenship. The transition period in Crimea will end on January 2015. Allegedly, those who have refused to acquire Russian citizenship by this time, will have to apply for residence permits; or else they could face deportation from the territory of Crimea.

### *Freedom of movement*

130. The “Law on Occupied Territory” has only minor restrictions to the freedom of movement (foreigners and stateless persons will have to obtain a special permit to enter/leave the occupied territory). Under article 10, freedom of movement between the Autonomous Republic of Crimea and mainland Ukraine is allowed for Ukrainian citizens. On 14 April, the authorities in Crimea announced that full access for Ukrainian citizens to Crimea will be guaranteed as of 25 April.

131. In practical terms, there are long queues at the boundary line that now exists, with signs that the latter is becoming fully-functioning. This impedes and complicates maintaining family ties and places limitations on the freedom of movement. The existence of a boundary line between Crimea and mainland Ukraine with checks performed at 27 check points was announced on 25 April by the acting Head of the Federal Migration Service of Russia in Crimea, Petro Yarosh.

132. On 29 April, the Ministry of Foreign Affairs of Ukraine sent a diplomatic note of protest to the Russian Federation, stating that the establishment of a border was not in line with the basic principles and norms of international law and contradicts UN General Assembly Resolution 68/262.

133. On 22 April, 12 more names were added to the list of “Persons Engaged in Anti-Crimean activity, whose stay is undesirable on the territory of the Autonomous Republic of Crimea”, originally adopted by the “State Council of Crimea” on 27 March. It reportedly now includes 344 names, one of which is Mustafa Jemilev, ex-chairman of the Parliament of the Crimean Tatar people.

134. On 29 April, a group of Crimean Tatars reported that they were made to leave a train by law enforcement officials in the town of Djankoi, having been informed that they were not permitted to enter Crimea. Apparently at the time of the incident, no reason was given for this decision (possibly, the absence of Russian passports). The HRMMU is seeking further information on this incident to verify the situation, and why limitations were placed on the freedom of movement for these individuals.

135. On 30 April, the Cabinet of Ministers of Ukraine issued an Order “On temporary closure of crossing points across the border and checkpoints”,<sup>33</sup> according to which 27 check points are to be closed. The Order is not likely to have an impact on the freedom of movement for Crimean residents, as the check points to be closed are at airports (all flights connecting Crimea and continental Ukraine have been cancelled following the unlawful “referendum”) or at coastal entry points. This, however, might have a negative effect in the long run on trade, and thus economic rights.

#### *Freedom of expression and access to information*

136. In April, some Crimean media outlets moved their editorial offices to mainland Ukraine due to fear for their personal safety and impediments they were facing in their work. Examples of such moves are Internet portal “Blackseanews”, TV channel “Chornomorka” and Internet portal “Events of Crimea”.

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<sup>33</sup> It is stated that the measure is required due to the deterioration of the situation in the Crimea and invasion of the armed formations and persons with the extremist views to the territory of Ukraine and military aggression from the side of the Russian Federation, blocking of the border check points, which prevents from conducting the control foreseen by the legislation.

137. The broadcasting of the Ukrainian TV channels in Crimea has been disconnected since early March, and is only available via satellite.

138. On 22 April, Lilia Muslimova, press-secretary of the Parliament of the Crimean Tatar people, announced that broadcasting was no longer permitted for the Crimean Tatar people on State TV and Radio Company “Krym” about Mustafa Jemilev and Refat Chubarov, member of the Parliament of the Crimean Tatar people.

139. With the enforcement of legislation of the Russian Federation, Crimean media face growing difficulties. All media outlets have to now re-register. A reported concern, that needs to be verified, is that an unofficial requirement for re-registration will be for the editor-in-chief to be a citizen of the Russian Federation.

140. On 10 April, Ukrainian radio stations had to suspend their work in Crimea due to the newly-occurred legal and technical difficulties in ensuring FM broadcasting on the territory of the peninsula. These included the six stations belonging to the group “TavrMedia” (Russian radio, Hit FM, Kiss FM, Radio Roks, Relax, Melodia), UMH Holding (AutoRadio, Our radio, Europe Plus) and Business Radio Group (Radio Shanson and Favourite radio Sharmanka).

#### *Freedom of association*

141. The HRMMU is concerned about NGOs based in Crimea who will now operate under the law on foreign agents of the Russian Federation. This will potentially affect their operations, as it places restrictions on the receipt of foreign funding. There is no such law in Ukraine.

#### *Freedom of religion*

142. Worrying developments have been reported to the HRMMU regarding freedom of religion in Crimea after the 16 March unlawful “referendum”. Besides earlier reported attacks on priests, the pressure on some religious communities seems to persist.

143. On 25 April, the Ukrainian Orthodox Church of Kyiv Patriarchate published an official statement, expressing deep concern that the authorities in Crimea did not comply with the written arrangements guaranteeing the safety of the Crimean diocese. In Sevastopol, the Temple of Martyr Clement of Rome, located on the territory of the Training Unit of the Ukrainian Navy, has practically been taken away from the Ukrainian Orthodox Church of Kyiv Patriarchate. The Archimandrite Macarius (ethnic Russian) and the parishioners are not allowed into church by the Russian military men that guard the territory. The attempts of the Crimean diocese to meet with representatives of the current city authorities of Sevastopol on this and other issues failed. Similar situation occurred with the Temple of the Intercession of the Theotokos (Protection of Virgin Mary) in the village of Perevalny. The priest and parishioners report harassment by representatives of the Ukrainian Orthodox Church of the Moscow Patriarchate. For example, on 13 April, during the Palm Sunday celebrations, some unidentified persons tried to prevent members of the congregation from entering the church, and attempted to provoke a conflict.

144. Growing pressure on the Muslim communities has also been reported. For example, the Islamic political group Hizb ut-Tahrir is banned in Crimea pursuant to Russian law, which has declared the group to be an extremist organisation. Hizb ut-Tahrir had been functioning in Crimea for over a decade, mainly being active in the spheres of education and

politics. Reportedly, most of its members have fled Crimea due to fear of prosecution by the Russian Federation based on charges of terrorism. In addition, many Crimean Tatars, who openly practice Islam reported their fears that the Russian authorities will consider them members of this group and thus prosecute them.

145. On 22 April, the deputy head of the Jewish community “Hesed-Shahar”, Borys Helman, reported that a memorial to the Holocaust victims in Sevastopol was desecrated by unknown persons. The inscriptions on the memorial were painted red, with signs of the “USSR” and Soviet symbols. The case was reported to the police, and is said to be under investigation.

### **C. Rights of indigenous peoples**

146. Reports from Crimea raise serious concerns about on-going harassment towards Crimean Tatars.

147. The HRMMU has received reports from the “Standing Committee on inter-ethnic relations” in Crimea that on 9 April the memorial of Akim Dzhemilev, a famous Crimean Tatar choreographer, in the village Malorechenskoye (near Alushta) had been desecrated. The “Chair of the State Council” of the Autonomous Republic of Crimea has instructed police to respond to any reported acts of vandalism in Crimea.

148. On 19 April, Refat Chubarov, Chairman of the Parliament of the Crimean Tatar people, and Mustafa Jemilev, leader of the Crimean Tatar People, alleged that representatives of the ‘self-defence units’ stopped their car and harassed them on the highway Simferopol – Bakhchisaray near the village Chistenkoe.

149. On 21 April, a group of unidentified men, describing themselves as members of the ‘self-defence unit’ broke into the building of the Parliament of the Crimean Tatar people and removed the Ukrainian flag, harassing verbally and physically female employees.

150. On 22 April, the Presidium of the Parliament of the Crimean Tatar People issued an official statement calling on the Crimean authorities to de-escalate the current lawlessness in Crimea. According to the statement, the first step should be the dissolution of the so called “Crimean self-defence”. This is seen as the main source of the reported lawlessness, with an escalation of acts committed towards Crimean Tatars.

151. The same day, on his way back to Kyiv, Mustafa Jemilev was presented with “Notification of non-permission to enter the Russian Federation until 2019”. Although initially denied, this was later confirmed by Olha Kovitidi, “Senator” from Crimea in the Council of Federation of the Russian Federation.

152. On 3 May, Mustafa Jemilev tried to enter Crimea from mainland Ukraine via the crossing point Armiansk, after having been prevented from boarding the plane from Moscow to Simferopol on 2 May. Traditionally, Crimean Tatars drive to greet their leader on his return and entry to Crimea. This time they were met by a number of armed military personnel without clear identification insignias how blocked them. Later on, some of the Crimean Tatars crossed to mainland Ukraine. When the procession of people headed by Messrs. Jemilev and Chubarov tried to cross the border again, they were stopped. Access to Mr. Jemilev was once again forbidden and he returned to Kyiv. After several hours of waiting,

Crimean Tatars returned to Crimea, where they organised a peaceful flash-mob to draw attention to the incident. On 5 May, the court decision was issued to two persons, who were fined with 10,000 RUB each, for participating in the flash-mob. Reportedly, the court hearings were conducted under the strict control of the “Office of the Prosecutor” of Crimea.

153. Furthermore, on 4 May, Refat Chubarov, chairman of Parliament of Crimean Tatar people was urgently summoned to the “Office of the Prosecutor” of Crimea, Natalia Poklonskaya. Mr. Chubarov was given notice regarding a “Notification of the unacceptability of leading extremist activity” dated 3 May. The document reads that the actions of the Crimean Tatars on 3 May at the crossing point violated Russian legislation. Since they were coordinated by the Parliament of the Crimean Tatars People, its activity may be considered as extremist. According to the Federal Law of the Russian Federation Nr.114 FZ due to this extremist activity, the work of the Parliament of the Crimean Tatars People may be announced illegal and terminated.

154. This is a deeply worrying development, especially considering other examples<sup>34</sup> of human rights violations regarding Crimean Tatars.

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

155. Based on the HRMMU monitoring conducted during the reporting period, OHCHR recommends that the Government of Ukraine and the authorities in Crimea review and implement fully the recommendations of the first report on the situation of human rights in Ukraine, released on 15 April. In addition, OHCHR makes the following conclusions and recommendations:

### **To the Government of Ukraine:**

a) Welcome steps taken to support the establishment of the HRMMU and encourage further cooperation in order to support the Government in addressing human rights concerns. OHCHR assures the Government of its on-going support in its efforts to address human rights concerns in line with international standards, and within the framework of the UN General Assembly resolution 68/262 and the Geneva Agreement of 17 April 2014.

b) The deterioration in the east of Ukraine – the unlawful activities of the armed groups, including the seizure and occupation of public and administrative buildings, and numerous human rights abuses, inter alia, unlawful detentions, killings, torture/ill-treatment and harassment of people – remain the major factor in causing a worsening situation for the protection of human rights. A prompt, impartial and comprehensive investigation should be undertaken into the events and violence in the east.

c) All armed groups must disarm and their unlawful acts brought to an end, including the immediate release all those unlawfully detained, and the vacation of occupied public and administrative buildings, in line with the provisions of the 17 April Geneva Agreement. Those found to be arming and inciting armed groups and transforming them into paramilitary forces must be held accountable under national and international law.

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<sup>34</sup> HRMMU is verifying reports that Crimean Tatars working in law enforcement or holding important public positions are being pressured to submit letters of resignation.



d) Security and law enforcement operations must be in line with international standards and guarantee the protection of all individuals at all times. Law enforcement bodies must ensure that all detainees are registered and afforded legal review of the grounds of their detention.

e) The violent clashes in Odesa on 2 May resulted in the deaths of 46 people, with over 200 injured and 13 remaining missing. It appears to have hardened the resolve of those opposing the Government, and deepened division between communities. There is a need for an independent investigation into the violent events of that day. The perpetrators must be brought to justice in a fair and non-selective manner.

f) Primarily as a result of the actions of organised armed groups, the continuation of the rhetoric of hatred and propaganda fuels the escalation of the crisis in Ukraine, with a potential of spiralling out of control. Acts of hate speech must be publicly condemned and deterred. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech<sup>35</sup>.

g) There are increasing reports of harassment and intimidation of journalists. These should be investigated and addressed in order to ensure accountability and protect fundamental human rights and freedoms. Freedom of expression must be ensured allowing journalists the space and security to carry out their work objectively.

h) There is an increasing tendency in some critical urban areas for rallies of opposing groups to be held simultaneously, often leading to violent confrontations and clashes. This trend can be reverted by replacing incitement to hatred with the culture of tolerance and mutual respect for diverging views. Peaceful demonstrations must be permitted, as a matter of international law, and also as a way for people to express their opinion. Law enforcement agencies must facilitate peaceful assemblies, ensuring the protection of participants, irrespective of their political views. In this context, law enforcement officers must receive adequate training for handling rallies and protests in line with the international human rights standards.

i) The law enforcement reform package should aim to reinforce the rule of law; to de-politicise, de-militarise, de-centralise and strengthen the structure of the law enforcement bodies through accountability, transparency, and closer cooperation with the public and local communities, as well as professionalising the staff.

j) The Law “On the restoration of the credibility of the judiciary in Ukraine” must be brought in line with international norms and standards.

k) The announced national consultations on the discussion of the amendments to the Constitution of Ukraine on the decentralization of state powers should be advanced in accordance with the principle of equal inclusion of all, including national minorities and representatives of civil society, and ensuring equal role for women. A system of checks

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<sup>35</sup> See the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4, appendix, para. 36).

and balances should be fully provided. If conducted in a broad, consultative and inclusive manner, this may be a positive step leading to the de-escalation of tensions and genuine national reconciliation.

l) The adoption of measures, including making official public commitments on minority protection and ensuring participatory and inclusive processes in public and political life - reassuring all members of minorities regarding respect for their right to life, equality, political participation in public affairs and public life, as well as their cultural and linguistic rights would significantly ease tensions within the Ukrainian society.

m) The Central Election Commission of Ukraine has set out that the presidential elections will be conducted whatever the circumstances and that the results will be legally binding. OHCHR is concerned that the presidential election campaign is being accompanied by intolerance from certain parties, with cases of hate speech being expressed and presidential candidates being harassed and physically attacked, which could lead to more social tension and violence. Free, fair and transparent presidential elections – in line with relevant international standards - are an important factor contributing towards the de-escalation of tensions and the restoration of law and order to enable the peaceful development of the country.

**To the authorities in Crimea:**

n) Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.

o) At variance with UN General Assembly resolution 68/262, the legislation of the Russian Federation is being enforced on the territory. In addition, its differences in comparison with Ukrainian laws already have and will continue having serious implications for the enjoyment of human rights and fundamental freedoms, including freedom of expression and media as well as freedoms of peaceful assembly, association and religion.

p) All acts of discrimination and harassment towards members of minorities and indigenous peoples – in particular Crimean Tatars – and other residents who did not support the “referendum” must come to an end, and all their human rights must be guaranteed.

q) Agree to the deployment of independent and impartial human rights monitors, including by the HRMMU.

## VIII. ANNEX

### Concept Note UN human rights monitoring in Ukraine

#### Introduction

This concept note proposes the objectives and activities of enhanced OHCHR engagement in Ukraine through the immediate deployment of a human rights team.

#### Rationale for OHCHR's engagement

OHCHR has been closely following developments in the country with the High Commissioner for Human Rights publicly voicing concerns regarding human rights violations, including the restrictive legislation adopted by the Parliament on 16 January, urging inclusive and sustainable dialogue, and calling for investigations into cases of killings, disappearances and other violations. On 21 February, the Special Procedures of the UN Human Rights Council also issued a press release condemning the excessive use of force and calling for proper and impartial investigation into the reported incidents of human rights violations. To date OHCHR's engagement in Ukraine has been through its Human Rights Adviser within the UN Resident Coordinator and UN Country Team, supported by its geographical desk team in Geneva.

The deployment of an OHCHR team to Ukraine is fully consistent with, the requirements of the Secretary-General's Rights Up Front Plan of Action. The Plan of Action also aims to ensure that UN Country Teams are provided with the support they require to respond to the human rights context, including through the deployment of human rights expertise. OHCHR's engagement, and provision of information and analysis of the human rights situation, will further allow the UN to undertake further steps to respond to an emerging crisis in Ukraine as set out in the Plan of Action.

#### Objectives

- Monitor the human rights situation in the country and provide regular, accurate and public reports by the High Commissioner on the human rights situation and emerging concerns and risks;
- Recommend concrete follow-up actions to relevant authorities, the UN and the international community on action to address the human rights concerns, prevent human rights violations and mitigate emerging risks;
- Establish facts and circumstances and conduct a mapping of alleged human rights violations committed in the course of the anti-government demonstrations and ensuing violence between November 2013 and February 2014;
- Establish facts and circumstances related to potential violations of human rights committed during the course of the deployment.

#### Activities

Monitoring, reporting and advocacy – The submission of regular updates and analysis to the High Commissioner on the human rights situation and principal concerns, with a specific focus on, and identification of, issues likely to have an impact on the overall security situation in Ukraine. This shall include recommendations for action to be taken by the relevant authorities, the international community and the UN in the country, and steps necessary to provide protection for persons at risk.

Coordination and collaboration with other human rights monitoring activities – The team will actively coordinate and collaborate with other human rights monitoring capacity within the country and deployments by other international organisations (including OSCE-ODIHR, CoE). More detailed working arrangements with these actors on the ground will have to be further elaborated, especially with respect to public reporting.

Advisory role to the RC and UNCT – The team, with the support of the Human Rights Advisor, will provide advice and recommendations to ensure the integration of a response to the key human rights concerns within the strategy of the UNCT. This will include advice to the Resident Coordinator (RC) on advocacy measures to be undertaken with key national actors in relation to human rights concerns, and may undertake direct advocacy with specific partners and stakeholders, in coordination with the RC and OHCHR. The team will also provide guidance to relevant members of the UNCT, and input to UNCT meetings.

### **Composition and deployment of the mission**

The mission will be conducted by a team of seven human rights officers, headed by one P5 team leader, and made up of six P4/P3 human rights officers, security and administrative support staff, and supported by 25 national staff.

The head of the team will be based in Kiev and be responsible for the staff in five other locations of the country: initial planning has identified Lviv, Odessa, Simferopol, Donetsk and Kharkiv. OHCHR will aim to co-locate OHCHR team members within UN premises in these locations, if available, or at the offices of other international organisations, including OSCE-ODIHR.

### **Security**

OHCHR Safety and Security Section will assist the team in coordinating its activity with UN DSS and will provide advice on security related aspects. A security officer will be included as a member of the team.

### **Dates of the mission**

The suggested timeline for this mission is from mid-March, ensuring continuity of an increased human rights presence after ASG Simonovic's departure, and for a period of up to three months.

### **Funding**

Funding will initially be provided from the Secretary-General's unforeseen and extraordinary expenses, with additional funding sources to be sought.



Map No. 3773 Rev. 6 UNITED NATIONS  
March 2014

Department of Field Support  
Cartographic Section



# Annex 46

OHCHR, Report on Human Rights Situation in Ukraine (15 June 2014)





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

**Report on the human rights situation in Ukraine  
15 June 2014**

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## I. EXECUTIVE SUMMARY

1. The present report is based on findings of the United Nations (UN) Human Rights Monitoring Mission in Ukraine (HRMMU) covering the period of 7 May – 7 June 2014. It follows two reports on the human rights situation in Ukraine released by the Office of the UN High Commissioner for Human Rights (OHCHR) on 15 April and 16 May 2014.
2. During the reporting period, the human rights situation in the Donetsk and Luhansk regions has continued to deteriorate. The 11 March “referendum” on “self-rule” held by the self-proclaimed “Donetsk People’s Republic” and “Luhansk People’s Republic”,<sup>1</sup> albeit without effect under international law, was seen by their representatives as the first step to the creation of a “Novorossia”. In addition, armed groups have continued to physically occupy most of the key public and administrative buildings in many cities and towns of the Donetsk and Luhansk regions, and have declared virtual “independence”, however, the provision of administrative services to the local population remains with the State.
3. The presence of armed people and weapons in the regions of Donetsk and Luhansk has increased. Representatives of the “Donetsk People’s Republic” have recognised the presence within their armed groups of citizens of the Russian Federation, including from Chechnya and other republics of the North Caucasus. In the period following the elections, the HRMMU observed armed men on trucks and armoured vehicles moving around downtown Donetsk in daylight.
4. The escalation in criminal activity resulting in human rights abuses is no longer limited to targeting journalists, elected representatives, local politicians, civil servants and civil society activists. Abductions, detentions, acts of ill-treatment and torture, and killings by armed groups are now affecting the broader population of the two eastern regions, which are now marked by an atmosphere of intimidation and consequent fear. Armed groups must be urged to stop their illegal activities and lay down their arms.
5. There has also been more regular and intense fighting as the Government has been trying to restore peace and security over the eastern regions of Donetsk and Luhansk through security operations involving its armed forces. Local residents of areas affected by the fighting are increasingly being caught in the cross-fire between the Ukrainian military and armed groups, with a growing number of residents killed and wounded, and damage to property. The HRMMU is concerned at the increasing number of reports of enforced disappearances as a result of the security operations. The Government must further use restraint of force, and ensure that its security operations are at all times in line with international standards.<sup>2</sup>
6. As a result of these developments, residents of the Donetsk and Luhansk regions live in a very insecure environment, coupled with social and economic hardships. Daily life is more and more of a challenge. The HRMMU is gravely concerned that the combination of the increased number of illegal acts by the armed groups, and the intensification of fighting between armed groups and Ukrainian forces is raising serious human rights

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<sup>1</sup> Hereafter referred to as the “Donetsk People’s Republic” and the “Luhansk People’s Republic”.

<sup>2</sup> Human Rights Watch Letter to former Acting President Turchynov and President-Elect Poroshenko dated 6 June 2014, on the conduct of security operations in south-eastern Ukraine in light of the growing number of credible reports regarding Ukrainian forces’ use of mortars and other weapons in and around populated areas, and the recent intensifying of hostilities between Ukrainian forces and armed groups.

concerns, including but not limited to, the fate of the general population, especially women and children, in the areas under the control of armed groups.

7. As of 6 June, the departments of social protection in Ukraine's regions had identified over 12,700 internally displaced persons (IDPs)<sup>3</sup>. However, the actual number of people who have fled the violence and fighting in the regions of Donetsk and Luhansk is believed to be higher and increasing daily.
8. Freedom of expression continues to be threatened, particularly in the eastern regions, where journalists face ongoing intimidation and threats to their physical security. Hate speech, particularly through social media, continue to fuel tensions and to deepen division between communities.
9. In Crimea, the introduction of Russian Federation legislation, in contradiction with the United Nations General Assembly resolution 68/262 and applicable bodies of international law, hampers the enjoyment of human rights and fundamental freedoms. It has created a legislative limbo as, while Ukrainian legislation was supposed to remain in force until 1 January 2015, the legal institutions and framework are already required to comply with the provisions of legislation of the Russian Federation.
10. Residents in Crimea known for their "Pro-Ukrainian" position are intimidated. The HRMMU is concerned that many may face increasing discrimination, particularly in the areas of education and employment. Leaders and activists of the indigenous Crimean Tatar people face prosecution and limitations on the enjoyment of their cultural rights. During the reporting period, the situation of all residents of Crimea has deteriorated with regard to their right to freedoms of expression, peaceful assembly, association, religion or belief.
11. From 14 to 19 May, Assistant Secretary-General (ASG) for Human Rights Ivan Šimonović travelled to Ukraine. During his visits to Kyiv, Donetsk and Odesa, he discussed the 16 May report with the Government, regional and local officials, the Ombudsperson and representatives of civil society, and the international community. The ASG highlighted the importance of prompt follow-up to the recommendations made in the OHCHR report as a means to de-escalate tensions, in particular ahead of the Presidential elections.
12. The investigations under the Office of the Prosecutor General into the Maidan events continued. On 28 May, a Kyiv court sentenced two police officers who subjected a Maidan demonstrator to ill-treatment. On 15 May, relatives of those killed on Maidan, dissatisfied with the perceived slowness of the official investigation, created an initiative group to conduct their own investigation. The HRMMU remains in regular contact with the Office of the Prosecutor General and emphasizes the need for the investigation to be transparent, comprehensive and timely.
13. With respect to the incidents that took place in Odesa on 2 May, it should be noted that six official investigations have been established. The main bodies undertaking such investigations are the Ministry of Interior (MoI) and the State Security Service in Ukraine (SBU). It is with regret that the HRMMU reports a lack of cooperation from both governmental bodies, particularly at the central level with the HRMMU, which has been preventing the HRMMU from conducting a proper assessment of the progress

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<sup>3</sup> As of 16 June, UNHCR estimate there to be 34,336 IDPs in Ukraine.

According to the Russian Federation Federal Migration Service, as of 6 June, 2014, 837 persons had applied and were granted refugee status; and 3,750 persons had applied and were granted Temporary Asylum. Approximately 15% were minors under the age of 18. These figures do not include people from Crimea.

made. The HRMMU reiterates the need for prompt and thorough investigations into the violent incidents on 2 May in Odesa. Some key questions must be addressed to ensure confidence in the investigation and to guarantee accountability, due process and to enable the communities to accept fully the results of such an investigation. Among those questions are the conduct of the police on 2 May: why it, and the fire brigade, either did not react, or were slow to react; what caused the fire in the Trade Union building; who are the perpetrators of the killings in the afternoon and the fire in the evening; and what measures are being taken to guarantee justice for the victims, and due process for the people detained in connection with these events. Furthermore, the Government must pay particular attention to ensure social media is not used for hate speech or incitement to hatred.

14. A key development during the reporting period was the Presidential election held on 25 May 2014. There were 21 candidates officially on the ballot. On 3 June, the Central Election Commission (CEC) confirmed that Mr. Petro Poroshenko had won with 54.7% of the vote. In the regions of Donetsk and Luhansk, attacks had taken place every day during the week preceding the elections and multiplied on election day, with violent obstruction of polling stations. The pattern of such attacks consisted of representatives of the “Donetsk People’s Republic” and the “Luhansk People’s Republic” and armed men entering the premises of the district election commissions, threatening staff and sometimes beating and/or abducting them, often taking away voters’ lists, computers and official documents. In some cases, the premises of these commissions were seized and blocked; others had to close either because they became inoperative, or for security reasons the staff were frightened to come back. Several attacks against district election commissions and polling stations were reported just prior to, and on, the election day, with armed men entering polling stations, forcing them to close and/or destroying or stealing ballot boxes. These illegal acts prevented many people living in the Donetsk and Luhansk regions to exercise their right to vote.
15. Residents of Crimea had to go to mainland Ukraine to vote. The HRMMU monitored the situation in the Kherson region, where most of the Crimean voters had registered, and spoke to representatives of the Crimean Tatars. As they crossed the administrative border by car to go to vote, representatives of “self-defence forces” reportedly recorded various personal details, including car license plates and passport numbers. The HRMMU was informed that many Crimean Tatars did not go to vote due to the cost of travelling, concerns about crossing the administrative border, and fear of reprisals by the authorities in Crimea.
16. During the reporting period, the Government of Ukraine continued to implement the Geneva Statement.<sup>4</sup> National roundtables on constitutional reform, decentralization, minority rights and the rule of law were held in Kyiv on 14 May, in Kharkiv on 17 May, and in Mykolaiv on 21 May. These meetings brought together former Presidents Kravchuk and Kuchma, Prime Minister Yatsenyuk, political party leaders, members of the business community and other civil society organizations. In Kharkiv, Prime

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<sup>4</sup> The Geneva Statement on Ukraine was issued on 17 April 2014 by representatives of the European Union, United States, Ukraine and the Russian Federation. It sets out the agreed initial concrete steps to de-escalate tensions and restore security for all: (1) All sides must refrain from any violence, intimidation or provocative actions; (2) All illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public offices must be vacated; (3) Amnesty should be granted to the protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) The announced constitutional process will be inclusive, transparent and accountable carried out through a broad national dialogue.

Minister Yatsenyuk declared that the Constitution should be amended in order to provide a special status for the Russian language and national minority languages.

17. On 13 May, the Parliament adopted the Law “On amending some legislative acts in the area of state anti-corruption policy in connection with the implementation of the European Union (EU) Action Plan on the liberalisation of the visa regime for Ukraine”. The Law provides for more stringent penalties for corruption offences committed by individuals or legal entities.
18. On 20 May, Parliament adopted by resolution № 4904 the Memorandum of Concord and Peace, which was drafted during the roundtable on national unity in Kharkiv on 17 May, and discussed on 21 May in Mykolaiv. Supported by 252 votes (all deputies except the Communist Party of Ukraine and Svoboda), the document foresees that the adoption of a constitutional reform package, including the decentralization of power and a special status for the Russian language; judicial and police reform, and the adoption of an amnesty law for anti-government protesters in the east who would accept giving up weapons, except for those who have committed serious crimes against life and physical integrity. The Parliament called on all to work together to protect, promote and build a democratic Ukraine, and the peaceful coexistence of all nationalities, religions and political convictions.

## II. METHODOLOGY

19. The present report was prepared by the HRMMU on the basis of information collected during the period of 7 May to 7 June 2014. During this period, the HRMMU continued to operate pursuant to the objectives as set out at the time of its deployment in March 2014, and in accordance with the same methodology as outlined in its second monthly report on the situation of human rights in Ukraine issued by OHCHR on 16 May.<sup>5</sup> The present report does not intend to present an exhaustive account of all human rights concerns in Ukraine that have been followed by HRMMU during the reporting period. It rather focuses on those violations and developments which represent particular human rights challenges at the current juncture or demonstrate trends for potentially longer-term human rights concerns in the country.
20. The HRMMU continued to work closely with the United Nations entities in Ukraine. It is grateful for the support and contributions received for the report from the Office of the United Nations Resident Coordinator, the Department for Political Affairs (DPA), the United Nations High Commissioner for Refugees (UNHCR), the World Health Organisation (WHO), the United Nations Children’s Fund (UNICEF), the United Nations Development Fund (UNDP), the World Food Programme (WFP), the United Nations Population Fund (UNFPA), the United Nations Office on Drugs and Crime (UNODC), the International Labour Organisation (ILO), the International Organisation for Migration (IOM), and the Office for the Coordination of Humanitarian Affairs (OCHA).
21. The HRMMU appreciates the close cooperation with international and national partners, including among others, the Organisation for Security and Cooperation in Europe (OSCE).

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<sup>5</sup> <http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>

### III. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS

#### A. Investigations into human rights violations related to Maidan protests

22. Five separate initiatives are ongoing in connection with the investigations into human rights violations committed during the Maidan events: (1) the official State investigation is undertaken by the Office of the Prosecutor General of Ukraine in cooperation with the MoI; (2) a temporary “*commission on the investigation of illegal actions of the law enforcement bodies and individual officials and attacks on the rights and freedoms, lives and health of citizens during the events connected with the mass actions of political and civil protests that have been taking place in Ukraine since 21 November 2013*” was established by Parliament on 26 December 2013; (3) the Secretary-General of the Council of Europe initiated, in December 2013, a three-member International Advisory Panel to oversee that the investigations of the violent incidents which have taken place in Ukraine from November 2013 onwards meet the requirements of the European Convention on Human Rights and the case-law of the European Court of Human Rights; (4) a Public Commission on the investigation and prevention of human rights violations in Ukraine was created on 27 January 2014, initiated by a group of Ukrainian legal academics; and (5) an initiative group comprising family members of people who died on Maidan.
23. The Ukrainian Ombudsperson issued a special report on “Infringement of Human Rights and Freedoms in Ukraine - The Events of November 2013 – February 2014”.<sup>6</sup>  
*Forceful dispersal of Maidan protesters on 30 November 2013*
24. As noted in the previous reports, the violent dispersal of protesters on 30 November was the first instance of the excessive use of force against peaceful demonstrators, and triggered further protests.
25. On 14 May, the Kyiv Pechersky Court postponed a hearing of Oleksandr Popov, former Head of the Kyiv City administration, and of Volodymyr Sivkovich, former Deputy Secretary of the National Security and Defence Council, who are under suspicion of being responsible for the forced dispersal of Maidan protesters on the night of 30 November 2013. The hearing was scheduled after the Kyiv city Court of Appeal cancelled the decision of the Kyiv Pechersky Court of 31 January 2014 to amnesty persons responsible for ordering the crackdown of demonstrators by the “Berkut” riot police under the law of 19 December, which has since then been rescinded.
26. The hearing planned for 14 May eventually took place on 26 May but was followed by an incident. About 15 members of the “Maidan self-defence” attacked Oleksandr Popov after he left the court room. He was doused with water, alcohol and iodine, and insulted. Members of the police, who were standing by, did not intervene.
27. During the following hearing, on 5 June, the plaintiffs (representing Maidan victims) submitted a petition for the revocation of the judge considering the case. The petition was accepted by the court, leading to the postponement of the hearings until a decision on the revocation.

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<sup>6</sup> Ukrainian Parliament Commissioner for Human Rights, Special Report on ‘Infringement of Human Rights and Freedoms in Ukraine - The events of November 2013 – February 2014’, issued on 28 February, 2014.

*Criminal proceedings into the killings of 19-21 January and 18-20 February 2014*

28. During 19-21 January 2014, fierce clashes broke out in central Kyiv between the police and protesters, resulting in the first three casualties among demonstrators. The death toll rose significantly between 18-20 February, with confrontations taking the lives of dozens of persons, mostly protesters.
29. Different figures continue being reported regarding the number of deaths during the protests in January and February. According to information from the Office of the Prosecutor General communicated to the HRMMU on 27 May, 76 protesters were killed as a result of firearm wounds on Hrushevskoho and Institutska streets due to armed confrontations. On 21 May, the Ministry of Health announced that 106 demonstrators had died during the protests. Information from the NGO “Euromaidan SOS”, dated 3 June, refers to 113 casualties among protesters (109 in Kyiv and 4 in the regions).
30. There are also discrepancies concerning casualties among law enforcement officers: 14 according to the Office of the Prosecutor General; 17 according to the Investigation Commission of the Parliament of Ukraine on the Maidan events; and 20 according to the NGO “Euromaidan SOS”.
31. For investigation purposes, all the killings of protesters by firearms were merged by the Office of the General Prosecutor into one criminal proceeding. As of 24 April, three “Berkut” officers had been arrested and officially charged with Article 115 (Murder) of the Criminal Code. The situation has not changed over the past month and a half. The killing of law enforcement officers is being investigated by a separate team within the Office of the Prosecutor General. As of 6 June, no suspects had been identified.
32. On 20 May, the deputy head of the Kyiv Department of the MoI, Sergiy Boyko, declared that all documentation related to the activities of the special police unit “Berkut” during Maidan had been destroyed upon the order of the unit commander in the last days of February 2014.
33. On 5 June, the HRMMU met with a representative of an initiative group claiming to represent about 320 relatives of people killed on Maidan. The group held its first meeting on 15-16 May, and is planning to initiate an independent investigation into the events, with the involvement of lawyers and journalists. They consider their initiative as necessary as they are not satisfied with the ongoing investigations. The group, which plans to register an NGO entitled “Family Maidan” also intends to support families of Maidan victims.
34. On 21 May, the Head of the Parliamentary Investigation Commission on the Maidan events reported that two persons who had participated in the protests were still missing. Eleven persons suspected in the killing of demonstrators have been identified, of whom three were arrested and eight remain at large, allegedly in the Russian Federation. The Commission is seeking to obtain full and reliable information on violations during Maidan and will forward evidence to the General Prosecutor’s Office. It has a one-year mandate and must issue a report to Parliament no later than six months after its establishment that is by 26 June 2014.
35. The International Advisory Panel (IAP) of the Council of Europe overseeing the Maidan investigations held two working sessions in Strasbourg on 9-11 April and 5-7 May 2014. On 16 May, it issued guidelines for NGO submissions and requested input by 11 June 2014. It also decided to request ‘certain authorities’ to submit information



mainly concerning the Maidan investigations. The first meetings of the IAP in Kyiv will take place at the end of June 2014.

*Torture and ill-treatment*

36. On 28 May, the Kyiv Pechersky Court sentenced two police officers for abuse of power and violence against a demonstrator, Mykhailo Havrylyuk, during the Maidan protests. Mr. Havrylyuk had been stripped naked in the street by the police in freezing conditions and forced to stand in the snow while being mocked, assaulted and filmed with a mobile phone. During the hearings, the defendants pleaded guilty. One of them was sentenced to three years of imprisonment with a probation period of one year, and the other to two years, including a one-year probation period.

**B. Investigations into human rights violations related to 2 May Odesa violence**

*Summary of events*

37. The most serious single incident of significant loss of life in Ukraine since the killings on Maidan occurred in Odesa on 2 May 2014.<sup>7</sup> The events occurred on the same day that a football match was due to take place between the Kharkiv football team “Metallist” and the Odesa football team “Chernomorets”. On 1 May, the police authorities issued an official statement announcing that due to possible disorder because of the football game, an additional 2,000 police officers would patrol the streets of Odesa.
38. Early in the morning of 2 May, at least 600 football fans arrived from Kharkiv. Football fans from both teams are known to have strong “Pro-Unity”<sup>8</sup> sympathies. A pre-match rally for “United Ukraine” had been planned for 3.00 p.m. on Sobornaya square and gathered, at least, 2,000 people, including supporters of the two football teams, Right Sector activists, members of so-called self-defence units, and other “Pro-Unity” supporters. Right Sector and “self-defence” unit supporters were observed by the HRMMU wearing helmets and masks, and armed with shields, axes, wooden/metallic sticks and some with firearms. By 3:00 p.m. the HRMMU had observed 15 police officers on Sobornaya square and two buses of riot police officers parked nearby.
39. Meanwhile, the HRMMU observed that about 450 metres away from Sobornaya street, “Pro-Federalism” activists, comprising approximately 300 activists from “Odesskaya Druzhina” (radical “Pro-Federalism” movement), had also gathered one hour earlier. They reportedly intended to prevent the “Pro-Unity” rally; and were wearing helmets, shields, masks, axes, wooden/metal sticks and some of them with firearms.
40. The HRMMU observed an insufficient and inadequate police presence to manage and ensure security, and crowd control of the “United Ukraine” march towards the football stadium. The HRMMU noted that additional police officers arrived at the scene, but were unable to stop the violent confrontation.
41. At 3.15 p.m., the “Pro-Federalism Odesskaya Druzhina”, “Narodnaya Druzhina” and other activists approached the Sobornaya square and started to provoke the participants of the “United Ukraine” rally. Clashes arose and quickly turned into mass disorder, which

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<sup>7</sup> See also OHCHR report on the human rights situation in Ukraine, 15 May 2014 (<http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>)

<sup>8</sup> The terms “Pro-Unity” and “Pro-Federalism” are used in the context as describing the motivations and orientation of the supporters / activists.

lasted for several hours until 6.30 p.m. Police officers and supporters from both sides were injured during the afternoon. Six men were killed by gunshots fired by activists.

42. The HRMMU observed that following the clashes in the city centre, some “Pro-Federalism” activists ran from the area chased by “Pro-Unity” supporters. Approximately 60 “Pro-Federalism” activists took refuge in the “Afina” shopping centre, which had been closed during the day. The “Afina” shopping centre was then surrounded by “Pro-Unity” activists. Riot police (Special Forces “SOKOL”) arrived on the scene, and reportedly took away 47 “Pro-Federalism” activists, while letting women out of the complex. Other “Pro-Federalism” supporters ran from the clashes to the tent camp at the Kulikovo Pole square, where approximately 200 supporters had gathered (including all the “Pro-Federalism” leaders) during the afternoon.
43. Some “Pro-Unity” politicians called upon their supporters to march towards the Kulikovo Pole square. At 7.00 p.m., the “Pro-Unity” supporters marched in that direction, accompanied behind them by approximately 60 riot police.
44. The “Pro-Federalism” leaders were informed that “Pro-Unity” supporters were heading towards the tent camp, and between 6.00 – 6.30 p.m., they decided to take refuge in the nearby Trade Union Building.
45. At 7.30 p.m., when the “Pro-Unity” supporters reached Kulikovo Pole square, they burned all the “Pro-Federalism” tents. The “Pro-Federalism” activists, who had hidden in the Trade Union Building, and the “Pro-Unity” activists, then reportedly started throwing Molotov cocktails at each other. Gunshots could reportedly be heard coming from both sides. At around 8.00 p.m., the “Pro-Unity” activists entered the Trade Union Building where the “Pro-Federalism” supporters had sought refuge.
46. During the evening a fire broke out in the Trade Union Building. At 7.43 p.m., the HRMMU called the fire brigade, which has its base located 650 metres from the Trade Union Building. Reportedly, the fire brigade only arrived 40 minutes after receiving the first phone call about the fire. According to fire brigade officials, this was due to the fact that the police did not create a safe and secure perimeter allowing the fire brigade to easily access the Trade Union Building. The cause of the fire remains unclear at this stage.
47. As a result of the fire, officially 42 people died: 32 (including 6 females) were trapped and unable to leave the building and 10 (including one female and one minor) died jumping from windows.
48. The HRMMU has received information from credible resources that some “Pro-Unity” protesters were beating up “Pro-Federalism” supporters as they were trying to escape the Trade Union Building, while others were trying to help them.
49. 247 other people were brought from the scene requiring medical assistance: 27 people with gunshot wounds, 31 with stab wounds, 26 with burns and intoxication caused by combustible products and 163 with injuries by blunt objects. Of these, 99 people were hospitalised, including 22 policemen, with 35 in serious condition. According to various sources, all those who died were Ukrainian citizens. There are no more official reports of people missing in relation to 2 May events. Seven of those injured remain in hospital. The HRMMU received allegations that many who were treated in hospitals did not give their real names and addresses. Moreover, some people who were heavily injured from the violence did not go to hospital for fear of retaliation.

50. During the evening, it was reported to the HRMMU that a bare minimum police force was present at the Kulikovo Pole square. Even when the special riot police force arrived at the scene, the officers did not intervene in the violence that took place on the Kulikovo Pole square. The HRMMU was told by high ranking police officers that the reason for this is that they did not receive any formal order to intervene.

#### *Detentions*

51. The HRMMU has noted slight discrepancies regarding the number of people arrested/detained/transferred during, and in the aftermath of, the 2 May violence. The Regional Prosecution Office and the Regional Ministry of Interior present different figures relating to these events. For example, figures for those arrested in the centre of town vary from 42 to 47 people, and figures for those arrested at the Trade Union Building from 63 to 67 people.
52. Criminal investigations have been launched under the following articles of the Criminal Code of Ukraine: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); Article 345 (Threat or violence against a law enforcement officer), Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty).
53. The 47 “Pro-Federalism” activists who took refuge in the “Afina” shopping centre were taken away (for so-called protection reasons) by Police Special Forces “SOKOL” and transferred to two police stations outside Odesa (Ovidiopol and Bilhorod-Dnistrovkiy) where they were detained for two days.
54. During this 48 hour period in police custody, detainees were not given food or water on a regular basis, nor were they provided a one-hour walk per day, as per internal MoI regulations<sup>9</sup>.
55. On 4 May, all 47 detainees were transferred to Vinnitsa (424 km from Odesa). According to information provided to the HRMMU by credible sources, during the transfer, which lasted for 12 hours, they received neither food nor water, nor were they allowed to use toilet facilities (they had to urinate in the detainees van). According to Ukrainian internal regulations, detainees during transfer should receive food and water.
56. On 6 May, video court hearings of the “Pro-Federalism” activists were organised with the Primorsky District Court of Odesa. All were charged with Article 294 (Mass riots) and/or Article 115 (Intentional homicide) of the Criminal Code; and during the following days some were given additional criminal charges of either: Article 194/2 (Intentional destruction or damage of property); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); or Article 345 (Threat or violence against a law enforcement officer). According to the court decisions of the 47 arrested, 14 were placed in the Vinnitsa pre-trial detention centre. Four of these, after appealing the court decision, were placed under house arrest and have since reportedly returned to Odesa. 33 of the 47 individuals originally arrested were placed under house arrest as of 10 June 2014. Late in the evening of 2 May, 67 people were arrested at the Trade Union Building and transferred to the Odesa City Police Station, where they were detained for two days. On 2 and 3 May, all were

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<sup>9</sup> Ministry of Interior regulation Number 60 dated 20/01/2001: warm food three times per day, and one hour walk per day.

charged with either Articles 115 (Intentional homicide) or Article 294 (Mass riots) of the Criminal Code. On 4 May at 5.00 p.m., the Odesa City Police Station was stormed by relatives and friends of the “Pro-Federalism” movement. Under unclear circumstances all of the 67 detainees were “released” by the police.

57. In addition to those arrested on 2 May, the MoI arrested at least four other people. On 6 May, one of the leaders of the “Pro-Federalism” movement was arrested and charged under Article 294 of the Criminal Code. He is currently detained in a pre-trial detention centre. On 18 May, a “Pro-Unity” activist was arrested, accused of firing at, and injuring several people in the city centre on 2 May, including police officers, “Pro-Federalism” activists and journalists. He was first transferred to the Investigation Department of Odesa Regional Police Office, before being transferred to Kyiv. He is accused under Article 115 (Murder) and Article 294-2 (Mass riots) of the Criminal Code and on 21 May, he was placed under house arrest in Odesa by the Kyiv Pechersky District Court.
58. Of the arrests conducted between 2 May and 3 June, in connection with the investigations into the 2 May violence, 13 persons remain in pre-trial detention centres under the Penitentiary Services (either in Vinnitsa, Odesa or Kyiv) charged with one or more of the following six articles of the Criminal Code: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).
59. In addition, reportedly 40 people were placed under house arrest in Odesa charged with the following articles of the Criminal Code: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).
60. Two cases concerning “Pro-Unity” activists suspected of shooting and killing persons during the 2 May violence, were heard by the Pechersky District Court of Kyiv, following the arrest of two suspects on 18 and 26 May. Both were given house arrest; both are charged under Article 294 (Mass riots), and one has been additionally charged under Article 115 (Murder) of the Criminal Code.

*Due process rights during, and after, the 2 May violence*

61. The HRMMU visited detainees held in the pre-trial detention centre in Odesa. The Penitentiary Services administration fully cooperated with the HRMMU and granted access to several detainees (including one female) with whom private interviews were carried out. The detainees did not complain about their conditions of detention or physical treatment in the pre-trial detention centre in Odesa. They confirmed they were able to meet privately with their lawyers.
62. The HRMMU also met with lawyers, victims, witnesses, detainees and relatives with regard to the 2 May violence. It also held numerous meetings with the Ombudsperson’s team, as well as representatives of law enforcement agencies, mass media, local politicians and officials, activists and local officials. Through its monitoring, the HRMMU has identified various human rights concerns with regard to the on-going criminal investigations, which include some of the following.

*Timely notification of reasons for arrest and charges within short period of time*

63. On 15 May, the SBU apprehended five additional people. Although this took place at 9.00 a.m., the official arrest time has been recorded as 11.50 p.m. – over 12 hours later. According to Article 208/4 of the Criminal Procedure Code ‘a competent official who apprehended the person, shall be required to immediately inform the apprehended person, in a language known to him, of the grounds for the apprehension and of the commission of what crime he is suspected’. Furthermore, the procedure applied for the arrest was not in line with Articles 9.2 and 9.3 of the International Covenant on Civil and Political Rights (ICCPR).
64. Similarly eight people apprehended by the SBU on 27 May at the Odesa railway station did not receive prompt notification of the reasons for their arrest.

*Right to a fair trial*

65. Law enforcement agencies resorted to an illegal practice in order to prevent prompt access to legal counsel. Indeed, during criminal interrogation procedures, police and SBU officers summoned individuals as “witness” and later then substituted their status as “suspect” and/or substituted their interrogation by interviewing. This resulted in violating the persons’ right to see and consult a legal counsel (as provided for in Article 208/4 of the Criminal Procedural Code) and gave an opportunity to “delay” the official time of apprehension.
66. For instance, the eight people who were arrested by the SBU at the Odesa railway station were transferred to the SBU for an alleged “interview”. They were not informed about their rights with regard to apprehension, nor were they provided with legal counsel, nor could they contact their lawyers before and during interrogation.
67. The HRMMU observed, based on interviews with detainees and their relatives, that the governmental Free Legal Aid scheme (established in connection with the new Criminal Procedural Code of November 2012) encountered gaps in its system. For the legal defence of detainees arrested during and after 2 May violence, the Free Legal Aid system could not provide enough lawyers.
68. As of 4 June, the legal status of the 67 “detainees” released on 4 May from Odesa city Police Station remained unclear. Due to procedural gaps following their alleged illegal release (i.e. without a court decision), they remain suspects. The measure of restraint was not applied to them as required in accordance with the Criminal Procedural Code.

*Right to medical care*

69. In Ovidiopol and Bilhorod-Dnistrovskiyi Police Stations medical care was not provided to those among the 47 detainees who required such assistance due to illness. The relatives of detainees placed in custody in the Vinnitsa pre-trial detention centre also reported about the lack of medical care provided to their kin.

*Personal data*

70. Concerns have been raised with the HRMMU that on 19 May, the presumption of innocence may have been violated during an official press conference of the MoI, by the Deputy Minister of Interior/Head of Main Investigation Unit by disclosing personal data of 12 detainees. The HRMMU reminds the authorities of the importance of respecting international standards concerning the presumption of innocence and the prohibition of arbitrary interference with one’s privacy or attacks upon his/her honour and reputation.

71. Also on 3 May, the SBU published the names and passports of three citizens from the Russian Federation allegedly involved in the 2 May violence.

*Legality of arrest*

72. On 15 May, the SBU conducted an illegal search of an apartment from 8.00 p.m. to 3.00 a.m., without a search warrant and without preparing a report/protocol on the search. During the search, they broke the door, forced the family, including a girl to lie down on the floor. A woman (wife/mother) was subsequently arrested and taken to the SBU Office. The next day she was transferred to the Odesa Police Station. On 17 May, the Primorsky District Court placed her in custody under Articles 294 (Mass riots) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code. She is currently detained in Odesa pre-trial detention centre.

*Accountability: Update on investigations into the Odesa incidents*

73. Six official investigations have been initiated to look into the incidents of 2 May in Odesa and are ongoing: 1) a criminal investigation by the MoI; 2) an investigation of the General Prosecution Investigation Unit into police conduct; 3) a criminal investigation by the SBU into alleged state level crimes (including actions aimed at forceful change or overthrow of the constitutional order); 4) an investigation by the Ombudsperson; 5) an investigation by the Parliamentary Commission; and 6) an investigation by a commission comprising civil society representatives under the auspices of the Governor. During his visit in May, ASG Šimonović met with interlocutors involved in these various investigations.
74. These parallel investigations by different bodies present a high risk of miscommunication between the various law enforcement agencies' commissions, which may impact the integrity of the criminal investigations. Furthermore, there appear to be widespread concerns among citizens regarding the ability of local law enforcement agencies to conduct independent and thorough investigations due to the politicisation of the 2 May events. The day after the violence, the former acting President dismissed several local high-ranking officials on the grounds of Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty) of the Criminal Code). An interim government and new officials were appointed at the local level: the Governor of Odesa, the Head of the Regional MoI, the Head of the Odesa City Police, and the Head of the Regional Prosecution Office.

*Governmental Commission on the issues of numerous deaths of people during "Pro-Ukrainian" protests and fire in the Trade Union Building in Odesa City*

75. During the late evening of 2 May, Vice-Prime Minister Vitalii Yarema was appointed Head of the Governmental Commission on the issues of numerous deaths of people during "Pro-Ukrainian" protests and the fire in the Trade Union Building in Odesa City, which is responsible for overseeing the investigation carried out by the law enforcement agencies at the Odesa regional and city level. The HRMMU has officially requested to meet with this Commission, but had not received a response as of 7 June 2014.

*Criminal investigation by the Ministry of Interior Investigation Unit*

76. On 2 May, a criminal investigation was launched by the Odesa Regional Police Investigation Department. On 6 May, the responsibility for the investigation was transferred to the Main Investigation Department of the MoI in Kyiv (under the lead of Deputy Minister of Interior). According to the law, the investigation process should be

completed in 60 days. Investigators from Kyiv, Odesa and other regions are cooperating on this investigation, which has been launched under the following articles of the Criminal Code of Ukraine: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).

*General Prosecution Investigation Unit regarding police duty performance*

77. On 3 May, the Odesa Regional Prosecutor Office launched a criminal case against four police officials under Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty) of the Criminal code. On 6 May, this investigation was transferred to the Investigation Unit of the General Prosecutor.
78. According to information provided to the HRMMU by credible sources, the regional MoI did not enforce the special police tactical plan called “Wave” (“Khvyliya”), which would have allowed the use of special police means and forces, and ensured coordination of all official emergency units (e.g. health, and the department of emergency situations).
79. Furthermore, there are credible reports that during the 2 May violence, all high ranking officials from the Regional MoI and Regional Prosecutor’s Office were holding a meeting and were unavailable.
80. Since then, several criminal proceedings have been initiated against high-ranking police officials and policemen. The Deputy Head of the Regional MoI was placed under house arrest in relation with the 2 May violence and the “release” of the 67 detainees held in the Odesa Police Station on 4 May. His current whereabouts remain unknown but he is thought to be outside Ukraine. On 8 May, the Head of the Odesa City Police, the Head of the Odesa Police Detention Centre and the duty officer were apprehended and transferred to Kyiv. On 9 May, the Head of the Odesa City Police was released on bail. Both The Head of the Odesa Police Detention Centre and the duty officer were also released under obligations to make a personal commitment not to leave Ukraine.

*Criminal investigation under the State Security Service of Ukraine (SBU)*

81. In mid-March, the SBU initiated a criminal investigation throughout the country under Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code in relation to threats to national security and national integrity. As of 15 May, the SBU arrested several people in Odesa region. According to the HRMMU informal sources, 18 people were placed under investigation by the SBU and detained in the Odesa pre-trial detention centre between 2 May and 3 June.
82. On 15 May, the SBU arrested five people (four male and one female) who were allegedly leaving the Odesa region to join armed groups in eastern Ukraine. The woman was placed under house arrest. Later that day another female “Pro-Federalism” supporter, allegedly the organiser of the expedition, was arrested and placed in pre-trial detention in Odesa. One more person was arrested the following day in connection with the same case. As of 7 June, the HRMMU had no information on his whereabouts.
83. On 27 May, eight men were arrested at the Odesa railway station from a train about to depart for Moscow. The SBU stated that these people were planning to attend a “paramilitary training” in Moscow before joining the armed groups in eastern Ukraine.

On 29 May, the Primorsky District Court charged all of them under Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code. They have been placed in custody in the pre-trial detention centre in Odesa. One more person was arrested the following day in connection with the same case. As of 7 June, the HRMMU had no updated information on his whereabouts.

84. On 28 May, three men, members of the NGO "Orthodox Cossacks", were arrested in Odesa and on 31 May, they were charged by the Primorsky District Court under Articles 109 and 110 of the Criminal Code, and placed in custody at the pre-trial detention centre in Odesa.

*Parliamentary Interim Commission of inquiry into the investigation of the death of citizens in the cities of Odesa, Mariupol and other cities of the Donetsk and Luhansk regions of Ukraine.*

85. On 13 May, the Parliament adopted decision 4852 establishing an "Interim Inquiry Parliamentary Commission on the investigation of the death of citizens in the cities of Odesa, Mariupol and other cities of the Donetsk and Luhansk regions of Ukraine", further to a proposal by parliamentarians representing the Odesa region. The mandate of this Commission expires on 15 June, by which date it is to submit its report to Parliament.

86. The Commission informed the HRMMU that it had already gathered a lot of information on the violence of 2 May in Odesa, which should be properly analysed and processed. According to the Head of the Parliamentary Commission, its members met with officials from Odesa, including the regional SBU divisions, MoI, Prosecutor's Office, independent experts, NGOs and suspects under house arrest. He believes many people are still frightened by the events with some afraid to share important information. Moreover, he highlighted that the situation in Odesa is not stable yet, and it is important to optimise the activities of law enforcement bodies in the investigation. According to him, the criminal investigation by the MoI had only conducted approximately 7% of the necessary work. The perpetrators of the Odesa events have still not been identified, with some suspects detained for a few days and then released by courts. From information gathered by the Commission, there is much questioning within local communities as to why this happened. There is also a fear that the local population will use reprisals against suspected persons for the restoration of justice. Thus, according to the Head of the Commission, the Special Interim Parliamentary Commission has intensified its contacts with the local community representatives.

*Investigation by the Ombudsperson's Office*

87. The Ombudsperson's Office initiated an evaluation on human rights violations by law enforcement agencies during the 2 May violence in Odesa. The Ombudsperson and her team visited Odesa on several occasions and were provided with official documents from all law enforcement agencies.<sup>10</sup>

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<sup>10</sup> The Ombudsperson submitted a report of her findings to the Prosecutor General on 10 June 2014. It is not a public document.



*Commission investigating the 2 May violence*

88. A commission was established under the auspices of the Head of the Odesa Regional State Administration (Governor). This commission, which includes civil society activists, journalists and experts, is conducting its own investigation and intends to play a public oversight role concerning the official investigation.
89. The commission members are undertaking their work through open sources, without interfering with the official investigation. It is foreseen that their conclusions will be published only if all members agree on its content. A first official briefing took place on 30 May.

*Specialised Headquarters providing assistance in the aftermath of 2 May*

90. In the aftermath of the 2 May events, the former acting Mayor of Odesa established an emergency headquarters (HQ) encompassing various departments of the City Council Executive Committee. It provided assistance to victims and their relatives, such as healthcare, information, social services. It also ran an emergency hotline in the aftermath of 2 May incidents. The HRMMU has been in daily contact with the staff on follow-up required, and to enquire about the situation of the victims, particularly medical care and the list of those declared missing. As of 7 June, the Social Welfare Department remained the only operational part of this emergency HQ.
91. After the 2 May violence the HRMMU has been monitoring the criminal proceedings launched by the Office of the General Prosecutor, the MoI and the SBU.
92. As the investigations continue, some key questions must be addressed to ensure confidence in the investigation and to guarantee accountability, due process and to enable the communities to fully accept the results of such an investigation. Issues to be clarified include:
  - a. the identification of the perpetrators who were shooting at protesters during the afternoon;
  - b. the conduct of the police on 2 May - why the police and the fire brigade either did not react, or were slow to react and who ordered what action;
  - c. what happened in the Trade Union Building and what caused the fire there;
  - d. what was the cause of the deaths in the Trade Union Building;
  - e. the identification of the perpetrators of the incidents and violence surrounding the fire in the Trade Union Building;
  - f. the need to guarantee justice for the victims and due process for the detainees.
92. The HRMMU regretfully reports the lack of cooperation from the MoI and the SBU at the central level.
93. The HRMMU reiterates the need for prompt, thorough and impartial investigations into the events so as to ensure accountability of all those concerned and to provide redress and reparations for victims and their families. This process is critical to restore people's confidence in the authorities.

**C. Investigation into other human rights violations**

94. The HRMMU continues to follow closely the investigation into the human rights violations that occurred in March in 2014 in Kharkiv, including into the "Rymarska case", a clash between pro-Russian and pro-Ukrainian organizations "Oplot" and "Patriots of Ukraine" on 13 March. On 7 May, it was confirmed that the case had been transferred from the police to the SBU. Investigations were opened in connection with

the role of the police in this case, as well as during the attack by protesters against the ATN TV station on 7 April. On 5 June, the Deputy Head of the regional SBU informed the HRMMU that the investigation into “Rymarska case” was ongoing - there were two suspects, who still had to be detained. The challenging aspect of the investigation is that many minors participated in the incident, which requires additional measures to ensure due process.

#### IV. HUMAN RIGHTS CHALLENGES

##### A. Rule of law

95. During the reporting period, the HRMMU monitored legal and policy developments affecting human rights and the rule of law. These include the adoption of a “Memorandum on Concord and Peace” resulting from national roundtable discussions; legislative amendments to combat discrimination, corruption, and on the situation of refugees; developments relating to amnesty, lustration of judges, language rights, internally displaced persons (IDPs) from Crimea, ethnic policy, torture and ill-treatment, the media and the reform of law enforcement agencies.

##### *Constitutional reform*

96. Pursuant to an Order of the Cabinet of Ministers of 17 April 2014, debates were organized on constitutional amendments proposing the decentralization of power to regions. In accordance with the Geneva Statement of 17 April, roundtables on national unity, co-organized by the Government of Ukraine and the OSCE, were held on 14, 17 and 21 May. At the first roundtable in Kyiv, the eastern regions of the country were largely under-represented, with the only official being the Mayor of Donetsk, Mr. Lukyanchenko (Party of Regions). During the roundtable in Kharkiv, acting Prime Minister Yatsenyuk declared that the constitution should be amended in order to provide a special status for the Russian language and national minority languages. With more representatives present from the east, including local parliamentarians, various perspectives were raised; at the same time, this brought to the fore an array of diverging views on the way forward. The roundtable also prepared a Memorandum containing provisions for a unified society, changes to the Constitution, increasing the local authorities’ role, and decentralisation of state power.
97. On 20 May, through resolution 4904, Parliament adopted the “Memorandum of Concord and Peace”, which was drafted during the second roundtable discussion in Kharkiv. This document foresees the adoption by Parliament of a constitutional reform package, including the decentralization of power, a special status for the Russian language, judicial and police reform, and an amnesty law for anti-government protesters in the east who accept to give up their weapons (except for the perpetrators of serious crimes against life and physical integrity). The Parliament called on all to work together to protect, promote and build a democratic Ukraine, and the peaceful coexistence of all nationalities, religions and political convictions.

##### *International Criminal Court*

98. On 23 May, former acting President Oleksandr Turchynov requested the Constitutional Court to assess whether the Constitution of Ukraine would preclude the ratification of the Rome Statute of the International Criminal Court (ICC). The document was signed on 20 January 2000. On 25 February 2014, the Parliament recognised the jurisdiction of the ICC for acts committed in Ukraine from 21 November 2013 to 22 February 2014.

On 9 April, Ukraine informed the Registrar of the Court about this decision. On 25 April, the Office of the Prosecutor of the ICC announced a preliminary examination on the situation in Ukraine to establish whether all the statutory requirements for the opening of an investigation are met.

99. A Member of the Parliament of Ukraine from Odesa, Sergey Kivalov, registered on 15 May a draft resolution which aims to create the legal and institutional conditions for those responsible for the deaths of dozens of people in Odesa, on 2 May, to be tried by the ICC. As of 7 June, the draft resolution<sup>11</sup> had not been considered by Parliament.

#### *Crimea*

100. On 5 June, Parliament adopted, on first reading, amendments to the Law of Ukraine “On Securing Citizens’ Rights and Freedoms and the Legal Regime on the Temporary Occupied Territory of Ukraine”. These amendments aim at making the registration procedure for those displaced from Crimea easier and faster, especially for those who wish to re-register their business. Thus, IDPs from Crimea in mainland Ukraine will no longer need other documents than the national passport.

#### *Amnesty*

101. During the reporting period, no actual progress was made in adopting an amnesty law in relation to the events in the east of the country. On 18 April 2014, the Cabinet of Ministers prepared a draft law “On the prevention of harassment and punishment of persons in relation to the events that took place during mass actions of civil resistance which began on 22 February 2014”. The text would exempt from criminal liability all those who attempted to overthrow the legal government; took part in riots; seized administrative and public buildings; and violated the territorial integrity of Ukraine, provided they agreed to voluntarily cease all illegal actions and were not guilty of “particularly serious crimes”. Four other so-called “amnesty laws” were registered in Parliament by different political parties between 9 and 23 April. On 6 May, a draft resolution was registered, calling on Parliament to make the draft law submitted by the Cabinet of Minister the basis for the adoption of an amnesty law. During his inauguration speech, on 7 June, President Poroshenko offered to amnesty protesters who did not have “blood on their hands”.

#### *Discrimination*

102. On 13 May, Parliament adopted amendments to the Law “On preventing and countering discrimination”. The amendments bring the definitions of direct and indirect discrimination in line with Ukraine’s obligations under the ICCPR and other international human rights instruments. They include, in particular, the prohibited grounds listed in Article 2(1) of the Covenant (except “birth”). It should be noted, however, that the amendments do not integrate the jurisprudence of the UN Human Rights Committee on the prevention of discrimination on the basis of sexual orientation. The amendments also provide for criminal, civil and administrative liability in case of discrimination. While these are positive changes, other legal texts, notably the Criminal Code, must be brought in line with the anti-discrimination amendments in

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<sup>11</sup> Draft resolution “On the recognition by Ukraine of the jurisdiction of the International Criminal Court concerning crimes against humanity having led to very serious consequences, deliberate and planned of mass killing of citizens in a particularly brutal and cynical way during the peaceful protests on 2 May 2014 in Odesa, and concerning all perpetrators of these crimes, and on the request to the International Criminal Court to bring the perpetrators to justice”.

order to ensure effective remedies for victims and contribute to enhanced prevention of discrimination.

#### *Anti-corruption*

103. On 13 May, Parliament adopted the Law "On amending some legislative acts Ukraine in the area of state anti-corruption policy in connection with the implementation of the EU Action Plan on the liberalisation of the visa regime for Ukraine". The Law provides for more stringent penalties for corruption offences committed by individuals or legal entities. In particular, the liability for providing knowingly false data in the declaration of assets, income and expenses is introduced to the Code on Administrative Offences. The Law also strengthens the protection of persons reporting on corruption, for instance, providing for anonymous phone lines for reporting corruption. An external control of declarations of assets, income, expenses and financial obligations is also to be introduced. While the amendments are welcome, the key to combatting corruption lies in the readiness of all government institutions to effectively tackle this phenomenon and to implement anti-corruption norms in place. In this regard, the HRMMU recalls that in its concluding observations adopted in May 2014, the UN Committee on Economic, Social and Cultural Rights called on Ukraine to "make politicians, members of parliament and national and local government officials aware of the economic and social costs of corruption, and make judges, prosecutors and the police aware of the need for strict enforcement of the law".

#### *Torture and ill-treatment*

101. On 3 June, the Minister of Justice announced at a press-conference the establishment of a Special Committee to carry out random inspections of penitentiary institutions, with broad powers to check violations of human rights and the detention conditions of prisoners. The Committee will be a permanent body and is to produce monthly reports. It will comprise representatives of the Ministry of Justice and representatives of civil society.
102. While welcoming this step, the HRMMU notes that the Ombudsperson was designated by law as the National Preventive Mechanism (NPM) against torture, in line with the Optional Protocol to the United Nations Convention against Torture. As such, it is entrusted to conduct visits to places of deprivation of liberty, with the involvement of civil society, and with a view to preventing human rights violations affecting detainees or contributing to their elimination. Due to the obvious similarities between mandates of the Special Committee and the NPM, proper coordination and consultations between these bodies will be required to ensure the effectiveness of efforts to combat torture and ill-treatment.

#### *Lustration*

103. The Interim Special Commission on the vetting of judges was established on 4 June, pursuant to Article 3 of the Law "On the restoration of trust in the judiciary in Ukraine", which entered into force on 10 May. The Commission consists of five representatives from the Supreme Court, the Parliament and the Governmental Commissioner on the Issues of the Anti-Corruption Policy. Legal entities and individuals will have six months from the date of advertisement of the establishment of the Commission in the newspaper "Voice of Ukraine" to request examination (vetting) of judges. Public information about the activities of the Interim Special Commission will be published on the official website of the High Council of Justice of Ukraine. The HRMMU reiterates its concern that the immediate dismissal of judges by the Special

Commission may put in jeopardy the administration of justice. Any lustration initiatives should be pursued in full compliance with the fundamental human rights of the people concerned, including the right to individual review and the right of appeal.

#### *Ethnic and national policy*

104. The Minister of Culture stated on 4 June that the Cabinet of Ministers decided to establish a ‘Council of interethnic consensus’ and to create the position of a Government commissioner for ethnic and national policy. This official, who has not been appointed yet, will reportedly be responsible for the implementation of the ethnic and national policy developed by the Government.

#### *Language*

105. On 4 June, a draft law was submitted to Parliament “On the official status of the Russian language in Ukraine”. The draft law proposes to give “official status” to the Russian language without compromising the position of Ukrainian as the state language. The bill proposes to introduce the wide usage of Russian language in state institutions, courts, educational institutions, mass media, official publications of legislation and by-laws, pre-trial investigation, advertising and labelling of goods.

#### *Media*

106. On 4 June, the Cabinet of Ministers instructed the State Committee on television and radio broadcasting to prepare a draft law "On Amending Certain Legislative Acts of Ukraine regarding resisting informational aggression of foreign states". Other ministries and agencies that will participate in the drafting of the bill will include the Ministry of Economic Development, Ministry of Finance, Ministry of Justice, Ministry of Foreign Affairs, MoI, State Security Service, the National Council on Television and Radio Broadcasting, and the State Committee on Entrepreneurship of Ukraine. This development comes after a Ukrainian court banned, in March 2014, broadcasting by four Russian TV channels in Ukraine, and armed groups in the east having disrupted broadcasting of Ukrainian channels.
107. The HRMMU is of the view that professional journalism and critical thinking, not prohibition, are the proper answers to the attempts to distort or manipulate facts. Everyone, in accordance with article 19 of the ICCPR, should have the right to hold opinions without interference and to freedom of expression, which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers.

#### *Refugees*

108. On 13 May, Parliament adopted amendments to the refugee Law extending the definition of complementary protection to include persons fleeing armed conflict and other serious human rights violations. This brings the definition of complementary protection into line with international and European standards.
109. The HRMMU notes, that certain legal gaps remain, affecting particularly the quality of due process in the asylum procedure and the reception conditions for asylum-seekers. The quality of decision-making on asylum applications also remains of concern, as well as the fact that State funding for asylum matters is inadequate.

#### *Martial law*

110. On 3 June, former acting President Oleksandr Turchynov signed decree № 936/2014 “About considering the question of the introduction of martial law in certain areas of Ukraine”. The decree requests the Secretary of the Council of the National Security and

Defence of Ukraine to “*immediately cooperate with the Ministry of Defence of Ukraine, the Ministry of Interior of Ukraine, the Security Service of Ukraine, the Administration of the State Border Service of Ukraine to consider the question about the need to impose martial law in the Donetsk and Luhansk Regions, where the security operation is taking place, to prevent further development and ensure the ending of the armed conflict on the territory of Ukraine, to prevent mass deaths of civilians, military personnel and members of law enforcement agencies, to stabilize the situation and restore normal life in these regions*”.

#### *Law enforcement sector reform*

111. On 4 June, Prime Minister Arseniy Yatseniuk instructed the Cabinet of Ministers to set up a working group that will prepare legislation to reform the law enforcement system by 1 August 2014. The working group will be headed by First Vice-Prime Minister, Vitaliy Yarema, who stressed the need to develop draft laws on the police, the security service and the prosecutor’s office. Experts from the European Commission and Poland will assist the working group.
112. On 5 June, Parliament adopted the Law "On Amendments to the Law of Ukraine on combating terrorism". The law provides a definition of a Counter-Terrorist Operation (CTO), the authority of the CTO participants and other innovations. It also prescribes the possibility of "physical elimination of the terrorists" in case of resistance. Speaking at a press conference, the former acting Head of the Presidential Administration gave his support to the introduction of martial law in the Donetsk and Luhansk regions, as well as in the border areas of seven other regions of Ukraine.

#### **B. Freedom of peaceful assembly**

113. After the 2 May events in Odesa, a police presence has been highly visible during peaceful assemblies in all major cities of Ukraine. However, the real or perceived inaction of law enforcement is a further challenge to ensuring accountability at such events such as demonstrations, rallies and pickets.
114. Ahead of 9 May (Victory Day), for instance, security was heightened with numerous checkpoints on roads in several cities the programme of celebrations was changed in order to avoid situations that could provoke unrests, for example by cancelling parades. Public commemorations and rallies took place in Kyiv, Kharkiv, Lviv and in many cities in western and central Ukraine. In Donetsk, a rally gathering 2,000 persons went peacefully.
115. However, legislation is required to regulate the conduct of assemblies in line with international standards, as previously recommended by the HRMMU.<sup>12</sup>
116. A trend of local administration requesting courts to take measures to prevent peaceful assemblies illustrates the need for relevant legislation. For instance, on 4 June, the Mykolaiv District Administrative court decided to ban until 30 June all rallies planned in the city centre further to a request from the City Council. The Mykolaiv City Council had requested such a prohibition after 2 June when the police intervened to prevent clashes between participants of two rallies running in parallel. The court justified the ban, arguing that the right to life and health was more important than the right to peaceful assembly.

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<sup>12</sup> The OHCHR report on the human rights situation in Ukraine report, 15 April 2014, paras. 52-54.

### **C. Freedom of expression**

117. The HRMMU remains concerned about the curtailment of freedom of expression, including harassment and threats to targeting journalists working in Ukraine, mostly in eastern regions (see section C, in Chapter V).
118. During the reporting period, a few isolated cases of obstruction to media work and attacks on journalists were registered across Ukraine.
119. On 23 May, two journalists of “Russia Today”, who were travelling to Ukraine to cover the elections, were denied entry at Odesa airport. The border officers reportedly forced them to buy return tickets to Moscow and fly back, without providing any reason.
120. On 25 May and shortly after, journalists were prevented from filming the vote counting. The HRMMU is aware of such cases having occurred in Sumy, Dnipropetrovsk, Kremenchuk (Poltava region), Lviv, Mykolaiv, Uzhgorod and Kyiv. To the knowledge of the HRMMU, none of these instances resulted in physical violence or damage to equipment.
121. On 23 May, the holding “Multimedia invest group”, based in Kyiv, reported that the accounts of the company were blocked and its building was searched by tax police. The management sees this as pressure against its media outlets (newspaper and website “Vesti”, TV Channel UBR and Radio Vesti) which are critical of the Government.
122. In general, the developments in eastern and southern regions of Ukraine and the large number of casualties have generated an escalation of hate speech and tension between the two rival sides. This is particularly obvious in social media.

### **D. Minority rights**

123. The HRMMU regularly meets representatives of various minorities in Ukraine. In the reporting period no major incidents and human rights violations were reported in that regard.

#### *National and Ethnic minorities*

124. Ethnic minorities generally speak of positive relations and atmosphere conducive to exercising their human rights, including cultural rights. Some communities, particularly Russian, expressed concerns with the lack of financial allocations for the needs of ethnic minorities or bureaucratic obstructions by local authorities, for example, in establishing additional schools, churches, newspapers, etc.
125. On 20 May, during a press-conference, Josyf Zisels, the Head of the Association of the Jewish Organisations and Communities of Ukraine, underlined that there was no increase in anti-Semitism in Ukraine. He noted that the number of anti-Semitic incidents is declining since 2007. While pointing out that in the first half of 2014 more Ukrainian Jews had migrated to Israel compared to the previous year, he attributed this to the social-economic impact of the situation in Crimea and in the eastern regions.

#### *Linguistic rights*

126. The guarantees of using one’s mother tongue freely in private and public life without discrimination remain high on the public agenda. The Law “On the Basics of State Language Policy” currently in force (provides for the introduction of a “regional language” based on ethnic composition). However, the Government has recognised that a new language law was needed, reflecting broad consensus as well as the

expectations of the Russian-speaking population. There have been attempts to amend legislation and a draft law has been developed. The latest draft law was submitted on 4 June, which proposes to provide Russian language with “official status” through extensive usage in State institutions and public documents (see section D, Chapter IV).

127. On 30 May, the Ministry of Education amended the framework curriculum and study plans for secondary school students of grades 5-9 for the learning of minority languages, such as Armenian, Bulgarian, Crimean Tatar, Gagauz, Greek, German, Hebrew, Hungarian, Korean, Moldovan, Polish, Romanian, Russian and Slovak. The Ministry also increased significantly the number of hours prescribed for learning of a minority language in schools where the relevant language is the working one (it is now equal to the hours of learning Ukrainian language).

#### *Sexual minorities*

128. The HRMMU continues to receive reports from the LGBT community regarding lack of tolerance and daily discrimination based on their sexual orientation and gender identity, mainly bullying at school/university, difficulties in finding and/or preserving employment especially when persons disclose their sexual orientation and gender identity; access to health services, particularly for transgender people; and physical attacks.
129. On 7 May, the High Specialized Court of Ukraine for Civil and Criminal Cases issued a letter (N 10-644/0/4-14) to appellate courts, explicitly prohibiting discrimination in employment on the basis of sexual orientation. The Court stressed that, when considering cases of labour discrimination, it is important to take into consideration the existing anti-discrimination law, which prohibits discrimination on any basis.

### **E. Political rights**

#### *Human rights in the electoral process*

130. On 25 May, the population of Ukraine voted to elect a new President among 21 candidates. On 3 June, the Central Election Commission (CEC) confirmed that Mr. Petro Poroshenko had won with 54.7% of the vote.
131. The elections took place in a challenging political, economic and, in particular, security environment, due to continued unrest and violence in the east of Ukraine, where armed groups control some areas, and the Government has been conducting security operations. This situation affected the general human rights situation and seriously impacted the election environment, also obstructing meaningful observation.
132. Notwithstanding, elections were characterised by a 60% voter turnout and the clear resolve of the authorities to hold elections in line with international commitments and with a respect for fundamental freedoms in the vast majority of the country. The voting and counting process were transparent, despite large queues of voters at polling stations in some parts of the country.
133. Despite efforts of the election administration to ensure voting throughout the country, polling did not take place in 10 of the 12 election districts in Luhansk region and 14 of the 22 election districts in Donetsk region. This was due to illegal activities by armed groups before, and on, the election day, including death threats and intimidation of election officials, seizure and destruction of polling materials, as well as the impossibility to distribute ballots to polling stations due to the general insecurity caused



by these groups (see Chapter V). The majority of Ukrainian citizens resident in these regions were thus deprived of the right to vote. Elsewhere, a few isolated attempts to disrupt voting were reported.

134. The HRMMU followed the participation of Crimean residents in the Presidential elections. Simplified registration procedures were put in place to ensure that residents of Crimea and persons who resettled from Crimea to other regions could take part in the elections. According to the CEC, 6,000 Crimean residents voted on 25 May.

*Political parties/ Freedom of association*

135. On 7 May, several political parties were allegedly banned in Luhansk region by a decision of the “people’s council”, including Batkivchyna, Udar, Svoboda and Oleg Lyashko’s Radical Party, as well as Right Sector. It also inferred “extended powers” on Valeriy Bolotov, the self-proclaimed “people’s governor”.
136. On 13 May, the Kyiv District Administrative Court banned the party Russian Bloc based on the fact that the party leaders had called for the overthrow of the constitutional order and violations of the territorial integrity of the country.<sup>13</sup>
137. It appears that the Communist Party of Ukraine is coming under increasing pressure. On 7 May, the Communist faction of the Parliament was expelled from a closed-door parliamentary hearing, which was denounced by the Party of Regions faction, allegedly, because of the “separatist” statements by its head, Petro Symonenko. The hearing was reportedly about the security operations in the east. Party of the Regions pointed out that information on these security operations should be made public.
138. On 18 May, former acting President Turchynov called on the Ministry of Justice to review documents gathered by the law enforcement bodies relating to the alleged illegal and unconstitutional activities of the Communist Party of Ukraine aimed at violating the sovereignty and territorial integrity of the country, undermining State security and illegal seizure of State power. On 19 May, the Ministry of Justice sent a request to the General Prosecutor’s Office and the SBU to investigate possible crimes by the leadership of the Communist Party of Ukraine.

**F. Internally displaced persons**

139. As of 6 June, the departments of social protection in the Ukrainian regions had identified over 12,700<sup>14</sup> internally displaced persons (IDPs)<sup>15</sup>. However, the actual number of people who have fled the violence and fighting in the regions of Donetsk and Luhansk is believed to be higher and increasing daily. According to various estimates, around 64% are women; many are with children, including infants. The IDPs live dispersed across the entire territory, with significant concentrations in Kyiv and Lviv.

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<sup>13</sup> On 15 April, the Ministry of Justice filed a lawsuit to prohibit the activities of the political parties Russian Bloc and Russian Unity in Ukraine. The activity of Russian Unity was banned on 30 April. According to Ukrainian law, a court can ban the activities of a political party upon a request filed by the Ministry of Justice.

<sup>14</sup> UNHCR estimated that, as of 16 June, there were 34,336 IDPs in Ukraine, with 15,200 located in the Donetsk and Luhansk regions.

<sup>15</sup> According to the Russian Federation Federal Migration Service, as of 6 June 2014, 837 persons had applied and were granted refugee status; and 3,750 persons had applied and were granted Temporary Asylum. Approximately 15% were minors under the age of 18. These figures do not include people from Crimea.

140. People have left Crimea for different reasons. The majority have economic, professional or family ties within Ukraine and do not wish to acquire Russian citizenship, which many feel compelled to do in order to continue a normal life in Crimea. Some Crimean Tatars fear limitations to their religious and cultural expression. Activists and journalists have been exposed to, or fear, harassment.
141. The main difficulties the IDPs from Crimea continue to face are: lack of temporary and permanent housing; access to social allocations, medical and educational services; access to bank accounts / deposits; possibility to continue entrepreneurship activity, and employment opportunities.
142. Despite efforts made, some of these issues, particularly housing, are very difficult to resolve without systemic changes and involvement of the Government. The HRMMU has been made aware of some instances when IDPs had to return to Crimea, since their basic needs could not be met in Ukraine.
143. Displacement from the Donetsk and Luhansk regions started in the days leading up to the “referendum” held in both regions on 11 May. People have been trying to leave the violence affected areas, particularly Slovyansk and Kramatorsk, after witnessing violence on the streets. Armed groups and increasing criminality have generated fear.
144. The HRMMU interviewed several IDPs from the eastern regions, who reported that apart from random violence, there were targeted attacks and intimidation of activists and increasingly of “ordinary” residents, known for their “Pro-Ukrainian” stance. Local NGOs confirmed that while seizing administrative buildings, armed groups obtained access to personal data of activists who participated in rallies. The latter and their families were reportedly being threatened and harassed.
145. One of the few interviewed activists reported being threatened and having to stay in a friend’s house for nine days without food, as her own apartment was under surveillance. Then other activists helped her escape and settle in another town. She has no information about her family and suffers from insomnia and anxiety attacks.
146. Political activists and journalists began to feel pressure from the armed groups who were consolidating their position in the region. After the “referendum” and with the intensification of violence, other residents of the region have started leaving their homes in areas affected by violence due to the illegal activities of armed groups and the security operations, particularly in the areas of Slovyansk and Kramatorsk. Many remain within the eastern regions in rural areas, as IDPs have been reporting harassment at checkpoints if they were perceived to be leaving the region to seek protection.
147. The majority of international humanitarian actors, due to security reasons, are unable to access persons displaced within the Donetsk and Luhansk regions and thus only some very limited assistance has been provided. IDPs, who leave the eastern regions, have generally maintained a low profile, fearing retribution against their relatives who have remained at home.
148. There are considerable gaps in the State’s ability to protect IDPs. The central authorities have not issued formal instructions regarding how to register and assist persons displaced from Donetsk and Luhansk regions, leading to different practices across the country. The system for registering the IDPs is rudimentary, so the number and profile of IDPs and their needs remain largely invisible. As a result, the actual number of displaced persons is difficult to estimate.

149. Regional authorities are waiting for instructions on funding allocations for IDPs from the Luhansk and Donetsk regions. Temporary accommodation, while theoretically available, cannot be paid for and is thus rationed in many regions. Several administrative matters remain unresolved, hindering IDPs' ability to resume a normal life: many cannot obtain temporary residence registration; register business activities; or in the case of IDPs from Crimea, who have not registered on the mainland, they may find that they cannot access their personal savings in bank accounts in Crimea.
150. IDPs from the Donetsk and Luhansk regions describe leaving the region with few personal belongings in order to disguise the purpose of their departure. Many report having witnessed violence and experiencing feelings of fear. In dozens of interviews with UNHCR, IDPs have reported significant deterioration of the humanitarian situation in the areas affected by violence and the security operations. They are mostly concerned about security: people report staying in cellars to keep away from the fighting, facing harassment at checkpoints and fearing the increasingly common abductions, threats and extortion. They have been reporting to UNHCR and the HRMMU about the serious social and economic impact of the conflict. Families have run out of money since jobs are lost, banks closed and pensions unpaid. Public utilities like electricity and water work only intermittently. Thus, the IDPs from the eastern regions are particularly vulnerable. There are multiple reports that thousands of people are eager to escape the areas affected by violence and the security operations as soon as they can safely move.
151. Many IDPs have exhausted their resources. Having originally been hosted by friends, family or even generous strangers identified through social networks, they find themselves under pressure to move out of these temporary housing arrangements, as conditions are overcrowded and hospitality reaches its limits. Without sufficient support to find jobs and housing, IDPs report increasing levels of frustration and humanitarian needs. Increasingly, IDPs are trying to self-organise into NGOs to help each other, as illustrated by Crimea SOS, Vostok SOS, the Unified Coordination Centre of Donbas. On 23 May, the HRMMU attended the first all-Ukrainian meeting organized by an initiative group of IDPs from Crimea to bring the problems faced by IDPs to the attention of the Government and local authorities so as to develop joint solutions.

## **V. PARTICULAR HUMAN RIGHTS CHALLENGES IN THE EAST**

### **A. Impact of the security situation on human rights**

#### *Deterioration of the security situation*

152. The reporting period was marked by a significant deterioration in the security situation in eastern Ukraine. The HRMMU received credible reports illustrating an escalation of abductions, arbitrary detentions, ill-treatment, looting, as well as the occupation of public and administration buildings (with certain fluctuations, as some buildings are recovered by the Ukrainian military and law enforcement bodies, and some then again re-seized by armed groups). The period since the Presidential elections can be characterized by an increase of fighting in eastern Ukraine, with fluctuations in intensity.

153. The regularity and intensification of fighting between the armed groups and Ukrainian armed forces raises serious human rights concerns, including but not limited to: the fate of persons not involved in the fighting, especially children; the necessity and proportionality of the use of force; and the large-scale destructions, which only add to the social and economic hardship and a general lack of respect for international humanitarian law, when and where applicable to the fighting.
154. Violence and lawlessness have spread in the regions of Donetsk and Luhansk. Having gained access to deposits of weapons, including from the SBU building, the armed groups increasingly started spreading violence. Abductions of persons not involved in any fighting and related acts of arbitrary detentions, looting, and killings of persons not involved in any fighting and other activities in violation of international law have been carried out by the armed groups. Moreover there are reports of victims being subjected to degrading treatment, random shooting and provocations, particularly near the Ukrainian-Russian border. Increasingly, attacks target ordinary people, who take no part in the fighting.
155. The security operations by the Government, with military and National Guard forces particularly concentrated around the town of Slovyansk, are present in the regions of Donetsk and Luhansk. With their superior manpower and military hardware, the Ukrainian armed forces have controlled access to the cities through multiple layers of check-points.
156. Skirmishes between armed groups and the Ukrainian military also saw the inclusion of various territorial defence battalions under the command of the MoI.
157. The HRMMU observed an increasing presence of armed men on trucks and armoured vehicles moving around the city of Donetsk during daylight. For the first time, the HRMMU team members were stopped as they drove in their vehicle through Donetsk by armed persons who demanded to see their identity.
158. In the two regions, the situation has been made complex as some of the armed groups operating in the regions have reportedly slipped out of the control and influence of the self-proclaimed republics and their leaders. Examples of this can reportedly be found with the armed groups in the area surrounding the town of Horlivka<sup>16</sup> in the Donetsk region, and the armed groups operating in the border area of the Luhansk region near the border with the Russian Federation. Moreover, on the “official” “Donetsk People’s Republic” media outlet “Anna Info News”, the Slovyansk commander “Strelkov” Igor Girkin referred to “criminal groups” operating in the regions and that the “Donetsk People’s Republic” was lacking volunteers.
159. Regardless of the veracity of this information, the proliferation of armed groups has clearly exacerbated threats to the security of the population, posing a further challenge in ensuring the rule of law and accountability for the numerous illegal acts committed. The “Donetsk People’s Republic” has reported the presence among them of citizens of the Russian Federation, including from Chechnya and other republics in the North Caucasus. A particular call for women to join the armed groups was made on 17 May through a video released with Igor Girkin “Strelkov”, urging women of the Donetsk region to enlist in combat units.

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<sup>16</sup> Now reportedly under the control of an armed group led by Igor Bezler.

*“Referendum” on “self-rule” held in the Donetsk and Luhansk regions on 11 May*

160. On 11 May, a “referendum” on “self-rule” that was neither in accordance with the Constitution of Ukraine nor with effect under international law, took place in the Donetsk and Luhansk regions. The following question was asked: “Do you support the act of self-rule of the People’s Republic of Donetsk / People’s Republic of Luhansk?” The Government of Ukraine deemed the “referendum” illegal.
161. Reports suggest that there were a limited number of polling stations for the two regions. The official voter registration of the Central Election Commission was not used as a basis for the vote. Media outlets and journalists observing the “referendum” reported a number of violations (e.g. one person filling out several ballots; multiple voting; voting without documentation).
162. In the aftermath of the “referendum” of 11 May, the level of violence by armed groups intensified. At the same time, a new “government” was formed, and Alexander Borodai, a Russian citizen, nominated as “prime minister” of the “Donetsk People’s Republic”. A call was made for Ukrainian troops to leave the region.

*Casualties due to the escalation in intensity of fighting as Government aims to gain control of the territory*

165. Reports illustrate that over the past month, attacks and fighting have been intensifying with an increased number of casualties. Fighting remained concentrated in the northern part of the Donetsk region and the border areas and south of the Luhansk region. In the Kharkiv region, one Ukrainian serviceman was killed in an ambush, near the city of Izyum, on the border with the Donetsk region, which serves as a basis for the security operations of the Ukrainian forces.
166. On 3 June, the Prosecutor General Oleg Mahnitsky announced that 181 people had been killed since the start of the Government’s security operations on 14 April to regain control of the eastern regions. Of those killed, 59 were Ukrainian soldiers; the others were reported to be residents. 293 were wounded as a result of these security operations in the Donetsk and Luhansk Regions. This is a considerable increase since 14 May, when the Prosecutor General had announced 68 killed (servicemen and residents).
167. The HRMMU is trying to verify these allegations and to obtain disaggregated data on the victims and perpetrators. This is, however, difficult to obtain due to either a lack of, or contradictory, information.
168. On 13 May, a Ukrainian military unit was ambushed near Kramatorsk, killing seven Ukrainian soldiers. On 22 May, 17 Ukrainian servicemen were killed and 31 injured near Volnovakha (south of Donetsk); that same day another soldier was killed and two others injured in an attack by armed men on a convoy of military vehicles near Rubizhne in the Luhansk region. On 23 May, the territorial defence battalion “Donbas” was ambushed and attacked by an armed group, reportedly controlled by Igor Bezler, near the town of Horlivka close to Donetsk. Nine soldiers were wounded and detained by Bezler’s group; one was reportedly killed. On 29 May, a Ukrainian military helicopter was shot down near Slovyansk, which killed 12 service personnel who were on board, including a General.
169. On 26 May, fighting broke out for control of the Donetsk airport between the armed groups and the Ukrainian military. Ukrainian military planes and helicopters were used against the armed groups who eventually conceded control. The airport terminal and the runway were damaged as a result of aerial bombing. According to the Interior Minister, there were no losses within the Ukrainian military but according to various sources, the

armed groups suffered over 50 casualties, of these at least 31 volunteers were reportedly from the Russian Federation, including from Chechnya and other republics in the Northern Caucasus. Out of these casualties, 30 bodies of those fighting with the armed groups have not been recovered.

170. During the fighting around Donetsk airport on 26 May, the Mayor called on the population not to leave their apartments unless absolutely necessary. Notwithstanding, residents did become victims. A woman was killed by a shell at a bus stop. A man was killed as a result of an incoming explosion near the Children's Hospital, with a further six people wounded, including a seven-year-old boy who was at home. A criminal case was opened under Article 258, Part 3 of the Criminal Code of Ukraine ("Terrorist act that led to the death of a person").
171. On 2 June, an explosion of an unknown nature took place at the occupied building of Luhansk Regional State Administration. According to various accounts, it was either a failed attempt by the local armed groups to hit a Ukrainian fighter plane, or the bombardment of the occupied building by a Ukrainian plane. Seven people in, and around, the occupied building were reported killed as a result of the shelling, including the "minister of health" of the "Luhansk People's Republic", Nataliya Arkhipova.
172. The Ukrainian National Guard took control of the town of Krasnyi Liman (20 km North-West of Slovyansk) after fierce fighting on 3 June. The town hospital was badly damaged reportedly by shelling and most patients were evacuated to the basement of the hospital. Two civilians were killed. The chief surgeon of the hospital was gravely wounded, and died on 4 June.
173. IDPs from Slovyansk have described to the HRMMU the situation they have faced for the past weeks. They claim that the Ukrainian air force was shelling the city and bombed a kindergarten. They also said that for two months they did not receive any social benefits. Some of them left male members behind, and/or their parents or grandparents. A hotline at the disposal of IDPs or people who are considering leaving the areas affected by fighting is run by a few Red Cross activists. Transport of people who come to the check points is mostly organized by "Auto-Maidan" activists. Reception centres for arriving IDPs organised the initial assistance they received, including psycho-social.

*Widening protection gap and erosion of the rule of law*

174. With the presence of armed groups in seized and occupied government buildings, and checkpoints, which shift hands as they are taken over by armed groups or the Ukrainian security and law enforcement units involved in the security operations, the human rights of the residents of the northern part of Donetsk region and parts of the Luhansk region are threatened.
175. With the demise of security, the rule of law and governance, the protection gap is widening. Armed groups physically occupy key public and administrative buildings in many cities and towns of the Donetsk and Luhansk regions, and have declared virtual "independence". However, they are not undertaking any governing responsibilities. In addition, the atmosphere of fear and intimidation, particularly following the abductions and killing of town councillors and public civil servants, prevent many local officials from going to work.
176. Of particular concern is the continued erosion of the rule of law and the limited capacity of the Government to protect residents from the ever increasing acts of violence. Many of the attacks and abductions by armed groups target journalists, elected representatives and civil

society activists. The number of armed robberies and shootings of residents has also been increasing.

177. The difficulty of providing public services impacts the daily life of residents of the regions, including the disruption of public transport (airports remain closed and rail services are disrupted); numerous checkpoints on the roads; lack of access to cash through banks; and earlier reports of schools and kindergartens being repeatedly closed before the summer holidays began in early June. Regional governments have endeavoured to make the necessary arrangements so that local residents are able to carry on with their daily lives. While this remains possible in the larger cities of Donetsk and Luhansk, and the less affected southern part of the Donetsk region, this is a challenge in the northern part of the Donetsk region. As a consequence, there are reportedly increased numbers of people leaving the area, in particular in the areas of Slovyansk; primarily women with children (see section B, Chapter V).
178. In the main cities, there were a few rallies supporting or opposing the self-proclaimed republics. On 13 May, hundreds of local residents of the Luhansk region addressed a petition to the Government of Ukraine, stating that they did not recognise the results of the “referendum”, and demanding more proactive and effective action to free the region from “terrorists who do not allow us to live in peace” and to pay more attention to the concerns of the population.
179. According to NGOs, the week preceding the “referendum” of 11 May, over 500 apartments were reportedly put up for sale in Donetsk in just a few days as people were seeking means to leave. Since then, an average of 20 families leave the region every day.

#### *Presidential elections*

180. After the “referendum”, representatives of the “Donetsk People’s Republic” openly declared their intention to obstruct the 25 May Presidential election. Physical attempts to disrupt the election in these two regions were stepped up, with reports of attacks against electoral commissions. As a result, the CEC stated that in 24 districts of the Donetsk and Luhansk regions the election was obstructed due to illegal acts by armed groups and supporters of the self-proclaimed “People’s Republics”. According to official CEC figures, 82 % of the voters in the Donetsk region, and 88 % of voters in Luhansk region were thus deprived of their right to vote. Elections of Mayors due to take place in Antratsyt, Lisichansk and Severodonetsk in the Luhansk region also had to be cancelled due to such illegal activities.
181. There was a similar pattern of attacks on District Election Commissions (DEC) and Precinct Election Commissions (PEC). An armed group of between five to fifteen people representing the “Donetsk People’s Republic” would come to a Commission or polling station. Claiming that the Presidential election was illegal, they would seize office equipment and DEC/PEC protocols and stamps. Generally, they would detain the head of the commission for several hours or, in some cases for several days, subjecting individuals to interrogation and reportedly at times ill-treatment and torture.
182. On 13 May, representatives of the “Donetsk People's Republic” reportedly entered a DEC in Horlivka, demanding documents and office equipment and requesting that the staff leave the premises. The electoral staff refused to obey this. Two hours later the men returned, armed with baseball bats. The staff left, grabbing the most important documents and official stamps. A similar incident occurred in a DEC in Starobeshevo (Luhansk region) on 14 May. The DEC members were ordered to leave the building with threats to their families, should they return.

183. On 7 May, unknown groups of people broke into a DEC in Kuybyshevskiy district, seizing equipment containing electoral information. Upon arrival at the scene, the police did not intervene. Other examples of attacks by armed groups on DEC and TECs include incidents in Artemivsk, Donetsk and Metalist (near Amrosiyivka) on 20, 21 and 25 May.
184. Election commission members also faced attacks, with many abducted and detained. On 9 May, an armed group abducted a member of the DEC in Kramatorsk. He was taken to the occupied City Council and released after being interrogated. On 20 May, a member of the PEC in Mariupol was detained by armed persons, beaten up and then released.
185. Skirmishes around the electoral process included an incident on 25 May, when a group of armed people of the “Luhansk People’s Republic” reportedly attacked and stole the ballots from the PEC in Novoaydarsk in the Luhansk region. Ukrainian soldiers pursued the armed group. A violent confrontation took place, during which two members of the armed group were reportedly killed and three Ukrainian army servicemen were allegedly wounded. 14 people were subsequently detained by the Ukrainian army. Other accounts claim that three people were injured and one person was killed.
186. On the election day, five election commission members from Donetsk were detained by armed persons and taken to the SBU building. Following an intervention by the HRMMU with representatives of the “Donetsk People’s Republic” at the occupied SBU building, they were released the next day.
187. Such attacks prevented DEC and PECs to continue their preparations for the Presidential election, which led to widespread limitations to exercise of the right to vote in eastern Ukraine, notably in the regions of Donetsk and Luhansk.
188. On 26 May, the “speaker” of the “Donetsk People’s Republic”, Denis Pushylin, announced that a visit of the newly-elected President Petro Poroshenko to the Donbas would “heat up” the situation in the Donetsk region, and that dialogue was possible only through mediation by the Russian Federation. According to him, the “Donetsk People’s Republic” had proclaimed “martial law” on “its” territory and that a curfew might be imposed in certain areas.

## **B. Right to life, liberty and security**

189. On 9 May, as reported by the MoI, some 60 men armed with automatic weapons stormed and seized the Mariupol Department of the MoI. The security operations which involved the National Guard, the special unit “Azov”, the special unit “Dnepr” and the armed forces of Ukraine, tried to take back the building. As a result, nine people were killed and many were wounded, primarily residents.
190. Unidentified armed persons reportedly started firing from the second floor of the building, and the Ukrainian forces fired back. Reportedly, the National Guard servicemen who were outside started firing at the building with machine guns and rocket propelled grenades. As a result, a fire started in the building. The fire brigade arrived. Those who were inside started running out the building and dispersing in the city.
191. In the early afternoon, while retreating, the special unit “Azov” came across local “Pro-Russian” demonstrators who reportedly tried to stop them. Members of the special unit “Azov” reportedly fired warning shots, first into the air, and then at people’s legs. The HRMMU is verifying this information.



192. After the armed forces left the military base in Mariupol, it was looted by “Pro-Russian” activists, who reportedly took an unknown number of weapons, ammunitions and two armoured vehicles. The Ukrainian security and law enforcement forces were relocated outside the city in an effort to decrease tensions, and for the safety of residents.
193. According to the MoI, 20 armed persons were killed and four captured; while the Public Health Department of the Donetsk Regional State Administration asserts that three persons were killed. The Chief of the Traffic Police was confirmed killed; and the Chief of Police was abducted and illegally detained. On his release on 11 May, confirmed by the MoI, he was found to have multiple injuries. The HRMMU is trying to verify this information.
194. Human rights activists from the NGO Memorial who visited Mariupol on 11 May reported finding 15 wounded men at Mariupol City Clinic Hospital № 1. Six police officers were hospitalised and the first civilian victims were brought later to the hospital. The Mariupol Emergency Hospital received 10 wounded persons, of whom one (a police officer) died. 15 wounded people were brought to Mariupol City Clinic Hospital № 2. As reported to the HRMMU by the human rights defenders, the majority of those wounded were not involved in the fighting.
195. The HRMMU continues to highlight the need for a prompt and comprehensive investigation into these events.

#### *Abduction and detentions*

196. In the regions of Donetsk and Luhansk, a reported escalation of violence and violations of international law (abductions and acts of arbitrary detention targeting persons not involved in the fighting, intimidation and harassment, torture and killings) by armed groups illustrated the growing erosion of law and order. The HRMMU is increasingly concerned about guarantees for the protection of human rights of the general population. According to the MoI, from April to 7 June 2014, armed groups in the eastern regions abducted 387 people, among them 39 journalists.
197. Below are some of the many cases reported to the HRMMU during the period covered by the present report. The HRMMU is keeping track of reports of abductions and acts of arbitrary detention targeting persons not involved in the fighting, intimidation and harassment, torture and killings in eastern Ukraine. It is trying to verify such reports through direct contacts with the victims and/or relatives or through other reliable sources. From its own records, the HRMMU is aware of 222 cases of abductions and detentions by armed groups since 13 April. Of these, 4 were killed; 137 released; and 81 remained detained as of 7 June.
198. The pattern of abductions consists of groups of armed men taking people away and detaining them in one of the buildings they occupy on the grounds that they are members of the Right Sector and “spies”. Some are released after a few hours, some after a few days, and there are numerous accounts of allegations of ill-treatment and torture.
199. According to local activists from Kramatorsk, on 9 May, about 40 residents of the city were abducted by the “Donetsk People’s Republic”. On 10 May, three “Pro-Ukrainian” female activists not involved in any fighting were abducted and detained by armed persons in Kramatorsk. One of them was released the next day after being reportedly subjected to torture during interrogation. She was subsequently hospitalised in Sloviansk, suffering from broken ribs, a pierced liver, a head injury and multiple bruises. The other two women were released on 13 May and placed under so-called “house arrest”, reportedly prohibited from leaving Kramatorsk.

200. On 8 May, a woman went to Slovyansk to try to secure the release of her son detained by the “Donetsk People’s Republic” and was reportedly abducted by the same armed persons. She has cancer and was undergoing chemotherapy. The whereabouts of a female interpreter was unknown from 4 to 18 May. Upon her release, she reported having been detained by armed groups in Donetsk and to having being subjected to ill-treatment and sexual assault.
201. On 26 May, the OSCE Special Monitoring Mission (SMM) lost contact in the town of Antrazyt, with one of its Donetsk-based teams, consisting of four persons. On 29 May, contact was lost with another team of four in the Luhansk region. As of 7 June, the eight remained detained and their whereabouts unknown. 11 other OSCE SMM members were stopped on 28 May for a few hours at a checkpoint in Mariynka (Donetsk region) before being able to return safely to Donetsk.
202. On 25 May, two officers of the SBU were reportedly detained by the “Luhansk People’s Republic” while attempting to negotiate the release of their colleagues who were being detained. Their current location remains unknown. On 2 June, three police officers of the Amvrosievka District Department of the MoI were reportedly abducted; their whereabouts remain unknown although there are reports they might be detained by armed groups in Horlivka. Two senior police officers went to Horlivka to negotiate their release. They have not returned and their whereabouts is also unknown.
203. The HRMMU was involved in efforts to negotiate the release of individuals detained by the armed groups under the control of the “Donetsk People’s Republic and the “Luhansk People’s Republic”. Following repeated interventions, several civic activists and members of district election commissions were released from the SBU building in Donetsk on 27 May. During the night of 29-30 May, 20 civilians detained in the SBU building were released following discussions between the HRMMU and representatives of the “Donetsk People’s Republic”.
204. The HRMMU appealed to the leadership of the “Luhansk People’s Republic” on 26 May for the release of two detained journalists at the occupied building of the SBU in Luhansk. A similar release took place of a third journalist. They were all detained by armed groups for having covered the elections in the Donetsk region. While in detention, two of the journalists were badly beaten, and were hospitalised upon their release.
205. The emergence of ransom demands is a worrisome trend, following abductions of people from their homes and in some cases accompanied by looting and stealing of valuables, including cars. For example, on 9-10 May, an armed group together with police officers allegedly abducted the parents of a local activist from “Svoboda”, from their home in the village Khanzhenkovo (near Makyivka, Donetsk region). On 10 May, the home of an activist from Kramatorsk was allegedly attacked and items stolen by armed persons. Applicable international law prohibits the taking of hostages for purposes of demanding ransom or political concessions, regardless of whether the victims are of the general population or involved in the fighting.
206. On 26 May, three deputy prosecutors were abducted by armed men, but two were immediately released. The third was subsequently exchanged for three supporters of the “Donetsk People’s Republic” who were being detained in the Lukyanovskoe pre-trial detention centre in Kyiv. That same day, a traffic police officer was taken hostage by an armed group of “Cossacks” in Antratsyt in Luhansk region. The family was asked for a ransom of one million UAH (approximately 80,000 USD).

207. Although most of the persons detained are activists, journalists, and town councillors, NGOs in Donetsk have highlighted to the HRMMU a growing pattern of the systematic persecution against civil society. According to them, fear is spreading in the Donetsk and Luhansk regions, with an increasing number of acts of intimidation and violence by armed groups, targeting “ordinary” people who support Ukrainian unity or who openly oppose the either of the two “people’s republics”.
208. Among cases brought to the attention of the HRMMU, on 14 May, four armed men in camouflage reportedly abducted the principal of a school in Luhansk from the school premises. Allegedly, she had opposed holding the “referendum” on the school premises. She was released a few hours later, but refused to speak about the incident. The same day in Kramatorsk, armed men came to the apartment of an employee and reportedly abducted him. Reportedly they were looking for his 16-year old son, allegedly because of his active “Pro-Ukrainian” position, including in the social media. Since the son was not to be found, they took the father to the occupied building of the Kramatorsk City Council where he was beaten. Allegedly, they eventually found the son and took him to the city council. Both were released a few hours later, and the whole family left the region the same day.

### *Killings*

209. Increasingly residents have been killed by armed groups. On 8 May, the burned body of Valeriy Salo, a farmer and head of a local cultural organization known as a “Pro-Maidan” activist, was found a day after he had been abducted by armed persons from his village. There have also been several reports of killings at checkpoints held by armed groups. That same day, an Orthodox priest was shot dead at a checkpoint near his hometown of Druzhivka, and a couple was also shot dead in their car at a checkpoint in the Luhansk region. Their daughter survived with head injuries. In the same region, on 23 May, a woman who allegedly did not stop at a checkpoint died when heavy gun fire was opened at her car.
210. The HRMMU is also concerned about reports of “summary executions” by representatives of the “Donetsk People’s Republic”. On 18 May, in a village near Slovyansk an elderly farmer was accused of bringing food to the Ukrainian forces, taken out of his house into the yard, where according to witnesses a “sentence” was read in the name of the “Donetsk People’s Republic” and shot dead, in front of his family and neighbours. Reportedly, on 26 May, by order of Igor Strelkov, Dmytro Slavov (“commander of a company of the people’s militia”) and Mykola Lukyanov (“commander of a platoon of the militia of ”Donetsk People’s Republic”) were “executed” in Slovyansk, after they were “sentenced” for “looting, armed robbery, kidnapping and abandoning the battle field”. The order, which was circulated widely and posted in the streets in Slovyansk, referred to a decree of the Presidium of the Supreme Council of the USSR of 22 June 1941 as the basis for the execution.

### *Torture*

211. The HRMMU has been following cases of individuals who have been abducted and detained by armed groups in eastern Ukraine. Several interviews conducted with persons who were abducted provide vivid accounts of human rights abuses committed by representatives of the “Donetsk People’s Republic” and the “Luhansk People’s Republic”, including beatings, psychological torture and mock executions. There are instances of relatives of detained persons, including women and children, having been threatened and terrorised. Witnesses also mention having seen supporters of the “Donetsk People’s

Republic” and “Luhansk People’s Republic” being detained and subjected to harsh punishment for looting or insubordination.

212. Among the numerous cases reported to the HRMMU, a journalist from Lutsk who was abducted by armed groups in Donetsk on 25 April, stated that during 23 days of his detention, he suffered from permanent lack of drinking water. He was reportedly tortured with electric shocks, beaten repeatedly over the head with a heavy book, and his captors reportedly tried to cut off one of his fingers.
213. An activist of “Batkivschyna”, abducted on 22 May and detained by supporters of the “Donetsk People’s Republic” in Donetsk, reported being subjected to torture and forced labour while in detention. He stated that he only received food twice in the five days he was detained. He was interrogated about affiliation with the “Right Sector”, with “Euromaidan”, and trips to Kyiv. During one of the interrogations he was reportedly subjected to a mock execution.
214. Three activists of a local human rights NGO were detained in Donetsk on 27 May and released on 1 June. They were taken to the occupied building of the Makiyivka Department of Organized Crime Control, and interrogated on a daily basis, accused of being affiliated to the “Right Sector” and the Ukrainian military. Both of them allege having been tortured.

#### *Enforced disappearances*

215. The HRMMU has received credible reports of individuals being detained in conditions that amount to enforced disappearance, and has a list of 11 such cases.
216. On 10 May, units of the Ukrainian armed forces allegedly detained a streamer, who was covering the activities of armed groups, in particular, the attacks on the government buildings in Donetsk region. The HRMMU filed a request to the Ministry of Foreign Affairs (MFA), asking about the current location of the individual. On 15 May, the HRMMU was informed by the MFA that a criminal case was opened by the MoI under the Article 115 (Murder) of the Criminal Code.
217. In an earlier case of concern, working with the National Preventive Mechanism (NPM), the HRMMU was able to identify the location of an individual whose whereabouts had been unknown for nine days. The location of an activist of the “Donetsk People’s Republic” was identified on 26 May, after he had been allegedly detained by the National Guard on 17 April in the area of Amvrosiyivka. After enquiries made by the NPM, the activist was located in the pre-trial detention centre in Dnipropetrovsk. It remains unknown who exactly arrested the activist and why access was not granted to him for nine days. The NPM confirmed that he had no health complaints, besides having "a few minor bruises" on his body. It is checking on access to legal counsel for him. It is also unclear whether the activist has been officially charged.
218. This has put in motion a good practice for partnership with the NPM on such cases, which was key in drawing attention to the case of the enforced disappearance for six days of two LifeNews journalists, Oleg Sidyakin and Marat Saychenko. Both were detained on 18 May near Kramatorsk during a raid by Ukrainian forces against armed groups. The whereabouts of the two journalists was unknown until their release on the evening of 24 May, when they were flown to Moscow via Grozny. All attempts by their lawyers to be in contact with them, and gain some access to the two individuals, had failed. The HRMMU worked with the lawyers of the two journalists, and with others including the Ombudsperson, the NPM and the MFA. Through these institutions, requests were made on the case to the General Prosecutor, MoI and SBU. Upon their release, the journalists

asserted that they were beaten in the first two days of their detention, initially held in a hole, blindfolded with hands tied, and then transferred to Kyiv. For the period from 18 May to 24 May, the journalists were effectively held in conditions that amounted to enforced disappearance.

219. The HRMMU was also looking into the detention conditions of supporters of the “Donetsk People’s Republic” and “Luhansk People’s Republic” detained by the Ukrainian forces during the security operations. Regular visits to places of detention take place, including in Kyiv when persons arrested have been transferred to detention facilities in the capital. The HRMMU actively cooperates with the Ombudsperson and the NPM to make sure the human rights of detained persons are upheld, including from the point of view of access to medication and to the services of a lawyer.

#### *Children*

220. The HRMMU is particularly concerned about the impact of the situation in eastern Ukraine - especially in the area between Donetsk and Slovyansk - on the human rights of women, and the most vulnerable persons - children and persons with disabilities, including those in institutional care, older persons, and those needing medical assistance.
221. According to a rapid psychological assessment of 204 children conducted by the UNICEF<sup>17</sup> in four cities of the region of Donetsk from 15 to 22 May, nearly every second child experienced fear, anger, sadness or problems with sleep. Other behavioural changes were also observed in a number of children.
222. According to Donetsk Regional State Administration, in the period between 9 – 30 May, seven children had been wounded as a result of the illegal activities of the armed groups. According to credible reports received by the HRMMU, 14 children from the children’s institution in Slovyansk have been evacuated from the city. An NGO in Kharkiv expressed concern that there were no evacuation plans for persons with disabilities living in closed institutions. On 7 June, the Ministry of Social Policy informed the HRMMU that out of 1,494 children who are in closed institutions (children’s institutions, shelters, and so forth) in Donetsk region, 663 have been evacuated; in Luhansk region out of 760 children, 464 have been evacuated.
223. As fighting intensifies and with the end of the school year on 30 May, parents are reportedly increasingly looking for ways to evacuate their children to safety. There is information that a group of children from Slovyansk has arrived in Crimea and most recently on 6 June to Odesa. On 30 May, various media outlets informed that a group of 148 children from Slovyansk was taken to a summer camp in Crimea. There were also reports that on 31 May, a group of 21 children crossed into the Russian Federation on foot, after having to disembark from their bus at the border. This information cannot be verified by the HRMMU.

#### **C. Freedom of expression**

224. Journalists’ safety continues to be a serious issue in the Donetsk and Luhansk regions due to fighting between the Government’s security forces and armed groups. On 24 May, an Italian photojournalist, Andrea Rocchelli, and his interpreter, Andrey Mironov, Russian citizen, were killed under mortar fire, while covering fighting between government forces and armed groups in Andreyevka near Slovyansk, Donetsk region. On 9 May, it was

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<sup>17</sup> UNICEF, Rapid Psychosocial Assessment of Children in Donetsk Oblast, 2014.

reported that a freelance cameraman of the video agency RUPTLY, which is part of the TV channel Russia Today, was wounded while filming events in Mariupol. Reportedly, he received necessary medical treatment and is in satisfactory condition.

225. The working environment for journalists has become increasingly dangerous, with the threat of abduction and illegal detention by armed groups. On 7 May, it was reported that armed groups in Luhansk offered a reward of USD 2,000-10,000 for each detained journalist. The HRMMU continues to closely monitor cases of detentions of journalists in Donetsk and Luhansk regions. Although all but one of the journalists abducted and known to the HRMMU before 6 May (cut-off date of the previous report) have been released, the HRMMU is aware of new cases abducted after that date. The HRMMU interviewed many of the released journalists, who reported ill-treatment, beatings, and sexual harassment (of women). They also confirmed the fact that other detainees were being kept in the seized administrative buildings; but the exact number and their identities remain unknown.
226. Also, journalists and editorial offices continue to be threatened and intimidated by armed groups. For instance, on 14 May, the HRMMU received credible reports that those journalists who work in the region but refuse to comply with the orders of the “Donetsk People’s Republic” are threatened and harassed. Reportedly, the state regional television is in a particularly difficult situation; its office has been practically blocked by approximately 100 heavily armed men. On 21 May, an unidentified man called the editorial office of the Public television of Donetsk region and threatened its journalists.
227. Local journalists have reported having to flee Donetsk and Luhansk regions due to such threats and intimidation. On 8 May, two journalists from Donetsk had to move to Lviv out of fear of persecution and threats. On 13 May, an internet resource in Severodonetsk (Luhansk region) announced the forced suspension of activities and advised its journalists to leave the town because of growing pressure and threats against their lives from the armed groups. On 27 May, the editorial office of another local web-based outlet was forced to relocate to a different town, reportedly, due to threats from the self-proclaimed “Army of the South-East”. On 26 May, it was reported that the publisher and editor in chief of one of the local newspapers in Kramatorsk was forced to flee the region with his family due to threats they were receiving after he had refused to publish materials armed representatives of “Donetsk People’s Republic” demanded him to publish.

#### *Arbitrary arrests of journalists*

228. In the reporting period, Ukrainian and Russian journalists have been arbitrarily arrested; this raises concerns about the possibility for journalists to conduct their professional activities safely.
  - On 10 May, a journalist of Russian TV channel Kuibishev 61, was allegedly detained by the Ukrainian security forces at a checkpoint on the road between Slovyansk and Kramatorsk. His whereabouts remain unknown to the family. On 22 May, the HRMMU sent an official inquiry to the MoI (via the MFA) about the case. On 5 June, the HRMMU was informed that as of 15 May a criminal investigation had been opened under Article 115 (Murder) of the Criminal Code. The HRMMU has requested more information on this case.
  - On 15 May, a journalist and cameraman of the ICTV Ukrainian channel were arrested on the border (Kharkiv / Belhorod) while performing editorial tasks by the Border Service and Federal Security Service of the Russian Federation,. Reportedly, after more than 15 hours of questioning without water and food and deleting all photo and video materials, the journalists were released.

- Two LifeNews journalists, Oleg Sidyakin and Marat Saychenko, were detained on 18 May near Kramatorsk during a raid by Ukrainian forces against the armed groups. They were released on 24 May (see section B, chapter V).
- The HRMMU also followed closely the case of a British journalist working for Russia Today detained by the National Guard in Mariupol on 20 May for allegedly filming military objects. He was released on 21 May and transferred to the Consulate of the United Kingdom in Kyiv. After his release he tweeted details of his detention, including that he had been treated fairly.
- On the night of 6 June, two journalists of the Russian TV station “Zvezda” were detained by the National Guard of Ukraine (NGU) at a checkpoint near Slovyansk. According to their driver, who was also initially detained and later released, the journalists were cuffed, balaclavas were put on their heads, and they were forced to kneel down in a ditch (allegedly, to protect them from possible shooting). On 7 June, the NGU issued a statement saying that journalists were suspected of monitoring and collecting information. The MFA of the Russian Federation reportedly filed a note of protest to the MFA of Ukraine. On 8 June 2014, the TV station “Zvezda” received information from the SBU that the two journalists were in good health. They were released on 9 June and transferred to the Russian Federation.

*Obstruction to lawful professional journalist activities*

229. On 11 May, it was reported that Ukrainian journalists were not allowed to photograph or film the voting process during the “referenda” in the Donetsk and Luhansk regions.
230. The same instances were reported prior and during the election day on 25 May. For instance, the journalists of the Voice of America were warned not to film the seizure of one of the polling stations in Donetsk.

*Attacks on editorial offices and TV towers*

231. In the reporting period, there has been a growing number of armed attacks on the editorial offices of the local media outlets by armed men. Some of the examples are provided below.
- On 7 May, the office of the local newspaper “Hornyak” in Torez (Donetsk Region) was reportedly attacked and its equipment was broken and damaged.
  - On 8 May, the independent newspaper “Provintsiya” in Kostyantynivka was attacked by armed, masked men, allegedly members of the “Donetsk People’s Republic”. The editors were told the paper was “closed” and taken to the “city commander’s office” situated in the occupied building of the City Council, where they were threatened and suggested to leave the town. The police was called, but did not interfere or arrested the attackers. The editors did not file a complaint because they do not trust the police will act and because they feel threatened and fear for their lives.
  - On 11, 13, 19 and 20 May, armed groups shelled the TV tower in Slovyansk, which led to interruptions in broadcasting. On 14 May, in Kramatorsk, the armed groups blocked the TV tower, which transmits the channels not only for Kramatorsk, but also Slovyansk, Horlivka and Makiivka.

### *Censorship / access to information*

232. According to NGOs, freedom of media in the Donetsk region is severely curtailed, with Ukrainian TV channels switched off by the “Donetsk People’s Republic” and replaced by the its own media programmes and Russian TV. Some of the examples include the following:
- On 8 and 25 May, armed group stormed the office of the local TV Channel “Union” with demands to report about the activity of “Donetsk People’s Republic” and declared their intent to control the activity of journalists. The target audience of the channel is about 3 million people in nine towns of Donetsk region.
  - On 8 May, under threat of physical violence from the armed groups, the company “Vokar Holding” was forced to stop retransmission of Ukrainian TV Channels: “Inter”, “Ukraine”, “1+1”, ICTV, STB, “New Channel”, “5<sup>th</sup> Channel”, “112 Ukraine”, and “TVI” in Severodonetsk, Luhansk region. Instead the Russian channels were broadcasted. The same incidents occurred throughout May in Luhansk and its region (Krasnyi Luch, Alchevsk).
  - On 2 June, armed members of the so-called “Donbas People’s Militia” arrived at the office of the newspapers “Donbas” and “Vecherniy Donetsk” and blocked all entrances and exits. They abducted the editor-in-chief of the “Donbas” and his deputy and the editor-in-chief of “Vecherniy Donetsk”. The armed men reportedly used psychological pressure and death threats to change the editorial policy of the newspapers and ensure more positive coverage of the “Donetsk People’s Republic”. The three editors were eventually released on 3 June after which all the “Donbas” employees were sent on leave and the newspaper stopped its publication. Also, the HRMMU has noted specific hate speech on the “official” media outlet of the “Donetsk People’s Republic” “Anna Info News”. On 20 May Oleksandr Mozhayev, known as "Babai" (a fighter participating in the armed groups) referred to the on-going operations as a “Holy War” and spoke of exterminating America.
  - On 5 June, a local cable TV and Internet network provider in Donetsk terminated the broadcast of Ukrainian channels: “1+1”, “Donbas”, “UBR” and “News24” at the demand of “Donetsk People’s Republic” representatives.

### *Propaganda*

233. The HRMMU reiterates the importance to counter misinformation, incitement to hatred, discrimination, and violence. As an example, the “Donetsk People’s Republic” denied all responsibility for the attack near Volnovakha, claiming that it was the National Guard “paid by Kolomoiskiy” which perpetrated this attack on the Ukrainian military. On 27 May, LifeNews posted a photo of a wounded child stating he was shot in the Donetsk International Airport; however the StopFake.org experts discovered that the photo was from the Syrian city of Aleppo in April 2013. Although the original publication in twitter was deleted, the photo was widely used for similar posts on alleged shootings of children. A different photo with a dead boy's body in a coffin was used for similar messages of alleged shooting of children in eastern Ukraine. The photo, however, was made in 2010, in the Crimean city Dzhankoy, of a boy killed by a local criminal.
234. Similarly, various videos became viral, allegedly showing either atrocities by the Ukrainian army, seizing of "Grad" complexes by armed groups, or of the use UN symbols on Ukrainian helicopters used in the security operations. It was also demonstrated that originals of such videos were also filmed earlier in the Russian Federation or in other countries, and had nothing to do with the current events in Ukraine.



235. Misinformation adds to the instability and fear which affect the lives of people in the region, and all sides should refrain from using it, especially to the extent that it amounts to advocacy to national hatred that constitutes incitement to discrimination, hostility or violence, which is prohibited under Article 20 of the ICCPR.

**D. Freedom of religion or belief**

236. On 15 May, the Ukrainian Orthodox Church of the Kyiv Patriarchy (UOC-KP) condemned the violence and threats to the life and health of the clergy and the faithful of eastern Ukraine by armed groups. The statement by the Holy Synod of the UOC-KP calls for the Moscow Patriarchate to condemn collaboration with the supporters of the self-proclaimed “people’s republics” and distance itself from it. The UOC-KP requested the Government of Ukraine to protect the clergy and congregation of the Kyiv Patriarchy in the Donetsk and Luhansk regions from the attacks and threats of the “criminals”.
237. In the statement, the Church also appeals to the international community and inter-religious social human right organizations to pay attention to the infringement of rights of the believers of UOC-KP in the eastern parts of Ukraine and in Crimea.
238. In Donetsk, numerous attacks against the inter-religious Prayer Marathon (attended by all major denominations except the Moscow Patriarchy) took place almost on a daily basis in May, including heavy beatings of participants, the destruction of property, and threats to organisers and volunteers. On 23 May, after a repeated attack by 15 representatives of the “Donetsk People’s Republic”, in an attempt to discuss security arrangements for the Prayer Marathon, its coordinator allegedly went to the occupied building of the Donetsk Regional State Administration. While there he was allegedly heavily beaten and had to seek medical assistance. The Prayer Marathon has continued gathering in June. No incidents have been reported.
239. Reports have also been received of other denominations being attacked, for example, Protestants.

**E. Economic and social rights – impact of the violence**

240. As background to the situation in the eastern regions and the current impact on economic and social rights being faced by the local population, the HRMMU recalls that Ukraine is a middle-income country, ranked 78 in the Human Development Index in 2013.
241. The recent evaluation of the UN Committee on Economic, Social and Cultural Rights (ESCR) published on 23 May 2014, highlighted the positive steps of the Government in ratification of, or accession to, various human rights instruments. At the same time the Committee identified major problems that have an adverse impact on the enjoyment of all human rights, including the large extent of corruption, discrimination against Roma and Crimean Tatars, a low level of social standards, unemployment among youth, around 30% gender pay gap, employment in the informal economy, a stable poverty rate of 24.7%, absence of a health insurance system, and low expenditure on health care.
242. The Committee made related recommendations to address the root causes of the aforementioned challenges.
243. The violence and security operations in the eastern regions has had a direct impact on the existing level of enjoyment of economic, social and cultural rights, and has also influenced

the State capacity to progressively realize the rights and comply with the Committee's recommendations in the areas struck by the conflict.

*Right to education*

244. Despite the efforts of the Donetsk Department of education and science, as well as school administrations, studies had to be suspended in several towns of the Donetsk region in May. In Slovyansk, Krasnyi Lyman and Krasnoarmiysk, 62 schools and 46 kindergartens were not functioning, which affected 21,700 students and 5,600 children, respectively. On 28 May, it was reported that during the fights in Slovyansk two school buildings have been damaged; no one was injured.
245. In other towns in the Donetsk region schools remained open, but attendance varied from 25% in Slovyansk district to 98% in Makiivka district.
246. Most schools in the Donetsk and Luhansk regions managed to complete the academic year, which finished on 30 May. The main concern had been the organisation of the "External Independent Assessment"<sup>18</sup> for the students of these eastern regions. On 29 May, the Ministry of Education announced that testing in these regions would be postponed until 11 July to 27 July, and if necessary could be postponed again.
247. Following instructions issued by the Ministry of Education and Science, all universities in the eastern regions had to ensure that foreign students finished their studies earlier, by 20 May, so that they could leave the country.<sup>19</sup>
248. Reportedly, school administrations have faced various forms of pressure from representatives of the "Donetsk People's Republic" including in the preparation and holding of the "referendum" of 11 May, as well as establishing temporary "hideouts" in school premises.

*Right to health*

249. Due to the growing number of wounded, hospitals are overcrowded and understaffed. As of 28 May, in order to minimize the risk to life and security of patients, the Regional Hospital of occupational diseases in Donetsk partially discharged patients whose medical condition did not require in-ward treatment. A sanatorium for children with cerebral palsy was closed in Donetsk due to its proximity to the occupied Security Service of Ukraine building. On 26 May, Children's Hospital Nr 1 and city hospital Nr 18 had to close due to the proximity to Donetsk airport<sup>20</sup>.
250. Access to medical services, treatment and supplies for residents in areas most affected by the fighting is becoming more and more challenging. This is of particular concern as more residents are caught in the crossfire between the armed groups and Ukrainian forces. The

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<sup>18</sup> A final test for the high school students to enter universities in Ukraine.

<sup>19</sup> On 29 and 30 April, The Ministry of Education and Science issued two letters Nr 1/9 - 228 and Nr 08.01-47/12033 instructing all universities of Ukraine, particularly in the East, to terminate the studies of all foreign students by 20 May, which is much earlier than usually. Reportedly, the decision was made upon request of the embassies of foreign countries so that foreign students could complete exams and leave the country if they wish so due to the security situation. Allegedly, at the end of April there were two attacks in eastern regions on foreign students; however the HRMMU could not verify these facts.

<sup>20</sup> On 26 May 2014, approximately 20-30 armed representatives of the "Donetsk People's Republic" reportedly arrived at Donetsk International Airport. According to the Press-Secretary of the Donetsk International Airport Dmytro Kosinov, they demanded the Ukrainian Armed Forces, which were guarding the airport, to withdraw. Fighting broke out at 7.00 a.m. and at that time the airport was closed. It was reported that it will stay out of service till 30 June. According to some reports the main terminal was partially destroyed and some fighting is still on-going there.

situation is most difficult in Slovyansk. The overcrowded, understaffed and under resourced hospitals are only admitting those who are severely injured. Primary Health Care services are overloaded and at times called to provide treatments and care that are within their capacity. Patients from the Mental Health Hospital (229 persons) were evacuated from Slovyansk. All emergency services have been relocated to the nearby village of Mykolayivka, with a number of medical number units set up in Svyatohirsk (location of a large Russian Orthodox monastery - the Lavra). Some patients were transferred to Poltava region. Pharmacies are open only a few hours per day.

251. The delivery of supplies, particularly medicines, becomes more complicated every day; especially with the Donetsk airport being out of service. Reports and requests sent to the UN agencies indicate the lack of specific medications, including some antibiotics, pain-killers, vaccines and consumables. In Donetsk, insulin was distributed to various locations; however, such deliveries are becoming more difficult. Supplies of food in hospitals are running low.
252. There have been reported difficulties to ensure uninterrupted provision of opioid substitution therapy (OST)<sup>21</sup>. This directly affects 759 persons (56% of whom are HIV positive) in Donetsk region and 609 (13% are HIV positive) in Luhansk region. According to the HIV/AIDS Alliance and the World Health Organisation, in a number of cities, such as Slovyansk, the healthcare facilities providing OST are completely controlled by armed groups. The fact that pharmaceuticals in the healthcare facilities in the districts have fallen beyond the legitimate authorities' control, is in its essence a certain risk factor for medical staff and patients. On 30 May, OST treatment was stopped for more than 100 patients in Mariupol, due to drugs not being delivered because of the security situation. As of 2 June, HIV service organisations reported that for some patients such an interruption in treatment had resulted in people using illegal drugs. In the long run, this may lead to an increase in cases of HIV and hepatitis infections due to intravenous drug use. Due to the numerous check-points and blocked roads, as well as interruptions in public transport, the specialized hospital for HIV/AIDS patients in Yasynovata, Donetsk region, is practically inaccessible.

#### *Conditions for treatment of patients*

253. The conditions for the treatment of patients, including those who have been wounded in fighting and violence, are precarious. As the security situation deteriorates, so does the access to hospital care and the quality that can be provided by medical professionals. For example, in Slovyansk, medical personnel were already highlighting the problems with the delivery of medical supplies to the city. In the regions affected by violence and the ongoing security operations, hospitals are trying to allocate what funds they have to purchase the medical supplies they require. In early June, some hospitals in Donetsk discharged patients, except those in critical condition or those who were immobile, leaving the hospitals almost empty.
254. Due to the lack of trust regarding law enforcement, both the medical personnel and patients try to conceal the facts and nature of wounds (the standard protocol is that medical institutions have to report any gunshot and/ stab wounds to the police). The HRMMU has received credible reports that doctors are at times trying to ensure the security of the wounded.

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<sup>21</sup> This has been an integral part of the widespread implementation of harm reduction programmes. These programmes are an essential element in controlling HIV/AIDS and other infectious diseases among injecting drug users in Ukraine, as elsewhere in Eastern Europe.

255. Cooperation with local civil society and community volunteers is an important part of treatment of those who suffered in the recent months. The volunteers, local NGOs, political parties and priests donated money, clothes, food, and medical drugs and provided psychological support. In some cases, when expensive purchases were necessary – such as plates for head surgery – they were purchased by charitable organizations, which also provided financial support to the victims after they were discharged from the medical institutions – to receive rehabilitation treatment in sanatoria. In the local hospitals where the wounded were brought – such as after the shooting on 22 May near Volnovakha in the Donetsk region – there were instances when the local community cared and protected the wounded, bringing them medical drugs, food and clothes.
256. Security in hospitals has been reported to the HRMMU as a concern with patients having to be protected from potential abductions by armed groups. The officials from the Donetsk Regional State Administration confirmed that such kidnappings of the wounded had taken place, however there is no official record of such cases, thus no exact figure could be provided. There is also an increased risk for healthcare professionals themselves, particularly if it involves moving around in the case of ambulance medical teams.

*Right to an adequate standard of living*

257. Since 17 May, prices for basic commodities (including bread) have been rising by a minimum 0.73 Hryvnia (UAH) and 1-2 UAH on average due to higher risks of production and delivery of goods into the occupied towns through numerous checkpoints. Seasonal vegetables and fruits are 4-5 UAH more expensive than usual.
258. Also, due to increased cases of looting, private businesses and retailers prefer to close down, which creates scarcity of supply. Consequently, while the minimum set of products is always available, the variety is much less. Often times there are interruptions in delivery of dairy products, fruits and vegetables, and non-alcohol drinks.

*Housing*

259. The HRMMU is concerned when security operations take place in residential areas of towns and villages of the Donetsk and Luhansk regions. As of 30 May, there had been reports of ruined residential buildings in Slovyansk, Kramatorsk and Donetsk. Additionally, on 7 June, it was reported that nine houses were damaged by the Ukrainian army shelling in Semyonovka near Slovyansk.
260. The HRMMU will raise this and other similar issues with the Ukrainian Government, including advocating for monetary compensation to be awarded to the victims for damages to their property in the course of these security operations.

*Electricity and water supply*

261. As of 18 May, in the Slovyansk region, 22 electrical sub-stations stopped functioning. As a result, more than 2,000 households were left without access to electricity. According to the Press-service of the company “Donetskoblenergo”, the company has all the necessary material and human resources for reconstruction. However, repair crews are unable to access the site due to the ongoing security operations.
262. In the northern part of the Donetsk region, the supply of water supply is increasingly under threat, with regular interruptions. Moreover, as of 3 June, residents of Slovyansk, Konstyantynivka, Druzhkivka and Kramatorsk (cities in Donetsk region) had no access to running water, due to damage to the water supply reportedly as a result of the security operations.

*Social security (services and benefits)*

263. Due to the deteriorating security situation in the Donetsk and Luhansk regions, it is a growing challenge to ensure continuous work of State institutions. On 14 May, the Pension Fund department resumed its work (after the seizure of its building on 5 May) in Slovyansk, but the department's office hours were cut. On 15 May, it was reported that the National Bank of Ukraine suspended<sup>22</sup> the operations of its office in Donetsk region due to the threats by the representatives of the "Donetsk People's Republic". On 15 May, the Ministry of Revenue and Duties of Ukraine also evacuated the staff of its directorate and tax inspections in the region.
264. On 7 June, the Ministry of Social Policy informed the HRMMU that all social payments had been made to the regions of Donetsk and Luhansk. However, there were major challenges in delivering cash to Antratsyt in Luhansk region and Slovyansk and Kramatorsk in Donetsk region. The Ministry has already addressed the MoI and SBU to develop a mechanism of the safe delivery of cash to these regions if the situation remains the same or aggravates.
265. On 30 May, the head of Department of Marketing Communications of the Novokramatorskiy Machine-Building Plant Volodymyr Zhuliy spoke of the imminent "humanitarian catastrophe" in Kramatorsk, due to the termination of the work of the city department of the State Treasury of Ukraine since 20 May. In particular, Mr Zhuliy mentioned that thousands of the city's pensioners, local governance workers, educators and public health workers were deprived of the means for existence. Reportedly, the Treasury's debt to the workers and pensioners in Kramatorsk for the payments due in May already amounted to UAH 61.4 million.

*Increased lawlessness resulting in loss of individual property*

266. On 15 May, the Parliament Commissioner for Human Rights informed the HRMMU that there are numerous incidents in Donetsk and Luhansk regions when the armed groups' members seize personal phones and especially cars from ordinary citizens. The police rarely intervene or take any action, as they are usually unarmed and thus unable to perform their functions in the current situation. Consequently, although criminality is increasing, there is nobody to apply to in case of an alleged crime, and no effective means to intervene for police. It also becomes dangerous for persons to report about such crimes, so in most cases they chose to leave the region. The increase in criminality is, in the view of some, returning the regions to the "lawlessness of the 1990s":
- For example, on 8 May, the private residence of a local activist was allegedly shot at from a car; the attackers broke into the house and looted everything of value. The police called by the neighbours, allegedly made several photos of the location, but did not even walk into the building. Reportedly, the activist left the region to Kharkiv with his family, due to previous threats to his life, including attempted arson of his home with Molotov cocktails on 4 May.
  - On 15 May, owners of car-dealerships in the cities of Donetsk and Luhansk regions formed rapid response groups to protect their businesses against attacks aimed at robbery that have multiplied since the beginning of May.
  - On 28 May, the HRMMU spoke to one of the local political leaders in the Donetsk region. He reported that his legal firm's office was ruined when attackers took his computers, documentation on the legal cases and stole the firm's car. He

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<sup>22</sup> The staff of the Bank was evacuated, and online banking in the region was reportedly suspended.

was also detained for 7-8 hours and subjected to life threats, inhumane treatment and beating. After his release he fled the region together with his family.

#### *Labour rights*

267. There are growing concerns about the ability of enterprises in Donetsk and Luhansk regions to continue functioning due to the on-going fighting, targeted attacks and intimidations by the armed groups.
268. The presence of uncontrolled armed groups and rise of criminality obstruct the business activity of entrepreneurs, which first of all affects small companies in the sphere of services and retail (banks, logistic companies, stores, petrol stations, and bakeries).
269. On 20 May, the Mayor of Donetsk, Oleksandr Lukyanchenko, stated that a wide range of enterprises do not work in full capacity and some of them suspend production, in particular, “Donetsk Metallurgical Plant” employing approximately 2,100 persons.
270. On 29 May, the Secretary of the National Security and Defence Parliamentary Committee, Sergey Kaplin, stated that due to the current events in the Donetsk and Luhansk regions, approximately 60 % industrial enterprises of companies were forced to suspend their work, leaving thousands of employees without regular income.
271. There also have been armed attacks on mining companies, which constitute the main share of the regions’ economy. On 9 May, it was reported that local miners repelled an attack by the pro-Russian supporters of the “Donetsk People’s Republic”, who attempted to take down the Ukrainian flag and threatened the miners that they would throw explosives into the mine’s shafts for their disobedience. Allegedly, the miners decided to organize their own “self-defence” to protect themselves. On 19 May, there were armed attacks on the operational and closed coal mines in Horlivka, Donetsk region. On 22 May, a group of unidentified armed individuals allegedly captured four operating mines of the JSC "Lysychanskvuhillya" in Luhansk region. All of the four attacked mines temporarily suspended production activities. Reportedly the armed men pointed guns at the mines’ workers, demanding to supply them with explosives. The Ministry of Energy of Ukraine appealed to the SBU demanding that necessary steps be taken to protect the mines. Previously, on 26-27 May, due to pressure by the armed representatives of the “Donetsk People’s Republic” on the “Donetsk Coal-Mining Company”, coal production was suspended at several mines, including “Octyabrskiy Rudnik”, “E. Abakumov”, “A. Skochinskogo” and “Trudovskaya”.
272. On 20 May, Denys Pushylin, “speaker” of the “Donetsk People’s Republic”, announced the launch of the nationalization campaign in the region. According to their official sources, Mr. Pushylin blamed the local oligarchs’ unwillingness to pay taxes to the “republic’s” budget, and their opposition to the interests of Donbas as the reason for the adopted decision to start the nationalization. In particular, Mr Pushylin blamed Renat Akhmetov, owner of the company System Capital Management.

#### *The broader impact of the crisis in the eastern regions of Ukraine*

273. Recent developments in the country have already negatively affected the financial and banking system. In the first quarter of 2014, the national currency depreciated by 27%, dramatically reducing incomes and salaries. Whereas the average monthly wage in December stood at \$453, by March it had dropped to \$343. This also puts significant pressure on those who have loans in foreign currencies.

274. After remaining quiescent for more than two years, inflation rates have shot up with a 6.8% increase in consumer prices reported for the beginning of May being the highest year-on-year inflation rate recorded since 2011.
275. Food prices have increased by 8.2% above 2013 levels, bringing the socio-economic crisis to many households in Ukraine. Large price hikes were reported for sugar (59%), vegetables (33%), and dairy products and eggs (10%).
276. Other inflationary pressures are now gathering, for example in the form of increases in communal service tariffs. Household gas prices shot up 56% on average in May; a 40% increase in heating tariffs is scheduled for July. These higher tariffs are projected to increase the numbers of low-income households from 1.4 to 4 million during this time.
277. Should these tariff increases be accompanied by a further weakening of the UAH, Ukraine's inflation rates could dramatically accelerate. Even in the best case scenario, consumer and food price inflation rates seem likely to remain in double figures for the rest of 2014, and going into 2015. These developments will place increased pressure, and need, for Ukraine's social welfare system to cushion the impact, particularly for the most vulnerable.
278. The 63 billion UAH deficit recorded on the consolidated government budget in 2013 (some 9% of GDP) is regarded as unsustainable by both the Government and the International Monetary Fund (IMF). Fiscal austerity in 2014 is therefore required. Although a justified measure, it may do little to boost the country's long term competitiveness or development prospects. Already in the first quarter of 2014 Government expenditure<sup>23</sup> in the health sector declined by 5%, and in the education sector by 8%, compared to the budget allocations in 2013. At the same time, the Government has been able to increase spending on social protection by 2% (which includes expenditures on both social assistance and social insurance) for 2014, which may lessen the hardships and pressures that many Ukrainian households are now facing.
279. The economy of the eastern region has already been in decline since April 2014, and it is likely to deteriorate further in any protracted situation of violence and fighting. Business is in decline in the region; personal income is decreasing; investments are dwindling. Compared to 2013, in the first quarter of 2014 investments in the eastern regions had significantly declined. In the annual rating Donetsk region moved from third place in 2013 to twenty-second place in 2014, and the Luhansk region from ninth to twenty-third.
280. Any exacerbation of the violence will lead to the further decline of industrial production in the region and Ukraine as a whole. The industries of the Donetsk and Luhansk regions account for 18.5% and 6.1% of all production in the country respectively. Such a decline would therefore increase the imbalance between the income of the state budget from the Donbas and expenditure provided to the region. This will augment the budget deficit. One result could be that it would jeopardise compliance with the agreed parameters of the IMF loan.
281. Official statistics released in May indicate that Ukraine's GDP dropped 1% in the first quarter of 2014. The recession is expected to worsen over the course of the year: IMF and the Ministry of Economic Development and Trade forecast a 3% decline in GDP, while other, more pessimistic forecasts point to 5-10% declines in output and income. The largest decline in exports (70-85%—relative to the fourth quarter of 2013) has already

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<sup>23</sup> Changes are given in real terms: changes in nominal expenditure amounts divided by changes in the consumer price index.

been recorded in the regions of Donetsk, Luhansk, Cherkasy, and Khmelnytskyi, as well in the Autonomous Republic of Crimea. Any collapse in exports could trigger a decline in industrial output, and subsequently in household incomes and livelihoods. These trends should be closely monitored.

282. There are concerns that if these macro-economic tendencies continue, the State will no longer be able to guarantee existing social standards, which could lead to the social unrest spreading throughout the country.

## **VI. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

### **A. Civil and political rights of Crimean residents**

283. Crimean residents faced difficulties in exercising their civil and political rights. A very small number participated in the Presidential elections of 25 May. Simplified registration procedures had been put in place to ensure that residents of Crimea and persons who resettled from Crimea to other regions can take part in the vote. Ukrainian citizens living in Crimea had to register in person at any polling station on the mainland no later than five days prior to the elections. The HRMMU monitored the situation near Kherson, where most of the Crimean voters had registered. Some 20 cars had left Crimea and were welcomed by local authorities. They drove to the polling station in a column with Crimean and Ukrainian flags. Prior to the election they had been summoned by the Crimean police for “conversations” and issued ‘warnings’ about the unacceptability of ‘extremist activities’. While the cars were crossing the administrative border, representatives of the Crimean ‘self-defence’ reportedly wrote down license plates, passport numbers and driving licenses’ details. Among those who intended to vote, many allegedly did not do so because of the cost of travelling, the uncertainty linked to having to cross the administrative border and the fear of reprisals by the authorities in Crimea.
284. During its month-long monitoring of events in Crimea, the HRMMU noted a continuation of worrying trends, including instances of enforced disappearances, arbitrary detentions, violence and ill-treatment committed by the so-called ‘Crimean self-defence’, often targeting journalists, human rights defenders and political opponents, and impunity for human rights violations. Furthermore the enforcement of the Russian Federation law on the territory of Crimea, at variance with UN General Assembly resolution 68/262 and applicable bodies of international law, is creating difficulties for Crimean residents to enjoy their human rights, as there are many differences with Ukrainian laws.

#### *Rule of law and the judiciary*

285. The judicial system remains practically paralyzed. Ukrainian laws will be in effect in Crimea until 31 December 2014<sup>24</sup>. Nevertheless, the judicial system is already being transformed to use Russian laws: restriction measures are implemented pursuant to the Criminal Procedural Code of the Russian Federation, and judicial decisions are adopted in the name of the Russian Federation. Pending cases that have not been decided by 18 March 2014 must be tried in accordance with the laws of the Russian Federation. This poses numerous problems in practice, especially in administrative and criminal cases, when Russian and Ukrainian legislation differs on the existence, nature and scope of rights

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<sup>24</sup> Paragraph 2 of Article 23 of the Federal Constitutional Law of 21 March 2014 N 6-FCL “On Acceptance of the Republic of Crimea into the Russian Federation and the Creation of the New Constituent Entity within the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol”.



and obligations; and remedies and sanctions available. The outcome of court decisions that are currently being appealed is unclear.

286. There are reports that, at least, 15,000 judicial cases are in legal limbo between Ukrainian and Russian laws. The Ukrainian “Law on the occupied territories” allows the transfer of judicial cases from the peninsula to Kyiv. However, in practice, this is unlikely to happen. The HRMMU notes that the current situation has detrimental consequences affecting access to justice, the right to fair trial and due process for Crimean residents.

*Right to life, liberty and security*

287. The Russian Security Service (FSB) confirmed on 30 May, the detention of four Ukrainian citizens in Simferopol (Crimea), including film-maker Oleg Sentsov. The other three are Aleksandr Kolchenko, Gennady Afanasiev and Aleksei Chyrnyi. The HRMMU spoke to Mr. Sentsov’s lawyer who stated that while his client had been arrested on 11 May, he managed to speak to him for the first time on 27 May. He also claims his client has been tortured while in detention to confess to criminal intentions he did not have. According to the FSB press release, the people detained are members of the Ukrainian ‘Right Sector’ party and were planning acts of sabotage and terrorism in Simferopol, Yalta and Sevastopol. On 6 June, Sentsov was, according to his lawyer, officially charged with terrorism and arms trafficking under Article 205, Part 2; Article 205.4, Part 2; and Article 222, Part 3 of the Criminal Code of the Russian Federation.
288. On 26 May, Timur Shaimardanov (born in 1980) left his home in Simferopol and did not return. He had participated in campaigns against Crimea becoming a part of the Russian Federation. The day before he went missing, he allegedly said that the whereabouts of one of his friends, Leonid Korzh, (born in 1990) had not been known for 3-4 days. On 30 May, Seiran Zinedinov, who had been coordinating the efforts to find Korzh and Shaimardanov also went missing.
289. Mr. Mustafa Dzhemilev, former head of the Crimean Tatar Mejlis (Assembly) who was banned from the authorities in Crimea to enter the peninsula on 3 May, informed the HRMMU that the “Crimean police” had brought to his Crimean house a summons for an interrogation related to illegal possession of weapons. Dzhemilev assumes that this could be an attempt to initiate a criminal case against him. Ms. Ella Panfilova, Ombudsperson of the Russian Federation, announced that her office has requested from the relevant Governmental bodies an explanation of the actions undertaken by officials towards Mustafa Dzhemilev, particularly regarding his ban on entering Crimea.
290. The Head of the Kurultai (Congress) of the Crimean Tatars, Zayr Smedlyaev, informed HRMMU that he had received a written “warning” from the Crimean police about the “inadmissibility of extremist activities and unlawful assemblies”, in line with Russian legislation. The notice says that on 3 May, the leaders of the Mejlis publicly spoke in support of ‘extremist statements’ by Mustafa Dzhemilev and provoked extremist manifestations from people.
291. On 15 May, three houses of Crimean Tatars in Simferopol were searched by FSB officials. Two houses belong to the head of the External Relations Department of the Mejlis, Ali Khamzin. The searches were performed at his actual place of residence (Bakhchysarai) and his place of registration (Strogonovka village, Simferopol region). FSB officials explained that these persons were suspected of preparing terrorist attacks.
292. On 15 May, the “Chairman” of the Council of Ministers of Crimea, Sergey Aksyonov, announced that the so-called “Crimean self-defence” would become regular and receive budgetary support to ensure public security. The HRMMU underlines that such an

intention raises concern as the “Crimean self-defence” has reportedly been involved in numerous human rights violations.

#### *Accountability*

293. The HRMMU is concerned that after more than two months of investigation of the murder of 39-year-old Reshat Ametov, the Crimean law-enforcement authorities have not yet established the identities of perpetrators, although a video of the attackers is available that would allow their identification. Crimean Tatar Reshat Ametov was abducted by unidentified persons wearing military uniform in the centre of Simferopol in early March during a picket near the Council of Ministers of Crimea. On 17 March, his corpse was found with traces of torture in the Zemlyanichnoye village of the Belogorsk district.
294. The acting Prosecutor General of Ukraine reported on 27 May that an interagency ‘working group for legal issues relating to the temporarily occupied territory of Crimea’ had been established. The working group will coordinate the activities of the Ukrainian authorities on a wide range of legal issues connected with the violations that took place after the March “referendum”.

#### *Citizenship*

295. The HRMMU received worrisome information that, in some cases, Crimean residents were forced to give up their Ukrainian citizenship, which may amount to arbitrary deprivation of nationality. Judges of the Crimean Commercial Court in Simferopol and the administrative staff, who were granted Russian citizenship on a priority basis, were reportedly compelled to complete application forms renouncing Ukrainian citizenship. In general, the procedure of issuing Russian passports is slow. According to different calculations, providing passports to the whole population of Crimea will take up to 15 months while Russian laws allocated only three months for this procedure. Besides, it is unclear how citizenship issues, applications for social benefits and payments and other rights and entitlements are organised for persons in closed institutions: orphanages, geriatric institutions, psycho-neurological hospitals, penitentiaries, and others.
296. The status of refugees and asylum seekers has not been regulated. Prior to the “referendum” there were 18 refugees on the territory of Crimea. It is unclear how their situation will be affected by the changed legal regime.
297. On 4 June, the President of the Russian Federation signed amendments to the law “On citizenship of the Russian Federation”, introducing criminal responsibility for concealment of dual citizenship. According to the amended law, those concealing their second citizenship will be fined up to 200,000 Rubles (\$5,700) or subjected to compulsory community service of up to 400 hours in case of a failure to notify the Federal Migration Service within two months from the date of the acquisition of the second citizenship. The new provisions will become effective on 1 January 2016.

#### *Freedom of expression*

298. The HRMMU is alarmed by excessive limitations placed on freedom of information and expression in Crimea. Journalists, human rights defenders and other individuals must be able to freely exercise their right to freedom of expression, in accordance with article 19 of the International Covenant on Civil and Political Rights. Any restrictions should comply with the strict requirements of article 19, paragraph 3 of the Covenant.
299. On 15 May, a photojournalist of the "Crimean telegraph" newspaper Maksim Vasilenko was briefly detained and ill-treated by members of the "self-defence of Crimea" in Simferopol while preparing a report about the training of the special police forces before

the commemoration of the 70<sup>th</sup> anniversary of the Crimean Tatar Deportation. A cameraman of the "FM" television channel was also attacked; his phone was taken and his equipment was broken.

300. On 18 May, Osman Pashayev, Chief Editor of "Open Crimean Channel" internet project, and his crew (correspondent, cameraman and driver) were detained by members of the "Crimean self-defence" during the mourning events related to the anniversary of the Crimean Tatar Deportation. They were deprived of their equipment, phones and personal belongings, and subjected to physical and psychological pressure for four hours. No reasons were given for the detention. After being brought to the central district police station of Simferopol, they saw their lawyers and were released. Their money and personal belongings were not returned. Russian Human Rights Ombudsperson Ella Pamfilova condemned the incident, saying that the detention and interrogation of Pashayev and his crew without the presence of a lawyer for several hours constituted a human rights violation.
301. On 19 May, the "Crimean self-defence" detained for a short period of time Petr Ruzavin, a correspondent of Russian television company "Dozhd", subjected him to violence and damaged his equipment. According to Ruzavin, camouflaged people approached him when he was filming the central square of Simferopol and they were filmed as well. They requested him to delete his records, which he did. Ruzavin said he was beaten and his equipment was damaged. After being interrogated he was released.
302. On 2 June, the "Acting Prosecutor" of Simferopol summoned the Chief Editor of the Crimean Tatar newspaper "Avdet" Shevket Kaybullayev for questioning over possible "extremist activity". According to the notice, Kaybullayev had to appear on summons to the Prosecutor's Office. As written in the summons, the Prosecutor is investigating violation of the Russian law "On counteraction to extremist activity". The 'Avdet' newspaper is a press organ of the Mejlis of the Crimean Tatar people, published since 15 June 1990.
303. On 2 June, the Editor of the "Crimean Centre for Investigative Journalism", Sergey Mokrushyn, and his cameraman Vladlen Melnikov were attacked by members of the "Crimean self-defence" in Simferopol, taken to their headquarters (on Kirova 26) and beaten. They were eventually transferred to the police station for questioning, and released without any explanation being given for their detention and or any protocol of detention having been drawn up by the police.
304. The HRMMU recalls that acts of aggression, threats and intimidation against journalists must be investigated, prosecuted and punished and victims provided with appropriate remedies.
305. In the period of 12-25 May, the Russian Ministry of Communication and Mass Media and the Federal Service for Supervision of Telecom, Information Technologies and Mass Communications held seminars for Crimean journalists to explain requirements of Russian legislation with respect to the media. The HRMMU is concerned that the imposition of Russian media legislation is already negatively impacting the conditions for journalists to freely perform their functions. There is also concern that media representatives can be subjected to criminal prosecution pursuant to Article 280 (Public calls for extremism), Article 282 (Organisation of the activities of an extremist organisation) and Article 319 (Insult of a public servant) of the Criminal Code of the Russian Federation, which are too broad and can be used to criminalize conduct that is protected under international human rights law.

### *Freedom of movement*

306. While air connections between other parts of Ukraine and Crimea were suspended in March 2014, it still remains possible to travel by train and car. However, freedom of movement is affected by a number of factors related to the status of Crimea and different regulations - Russian Federation and Ukraine's - being applied. This creates difficulties to maintain personal and professional ties.
307. Pursuant to the Law of "On guaranteeing citizens' rights and freedoms and legal regime in the temporarily occupied territory of Ukraine", which entered into force on 10 May, foreigners and stateless persons may enter and leave Crimea through security check-points only subject to special permission. The procedure for obtaining such permission remains unclear. On 16 May, the Press Secretary of the Chairman of the State Border Service of Ukraine, Sergey Astakhov, confirmed that Ukrainian border guards around the Melitopol checkpoint (in the Kherson region bordering Crimea) obliged persons going from Crimea to continental Ukraine with Russian passports and Crimean residence permits to get off trains. He reported that the Crimean residents with Russian passports are considered as foreign citizens and, consequently, shall enter into Ukraine and leave it only through special border points. According to him, the administrative border of Kherson and established control line is not a border of Ukraine. Therefore, the foreign citizens, including Russian citizens, may not be allowed via this line. He also noted that the Crimean residents with Russian passports who wish to enter Ukraine shall go to the Russian Federation first, for example, to Rostov-on-Don, and cross the borders there.
308. The Russian Federation illegally established its State border at the northern entrance to Crimea on 25 April. Citizens of Ukraine who are not registered in Crimea are regarded as foreigners and obliged to fill out an immigration card. Such a category also comprises the people who permanently reside in Crimea, own real estate or are employed there, but whose place of registration is mainland Ukraine. The Federal Immigration Service issued warnings that foreign nationals must promptly (within 90 days) leave the territory of Crimea and re-enter it pursuant to Russian laws applicable to foreign nationals. Inter alia, such regulations will create inconveniences for students who study in other regions of Ukraine and are temporarily registered there. While returning home to the territory of Crimea during summer vacations, they will be regarded as foreigners with an admitted stay of up to 90 days.

### *Freedom of association*

309. Since the "referendum" on 16 March, many NGOs and human rights activists left Crimea out of fear of being prosecuted, detained and subjected to ill-treatment. Legislation of the Russian Federation - the so-called "foreign agents" law - has discouraged the activities and development of NGOs. Besides, Crimea does not yet have an institution to register civil society organisations; consequently, those that have not been registered before the Crimean "referendum" are deprived of such a possibility.

### *Freedom of peaceful assembly*

310. Dozens of Crimean Tatars have been summoned to courts for participating in protest actions against the prohibition imposed on 3 May by the Crimean authorities on their leader, Mustafa Dzhemilev, to enter the peninsula. As of 8 May, the courts of Crimea had examined 55 cases related to those events. In 52 cases, the activists were fined on the basis of Article 20.2.2 (Public disorder) of the Code on Administrative offences of the Russian Federation.

311. On 16 May, the authorities in Crimea issued a decree prohibiting all mass events until 6 June. A similar prohibition was issued in Sevastopol. The decrees were motivated by security developments in south-eastern Ukraine and the need to prevent "possible provocations of extremists which can penetrate into the Republic of Crimea". The HRMMU recalls that under Article 4 of the ICCPR, a derogation from the right to freedom of assembly and association is only permissible "in time of public emergency" and "to the extent strictly required by the exigencies of the situation" and would require immediate notification to the other State Parties to the ICCPR through the UN Secretary-General.

*Freedom of religion or belief*

312. The HRMMU is concerned about reports of violations of freedom of religion and belief on the territory of Crimea.
313. On 8 May, the League of Muslim Women "Insaf" informed the HRMMU that some 150 persons from Kirovskoye and Stary Krym, including women, were being called in for interrogations. Reportedly, they were being invited to the local police stations for "a conversation". They were reportedly fingerprinted and photographed.
314. On 20 May, the Head of the Ukrainian Greek Catholic Church made a statement expressing concern for the safety of the Greek Catholic priests remaining in Crimea. He reported that all five Crimean parishes had experienced pressure, allegedly from the representatives of the Orthodox Church of the Moscow Patriarchate.
315. On 1 June, men in Russian Cossack uniforms reportedly broke into the local Orthodox church of the Kyiv Patriarchate in the village of Perevalnoe (Crimea), shouting and terrorizing churchgoers. The car of the priest was allegedly damaged. The "Cossacks" said they were seizing the building for the Moscow Patriarchate. After three hours, the "Crimean self-defence" arrived with assault rifles and sided with the attackers. The police were called but reportedly did not show readiness to properly investigate the incident. On 2 June, the local authorities of the city of Evpatoriya conducted a check of the church documentation and called it an "illegal building". In addition, the authorities in Crimea significantly raised the rent for the main Ukrainian Orthodox Cathedral in Simferopol. The rent increase has not affected Crimean Tatar mosques or Russian Orthodox churches. Mosques and Russian churches on the peninsula either belong to the religious communities (mosques) or to the Moscow Patriarchate (Russian churches) or are rented for a token fee.

**B. Economic, social and cultural rights**

316. Crimean residents face serious challenges in realizing their rights under the International Covenant on Economic, Social and Cultural Rights (ESCR). This can be attributed, in part, to the complicated transition between two different legal systems, but also to the absence of appropriate reactions of the authorities in Crimea to human rights violations affecting certain communities. This concerns, in particular, the Ukrainian and Crimean Tatar communities who are being harassed, assaulted and prosecuted for speaking Ukrainian or Tatar languages in public places or using national symbols. Such conditions are also reflected in the diminishing possibilities to receive education in another language than Russian, particularly in Ukrainian.

*Language and education*

317. There are only two Ukrainian schools in Crimea: in Yalta and Simferopol. According to the head of the Department of Education in Simferopol, three out of four classes in the

Simferopol gymnasium will now use the Russian language. The decision is motivated by the decision of 86 % of the parents who reportedly decided to switch to Russian-language studies. The director of the gymnasium was allegedly forced to resign. There is information that the local authorities in Sevastopol are planning to close the only Ukrainian boarding school/orphanage.

318. On 14 May, the press service of the Ministry of Education and Science of the Russian Federation reported that teachers of the Ukrainian language and literature of general educational institutions could be re-trained to become teachers of the Russian language and literature. The Presidential Council for Civil Society Development and Human Rights of the Russian Federation recommended to keep the study in the Simferopol Ukrainian gymnasium in Ukrainian language and to resume the work of the Faculty of Ukrainian and Crimean-Tatar Philology in the Tavrida National University.
319. In light of Article 27 of the ICCPR, the HRMMU recalls that all the national communities in Crimea must be supported to preserve, develop and promote their identity, language and culture, and to use their mother tongue in education and daily life.

#### *Property rights*

320. In early March, public notaries stopped documentation of property acquisition and sale deals in Crimea, when Ukraine blocked access to the peninsula for the State Register of Real Estate and Land Plots. Crimean residents face serious difficulties in exercising their right to property due to the pending court decisions, transactions, and the privatisation process. On 10 May, the Russian Minister of Crimean Affairs stated at a press conference that the Russian authorities would deal with cases of unauthorized acquisition of land in Crimea "with full responsibility and caution". On 28 May, a draft law "On the special procedure for real estate registration in Crimea" was introduced in the Russian Parliament. The text proposes to delegate to the local authorities, during a two-year transitional period, the right to resolve land issues.
321. The HRMMU stresses that decisions concerning such important issues as land and property must be taken through an inclusive, transparent and fair process that will eliminate the risk of corruption and tensions.

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

322. On 13 May, the Ukrainian State Water Resources Agency stated that Ukraine shut off water supplies to Crimea via the North-Crimean Canal, which accounts for 85% of all fresh water on the peninsula. The Canal water is mostly used for irrigation purposes, and its closure could severely impact agricultural land and the upcoming harvest. This situation has reportedly had no negative implications for drinking water, according to the 'First Deputy Chairman' of the Council of Ministers of Crimea, Rustam Temirgaliyev. Having no access to Crimea, the HRMMU does not have additional information about the impact of the shut-off of water supplies on the economic and social rights of the Crimean residents.

#### *Banking*

323. Access to banking services remains complicated for Crimean residents. On 7 May, the National Bank of Ukraine (NBU) decided to suspend operations of Ukrainian banks in Crimea until 6 June. However the activities of Ukrainian banks were terminated on 2 June, by decision of the Central Bank of Russia motivated by the need to protect the interests of depositors and customers. Compensation payments will reportedly be made by a non-profit organization, the "Depositor Protection Fund", which acquired the rights to deposits.

### **C. The rights of indigenous peoples**

324. The 18 May marked the 70<sup>th</sup> anniversary of the massive deportation of Crimean Tatars and other minorities by the Soviet authorities. A Decree of the President of the Russian Federation, in force on 21 April, had instructed the authorities in Crimea and Sevastopol to support events commemorating the deportation. However, referring to security considerations linked to the events in south-eastern Ukraine, the authorities in Crimea issued on 16 May a decree prohibiting all mass events until 6 June. Eventually, the “Council of Ministers” of Crimea decided on 17 May that the commemoration could go ahead, although not in the centre of the capital of Crimea, Simferopol. The commemorations passed without incidents, albeit with significant and sometimes intimidating police presence.
325. On 29 May, the State archive of the SBU handed over the documents on Crimean Tatar deportation from Crimea in 1944 to the representatives of the Crimean Tatar Mejlis. The head of the SBU, Valentyn Nalyvaichenko, and the former head of the Crimean Tatar Mejlis, Mustafa Dzhemilev, participated in this event.
326. On 4 June, the Crimean Parliament adopted a Decree providing for social guarantees to the people who were deported on an ethnic basis in 1941-1944 from the Crimean Autonomous Socialist Soviet Republic. The Decree will provide social benefits in the form of one-time payments to the Crimean Tatars, Armenians, Bulgarians, Greeks and Germans, along with their families and children who were born in exile. This document was adopted pursuant to a Decree signed by Russian President Vladimir Putin on 21 April 2014, rehabilitating formerly deported people from Crimea.

## **VI. CONCLUSIONS AND RECOMMENDATIONS**

327. During the reporting period, the HRMMU identified acute human rights concerns particularly in the eastern regions, Crimea and in the aftermath of the Odesa 2 May violence. They are symptomatic of the particular local contexts, not least involving the presence of armed groups, the breakdown in law and order and on-going security operations. As highlighted in the report issued on 15 April 2014 by OHCHR, short-term human rights concerns should be addressed within the broader and longer term framework that will see institutional reform and enable change that will impact on the enjoyment of all rights – civil, cultural, economic, political, and social. The root causes of the current crisis were initially due to the systematic and structural curtailment of human rights and widespread corruption. The way out of the current crisis, to ensure reconciliation of communities through peaceful and democratic means, will be through the accountability for violations and the full respect and guarantee of all human rights for all.
328. With the election of President Poroshenko, there is the opportunity for the Government of Ukraine to prioritise addressing these systemic and structural concerns through institutional reform focusing on human rights challenges in the short-term, and progressively paving the way for the establishment of a system that promotes and protects human rights for all, ensures justice, good governance and the rule of law through inclusive, non-discriminatory and participatory means. A comprehensive national human rights action plan reflecting all recommendations from the international and regional mechanisms is highly recommended, as well as the creation by the Government of a senior level coordination mechanism of implementation open to state institutions, civil society

and having the combined support of the UN, regional organisations and the international community.

329. Recommendations have been made below on Crimea to both the authorities in Crimea and the Russian Federation, which exercises de facto control over the peninsula. With the negative impact of the current situation, including the legal uncertainty, on the full enjoyment of human rights by the residents of Crimea, the HRMMU is advocating for the legal framework of Ukraine to remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
330. The recommendations should be read in conjunction with - and seen as complimentary to - those outlined in the OHCHR reports on the human rights situation in Ukraine, issued on 15 April and 16 May 2014, which have not yet been fully implemented.
331. The HRMMU takes note of the joint report by the OSCE Office for Democratic Institutions and Human Rights and the OSCE High Commissioner on National Minorities issued on 12 May 2014, and calls upon all relevant parties to implement its recommendations.

**To the Government of Ukraine and other stakeholders**

- a) There should be constitutional inclusive and meaningful consultations with all political parties, regardless of their ideology, as well as representatives of civil society and minority (national and ethnic, linguistic, religious and other) groups and indigenous peoples in order to embrace all components of society, including women in the dialogue for the new constitution, which will reflect the new reality of the country with a full-fledged system of checks and balances. The peaceful population of the east should participate in these consultations.
- b) As a representative body of the country, the Parliament should reflect the new political and social reality of the country; therefore there is a need for new parliamentary elections.
- c) All armed groups must immediately put an end to their violent activities and lay down their arms.
- d) The Government must ensure that its armed forces refrain from using excessive force, and ensure that its ongoing security operations are at all times in line with the relevant international standards applicable to different types of operations. In all circumstances, it must ensure the protection of those who are not involved in the fighting.
- e) All people detained in the context of the security operations should be treated in line with international norms and standards and guaranteed their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law. In order to protect its security personnel and persons not involved in the fighting, the Government should consider providing assurances that acts of abduction and detention by armed groups will not be prosecuted provided that they do not target people not involved in the fighting and the victims are treated humanely at all times.
- f) The role and position of the Ombudsperson and National Preventive Mechanism, as the main bodies / institutions working towards the strengthening of the national human rights system and the protection and guarantee of human rights for all, should be enhanced.



- g) All gaps of legislation should be brought in line with the recommendations of the international human rights mechanisms (treaty bodies, universal periodic review and special procedures); the Judiciary, Office of the Prosecutor General and the Bar Association should operate in line with relevant international norms and standards in order to ensure fair trial without which it is impossible to tackle corruption.
- h) The Constitutional Court should be enhanced – legal, social and all other guarantees need to be elaborated in order to ensure the genuine independence of the Constitutional Court.
- i) The State Migration Service should propose amendments to bring the refugee law in line with international standards, and to allocate sufficient funds to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.
- j) A language law should be adopted in line with international standards that enables the promotion of the official national language as well as other languages.
- k) A central authority should be established to respond to the humanitarian needs of IDPs, including by establishing a comprehensive registration system, formulation of legislative and regulatory acts to ease access to important social and economic rights, establishing public assistance programmes, mobilization and coordination of civil society-initiated relief efforts, and cooperation with international donors and technical assistance.
- l) All stakeholders should refrain from using messages of intolerance or expressions, which may incite hatred, violence, hostility, discrimination or radicalisation.
- m) Access for international organisations to the areas affected in eastern Ukraine by the security operations (urban areas in the epicentre of the fighting) should be facilitated so that the real needs of the population can be assessed and addressed.
- n) Normative acts to ensure freedom of movement for residents of Crimea should be enacted as soon as possible.

**To the authorities in Crimea and the de facto governing authority of the Russian Federation**

- o) Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
- p) Journalists, human rights defenders and individuals must be able to fully exercise their right to freedom of expression, in accordance with Article 19 of the International Covenant on Civil and Political Rights.
- q) Ukrainian legislation should remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
- r) Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security
- s) Criminal and administrative liability should not be used as a mechanism of intimidation against Crimean Tatars and other residents of Crimea, but used in line with international law.

- t) Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.
- u) All forms of intimidation and harassment of religious communities must be put to an end and all incidents, including those where there have been attacks on Ukrainian Orthodox Church, Greek Catholic Church and the Muslim community must be properly investigated, thus enabling the effective promotion and protection of the freedom of religion or belief.
- v) The promotion and protection of the rights of national minorities, including the Crimean Tatars and other indigenous peoples must be ensured, enabling them to participate fully and inclusively in public and political life.
- w) The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

# Annex 47

OHCHR, Report on Human Rights Situation in Ukraine (19 September 2014)





# General Assembly

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## Human Rights Council

Twenty-seventh session

Agenda items 2 and 10

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

**Technical assistance and capacity-building**

## **Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine<sup>\*\*</sup>**

### *Summary*

The present report is submitted pursuant to Human Rights Council resolution 26/30. It covers the period from 21 November 2013 to 5 September 2014, and provides an overview of key human rights developments and concerns described in the five reports issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) between 15 April and 29 August 2014, on the basis of the work of the United Nations Human Rights Monitoring Mission in Ukraine.

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\* Late submission.

\*\* The annex to the present report is circulated as received.

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## I. Introduction

1. In its resolution 26/30 of 25 June 2014 on cooperation and assistance to Ukraine in the field of human rights, the Human Rights Council invited the United Nations High Commissioner for Human Rights to report on the implementation of the resolution at its twenty-seventh session.

2. The present report covers the period from 21 November 2013 to 5 September 2014 and provides an overview of key human rights developments and concerns described in the five reports issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) between 15 April and 29 August 2014, on the basis of the work of the United Nations Human Rights Monitoring Mission in Ukraine.

## II. Background

3. From 21 November 2013 to 22 February 2014, large-scale street protests erupted, triggered by the decision of then President Viktor Yanukovich not to sign an association agreement with the European Union. Underlying the protests was a widespread, deep-seated dissatisfaction with a system broadly perceived as corrupt and lacking accountability, with weak rule-of-law institutions and a judiciary that was neither independent nor able to ensure equal rights, fair trial and due process of law.

4. The protests were further exacerbated by violence and excessive use of force by the police, particularly on Independence Square (Maidan) in Kyiv, where over 100 people were killed between January and February 2014, including by snipers. The violence and human rights violations that took place at Maidan led to the downfall of the Government, the departure of the President to the Russian Federation and the formation of a pro-European interim Government on 27 February 2014.

5. In March 2014, the crisis broadened, with paramilitary and so-called self-defence groups as well as soldiers without insignia — widely believed to be from the Russian Federation — taking control of the Autonomous Republic of Crimea and organizing a referendum to join the Russian Federation. In its resolution 68/262 of 27 March 2014, the General Assembly, reiterating the sovereignty and territorial integrity of Ukraine, concluded that the referendum had “no validity” (para. 5). Furthermore, individuals could not freely exercise their right to freedom of expression and peaceful assembly, and there were credible allegations of harassment, arbitrary arrests, torture and targeting of activists and journalists who did not support the referendum.

6. Also in March, in the aftermath of the Maidan events, regular rallies, mainly in the eastern regions of Donetsk, Kharkiv and Luhansk, but also in the south, notably in Odessa, began to be organized with participation of the local population, but also allegedly individuals and groups from neighbouring regions of the Russian Federation. The main demand was that a referendum be held on the federalization of Ukraine or union with the Russian Federation, as well as recognition of Russian as a second State language. The demonstrations appeared widely sustained by Russian-language media and social networks. Supporters and opponents of that protest movement regularly clashed, resulting in the first three deaths of the crisis in the eastern regions on 13 and 14 March 2014.

### III. Deployment of the United Nations Human Rights Monitoring Mission in Ukraine

7. Against the aforementioned background, on 14 March 2014 OHCHR deployed a Human Rights Monitoring Mission to Ukraine 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 as well as the root causes of the situation that was unravelling.<sup>1</sup> Initially deployed at the invitation of the Government of Ukraine for a period of three months, on the basis of a Memorandum of Understanding signed between OHCHR and the Government of Ukraine, the mandate of the Human Rights Monitoring Mission has been extended twice, most recently until 15 December 2014. Since April 2014, OHCHR has issued five public monthly reports on the human rights situation in Ukraine, found in the annex hereto, based on the findings of the Human Rights Monitoring Mission teams in Kyiv, Donetsk, Kharkiv, Lviv and Odessa. In line with General Assembly resolution 68/262, the Human Rights Monitoring Mission in Ukraine monitors the situation in the Autonomous Republic of Crimea from its office in Kyiv and other locations, since it has not been granted access to the peninsula by the Crimean local authorities.

8. The Human Rights Monitoring Mission in Ukraine works closely and collaboratively with the Special Monitoring Mission in Ukraine of the Organization for Security and Cooperation in Europe (OSCE). The Human Rights Monitoring Mission also cooperates with international and regional organizations, other United Nations agencies and programmes, the independent national human rights institution and non-governmental organizations in the accomplishment of its main objectives.

### IV. Escalation of the conflict in eastern Ukraine

9. The Human Rights Monitoring Mission observed early signs of the rapid deterioration of the security situation as of mid-April 2014, when groups of armed men unlawfully seized public buildings and police and security facilities in cities and towns across the Donetsk and Luhansk regions, in a well-organized and coordinated fashion. The groups set up barricades and checkpoints in order to maintain control of the areas seized.

10. On 14 April 2014, the Government launched a security operation<sup>2</sup> to re-establish control over those territories, but in May 2014, a “people’s republic” had been self-proclaimed in both regions, following the holding of so-called referendums that neither the Government of Ukraine nor the international community recognized. Armed groups supporting the self-proclaimed “people’s republics” of Donetsk and Luhansk extended the portions of the territories of those regions that had been seized to include most of the main urban areas. A complete breakdown of law and order ensued, with parallel structures

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<sup>1</sup> The objectives of the Human Rights Monitoring Mission in Ukraine are to monitor the human rights situation in the country and provide regular, accurate and public reports to the High Commissioner on the human rights situation and emerging concerns and risks; to recommend concrete follow-up actions to relevant authorities, the United Nations and the international community on how to address the human rights concerns, prevent human rights violations and mitigate emerging risks; to establish facts and circumstances and conduct a mapping of alleged human rights violations committed in the course of the demonstrations and ensuing violence between November 2013 and February 2014; and to establish facts and circumstances related to potential violations of human rights committed during the course of the deployment.

<sup>2</sup> Referred to by the Government as an “anti-terrorist operation”.



created by the armed groups in an attempt to exercise some form of control over public functions.

11. On 25 May 2014, presidential elections were held in Ukraine; but in most of the districts in the Donetsk and Luhansk regions, citizens were prevented from exercising their right to vote by armed groups of the self-proclaimed Donetsk and Luhansk “people’s republics”. With an escalation in hostilities in urban areas between heavily armed men — including foreign fighters — and law enforcement and security operations undertaken by the Government, violence escalated, leading to grave violations of human rights and international humanitarian law.

12. Following the announcement of a peace plan by the new President of Ukraine, Petro Poroshenko, on 20 June 2014, the Government implemented a 10-day ceasefire, which, however, has reportedly been breached at least 108 times, with casualties among Ukrainian soldiers and civilians. During the months of June, July and August, violence and fighting intensified in the Donetsk and Luhansk regions, including around the city of Mariupol. On 5 September 2014, the Trilateral Contact Group on Ukraine, meeting in Minsk, signed the Minsk Protocol, which included a ceasefire agreement to be implemented immediately and a 12-point peace plan.

## **V. Particular human rights challenges in eastern Ukraine**

13. As documented by the Human Rights Monitoring Mission in Ukraine, the rule of law was replaced by the rule of violence in the Donetsk and Luhansk regions, where the regional governments ceased to function effectively, as did the police and judiciary. Banks were robbed, coal mines were attacked, with many forced to close. Railways were blown up and salaries, pensions and other social welfare payments were stopped in places under the control of the armed groups.

14. Most importantly, the intensification of hostilities led to a dramatic increase in casualties. The sharp increase in civilian casualties over the past month was largely due to the intensified fighting, including the use of heavy weaponry and indiscriminate shelling in densely populated areas. Given the presence of an increasing number of foreign fighters, including citizens of the Russian Federation, who were allegedly “former servicemen” or active duty personnel on “leave”, sophisticated and heavy weaponry — including tanks, artillery and missiles in areas of the Donetsk and Luhansk regions seized by the armed groups —, and the security operations undertaken by the Government, the Human Rights Monitoring Mission in Ukraine registered an average of at least 11 persons killed daily between mid-April and mid-July 2014, and an average of 36 persons per day in the period from 16 July to 17 August 2014. As of 3 September 2014, at least 2,905 people (including 28 children) were estimated to have been killed and 7,640 wounded (not including the 298 victims of the Malaysian Airlines-MH 17 plane crash) since mid-April 2014.

15. In that context, the principles of international humanitarian law in the conduct of hostilities, including the principles of necessity, distinction, proportionality and precaution should be recalled and respected in order to ensure the protection of civilians. There is need for accountability for the crimes committed. Indeed, no matter who the perpetrators or the victims are, every effort must be made to ensure that anyone who has committed serious violations of international law is brought to justice. That is essential in order to overcome divisions and pave the way for reconciliation.

16. Furthermore, the armed groups continued to carry out abductions, physical and psychological torture, ill-treatment and other serious human rights violations. People were abducted for ransom, for forced labour and to be exchanged for fighters held by the Ukrainian authorities. As of the issuance of the present report, the number of people held by

the armed groups, mostly civilians, was estimated at more than 460. The reign of fear and intimidation by the armed groups has been well-documented in the reports of the Human Rights Monitoring Mission in Ukraine. Forced mobilization and threats of the death penalty were additional means to terrorize the population in the territory under the control of the armed groups. The case of Nadiya Savchenko, a former Ukrainian military pilot, allegedly detained and smuggled out of Ukraine by the armed groups and currently being held in pretrial detention in Voronezh in the Russian Federation, remains an issue of concern. She was charged with complicity in the killing of two Russian television journalists on 17 June 2014 near Luhansk. The court in Voronezh has extended her detention until 30 October 2014, and has ordered, reportedly against her will, that she undergo a psychiatric examination in the Serbsky Institute in Moscow.

17. The Human Rights Monitoring Mission in Ukraine received reports of armed groups preventing residents from leaving the regions, including by harassing them at checkpoints — where residents also reported being robbed — and firing at vehicles transporting fleeing civilians, and reportedly using them as human shields. In some places, older persons or persons with disabilities, who either decided to remain or who could not leave, were increasingly vulnerable without regular care and assistance providers. As of 30 July 2014, “safe corridors”, unilaterally established by the Ukrainian forces, have enabled people to leave the cities of Donetsk, Horlivka and Luhansk. Around 7,000 residents of Luhansk reportedly used the safe corridors in the early days of August.

18. The actions by the armed groups and the Ukrainian security operations also led to the destruction of, and damage to, infrastructure and civilian (including residential) structures such as water, communication, electricity and sewage treatment plants, which has caused the shutdown of essential supplies. That has severely impacted on the civilian population. Hospitals and clinics were also targeted and forced to close, with essential medicines and emergency medical services becoming either scarcer or unavailable.

19. Another matter of grave concern was the situation of the most vulnerable persons, including children in institutional care in Donetsk and Luhansk regions. Efforts by the Ukrainian authorities to evacuate the children have been hindered by the armed groups, which have repeatedly illegally transferred institutionalized children to the Russian Federation. Sixty children were abducted from the Luhansk orphanage on 26 July 2014 and eight children with cerebral paralysis were kidnapped from the same facility on 8 August 2014. Prior to that, on 12 June 2014, 16 institutionalized children and two accompanying persons had been abducted by armed representatives of the so-called Donetsk “peoples’ republic” and taken to the Russian Federation. All the children have been returned.

20. One of the most immediate impacts of the armed conflict in eastern Ukraine has been the increase in the number of internally displaced persons. About half the population of Luhansk and one third of the population of Donetsk have fled. There are more than 230,000 registered internally displaced persons from eastern Ukraine, the majority of whom are women and children. However, the actual number of unregistered internally displaced persons may be two to three times higher. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), around 378,000 people crossed the border into the Russian Federation in recent months.

21. Initially, the Government of Ukraine did not immediately react to the growing flood of people fleeing the violence in the eastern Ukraine, but rather relied on volunteers and the goodwill of the local receiving communities. However, as the numbers increased and the lack of coordination, planning and resources became evident, the State Emergency Service stepped in. Nonetheless, many problems remain to be addressed, including the need for a central registry to document internally displaced persons and for the central Government to ease access by internally displaced persons to social and economic rights. In that regard, it is crucial that the draft law on internally displaced persons, currently under review by

Parliament, outline areas where the authorities should be providing basic services, in line with the Guiding Principles on Internal Displacement.<sup>3</sup> Besides stronger Government involvement, international assistance is needed. The temporary conditions in which most of internally displaced persons live in collective centres will not be sustainable for much longer. The situation is further exacerbated by the expected energy shortages in the country, which will likely affect the entire population, but, in particular, disproportionately affect internally displaced persons residing in temporary shelters that are ill-suited for colder temperatures.

22. In early August 2014, the Government of Ukraine regained control of some of the areas that had been seized by the armed groups and managed to restore law and order. In Slovyansk, some 20,000 residents who had fled the fighting have since returned home.<sup>4</sup> Government ministries and volunteer groups began working to restore essential services, clearing away rubble and unexploded ordinance as well as rebuilding damaged areas. All basic services have been restored and residents started receiving social welfare benefits and pensions that had not been paid during May and June 2014 when the city was under the control of the armed groups.

23. The Human Rights Monitoring Mission in Ukraine also received reports of allegations of human rights violations committed by volunteer battalions under the Ministry of Defence or the Ministry of Internal Affairs in the aforementioned areas. Those reports included cases of arbitrary detention, enforced disappearances and torture. Such allegations must be investigated and those responsible held accountable. In addition, the relevant ministries should exercise more control over the volunteer battalions. As at 16 August 2014, the Security Service of Ukraine and the police had reportedly detained more than 1,000 people in the Donbass region, invoking “irrefutable evidence of their participation in terrorist activities”. The procedural rights of those people have not always been observed and there were reports of ill-treatment during arrest or in custody. Particular attention must be paid to ensure the presumption of innocence and that people are not subjected to reprisals.

24. The media, and, at times, lack of professionalism, is playing an increasing role in fuelling conflict, dividing society and causing tensions. The deterioration of the situation has been accompanied by disinformation, incitement to hatred and propaganda, carried out predominantly by the Russian-language media. Foreign and domestic journalists have been threatened, abducted and killed. The Donetsk and Luhansk self-proclaimed “people’s republics” have unlawfully prevented broadcasting of Ukrainian channels in the territory under their control. At the same time, several Russian television channels have been banned by the Ukrainian authorities, following court decisions. It is important to maintain an environment in which the public can benefit from pluralistic information, while calls for hate speech and violence are curbed. In addition, all acts of intimidation against journalists must be condemned and the Government must ensure that all acts of violence are properly investigated.

25. Ukrainians are also likely to be facing more challenges in terms of their economic and social rights because of the impact on their economy of the ongoing situation in eastern Ukraine and in the Autonomous Republic of Crimea.

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<sup>3</sup> Office for the Coordination of Humanitarian Affairs, *Guiding Principles on Internal Displacement*, (Geneva, 2004).

<sup>4</sup> According to UNHCR, since early July 2014.

## **VI. Accountability**

26. The Government must ensure that all allegations of human rights abuses and violations are fully investigated and that all international human rights norms and standards, including the presumption of innocence, due process and judicial guarantees, are strictly adhered to with regard to violations committed by both the armed groups and the Ukrainian military or their volunteer battalions. Perpetrators of serious violations of international law during the conflict must be brought to justice in order to guarantee individual accountability for actions, including in cases of command responsibility.

27. Accountability for the violence in and around Maidan is yet to be achieved. The Prosecutor General launched investigations into 445 cases of unlawful acts against demonstrators, but only two people were sentenced for ill-treatment of a demonstrator, and three members of a special police unit were placed in pretrial detention in connection with the shooting of protesters. No one has been held accountable for the violent dispersal of demonstrators on 30 November 2013. Accountability is still sought for the violence in Odessa on 2 May 2014 between supporters of unity and those supporting the federalization of Ukraine, which resulted in the death of 48 people, mostly supporters of federalization. Two people were detained on murder charges and placed by court order under house arrest. According to the Ministry of Internal Affairs, of the 33 suspects in the 2 May 2014 violence, 12 were in custody and 21 were under house arrest, charged with intentional homicide and mass riots. The suspects included people from the Russian Federation and the Transnistria region of Moldova.

## **VII. Particular human rights challenges in Crimea**

28. In Crimea, the human rights situation has been marked by multiple and continuing violations. The introduction of Russian Federation legislation, in contravention of General Assembly resolution 68/262, hampers the enjoyment of human rights and fundamental freedoms. Numerous legal problems have arisen from the application of Russian Federation legislation and regulations with regard to citizenship, which jeopardize the rights of the residents of this region, in particular those who do not hold Russian citizenship. Residents in Crimea who are known for their “pro-Ukrainian” position face intimidation; many face discrimination, particularly in the areas of education, employment and property rights. Crimean Tatar leaders have been banned from entering Crimea, and Crimean Tatar activists face prosecution and limitations on the enjoyment of their rights. Most residents could not participate in the presidential elections on 25 May 2014 because of the uncertainties and costs associated with travelling, in advance, out of the region in order to be able to vote.

29. Residents of Crimea have seen a deterioration in their rights with regard to freedom of expression, peaceful assembly, association, religion or belief. In addition, no serious attempts have been made to investigate allegations of human rights abuses committed by the so-called Crimean self-defence forces, following the “referendum” in March 2014. As of 1 September 2014, the number of internally displaced persons from Crimea stood at 15,845, according to UNHCR. Furthermore, recommendations addressed to the local authorities and reflected in the OHCHR monthly reports on Crimea have so far been ignored.

30. The situation of four people, including Ukrainian filmmaker, Oleg Sentsov, detained in Crimea in May 2014 on charges of terrorism and transferred to a detention facility of the Russian Federal Security Service (FSB) in Moscow remains unchanged. Representatives of the Ukrainian Consular Office in Moscow have not been allowed to meet with them, under the pretext that the detained men were now citizens of the Russian Federation. Their lawyers have had difficulties accessing their clients and must sign a declaration of non-

disclosure of information obtained during each visit. Mr. Senstov's lawyer was not permitted to take any written statements from his client or to meet with him without the presence of FSB officials.

## VIII. Governance and legislative reforms

31. The Government of Ukraine has made efforts to implement the Geneva Statement.<sup>5</sup> National roundtables on constitutional reform, decentralization, minority rights and the rule of law were held in Kyiv on 14 May 2014, in Kharkiv on 17 May 2014 and in Mykolaiv on 21 May 2014. In Kharkiv, Prime Minister Arseniy Yatsenyuk declared that the Constitution should be amended in order to assign special status to the Russian language and national minority languages.

32. On 27 June 2014, President Petro Poroshenko signed a trade agreement with the European Union that completed the association process. On 2 July 2014, the Government of Ukraine published its proposed amendments to the Constitution, providing for greater regional autonomy and special status for the Russian language. With its attention focused on the situation in the east, the Government has advanced slowly on the needed reforms. On 23 July 2014, the President established the National Reform Council (NRC) to spearhead the national reform process, and on 13 August 2014, a statutory framework for reform was established involving three bodies. The NRC is to prepare a strategic plan for the sustainable development of Ukraine, up to 2020, and ensure coordination of the activities of ministries and government agencies in formulating and implementing reforms. As reforms, laws and state policies are adopted, it is crucial that the process be sufficiently and meaningfully inclusive.

33. Initial steps have been taken to reform law enforcement, however, the reform also needs to address the powers of the Security Service of Ukraine. The legal framework to fight corruption has been improved and the anti-discrimination law has been amended and is closer to international standards. A law seeking to restore trust in the institution of the judiciary been adopted and provides for a vetting procedure; however, concerns remain with regard to due process guarantees. Legal guarantees for an independent judiciary have not been introduced and the reform of the prosecution has not yet progressed. A progressive law, regulating the rights of Ukrainian citizens from Crimea, has been adopted, without compromising freedom of movement or containing discriminatory provisions. However, there is still no law regulating freedom of assembly. While the post of President Commissioner for Crimean Tatar issues has been established, there is still no law on indigenous peoples.

34. In August 2014, several laws were adopted that significantly expand the powers of law-enforcement bodies in relation to the security operation in eastern Ukraine, including laws expanding the powers of the prosecutor and extending the period within which an arrested suspect must be presented before a court from 60 hours to 30 days. Attention is

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<sup>5</sup> The Geneva Statement on Ukraine was issued on 17 April 2014 by representatives of the European Union, the United States of America, Ukraine and the Russian Federation. It sets out the agreed initial concrete steps to de-escalate tensions and restore security for all, as follows: (1) all sides must refrain from any violence, intimidation or provocative actions; (2) all illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public places must be vacated; (3) amnesty will be granted to protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) the announced constitutional process will be inclusive, transparent and accountable, and will be accomplished through a broad national dialogue.

drawn in that respect to the International Covenant on Civil and Political Rights, which requires that anyone arrested or detained on a criminal charge shall be brought before a judge promptly so as to be charged or freed. While acknowledging that security measures might require the adoption of specific provisions limiting certain guarantees, they must, nonetheless, always be consistent with the norms, standards and procedures of international law.

## **IX. Conclusion**

**35. Respect for human rights, good governance and the rule of law are key to peace and security and economic and social development. An environment conducive to the promotion and protection of human rights in Ukraine depends on respect for General Assembly resolution 68/262 on the sovereignty and territorial integrity of Ukraine, the absence of armed conflict and the effective control of the State borders between Ukraine and the Russian Federation.**

**36. As OHCHR has consistently highlighted in its reports, the Government of Ukraine should prioritize addressing systemic and structural issues affecting human rights through institutional reform, with the aim of establishing governance and justice systems that are effective and accountable, promote and protect human rights for all and are non-discriminatory.**

**37. A comprehensive human rights plan, reflecting recommendations from international and regional mechanisms, should become an integral part of the reform agenda of Ukraine, with the sustained support of the international community, regional organizations and the United Nations.**

**38. OHCHR appreciates the good cooperation extended by the Government of Ukraine to the Human Rights Monitoring Mission in Ukraine. The Human Rights Monitoring Mission in Ukraine will continue to monitor and report on the evolving situation, with a view to contributing to an unbiased and accurate assessment of the human rights situation and a stronger and effective national human rights protection system.**

**Annex**

*[English only]*

**Reports by the Office of the United Nations High  
Commissioner for Human Rights on the human rights  
situation in Ukraine from 15 April to 29 August 2014**

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

**Report on the human rights situation in  
Ukraine**

**15 April 2014**



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Annex I: Concept Note for the deployment of the UN human rights monitoring mission in Ukraine

## I. EXECUTIVE SUMMARY

1. During March 2014 ASG Ivan Šimonović visited Ukraine twice, and travelled to Bakhchisaray, Kyiv, Kharkiv, Lviv, Sevastopol and Simferopol, where he met with national and local authorities, Ombudspersons, civil society and other representatives, and victims of alleged human rights abuses. This report is based on his findings, also drawing on the work of the newly established United Nations Human Rights Monitoring Mission in Ukraine (HRMMU).

2. Underlying human rights violations, including lack of accountability for past human rights violations committed by security forces, the lack of independence of the judiciary and a perceived denial of equal rights and protection, including through mismanagement of resources and through corruption, lack of a system of checks and balances and the lack of free elections, were among the root causes of the popular protests that took place throughout Ukraine, and in particular on Independence Square (Maidan) from November 2013 to February 2014. While the protests were initially triggered by the Yanukovich Government's refusal to sign an Association Agreement with the European Union, the excessive use of force by the Berkut special police and other security forces at the end of November initially against largely peaceful protestors on the Maidan led to a significant radicalisation of the protest movement. The violence on 30 November transformed the protests, from demonstrations in favour of signing the EU Association Agreement, to include demands to reform the system of authority and punish those responsible. Serious human rights violations were committed including during the Maidan protests, which resulted in the death of 121 individuals (this number includes 101 Maidan protesters, 17 officers of the internal affairs/police, 2 were members of NGO "Oplot" that attacked the Maidan in Kharkiv and a Crimean Tatar found dead). There have been also numerous reports of torture and ill-treatment of protesters. The Maidan protest movement<sup>1</sup> also revealed historical, but still relevant divisions within Ukrainian society and long-standing grievances with respect to the lack of good governance and the rule of law of previous Governments.

3. Since the Government took power at the end of February 2014, tensions have decreased, along with the allegations of human rights violations. However, some developments could have a detrimental impact if not promptly addressed, especially in light of the presidential elections scheduled for 25 May.

4. For instance, the advocacy of national, racial or religious hatred by some political parties, groups and individuals, that constitutes incitement to discrimination, hostility or violence and nationalistic rhetoric witnessed during the Maidan protests may have an adverse impact on the situation in Ukraine. An attempt by the new ruling coalition in Parliament on 23 February 2014, to repeal the Law on the Principles of State Language Policy, and thus make Ukrainian the sole State language at all levels, was seen as a hostile move against the Russian-speaking minority. Acting President Turchynov however declined to sign and approve the Parliament's decision to repeal the law, on 2 March 2014. The drafting of new language legislation must not be hurried and must include the active involvement of representatives of minorities at the very outset.

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<sup>1</sup> The Maidan protest movement refers to the various groups that participated in demonstrations and centred on Independence (Maidan) square in the centre of the Kyiv. This initially included persons demonstrating for Ukraine to enter the Association Agreement with the European Union, hence the fact that there is often a reference made to "Euro-Maidan". However, over time the movement included a number of other elements, including anti-Government, anti-corruption, far right wing groups and others, some of whom did not necessarily share the same pro-European aspirations.

5. Similarly, in a bid to break away from the past, the Parliament has taken initial steps to adopt legislation regarding a lustration policy that would apply to some public officials affiliated to the previous Government. There are concerns that this law, if adopted, could be used to vet out large numbers of officials. It is essential that any new legislation and policies be adopted through an approach based on the rule of law and human rights, without any spirit of revenge. It is crucial to ensure that human rights violations are not dealt with any form of human rights violations.

6. In Crimea, a number of concerns relating to human rights could be observed before and during the 16 March referendum. On 27 March, the General Assembly in paragraph 5 of resolution 68/262 concluded that the referendum “had no validity”. In addition to this, the presence of paramilitary and so called self-defence groups as well as soldiers in uniform without insignia, widely believed to be from the Russian Federation, was not conducive to an environment in which voters could freely exercise their right to hold opinions and the right to freedom of expression. There have also been credible allegations of harassment, arbitrary arrest, and torture targeting activists and journalists who did not support the referendum. Furthermore, seven persons were reported as missing; the HRMMU is verifying their whereabouts. The situation of the Tatar community is also one that remains somewhat ambiguous following the referendum. While the Tatar community was promised numerous concessions, including Government positions as well as the recognized status as indigenous peoples, the majority of the members of the community chose to boycott the referendum.<sup>2</sup> Statements from authorities in Crimea and officials in the Russian Federation indicate plans to relocate or resettle within Crimea some of those Crimean Tatars who in protest against the slow progress of the restitution of land lost following forced relocation of their land, have occupied land illegally in recent years.

7. In eastern Ukraine, where a large ethnic Russian minority resides, the situation remains particularly tense with ethnic Russians fearing that the central Government does not represent their interests. Although there were some attacks against the ethnic Russian community, these were neither systematic nor widespread. There are also numerous allegations that some participants in the protests and in the clashes of the politically opposing groups, which have already taken at least four lives, are not from the region and that some have come from the Russian Federation.

8. Irrespective of the fact that systemic shortcomings may be only remedied in the longer-term, it will be important to immediately take initial measures to build confidence between the Government and the people, and among the various communities, and reassure all people throughout Ukraine that their main concerns will be addressed.

9. In addition to combatting speech that advocates national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and introducing impartial reporting on the on-going human rights situation, it will be critical to counter the deepening divide in the country by ensuring inclusivity and equal participation of all in public affairs, including political life. In this respect, legislation on minorities, in particular on linguistic rights, should be adopted following full consultation with all those concerned and according to relevant international and regional human rights standards.

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<sup>2</sup> OHCHR was informed by representatives of Crimean Tatars that no more than 1000, out of a population of 290,000-300,000, participated in the 16 March referendum.

10. While the situation requires attention in particular in eastern Ukraine and in Crimea, there are positive changes underway or under reflection. There are, for example, indications of a willingness to ensure a break with past injustices and to elaborate a new vision for Ukraine's future. Strengthening the rule of law, democracy and human rights will be key to any lasting change. Legislative and institutional reforms should be carried out in a comprehensive, transparent and consultative way, and therefore not be rushed. Furthermore, they should be sustained through consistent and accountable implementation.

11. The international community, including the United Nations, can play a role in supporting an environment where the human rights of all, including minorities and indigenous peoples, may be best promoted and protected. In particular, it will be important to ensure that the 25 May elections take place in an environment conducive to free and fair elections. Without an independent, objective and impartial establishment of the facts and circumstances surrounding alleged human rights violations, there is a serious risk of competing narratives being manipulated for political ends, leading to divisiveness and incitement to hatred.

12. Among other means to address these challenges and at the request of the Government of Ukraine, OHCHR established the UN Human Rights Monitoring Mission in Ukraine (HRMMU). This mission became operational on 15 March and will consist of 34 staff, including national staff, deployed in Lviv, Kharkiv, Odesa and Donetsk, and seeks also the presence of a sub-office in Simferopol. In the meantime, HRMMU continues to monitor the situation in Crimea, in accordance with the General Assembly resolution 68/262 of 27 March on the Territorial Integrity of Ukraine.

13. In addition to monitoring the human rights situation, the Office of the United Nations High Commissioner for Human Rights stands ready to provide technical assistance for legislative and other reforms.

## II. INTRODUCTION

### A. Context

14. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has been closely following the human rights situation in Ukraine since November 2013, when mass protests started in Kyiv further to the Government's announcement that it would not sign the Association Agreement with the European Union (EU). These protests subsequently spread to other parts of the country, and by mid-February had escalated into violent clashes between riot police and other security forces and protesters.

15. The excessive use of force by the Berkut special police and other security forces was met with impunity and led to a significant radicalisation of the protest movement. Over time, protest called for the resignation of President Yanukovich and his government, and for overall change. Violence escalated after 16 January 2014, following the adoption of a set of more stringent anti-protest laws. Anti-government demonstrators occupied several government buildings, including the Justice Ministry and the Kyiv City Hall, and demonstrations spread across the western and central parts of Ukraine. The violent clashes that occurred between security forces and protesters from 18 to 20 February, including the actions of snipers, resulted in the death of 121, mostly protesters, but also law enforcement officials. Hundreds of people were injured and had to be hospitalised, and some of them remain in critical condition. According to the General Prosecutor's Office of Ukraine, more than 100 persons remain unaccounted for as at 2 April.

16. On 21 February, President Yanukovich and opposition leaders signed a compromise agreement setting out elections by the end of the year and a return to the 2004 Constitution. On the same day, the Ukrainian Parliament reinstated the 2004 Constitution. After President Yanukovich's departure from Kyiv, on 22 February, the Parliament decided that he had "withdrawn from performing constitutional authorities" and decided to hold presidential elections on 25 May<sup>3</sup>. In the meantime, Parliament elected Mr Oleksandr Turchynov as Speaker and thus acting President of Ukraine. A new Government was formed on 26 February.

17. While a number of domestic and international initiatives were undertaken during the Maidan events, they did not manage to prevent conflict escalation and bloodshed. The departure of former President Yanukovich put an end to the deadly confrontations, but daunting new challenges emerged.

### Events in Crimea

18. Following the dismissal of President Yanukovich at the end of February, unidentified armed men began taking over strategic infrastructures in Crimea. Ukrainian Authorities alleged that the armed men were Russian armed forces and/or allied local paramilitary groups.

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<sup>3</sup> After long discussions mediated by EU foreign representatives, President Yanukovich stated on 21 February that he had reached a deal with the opposition which would "settle the crisis". On 22 February 2014, 328 of 447 members of the Ukrainian parliament (MPs) voted to "remove Viktor Yanukovich from the post of president of Ukraine" on the grounds that he was unable to fulfill his duties<sup>1</sup> and to hold early presidential elections on 25 May. The vote came an hour after Mr. Yanukovich stated in a televised address that he would not resign. He subsequently declared himself as "the legitimate head of the Ukrainian state elected through a free vote by Ukrainian citizens. However, later that day he fled the capital for Kharkiv, then travelled to Crimea, and eventually to southern Russia.

The Russian Government insisted that the forces did not include Russian troops, but only local self-defence groups. As Russia refused to recognize the new Government of Ukraine, but instead recognized the legitimacy of former President Victor Yanukovich, his request for intervention was taken into consideration by the Russian authorities.

19. On 27 February 2014, in a contested situation including the presence of armed persons around its building, the Parliament of the Autonomous Republic of Crimea dismissed the former local government and appointed Mr Sergey Aksyonov as “prime minister”. The same day, it also decided to hold a referendum on 25 May 2014, on the future status of Crimea. The Ukrainian Central Electoral Committee declared this decision as contrary to the Ukrainian Constitution. On 14 March the Constitutional Court of Ukraine ruled that the decision to hold a referendum was unconstitutional. On 15 March the Ukrainian Parliament terminated the powers of the Verkhovna Rada. The date of the referendum was brought forward first to 30 March, and finally to 16 March. At the referendum, voters were asked to choose between two options: firstly, “Do you support the reunification of Crimea with Russia with all the rights of the subject of the Russian Federation?”; or, secondly, “Do you support the restoration of the 1992 Constitution of the Republic of Crimea and the status of the Crimea as part of Ukraine?”. On 11 March, the Supreme Council of Crimea voted to secede from Ukraine.

20. On 1 March, the Federation Council of the Russian Federation (upper chamber of the Russian Parliament) approved a request from President Vladimir Putin permitting the usage of Russian armed forces to protect the Russian speaking population. According to reports, the Russian Federation also started boosting its military presence in Crimea. Unidentified armed men, without military insignias, took control of the administrative border between Crimea and the rest of Ukraine and blocked several Ukrainian military bases. Ukrainian Authorities alleged that the armed men were Russian armed forces and/or allied local paramilitary groups. The Russian Government justified its involvement to be in response to the will of the local population and as an effort to protect ethnic Russians and Russian-speakers in the region.

21. On 5 March 2014, the Shevchenko district court of Kyiv issued arrest warrants for Mr. Sergey Aksyonov and the Chair of the Supreme Council (Crimean Parliament), Vladimir Konstantinov. The Security Service of Ukraine was requested to bring them to court. Ukraine’s new Government also warned the Crimean Parliament that it faced dissolution unless it cancelled the referendum. In response, the authorities in Crimea stated that the new Government in Kyiv came to power illegitimately through a coup d’état. On 11 March, they also closed the airspace over Crimea for flights from the rest of Ukraine. On 15 March, the Ukrainian Parliament took the decision to dissolve the Supreme Council of Crimea.

22. On 16 March, the Supreme Council of Crimea voted to secede from Ukraine, and held a referendum on whether Crimea should join the Russian Federation or remain part of Ukraine with the degree of autonomy it had in 1992. The referendum resulted in a reported turnout of over 81%, where based on reports over 96% of voters supported Crimea joining the Russian Federation. However, the OHCHR delegation received many reports of vote rigging. Ukraine refused to recognize the results of the Crimean referendum, claiming that it was in violation of its Constitution.

23. On 27 March, the UN General Assembly adopted resolution 68/262 upholding the territorial integrity of Ukraine and underscored that the referendum held on 16 March 2014 had no validity. In addition, the resolution’s operative paragraph 4 welcomed the UN and OSCE assistance to Ukraine in protecting the rights of all persons, including minorities.

## **B. Universal and regional human rights instruments ratified by Ukraine**

24. Ukraine is a party to most core international human rights instruments, including: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of all Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the Convention on the Rights of Persons with Disabilities.

25. Ukraine is a party to a number of regional European treaties, including: the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR); Protocol No. 6 to the ECHR concerning the abolition of the death penalty in times of peace; Protocol No. 12 to the ECHR concerning the general prohibition of discrimination; Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances; Framework Convention on the Protection of National Minorities; the European Charter for Regional and Minority Languages; the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment; the Council of Europe Convention on Action against Trafficking in Human Beings.

26. It has not yet become a party to the following instruments: the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.

27. Ukraine has not availed itself of the right of derogation under article 4 of the International Covenant on Civil and Political Rights, and therefore the rights contained therein are fully applicable.

## **C. UN human rights response**

28. In light of the deteriorating situation, it was assessed that the UN can play an important role in deescalating tensions, including through human rights monitoring. Assistant Secretary-General (ASG) Ivan Šimonović, planned to undertake a mission to Ukraine in March, which was requested by the Secretary-General to be moved forward due to the rapid deterioration of the situation. Several high-level UN visits took place from mid-February to mid-March, including respectively, Senior Adviser Robert Serry; Deputy Secretary-General, Jan Eliasson; and Under-Secretary-General for Political Affairs Jeffrey Feltman and the Secretary-General, Ban Ki-Moon. The latter two visits took place at the same time as that of ASG Šimonović.

29. The UN offers a neutral platform and professional expertise which can add significant value to the efforts to ensure that human rights are respected and protected in Ukraine. Independent monitoring and analysis of the human rights situation will outline technical, legal or other assistance needs, which will complement recommendations received by Ukraine from UN human rights mechanisms, and may contribute to addressing the root causes of the violence. These endeavours can and should be undertaken in cooperation with regional organizations, including the OSCE and the Council of Europe.

30. ASG Šimonović mission to Ukraine had the following overall objectives: to assess the human rights situation; to raise the issue of accountability and bring visibility to human rights violations and concerns; to make strong calls for the protection of human rights (including those of minorities); and to place human rights promotion and protection as a critical factor in deterring pre-electoral, electoral and post-electoral violence and possible further violations.

31. ASG Šimonović arrived in Kyiv on 6 March and left on 18 March. The delegation led by the ASG visited Kyiv, Kharkiv, and Lviv. It sought access to Crimea, but was not able to go, as the authorities informed the delegation that they would neither receive the mission nor ensure its security. On 14 March, a second request for access to Crimea was sent to the authorities. They then confirmed their readiness to meet with ASG Šimonović, with a view to discussing measures for human rights protection, which could lead to the de-escalation of tension. In all locations, the ASG and his delegation met with stakeholders from across the cultural, ethnic, linguistic and political spectrum - high-level officials, the Ombudsperson, civil society organizations representing various communities, representatives of regional organizations and the diplomatic community. Information from these meetings as well as documents gathered form the basis for this report. The delegation met and heard accounts from victims of human rights violations committed during the demonstrations in Kyiv and elsewhere. The delegation also met with the UN Country Team (UNCT). On Friday 14 March, ASG Šimonović held a press conference in Kyiv and another through VTC in New York. The same day, he also briefed representatives of the Kyiv diplomatic community on the preliminary findings of his mission. On 19 March 2014, ASG Šimonović briefed the Security Council on his mission.

32. ASG Šimonović undertook a second mission to visit Crimea from 21 to 22 March.

33. In the meantime, OHCHR deployed a Human Rights Monitoring Mission in Ukraine (HRMMU) as of 14 March, upon the invitation of the Government of Ukraine. The objectives of the HRMMU are to: monitor the human rights situation in the country and provide regular, accurate and public reports by the High Commissioner on the human rights situation and emerging concerns and risks; recommend concrete follow-up actions to relevant authorities, the UN and the international community on action to address the human rights concerns, prevent human rights violations and mitigate emerging risks; establish facts and circumstances and conduct a mapping of alleged human rights violations committed in the course of the demonstrations and ensuing violence between November 2013 and February 2014 and to establish facts and circumstances related to potential violations of human rights committed during the course of the deployment.

34. Mr. Armen Harutyunyan was appointed to lead the mission. Nine international staff members are deployed in Ukraine as of early April 2014. The entire team, once fully operational will comprise 34 staff, including national professional staff and 12 drivers. HRMMU is currently deployed in Lviv, Kharkiv, Odesa and Donetsk and it seeks also the presence of a sub-office in Simferopol. In the meantime, HRMMU continues to monitor the situation in Crimea, in a manner consistent with the General Assembly resolution 68/262 of 27 March 2014, on the Territorial Integrity of Ukraine.

#### **D. Methodology**

35. The present report contains preliminary findings on the human rights situation in Ukraine up to 2 April 2014. It is based on the two missions of ASG Ivan Šimonović to Ukraine (from 6 to 18 March and from 21 to 22 March to Crimea) and on the first weeks of



operation of HRMMU. Although information continues to be gathered and verified, the present report with its preliminary findings is being publicly released already now with a view to contributing towards establishing the facts and defusing tensions. Impartial reporting on the human rights situation can help not only to trigger accountability for human rights violations, but it also aims at the prevention of manipulation of information, which serves to create a climate of fear and insecurity and may fuel violence. This is especially important with regard to eastern Ukraine.

36. In accordance with its objectives, HRMMU is gathering and verifying information with regards to particular cases of human rights violations and, more broadly, the overall human rights situation. Information is then assessed and analysed, thus contributing to accountability and reinforcing State responsibility to protect human rights. HRMMU is providing reports on the basis of information verified as credible and from reliable sources, and is advocating for measures to be taken by respective state institutions with a view to providing appropriate remedies. HRMMU is also undertaken in line with the Secretary-General's Rights Up Front Plan of Action, to ensure that the UN is aware of the human rights context and that OHCHR regularly provides analysis of main human rights concerns and risks of violations, and that a UN strategy is developed as necessary to address the situation at country, regional and global levels. The present report, in line with the UN General Assembly resolution on the "Territorial Integrity of Ukraine", underscores also the obligation of authorities in Crimea to ensure the protection of all the rights to which individuals there are entitled within the context of Ukraine's ratified universal and regional human rights instruments.

### **III. UNDERLYING HUMAN RIGHTS VIOLATIONS**

#### **A. Corruption and violations of economic and social rights**

37. Corruption remains one of the most serious problems in Ukraine and has affected all human rights, whether civil, political, economic or social, exacerbated inequalities, eroded public trust in state institutions including the justice system, led to impunity and undermined the rule of law. It may be noted that in 2013, Transparency International ranked Ukraine 144<sup>th</sup> out of 176 countries (the country being ranked first is considered the least corrupt).

38. There has been only patchy implementation of international commitments to tackle corruption made under the UN Convention against Corruption, which entered into force in December 2005 and was ratified by Ukraine four years later. A National Anti-Corruption Strategy for 2012 – 2015 was adopted by presidential decree in October 2011, but there is currently no comprehensive anti-corruption law in Ukraine. The Ministry of Justice informed the OHCHR delegation that a draft law containing provisions applicable to corruption in both the public and private sectors would be presented by the end of March.

39. Corruption has disproportionately affected the poor and the most vulnerable. It impacts negatively on the enjoyment by all of economic and social rights, including the right to health services. Health service allocations make up 3.5% of the country's GDP, which falls well short of the minimum recommended by the WHO (7%). The poorest segment of the population cannot afford costly treatment in a situation where the country has no medical insurance system.

40. The Ministry of Health supports reform of management of medical services to move away from a centralized medical system and enable greater medical self-governance.

Insufficient salaries for employees in the health service have led to emigration of qualified staff. It has also affected professional competency and fed corruption practices, thus leading to inequalities in access to health care.

41. More generally, the socio-economic situation in Ukraine is of concern and constitutes one of the causes of recent events. In its 2008 review of the implementation of the International Covenant on Economic, Social and Cultural Rights in Ukraine, the Committee on Economic, Social and Cultural Rights expressed a number of concerns. In particular, it referred to a finding that 28 per cent of the population reportedly lived below the official poverty line, that the minimum wage does not provide an adequate standard of living, and that unemployment benefits amount to 50 per cent of the minimum subsistence level. It also expressed concern at the inadequate level of social assistance, and that several hundreds of thousands of children below the age of 15 were working in the informal and illegal economy and several thousands of children living in the street.

42. These concerns should constitute priorities for any new Government in Ukraine in the coming months and years. The Ukrainian Authorities must, as a matter of priority, put in place measures to eradicate corruption, while ensuring good governance and the rule of law. In addition, efforts should be made to redress disparities in standards of living and ensure equal access to, and quality of, health, education, employment and social support structures for all, including marginalised communities throughout the country.

#### **B. Lack of accountability for human rights violations and rule of law institutions**

43. The justice system in Ukraine has traditionally been marred by systemic deficiencies, including corruption, lack of independence and a lack of equality of arms between prosecution and defence in criminal proceedings. Other major concerns relate to the excessive use and length of pre-trial detention, numerous reports of cases of torture and ill-treatment, a significant reliance on suspects' confessions during criminal proceedings, insufficient or inadequate legal reasoning in indictments and overall underfunding of the justice system.

44. A new Code of Criminal Procedure (CCP) entered into force in November 2012. The new code responds to some of the major concerns expressed by UN human rights mechanisms (e.g. the UN Human Rights Council, Universal Periodic Review, or the UN Human Rights Committee). It introduces an adversarial system; supports the presumption of innocence, including the need to specify the circumstances suggesting reasonable suspicion that would justify a deprivation of liberty; and provides increased safeguards for timely access of detainees to a lawyer and a doctor. Alternative measures to deprivation of liberty are also provided.

45. A round-table discussion organized in November 2013 by the Ombudsperson's office on the occasion of the first anniversary of the entry into force of the new CCP identified the substantial decrease in the number of pre-trial detentions as a clear achievement since the entry into force of the new code. However, dozens of people who participated in the Maidan demonstrations were arrested and held in police custody and lengthy pre-trial detention, subjected to torture and ill-treatment, and deprived of their right to a fair trial and due process, in violations of the new CCP.

46. Other challenges remain. The provisions of the new CCP are not applied to all cases. Those opened before November 2012 are still processed under the former Code. The lack of

effective implementation of the new CCP provisions and examples of political interference in legal proceedings (“new provisions, old instructions”) also constitute a challenge.

47. According to the current provisions of the Constitution, judges are appointed for an initial period of five years by the President, upon recommendation of the High Council of Justice, based on a proposal from the High Qualifications Commission for Justice. After this five-year probation period, they become eligible for life tenure by Parliament, upon proposal of the High Qualifications Commission. This system opens the possibility for undue influence on the decision-making of judges during their probation period. The role and composition of the High Council of Justice and High Qualifications Commission as currently provided for in the Constitution are also a cause for concern. The Minister of Justice is represented on the High Qualifications Commission and can exercise considerable influence on the appointment of, as well as on disciplinary procedures against, judges. The High Council of Justice is composed of 20 members, the majority of whom have institutional links to the executive branch.

48. It should be noted that the CCP in place until 2012, conferred considerable discretion to the Prosecutor throughout criminal proceedings, including with regard to decisions on pre-trial detention. In addition, the public prosecutor’s multiplicity of roles is also a cause of concern raised by many international human rights mechanisms. Aside from his responsibility to conduct criminal investigations and prosecute persons formally accused, s/he oversees the legality and human rights compliance of those investigations.

49. Complaints and allegations of torture or ill-treatment are examined by the Public Prosecutor’s office which is reluctant to pursue complaints and, through its work on criminal investigations, has very close links with police forces. Article 216 of the new CCP provides for the creation within five years (as of 2012) of a State Bureau of Investigation to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. However, no progress has yet been made towards its creation.

50. In March 2014, the Ukrainian Parliament prioritized the adoption of legislation related to prosecution, anti-corruption and law enforcement reform.

51. The prevalence of impunity for human rights violations perpetrated by law enforcement forces has been an issue for a long time in Ukraine. An overall reform of the security sector needs to be undertaken. In this context, law enforcement officers should receive adequate training with regard to international human rights norms and standards. All acts of torture or ill-treatment should be investigated while also condemned firmly and publicly by the Ukrainian Authorities.

52. There has been a culture of effective impunity in Ukraine for the high level of criminal misconduct, including torture and extortion, often committed by the police in the course of their work. Structural shortcomings, widespread corruption, close functional and other links between prosecutors and police, non-existent or flawed investigations into criminal acts committed by the police, harassment and intimidation of complainants, and the subsequent low level of prosecutions all fuel this lack of accountability for human rights violations. There is a large number of detentions, many of which are not registered. Allegations of torture may not be investigated effectively and promptly and complaints of such violations were generally ignored or dismissed for alleged lack of evidence.

## **IV. HUMAN RIGHTS VIOLATIONS RELATED TO THE MAIDAN PROTESTS**

### **A. Violations of the right to freedom of assembly**

53. There have been notable failures to respect the right to freedom of peaceful assembly in line with international human rights standards since protests started in November 2013. In some cases, local authorities sought to ban or restrict public gatherings through court decisions. On 22 November, the Kyiv district administrative court banned the use of “temporary structures such as tents, kiosks and barriers” from 22 November to 7 January. Local authorities in Odesa applied to a court to ban a demonstration that had attracted several hundred people on 23 November. On 24 November, the court endorsed the ban and the remaining demonstrators were violently dispersed by the police.

54. The Ukrainian Authorities attempted to disperse the demonstration in Kyiv twice, on 30 November and on 11 December, respectively. On 30 November, the Authorities justified the decision to disperse the demonstration by claiming that a New Year tree needed to be erected in the square. On 11 December, the Minister of Interior stated that the decision to remove barricades from the roads surrounding the Maidan was in response to citizens’ complaints that the demonstration was blocking traffic. There have also been reports of individuals having been prevented from attending demonstrations or who were harassed for having done so.

55. While article 39 of the Ukrainian Constitution guarantees freedom of assembly, no post-independence laws regulate it. In the absence of such a law, courts have referred to local authority regulations or to the Decree of the Presidium of the Supreme Soviet of the USSR of 28 July 1988 on the procedure for organizing and holding meetings, rallies, street marches and demonstrations in the USSR.

### **B. Excessive use of force, killings, disappearances, torture and ill-treatment**

56. The first instance of excessive use of force against demonstrators took place in the early hours of 30 November 2013, when 290 riot police officers (known as ‘Berkut’) dispersed Maidan protesters, mainly students and youths. Witness testimony and footage of the incident shows that the riot police used excessive force to clear demonstrators, forced assessed as both indiscriminate and disproportionate, including through chasing and beating demonstrators who ran away. The violence escalated on 1 and 2 December and there were serious clashes in nearby streets between demonstrators and riot police, and an attempt to storm the presidential administration building. At least 50 riot police and hundreds of protestors were injured, and twelve persons detained on charges of “organizing mass disorder”. A third instance of excessive use of force and violent clashes occurred on 10 and 11 December 2013, when the riot police attempted to remove barricades, and left 36 persons hospitalized, including 13 policemen. Violent clashes resumed on 19 January 2014, following the adoption of controversial new laws on 16 January limiting the ability to conduct unsanctioned public demonstrations. Demonstrators, many of whom were linked to the far right wing “Right sector” group, attacked governmental buildings, throwing stones, firecrackers and Molotov cocktails at the police. The response of the police included the use of water cannons, in sub-zero temperatures and live fire, as a result of which five demonstrators were killed.

57. The violence in Kyiv reached its peak between 18 and 20 February 2014, when mass violent clashes took place mainly on Institutskaya Street. During these three days around 90 people were killed, mostly from sniper shots allegedly from rooftops. The new Minister of

Health, Mr. Oleg Musii, indicated to OHCHR that, as chief of the medical services on Maidan, he saw law enforcement officers removing the bodies of individuals who are still unaccounted for. He noted that snipers were aiming to kill (targeting the head and vital organs of the victims) and also depicted cases of police brutality, including beatings of medical staff and preventing medical personnel from attending the wounded. According to information gathered so far, in the period from December 2013 to February 2014, in total 121 people were killed, either as a result of severe beating or gunshots. This number includes 101 Maidan protesters, 17 officers of the internal affairs/police, 2 members of NGO “Oplot” that attacked Maidan in Kharkiv and a Crimean Tatar found dead.

58. Most acts of severe beatings, torture, and other cruel, inhuman or degrading treatment were attributed to the ‘Berkut’ riot police. For example, one demonstrator was stripped naked, roughly pushed around and forced to stand still on the snow in freezing temperatures while a police officer filmed him with a mobile phone. At the same time, there were a number of examples of members of the broad Maidan protest movement around the country taking control of local state administrations and forcing regional governors to sign their applications for resignation letters, while in parallel protesters took over Regional Administration buildings. One example of such actions was from the Right Sector activist Alexander Muzychko, who filmed himself intimidating and physically assaulting the prosecutor of Rivne district on 27 February 2014.<sup>4</sup>

### **C. Accountability and national investigations**

59. The Ukrainian Authorities have committed to shedding light on all cases of excessive use of force and arbitrary killings, including from unidentified snipers, torture, disappearances and other human rights violations that occurred during the Maidan events. There were also cases of abductions by unidentified individuals in or outside hospitals, and persons were later found dead.

60. The newly appointed Prosecutor-General launched investigations into the killings of protesters, including regarding the responsibility of high-ranking officials. An investigation by the Interior Ministry is looking into the fate of persons who disappeared during the protests and cases of abuse of power by law enforcement officials. The OHCHR delegation was informed that a group of 75 victims are included in one single criminal investigation targeting responsibility of former senior officials, including the former President, former Interior Minister and several other officials, while there are also 65 separate cases filed against police for the abuse of power and brutality.

61. While OHCHR was provided with general information about the cases launched by the Office of the Prosecutor-General, it also heard from civil society representatives that some of the victims have not yet been contacted by relevant authorities for investigation purposes. According to NGO sources, there are also concerns regarding the collection and preservation of evidence and forensic examinations which may not have been systematically carried out regarding cases of those killed during recent events. Such examinations would have been essential to help determine criminal responsibility, including with regard to the so-called snipers whose identity and affiliation remains to be clarified. Involvement of international experts can be helpful both in terms of capacity as well as impartiality and credibility. Concerns have been raised by local interlocutors in relation to the fact that the investigation is

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<sup>4</sup> Mr Muzychko died in a police raid in Rivne on 24 March. The exact circumstances will require further investigation.

concentrating exclusively on the issue of persons killed by snipers on 20 February, and that it is not looking into issues related to responsibility for excessive force used on other occasions during the course of demonstrations between November 2013 and January 2014.

## **V. CURRENT OVERALL HUMAN RIGHTS CHALLENGES**

### **A. Protection of minority rights**

62. According to the 2001 census, ethnic Ukrainians constitute about 78 per cent of Ukraine's population, ethnic Russians constitute around 17 per cent, and around 5 per cent belongs to other ethnic groups. While 67 per cent of the population declared Ukrainian as their native language, well over one-third of the population (including many ethnic Ukrainians) speaks Russian in their daily life. Russian is the predominant language of communication in eastern and southern regions of the country, as well as in central Ukraine, including capital Kyiv. As a result, Ukraine is largely a bilingual society, as was confirmed by stakeholders met by the delegation throughout Ukraine. Consequently, nationalistic rhetoric and hate speech may turn the ethno-linguistic diversity into a divide and may have the potential for human rights violations.

63. The diversity of Ukrainian society – as in any society is enriching – and needs to be promoted and protected as a positive factor rather than a divisive one. According to a law adopted in August 2012, any local language spoken by at least a 10% minority could be declared official within the relevant area (oblast, rayon or municipality). Russian was within weeks declared an official language in several southern and eastern oblasts and cities. The 2012 Law also recognised 17 other languages as regional languages.

64. As already noted, Ukraine is a party to the Council of Europe's Framework Convention for the Protection of National Minorities and to the European Charter for Regional or Minority Languages. Both the Advisory Committee on the Framework Convention and the Committee of Experts on the European Charter, while acknowledging progress, have found that there was great scope for improvement regarding the protection of the rights of minorities in Ukraine.

65. In its third opinion released in 2012, for example, the Advisory Committee on the Framework Convention recalled its previous observations on the need to remove legal obstacles to wider representation of national minorities and more effective participation of persons belonging to national minorities in elected bodies. It regretted that the numerous recommendations made by international bodies for the introduction of a regional proportional system based on open lists and multiple regional constituencies, to allow for stronger regional, including minority, representation, had not been taken into account.

66. The OHCHR delegation met with some interlocutors who conveyed a perception that the right of minorities to participate in political life is not fully taken into account. While the *Batkivshchyna* and *Svoboda* parties, currently part of the new majority coalition, are largely affiliated with western Ukraine, the Party of Regions is seen as prevalingly being supported by the population of eastern regions. The composition of the current Cabinet is perceived by some people in eastern and southern Ukraine as not being inclusive, as most of its members come from western Ukraine. According to various reports, a number of high level officials – governors, mayors, and senior police officers – have been replaced by supporters of the new coalition parties, many coming from western Ukraine.

67. A motion of the new ruling coalition in Parliament on 23 February 2014, attempted to repeal the Law on the Principles of State Language Policy, adopted on 3 July 2012, and make Ukrainian the sole State language at all levels. On 2 March, Oleksandr Turchynov, acting President and Chair of the Parliament, declined to sign and approve the Parliament's decision to repeal the law. The 2012 law continues to apply for the time being, but a new law is being prepared. The motion, though never enacted, raised concerns among Russian speakers and other minorities in Ukraine, and was largely considered a mistake. Despite deepening divides between some social groups, there are also civil society actions against it, emphasising the need for tolerance, mutual respect and solidarity. In Lviv, the delegation was heartened by its meeting with Mr. Volodimir Beglov, who had launched a campaign for people across Ukraine to speak Russian for a day in protest against the repeal of the Law on Languages, and in solidarity with Ukraine's Russian-speaking minorities. This individual initiative shows that there is a way forward and that transcending ethnic and linguistic differences is possible in Ukraine.

## **B. The right to freedom of expression, peaceful assembly and the right to information**

68. Demonstrations have continued to take place since early March, in particular in eastern Ukraine. At least four persons were killed as a result of violence that broke out between anti-government protestors and supporters of the Government, who allegedly travelled to Donetsk and Kharkiv from western and central regions of Ukraine. The OHCHR delegation was told by several interlocutors about allegations according to which people were brought in buses and paid to take part in protests and conduct them according to specific scenarios, including causing violent incidents. Some protesters allegedly come from the Russian Federation, according to information received from local authorities and confirmed by the central authorities.

69. Reports have been made of arrests during demonstrations that have taken place during the week starting on 10 March in Donetsk and in Kharkiv<sup>5</sup>. Police moved to clear protests sites and arrested the leader of protests in Donetsk<sup>6</sup>. Since the start of the Maidan protests, and particularly after the beginning of the Crimea crisis, the human right to information needs to be carefully monitored. While the distorted anti-Maidan discourse of the media controlled by the supporters of former President Viktor Yanukovich ended with the latter's dismissal in the end of February, new concerns emerged whereby pro-Maidan politicians or activists would exert pressure on the media to air or voice 'patriotic' discourse. For example, on 18 March 2014, the representative of Svoboda political party MP Igor Myroshnichenko and other Svoboda party members arrived to the National Television Company of Ukraine and intimidated and assaulted its Head Mr Olexander Panteleimonov, forcing him to sign a resignation letter. The Acting Prosecutor General committed to investigating the attack, which was also condemned by the Authorities.

70. The OHCHR delegation was provided with various accounts of events that have been perceived by some interlocutors as indicating attempts to limit freedom of expression. While cases under previous Governments were numerous, recent ones include:

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<sup>5</sup> <http://rus.ozodi.org/archive/news/20140201/11266/11266.html?id=25287436>

<sup>6</sup> [http://obs.in.ua/index.php?option=com\\_content&view=article&id=4859:ukr-world&catid=3:reg-news&Itemid=11](http://obs.in.ua/index.php?option=com_content&view=article&id=4859:ukr-world&catid=3:reg-news&Itemid=11)

- On 13 March, the Pechorski District Court of Kiev placed Mr. Hennady Kernes, Mayor of Kharkiv, under house arrest under three articles of the Criminal Code. However, Mr. Kernes believes that he is a victim of selective justice due to his political views;

- On 10 March, the police arrested Mr. Mikhail Dobkin, former Governor of Kharkiv, allegedly on suspicion of a crime under article 110 (2) of the Criminal Code of Ukraine (“Offence against the territorial integrity and the inviolability of borders of Ukraine, committed by an individual in his capacity as a State official”).

71. The delegation was unable to obtain further clarification on the aforementioned cases, although Mr. M. Dobkin was eventually released. Irrespective of the actual facts of these specific examples, it will be important, in particular in the preparation of the 25 May elections, to ensure free communication of information and ideas about public and political issues between citizens, candidates and elected representatives. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.

72. New restrictions on free access to information came with the beginning of the Crimea crisis. Media monitors indicated a significant raise of propaganda on the television of the Russian Federation, which was building up in parallel to developments in and around Crimea. Cases of hate propaganda were also reported. Dmitri Kiselev, Russian journalist and recently-appointed Deputy General Director of the Russian State Television and Radio Broadcasting Company, while leading news on the TV Channel “Rossiya” has portrayed Ukraine as a “country overrun by violent fascists”, disguising information about Kyiv events, claimed that the Russians in Ukraine are seriously threatened and put in physical danger, thus justifying Crimea's “return” to the Russian Federation. On 6 March, analogue broadcasts of Ukrainian television channels (notably Ukraine's First National Channel, Inter, 1+1, Channel Five etc.) were shut off in Crimea, and the vacated frequencies started broadcasting Russian TV channels. On 12 March, Ukrainian broadcasters blocked three leading television channels – the 1 Channel, NTV and Rossia TV - in Kyiv and other locations in Ukraine. As a result, there are serious concerns that people – both in Russia and Ukraine and especially in Crimea – may be subject to propaganda and misinformation, through widespread misuse of the media, leading to a distortion of the facts. OHCHR shall analyse the recent decision of the Kyiv District Administrative Court to suspend broadcasting by First Channel, Worldwide Network, RTR Planeta, Rossiya 24 and NTV Mir, in line with applicable provisions against advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. During the month of March 2014, in several regions, the authorities have reacted to anti-Government protests and attempts to forcefully take over administrative buildings by detaining perpetrators. In some cases, persons were charged under the Criminal Code article sanctioning offences against the territorial integrity and inviolability of the borders of Ukraine (articles 110). There is concern that this article may sometimes have been used to restrict freedom of speech. On 22 March the local police in Donetsk arrested Mikhail Chumachenko, described as the leader of the “Popular Militia of the Donbas”. Material is reported to have been seized demonstrating Chumachenko’s intention to take over the regional administration building and proclaim himself the ‘people’s governor’. In addition to being charged for attempting to forcefully overthrow the authorities and/or the constitutional order (article 109 of the Criminal Code), he was also charged under article 110.

### **C. Incitement to hatred, discrimination or violence**



73. During its mission, the OHCHR delegation was informed that there had been some cases where members of the Russian minority have been harassed or even attacked, such as in the case of the attack against a member of Parliament. While it seems that these violations are neither widespread nor systemic, the delegation endeavoured to collect information on cases of incitement to intolerance or hatred and related violence against all minorities. It noted the following instances:

- Ukrainian businessman and politician who on 4 March was reportedly detained and beaten by the Crimean police and who allegedly called on the crowds in Independence Square, to “shoot at the heads of Russian citizens who are in Crimea... using snipers”;

- On 10 March, in Luhansk, Mr Oleh Lyashko, Leader of the Radical Party of Ukraine and a member of the Ukrainian Parliament, who is supportive of the new coalition Government, together with a group of armed men, allegedly detained Mr Arsen Klinchayev, member of the Luhansk Regional Council and activist of the Young Guard believed to be a pro-Russian organization. The detention was allegedly accompanied with violence and threats<sup>7</sup>;

- In another alleged incident in early March, Mr. Dmytro Yarosh, leader of the Right Sector<sup>8</sup>, who declared his intention to run for presidency during the upcoming elections on 25 May, posted a call on a Russian-language social network vkontakte.com. He allegedly wrote: “Ukrainians have always supported the liberation struggle of the Chechen and other Caucasian peoples. Now it’s the time for you to support Ukraine... As the Right Sector leader, I urge you to step up the fight. Russia is not as strong as it seems”. The Right Sector later denied that its leader made such statements, explaining that his website had been hacked. According to other reports, Mr. Yarosh also allegedly stated that “non-Ukrainians” should be treated according to principles set forth by Ukrainian nationalist leader Stepan Bandera, although such statements were publicly refuted by Mr Yarosh himself.

74. Only isolated anti-Semitic incidents have been reported before and after the recent period of unrest. In February 2014, a Molotov cocktail was thrown at the synagogue in Zaporizhzhya (central Ukraine)<sup>9</sup>. On 13 March, a Jewish rabbi was attacked by two unidentified young men in the Podol neighbourhood of Kyiv<sup>10</sup>. Another attack was reported in the same neighbourhood in Kyiv on the following day against a Jewish couple<sup>11</sup>. However, when interviewed by an impartial and reliable source representative of the various Jewish communities in Ukraine, it appears that these communities do not feel threatened, as confirmed also by the Association of Jewish Organisations and Communities of Ukraine, publicly in a letter to the President of the Russian Federation on 5 March 2014.

75. On 1 March, OHCHR received information about alleged attacks against Roma in the Kyiv Oblast. On 27 February, a young Roma was beaten up in Pereslav-Khmelnitsk. His attackers accused him of being ‘apolitical and indifferent to the country’s political life’. According to reports, around 15 masked and armed persons raided Roma houses in Korostena,

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<sup>7</sup> <http://news.meta.ua/cluster:35037395-Liashko-v-Luganske-zaderzhal-lidera-prorossiiskoi-organizatsii/>

<sup>8</sup> Right Sector (Ukrainian: Pravyi Sektor) is a Ukrainian nationalist paramilitary collective of several organizations, described as having far right views. The group's membership has been growing and has been estimated to be about 5,000. The group first emerged at the end of November 2013 at the Euromaidan protests in Kiev, as an alliance of far-right Ukrainian nationalist groups.

<sup>9</sup> <http://www.vaadua.org/news/neizvestnyy-kinul-kokteyl-molotova-v-zdanie-sinagogi-v-zaporozhe#sthash.45DHa1qx.dpuf>

<sup>10</sup> <http://112.ua/kriminal/v-podolskom-rayone-kieva-napali-na-ravvina-34122.html>

<sup>11</sup> <http://112.ua/obshchestvo/v-kieve-soversheno-esche-odno-napadenie-na-evreev-34609.html>

on 28 February, allegedly with the same motivation. Roma victims stated that they had called the police for protection, to no avail. Several Roma families have reportedly left town after receiving threats.

76. Recent developments in the eastern part of Ukraine and in Crimea are likely to have an impact on radical groups with possible signs of nationalistic sentiments and rhetoric and therefore need to be closely monitored. The OHCHR delegation heard from various sides about concerns with regard to the “Right Sector”, a right-wing group that expresses paramilitary ambitions and is known for statements which could be considered extremist. Their active participation in the defence of Maidan and suggested increasing popularity are causing concerns for the Russian-speaking minority. While there has been no confirmed evidence of attacks by the “Right Sector”, including any physical harassment, against minorities, there were numerous reports of their violent acts against political opponents, representatives of the former ruling party and their elected officials. The role of the group during the Maidan protests was prominent; they were often in the first line of defence or allegedly leading the attacks against the law enforcement units. Their alleged involvement in violence and killings of some of the law enforcement members should be also investigated. However, according to all accounts heard by the OHCHR delegation, the fear against the “Right Sector” is disproportionate, although parallels have been drawn by some between this group and past right wing nationalistic movements at the time of the Second World War. On 1 April, the Ukrainian Parliament adopted a decision by which all armed groups, including the Right Sector, must disarm.

#### **D. Lustration, judicial and security sector reforms**

77. In a bid to break away from the past, the new Government has taken initial steps to implement a lustration policy that would apply to all public officials. A lustration committee under the Cabinet of Ministers was established in February 2014 but is not yet functioning. The committee in its current form is composed of representatives of civil society and lawyers. The head of the Committee, Mr. Yegor Sobolev, emphasized that a “special act” on the judiciary would be prepared as a priority, with the assistance of Council of Europe experts. The draft law should determine the status of the lustration committee and include provisions to ensure its effective functioning.

78. During discussions with the Vice-Speaker of the Verkhovna Rada, Mr. Ruslan Koshulinskii, he expressed the view that the draft lustration law may also refer to other senior officials, including officials who worked closely with the administration of Mr. Yanukovich, held senior positions in the former Soviet Union and its former Communist Party, and former KGB officials. The Deputy Minister of Justice mentioned during a meeting that the notion of lustration was “too generic” and that specific language would be used to address vetting needs for different categories of state services.

79. All reforms and new policy measures must be taken through an approach based on the rule of law and human rights, without any spirit of revenge. It is crucial to ensure that human rights violations are not addressed with any form of human rights violations. In particular, any lustration measure must be taken fully respecting human rights. This should include: an individualized review process, and that employees subject to a review should be granted a fair hearing, with the burden of proof falling on the reviewing body to establish that a public employee is not suitable to hold office.

## VI. SPECIFIC HUMAN RIGHTS CHALLENGES IN CRIMEA

80. ASG Šimonović visited Crimea on 21 and 22 March and travelled to Bakhchisaray, Sevastopol and Simferopol. The main objectives of the visit, were to: discuss the presence and operation of the UN Human Rights Monitoring Mission's sub-office in Simferopol and, in this context, present Mr. Harutyunyan as the Head of the UNHRMM in Ukraine who will be based in Kyiv; discuss the human rights concerns and allegations collected so far, and inquire about actions undertaken by the authorities to address them; and finally, to discuss measures pertaining to human rights which would contribute to addressing urgent protection concerns and thus also alleviating tensions and leading to the de-escalation of situation in and around Crimea.

81. ASG Šimonović collected first-hand information through meetings with the authorities in Crimea, leaders and members of the Crimean Tatar community, other representatives of civil society and journalists, and Ukrainian military officers and officers without insignia. Additional information has been gathered from a variety of reliable sources, including some through extensive telephone and Skype discussions.

82. The political aspects of recent developments in Crimea are beyond the scope of the assessment of this report. At the same time, however, these developments have a direct impact on the enjoyment of human rights by all people in Crimea. The delegation met with sources, who claimed that there had been alleged cases of non-Ukrainian citizens participating in the referendum, as well as individuals voting numerous times in different locations.

83. Preliminary findings, based on publicly available information as well as reports from civil society representatives in Crimea, suggest that the referendum of 16 March raised a number of concerns in terms of respect for human rights standards. Such concerns relate to the free communication of information and ideas about public and political issues. This implies a free press and other media are able to comment on public issues without censorship or restraint and to inform public opinion. A local Ukrainian journalist reportedly received threats through posters, which were disseminated near his place of residence. According to other reports, people in Crimea had limited access to information during the week prior to the referendum. According to some reports, Ukrainian TV channels were blocked since 10 March.

84. For the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the International Covenant on Civil and Political Rights, it is necessary to ensure, *inter alia*, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign and to advertise political ideas. Bloggers and local civil society representatives reported cases of human rights violations regarding journalists and civil society representatives who were perceived to be against the referendum.

85. Reports included a number of cases of abduction, unlawful arrest and detention by unidentified armed groups, harassment, and violence against peaceful demonstrators. Some activists and journalists were arbitrarily detained or disappeared. According to information provided by civil society groups, seven persons were known to have gone missing. Some previously considered missing were later released but found to have been subjected to torture or other ill-treatment. Some victims were kept in the Military Drafting Center (Voenkomat) in Simferopol. For example, on 9 March, two persons – Mr. Andrei Schekun and Mr. Kovalski – were allegedly kidnapped and later released on the administrative border with Kherson Oblast – with signs of ill-treatment or torture. However, the media reported soon after the referendum about the disappearance of a Crimean Tatar, Mr Reshat Ametov, who had been

missing for several days. Reportedly, he was taken away by uniformed men. Mr. Ametov's body was found on 16 March in the village of Zemlyanichne, in the Belogoski district of Crimea, with alleged signs of torture, hand-cuffed and with adhesive tape over his mouth. The HRMMU is verifying the whereabouts of all those who went missing.

86. The presence of paramilitary and so called self-defence groups as well as soldiers without insignia, widely believed to be from the Russian Federation, was also not conducive to an environment in which the will of the voters could be exercised freely. According to reports, some individuals had their documents/ passports taken away before the poll by unidentified militias, and searches and identity checks were conducted by unauthorised or unidentified people, in the presence of regular police forces<sup>12</sup>.

87. The ASG was assured that the authorities in Crimea will conduct thorough investigations of all human rights violations. These investigations should also cover crimes and human rights abuses allegedly committed by members of self-defence units. All cases of abductions and forced disappearances, arbitrary detentions, torture and ill-treatment, reportedly by so-called self-defense militia and disbanded Berkut, should be fully and impartially investigated and the results of these investigations made public. The authorities in Crimea should react promptly to any similar violations that may occur in future and decisively condemn them.

88. The protection of the rights of Crimean Tatars regarding restitution of property, including land or compensation for its loss related to their deportation from Crimea during times of USSR has been a concern since their return after the independence of Ukraine. Recent events have led to a renewed sense of uncertainty among Tatar representatives. According to Mr. Refat Chubarov, chairman of the Mejlis of Crimean Tatars, and other civil society actors in Crimea, there are reports of unidentified uniformed men claiming rights on properties and land. Several statements from the authorities in Crimea and officials in the Russian Federation, indicate plans to relocate or resettle within Crimea some of those Crimean Tatars who have occupied land illegally in recent years while waiting for their land to be returned. The authorities in Crimea have assured the Crimean Tatars that their rights would be protected, including through positive measures such as quotas in the executive and legislative organs. However, Crimean Tatar representatives have expressed reservations regarding the reality of these assurances. In addition to land squatting issues, concerns were also raised with regard to recent statements by some authorities that certain land segments will be alienated for public purposes.

89. It is widely assessed that Russian-speakers have not been subject to threats in Crimea. Concerns regarding discrimination and violence were expressed by some ethnic Ukrainians members of minorities, and especially Tatars, as indigenous peoples. In a meeting with authorities in Crimea these concerns regarding inter-ethnic tensions were dismissed, assuring that ethnic Russians, ethnic Ukrainians and Crimean Tatars and other minorities receive sufficient protection, with their three languages recognized as official languages. Despite this, Tatars largely boycotted the referendum and remain very concerned about their future treatment and prospects. Although there was no evidence of harassment or attacks on ethnic Russians ahead of the referendum, there was widespread fear for their physical security. Photographs of the Maidan protests, greatly exaggerated stories of harassment of ethnic Russians by Ukrainian nationalist extremists, and misinformed reports of them coming armed

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<sup>12</sup> There are numerous reports about the searches by the self-defense groups (sometimes in the presence of uniformed police) of the personal belongings of people arriving by train to Simferopol or by car travelling from the mainland.

to persecute ethnic Russians in Crimea, were systematically used to create a climate of fear and insecurity that reflected on support to integration of Crimea into the Russian Federation.

90. During the ASG's visit to Crimea, the situation of the remaining Ukrainian military personnel in Sevastopol and Bakhchisaray was discussed. The authorities in Crimea confirmed that although there were some complaints of the previous period, the blocked garrisons had sufficient food and access to healthcare, though some experienced shortages in drinking water. The reported pressure on them and their families had allegedly decreased. Some officers and soldiers with whom the delegation was able to meet stressed their fear of being accused of defection or desertion and being criminally prosecuted upon return to mainland Ukraine.

91. Notwithstanding the adoption of General Assembly resolution 68/262 on the Territorial Integrity of Ukraine, there are a number of measures taken in Crimea that are deeply concerning in terms of human rights. For example, measures such as the introduction of Russian citizenship, making it difficult for those who opt to maintain their Ukrainian citizenship to stay in Crimea, give rise to issues of legal residency and loss of related social and economic rights, including the right to work. The current situation also raises concerns with regard to land and property ownership, wages and pensions, health service, labour rights, education and access to justice. In particular, civil society representatives have drawn attention to the difficulties arising from the location of the central property register in Kyiv and the severing of communication between the local administration and the administration based in Kyiv. The authorities in Crimea indicated during discussions that human rights will be fully respected, including those pertaining to citizenship and property rights.

92. The overall climate of uncertainty, including human rights and protection concerns, has led some people, predominantly Tatars and ethnic Ukrainians, to leave Crimea. For example, in the Lviv region alone, the local authorities and private citizens have already accommodated some 639 Crimeans, among them a majority being Crimean Tatars who have left and gone to the Lviv region; others have left for Turkey. The number of Crimean Tatars currently displaced is estimated to have reached 3000.

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

### **A. Conclusions**

93. There is an urgent need to ensure full respect for the rule of law and human rights in Ukraine in order to guarantee the enjoyment of human rights for all, including minorities, while also contributing to de-escalate tensions in eastern Ukraine and Crimea. In doing so, it is proposed that immediate recommendations on overcoming human rights challenges be implemented as a matter of priority. However, underlying human rights violations that are among the root causes of the protests and continue to negatively impact on the situation must also be addressed in the long-term. It is important that the Government demonstrates commitment and pursues a public and inclusive debate on necessary legal and policy reforms, and where possible, takes concrete steps towards the implementation of some of the long-term recommendations, as outlined in this report.

94. As a matter of priority for the Government during this crucial period, is to immediately address possible instances of speech that advocates national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence in order to de-escalate tensions and ensure an environment that is conducive to the holding of free and fair elections. Political leaders should be encouraged to send messages of inclusiveness and counter hate speech and

other manifestations of extremism. That will play an important role in promoting a culture of tolerance and respect. Any public statements that incite national, racial or religious hatred should be unequivocally condemned, promptly investigated and adequately sanctioned, to ensure that such discourse is not condoned in society.

95. During this sensitive period for the country, the protection of minority rights is clearly both a human rights imperative and key to conflict prevention. In the current context, the adoption of measures to reassure all members of minorities regarding respect for their right to equal participation in public affairs and public life is urgently needed. The conduct of public affairs covers all aspects of public administration, as well as the formulation and implementation of policy at international, national, regional and local levels. Therefore, a mechanism should be put in place to ensure full consultation of minorities, including numerically smaller minorities, in decision-making processes at the central, regional, and local levels,

96. Violations related to the Maidan protests should be investigated and addressed in order to ensure accountability of perpetrators. In light of numerous attacks against journalists during the Maidan demonstrations, and ahead of the referendum in Crimea, measures should be taken to ensure that their right to security of the person, as well as freedom of expression are protected and promoted. The Government should send out a strong public message in this regard. It should clearly inform that all acts of aggression, threats and intimidation against journalists and other media professionals, as well as human rights defenders, will be immediately investigated, prosecuted and punished. Journalists and human rights defenders, who are victims of such acts, should be provided with adequate remedies.

97. With respect to Crimea, it will be important for the authorities in Crimea to both publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions. It is crucial that the cases of missing persons are resolved, and that access to places of detention is granted, including the Military Drafting Center (Voenkomat) in Simferopol, to all international organisations requesting it. The protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars, must be assured.

98. The actions carried out by members of paramilitary groups in Crimea, raise serious concerns. The rule of law should be urgently restored in Crimea and security of all individuals and public order ensured. Permitting unregulated forces to carry out abusive security operations violates that obligation and basic respect for human rights. The authorities in Crimea should immediately disarm and disband all paramilitary units operating outside of the law, protect people from their illegal actions, and ensure that all law enforcement activities are carried out by the police. The authorities should ensure that any self-defence units that are created operate in accordance with the law and that the public is aware of the units' chain of command structure and accountability mechanisms. The authorities in Crimea confirmed their intention to disarm and disband all armed groups (including self-defense groups).

99. Independent and impartial monitoring and reporting of the human rights situation in Crimea would deter violations, stimulate accountability and prevent the spreading of rumours and political manipulations. Mr. Rustam Timirgaliev was informed on the structure and the mandate of the envisaged UN Human Rights Monitoring presence and had promised to revert. However, in the meantime, the Russian Federation communicated through diplomatic

channels that any UN human rights presence should be discussed with it and that it does not support the deployment of human rights monitors in Crimea. Nonetheless, UN HRMMU will continue to seek the presence of a sub-office in Crimea, in consultation with the Government of Ukraine and various interlocutors in Crimea, and continue to monitor the human rights situation from outside the Autonomous Republic of Crimea.

100. There is also serious concern about violations of the civil and political rights of the inhabitants of Crimea, in particular with regard to those who oppose recent events. Recent events also create major concerns of effective statelessness, as well as concerns of the loss of rights of those who wish to be considered citizens of Ukraine.

101. Underlying human rights violations by previous Governments were among the root causes of the popular demonstrations that took place throughout Ukraine and in particular in the centre of Kyiv on Maidan from November 2013 to February 2014. There are now clear indications of a willingness by the present Government to ensure a break with past injustices and to elaborate a new vision for Ukraine's future. Strengthening the rule of law, democracy and human rights will be key to any lasting change and to avoid any spirit of revenge. Legislative and institutional reforms should be carried out in a comprehensive, transparent and consultative way, and therefore not be rushed. Furthermore, they should be sustained through consistent and accountable implementation.

102. A number of priority human rights concerns and corresponding reforms need to be addressed in the short, medium and long term. Irrespective of the fact that systemic shortcomings may be only remedied in the medium and long-term, it will be important to pave the way immediately through a series of initial measures that will build confidence and reassure all people, including minorities, that their concerns will be addressed.

103. The international community and the UN in particular, can and should play a role in supporting an environment where the human rights of all, including minorities and indigenous peoples, can be best promoted and protected. Without an independent and objective establishment of the facts and circumstances surrounding alleged human rights violations, there is a serious risk of competing narratives being manipulated for political ends and leading to divisiveness and incitement to hatred.

104. In this context, OHCHR engagement and provision of information and analysis of the human rights situation through the UN Human Rights Monitoring Mission on the ground will allow the UN to undertake further steps to respond to the situation in Ukraine in line with the Secretary-General's Rights Up Front approach. In providing an impartial and authoritative human rights assessments, it can contribute to establishing the facts, de-escalating tensions, and paving the way for an environment that is conducive to the holding of free and fair elections. OHCHR is ready to assist in the implementation of the recommendations contained in this report.

## **B. Recommendations**

### **To the Government of Ukraine:**

#### **(i) Recommendations for immediate action**

##### Accountability and the rule of law

1. Ensure accountability for all human rights violations committed during the period of unrest, through securing of evidence and thorough, independent, effective and impartial investigations, prosecutions and adequate sanctions of all those responsible for these violations; ensure remedies and adequate reparations for victims.
2. Ensure that any lustration initiatives are pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.

##### Inclusivity, equal political participation and rights of minorities

3. Ensure inclusivity and equal participation of all in public affairs and political life, including members of all minorities and indigenous peoples and establish a mechanism to facilitate their participation.
4. Ensure that legislation on minorities, in particular on linguistic rights, is adopted following full consultation of all minorities concerned and according to relevant international and regional human rights standards.

##### Freedom of expression and peaceful assembly

5. Ensure the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the International Covenant on Civil and Political Rights. A conducive environment to the forthcoming elections will also require the Freedom of expression, assembly and association, which are essential conditions for the effective exercise of the right to vote and must be fully protected. This includes: freedom to engage in political activity individually or through political parties and other organizations; freedom to debate public affairs; to hold peaceful demonstrations and meetings; to criticize and oppose; to publish political material; to campaign for election; and to advertise political ideas.
6. Ensure freedom of expression for all and take all measures that will ensure the safety of journalists, media professionals and human rights defenders so that they are able to play their full role in the run-up to elections, in shaping the future of their country.
7. Adopt legislation and other measures needed to ensure the right to peaceful assembly in compliance with the requirements of article 21 of the International Covenant on Civil and Political Rights. In particular, ensure that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management of peaceful assemblies.
8. Prevent media manipulation by ensuring the dissemination of timely and accurate information. Take action against deliberate manipulation of information, in compliance



with international standards of freedom of expression and in full respect of due process guarantees.

#### Combatting hate speech

9. Combat intolerance and extremism and take all measures needed to prevent advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and punish such incitement or acts of violence, which is of fundamental importance. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.
10. Take resolute steps to prevent negative stereotyping of minority communities in the media, while fully respecting the freedom of the press. Efforts to train media professionals must be increased, including by further promoting the visibility and effectiveness of the work of the national union of journalists in this regard.

#### Corruption

11. Put in place, as a matter of priority, all legislative and policy measures needed to effectively eradicate corruption.

#### Cooperation with HRMMU

12. Closely cooperate with the HRMMU and act upon its recommendations and steps needed to provide protection for persons at risk.

#### To the authorities in Crimea:

13. Publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions.
14. Actively resolve cases of missing persons, and grant access to places of detention, including the military facilities and offices in Simferopol and Sevastopol, to all international organisations requesting it.
15. Act to re-establish the rule of law, including by the effective disbandment of any and all 'self-defence forces' and/or para-military groups.
16. Take all measures to ensure that the human rights of Ukrainian soldiers based in Crimea are also fully respected.
17. Take all needed measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to access to citizenship, right of residence, labour rights, property and land rights, access to health and education.

18. Investigate all allegations of hate speech and media manipulation, and take appropriate measures to prevent them and take appropriate sanctions while fully ensuring and strengthening freedom of expression.
19. Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.
20. Grant access to independent and impartial human rights monitors, including by OHCHR.

**(ii) Long-term recommendations:**

Engagement with the international human rights system

- 21.. Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.
22. Ratify international human rights instruments to which Ukraine is not yet party. These include, the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.
23. Implement recommendations of international human rights mechanisms. The recommendations and concerns expressed in the past few years by several human rights mechanisms continue to be of relevance and should be taken into account by the authorities when considering various reforms that will greatly impact on the protection of human rights for all people in Ukraine:
  - a. In particular, the UN Human Rights Committee issued several important recommendations in July 2013 when it considered the latest periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights;
  - b. The recommendations adopted by the UN Human Rights Council following the Universal Periodic Review of the human rights situation in Ukraine in October 2012 should also be taken into consideration.
  - c. The report of the UN Sub-Committee on the Prevention of Torture following its visit to Ukraine in 2011 should be made public immediately and taken into consideration by the authorities when considering issues related to torture, ill-treatment, and detention related matters.
  - d. Ukraine has issued a standing invitation to special procedures. It should accommodate requests for such visits.
  - e. Encourage the development of a national human rights action plan, with clear timelines and benchmarks, addressing every recommendation resulting from the international and regional HR systems to be implemented within a certain time-frame - with the support of the international community, regional and bilateral actors, and the UN system.

Legislative and policy reforms:

24. Reform the administration of justice system so that it functions independently, impartially and effectively; reform the security sector so as to ensure that it functions in full respect of international norms and standards; provide for full accountability for human rights violations.
25. Strengthen rule of law institutions so that they fully comply with relevant international and regional human rights norms and recommendations of human rights mechanisms.
26. Review legislation and policies applicable to the management of peaceful assemblies, and if necessary, modify them to ensure their compliance with human rights standards. In particular, these should specify that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management. In this regard, particular attention should be paid to the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
27. Ensure that such policies, practices and instructions are observed through rigorous training for the personnel involved. In particular, effective internal oversight mechanisms must be put in place in order to review all incidents of injury or loss of life resulting from the use of force by law enforcement personnel as well as all cases of use of firearms during duty.
28. Ensure the institutional independence of the State Bureau of Investigation, under Article 216 of the new CCP, which provides for its creation within five years (as of 2012) to enable it to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. It will be very important to ensure that this new body is independent from the Prosecutor's Office. Public accountability and sufficient resourcing is essential to enable it to function effectively, promptly, independently and impartially.

Economic and social rights:

29. Take concrete steps to redress disparities in standards of living and equal access to and quality of health, education, employment, and social support structures for all, including marginalised communities throughout the country.

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

**Report on the human rights situation in Ukraine  
15 May 2014**

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## I. EXECUTIVE SUMMARY

1. The present report is based on the findings of the United Nations (UN) Human Rights Monitoring Mission in Ukraine (HRMMU)<sup>13</sup> covering the period of 2 April - 6 May 2014. It follows the first report on the human rights situation in Ukraine released by the Office of the UN High Commissioner for Human Rights (OHCHR) on 15 April 2014.
2. Since the issuance of the first report, the HRMMU has noted the following steps undertaken by the Government of Ukraine to implement some of the recommendations from the report. These include: the drafting of legislation on peaceful assembly; and the development of a policy to prevent the negative stereotyping of minority communities in the media.
3. The HRMMU also notes the ongoing investigation by the Office of the General Prosecutor into the gross human rights violations that were committed during the violent Maidan clashes between November 2013 and February 2014 that resulted in the killing of protesters and police, as well as allegations of torture and reports of missing persons. These investigations need to be completed in a timely, independent, effective and impartial manner to ensure accountability and justice for all, both victims and alleged perpetrators; the process and the results of these investigations must be transparent.
4. OHCHR appreciates that the Government of Ukraine has welcomed the HRMMU, offering open and constructive cooperation. It has been forthright in providing information and discussing with the HRMMU human rights concerns: right to life, liberty and security of person, the freedoms of movement, peaceful assembly, expression and association, as well as right to fair trial and equal access to justice without discrimination and the protection of the rights of all minorities.
5. The main findings and conclusions for the period covered by this report are:
  - i. The Government of Ukraine is taking steps to implement the provisions of the Geneva Agreement concluded on 17 April 2014.<sup>14</sup> On the same day, the Cabinet of Ministers of Ukraine issued an Order "On the organization of the discussion of amendments to the provisions of the Constitution of Ukraine on decentralization of State power". On 18 April, a parliamentary coalition suggested to all political parties represented in the parliament to sign a memorandum of understanding regarding ways to resolve the

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<sup>13</sup> Concept note on the HRMMU is attached.

<sup>14</sup> The Geneva meeting took place on 17 April 2014. As the result of the negotiations between the representatives of Ukraine, EU, USA and Russian Federation in Geneva on 17 April 2014, an agreement was reached on initial concrete steps to de-escalate tensions and restore security for all: (1) All sides must refrain from any violence, intimidation or provocative actions; (2) All illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public offices must be vacated; (3) Amnesty granted to the protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) The announced constitutional process will be inclusive, transparent and accountable carried out through a broad national dialogue.

situation in eastern Ukraine. According to acting President and Speaker of Parliament Turchynov, the initiative was not supported by members of the opposition. On 22 April, the draft law “On prevention of harassment and punishment of persons in relation to the events that took place during mass actions of civil resistance that began on 22 February 2014” was registered in Parliament.

- ii. Armed groups continue to illegally seize and occupy public and administrative buildings in cities and towns of the eastern regions and proclaim “self-declared regions”. Leaders and members of these armed groups commit an increasing number of human rights abuses, such as abductions, harassment, unlawful detentions, in particular of journalists. This is leading to a breakdown in law and order and a climate of intimidation and harassment.
- iii. In the aftermath of the 16 March unlawful “referendum”<sup>15</sup> in the Autonomous Republic of Crimea, Ukraine, there are increasing reports of residents being affected by the changing institutional and legal framework. Human rights concerns relate to citizenship, property and labour rights, access to health and education. Of concern to the HRMMU, are the increasing reports of on-going harassment towards Crimean Tatars, and other residents who did not support the “referendum”. The reported cases of Crimean Tatars facing obstruction to their freedom of movement, as well as the recent attack on the building of the parliament of the Crimean Tatar people are worrying developments. Legislation of the Russian Federation is now being enforced in Crimea, in contradiction with UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”. In addition, its differences with Ukrainian laws will have a significant impact on human rights, posing in particular limitations on the freedoms of expression, peaceful assembly, association and religion.
- iv. The Government of Ukraine needs to carry out a prompt, transparent and comprehensive investigation into the violent events in Odesa and ensure that the perpetrators are brought to justice in a timely and impartial manner. The impact of the 2 May violence in Odesa has hardened the resolve of many, and strengthened the rhetoric of hatred. In its aftermath, a call was made for mobilisation to join local armed groups in the eastern regions of Donetsk and Luhansk. Referenda on the “recognition” of the so-called “Donetsk People’s Republic and “Luhansk People’s Republic” were planned in both regions for 11 May.
- v. Many peaceful demonstrations have been observed by the HRMMU in the country. A tendency has been observed for a peaceful protest to suddenly turn into a violent confrontation. Increasingly the result of such violent acts and confrontation leads to numerous deaths and injuries. All too often, the police appear unable to guarantee the security of participants, and ensure law and order. Peaceful assemblies must be

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<sup>15</sup> UN General Assembly Resolution 68/262 on the territorial integrity of Ukraine, OP 5: “*Underscores* that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol”.

permitted, both as a matter of international law and as a way for people to express their opinion. Policing should facilitate such assemblies, ensuring the protection of participants, irrespective of their political views.

- vi. In eastern Ukraine, freedom of expression is under particular attack through the harassment of, and threats to, journalists and media outlets. The increasing prevalence of hate speech is further fuelling tensions. Both these factors are deepening divisions between communities and exacerbating the crisis. All parties must take immediate steps to avoid incitement and radicalisation.
- vii. Campaigning for the 25 May Presidential elections is well underway. Some candidates report arbitrary restrictions, conflicts and incidents, which impacts and curtails their ability to campaign with voters. Transparent, fair and democratic Presidential elections on 25 May are an important factor in contributing towards the de-escalation of tensions and restoration of law and order.

## **II. METHODOLOGY**

6. The report on the human rights situation in Ukraine was prepared by the HRMMU and covers the period from 2 April to 6 May 2014.

7. This report is prepared pursuant to the objectives of the HRMMU as set out in the concept note (see annex), and in line with UN General Assembly Resolution 68/262, entitled “Territorial integrity of Ukraine”, as adopted on 27 March 2014.

8. During the reporting period, the HRMMU has continued to operate from a main office in Kyiv, with sub-offices in Donetsk, Kharkiv, Lviv and Odesa (which also covers Crimea) with the same staff capacity (34).

9. The HRMMU coordinates and cooperates with various partners in Ukraine, in particular the UN Country Team (UNCT) and the OSCE Special Monitoring Mission (SMM) to Ukraine.

10. The HRMMU monitors reports of human rights violations by conducting on-site visits (where access and security allow), carrying out interviews, gathering and analysing all relevant information. The HRMMU exercises due diligence to corroborate and cross-check information from as wide a range of sources as possible, including accounts of victims and witnesses of human rights violations, state actors, the regional authorities, local communities, representatives of groups with diverse political views, the Ombudsman Institution, civil society organisations, human rights defenders, regional organisations, UN agencies and the diplomatic community. The HRMMU also collects information through secondary sources, such as media reports and information gathered by third parties. Wherever possible, the HRMMU ensure that its analysis is based on the primary accounts of victims and/or witnesses of the incident and on-site visits. On some occasions, primarily due to security-related constraints affecting access, this is not possible. In such instances, the HRMMU relies on



information gathered through reliable networks, again through as wide a range of sources as possible that are evaluated for credibility and reliability.

11. Where the HRMMU is not satisfied with the corroboration of information concerning an incident, it will not be reported. Where information is unclear, the HRMMU will not report on the incident and conclusions will not be drawn until the information obtained has been verified.

12. The cases presented in the report do not constitute an exhaustive list of all cases being monitored by the HRMMU but are rather considered emblematic of current human rights concerns, pointing to existing or emerging trends and patterns of human rights violations. The HRMMU works through an electronic database to support its analysis of cases and reporting.

### **III. INVESTIGATIONS INTO HUMAN RIGHTS VIOLATIONS RELATED TO THE MAIDAN PROTESTS**

*Amnesty for those responsible for ordering the violent crackdown on Maidan protesters on 29 - 30 November 2013 to be reviewed*

13. On 2 April, the Kyiv City Appeal Court cancelled, and sent back for further review, the decision of the Pecherskyi District Court on the amnesty for persons, responsible for ordering the violent crackdown and dispersal of demonstrators by the riot police "Berkut"<sup>16</sup> on the night of 30 November 2013. This was the first instance of excessive use of force against peaceful demonstrators during the Maidan demonstrations. At least 90 persons were injured; 35 protesters were detained and later released. This violent incident is widely viewed as triggering further Maidan protests. A new hearing is scheduled at the Pecherskyi District Court on 14 May.

*Criminal proceedings into the killings of 19-21 January and 18-20 February 2014*

14. Following the violent clashes on 1-2 December and 10-11 December 2013, and the clashes and killings of demonstrators that took place on 19-21 January, violence in Kyiv reached its peak 18 and 20 February. More than 120 people (three of them women) were killed and hundreds were injured – demonstrators and police officers. Some died later in hospital from their injuries.

15. The HRMMU has been following the two separate criminal proceedings opened by the Office of the General Prosecutor: one for the killing of demonstrators and one for the killing of police officers.<sup>17</sup>

16. The Office of the General Prosecutor has opened a criminal investigation based on Articles 115 (Murder), 121 (Intended grievous bodily injury) and 194 (Wilful destruction or damage of property) of the Criminal Code. This is looking at the killing of protesters (75

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<sup>16</sup> The "Berkut" unit was the Special Forces within the Ministry of Interior. On 25 February 2014, Minister of Interior Arsen Avakov signed a decree dissolving the unit.

<sup>17</sup> As of 6 May, criminal proceedings were underway, with no further details available.

persons) and injuries caused by the use of firearms between 19 January to 20 February on Hrushevskoho and Instytutska streets.

17. According to the preliminary investigation, the Berkut special unit killed 46 persons during the protests. As of 24 April 2014, three Berkut officers were arrested and officially charged with murder (article 115). Information received by the HRMMU from the Office of the Prosecutor General suggests that additional Berkut officers are under investigation.

18. The Investigative Department of the Office of the General Prosecutor continues to investigate the excessive use of force and degrading treatment by law enforcement officials against Maidan activist Mr. Havryliuk, who was stripped naked, roughly pushed around and forced to stand still in the snow in freezing temperatures while a police officer filmed him with a mobile phone. In this case, a serviceman of the internal troops of the Ministry of Interior is under suspicion based on article 365 (Excess of authority or official powers) of the Criminal Code.

19. The Office of the General Prosecutor informed the HRMMU that it is verifying claims that foreigners participated in the above-mentioned crimes, particularly in the targeted killings in February. In January-February, a number of attacks, abductions, severe beatings and killings of Maidan activists, as well as arson of cars belonging to the Auto-Maidan were committed by the so-called “titushky”, also referred to as an “Anti-Maidan” group. This includes the attack against the journalist Viacheslav Veremiy, who was beaten and shot on the night of 18 February and died in hospital on 19 February. In this case, three suspects are wanted by the Office of the General Prosecutor in the context of an investigation into the activities of the criminal group – one is arrested, while two remained at large.

*Request to the International Criminal Court to investigate the Maidan violence*

20. On 9 April, the Government of Ukraine submitted a request to the International Criminal Court (ICC) to investigate the events that occurred on Maidan from 21 November 2013 to 22 February 2014. The Registrar of the ICC received a declaration lodged by Ukraine accepting the ICC jurisdiction with respect to alleged crimes committed on its territory during the above mentioned period. The declaration was lodged under article 12(3) of the Rome Statute, which enables a non-party to the Statute to accept the exercise of jurisdiction of the Court. The Prosecutor of the ICC has decided to open a preliminary examination into the situation in Ukraine in order to establish whether the Rome Statute criteria for opening an investigation are met. On 15 April, the Minister of Justice officially stated that there was unanimous support within the Government for the ratification of the Rome Statute, which Ukraine signed in 2000 but not yet ratified.

*Missing persons*

21. According to the NGO EuroMaidan SOS, which has maintained a list of missing persons since the early days of Maidan, as of 5 May 2014, 83 persons (including four women) still remained unaccounted for. There is no official information from the Ministry of Interior or the Office of the General Prosecutor on the number of people still missing relating to Maidan, as investigations were on-going.

22. Initially in the aftermath of the Maidan, 314 persons were registered as missing, according to the Office of the General Prosecutor. A large number have since been found alive; some were recognised as killed or dead. It is critical to identify the whereabouts and fate of those who remain missing from Maidan.

23. An International Advisory Panel<sup>18</sup> has been initiated by the Secretary-General of the Council of Europe, Thorbjorn Jagland, to oversee the judicial investigations into the violent clashes during the Maidan events from 30 November 2013 to 21 February 2014. Information has been requested by the Panel into violent acts committed by any person during three periods: the night of 30 November/1 December 2013; 1 December 2013; and 18-21 February 2014. The Panel will hold its first meetings in Kyiv at the end of June 2014.

#### **IV. HUMAN RIGHTS CHALLENGES**

##### **A. Rule of law**

24. During the reporting period, the HRMMU monitored a number of measures within the sphere of the rule of law. These included: the introduction of amendments to the Constitution; Criminal Code amendments to toughen sanctions regarding violations of territorial integrity; legislation on the restoration of the credibility of the judiciary; laws providing for amnesties, as well as the law on occupation in the aftermath of the 16 March unlawful referendum in Crimea.

##### *Constitutional reform*

25. On 17 April, the Cabinet of Ministers issued an Order “On the organization of the discussion of amendments to the provisions of the Constitution of Ukraine on the decentralization of State power”. By 1 October 2014, senior government officials, the regional administrations and the Kyiv city administration are to organise debates on the planned constitutional amendments<sup>19</sup> that would propose the decentralization of power. This Order accelerates the implementation of the Concept on reforming local government and territorial organization of power in Ukraine, which was adopted on 1 April 2014.

26. Public parliamentary hearings were held on amendments to the Constitution of Ukraine on 29 April, with the main areas of reform aiming to empower local governments, strike a balance between all branches of State power, ensure the independence of the judiciary, and

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<sup>18</sup> The members of the panel are: Sir Nicolas Bratza, Chairman, a former President of the European Court of Human Rights; Mr. Volodymyr Butkevych, a former Judge of the European Court of Human Rights; and Mr. Oleg Anpilogov, a member of Kharkiv Regional Council.

<sup>19</sup> According to the Parliamentary Interim Commission on Constitutional Reform, the main areas of the Constitutional reform are: extension of powers of local self-government, to achieve a balance between all branches of power; the development of an independent judicial branch; oversight of public authorities. Under a new Constitution regional and district state administrations will be dissolved. Local territorial communities would elect regional and district councils (local parliaments) and their heads. The executive committees of local councils would serve as local governments. State power and authority, as well as the functions of setting the local budget would be delegated to such structures. At the same time, state representative bodies would be created and located at the territorial level. They will maintain control over the adherence to legislation in a certain territory but would have no financial or economic influence in the region.

oversight of the work of public authorities. Political parties agreed that by 25 May proposals on constitutional amendments will be finalised, with a Parliamentary session on constitutional reform to be held after this date. Further steps towards the delegation of broad powers to the local authorities are being made. On 23 April, the Government approved the first draft law “On cooperation of the territorial communities” that envisages five forms of possible cooperation within communities, based on an earlier Concept on the Reform of Local Self-Government and Territorial Organisation of Powers in Ukraine, approved on 1 April by the Cabinet of Ministers.

27. On 5 May, Prime Minister Arseniy Yatseniuk, submitted to the Parliament a draft law “On a national survey”, to be conducted on 25 May, the same day as the Presidential elections, on issues of concern for all Ukrainians: national unity, territorial integrity of the country and the decentralisation of power.<sup>20</sup> On 6 May, Parliament decided not to adopt the initiative.

*Criminal Code amendments toughen sanctions for violations of territorial integrity*

28. On 16 April, the acting President of Ukraine signed the Law "On amendments to the Criminal Code of Ukraine", which entered into force on 19 April. It includes provisions that increase penalties related to the encroachment and inviolability of the territorial integrity of Ukraine, as well as for high treason and the undermining of national security (Sabotage and espionage).

*Law on Lustration*

29. On 7 April, approximately 150 activists of Maidan self-defence unit, the Right Sector and Auto-Maidan picketed, blocked and stormed the Supreme Court building, at the time of the scheduling of an extraordinary session of the Congress of Judges. The protesters along with Yegor Sobolev, head of the Lustration Public Committee of Maidan, demanded the lustration of judges and appointment of new ones. On 8 April, the Right Sector and Auto-Maidan activists blocked the Parliament calling on its members to speed up the adoption of the lustration legislation.

30. On 8 April, the Parliament passed the Law “On the restoration of the credibility of the judiciary in Ukraine” (the Law on lustration of judges) with 234 votes<sup>21</sup> and it entered into force on 10 May (while the proposed law on lustration for public servants was taken off the Parliamentary agenda). Its purpose is to strengthen the rule of law, to restore confidence in the judiciary, and to combat corruption in the courts through the dismissal of judges whose gross violations of professional and ethical standards have discredited the judiciary. The Law also determines the legal and organisational framework by which judges are to be vetted. It sets out the aim, objectives and timelines for the vetting of judges, as well as the bodies authorised to conduct these procedures, the content of the vetting, and the measures to be taken following the results of the vetting. According to the Law, the process of lustration is to be carried out by

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<sup>20</sup> The idea to conduct such survey was announced by Mr. Yatseniuk on 30 April during the opening of a session of the Government. He stated that, “in framework of the decentralisation of power, Ukrainian authorities are ready for the additional guarantees on the respective territory for the Russian-speaking population and other national minorities”.

<sup>21</sup> In total, there are 450 members of Parliament.

an Interim Special Commission. It is foreseen to consist of 15 members; five candidates from each of the following institutions: the Supreme Court, the Parliament and the Governmental Commissioner on the Issues of the Anti-Corruption Policy.

31. The HRMMU is concerned that immediate dismissal of judges may put in jeopardy the administration of justice. The implementation of the Law can lead to the unjustified and non-motivated dismissals of judges. The Law does not follow some generally recognized requirements in the area of judicial proceedings: it implements retrospective liability for actions which were not considered punishable before the Law's adoption; the adopted court decisions mentioned in the Law are to be scrutinized by the Interim Special Commission. Also, the text of the Law uses the term "political prisoner", which is not defined in current Ukrainian legislation. The HRMMU reiterates its earlier recommendation that any lustration initiatives be pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.<sup>22</sup>

#### *Amnesties*

32. The annual legislation "On Amnesty in 2014" entered into force on 19 April. Administered by the courts, it applies to minors, pregnant women, persons having children under 18 or children with disabilities, persons with disabilities and persons infected with tuberculosis or with an oncological disease, persons having reached the age of retirement, war veterans, combatants and invalids of war, liquidators of the accident at the Chernobyl nuclear power plant, persons having parents over 70 or with disabilities. In addition some military personnel imprisoned for committing medium gravity offences will be released. Persons who have committed grave criminal offences will not be eligible for such an amnesty. The Parliamentary Committee on Legislative Support of Law Enforcement estimates that between 23,000 – 25,000 convicts could be eligible for an amnesty.

33. From 9 to 23 April, five drafts laws on 'amnesty' for the activists who have participated in the protests after 22 February were submitted to the Parliament by different political parties.<sup>23</sup> While the proposed drafts varied all seek amnesty legislation that covers: actions to overthrow legal government (article 109); organisation of riots (article 294); seizure of administrative and public buildings (article 341). The majority of the proposals considered that cases of "separatism", as violations against the territorial integrity of Ukraine (article 110), should fall within the scope of an adopted amnesty law.

34. All drafts aim to ease tensions and resolve the crisis in Ukraine, particularly in the east and south of the country, and for the most part give a date of 22 February from where acts as provided for should be applicable. The Committee on Legislative Support of Law Enforcement is now responsible for preparing the draft legislation.

#### *Law on Occupation*

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<sup>22</sup> OHCHR report on the human rights situation in Ukraine, 15 April 2014, p. 25 (available online at [http://www.ohchr.org/Documents/Countries/UA/Ukraine\\_Report\\_15April2014.doc](http://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15April2014.doc)).

<sup>23</sup> 9 April Draft Nr. 4667(Party of Regions); 10 April Draft Nr. 4667-2 (non-affiliated MP Rudkovsky); 18 April Draft Nr. 4667-3 (Cabinet of Ministers); 22 April Draft Nr. 4667-4 (Party of Regions); 23 April Draft Nr. 4667-5 (Communist Party).

35. The Law “On guaranteeing citizens’ rights and freedoms and legal regime in the temporarily occupied territory of Ukraine” was adopted on 15 April. Its provisions and implications are analysed in section VI on “Particular Human Rights Challenges in Crimea”.

### **B. Law enforcement sector reform**

36. The ongoing events and violence in various parts of the country have resulted in an increasing erosion of law and order. The most recent example is the tragic events that took place in Odesa during the afternoon and evening of 2 May, where 46 people were killed in violent clashes, and a fire in the Trade Union building where many people had taken refuge.<sup>24</sup>

37. In order to develop a concept for the reform of the law enforcement bodies, an Expert Council “on the issues of human rights and reformation” was established in the Ministry of Interior on 4 April. It has a membership of 14 people, of which four are women, and includes human rights defenders. It will submit to the Government a concept of the reform of law enforcement bodies by November 2014. The reform package should reinforce the rule of law; de-politicise, de-militarise, de-centralise and strengthen the structure of the law enforcement bodies through accountability, transparency, and closer cooperation with the public and local communities; and professionalise the staff. The HRMMU has been included into the Council with an observer status.

38. On 23 April, the Ministry of Justice suspended, pending the investigation of allegations of torture that occurred in 2013, the heads of a number of penitentiary facilities, including those of the Dnipropetrovsk pre-trial detention facility and Penitentiary Colony No. 3 in Krivii Rig, Dnipropetrovsk region. On 24 April, the head of the pre-trial detention facility in Odesa was dismissed. The Government ordered the establishment of a special commission under the Ministry of Justice, which should focus on improving the legislative framework for torture prevention. This will support the work of the National Preventive Mechanism, established under the Ombudsman Institution.

39. Experts and human rights defenders continue to stress that conditions in places of the deprivation of liberty do not meet international norms and standards. The use of torture and ill-treatment in pre-trial detention facilities is often attributed to the fact that police officers are still evaluated on quantitative indicators.

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

40. In April and early May, rallies and peaceful demonstrations have continued to take place. While many are peaceful – some gathering in large numbers, some consisting of a few picketers – a tendency can be observed in some urban areas of simultaneous rallies of opposing groups ending in violent confrontations.

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<sup>24</sup> Official death toll as of 4 May 2014.

41. The continuation of protests reflects a variety of demands, some supporting the unity of Ukraine, some opposing the Government of Ukraine, and some seeking decentralisation or federalism, with others looking at separatism.

42. The HRMMU has observed various rallies in support of Ukraine, its unity and territorial integrity that took place between 17-21 April in various towns, including Kyiv, Donetsk, Luhansk, Poltava, Dnipropetrovsk, Sumy, Khartsyzsk (Kharkiv region) and Odesa. Each peacefully gathered approximately 300 - 2,000 people. Further examples of peaceful protest took place on 28 and 29 April in Chernivtsi and Uzhgorod (western Ukraine) against the deployment of military and riot police to the south-east regions of Ukraine.

43. The HRMMU observed other rallies that aimed to: promote social and economic rights; demand an increase to social benefits and salaries; an end to corruption; and the improvement in governance. On 9 April, a peaceful protest of some 200 representatives of small businesses took place in Zaporizhzhya (south Ukraine) seeking an end to illegal markets and corruption. On 1 May in Kyiv, a peaceful rally took place demanding political change, constitutional reform, early Parliamentary elections, an increase of salaries and social benefits.

44. A number of peaceful assemblies supporting “federalism” have been observed by the HRMMU in Donetsk, Kharkiv, Luhansk and Odesa.

45. At the same time there were a number of examples when such peaceful rallies turned violent. The HRMMU is concerned with repeated acts of violence against peaceful participants of rallies, mainly those in support of Ukraine’s unity and against the lawlessness in the cities and villages in eastern Ukraine. In most cases, local police did nothing to prevent violence, while in some cases it openly cooperated with the attackers. For example, on 6 April, 1,000 pro-Russian activists attacked an improvised gathering by several dozen supporters of Ukraine’s unity in Severodonetsk in Luhansk Region. Six of the pro-Ukrainian activists sought medical assistance.

46. On 13 April, pro-Russian activists attacked a peaceful rally in support of Ukraine’s unity in front of Mariupol City Police Department. Nineteen participants of the rally were taken to the hospital with injuries of varying severity.

47. On 13 April, the HRMMU observed pro-Russian and pro-Ukrainian rallies being held at the same time in close proximity in Kharkiv. While the presence of the police had for most of the time managed to keep the two sets of supporters apart, the situation broke down towards the end of both events. As many of the pro-Ukrainian activists were leaving their rally, they were attacked by the pro-Russian activists who broke through the police chain. Some people who did not manage to escape, were surrounded and then beaten severely. At least 16 persons were wounded; with some admitted to hospital. The police initiated criminal proceedings on the grounds of hooliganism that led to people being injured, under Part 4 of article 296 of the Criminal Code.

48. On 27 April in Donetsk, approximately 500 protesters demanded a referendum on the status of the Donetsk Region and to release those detained by the Ukrainian authorities, including Pavel Gubarev (former self-proclaimed Governor of the Donetsk region). It was from this demonstration that protesters then moved to the building of the State TV-Radio company “Donbass”. Having been joined by a group from the movement “Oplot”, the protesters stormed the building demanding the re-launch of the broadcasting of Russian TV channels.

49. On 27 April, in Kharkiv opposing activists organised meetings in nearby squares. On the main square, 500-600 protesters gathered, while at the same time another group supporting the unity of Ukraine rallied in a slightly larger number on a neighbouring square. Two groups of football fans from Kharkiv and Dnipropetrovsk joined the pro-Ukrainian gathering. As the latter marched towards the football stadium, clashes erupted despite the efforts of the police to separate the two groups. As a result, 14 people were injured, including two police officers. Protesters in the main square tried to build a tent settlement on the main square (Freedom square) in Kharkiv but were prevented from doing so by the police. Criminal proceedings were started under article 294 (Riots). As of 5 May, no one was charged or detained.

50. On 28 April, participants of a peaceful rally in support of Ukraine’s unity in Donetsk were attacked and violently beaten by the supporters of the self-proclaimed “Donetsk People’s Republic”, who were armed with metal sticks, noise grenades, baseball bats and pistols, while the police was reluctant to prevent the clash. As a result, two persons were hospitalised, dozens wounded, and five participants of the rally (reportedly students) were abducted and held in the local office of the Party of the Regions; they were released the next day.

51. The most tragic of all incidents occurred in Odesa on 2 May where what was initially a rally spiralled into violent clashes and a fire, which claimed 46 lives.<sup>25</sup>

52. While article 64 of the Constitution provides for the freedom of peaceful assembly, there is no law that regulates the conduct of such assemblies.<sup>26</sup> The HRRMU has observed that this gap in the legislative framework creates confusion, irregularities and an *ad hoc* approach to policies and practices that regularize and manage peaceful assemblies. These include: the organisation/preparation of a peaceful assembly; cooperation with the police during a peaceful assembly; the terms of notification for a peaceful assembly; the appeal procedure when an assembly is rule to be prohibited.

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<sup>25</sup> See below under section IV. E.

<sup>26</sup> According to Article 39 of the Constitution of Ukraine citizens have the right to assemble peacefully without arms and to hold meetings, rallies, processions and demonstrations, upon notifying in advance the bodies of executive power or bodies of local self-government. This provision is the only legislation in Ukraine that governs the exercise of the right to peaceful assembly. A draft law on peaceful assembly is currently included on the Parliamentary agenda.



53. The HRMMU has observed that in some cases the local authorities turned to administrative courts to decide on the prohibition of assemblies.<sup>27</sup> Such decisions are motivated by an inability to ensure the safety of participants, the lack of police staff. However, such practices lead to the violation of the human right to peaceful assembly.

54. Legislation on peaceful assembly, in line with international norms and standards needs to be adopted. Police should then be trained in policing regulations for such events, so as to facilitate peaceful assemblies, protect the security of participants, and provide space for such events in a manner that is non-discriminatory and participatory.

#### **D. Freedom of expression**

55. The HRMMU is concerned about the curtailment of freedom of expression, harassment and threats to security incurred by journalists working in Ukraine, especially in the east. Below are some cases that the HRMMU is following, illustrating the pressure, intimidation and danger that journalists and media outlets are coming under in the struggle for control of the media, and what information the general public can access and obtain. For more cases, particularly in the Donetsk region see section V on “Particular Human Rights Challenges in the east”:<sup>28</sup>

- a) On 9 April, journalists in Kharkiv protested against violations of press freedom after the local TV channel ATN was attacked by a group of armed persons who beat up and threatened Oleg Uht, the TV director of ATN. A suspect has been arrested in the investigation of this case.
- b) On 15 April, a newspaper editor was severely beaten by unidentified persons in Sumy. He suffered severe injuries to the head and an open fracture of his arm.
- c) On 16 April, the TV station “Center” in Horlivka (Donetsk region) reportedly terminated broadcasting its programs due to an increased number of attacks against its journalists. Journalists have reported to the HRMMU that they feel increasingly threatened each time they showed their Ukrainian ID.
- d) On 23 April, unknown assailants reportedly threw Molotov cocktails at the premises of the local newspaper “Province” in the town of Konstantinovka, Donetsk region. The newsroom was burned down. Prior to the incident, staff of the newspaper had faced certain threats and intimidation. On 18 April, the front door of the paper was reportedly painted with the words “Enough lying!” and “Here you can sign up for membership in the Right Sector”.
- e) On 25 April, a Russian journalist and cameraman were deported from Ukraine on the basis that their activities were “harming the security and territorial integrity of the country”.

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<sup>27</sup> The court in Zaporizhzhya has prohibited conducting any rallies and assemblies from 25 April till 18 May, allegedly to avoid possible scuffles. The decision was also announced on 27 April during the rally on Lenin square.

<sup>28</sup> See section V.

f) On 4 May, in Odesa, a Channel 5 journalist was attacked by pro-federalism activists, while reporting on events in the city. The Office of the Regional Prosecutor initiated a criminal investigation under article 171 (prevention to the legal journalists' activity).

56. Incitement to hatred continues to fuel tensions. This is particularly prominent in the eastern regions of the country.

57. Acting President Oleksandr Turchynov, issued a Presidential decree 28 April "On measures to improve the formation and realisation of State policy in the sphere of informational safety of Ukraine".<sup>29</sup> It foresees the development of further laws and policies to regulate the media environment and activity of journalists, particularly of foreign media outlets.

### **E. Right to life, liberty and security**

58. The breakdown in law and order, and the surge in violence are leading to more deaths and a deteriorating situation in Ukraine. Armed groups have increasingly committed human rights abuses, including abductions, torture/ill-treatment, unlawful detentions and killings as well as the seizing and occupying of public buildings.

59. On 5 May, the head the police in Cherkasy region, announced that suspects had been identified in the investigation of the murder of Vasily Sergiyenko. He was abducted from his home on 4 April by three unknown persons in Korsun-Shevchenkivskiyi, Cherkasy region. On 5 April, his body was found in a forest about 150 kilometres outside Kyiv, with reported signs of stab wounds and torture.

60. On 15 April, a NGO activist was assaulted in Drohobych (Lviv region) by unknown perpetrators and consequently hospitalised. The attack is thought to be linked to the work of the activist on abuse of power by officials. The case was reported to the police by the medical staff in the hospital.

61. On 28 April, Hennadiy Kernes, the Mayor of Kharkiv, a well-known pro-unity supporter, was shot as he was cycling near his home by unknown persons and severely injured and, flown to Israel for treatment on 29 April. To enable his medical evacuation, the Pecherskyi District Court in Kyiv had to lift his house arrest, which he had been under since 13 March. He is charged under articles 127 (Torture), 129 (Death threats) and 146 (Unlawful arrest) of the Criminal Code for beating a Maidan activist.

62. The current deteriorating economic situation and unemployment level, with the on-going crisis, could see a rise in the number of cases of violence against women, domestic violence and trafficking in humans, as vulnerabilities become much more acute. This requires particular attention and support in eastern Ukraine, where historically there has been less active participation and involvement by NGOs to date. For example, in Donetsk the only

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<sup>29</sup> Presidential Decree No. 449/2014

shelter for victims of trafficking and domestic violence is run by the authorities, with space for 13 individuals.

### *Odesa violence*

63. On 2 May, a national unity rally gathered around 1,500 people, including many fans from the football clubs of Chornomorets Odesa and Metalist Kharkiv<sup>30</sup>, as well as city residents. Among the crowd there were reportedly also some radical members of the Right Sector and Maidan self-defence unit armed with bats and metal sticks. Shortly after the rally began, the latter were provoked by approximately 300 well-organized and armed pro-federalism activists; the rally turning into a mass disorder, which lasted for several hours. As a result, four protesters in support of Ukraine were killed by gunshots (a fifth died later in the hospital from his injuries). Many were injured during the afternoon (mostly protesters supporting federalism). During the evening, violent clashes between the two sides continued on the main square (Kulikove polje), which ended in a fire at the Trade Union building where protesters supporting federalism had taken refuge. As a result of the events, 46 people died of whom 30 (including 6 women) were trapped and unable to leave the burning building and 8 (including one woman) died from jumping out of the windows. In total, 38 died at the scene of the fire. At least 230 were injured.<sup>31</sup> As of 5 May, 65 remained in hospital, including two minors. Nine were in critical condition, including one policeman.

64. The list of missing persons, initially 13 persons, is now maintained by a special hotline organised by the Mayor's office. On 5 May, it contained 45 names, but the figure constantly changes due to numerous mistaken reports or initial calls from worried parents and subsequently solved cases of missing children.

65. The Office of the General Prosecutor has opened an investigation into the events of 2 May in Odesa. The same day, 114 persons were taken by police from the location of the incident, reportedly for their own protection. The police investigation department informed the HRMMU that only 11 have been officially detained under part 2 of article 294 (Riots leading to death).

66. In the context of the events in Odesa, the role of the police and the lack of preparedness and protection were highly questionable.<sup>32</sup> The Office of the Prosecutor has opened criminal proceedings against the police officers under article 367 (Neglect of official duty). On 3 May, the head of the regional police, Mr Lutsiuk, was dismissed.

67. On 5 May, Arsen Avakov, the Minister of Interior, announced that a special unit of the National Guard (400 persons) arrived in Odesa to protect the integrity of the region and restore public order. It will be under supervision of the head of Odesa Regional Administration. The

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<sup>30</sup> Joint marches among fans are a regular tradition before all football matches.

<sup>31</sup> According to the Odesa City Council Health Department, 230 persons requested medical aid, out of them 214 were delivered to hospitals in ambulances.

<sup>32</sup> The preparedness of the State Emergency Service of Ukraine and its ability to deal with arson is also questionable. Whereas the medical help (first aid provided by ambulance and medical help in the hospitals) was assessed as highly effective.

unit comprises armed volunteers, which is of concern given their lack of training in handling mass protests.

## **F. Political rights**

### *Human rights in the electoral process*

68. On 4 April, the Central Election Commission (CEC) confirmed the registration<sup>33</sup> of 23 candidates (20 men and 3 women) for the Presidential elections scheduled on 25 May.<sup>34</sup>

69. Several candidates have reported facing arbitrary restrictions, hate speech, intimidation and violent attacks during their election campaigning. Some examples of such cases are listed below.

- a) On 10 April, Oleg Tsariov (non-affiliated candidate from eastern Ukraine) following a press conference in Odesa was reportedly prevented from leaving the location by “Right Sector” activists. Scuffles broke out between the latter and supporters of Mr. Tsariov. The police managed to transfer Mr. Tsariov out of the hotel.
- b) On 14 April, Mykhailo Dobkin (Party of Regions) and Oleg Tsariov were attacked in Kyiv at the ICTV (national TV channel) media building. Both are known for their pro-Russian stance and for supporting federalism.
- c) On 11 April in Rivne, there were reports of “Right Sector” activists who picketed, burned documents and then sealed the office of the Communist Party. They demanded activities of the party be banned for as long as Petro Symonenko, Head of the Communist Party, supported separatist activities in south-east Ukraine.
- d) On 22-23 April in Krasnodon and Alchevsk (Luhansk region) unknown persons attacked campaigning tents of Anatoliy Hrytsenko (Civic Position party). On 30 April, in Mykolaiv his campaigners were verbally harassed with demands to remove the campaign tents by unknown persons.
- e) On 28 April in the village Perehrestivka (Romensky district, Sumy region), the pro-unity campaign team of Oleh Liashko (Radical Party) was threatened and their property destroyed. He cancelled his campaigning activities in the area.
- f) Also on 28 April, Mykhailo Dobkin, was prevented from leaving the plane at Kherson airport by some 250 pro-unity activists. The police claimed they were prohibited from accessing the runway, and could not provide security to the Presidential candidate. A criminal case has been opened against the aforementioned activists (still being identified) under article 279 (Blocking transport communications by placing obstacles preventing

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<sup>33</sup> CEC denied registration to 17 candidates as they did not comply with the procedural norms. There were no claims of unlawful refusal in registration.

<sup>34</sup> On 25 May there will be elections of mayors in some of the towns (namely Kyiv, Cherkasy, Chernivtsi, Odesa, Kherson, Mykolaiv, Sumy and a number of smaller towns throughout Ukraine. During the presidency of Viktor Yanukovich, the results of the mayors’ elections in these towns were illegitimate, but the early elections were blocked through the administrative pressure. The towns were governed by the secretaries of the city halls.

normal functioning of transport or creating danger to human life or the onset of other serious consequences) of the Criminal Code.

70. The HRMMU has concerns about the security of the candidates and space for their pre-election activities, as well as how voters are able to access comprehensive information about the presidential candidates.

71. The NGO “Opora” has highlighted that the Presidential election campaign is often accompanied by intolerance, which could lead to more social tension and outbursts of violence. The HRMMU is concerned at the reports of billboards being posted by Oleh Liashko with the slogan “Death to occupants”. They have been sighted in in the regions of Chernivtsi, Ivano-Frankivsk, Rivne, and Ternopil.

72. On 1 May, Oleg Tsariov and Natalia Korolevska officially withdrew as candidates from the Presidential elections.<sup>35</sup> On 16 April, two criminal proceedings were initiated against Oleg Tsariov based on articles 109 (Actions to overthrow a government) and 110 (Separatism). As of 5 May, 21 candidates (19 men and 2 women) were confirmed as running for the Presidential post.

73. On 26 April, the CEC announced that in order to vote in the Presidential elections, Ukrainian citizens living in Crimea would have to register in person at any polling station on mainland Ukraine no later than five days prior to the election day, i.e. 19 May. This implies that residents of Crimea will have to travel to another region twice (to register and to vote) or to spend one week there. This is the only option provided to ensure their participation. The procedure for registration was simplified for the residents of Crimea, compared to other citizens of Ukraine who want to vote in another location. The citizens in Crimea do not have to provide any additional supporting documentation. As of 5 May, approximately 727 residents of Crimea have registered to vote on mainland Ukraine. The over 7,000 IDPs from Crimea will be able to vote where they are now settled.

74. On 30 April, Andriy Mahera, Deputy Chair of the CEC, announced that Presidential elections would be conducted whatever the circumstances and their outcome would be legally binding. Furthermore, in order to prevent the disruption of the electoral process, as well as to hinder any possible unlawful referendums in support of the various self-proclaimed “people's” republics (e.g. Donetsk People’s Republic) the decision had been made to block the access to the State Voter Register in several towns in Donetsk and Luhansk regions.<sup>36</sup>

#### *Women’s participation*

75. Women represent 54 % of the Ukrainian population, but they are underrepresented in politics as leaders. Ukraine is falling short of fulfilling its 2015 Millennium Development Goal commitment of having 30% of top leadership positions filled by women. Of the 21 Presidential candidates, only two are women. Only 10% of the members of Parliament are

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<sup>35</sup> Oleg Tsariov claimed that elections were not possible at a time of “civil war” in the country. Natalia Korolevska gave the reason for her decision as being that the elections were dividing the country.

<sup>36</sup> The access to the State Voter’s Registry in 7 towns of Donetsk region was blocked on 24 April and in 7 towns of Luhansk region on 30 April. The access to the registry in Crimea remains blocked since 6 March.

women. The current Cabinet of 18 Ministers includes only two women, although its composition was completely revisited in February. Women are better represented in local government: 12% of regional councillors; 23% of district councillors; and 28% of city councillors; and in village councils women making up 50% of the councillors.

76. The HRMMU has not noted any discriminatory language towards women either during the campaigns for the presidential or Kyiv mayor elections. At the same time, there were no systematic efforts to promote women in campaigning positions, as election commission members or as election observers. NGOs report that the election campaign has not sought to promote women and have expressed concern that the issue of gender equality is becoming lost amid the enormous reform agenda.

#### *Political parties*

77. On 21 April, Viacheslav Ponomariov, the self-proclaimed Mayor of Slovyansk, reportedly banned the election campaigning activities of the (pro-Maidan) political parties, such as “Udar”, “Svoboda” and “Batkivshchyna” in Slovyansk.

78. On 30 April, the District Administrative Court of Kyiv issued a decision to terminate the activities of the political party “Russian Unity”.<sup>37</sup> The Ministry of Justice provided evidence that the leader of the party, Sergey Aksionov (current “governor” in the Autonomous Republic of Crimea), had conducted an anti-State policy, aimed at the violation of the territorial integrity and independence of the country. The court hearing on the “Russian Block” is to resume on 12 May.

### **G. Minority rights**

79. The UN Special Rapporteur on Minority Issues, Rita Izsák, conducted a mission to Ukraine on 7-14 April 2014, visiting Kyiv, Uzhgorod, Odesa and Donetsk (she was unable to access Crimea). In her press statement at the conclusion of the visit, she noted that inter-ethnic and inter-faith relations were harmonious; and that the legislative and policy environment was conducive to the protection of minority rights, including cultural rights. However, she also observed that considering the great diversity of population groups in Ukraine, the institutional attention to minority issues was currently insufficient and had declined or been downgraded in recent years. She further noted that the recent developments in Ukraine had created an environment of uncertainty and distrust that may create fractures along national, ethnic and linguistic lines and threaten peaceful coexistence if not resolved. She warned that in some localities the level of tension had reached dangerous levels and must be diffused as a matter of urgency.<sup>38</sup>

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<sup>37</sup> On 15 April, the Ministry of Justice filed a lawsuit prohibiting the activities of the political parties Russian Bloc and Russian Unity in Ukraine. Allegedly the leadership of the political parties was seeking to change the constitutional order by force, to undertake activities violating the sovereignty and territorial integrity of Ukraine, to illegally seize State power, to undertake war propaganda, violence, and incitement to ethnic, racial or religious hatred – all of which are contrary to Article 5 of the law “On Political Parties in Ukraine”.

<sup>38</sup> Press statement of 16 April 2014, by the Special Rapporteur on minority issues, available online at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14518&LangID=E>.

80. The HRMMU has received credible reports that Crimean Tatars are experiencing significant pressure, examples of which are provided in section VI on “Particular Human Rights Challenges in Crimea”.

81. The importance of using one’s mother tongue freely in private and public without discrimination is of high importance. Generally communities expressed satisfaction that minority schools or specialized classes have been established and function freely according to national law. They frequently noted that the use of minority languages is a significant and valued feature of Ukrainian society and is in no way incompatible with the teaching and use of Ukrainian as the state language. However, the Special Rapporteur on Minority Issues referred to the concerns voiced by ethnic Russians that there were relatively few Russian schools in relation to their numbers. On 11 April, while in eastern Ukraine, acting Prime Minister Yatseniuk emphasised that the law “On the Basics of State Language Policy” so called “Kolisnechenko-Kivalov law”, remained in force. However, this remains a contentious issue in eastern Ukraine, with many not grasping that the use of languages is to be considered by region.

82. There have been individual cases of hostility and anti-minority acts reported to the HRMMU. These remain isolated incidents, but which can contribute to an atmosphere of mistrust and fear, which in turn can generate discrimination and violence, and potentially hate crimes.

83. The HRMMU has observed a number of cases motivated by hatred against minorities:

- a) In Odesa on 7 April, an incident when graffiti with swastikas was painted on Jewish tombs, the Holocaust memorial and on houses next to the Synagogue was monitored by the HRMMU. The signature of the Right Sector allegedly appeared next to the graffiti. On 8 April, the leaders of Right Sector from Kyiv and of the Ukrainian National Assembly personally met with the Chief Rabbi, Avraam Volf, to assure him that these organisations had not participated in these acts. Together with the municipal service and pro-unity activists, they washed off the graffiti from the tombs. The Jewish community believes these acts were a provocation and not part of a broader threat. On 8 April, the police opened a criminal investigation into the case based on article 296 of the Criminal Code (Hooliganism).<sup>39</sup>
- b) On 15 April, in Donetsk, anti-Semitic leaflets<sup>40</sup> with the stamp of the “Donetsk People’s Republic” were circulated near the local synagogue. The self-proclaimed leaders of the “Donetsk People’s Republic” denied their involvement in the incident; its self-proclaimed Governor, Serhiy Pushylin, called it a provocation. On 18 April, the Security Service of Ukraine announced that the materials of this case were added to the on-going criminal

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<sup>39</sup> Criminal Code also foresees accountability for such criminal offences as: violation of graves (article 297), illegal desecration of religious sanctities (article 179), and violation of citizens’ equality based on their race, nationality or religious preferences (article 161).

<sup>40</sup> The text of the leaflet obliged all Jews of Donetsk region to pass registration by 3 May, which costs 30 USD. If not passed, they will be deprived of citizenship and deported from the Donetsk People’s Republic with the confiscation of their property.

proceedings under articles 110 (Trespass against territorial integrity and inviolability of Ukraine) and 294 (Riots).

84. The HRMMU in Odesa, Kyiv, Donetsk and Lviv met with representatives of the Jewish communities (the World Jewish Congress, Rabbis, and cultural centres). In all locations, it was informed that, apart from a few anti-Semitic incidents over recent years, they had not experienced significant violations or threats. However, one of them expressed concerns that the political party –“Svoboda” – which made anti-Semitic statements in the past - was now represented in the Parliament and the Government.

85. The HRMMU visited the Zakarpattya region, which is the most ethnically diverse area in Ukraine. In meetings with national and ethnic communities no information was received that suggested they were facing tension or hostilities. The largest national and ethnic communities (Hungarians, Russians, Ruthenians, Poles and Slovaks) described positive inter-ethnic relations. However, the HRMMU received allegations from representatives of the Roma community that they frequently face discrimination and stigmatisation, as well as arbitrary arrest and ill-treatment from law enforcement officials in Zakarpattya. They do not usually report such incidents due to their lack of trust in the law enforcement bodies and fear of further persecution.

86. In Donetsk region, the HRMMU has been monitoring the situation of the Roma community particularly following the attack during the night of 18 April on the Roma community in Slovyansk (Donetsk region), reportedly by an armed group of persons. NGO representatives reported to the HRMMU that seven households were attacked by armed men demanding gold, money and other valuables. The Roma Council of Ukraine has claimed that this was the most recent attack on the Roma community in the past months. One of the families has registered a complaint with the police. Two later reports of attacks on Roma communities received by the HRMMU could not be verified. Reports indicate that many Roma families have apparently left Slovyansk for unspecified reasons; the situation for those remaining in the town remains unverified.

87. The HRRMU has received credible reports of ongoing reports of hate speech, harassment and hate-motivated violent attacks against LGBT persons, including organised attacks by groups specifically targeting LGBT persons, and limited investigations into such attacks by law enforcement officials or remedy for victims. The issue of the protection of the rights of LGBT persons has repeatedly been misrepresented and used in a derogatory manner by political actors to discredit opponents. The LGBT community is concerned that the political programmes of the two right-wing parties – Svoboda and Right Sector (leaders of both are running for the Presidency) – clearly state combating homosexuality as one of their goals. Reportedly, the Communist Party of Ukraine has also made negative statements regarding sexual orientation. The LGBT community in Kharkiv informed the HRMMU that they have been receiving threats from both radical right-wing groups and pro-Russian movements. Both sides are quite similar in their negative attitude towards LGBT and their use of hate speech.



88. On 15 April, a draft law on the prohibition of propaganda of same-sex sexual relations aimed at children, which has been condemned by the UN human rights mechanisms, as well as the Council of Europe, was withdrawn from Parliament. However, another draft law (Nr. 0945), contemplating similar provisions, technically remains under consideration, despite a motion for its withdrawal.

89. Acknowledging the need for confidence-building between various communities in society, there have been some attempts by human rights NGOs in the Donetsk region to organize discussions aimed at breaking the stereotypes that exist in the society about tensions between different groups and to engage in dialogue. On 16 April in Luts'k (western Ukraine), local civil society activists held a round table discussion on mutual understanding with representatives of national minorities of the region. Representatives of the local chapter of the Right Sector, Community Sector, Auto-Maidan, the Russian Cultural Centre and the Polish Cultural Society took part in this event.

## **V. PARTICULAR HUMAN RIGHTS CHALLENGES IN THE EAST**

### **A. The right to life, liberty and security**

90. The HRMMU has received credible reports regarding the increasing numbers and presence of well-organized armed persons in eastern Ukraine, particularly in the Donetsk region, which in some towns are forming so-called "self-defence" units. These armed groups are seizing and occupying more and more public and administrative buildings, including those of the Donetsk regional administration, the Prosecutor, the Security Service of Ukraine, as well as police departments in various towns, mostly in the northern part of the Donetsk region and parts of Luhansk region. These illegal take-overs of administration buildings (such as the Donetsk Regional State Administration and the Regional Department of the Security Service of Ukraine in Luhansk) by both armed and unarmed persons were done so with political demands for regionalisation, and at times reportedly separatism.

91. A number of regions self-proclaimed their "sovereignty", for example on 7 April, there was the announcement by those occupying the Regional Administration Building in Donetsk of the establishment of the so-called "Donetsk People's Republic"; on 27 April a similar announcement was made in Luhansk concerning the establishment of the so-called "Luhansk People's Republic".

92. The acquiescence of law enforcement bodies in the illegal seizure and occupation of public and administrative buildings in the Donetsk and Luhansk regions has been observed, raising questions regarding its implications for the administration of justice and the rule of law, including the prompt and effective investigation into reported criminal acts. This raises serious concerns regarding residents' access to legal remedies, due process and overall guarantees for human rights protection.

93. This has contributed to a situation where armed persons, now formed into illegal groups, operate and run towns with impunity, for example in the town of Slovyansk located in the northern part of the Donetsk region. There has been a noted shift of apparent 'control'

from the ‘political base’ of the “Donetsk People’s Republic” in Donetsk, to the “armed operations base” of the “Sloviansk self-defence unit” in Sloviansk.

94. The HRMMU is concerned with the undermining of human rights protection and guarantees of fundamental freedoms for the population of the town where buildings are occupied by armed persons, as well as the broader population of eastern Ukraine. Specifically, the HRMMU is concerned about the rise in the number of reported cases of intimidation, harassment and killings, as well as the wave of abductions and unlawful detentions of journalists, activists, local politicians, representatives of international organizations and members of the military.

*Security and law enforcement operation*

95. The Government first announced a “counter-terrorist” operation in eastern Ukraine, namely Donetsk region, on 13 April. The ensuing security and law enforcement operation was ceased by the authorities in observance of the Easter holidays and in the aftermath of the Geneva meeting and statement.<sup>41</sup> Following the discovery of the bodies (with alleged signs of torture) of Volodymyr Rybak<sup>42</sup>, Horlivka city councillor, and Yuriy Popravko<sup>43</sup>, a student and Maidan activist from Kyiv, in a river near Sloviansk on 19 April, acting President Oleksandr Turchynov ordered the resumption of the “counter-terrorist” operation in eastern Ukraine on 24 April.

96. On 28 April, the body of another student, Yuriy Dyakovskiy, was discovered in the river near Sloviansk with similar signs of torture. He had arrived in Sloviansk on 16 April with three other friends and was allegedly abducted on 17 April.

97. The security and law enforcement operation has since then particularly concentrated on the town of Sloviansk, which serves as the “armed operations base” of the so-called “Sloviansk self-defence unit”. According to the law enforcement bodies of Ukraine, these armed groups are well organised and heavily armed, and have managed to down two Ukrainian helicopters with shoulder-held missiles. On 28 April, the Ministry of Interior reported that three checkpoints had been taken and that “five terrorists were destroyed” by Ukrainian security forces as they attempted to gain control of Sloviansk. Such use of force raises concerns as to whether other non-violent means could have been used, in line with relevant international norms and standards. Furthermore, the HRMMU is also concerned about information it has received regarding alleged cases of enforced disappearances in eastern Ukraine reported to have been carried out by the Ukrainian army as part of these operations. As security and law enforcement operations continue, increasing concerns are raised regarding the protection of the local population.

98. In Kostyantynivka on 3 May, during the security and law enforcement operations the Security Service of Ukraine reported wounded persons, not disclosing the exact number.

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<sup>41</sup> See footnote 2.

<sup>42</sup> Mr Rybak - a well-known supporter of the unity of Ukraine - was abducted by unknown persons on 17 April, and his whereabouts since that time had remained unknown. On 23 April, the State Security Service opened an investigation into the killing of Mr. Rybak.

<sup>43</sup> Mr Popravko went missing on 18 April. Allegedly was tortured and drowned the same day.

According to local sources in the hospital in Kostyantynivka, there were a number of casualties as a result of those operations. The HRMMU is trying to further verify this information.

99. In Kramatorsk according to the Department of Public Health of the Donetsk Regional State Administration, six individuals among the local population were reportedly killed and 15 wounded in the course of a security and law enforcement operation that took place on 3 May.

100. On 16 April, during an attempt to take over a military unit in Mariupol by local pro-Russian protesters, reportedly three persons were killed, 13 wounded and 63 were detained by law enforcement officers. There are allegations that the protesters were armed. According to relatives of those detained, the protesters were not armed, and they allege more were killed by law enforcement bodies. The HRMMU is seeking to verify information in this case.

#### *Unlawful detentions*

101. Of grave concern, is the increased number of cases of abductions and unlawful detentions in the eastern regions, with journalists appearing to be particularly targeted. The illegal “Slovyansk self-defence unit” appears to be responsible for controlling these illegal activities. Information on the unlawfully detained was from time to time confirmed by the self-proclaimed mayor of Slovyansk, Viacheslav Ponomariov. The unlawful detention of a group of OSCE military observers and their Ukrainian five counterparts came to an end with their release on 3 May, after 10 days in captivity. One was released in the first 24 hours on medical grounds. Despite such releases, the HRMMU remains deeply concerned that there is little or no information on the reported cases of detentions, including of three officers from the Security Service of Ukraine apparently still detained by the “Slovyansk self-defence unit”. These acts are in violation of national laws and international standards. The HRMMU continues to receive reports of cases of abductions and unlawful detention of individuals whose whereabouts cannot be accounted for by relatives and colleagues. As of 5 May, the HRMMU was aware of at least 17 persons who were still reportedly unlawfully detained in the Donetsk region; however, the actual number of those unlawfully detained may be higher.

102. Some examples of cases which have and continue to be monitored by the HRMMU include:

- a) On 19 April, a railway police officer, left home in Slovyansk and has never returned. Criminal proceedings have been opened under article 46 of the Criminal Code (Illegal abduction or deprivation of liberty);
- b) In Kramatorsk, on 21 April an armed group abducted a police officer; criminal proceedings were initiated under article 349 of the Criminal Code (Capture of representative of government law enforcement agency as a hostage);
- c) On 29 April, a local activist, was allegedly abducted by unidentified persons, and is now unlawfully detained by an armed group in the occupied building of the State Security Service in Luhansk;
- d) On 29 April, an armed group abducted a member of the Svoboda party and a local election commission representative in the town of Konstantinovka. The next day, an armed group abducted a second Svoboda party representative. Unofficial sources told relatives that the two men are unlawfully detained in Slovyansk;

- e) On 2 May in Donetsk an armed group abducted an activist and aide. He was unlawfully detained, beaten and interrogated for three days. He was released on 5 May;
- f) On 3 May, pro-unity activists were unlawfully detained, beaten and interrogated in Luhansk. They were released on 4 May;
- g) On 4 May, a group of armed men abducted six residents of Novogrodovka in Donetsk region, including town councillors and trade union members. They were severely beaten and tortured while unlawfully detained in the occupied building of the Regional State Administration in Donetsk and some of them were released on 5 May.

*Detentions and cases of alleged enforced disappearances*

103. The HRMMU has received credible reports of the detention and transfer to Kyiv by the Security Service of Ukraine of a number of persons. At times between their detention and confirmation of whereabouts, a number of these individuals had been held in conditions amounting to enforced disappearance. Examples of such cases are:

- a) On 26 April, an activist from the Artyomivsk self-defence unit, was reportedly detained by the Ukrainian military and transported by helicopter to Kramatorsk. He was interrogated and released on 27 April after one day of enforced disappearance. The HRMMU interviewed the activist in the Artyomivsk hospital where he has been undergoing medical treatment for injuries sustained while in detention. According to him, Ukrainian special military units (allegedly “Alfa”) searched him at a checkpoint, which had been operated by an armed group. He was reportedly unarmed. His membership card from the Ukrainian branch of the Don Cossacks organization was found. He was beaten, blindfolded and taken to Kramatorsk where he was interrogated about his alleged connections to the Russian Federation. The local police in Artyomivsk registered the case. No criminal investigation has been opened, as he has refused to file an official complaint for fear of retaliation;
- b) An activist of the “Donetsk People’s Republic” was detained on 3 April by the Security Service of Ukraine and transferred to the Security Service of Ukraine pre-trial detention center in Kyiv. He has since been charged under article 294 (Civil unrest), and article 341 (Illegal occupation of government or public buildings and installations) of the Criminal Code. His relatives were not informed about his detention and transfer to the SBU in Kyiv for some time - HRMMU is verifying the timeframe. The National Preventive Mechanism has confirmed to the HRMMU that his state of health is satisfactory and he receives legal aid.

104. Pavel Gubarev, self-proclaimed “People’s Governor” of Donetsk region, was arrested on 6 March by the Security Service of Ukraine. According to his lawyer, the manner in which his detention took place presented a number of violations of the requirements of the Criminal Procedure Code of Ukraine. However, the HRMMU also received information according to which this would not be the case.

**B. Freedom of expression**

105. The struggle for control of the media outlets, and who is able to broadcast where, continues inside Ukraine, particularly in the east. The latest incident was the seizure of a TV centre in Donetsk on 27 April by pro-Russian protesters with the demand that it switches back to broadcasting Russian TV, which followed an earlier decision by the Kyiv administrative court to prevent such broadcasting and only permitting Ukrainian TV channels.

106. The environment for journalists working in eastern Ukraine is deteriorating. Journalists, bloggers and other media personnel either based in the region, or visiting, are facing increasing threats and acts of intimidation, including abduction and unlawful detention by armed groups. According to information received by the HRMMU, the so-called “Slovyansk self-defence unit” has been unlawfully detaining journalists since 15 April. There are reports that at the check-points of Slovyansk, there are lists of journalists and others that the armed group is seeking, with photographs and personal data. Allegedly, in this way many journalists have been detained. Most are accused by the armed groups who detain them of working for the CIA, FBI, the Right Sector or of being one-sided about their reports from Slovyansk.

107. The HRMMU is aware of at least 23 journalists, reporters, photographers (both foreign and Ukrainian nationals) who have been abducted and unlawfully detained by armed groups, primarily in Slovyansk. As of 5 May, 18 of them were known to have been released. They have reported that those still kept in unlawful detention, including journalists, by the “Slovyansk self-defence unit”, had been subjected to ill-treatment.

108. The exact number of the journalists still unlawfully detained remains unknown. As of 5 May, the HRMMU was following the cases of a number of journalists, including: 1) journalist with the Open Dialogue Foundation who went missing on 16 April but was released on 6 May; 2) staff member of the “Hidden Truth TV, went missing on 20 April. Both were reportedly seen by a journalist who was then released<sup>44</sup> in the basement of the seized building in Slovyansk; 3) a journalist with the Lviv-based media outlet “ZIK” was unlawfully detained by unknown persons on 25 April on the main square of Slovyansk; and 4) a journalist with the Lutsk-based “Volyn Post” newspaper, went missing on 26 April in Slovyansk. The whereabouts of at least two of these journalists remains unknown.

109. On 2 May, several journalist crews were briefly abducted by unknown persons in the Donetsk region: the production team of SkyNews and CBS as well a “Buzzfeed” news website journalist and his interpreter. The HRMMU interviewed most of the victims after their release and return to Donetsk. During their unlawful detention, the journalists and local staff were blindfolded, held at gun point, interrogated, and threatened. One female journalist was reportedly sexually harassed.

110. The impact of the developments in eastern Ukraine on the most vulnerable groups is being closely monitored by the HRMMU. Attacks by an armed group on Roma communities in Slovyansk that were reported, resulted in many Roma families leaving the area, with others remaining in the city fearful to cross checkpoints.

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<sup>44</sup> Journalist of the VICE News (USA) who was detained on 22 April and released on 24 April.

### **C. Investigations related to events in the east**

111. Information provided to the HRMMU by the Office of the General Prosecutor showed that law enforcement agencies had registered 247 criminal proceedings concerning cases of “separatism”. 17 of these are under investigation by the Regional Prosecutors of Donetsk, Luhansk, Kherson and Dnepropetrovsk: eight concern violent acts to overthrow or change the constitutional order as stipulated or to seize state power (article 109 of the Criminal Code), or the infringement of Ukraine’s territorial integrity and inviolability (article 110 of the Criminal Code), and one criminal proceeding for high treason (article 111 of the Criminal Code). The remaining eight criminal proceedings concern excessive use of powers (article 365 of the Criminal Code) by police officers in connection with allegedly supporting an act of “separatism” (linked to either article 109 or 110 of the Criminal Code).

112. The HRMMU is following up on a number of cases where individuals were detained under these criminal proceedings related to events in the east. On 30 April, the HRMMU received information from the National Preventive Mechanism regarding ten detained persons. It was stated that they are held in the pre-trial detention centre of the Security Service of Ukraine based on respective court decisions, and, reportedly, are in satisfactory health condition and receive legal aid.

113. In addition, the HRMMU verified allegations made by a Russian senator claiming that Pavel Gubarev, the self-proclaimed governor of Donetsk, who was detained in Donetsk by police on 6 March and transferred to Kyiv, had been tortured and was in a critical condition. The HRMMU spoke with the lawyer of Pavel Gubarev and the head of the National Prevention Mechanism; both denied the torture claim. On 30 April, the lawyers of Mr. Gubarev announced that Shevchenkivskiy District Court in Kyiv had prolonged the detention period of Mr. Gubarev until 28 June.

### **D. Economic and social rights**

114. Public services are reported to be operating in most towns in the east, despite the seizure of public and administrative buildings. The impact on the access to, and the quality of, services provided by public institutions for residents in a non-discriminatory way continues to be observed, including in those towns either already controlled by armed groups, or with administrative buildings occupied by armed and unarmed opponents of the Government. The presence of armed groups and their particular control of towns such as Kramatorsk and Slovyansk is resulting in the disruption of many aspects of daily life. There are reports that many shops are closed; public services are fully operational, including public transport, schools and healthcare and medical facilities. Several major banks terminated operations in various parts of eastern Ukraine due to numerous instances of attacks on their offices.

115. The HRMMU heard of concerns regarding the on-going crisis from representatives of Women’s NGO in both Kyiv and Donetsk. Their sense is that there is very little participation

and inclusion of women in efforts to resolve the current crisis in Ukraine, particularly in the eastern regions. Their more active inclusion in such activities is viewed by many as critical to the success of possible steps to secure good governance, respect for human rights and the rule of law. Advocacy is necessary at all levels to ensure the inclusion of women into any effective efforts at national reconciliation and dialogue.

116. One gap raised in particular in Donetsk, is the inclusion of Women's NGOs in the Donetsk region so that they are more connected both geographically, e.g. with NGOs in Kyiv – the HRMMU has facilitated this connection. In Donetsk itself, the HRMMU has included a representative of the women's NGO coalition in regular NGO meetings it has initiated with members of the civil society in Donetsk to discuss human rights.

## **VI. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

117. In line with UN General Assembly Resolution 68/262, adopted on 27 March 2014, entitled “Territorial integrity of Ukraine”, the HRMMU monitors the human rights situation in the Autonomous Republic of Crimea. On 28 April, a law, adopted by Parliament on 15 April “On guaranteeing citizens' rights and freedoms and legal regime in the temporarily occupied territory of Ukraine” entered into force (hereafter “Law on Occupied Territory”). According to the Law, the Autonomous Republic of Crimea and the city of Sevastopol, the airspace above them, domestic waters and territorial sea of Ukraine, including underwater space, are all defined as a temporarily occupied territory. It foresees that the temporarily occupied territory is an inalienable part of the soil of Ukraine where Ukrainian laws remain in effect. The Law stipulates that the responsibility for the violations of human rights and the destruction of cultural property lies with the Russian Federation as the occupying State according to the norms and principles of international law.

118. The Ombudsman reported that since the unlawful “referendum” in the Autonomous Republic of Crimea, the number of people seeking help has significantly increased. However, as of 7 April, the regional office of the Ombudsman in Crimea was forced to stop working and had to close, due to its eviction from its office and the overall obstruction faced by its staff in their work. The representative of the Ombudsman Institution in Crimea continues to receive information on Crimea through human rights defenders and NGOs. The HRMMU is concerned about the gap in human rights protection as a result of the closure of the Ombudsman regional representation.

### **A. Internally displaced persons from Crimea**

119. UNHCR reports that as of 29 April there were 7,207 internally displaced persons (IDPs) registered in all 24 regions of Ukraine. With no official centralised registration process, there are concerns that this figure may not reflect the reality, with some IDPs not registering with local authorities. Registration with a local authority is only required should people wish to access state services, such as healthcare, or register for housing and employment. Most of IDPs have settled in Kyiv (1968 persons) and Lviv region (1207 persons); 445 persons registered in Poltava, 386 in Vinnytsya, 374 in Kharkiv, 300 in Dnipropetrovsk, 243 in Ivano-Frankivsk, 196 in Chernivtsi. The majority of IDPs are Crimean Tatars; although there are

reports of an increased registration of ethnic Ukrainians, ethnically mixed families, and ethnic Russians. Most IDPs are women and children.

120. The local authorities of the regions where IDPs have settled have endeavoured to provide essential needs and services, including accommodation, schooling, social benefits and, in some cases, employment.

121. Common challenges that the IDPs face are: interruptions in the provision of, and access to, social benefits, including pensions, maternity benefits, and child assistance payments, difficulties in obtaining documents, e.g. university documents for students, and not being able to access their bank accounts in branches based on mainland Ukraine.

122. The Law “On the rights and freedoms of citizens and the legal regime on the temporarily occupied territory of Ukraine” refers to these people as the “citizens of Ukraine who have resettled from the temporarily occupied territories”. The Law also addresses other issues of concern to IDPs, such as how they can receive unemployment benefits, exercise their right to vote, and replace their identity documents. In addition, various ministries have adopted specific regulations and procedures to facilitate the access of persons from Crimea to education (including higher education), medical care, and social benefits. Nevertheless, a number of key issues, particularly residence registration and the related issue of business registration, still need to be addressed through legislation/regulations.

123. The HRMMU has received reports that some IDPs are planning to apply for asylum in Europe and Turkey; others plan to settle in their location; while others are looking to return to Crimea.

## **B. Rights of Crimean residents**

124. As the legislation of the Russian Federation is being enforced on the territory of Crimea, at variance with the UN General Assembly resolution 68/262, this is creating difficulties for Crimean residents, as there are many differences with Ukrainian laws. One particular example concerns the treatment now available to HIV/AIDS patients in Crimea. In Ukraine, people who use drugs have access to opioid substitution therapy (OST) as an integral part of the widespread implementation of harm reduction programmes. These programmes are an essential element in controlling HIV/AIDS and other infectious disease among injecting drug users in Ukraine, as elsewhere in Eastern Europe. In 2013, the Ukrainian State Service for drug control reported that approximately 8,000 people in Crimea were infected with HIV/AIDS. As of 1 March, there were 806 people using OST in Crimea; as of 6 May, the OST programmes in Crimea stopped. The majority of former OST patients now face deterioration in their health condition due to the fact that this treatment has been curtailed. This raises serious concerns for HIV/AIDS patients in particular, questioning how they may now access and gain quality healthcare treatment.

*Right to citizenship*



125. Citizenship issues became more critical following the agreement between the Russian Federation and the authorities in Crimea, which stipulates that the citizens of Ukraine and stateless persons permanently residing in Crimea or in Sevastopol as of 18 March 2014 shall be recognized as the citizens of the Russian Federation, with the exception of persons who within one month thereafter declare a desire to maintain their or their minor children's active citizenship or to remain stateless persons.

126. The deadline for Crimean residents to refuse Russian citizenship expired on 18 April, after which applications for refusing Russian citizenship were no longer accepted.

127. The HRMMU was informed of constraints faced by Crimean residents who refuse to acquire Russian citizenship: (1) the period granted for initiating the procedure of refusing Russian citizenship (18 April) was too short; (2) instructions from the Russian Federal Migration Service (FMS) on the refusal procedure were only available as of 1 April; (3) information about FMS points was not available until 4 April; (4) from 4 - 9 April only two FMS points were functioning - in Sevastopol and in Simferopol; (5) as of 10 April, 9 FMS points were working: Sevastopol, Simferopol, Yalta, Bakhchisaray, Bilogorsk, Evpatoriya, Saki, Kerch and Djankoy; (6) some requirements in the procedure of refusing Russian citizenship evolved over time, such as the necessity to be make the application in person, and that both parents were required for the application of a child. The HRMMU is concerned that there may be problems with regard to the right to citizenship and will closely monitor any related cases.

128. Article 5 of the adopted Law “On Occupied Territory” states that the forced automatic acquirement of Russian citizenship by Ukrainian residents living in Crimea is not legally accepted by Ukraine, and is not deemed as grounds for the withdrawal of Ukrainian citizenship.

129. The HRMMU is concerned with reports that those who did not apply for Russian citizenship are facing harassment and intimidation. It will be critical that they are ensured their property and land rights, access to education and healthcare and face no curtailment to the array of social benefits associated with citizenship. The transition period in Crimea will end on January 2015. Allegedly, those who have refused to acquire Russian citizenship by this time, will have to apply for residence permits; or else they could face deportation from the territory of Crimea.

#### *Freedom of movement*

130. The “Law on Occupied Territory” has only minor restrictions to the freedom of movement (foreigners and stateless persons will have to obtain a special permit to enter/leave the occupied territory). Under article 10, freedom of movement between the Autonomous Republic of Crimea and mainland Ukraine is allowed for Ukrainian citizens. On 14 April, the authorities in Crimea announced that full access for Ukrainian citizens to Crimea will be guaranteed as of 25 April.

131. In practical terms, there are long queues at the boundary line that now exists, with signs that the latter is becoming fully-functioning. This impedes and complicates maintaining family ties and places limitations on the freedom of movement. The existence of a boundary line between Crimea and mainland Ukraine with checks performed at 27 check points was announced on 25 April by the acting Head of the Federal Migration Service of Russia in Crimea, Petro Yarosh.

132. On 29 April, the Ministry of Foreign Affairs of Ukraine sent a diplomatic note of protest to the Russian Federation, stating that the establishment of a border was not in line with the basic principles and norms of international law and contradicts UN General Assembly Resolution 68/262.

133. On 22 April, 12 more names were added to the list of “Persons Engaged in Anti-Crimean activity, whose stay is undesirable on the territory of the Autonomous Republic of Crimea”, originally adopted by the “State Council of Crimea” on 27 March. It reportedly now includes 344 names, one of which is Mustafa Jemilev, ex-chairman of the Parliament of the Crimean Tatar people.

134. On 29 April, a group of Crimean Tatars reported that they were made to leave a train by law enforcement officials in the town of Djankoi, having been informed that they were not permitted to enter Crimea. Apparently at the time of the incident, no reason was given for this decision (possibly, the absence of Russian passports). The HRMMU is seeking further information on this incident to verify the situation, and why limitations were placed on the freedom of movement for these individuals.

135. On 30 April, the Cabinet of Ministers of Ukraine issued an Order “On temporary closure of crossing points across the border and checkpoints”,<sup>45</sup> according to which 27 check points are to be closed. The Order is not likely to have an impact on the freedom of movement for Crimean residents, as the check points to be closed are at airports (all flights connecting Crimea and continental Ukraine have been cancelled following the unlawful “referendum”) or at coastal entry points. This, however, might have a negative effect in the long run on trade, and thus economic rights.

#### *Freedom of expression and access to information*

136. In April, some Crimean media outlets moved their editorial offices to mainland Ukraine due to fear for their personal safety and impediments they were facing in their work. Examples of such moves are Internet portal “Blackseanews”, TV channel “Chornomorka” and Internet portal “Events of Crimea”.

137. The broadcasting of the Ukrainian TV channels in Crimea has been disconnected since early March, and is only available via satellite.

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<sup>45</sup> It is stated that the measure is required due to the deterioration of the situation in the Crimea and invasion of the armed formations and persons with the extremist views to the territory of Ukraine and military aggression from the side of the Russian Federation, blocking of the border check points, which prevents from conducting the control foreseen by the legislation.

138. On 22 April, Lilia Muslimova, press-secretary of the Parliament of the Crimean Tatar people, announced that broadcasting was no longer permitted for the Crimean Tatar people on State TV and Radio Company “Krym” about Mustafa Jemilev and Refat Chubarov, member of the Parliament of the Crimean Tatar people.

139. With the enforcement of legislation of the Russian Federation, Crimean media face growing difficulties. All media outlets have to now re-register. A reported concern, that needs to be verified, is that an unofficial requirement for re-registration will be for the editor-in-chief to be a citizen of the Russian Federation.

140. On 10 April, Ukrainian radio stations had to suspend their work in Crimea due to the newly-occurred legal and technical difficulties in ensuring FM broadcasting on the territory of the peninsula. These included the six stations belonging to the group “TavrMedia” (Russian radio, Hit FM, Kiss FM, Radio Roks, Relax, Melodia), UMH Holding (AutoRadio, Our radio, Europe Plus) and Business Radio Group (Radio Shanson and Favourite radio Sharmanka).

*Freedom of association*

141. The HRMMU is concerned about NGOs based in Crimea who will now operate under the law on foreign agents of the Russian Federation. This will potentially affect their operations, as it places restrictions on the receipt of foreign funding. There is no such law in Ukraine.

*Freedom of religion*

142. Worrying developments have been reported to the HRMMU regarding freedom of religion in Crimea after the 16 March unlawful “referendum”. Besides earlier reported attacks on priests, the pressure on some religious communities seems to persist.

143. On 25 April, the Ukrainian Orthodox Church of Kyiv Patriarchate published an official statement, expressing deep concern that the authorities in Crimea did not comply with the written arrangements guaranteeing the safety of the Crimean diocese. In Sevastopol, the Temple of Martyr Clement of Rome, located on the territory of the Training Unit of the Ukrainian Navy, has practically been taken away from the Ukrainian Orthodox Church of Kyiv Patriarchate. The Archimandrite Macarius (ethnic Russian) and the parishioners are not allowed into church by the Russian military men that guard the territory. The attempts of the Crimean diocese to meet with representatives of the current city authorities of Sevastopol on this and other issues failed. Similar situation occurred with the Temple of the Intercession of the Theotokos (Protection of Virgin Mary) in the village of Perevalny. The priest and parishioners report harassment by representatives of the Ukrainian Orthodox Church of the Moscow Patriarchate. For example, on 13 April, during the Palm Sunday celebrations, some unidentified persons tried to prevent members of the congregation from entering the church, and attempted to provoke a conflict.

144. Growing pressure on the Muslim communities has also been reported. For example, the Islamic political group Hizb ut-Tahrir is banned in Crimea pursuant to Russian law, which has declared the group to be an extremist organisation. Hizb ut-Tahrir had been functioning in Crimea for over a decade, mainly being active in the spheres of education and politics.

Reportedly, most of its members have fled Crimea due to fear of prosecution by the Russian Federation based on charges of terrorism. In addition, many Crimean Tatars, who openly practice Islam reported their fears that the Russian authorities will consider them members of this group and thus prosecute them.

145. On 22 April, the deputy head of the Jewish community “Hesed-Shahar”, Borys Helman, reported that a memorial to the Holocaust victims in Sevastopol was desecrated by unknown persons. The inscriptions on the memorial were painted red, with signs of the “USSR” and Soviet symbols. The case was reported to the police, and is said to be under investigation.

### **C. Rights of indigenous peoples**

146. Reports from Crimea raise serious concerns about on-going harassment towards Crimean Tatars.

147. The HRMMU has received reports from the “Standing Committee on inter-ethnic relations” in Crimea that on 9 April the memorial of Akim Dzhemilev, a famous Crimean Tatar choreographer, in the village Malorechenskoye (near Alushta) had been desecrated. The “Chair of the State Council” of the Autonomous Republic of Crimea has instructed police to respond to any reported acts of vandalism in Crimea.

148. On 19 April, Refat Chubarov, Chairman of the Parliament of the Crimean Tatar people, and Mustafa Jemilev, leader of the Crimean Tatar People, alleged that representatives of the ‘self-defence units’ stopped their car and harassed them on the highway Simferopol – Bakhchisaray near the village Chistenkoe.

149. On 21 April, a group of unidentified men, describing themselves as members of the ‘self-defence unit’ broke into the building of the Parliament of the Crimean Tatar people and removed the Ukrainian flag, harassing verbally and physically female employees.

150. On 22 April, the Presidium of the Parliament of the Crimean Tatar People issued an official statement calling on the Crimean authorities to de-escalate the current lawlessness in Crimea. According to the statement, the first step should be the dissolution of the so called “Crimean self-defence”. This is seen as the main source of the reported lawlessness, with an escalation of acts committed towards Crimean Tatars.

151. The same day, on his way back to Kyiv, Mustafa Jemilev was presented with “Notification of non-permission to enter the Russian Federation until 2019”. Although initially denied, this was later confirmed by Olha Kovitidi, “Senator” from Crimea in the Council of Federation of the Russian Federation.

152. On 3 May, Mustafa Jemilev tried to enter Crimea from mainland Ukraine via the crossing point Armiansk, after having been prevented from boarding the plane from Moscow to Simferopol on 2 May. Traditionally, Crimean Tatars drive to greet their leader on his return and entry to Crimea. This time they were met by a number of armed military personnel

without clear identification insignias how blocked them. Later on, some of the Crimean Tatars crossed to mainland Ukraine. When the procession of people headed by Messrs. Jemilev and Chubarov tried to cross the border again, they were stopped. Access to Mr. Jemilev was once again forbidden and he returned to Kyiv. After several hours of waiting, Crimean Tatars returned to Crimea, where they organised a peaceful flash-mob to draw attention to the incident. On 5 May, the court decision was issued to two persons, who were fined with 10,000 RUB each, for participating in the flash-mob. Reportedly, the court hearings were conducted under the strict control of the “Office of the Prosecutor” of Crimea.

153. Furthermore, on 4 May, Refat Chubarov, chairman of Parliament of Crimean Tatar people was urgently summoned to the “Office of the Prosecutor” of Crimea, Natalia Poklonskaya. Mr. Chubarov was given notice regarding a “Notification of the unacceptability of leading extremist activity” dated 3 May. The document reads that the actions of the Crimean Tatars on 3 May at the crossing point violated Russian legislation. Since they were coordinated by the Parliament of the Crimean Tatars People, its activity may be considered as extremist. According to the Federal Law of the Russian Federation Nr.114 FZ due to this extremist activity, the work of the Parliament of the Crimean Tatars People may be announced illegal and terminated.

154. This is a deeply worrying development, especially considering other examples<sup>46</sup> of human rights violations regarding Crimean Tatars.

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

155. Based on the HRMMU monitoring conducted during the reporting period, OHCHR recommends that the Government of Ukraine and the authorities in Crimea review and implement fully the recommendations of the first report on the situation of human rights in Ukraine, released on 15 April. In addition, OHCHR makes the following conclusions and recommendations:

### **To the Government of Ukraine:**

a) Welcome steps taken to support the establishment of the HRMMU and encourage further cooperation in order to support the Government in addressing human rights concerns. OHCHR assures the Government of its on-going support in its efforts to address human rights concerns in line with international standards, and within the framework of the UN General Assembly resolution 68/262 and the Geneva Agreement of 17 April 2014.

b) The deterioration in the east of Ukraine – the unlawful activities of the armed groups, including the seizure and occupation of public and administrative buildings, and numerous human rights abuses, inter alia, unlawful detentions, killings, torture/ill-treatment and harassment of people – remain the major factor in causing a worsening situation for the protection of human rights. A prompt, impartial and comprehensive investigation should be undertaken into the events and violence in the east.

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<sup>46</sup> HRMMU is verifying reports that Crimean Tatars working in law enforcement or holding important public positions are being pressured to submit letters of resignation.

c) All armed groups must disarm and their unlawful acts brought to an end, including the immediate release all those unlawfully detained, and the vacation of occupied public and administrative buildings, in line with the provisions of the 17 April Geneva Agreement. Those found to be arming and inciting armed groups and transforming them into paramilitary forces must be held accountable under national and international law.

d) Security and law enforcement operations must be in line with international standards and guarantee the protection of all individuals at all times. Law enforcement bodies must ensure that all detainees are registered and afforded legal review of the grounds of their detention.

e) The violent clashes in Odesa on 2 May resulted in the deaths of 46 people, with over 200 injured and 13 remaining missing. It appears to have hardened the resolve of those opposing the Government, and deepened division between communities. There is a need for an independent investigation into the violent events of that day. The perpetrators must be brought to justice in a fair and non-selective manner.

f) Primarily as a result of the actions of organised armed groups, the continuation of the rhetoric of hatred and propaganda fuels the escalation of the crisis in Ukraine, with a potential of spiralling out of control. Acts of hate speech must be publicly condemned and deterred. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech<sup>47</sup>.

g) There are increasing reports of harassment and intimidation of journalists. These should be investigated and addressed in order to ensure accountability and protect fundamental human rights and freedoms. Freedom of expression must be ensured allowing journalists the space and security to carry out their work objectively.

h) There is an increasing tendency in some critical urban areas for rallies of opposing groups to be held simultaneously, often leading to violent confrontations and clashes. This trend can be reverted by replacing incitement to hatred with the culture of tolerance and mutual respect for diverging views. Peaceful demonstrations must be permitted, as a matter of international law, and also as a way for people to express their opinion. Law enforcement agencies must facilitate peaceful assemblies, ensuring the protection of participants, irrespective of their political views. In this context, law enforcement officers must receive adequate training for handling rallies and protests in line with the international human rights standards.

i) The law enforcement reform package should aim to reinforce the rule of law; to de-politicise, de-militarise, de-centralise and strengthen the structure of the law enforcement bodies through accountability, transparency, and closer cooperation with the public and local communities, as well as professionalising the staff.

j) The Law “On the restoration of the credibility of the judiciary in Ukraine” must be brought in line with international norms and standards.

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<sup>47</sup> See the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4, appendix, para. 36).

k) The announced national consultations on the discussion of the amendments to the Constitution of Ukraine on the decentralization of state powers should be advanced in accordance with the principle of equal inclusion of all, including national minorities and representatives of civil society, and ensuring equal role for women. A system of checks and balances should be fully provided. If conducted in a broad, consultative and inclusive manner, this may be a positive step leading to the de-escalation of tensions and genuine national reconciliation.

l) The adoption of measures, including making official public commitments on minority protection and ensuring participatory and inclusive processes in public and political life - reassuring all members of minorities regarding respect for their right to life, equality, political participation in public affairs and public life, as well as their cultural and linguistic rights would significantly ease tensions within the Ukrainian society.

m) The Central Election Commission of Ukraine has set out that the presidential elections will be conducted whatever the circumstances and that the results will be legally binding. OHCHR is concerned that the presidential election campaign is being accompanied by intolerance from certain parties, with cases of hate speech being expressed and presidential candidates being harassed and physically attacked, which could lead to more social tension and violence. Free, fair and transparent presidential elections – in line with relevant international standards - are an important factor contributing towards the de-escalation of tensions and the restoration of law and order to enable the peaceful development of the country.

**To the authorities in Crimea:**

n) Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.

o) At variance with UN General Assembly resolution 68/262, the legislation of the Russian Federation is being enforced on the territory. In addition, its differences in comparison with Ukrainian laws already have and will continue having serious implications for the enjoyment of human rights and fundamental freedoms, including freedom of expression and media as well as freedoms of peaceful assembly, association and religion.

p) All acts of discrimination and harassment towards members of minorities and indigenous peoples – in particular Crimean Tatars – and other residents who did not support the “referendum” must come to an end, and all their human rights must be guaranteed.

q) Agree to the deployment of independent and impartial human rights monitors, including by the HRMMU.

## VIII. ANNEX

### Concept Note UN human rights monitoring in Ukraine

#### Introduction

This concept note proposes the objectives and activities of enhanced OHCHR engagement in Ukraine through the immediate deployment of a human rights team.

#### Rationale for OHCHR's engagement

OHCHR has been closely following developments in the country with the High Commissioner for Human Rights publicly voicing concerns regarding human rights violations, including the restrictive legislation adopted by the Parliament on 16 January, urging inclusive and sustainable dialogue, and calling for investigations into cases of killings, disappearances and other violations. On 21 February, the Special Procedures of the UN Human Rights Council also issued a press release condemning the excessive use of force and calling for proper and impartial investigation into the reported incidents of human rights violations. To date OHCHR's engagement in Ukraine has been through its Human Rights Adviser within the UN Resident Coordinator and UN Country Team, supported by its geographical desk team in Geneva.

The deployment of an OHCHR team to Ukraine is fully consistent with, the requirements of the Secretary-General's Rights Up Front Plan of Action. The Plan of Action also aims to ensure that UN Country Teams are provided with the support they require to respond to the human rights context, including through the deployment of human rights expertise. OHCHR's engagement, and provision of information and analysis of the human rights situation, will further allow the UN to undertake further steps to respond to an emerging crisis in Ukraine as set out in the Plan of Action.

#### Objectives

- Monitor the human rights situation in the country and provide regular, accurate and public reports by the High Commissioner on the human rights situation and emerging concerns and risks;
- Recommend concrete follow-up actions to relevant authorities, the UN and the international community on action to address the human rights concerns, prevent human rights violations and mitigate emerging risks;
- Establish facts and circumstances and conduct a mapping of alleged human rights violations committed in the course of the anti-government demonstrations and ensuing violence between November 2013 and February 2014;



- Establish facts and circumstances related to potential violations of human rights committed during the course of the deployment.

## **Activities**

Monitoring, reporting and advocacy – The submission of regular updates and analysis to the High Commissioner on the human rights situation and principal concerns, with a specific focus on, and identification of, issues likely to have an impact on the overall security situation in Ukraine. This shall include recommendations for action to be taken by the relevant authorities, the international community and the UN in the country, and steps necessary to provide protection for persons at risk.

Coordination and collaboration with other human rights monitoring activities – The team will actively coordinate and collaborate with other human rights monitoring capacity within the country and deployments by other international organisations (including OSCE-ODIHR, CoE). More detailed working arrangements with these actors on the ground will have to be further elaborated, especially with respect to public reporting.

Advisory role to the RC and UNCT – The team, with the support of the Human Rights Advisor, will provide advice and recommendations to ensure the integration of a response to the key human rights concerns within the strategy of the UNCT. This will include advice to the Resident Coordinator (RC) on advocacy measures to be undertaken with key national actors in relation to human rights concerns, and may undertake direct advocacy with specific partners and stakeholders, in coordination with the RC and OHCHR. The team will also provide guidance to relevant members of the UNCT, and input to UNCT meetings.

## **Composition and deployment of the mission**

The mission will be conducted by a team of seven human rights officers, headed by one P5 team leader, and made up of six P4/P3 human rights officers, security and administrative support staff, and supported by 25 national staff.

The head of the team will be based in Kiev and be responsible for the staff in five other locations of the country: initial planning has identified Lviv, Odessa, Simferopol, Donetsk and Kharkiv. OHCHR will aim to co-locate OHCHR team members within UN premises in these locations, if available, or at the offices of other international organisations, including OSCE-ODIHR.

## **Security**

OHCHR Safety and Security Section will assist the team in coordinating its activity with UN DSS and will provide advice on security related aspects. A security officer will be included as a member of the team.

## **Dates of the mission**

The suggested timeline for this mission is from mid-March, ensuring continuity of an increased human rights presence after ASG Simonovic's departure, and for a period of up to three months.

## Funding

Funding will initially be provided from the Secretary-General's unforeseen and extraordinary expenses, with additional funding sources to be sought.



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

**Report on the human rights situation in Ukraine  
15 June 2014**

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## EXECUTIVE SUMMARY

1. The present report is based on findings of the United Nations (UN) Human Rights Monitoring Mission in Ukraine (HRMMU) covering the period of 7 May – 7 June 2014. It follows two reports on the human rights situation in Ukraine released by the Office of the UN High Commissioner for Human Rights (OHCHR) on 15 April and 16 May 2014.
2. During the reporting period, the human rights situation in the Donetsk and Luhansk regions has continued to deteriorate. The 11 March “referendum” on “self-rule” held by the self-proclaimed “Donetsk People’s Republic” and “Luhansk People’s Republic”,<sup>48</sup> albeit without effect under international law, was seen by their representatives as the first step to the creation of a “Novorossia”. In addition, armed groups have continued to physically occupy most of the key public and administrative buildings in many cities and towns of the Donetsk and Luhansk regions, and have declared virtual “independence”, however, the provision of administrative services to the local population remains with the State.
3. The presence of armed people and weapons in the regions of Donetsk and Luhansk has increased. Representatives of the “Donetsk People’s Republic” have recognised the presence within their armed groups of citizens of the Russian Federation, including from Chechnya and other republics of the North Caucasus. In the period following the elections, the HRMMU observed armed men on trucks and armoured vehicles moving around downtown Donetsk in daylight.
4. The escalation in criminal activity resulting in human rights abuses is no longer limited to targeting journalists, elected representatives, local politicians, civil servants and civil society activists. Abductions, detentions, acts of ill-treatment and torture, and killings by armed groups are now affecting the broader population of the two eastern regions, which are now marked by an atmosphere of intimidation and consequent fear. Armed groups must be urged to stop their illegal activities and lay down their arms.
5. There has also been more regular and intense fighting as the Government has been trying to restore peace and security over the eastern regions of Donetsk and Luhansk through security operations involving its armed forces. Local residents of areas affected by the fighting are increasingly being caught in the cross-fire between the Ukrainian military and armed groups, with a growing number of residents killed and wounded, and damage to property. The HRMMU is concerned at the increasing number of reports of enforced disappearances as a result of the security operations. The Government must further use restraint of force, and ensure that its security operations are at all times in line with international standards.<sup>49</sup>
6. As a result of these developments, residents of the Donetsk and Luhansk regions live in a very insecure environment, coupled with social and economic hardships. Daily life is

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<sup>48</sup> Hereafter referred to as the “Donetsk People’s Republic” and the “Luhansk People’s Republic”.

<sup>49</sup> Human Rights Watch Letter to former Acting President Turchynov and President-Elect Poroshenko dated 6 June 2014, on the conduct of security operations in south-eastern Ukraine in light of the growing number of credible reports regarding Ukrainian forces’ use of mortars and other weapons in and around populated areas, and the recent intensifying of hostilities between Ukrainian forces and armed groups.

more and more of a challenge. The HRMMU is gravely concerned that the combination of the increased number of illegal acts by the armed groups, and the intensification of fighting between armed groups and Ukrainian forces is raising serious human rights concerns, including but not limited to, the fate of the general population, especially women and children, in the areas under the control of armed groups.

7. As of 6 June, the departments of social protection in Ukraine's regions had identified over 12,700 internally displaced persons (IDPs)<sup>50</sup>. However, the actual number of people who have fled the violence and fighting in the regions of Donetsk and Luhansk is believed to be higher and increasing daily.
8. Freedom of expression continues to be threatened, particularly in the eastern regions, where journalists face ongoing intimidation and threats to their physical security. Hate speech, particularly through social media, continue to fuel tensions and to deepen division between communities.
9. In Crimea, the introduction of Russian Federation legislation, in contradiction with the United Nations General Assembly resolution 68/262 and applicable bodies of international law, hampers the enjoyment of human rights and fundamental freedoms. It has created a legislative limbo as, while Ukrainian legislation was supposed to remain in force until 1 January 2015, the legal institutions and framework are already required to comply with the provisions of legislation of the Russian Federation.
10. Residents in Crimea known for their "Pro-Ukrainian" position are intimidated. The HRMMU is concerned that many may face increasing discrimination, particularly in the areas of education and employment. Leaders and activists of the indigenous Crimean Tatar people face prosecution and limitations on the enjoyment of their cultural rights. During the reporting period, the situation of all residents of Crimea has deteriorated with regard to their right to freedoms of expression, peaceful assembly, association, religion or belief.
11. From 14 to 19 May, Assistant Secretary-General (ASG) for Human Rights Ivan Šimonović travelled to Ukraine. During his visits to Kyiv, Donetsk and Odesa, he discussed the 16 May report with the Government, regional and local officials, the Ombudsperson and representatives of civil society, and the international community. The ASG highlighted the importance of prompt follow-up to the recommendations made in the OHCHR report as a means to de-escalate tensions, in particular ahead of the Presidential elections.
12. The investigations under the Office of the Prosecutor General into the Maidan events continued. On 28 May, a Kyiv court sentenced two police officers who subjected a Maidan demonstrator to ill-treatment. On 15 May, relatives of those killed on Maidan, dissatisfied with the perceived slowness of the official investigation, created an initiative group to conduct their own investigation. The HRMMU remains in regular contact with

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<sup>50</sup> As of 16 June, UNHCR estimate there to be 34,336 IDPs in Ukraine.

According to the Russian Federation Federal Migration Service, as of 6 June, 2014, 837 persons had applied and were granted refugee status; and 3,750 persons had applied and were granted Temporary Asylum. Approximately 15% were minors under the age of 18. These figures do not include people from Crimea.

the Office of the Prosecutor General and emphasizes the need for the investigation to be transparent, comprehensive and timely.

13. With respect to the incidents that took place in Odesa on 2 May, it should be noted that six official investigations have been established. The main bodies undertaking such investigations are the Ministry of Interior (MoI) and the State Security Service in Ukraine (SBU). It is with regret that the HRMMU reports a lack of cooperation from both governmental bodies, particularly at the central level with the HRMMU, which has been preventing the HRMMU from conducting a proper assessment of the progress made. The HRMMU reiterates the need for prompt and thorough investigations into the violent incidents on 2 May in Odesa. Some key questions must be addressed to ensure confidence in the investigation and to guarantee accountability, due process and to enable the communities to accept fully the results of such an investigation. Among those questions are the conduct of the police on 2 May: why it, and the fire brigade, either did not react, or were slow to react; what caused the fire in the Trade Union building; who are the perpetrators of the killings in the afternoon and the fire in the evening; and what measures are being taken to guarantee justice for the victims, and due process for the people detained in connection with these events. Furthermore, the Government must pay particular attention to ensure social media is not used for hate speech or incitement to hatred.
14. A key development during the reporting period was the Presidential election held on 25 May 2014. There were 21 candidates officially on the ballot. On 3 June, the Central Election Commission (CEC) confirmed that Mr. Petro Poroshenko had won with 54.7% of the vote. In the regions of Donetsk and Luhansk, attacks had taken place every day during the week preceding the elections and multiplied on election day, with violent obstruction of polling stations. The pattern of such attacks consisted of representatives of the “Donetsk People’s Republic” and the “Luhansk People’s Republic” and armed men entering the premises of the district election commissions, threatening staff and sometimes beating and/or abducting them, often taking away voters’ lists, computers and official documents. In some cases, the premises of these commissions were seized and blocked; others had to close either because they became inoperative, or for security reasons the staff were frightened to come back. Several attacks against district election commissions and polling stations were reported just prior to, and on, the election day, with armed men entering polling stations, forcing them to close and/or destroying or stealing ballot boxes. These illegal acts prevented many people living in the Donetsk and Luhansk regions to exercise their right to vote.
15. Residents of Crimea had to go to mainland Ukraine to vote. The HRMMU monitored the situation in the Kherson region, where most of the Crimean voters had registered, and spoke to representatives of the Crimean Tatars. As they crossed the administrative border by car to go to vote, representatives of “self-defence forces” reportedly recorded various personal details, including car license plates and passport numbers. The HRMMU was informed that many Crimean Tatars did not go to vote due to the cost of travelling, concerns about crossing the administrative border, and fear of reprisals by the authorities in Crimea.

16. During the reporting period, the Government of Ukraine continued to implement the Geneva Statement.<sup>51</sup> National roundtables on constitutional reform, decentralization, minority rights and the rule of law were held in Kyiv on 14 May, in Kharkiv on 17 May, and in Mykolaiv on 21 May. These meetings brought together former Presidents Kravchuk and Kuchma, Prime Minister Yatsenyuk, political party leaders, members of the business community and other civil society organizations. In Kharkiv, Prime Minister Yatsenyuk declared that the Constitution should be amended in order to provide a special status for the Russian language and national minority languages.
17. On 13 May, the Parliament adopted the Law “On amending some legislative acts in the area of state anti-corruption policy in connection with the implementation of the European Union (EU) Action Plan on the liberalisation of the visa regime for Ukraine”. The Law provides for more stringent penalties for corruption offences committed by individuals or legal entities.
18. On 20 May, Parliament adopted by resolution № 4904 the Memorandum of Concord and Peace, which was drafted during the roundtable on national unity in Kharkiv on 17 May, and discussed on 21 May in Mykolaiv. Supported by 252 votes (all deputies except the Communist Party of Ukraine and Svoboda), the document foresees that the adoption of a constitutional reform package, including the decentralization of power and a special status for the Russian language; judicial and police reform, and the adoption of an amnesty law for anti-government protesters in the east who would accept giving up weapons, except for those who have committed serious crimes against life and physical integrity. The Parliament called on all to work together to protect, promote and build a democratic Ukraine, and the peaceful coexistence of all nationalities, religions and political convictions.

## **I. METHODOLOGY**

19. The present report was prepared by the HRMMU on the basis of information collected during the period of 7 May to 7 June 2014. During this period, the HRMMU continued to operate pursuant to the objectives as set out at the time of its deployment in March 2014, and in accordance with the same methodology as outlined in its second monthly report on the situation of human rights in Ukraine issued by OHCHR on 16 May.<sup>52</sup> The present report does not intend to present an exhaustive account of all human rights concerns in Ukraine that have been followed by HRMMU during the reporting period. It rather focuses on those violations and developments which represent particular human rights challenges at the current juncture or demonstrate trends for potentially longer-term human rights concerns in the country.

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<sup>51</sup> The Geneva Statement on Ukraine was issued on 17 April 2014 by representatives of the European Union, United States, Ukraine and the Russian Federation. It sets out the agreed initial concrete steps to de-escalate tensions and restore security for all: (1) All sides must refrain from any violence, intimidation or provocative actions; (2) All illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public offices must be vacated; (3) Amnesty should be granted to the protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) The announced constitutional process will be inclusive, transparent and accountable carried out through a broad national dialogue.

<sup>52</sup> <http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>



20. The HRMMU continued to work closely with the United Nations entities in Ukraine. It is grateful for the support and contributions received for the report from the Office of the United Nations Resident Coordinator, the Department for Political Affairs (DPA), the United Nations High Commissioner for Refugees (UNHCR), the World Health Organisation (WHO), the United Nations Children’s Fund (UNICEF), the United Nations Development Fund (UNDP), the World Food Programme (WFP), the United Nations Population Fund (UNFPA), the United Nations Office on Drugs and Crime (UNODC), the International Labour Organisation (ILO), the International Organisation for Migration (IOM), and the Office for the Coordination of Humanitarian Affairs (OCHA).
21. The HRMMU appreciates the close cooperation with international and national partners, including among others, the Organisation for Security and Cooperation in Europe (OSCE).

## II. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS

### A. Investigations into human rights violations related to Maidan protests

22. Five separate initiatives are ongoing in connection with the investigations into human rights violations committed during the Maidan events: (1) the official State investigation is undertaken by the Office of the Prosecutor General of Ukraine in cooperation with the MoI; (2) a temporary “*commission on the investigation of illegal actions of the law enforcement bodies and individual officials and attacks on the rights and freedoms, lives and health of citizens during the events connected with the mass actions of political and civil protests that have been taking place in Ukraine since 21 November 2013*” was established by Parliament on 26 December 2013; (3) the Secretary-General of the Council of Europe initiated, in December 2013, a three-member International Advisory Panel to oversee that the investigations of the violent incidents which have taken place in Ukraine from November 2013 onwards meet the requirements of the European Convention on Human Rights and the case-law of the European Court of Human Rights; (4) a Public Commission on the investigation and prevention of human rights violations in Ukraine was created on 27 January 2014, initiated by a group of Ukrainian legal academics; and (5) an initiative group comprising family members of people who died on Maidan.
23. The Ukrainian Ombudsperson issued a special report on “Infringement of Human Rights and Freedoms in Ukraine - The Events of November 2013 – February 2014”.<sup>53</sup>  
*Forceful dispersal of Maidan protesters on 30 November 2013*
24. As noted in the previous reports, the violent dispersal of protesters on 30 November was the first instance of the excessive use of force against peaceful demonstrators, and triggered further protests.

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<sup>53</sup> Ukrainian Parliament Commissioner for Human Rights, Special Report on ‘Infringement of Human Rights and Freedoms in Ukraine - The events of November 2013 – February 2014’, issued on 28 February, 2014.

25. On 14 May, the Kyiv Pechersky Court postponed a hearing of Oleksandr Popov, former Head of the Kyiv City administration, and of Volodymyr Sivkovych, former Deputy Secretary of the National Security and Defence Council, who are under suspicion of being responsible for the forced dispersal of Maidan protesters on the night of 30 November 2013. The hearing was scheduled after the Kyiv city Court of Appeal cancelled the decision of the Kyiv Pechersky Court of 31 January 2014 to amnesty persons responsible for ordering the crackdown of demonstrators by the “Berkut” riot police under the law of 19 December, which has since then been rescinded.
26. The hearing planned for 14 May eventually took place on 26 May but was followed by an incident. About 15 members of the “Maidan self-defence” attacked Oleksandr Popov after he left the court room. He was doused with water, alcohol and iodine, and insulted. Members of the police, who were standing by, did not intervene.
27. During the following hearing, on 5 June, the plaintiffs (representing Maidan victims) submitted a petition for the revocation of the judge considering the case. The petition was accepted by the court, leading to the postponement of the hearings until a decision on the revocation.

*Criminal proceedings into the killings of 19-21 January and 18-20 February 2014*

28. During 19-21 January 2014, fierce clashes broke out in central Kyiv between the police and protesters, resulting in the first three casualties among demonstrators. The death toll rose significantly between 18-20 February, with confrontations taking the lives of dozens of persons, mostly protesters.
29. Different figures continue being reported regarding the number of deaths during the protests in January and February. According to information from the Office of the Prosecutor General communicated to the HRMMU on 27 May, 76 protesters were killed as a result of firearm wounds on Hrushevskoho and Institutska streets due to armed confrontations. On 21 May, the Ministry of Health announced that 106 demonstrators had died during the protests. Information from the NGO “Euromaidan SOS”, dated 3 June, refers to 113 casualties among protesters (109 in Kyiv and 4 in the regions).
30. There are also discrepancies concerning casualties among law enforcement officers: 14 according to the Office of the Prosecutor General; 17 according to the Investigation Commission of the Parliament of Ukraine on the Maidan events; and 20 according to the NGO “Euromaidan SOS”.
31. For investigation purposes, all the killings of protesters by firearms were merged by the Office of the General Prosecutor into one criminal proceeding. As of 24 April, three “Berkut” officers had been arrested and officially charged with Article 115 (Murder) of the Criminal Code. The situation has not changed over the past month and a half. The killing of law enforcement officers is being investigated by a separate team within the Office of the Prosecutor General. As of 6 June, no suspects had been identified.
32. On 20 May, the deputy head of the Kyiv Department of the MoI, Sergiy Boyko, declared that all documentation related to the activities of the special police unit “Berkut” during

Maidan had been destroyed upon the order of the unit commander in the last days of February 2014.

33. On 5 June, the HRMMU met with a representative of an initiative group claiming to represent about 320 relatives of people killed on Maidan. The group held its first meeting on 15-16 May, and is planning to initiate an independent investigation into the events, with the involvement of lawyers and journalists. They consider their initiative as necessary as they are not satisfied with the ongoing investigations. The group, which plans to register an NGO entitled “Family Maidan” also intends to support families of Maidan victims.
34. On 21 May, the Head of the Parliamentary Investigation Commission on the Maidan events reported that two persons who had participated in the protests were still missing. Eleven persons suspected in the killing of demonstrators have been identified, of whom three were arrested and eight remain at large, allegedly in the Russian Federation. The Commission is seeking to obtain full and reliable information on violations during Maidan and will forward evidence to the General Prosecutor’s Office. It has a one-year mandate and must issue a report to Parliament no later than six months after its establishment that is by 26 June 2014.
35. The International Advisory Panel (IAP) of the Council of Europe overseeing the Maidan investigations held two working sessions in Strasbourg on 9-11 April and 5-7 May 2014. On 16 May, it issued guidelines for NGO submissions and requested input by 11 June 2014. It also decided to request ‘certain authorities’ to submit information mainly concerning the Maidan investigations. The first meetings of the IAP in Kyiv will take place at the end of June 2014.

#### *Torture and ill-treatment*

36. On 28 May, the Kyiv Pechersky Court sentenced two police officers for abuse of power and violence against a demonstrator, Mykhailo Havrylyuk, during the Maidan protests. Mr. Havrylyuk had been stripped naked in the street by the police in freezing conditions and forced to stand in the snow while being mocked, assaulted and filmed with a mobile phone. During the hearings, the defendants pleaded guilty. One of them was sentenced to three years of imprisonment with a probation period of one year, and the other to two years, including a one-year probation period.

### **B. Investigations into human rights violations related to 2 May Odesa violence**

#### *Summary of events*

37. The most serious single incident of significant loss of life in Ukraine since the killings on Maidan occurred in Odesa on 2 May 2014.<sup>54</sup> The events occurred on the same day that a football match was due to take place between the Kharkiv football team “Metallist” and the Odesa football team “Chernomorets”. On 1 May, the police authorities issued an official statement announcing that due to possible disorder because

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<sup>54</sup> See also OHCHR report on the human rights situation in Ukraine, 15 May 2014 (<http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>)

of the football game, an additional 2,000 police officers would patrol the streets of Odesa.

38. Early in the morning of 2 May, at least 600 football fans arrived from Kharkiv. Football fans from both teams are known to have strong “Pro-Unity”<sup>55</sup> sympathies. A pre-match rally for “United Ukraine” had been planned for 3.00 p.m. on Sobornaya square and gathered, at least, 2,000 people, including supporters of the two football teams, Right Sector activists, members of so-called self-defence units, and other “Pro-Unity” supporters. Right Sector and “self-defence” unit supporters were observed by the HRMMU wearing helmets and masks, and armed with shields, axes, wooden/metallic sticks and some with firearms. By 3:00 p.m. the HRMMU had observed 15 police officers on Sobornaya square and two buses of riot police officers parked nearby.
39. Meanwhile, the HRMMU observed that about 450 metres away from Sobornaya street, “Pro-Federalism” activists, comprising approximately 300 activists from “Odesskaya Druzhina” (radical “Pro-Federalism” movement), had also gathered one hour earlier. They reportedly intended to prevent the “Pro-Unity” rally; and were wearing helmets, shields, masks, axes, wooden/metal sticks and some of them with firearms.
40. The HRMMU observed an insufficient and inadequate police presence to manage and ensure security, and crowd control of the “United Ukraine” march towards the football stadium. The HRMMU noted that additional police officers arrived at the scene, but were unable to stop the violent confrontation.
41. At 3.15 p.m., the “Pro-Federalism Odesskaya Druzhina”, “Narodnaya Druzhina” and other activists approached the Sobornaya square and started to provoke the participants of the “United Ukraine” rally. Clashes arose and quickly turned into mass disorder, which lasted for several hours until 6.30 p.m. Police officers and supporters from both sides were injured during the afternoon. Six men were killed by gunshots fired by activists.
42. The HRMMU observed that following the clashes in the city centre, some “Pro-Federalism” activists ran from the area chased by “Pro-Unity” supporters. Approximately 60 “Pro-Federalism” activists took refuge in the “Afina” shopping centre, which had been closed during the day. The “Afina” shopping centre was then surrounded by “Pro-Unity” activists. Riot police (Special Forces “SOKOL”) arrived on the scene, and reportedly took away 47 “Pro-Federalism” activists, while letting women out of the complex. Other “Pro-Federalism” supporters ran from the clashes to the tent camp at the Kulikovo Pole square, where approximately 200 supporters had gathered (including all the “Pro-Federalism” leaders) during the afternoon.
43. Some “Pro-Unity” politicians called upon their supporters to march towards the Kulikovo Pole square. At 7.00 p.m., the “Pro-Unity” supporters marched in that direction, accompanied behind them by approximately 60 riot police.

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<sup>55</sup> The terms “Pro-Unity” and “Pro-Federalism” are used in the context as describing the motivations and orientation of the supporters / activists.

44. The “Pro-Federalism” leaders were informed that “Pro-Unity” supporters were heading towards the tent camp, and between 6.00 – 6.30 p.m., they decided to take refuge in the nearby Trade Union Building.
45. At 7.30 p.m., when the “Pro-Unity” supporters reached Kulikovo Pole square, they burned all the “Pro-Federalism” tents. The “Pro-Federalism” activists, who had hidden in the Trade Union Building, and the “Pro-Unity” activists, then reportedly started throwing Molotov cocktails at each other. Gunshots could reportedly be heard coming from both sides. At around 8.00 p.m., the “Pro-Unity” activists entered the Trade Union Building where the “Pro-Federalism” supporters had sought refuge.
46. During the evening a fire broke out in the Trade Union Building. At 7.43 p.m., the HRMMU called the fire brigade, which has its base located 650 metres from the Trade Union Building. Reportedly, the fire brigade only arrived 40 minutes after receiving the first phone call about the fire. According to fire brigade officials, this was due to the fact that the police did not create a safe and secure perimeter allowing the fire brigade to easily access the Trade Union Building. The cause of the fire remains unclear at this stage.
47. As a result of the fire, officially 42 people died: 32 (including 6 females) were trapped and unable to leave the building and 10 (including one female and one minor) died jumping from windows.
48. The HRMMU has received information from credible resources that some “Pro-Unity” protesters were beating up “Pro-Federalism” supporters as they were trying to escape the Trade Union Building, while others were trying to help them.
49. 247 other people were brought from the scene requiring medical assistance: 27 people with gunshot wounds, 31 with stab wounds, 26 with burns and intoxication caused by combustible products and 163 with injuries by blunt objects. Of these, 99 people were hospitalised, including 22 policemen, with 35 in serious condition. According to various sources, all those who died were Ukrainian citizens. There are no more official reports of people missing in relation to 2 May events. Seven of those injured remain in hospital. The HRMMU received allegations that many who were treated in hospitals did not give their real names and addresses. Moreover, some people who were heavily injured from the violence did not go to hospital for fear of retaliation.
50. During the evening, it was reported to the HRMMU that a bare minimum police force was present at the Kulikovo Pole square. Even when the special riot police force arrived at the scene, the officers did not intervene in the violence that took place on the Kulikovo Pole square. The HRMMU was told by high ranking police officers that the reason for this is that they did not receive any formal order to intervene.

#### *Detentions*

51. The HRMMU has noted slight discrepancies regarding the number of people arrested/detained/transferred during, and in the aftermath of, the 2 May violence. The Regional Prosecution Office and the Regional Ministry of Interior present different figures relating to these events. For example, figures for those arrested in the centre of

town vary from 42 to 47 people, and figures for those arrested at the Trade Union Building from 63 to 67 people.

52. Criminal investigations have been launched under the following articles of the Criminal Code of Ukraine: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); Article 345 (Threat or violence against a law enforcement officer), Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty).
53. The 47 “Pro-Federalism” activists who took refuge in the “Afina” shopping centre were taken away (for so-called protection reasons) by Police Special Forces “SOKOL” and transferred to two police stations outside Odesa (Ovidiopol and Bilhorod-Dnistrovkyi) where they were detained for two days.
54. During this 48 hour period in police custody, detainees were not given food or water on a regular basis, nor were they provided a one-hour walk per day, as per internal MoI regulations<sup>56</sup>.
55. On 4 May, all 47 detainees were transferred to Vinnitsa (424 km from Odesa). According to information provided to the HRMMU by credible sources, during the transfer, which lasted for 12 hours, they received neither food nor water, nor were they allowed to use toilet facilities (they had to urinate in the detainees van). According to Ukrainian internal regulations, detainees during transfer should receive food and water.
56. On 6 May, video court hearings of the “Pro-Federalism” activists were organised with the Primorsky District Court of Odesa. All were charged with Article 294 (Mass riots) and/or Article 115 (Intentional homicide) of the Criminal Code; and during the following days some were given additional criminal charges of either: Article 194/2 (Intentional destruction or damage of property); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); or Article 345 (Threat or violence against a law enforcement officer). According to the court decisions of the 47 arrested, 14 were placed in the Vinnitsa pre-trial detention centre. Four of these, after appealing the court decision, were placed under house arrest and have since reportedly returned to Odesa. 33 of the 47 individuals originally arrested were placed under house arrest as of 10 June 2014. Late in the evening of 2 May, 67 people were arrested at the Trade Union Building and transferred to the Odesa City Police Station, where they were detained for two days. On 2 and 3 May, all were charged with either Articles 115 (Intentional homicide) or Article 294 (Mass riots) of the Criminal Code. On 4 May at 5.00 p.m., the Odesa City Police Station was stormed by relatives and friends of the “Pro-Federalism” movement. Under unclear circumstances all of the 67 detainees were “released” by the police.
57. In addition to those arrested on 2 May, the MoI arrested at least four other people. On 6 May, one of the leaders of the “Pro-Federalism” movement was arrested and charged

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<sup>56</sup> Ministry of Interior regulation Number 60 dated 20/01/2001: warm food three times per day, and one hour walk per day.

under Article 294 of the Criminal Code. He is currently detained in a pre-trial detention centre. On 18 May, a “Pro-Unity” activist was arrested, accused of firing at, and injuring several people in the city centre on 2 May, including police officers, “Pro-Federalism” activists and journalists. He was first transferred to the Investigation Department of Odesa Regional Police Office, before being transferred to Kyiv. He is accused under Article 115 (Murder) and Article 294-2 (Mass riots) of the Criminal Code and on 21 May, he was placed under house arrest in Odesa by the Kyiv Pechersky District Court.

58. Of the arrests conducted between 2 May and 3 June, in connection with the investigations into the 2 May violence, 13 persons remain in pre-trial detention centres under the Penitentiary Services (either in Vinnitsa, Odesa or Kyiv) charged with one or more of the following six articles of the Criminal Code: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).
59. In addition, reportedly 40 people were placed under house arrest in Odesa charged with the following articles of the Criminal Code: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).
60. Two cases concerning “Pro-Unity” activists suspected of shooting and killing persons during the 2 May violence, were heard by the Pechersky District Court of Kyiv, following the arrest of two suspects on 18 and 26 May. Both were given house arrest; both are charged under Article 294 (Mass riots), and one has been additionally charged under Article 115 (Murder) of the Criminal Code.

*Due process rights during, and after, the 2 May violence*

61. The HRMMU visited detainees held in the pre-trial detention centre in Odesa. The Penitentiary Services administration fully cooperated with the HRMMU and granted access to several detainees (including one female) with whom private interviews were carried out. The detainees did not complain about their conditions of detention or physical treatment in the pre-trial detention centre in Odesa. They confirmed they were able to meet privately with their lawyers.
62. The HRMMU also met with lawyers, victims, witnesses, detainees and relatives with regard to the 2 May violence. It also held numerous meetings with the Ombudsperson’s team, as well as representatives of law enforcement agencies, mass media, local politicians and officials, activists and local officials. Through its monitoring, the HRMMU has identified various human rights concerns with regard to the on-going criminal investigations, which include some of the following.

*Timely notification of reasons for arrest and charges within short period of time*

63. On 15 May, the SBU apprehended five additional people. Although this took place at 9.00 a.m., the official arrest time has been recorded as 11.50 p.m. – over 12 hours later. According to Article 208/4 of the Criminal Procedure Code ‘a competent official who apprehended the person, shall be required to immediately inform the apprehended person, in a language known to him, of the grounds for the apprehension and of the commission of what crime he is suspected’. Furthermore, the procedure applied for the arrest was not in line with Articles 9.2 and 9.3 of the International Covenant on Civil and Political Rights (ICCPR).
64. Similarly eight people apprehended by the SBU on 27 May at the Odesa railway station did not receive prompt notification of the reasons for their arrest.

*Right to a fair trial*

65. Law enforcement agencies resorted to an illegal practice in order to prevent prompt access to legal counsel. Indeed, during criminal interrogation procedures, police and SBU officers summoned individuals as “witness” and later then substituted their status as “suspect” and/or substituted their interrogation by interviewing. This resulted in violating the persons’ right to see and consult a legal counsel (as provided for in Article 208/4 of the Criminal Procedural Code) and gave an opportunity to “delay” the official time of apprehension.
66. For instance, the eight people who were arrested by the SBU at the Odesa railway station were transferred to the SBU for an alleged “interview”. They were not informed about their rights with regard to apprehension, nor were they provided with legal counsel, nor could they contact their lawyers before and during interrogation.
67. The HRMMU observed, based on interviews with detainees and their relatives, that the governmental Free Legal Aid scheme (established in connection with the new Criminal Procedural Code of November 2012) encountered gaps in its system. For the legal defence of detainees arrested during and after 2 May violence, the Free Legal Aid system could not provide enough lawyers.
68. As of 4 June, the legal status of the 67 “detainees” released on 4 May from Odesa city Police Station remained unclear. Due to procedural gaps following their alleged illegal release (i.e. without a court decision), they remain suspects. The measure of restraint was not applied to them as required in accordance with the Criminal Procedural Code.

*Right to medical care*

69. In Ovidiopol and Bilhorod-Dnistrovskiyi Police Stations medical care was not provided to those among the 47 detainees who required such assistance due to illness. The relatives of detainees placed in custody in the Vinnitsa pre-trial detention centre also reported about the lack of medical care provided to their kin.

*Personal data*

70. Concerns have been raised with the HRMMU that on 19 May, the presumption of innocence may have been violated during an official press conference of the MoI, by the Deputy Minister of Interior/Head of Main Investigation Unit by disclosing personal data



of 12 detainees. The HRMMU reminds the authorities of the importance of respecting international standards concerning the presumption of innocence and the prohibition of arbitrary interference with one's privacy or attacks upon his/her honour and reputation.

71. Also on 3 May, the SBU published the names and passports of three citizens from the Russian Federation allegedly involved in the 2 May violence.

*Legality of arrest*

72. On 15 May, the SBU conducted an illegal search of an apartment from 8.00 p.m. to 3.00 a.m., without a search warrant and without preparing a report/protocol on the search. During the search, they broke the door, forced the family, including a girl to lie down on the floor. A woman (wife/mother) was subsequently arrested and taken to the SBU Office. The next day she was transferred to the Odesa Police Station. On 17 May, the Primorsky District Court placed her in custody under Articles 294 (Mass riots) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code. She is currently detained in Odesa pre-trial detention centre.

*Accountability: Update on investigations into the Odesa incidents*

73. Six official investigations have been initiated to look into the incidents of 2 May in Odesa and are ongoing: 1) a criminal investigation by the MoI; 2) an investigation of the General Prosecution Investigation Unit into police conduct; 3) a criminal investigation by the SBU into alleged state level crimes (including actions aimed at forceful change or overthrow of the constitutional order); 4) an investigation by the Ombudsperson; 5) an investigation by the Parliamentary Commission; and 6) an investigation by a commission comprising civil society representatives under the auspices of the Governor. During his visit in May, ASG Šimonović met with interlocutors involved in these various investigations.
74. These parallel investigations by different bodies present a high risk of miscommunication between the various law enforcement agencies' commissions, which may impact the integrity of the criminal investigations. Furthermore, there appear to be widespread concerns among citizens regarding the ability of local law enforcement agencies to conduct independent and thorough investigations due to the politicisation of the 2 May events. The day after the violence, the former acting President dismissed several local high-ranking officials on the grounds of Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty) of the Criminal Code). An interim government and new officials were appointed at the local level: the Governor of Odesa, the Head of the Regional MoI, the Head of the Odesa City Police, and the Head of the Regional Prosecution Office.

*Governmental Commission on the issues of numerous deaths of people during "Pro-Ukrainian" protests and fire in the Trade Union Building in Odesa City*

75. During the late evening of 2 May, Vice-Prime Minister Vitalii Yarema was appointed Head of the Governmental Commission on the issues of numerous deaths of people during "Pro-Ukrainian" protests and the fire in the Trade Union Building in Odesa City, which is responsible for overseeing the investigation carried out by the law enforcement

agencies at the Odesa regional and city level. The HRMMU has officially requested to meet with this Commission, but had not received a response as of 7 June 2014.

*Criminal investigation by the Ministry of Interior Investigation Unit*

76. On 2 May, a criminal investigation was launched by the Odesa Regional Police Investigation Department. On 6 May, the responsibility for the investigation was transferred to the Main Investigation Department of the MoI in Kyiv (under the lead of Deputy Minister of Interior). According to the law, the investigation process should be completed in 60 days. Investigators from Kyiv, Odesa and other regions are cooperating on this investigation, which has been launched under the following articles of the Criminal Code of Ukraine: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).

*General Prosecution Investigation Unit regarding police duty performance*

77. On 3 May, the Odesa Regional Prosecutor Office launched a criminal case against four police officials under Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty) of the Criminal code. On 6 May, this investigation was transferred to the Investigation Unit of the General Prosecutor.
78. According to information provided to the HRMMU by credible sources, the regional MoI did not enforce the special police tactical plan called “Wave” (“Khvyliya”), which would have allowed the use of special police means and forces, and ensured coordination of all official emergency units (e.g. health, and the department of emergency situations).
79. Furthermore, there are credible reports that during the 2 May violence, all high ranking officials from the Regional MoI and Regional Prosecutor’s Office were holding a meeting and were unavailable.
80. Since then, several criminal proceedings have been initiated against high-ranking police officials and policemen. The Deputy Head of the Regional MoI was placed under house arrest in relation with the 2 May violence and the “release” of the 67 detainees held in the Odesa Police Station on 4 May. His current whereabouts remain unknown but he is thought to be outside Ukraine. On 8 May, the Head of the Odesa City Police, the Head of the Odesa Police Detention Centre and the duty officer were apprehended and transferred to Kyiv. On 9 May, the Head of the Odesa City Police was released on bail. Both The Head of the Odesa Police Detention Centre and the duty officer were also released under obligations to make a personal commitment not to leave Ukraine.

*Criminal investigation under the State Security Service of Ukraine (SBU)*

81. In mid-March, the SBU initiated a criminal investigation throughout the country under Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code in relation to threats to national security and national integrity. As of 15 May, the SBU arrested several people in Odesa region.

According to the HRMMU informal sources, 18 people were placed under investigation by the SBU and detained in the Odesa pre-trial detention centre between 2 May and 3 June.

82. On 15 May, the SBU arrested five people (four male and one female) who were allegedly leaving the Odesa region to join armed groups in eastern Ukraine. The woman was placed under house arrest. Later that day another female “Pro-Federalism” supporter, allegedly the organiser of the expedition, was arrested and placed in pre-trial detention in Odesa. One more person was arrested the following day in connection with the same case. As of 7 June, the HRMMU had no information on his whereabouts.
83. On 27 May, eight men were arrested at the Odesa railway station from a train about to depart for Moscow. The SBU stated that these people were planning to attend a “paramilitary training” in Moscow before joining the armed groups in eastern Ukraine. On 29 May, the Primorsky District Court charged all of them under Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code. They have been placed in custody in the pre-trial detention centre in Odesa. One more person was arrested the following day in connection with the same case. As of 7 June, the HRMMU had no updated information on his whereabouts.
84. On 28 May, three men, members of the NGO "Orthodox Cossacks", were arrested in Odesa and on 31 May, they were charged by the Primorsky District Court under Articles 109 and 110 of the Criminal Code, and placed in custody at the pre-trial detention centre in Odesa.

*Parliamentary Interim Commission of inquiry into the investigation of the death of citizens in the cities of Odesa, Mariupol and other cities of the Donetsk and Luhansk regions of Ukraine.*

85. On 13 May, the Parliament adopted decision 4852 establishing an” Interim Inquiry Parliamentary Commission on the investigation of the death of citizens in the cities of Odesa, Mariupol and other cities of the Donetsk and Luhansk regions of Ukraine”, further to a proposal by parliamentarians representing the Odesa region. The mandate of this Commission expires on 15 June, by which date it is to submit its report to Parliament.
86. The Commission informed the HRMMU that it had already gathered a lot of information on the violence of 2 May in Odesa, which should be properly analysed and processed. According to the Head of the Parliamentary Commission, its members met with officials from Odesa, including the regional SBU divisions, MoI, Prosecutor’s Office, independent experts, NGOs and suspects under house arrest. He believes many people are still frightened by the events with some afraid to share important information. Moreover, he highlighted that the situation in Odesa is not stable yet, and it is important to optimise the activities of law enforcement bodies in the investigation. According to him, the criminal investigation by the MoI had only conducted approximately 7% of the necessary work. The perpetrators of the Odesa events have still not been identified, with some suspects detained for a few days and then released by courts. From information

gathered by the Commission, there is much questioning within local communities as to why this happened. There is also a fear that the local population will use reprisals against suspected persons for the restoration of justice. Thus, according to the Head of the Commission, the Special Interim Parliamentary Commission has intensified its contacts with the local community representatives.

*Investigation by the Ombudsperson's Office*

87. The Ombudsperson's Office initiated an evaluation on human rights violations by law enforcement agencies during the 2 May violence in Odesa. The Ombudsperson and her team visited Odesa on several occasions and were provided with official documents from all law enforcement agencies.<sup>57</sup>

*Commission investigating the 2 May violence*

88. A commission was established under the auspices of the Head of the Odesa Regional State Administration (Governor). This commission, which includes civil society activists, journalists and experts, is conducting its own investigation and intends to play a public oversight role concerning the official investigation.
89. The commission members are undertaking their work through open sources, without interfering with the official investigation. It is foreseen that their conclusions will be published only if all members agree on its content. A first official briefing took place on 30 May.

*Specialised Headquarters providing assistance in the aftermath of 2 May*

90. In the aftermath of the 2 May events, the former acting Mayor of Odesa established an emergency headquarters (HQ) encompassing various departments of the City Council Executive Committee. It provided assistance to victims and their relatives, such as healthcare, information, social services. It also ran an emergency hotline in the aftermath of 2 May incidents. The HRMMU has been in daily contact with the staff on follow-up required, and to enquire about the situation of the victims, particularly medical care and the list of those declared missing. As of 7 June, the Social Welfare Department remained the only operational part of this emergency HQ.
91. After the 2 May violence the HRMMU has been monitoring the criminal proceedings launched by the Office of the General Prosecutor, the MoI and the SBU.
92. As the investigations continue, some key questions must be addressed to ensure confidence in the investigation and to guarantee accountability, due process and to enable the communities to fully accept the results of such an investigation. Issues to be clarified include:
  - a. the identification of the perpetrators who were shooting at protesters during the afternoon;

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<sup>57</sup> The Ombudsperson submitted a report of her findings to the Prosecutor General on 10 June 2014. It is not a public document.

- b. the conduct of the police on 2 May - why the police and the fire brigade either did not react, or were slow to react and who ordered what action;
  - c. what happened in the Trade Union Building and what caused the fire there;
  - d. what was the cause of the deaths in the Trade Union Building;
  - e. the identification of the perpetrators of the incidents and violence surrounding the fire in the Trade Union Building;
  - f. the need to guarantee justice for the victims and due process for the detainees.
92. The HRMMU regrettably reports the lack of cooperation from the MoI and the SBU at the central level.
93. The HRMMU reiterates the need for prompt, thorough and impartial investigations into the events so as to ensure accountability of all those concerned and to provide redress and reparations for victims and their families. This process is critical to restore people's confidence in the authorities.

### **C. Investigation into other human rights violations**

94. The HRMMU continues to follow closely the investigation into the human rights violations that occurred in March in 2014 in Kharkiv, including into the "Rymarska case", a clash between pro-Russian and pro-Ukrainian organizations "Oplot" and "Patriots of Ukraine" on 13 March. On 7 May, it was confirmed that the case had been transferred from the police to the SBU. Investigations were opened in connection with the role of the police in this case, as well as during the attack by protesters against the ATN TV station on 7 April. On 5 June, the Deputy Head of the regional SBU informed the HRMMU that the investigation into "Rymarska case" was ongoing - there were two suspects, who still had to be detained. The challenging aspect of the investigation is that many minors participated in the incident, which requires additional measures to ensure due process.

## **III. HUMAN RIGHTS CHALLENGES**

### **A. Rule of law**

95. During the reporting period, the HRMMU monitored legal and policy developments affecting human rights and the rule of law. These include the adoption of a "Memorandum on Concord and Peace" resulting from national roundtable discussions; legislative amendments to combat discrimination, corruption, and on the situation of refugees; developments relating to amnesty, lustration of judges, language rights, internally displaced persons (IDPs) from Crimea, ethnic policy, torture and ill-treatment, the media and the reform of law enforcement agencies.

#### *Constitutional reform*

96. Pursuant to an Order of the Cabinet of Ministers of 17 April 2014, debates were organized on constitutional amendments proposing the decentralization of power to regions. In accordance with the Geneva Statement of 17 April, roundtables on national

unity, co-organized by the Government of Ukraine and the OSCE, were held on 14, 17 and 21 May. At the first roundtable in Kyiv, the eastern regions of the country were largely under-represented, with the only official being the Mayor of Donetsk, Mr. Lukyanchenko (Party of Regions). During the roundtable in Kharkiv, acting Prime Minister Yatsenyuk declared that the constitution should be amended in order to provide a special status for the Russian language and national minority languages. With more representatives present from the east, including local parliamentarians, various perspectives were raised; at the same time, this brought to the fore an array of diverging views on the way forward. The roundtable also prepared a Memorandum containing provisions for a unified society, changes to the Constitution, increasing the local authorities' role, and decentralisation of state power.

97. On 20 May, through resolution 4904, Parliament adopted the “Memorandum of Concord and Peace”, which was drafted during the second roundtable discussion in Kharkiv. This document foresees the adoption by Parliament of a constitutional reform package, including the decentralization of power, a special status for the Russian language, judicial and police reform, and an amnesty law for anti-government protesters in the east who accept to give up their weapons (except for the perpetrators of serious crimes against life and physical integrity). The Parliament called on all to work together to protect, promote and build a democratic Ukraine, and the peaceful coexistence of all nationalities, religions and political convictions.

#### *International Criminal Court*

98. On 23 May, former acting President Oleksandr Turchynov requested the Constitutional Court to assess whether the Constitution of Ukraine would preclude the ratification of the Rome Statute of the International Criminal Court (ICC). The document was signed on 20 January 2000. On 25 February 2014, the Parliament recognised the jurisdiction of the ICC for acts committed in Ukraine from 21 November 2013 to 22 February 2014. On 9 April, Ukraine informed the Registrar of the Court about this decision. On 25 April, the Office of the Prosecutor of the ICC announced a preliminary examination on the situation in Ukraine to establish whether all the statutory requirements for the opening of an investigation are met.
99. A Member of the Parliament of Ukraine from Odesa, Sergey Kivalov, registered on 15 May a draft resolution which aims to create the legal and institutional conditions for those responsible for the deaths of dozens of people in Odesa, on 2 May, to be tried by the ICC. As of 7 June, the draft resolution<sup>58</sup> had not been considered by Parliament.

#### *Crimea*

100. On 5 June, Parliament adopted, on first reading, amendments to the Law of Ukraine “On Securing Citizens’ Rights and Freedoms and the Legal Regime on the Temporary Occupied Territory of Ukraine”. These amendments aim at making the registration

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<sup>58</sup> Draft resolution “On the recognition by Ukraine of the jurisdiction of the International Criminal Court concerning crimes against humanity having led to very serious consequences, deliberate and planned of mass killing of citizens in a particularly brutal and cynical way during the peaceful protests on 2 May 2014 in Odesa, and concerning all perpetrators of these crimes, and on the request to the International Criminal Court to bring the perpetrators to justice”.

procedure for those displaced from Crimea easier and faster, especially for those who wish to re-register their business. Thus, IDPs from Crimea in mainland Ukraine will no longer need other documents than the national passport.

#### *Amnesty*

101. During the reporting period, no actual progress was made in adopting an amnesty law in relation to the events in the east of the country. On 18 April 2014, the Cabinet of Ministers prepared a draft law “On the prevention of harassment and punishment of persons in relation to the events that took place during mass actions of civil resistance which began on 22 February 2014”. The text would exempt from criminal liability all those who attempted to overthrow the legal government; took part in riots; seized administrative and public buildings; and violated the territorial integrity of Ukraine, provided they agreed to voluntarily cease all illegal actions and were not guilty of “particularly serious crimes”. Four other so-called “amnesty laws” were registered in Parliament by different political parties between 9 and 23 April. On 6 May, a draft resolution was registered, calling on Parliament to make the draft law submitted by the Cabinet of Minister the basis for the adoption of an amnesty law. During his inauguration speech, on 7 June, President Poroshenko offered to amnesty protesters who did not have “blood on their hands”.

#### *Discrimination*

102. On 13 May, Parliament adopted amendments to the Law “On preventing and countering discrimination”. The amendments bring the definitions of direct and indirect discrimination in line with Ukraine’s obligations under the ICCPR and other international human rights instruments. They include, in particular, the prohibited grounds listed in Article 2(1) of the Covenant (except “birth”). It should be noted, however, that the amendments do not integrate the jurisprudence of the UN Human Rights Committee on the prevention of discrimination on the basis of sexual orientation. The amendments also provide for criminal, civil and administrative liability in case of discrimination. While these are positive changes, other legal texts, notably the Criminal Code, must be brought in line with the anti-discrimination amendments in order to ensure effective remedies for victims and contribute to enhanced prevention of discrimination.

#### *Anti-corruption*

103. On 13 May, Parliament adopted the Law "On amending some legislative acts Ukraine in the area of state anti-corruption policy in connection with the implementation of the EU Action Plan on the liberalisation of the visa regime for Ukraine”. The Law provides for more stringent penalties for corruption offences committed by individuals or legal entities. In particular, the liability for providing knowingly false data in the declaration of assets, income and expenses is introduced to the Code on Administrative Offences. The Law also strengthens the protection of persons reporting on corruption, for instance, providing for anonymous phone lines for reporting corruption. An external control of declarations of assets, income, expenses and financial obligations is also to be introduced. While the amendments are welcome, the key to combatting corruption lies in the readiness of all government institutions to effectively tackle this phenomenon and to

implement anti-corruption norms in place. In this regard, the HRMMU recalls that in its concluding observations adopted in May 2014, the UN Committee on Economic, Social and Cultural Rights called on Ukraine to “make politicians, members of parliament and national and local government officials aware of the economic and social costs of corruption, and make judges, prosecutors and the police aware of the need for strict enforcement of the law”.

#### *Torture and ill-treatment*

101. On 3 June, the Minister of Justice announced at a press-conference the establishment of a Special Committee to carry out random inspections of penitentiary institutions, with broad powers to check violations of human rights and the detention conditions of prisoners. The Committee will be a permanent body and is to produce monthly reports. It will comprise representatives of the Ministry of Justice and representatives of civil society.
102. While welcoming this step, the HRMMU notes that the Ombudsperson was designated by law as the National Preventive Mechanism (NPM) against torture, in line with the Optional Protocol to the United Nations Convention against Torture. As such, it is entrusted to conduct visits to places of deprivation of liberty, with the involvement of civil society, and with a view to preventing human rights violations affecting detainees or contributing to their elimination. Due to the obvious similarities between mandates of the Special Committee and the NPM, proper coordination and consultations between these bodies will be required to ensure the effectiveness of efforts to combat torture and ill-treatment.

#### *Lustration*

103. The Interim Special Commission on the vetting of judges was established on 4 June, pursuant to Article 3 of the Law "On the restoration of trust in the judiciary in Ukraine", which entered into force on 10 May. The Commission consists of five representatives from the Supreme Court, the Parliament and the Governmental Commissioner on the Issues of the Anti-Corruption Policy. Legal entities and individuals will have six months from the date of advertisement of the establishment of the Commission in the newspaper "Voice of Ukraine" to request examination (vetting) of judges. Public information about the activities of the Interim Special Commission will be published on the official website of the High Council of Justice of Ukraine. The HRMMU reiterates its concern that the immediate dismissal of judges by the Special Commission may put in jeopardy the administration of justice. Any lustration initiatives should be pursued in full compliance with the fundamental human rights of the people concerned, including the right to individual review and the right of appeal.

#### *Ethnic and national policy*

104. The Minister of Culture stated on 4 June that the Cabinet of Ministers decided to establish a ‘Council of interethnic consensus’ and to create the position of a Government commissioner for ethnic and national policy. This official, who has not been appointed yet, will reportedly be responsible for the implementation of the ethnic and national policy developed by the Government.



### *Language*

105. On 4 June, a draft law was submitted to Parliament “On the official status of the Russian language in Ukraine”. The draft law proposes to give “official status” to the Russian language without compromising the position of Ukrainian as the state language. The bill proposes to introduce the wide usage of Russian language in state institutions, courts, educational institutions, mass media, official publications of legislation and by-laws, pre-trial investigation, advertising and labelling of goods.

### *Media*

106. On 4 June, the Cabinet of Ministers instructed the State Committee on television and radio broadcasting to prepare a draft law "On Amending Certain Legislative Acts of Ukraine regarding resisting informational aggression of foreign states". Other ministries and agencies that will participate in the drafting of the bill will include the Ministry of Economic Development, Ministry of Finance, Ministry of Justice, Ministry of Foreign Affairs, MoI, State Security Service, the National Council on Television and Radio Broadcasting, and the State Committee on Entrepreneurship of Ukraine. This development comes after a Ukrainian court banned, in March 2014, broadcasting by four Russian TV channels in Ukraine, and armed groups in the east having disrupted broadcasting of Ukrainian channels.
107. The HRMMU is of the view that professional journalism and critical thinking, not prohibition, are the proper answers to the attempts to distort or manipulate facts. Everyone, in accordance with article 19 of the ICCPR, should have the right to hold opinions without interference and to freedom of expression, which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers.

### *Refugees*

108. On 13 May, Parliament adopted amendments to the refugee Law extending the definition of complementary protection to include persons fleeing armed conflict and other serious human rights violations. This brings the definition of complementary protection into line with international and European standards.
109. The HRMMU notes, that certain legal gaps remain, affecting particularly the quality of due process in the asylum procedure and the reception conditions for asylum-seekers. The quality of decision-making on asylum applications also remains of concern, as well as the fact that State funding for asylum matters is inadequate.

### *Martial law*

110. On 3 June, former acting President Oleksandr Turchynov signed decree № 936/2014 “About considering the question of the introduction of martial law in certain areas of Ukraine”. The decree requests the Secretary of the Council of the National Security and Defence of Ukraine to “*immediately cooperate with the Ministry of Defence of Ukraine, the Ministry of Interior of Ukraine, the Security Service of Ukraine, the Administration of the State Border Service of Ukraine to consider the question about the need to impose martial law in the Donetsk and Luhansk Regions, where the security operation is taking place, to prevent further development and ensure the ending of the armed conflict on the territory of Ukraine, to prevent mass deaths of civilians, military personnel and*

*members of law enforcement agencies, to stabilize the situation and restore normal life in these regions”.*

#### *Law enforcement sector reform*

111. On 4 June, Prime Minister Arseniy Yatseniuk instructed the Cabinet of Ministers to set up a working group that will prepare legislation to reform the law enforcement system by 1 August 2014. The working group will be headed by First Vice-Prime Minister, Vitaliy Yarema, who stressed the need to develop draft laws on the police, the security service and the prosecutor’s office. Experts from the European Commission and Poland will assist the working group.
112. On 5 June, Parliament adopted the Law "On Amendments to the Law of Ukraine on combating terrorism". The law provides a definition of a Counter-Terrorist Operation (CTO), the authority of the CTO participants and other innovations. It also prescribes the possibility of "physical elimination of the terrorists" in case of resistance. Speaking at a press conference, the former acting Head of the Presidential Administration gave his support to the introduction of martial law in the Donetsk and Luhansk regions, as well as in the border areas of seven other regions of Ukraine.

#### **B. Freedom of peaceful assembly**

113. After the 2 May events in Odesa, a police presence has been highly visible during peaceful assemblies in all major cities of Ukraine. However, the real or perceived inaction of law enforcement is a further challenge to ensuring accountability at such events such as demonstrations, rallies and pickets.
114. Ahead of 9 May (Victory Day), for instance, security was heightened with numerous checkpoints on roads in several cities the programme of celebrations was changed in order to avoid situations that could provoke unrests, for example by cancelling parades. Public commemorations and rallies took place in Kyiv, Kharkiv, Lviv and in many cities in western and central Ukraine. In Donetsk, a rally gathering 2,000 persons went peacefully.
115. However, legislation is required to regulate the conduct of assemblies in line with international standards, as previously recommended by the HRMMU.<sup>59</sup>
116. A trend of local administration requesting courts to take measures to prevent peaceful assemblies illustrates the need for relevant legislation. For instance, on 4 June, the Mykolaiv District Administrative court decided to ban until 30 June all rallies planned in the city centre further to a request from the City Council. The Mykolaiv City Council had requested such a prohibition after 2 June when the police intervened to prevent clashes between participants of two rallies running in parallel. The court justified the ban, arguing that the right to life and health was more important than the right to peaceful assembly.

#### **C. Freedom of expression**

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<sup>59</sup> The OHCHR report on the human rights situation in Ukraine report, 15 April 2014, paras. 52-54.

117. The HRMMU remains concerned about the curtailment of freedom of expression, including harassment and threats to targeting journalists working in Ukraine, mostly in eastern regions (see section C, in Chapter V).
118. During the reporting period, a few isolated cases of obstruction to media work and attacks on journalists were registered across Ukraine.
119. On 23 May, two journalists of “Russia Today”, who were travelling to Ukraine to cover the elections, were denied entry at Odesa airport. The border officers reportedly forced them to buy return tickets to Moscow and fly back, without providing any reason.
120. On 25 May and shortly after, journalists were prevented from filming the vote counting. The HRMMU is aware of such cases having occurred in Sumy, Dnipropetrovsk, Kremenchuk (Poltava region), Lviv, Mykolaiv, Uzhgorod and Kyiv. To the knowledge of the HRMMU, none of these instances resulted in physical violence or damage to equipment.
121. On 23 May, the holding “Multimedia invest group”, based in Kyiv, reported that the accounts of the company were blocked and its building was searched by tax police. The management sees this as pressure against its media outlets (newspaper and website “Vesti”, TV Channel UBR and Radio Vesti) which are critical of the Government.
122. In general, the developments in eastern and southern regions of Ukraine and the large number of casualties have generated an escalation of hate speech and tension between the two rival sides. This is particularly obvious in social media.

#### **D. Minority rights**

123. The HRMMU regularly meets representatives of various minorities in Ukraine. In the reporting period no major incidents and human rights violations were reported in that regard.

##### *National and Ethnic minorities*

124. Ethnic minorities generally speak of positive relations and atmosphere conducive to exercising their human rights, including cultural rights. Some communities, particularly Russian, expressed concerns with the lack of financial allocations for the needs of ethnic minorities or bureaucratic obstructions by local authorities, for example, in establishing additional schools, churches, newspapers, etc.
125. On 20 May, during a press-conference, Josyf Zisels, the Head of the Association of the Jewish Organisations and Communities of Ukraine, underlined that there was no increase in anti-Semitism in Ukraine. He noted that the number of anti-Semitic incidents is declining since 2007. While pointing out that in the first half of 2014 more Ukrainian Jews had migrated to Israel compared to the previous year, he attributed this to the social-economic impact of the situation in Crimea and in the eastern regions.

##### *Linguistic rights*

126. The guarantees of using one’s mother tongue freely in private and public life without discrimination remain high on the public agenda. The Law “On the Basics of State Language Policy” currently in force (provides for the introduction of a “regional

language” based on ethnic composition). However, the Government has recognised that a new language law was needed, reflecting broad consensus as well as the expectations of the Russian-speaking population. There have been attempts to amend legislation and a draft law has been developed. The latest draft law was submitted on 4 June, which proposes to provide Russian language with “official status” through extensive usage in State institutions and public documents (see section D, Chapter IV).

127. On 30 May, the Ministry of Education amended the framework curriculum and study plans for secondary school students of grades 5-9 for the learning of minority languages, such as Armenian, Bulgarian, Crimean Tatar, Gagauz, Greek, German, Hebrew, Hungarian, Korean, Moldovan, Polish, Romanian, Russian and Slovak. The Ministry also increased significantly the number of hours prescribed for learning of a minority language in schools where the relevant language is the working one (it is now equal to the hours of learning Ukrainian language).

#### *Sexual minorities*

128. The HRMMU continues to receive reports from the LGBT community regarding lack of tolerance and daily discrimination based on their sexual orientation and gender identity, mainly bullying at school/university, difficulties in finding and/or preserving employment especially when persons disclose their sexual orientation and gender identity; access to health services, particularly for transgender people; and physical attacks.
129. On 7 May, the High Specialized Court of Ukraine for Civil and Criminal Cases issued a letter (N 10-644/0/4-14) to appellate courts, explicitly prohibiting discrimination in employment on the basis of sexual orientation. The Court stressed that, when considering cases of labour discrimination, it is important to take into consideration the existing anti-discrimination law, which prohibits discrimination on any basis.

### **E. Political rights**

#### *Human rights in the electoral process*

130. On 25 May, the population of Ukraine voted to elect a new President among 21 candidates. On 3 June, the Central Election Commission (CEC) confirmed that Mr. Petro Poroshenko had won with 54.7% of the vote.
131. The elections took place in a challenging political, economic and, in particular, security environment, due to continued unrest and violence in the east of Ukraine, where armed groups control some areas, and the Government has been conducting security operations. This situation affected the general human rights situation and seriously impacted the election environment, also obstructing meaningful observation.
132. Notwithstanding, elections were characterised by a 60% voter turnout and the clear resolve of the authorities to hold elections in line with international commitments and with a respect for fundamental freedoms in the vast majority of the country. The voting and counting process were transparent, despite large queues of voters at polling stations in some parts of the country.

133. Despite efforts of the election administration to ensure voting throughout the country, polling did not take place in 10 of the 12 election districts in Luhansk region and 14 of the 22 election districts in Donetsk region. This was due to illegal activities by armed groups before, and on, the election day, including death threats and intimidation of election officials, seizure and destruction of polling materials, as well as the impossibility to distribute ballots to polling stations due to the general insecurity caused by these groups (see Chapter V). The majority of Ukrainian citizens resident in these regions were thus deprived of the right to vote. Elsewhere, a few isolated attempts to disrupt voting were reported.
134. The HRMMU followed the participation of Crimean residents in the Presidential elections. Simplified registration procedures were put in place to ensure that residents of Crimea and persons who resettled from Crimea to other regions could take part in the elections. According to the CEC, 6,000 Crimean residents voted on 25 May.
- Political parties/ Freedom of association*
135. On 7 May, several political parties were allegedly banned in Luhansk region by a decision of the “people’s council”, including Batkivchyna, Udar, Svoboda and Oleg Lyashko’s Radical Party, as well as Right Sector. It also inferred “extended powers” on Valeriy Bolotov, the self-proclaimed “people’s governor”.
136. On 13 May, the Kyiv District Administrative Court banned the party Russian Bloc based on the fact that the party leaders had called for the overthrow of the constitutional order and violations of the territorial integrity of the country.<sup>60</sup>
137. It appears that the Communist Party of Ukraine is coming under increasing pressure. On 7 May, the Communist faction of the Parliament was expelled from a closed-door parliamentary hearing, which was denounced by the Party of Regions faction, allegedly, because of the “separatist” statements by its head, Petro Symonenko. The hearing was reportedly about the security operations in the east. Party of the Regions pointed out that information on these security operations should be made public.
138. On 18 May, former acting President Turchynov called on the Ministry of Justice to review documents gathered by the law enforcement bodies relating to the alleged illegal and unconstitutional activities of the Communist Party of Ukraine aimed at violating the sovereignty and territorial integrity of the country, undermining State security and illegal seizure of State power. On 19 May, the Ministry of Justice sent a request to the General Prosecutor’s Office and the SBU to investigate possible crimes by the leadership of the Communist Party of Ukraine.

#### **F. Internally displaced persons**

139. As of 6 June, the departments of social protection in the Ukrainian regions had identified over 12,700<sup>61</sup> internally displaced persons (IDPs)<sup>62</sup>. However, the actual number of

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<sup>60</sup> On 15 April, the Ministry of Justice filed a lawsuit to prohibit the activities of the political parties Russian Bloc and Russian Unity in Ukraine. The activity of Russian Unity was banned on 30 April. According to Ukrainian law, a court can ban the activities of a political party upon a request filed by the Ministry of Justice.

people who have fled the violence and fighting in the regions of Donetsk and Luhansk is believed to be higher and increasing daily. According to various estimates, around 64% are women; many are with children, including infants. The IDPs live dispersed across the entire territory, with significant concentrations in Kyiv and Lviv.

140. People have left Crimea for different reasons. The majority have economic, professional or family ties within Ukraine and do not wish to acquire Russian citizenship, which many feel compelled to do in order to continue a normal life in Crimea. Some Crimean Tatars fear limitations to their religious and cultural expression. Activists and journalists have been exposed to, or fear, harassment.
141. The main difficulties the IDPs from Crimea continue to face are: lack of temporary and permanent housing; access to social allocations, medical and educational services; access to bank accounts / deposits; possibility to continue entrepreneurship activity, and employment opportunities.
142. Despite efforts made, some of these issues, particularly housing, are very difficult to resolve without systemic changes and involvement of the Government. The HRMMU has been made aware of some instances when IDPs had to return to Crimea, since their basic needs could not be met in Ukraine.
143. Displacement from the Donetsk and Luhansk regions started in the days leading up to the “referendum” held in both regions on 11 May. People have been trying to leave the violence affected areas, particularly Slovyansk and Kramatorsk, after witnessing violence on the streets. Armed groups and increasing criminality have generated fear.
144. The HRMMU interviewed several IDPs from the eastern regions, who reported that apart from random violence, there were targeted attacks and intimidation of activists and increasingly of “ordinary” residents, known for their “Pro-Ukrainian” stance. Local NGOs confirmed that while seizing administrative buildings, armed groups obtained access to personal data of activists who participated in rallies. The latter and their families were reportedly being threatened and harassed.
145. One of the few interviewed activists reported being threatened and having to stay in a friend’s house for nine days without food, as her own apartment was under surveillance. Then other activists helped her escape and settle in another town. She has no information about her family and suffers from insomnia and anxiety attacks.
146. Political activists and journalists began to feel pressure from the armed groups who were consolidating their position in the region. After the “referendum” and with the intensification of violence, other residents of the region have started leaving their homes in areas affected by violence due to the illegal activities of armed groups and the security operations, particularly in the areas of Slovyansk and Kramatorsk. Many remain within

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<sup>61</sup> UNHCR estimated that, as of 16 June, there were 34,336 IDPs in Ukraine, with 15,200 located in the Donetsk and Luhansk regions.

<sup>62</sup> According to the Russian Federation Federal Migration Service, as of 6 June 2014, 837 persons had applied and were granted refugee status; and 3,750 persons had applied and were granted Temporary Asylum. Approximately 15% were minors under the age of 18. These figures do not include people from Crimea.

the eastern regions in rural areas, as IDPs have been reporting harassment at checkpoints if they were perceived to be leaving the region to seek protection.

147. The majority of international humanitarian actors, due to security reasons, are unable to access persons displaced within the Donetsk and Luhansk regions and thus only some very limited assistance has been provided. IDPs, who leave the eastern regions, have generally maintained a low profile, fearing retribution against their relatives who have remained at home.
148. There are considerable gaps in the State's ability to protect IDPs. The central authorities have not issued formal instructions regarding how to register and assist persons displaced from Donetsk and Luhansk regions, leading to different practices across the country. The system for registering the IDPs is rudimentary, so the number and profile of IDPs and their needs remain largely invisible. As a result, the actual number of displaced persons is difficult to estimate.
149. Regional authorities are waiting for instructions on funding allocations for IDPs from the Luhansk and Donetsk regions. Temporary accommodation, while theoretically available, cannot be paid for and is thus rationed in many regions. Several administrative matters remain unresolved, hindering IDPs' ability to resume a normal life: many cannot obtain temporary residence registration; register business activities; or in the case of IDPs from Crimea, who have not registered on the mainland, they may find that they cannot access their personal savings in bank accounts in Crimea.
150. IDPs from the Donetsk and Luhansk regions describe leaving the region with few personal belongings in order to disguise the purpose of their departure. Many report having witnessed violence and experiencing feelings of fear. In dozens of interviews with UNHCR, IDPs have reported significant deterioration of the humanitarian situation in the areas affected by violence and the security operations. They are mostly concerned about security: people report staying in cellars to keep away from the fighting, facing harassment at checkpoints and fearing the increasingly common abductions, threats and extortion. They have been reporting to UNHCR and the HRMMU about the serious social and economic impact of the conflict. Families have run out of money since jobs are lost, banks closed and pensions unpaid. Public utilities like electricity and water work only intermittently. Thus, the IDPs from the eastern regions are particularly vulnerable. There are multiple reports that thousands of people are eager to escape the areas affected by violence and the security operations as soon as they can safely move.
151. Many IDPs have exhausted their resources. Having originally been hosted by friends, family or even generous strangers identified through social networks, they find themselves under pressure to move out of these temporary housing arrangements, as conditions are overcrowded and hospitality reaches its limits. Without sufficient support to find jobs and housing, IDPs report increasing levels of frustration and humanitarian needs. Increasingly, IDPs are trying to self-organise into NGOs to help each other, as illustrated by Crimea SOS, Vostok SOS, the Unified Coordination Centre of Donbas. On 23 May, the HRMMU attended the first all-Ukrainian meeting organized by an initiative group of IDPs from Crimea to bring the problems faced by IDPs to the attention of the Government and local authorities so as to develop joint solutions.

#### IV. PARTICULAR HUMAN RIGHTS CHALLENGES IN THE EAST

##### A. Impact of the security situation on human rights

###### *Deterioration of the security situation*

152. The reporting period was marked by a significant deterioration in the security situation in eastern Ukraine. The HRMMU received credible reports illustrating an escalation of abductions, arbitrary detentions, ill-treatment, looting, as well as the occupation of public and administration buildings (with certain fluctuations, as some buildings are recovered by the Ukrainian military and law enforcement bodies, and some then again re-seized by armed groups). The period since the Presidential elections can be characterized by an increase of fighting in eastern Ukraine, with fluctuations in intensity.
153. The regularity and intensification of fighting between the armed groups and Ukrainian armed forces raises serious human rights concerns, including but not limited to: the fate of persons not involved in the fighting, especially children; the necessity and proportionality of the use of force; and the large-scale destructions, which only add to the social and economic hardship and a general lack of respect for international humanitarian law, when and where applicable to the fighting.
154. Violence and lawlessness have spread in the regions of Donetsk and Luhansk. Having gained access to deposits of weapons, including from the SBU building, the armed groups increasingly started spreading violence. Abductions of persons not involved in any fighting and related acts of arbitrary detentions, looting, and killings of persons not involved in any fighting and other activities in violation of international law have been carried out by the armed groups. Moreover there are reports of victims being subjected to degrading treatment, random shooting and provocations, particularly near the Ukrainian-Russian border. Increasingly, attacks target ordinary people, who take no part in the fighting.
155. The security operations by the Government, with military and National Guard forces particularly concentrated around the town of Slovyansk, are present in the regions of Donetsk and Luhansk. With their superior manpower and military hardware, the Ukrainian armed forces have controlled access to the cities through multiple layers of check-points.
156. Skirmishes between armed groups and the Ukrainian military also saw the inclusion of various territorial defence battalions under the command of the MoI.
157. The HRMMU observed an increasing presence of armed men on trucks and armoured vehicles moving around the city of Donetsk during daylight. For the first time, the HRMMU team members were stopped as they drove in their vehicle through Donetsk by armed persons who demanded to see their identity.
158. In the two regions, the situation has been made complex as some of the armed groups operating in the regions have reportedly slipped out of the control and influence of the self-proclaimed republics and their leaders. Examples of this can reportedly be found



with the armed groups in the area surrounding the town of Horlivka<sup>63</sup> in the Donetsk region, and the armed groups operating in the border area of the Luhansk region near the border with the Russian Federation. Moreover, on the “official” “Donetsk People’s Republic” media outlet “Anna Info News”, the Slovyansk commander “Strelkov” Igor Girkin referred to “criminal groups” operating in the regions and that the “Donetsk People’s Republic” was lacking volunteers.

159. Regardless of the veracity of this information, the proliferation of armed groups has clearly exacerbated threats to the security of the population, posing a further challenge in ensuring the rule of law and accountability for the numerous illegal acts committed. The “Donetsk People’s Republic” has reported the presence among them of citizens of the Russian Federation, including from Chechnya and other republics in the North Caucasus. A particular call for women to join the armed groups was made on 17 May through a video released with Igor Girkin “Strelkov”, urging women of the Donetsk region to enlist in combat units.

*“Referendum” on “self-rule” held in the Donetsk and Luhansk regions on 11 May*

160. On 11 May, a “referendum” on “self-rule” that was neither in accordance with the Constitution of Ukraine nor with effect under international law, took place in the Donetsk and Luhansk regions. The following question was asked: “Do you support the act of self-rule of the People’s Republic of Donetsk / People’s Republic of Luhansk?” The Government of Ukraine deemed the “referendum” illegal.
161. Reports suggest that there were a limited number of polling stations for the two regions. The official voter registration of the Central Election Commission was not used as a basis for the vote. Media outlets and journalists observing the “referendum” reported a number of violations (e.g. one person filling out several ballots; multiple voting; voting without documentation).
162. In the aftermath of the “referendum” of 11 May, the level of violence by armed groups intensified. At the same time, a new “government” was formed, and Alexander Borodai, a Russian citizen, nominated as “prime minister” of the “Donetsk People’s Republic”. A call was made for Ukrainian troops to leave the region.

*Casualties due to the escalation in intensity of fighting as Government aims to gain control of the territory*

165. Reports illustrate that over the past month, attacks and fighting have been intensifying with an increased number of casualties. Fighting remained concentrated in the northern part of the Donetsk region and the border areas and south of the Luhansk region. In the Kharkiv region, one Ukrainian serviceman was killed in an ambush, near the city of Izyum, on the border with the Donetsk region, which serves as a basis for the security operations of the Ukrainian forces.
166. On 3 June, the Prosecutor General Oleg Mahnitsky announced that 181 people had been killed since the start of the Government’s security operations on 14 April to regain control

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<sup>63</sup> Now reportedly under the control of an armed group led by Igor Bezler.

- of the eastern regions. Of those killed, 59 were Ukrainian soldiers; the others were reported to be residents. 293 were wounded as a result of these security operations in the Donetsk and Luhansk Regions. This is a considerable increase since 14 May, when the Prosecutor General had announced 68 killed (servicemen and residents).
167. The HRMMU is trying to verify these allegations and to obtain disaggregated data on the victims and perpetrators. This is, however, difficult to obtain due to either a lack of, or contradictory, information.
  168. On 13 May, a Ukrainian military unit was ambushed near Kramatorsk, killing seven Ukrainian soldiers. On 22 May, 17 Ukrainian servicemen were killed and 31 injured near Volnovakha (south of Donetsk); that same day another soldier was killed and two others injured in an attack by armed men on a convoy of military vehicles near Rubizhne in the Luhansk region. On 23 May, the territorial defence battalion “Donbas” was ambushed and attacked by an armed group, reportedly controlled by Igor Bezler, near the town of Horlivka close to Donetsk. Nine soldiers were wounded and detained by Bezler’s group; one was reportedly killed. On 29 May, a Ukrainian military helicopter was shot down near Slovyansk, which killed 12 service personnel who were on board, including a General.
  169. On 26 May, fighting broke out for control of the Donetsk airport between the armed groups and the Ukrainian military. Ukrainian military planes and helicopters were used against the armed groups who eventually conceded control. The airport terminal and the runway were damaged as a result of aerial bombing. According to the Interior Minister, there were no losses within the Ukrainian military but according to various sources, the armed groups suffered over 50 casualties, of these at least 31 volunteers were reportedly from the Russian Federation, including from Chechnya and other republics in the Northern Caucasus. Out of these casualties, 30 bodies of those fighting with the armed groups have not been recovered.
  170. During the fighting around Donetsk airport on 26 May, the Mayor called on the population not to leave their apartments unless absolutely necessary. Notwithstanding, residents did become victims. A woman was killed by a shell at a bus stop. A man was killed as a result of an incoming explosion near the Children's Hospital, with a further six people wounded, including a seven-year-old boy who was at home. A criminal case was opened under Article 258, Part 3 of the Criminal Code of Ukraine (“Terrorist act that led to the death of a person”).
  171. On 2 June, an explosion of an unknown nature took place at the occupied building of Luhansk Regional State Administration. According to various accounts, it was either a failed attempt by the local armed groups to hit a Ukrainian fighter plane, or the bombardment of the occupied building by a Ukrainian plane. Seven people in, and around, the occupied building were reported killed as a result of the shelling, including the “minister of health” of the “Luhansk People’s Republic”, Nataliya Arkhipova.
  172. The Ukrainian National Guard took control of the town of Krasnyi Liman (20 km North-West of Slovyansk) after fierce fighting on 3 June. The town hospital was badly damaged reportedly by shelling and most patients were evacuated to the basement of the hospital.

Two civilians were killed. The chief surgeon of the hospital was gravely wounded, and died on 4 June.

173. IDPs from Slovyansk have described to the HRMMU the situation they have faced for the past weeks. They claim that the Ukrainian air force was shelling the city and bombed a kindergarten. They also said that for two months they did not receive any social benefits. Some of them left male members behind, and/or their parents or grandparents. A hotline at the disposal of IDPs or people who are considering leaving the areas affected by fighting is run by a few Red Cross activists. Transport of people who come to the check points is mostly organized by “Auto-Maidan” activists. Reception centres for arriving IDPs organised the initial assistance they received, including psycho-social.

*Widening protection gap and erosion of the rule of law*

174. With the presence of armed groups in seized and occupied government buildings, and checkpoints, which shift hands as they are taken over by armed groups or the Ukrainian security and law enforcement units involved in the security operations, the human rights of the residents of the northern part of Donetsk region and parts of the Luhansk region are threatened.
175. With the demise of security, the rule of law and governance, the protection gap is widening. Armed groups physically occupy key public and administrative buildings in many cities and towns of the Donetsk and Luhansk regions, and have declared virtual “independence”. However, they are not undertaking any governing responsibilities. In addition, the atmosphere of fear and intimidation, particularly following the abductions and killing of town councillors and public civil servants, prevent many local officials from going to work.
176. Of particular concern is the continued erosion of the rule of law and the limited capacity of the Government to protect residents from the ever increasing acts of violence. Many of the attacks and abductions by armed groups target journalists, elected representatives and civil society activists. The number of armed robberies and shootings of residents has also been increasing.
177. The difficulty of providing public services impacts the daily life of residents of the regions, including the disruption of public transport (airports remain closed and rail services are disrupted); numerous checkpoints on the roads; lack of access to cash through banks; and earlier reports of schools and kindergartens being repeatedly closed before the summer holidays began in early June. Regional governments have endeavoured to make the necessary arrangements so that local residents are able to carry on with their daily lives. While this remains possible in the larger cities of Donetsk and Luhansk, and the less affected southern part of the Donetsk region, this is a challenge in the northern part of the Donetsk region. As a consequence, there are reportedly increased numbers of people leaving the area, in particular in the areas of Slovyansk; primarily women with children (see section B, Chapter V).
178. In the main cities, there were a few rallies supporting or opposing the self-proclaimed republics. On 13 May, hundreds of local residents of the Luhansk region addressed a petition to the Government of Ukraine, stating that they did not recognise the results of the “referendum”, and demanding more proactive and effective action to free the region from

“terrorists who do not allow us to live in peace” and to pay more attention to the concerns of the population.

179. According to NGOs, the week preceding the “referendum” of 11 May, over 500 apartments were reportedly put up for sale in Donetsk in just a few days as people were seeking means to leave. Since then, an average of 20 families leave the region every day.

*Presidential elections*

180. After the “referendum”, representatives of the “Donetsk People’s Republic” openly declared their intention to obstruct the 25 May Presidential election. Physical attempts to disrupt the election in these two regions were stepped up, with reports of attacks against electoral commissions. As a result, the CEC stated that in 24 districts of the Donetsk and Luhansk regions the election was obstructed due to illegal acts by armed groups and supporters of the self-proclaimed “People’s Republics”. According to official CEC figures, 82 % of the voters in the Donetsk region, and 88 % of voters in Luhansk region were thus deprived of their right to vote. Elections of Mayors due to take place in Antratsyt, Lisichansk and Severodonetsk in the Luhansk region also had to be cancelled due to such illegal activities.
181. There was a similar pattern of attacks on District Election Commissions (DEC) and Precinct Election Commissions (PEC). An armed group of between five to fifteen people representing the “Donetsk People’s Republic” would come to a Commission or polling station. Claiming that the Presidential election was illegal, they would seize office equipment and DEC/PEC protocols and stamps. Generally, they would detain the head of the commission for several hours or, in some cases for several days, subjecting individuals to interrogation and reportedly at times ill-treatment and torture.
182. On 13 May, representatives of the “Donetsk People's Republic” reportedly entered a DEC in Horlivka, demanding documents and office equipment and requesting that the staff leave the premises. The electoral staff refused to obey this. Two hours later the men returned, armed with baseball bats. The staff left, grabbing the most important documents and official stamps. A similar incident occurred in a DEC in Starobeshevo (Luhansk region) on 14 May. The DEC members were ordered to leave the building with threats to their families, should they return.
183. On 7 May, unknown groups of people broke into a DEC in Kuybyshevskiy district, seizing equipment containing electoral information. Upon arrival at the scene, the police did not intervene. Other examples of attacks by armed groups on DEC and TECs include incidents in Artemivsk, Donetsk and Metalist (near Amrosiyivka) on 20, 21 and 25 May.
184. Election commission members also faced attacks, with many abducted and detained. On 9 May, an armed group abducted a member of the DEC in Kramatorsk. He was taken to the occupied City Council and released after being interrogated. On 20 May, a member of the PEC in Mariupol was detained by armed persons, beaten up and then released.
185. Skirmishes around the electoral process included an incident on 25 May, when a group of armed people of the “Luhansk People’s Republic” reportedly attacked and stole the ballots from the PEC in Novoaydarsk in the Luhansk region. Ukrainian soldiers pursued the armed group. A violent confrontation took place, during which two members of the armed group

- were reportedly killed and three Ukrainian army servicemen were allegedly wounded. 14 people were subsequently detained by the Ukrainian army. Other accounts claim that three people were injured and one person was killed.
186. On the election day, five election commission members from Donetsk were detained by armed persons and taken to the SBU building. Following an intervention by the HRMMU with representatives of the “Donetsk People’s Republic” at the occupied SBU building, they were released the next day.
  187. Such attacks prevented DEC’s and PEC’s to continue their preparations for the Presidential election, which led to widespread limitations to exercise of the right to vote in eastern Ukraine, notably in the regions of Donetsk and Luhansk.
  188. On 26 May, the “speaker” of the “Donetsk People’s Republic”, Denis Pushylin, announced that a visit of the newly-elected President Petro Poroshenko to the Donbas would “heat up” the situation in the Donetsk region, and that dialogue was possible only through mediation by the Russian Federation. According to him, the “Donetsk People’s Republic” had proclaimed “martial law” on “its” territory and that a curfew might be imposed in certain areas.

#### **B. Right to life, liberty and security**

189. On 9 May, as reported by the MoI, some 60 men armed with automatic weapons stormed and seized the Mariupol Department of the MoI. The security operations which involved the National Guard, the special unit “Azov”, the special unit “Dnepr” and the armed forces of Ukraine, tried to take back the building. As a result, nine people were killed and many were wounded, primarily residents.
190. Unidentified armed persons reportedly started firing from the second floor of the building, and the Ukrainian forces fired back. Reportedly, the National Guard servicemen who were outside started firing at the building with machine guns and rocket propelled grenades. As a result, a fire started in the building. The fire brigade arrived. Those who were inside started running out the building and dispersing in the city.
191. In the early afternoon, while retreating, the special unit “Azov” came across local “Pro-Russian” demonstrators who reportedly tried to stop them. Members of the special unit “Azov” reportedly fired warning shots, first into the air, and then at people’s legs. The HRMMU is verifying this information.
192. After the armed forces left the military base in Mariupol, it was looted by “Pro-Russian” activists, who reportedly took an unknown number of weapons, ammunitions and two armoured vehicles. The Ukrainian security and law enforcement forces were relocated outside the city in an effort to decrease tensions, and for the safety of residents.
193. According to the MoI, 20 armed persons were killed and four captured; while the Public Health Department of the Donetsk Regional State Administration asserts that three persons were killed. The Chief of the Traffic Police was confirmed killed; and the Chief of Police was abducted and illegally detained. On his release on 11 May, confirmed by the MoI, he was found to have multiple injuries. The HRMMU is trying to verify this information.

194. Human rights activists from the NGO Memorial who visited Mariupol on 11 May reported finding 15 wounded men at Mariupol City Clinic Hospital № 1. Six police officers were hospitalised and the first civilian victims were brought later to the hospital. The Mariupol Emergency Hospital received 10 wounded persons, of whom one (a police officer) died. 15 wounded people were brought to Mariupol City Clinic Hospital № 2. As reported to the HRMMU by the human rights defenders, the majority of those wounded were not involved in the fighting.
195. The HRMMU continues to highlight the need for a prompt and comprehensive investigation into these events.

*Abduction and detentions*

196. In the regions of Donetsk and Luhansk, a reported escalation of violence and violations of international law (abductions and acts of arbitrary detention targeting persons not involved in the fighting, intimidation and harassment, torture and killings) by armed groups illustrated the growing erosion of law and order. The HRMMU is increasingly concerned about guarantees for the protection of human rights of the general population. According to the MoI, from April to 7 June 2014, armed groups in the eastern regions abducted 387 people, among them 39 journalists.
197. Below are some of the many cases reported to the HRMMU during the period covered by the present report. The HRMMU is keeping track of reports of abductions and acts of arbitrary detention targeting persons not involved in the fighting, intimidation and harassment, torture and killings in eastern Ukraine. It is trying to verify such reports through direct contacts with the victims and/or relatives or through other reliable sources. From its own records, the HRMMU is aware of 222 cases of abductions and detentions by armed groups since 13 April. Of these, 4 were killed; 137 released; and 81 remained detained as of 7 June.
198. The pattern of abductions consists of groups of armed men taking people away and detaining them in one of the buildings they occupy on the grounds that they are members of the Right Sector and “spies”. Some are released after a few hours, some after a few days, and there are numerous accounts of allegations of ill-treatment and torture.
199. According to local activists from Kramatorsk, on 9 May, about 40 residents of the city were abducted by the “Donetsk People’s Republic”. On 10 May, three “Pro-Ukrainian” female activists not involved in any fighting were abducted and detained by armed persons in Kramatorsk. One of them was released the next day after being reportedly subjected to torture during interrogation. She was subsequently hospitalised in Slovyansk, suffering from broken ribs, a pierced liver, a head injury and multiple bruises. The other two women were released on 13 May and placed under so-called “house arrest”, reportedly prohibited from leaving Kramatorsk.
200. On 8 May, a woman went to Slovyansk to try to secure the release of her son detained by the “Donetsk People’s Republic” and was reportedly abducted by the same armed persons. She has cancer and was undergoing chemotherapy. The whereabouts of a female interpreter was unknown from 4 to 18 May. Upon her release, she reported having been detained by armed groups in Donetsk and to having being subjected to ill-treatment and sexual assault.

201. On 26 May, the OSCE Special Monitoring Mission (SMM) lost contact in the town of Antrazyt, with one of its Donetsk-based teams, consisting of four persons. On 29 May, contact was lost with another team of four in the Luhansk region. As of 7 June, the eight remained detained and their whereabouts unknown. 11 other OSCE SMM members were stopped on 28 May for a few hours at a checkpoint in Mariynka (Donetsk region) before being able to return safely to Donetsk.
202. On 25 May, two officers of the SBU were reportedly detained by the “Luhansk People’s Republic” while attempting to negotiate the release of their colleagues who were being detained. Their current location remains unknown. On 2 June, three police officers of the Amvrosievka District Department of the MoI were reportedly abducted; their whereabouts remain unknown although there are reports they might be detained by armed groups in Horlivka. Two senior police officers went to Horlivka to negotiate their release. They have not returned and their whereabouts is also unknown.
203. The HRMMU was involved in efforts to negotiate the release of individuals detained by the armed groups under the control of the “Donetsk People’s Republic and the “Luhansk People’s Republic”. Following repeated interventions, several civic activists and members of district election commissions were released from the SBU building in Donetsk on 27 May. During the night of 29-30 May, 20 civilians detained in the SBU building were released following discussions between the HRMMU and representatives of the “Donetsk People’s Republic”.
204. The HRMMU appealed to the leadership of the “Luhansk People’s Republic” on 26 May for the release of two detained journalists at the occupied building of the SBU in Luhansk. A similar release took place of a third journalist. They were all detained by armed groups for having covered the elections in the Donetsk region. While in detention, two of the journalists were badly beaten, and were hospitalised upon their release.
205. The emergence of ransom demands is a worrisome trend, following abductions of people from their homes and in some cases accompanied by looting and stealing of valuables, including cars. For example, on 9-10 May, an armed group together with police officers allegedly abducted the parents of a local activist from “Svoboda”, from their home in the village Khanzhenkovo (near Makyivka, Donetsk region). On 10 May, the home of an activist from Kramatorsk was allegedly attacked and items stolen by armed persons. Applicable international law prohibits the taking of hostages for purposes of demanding ransom or political concessions, regardless of whether the victims are of the general population or involved in the fighting.
206. On 26 May, three deputy prosecutors were abducted by armed men, but two were immediately released. The third was subsequently exchanged for three supporters of the “Donetsk People’s Republic” who were being detained in the Lukyanovskoe pre-trial detention centre in Kyiv. That same day, a traffic police officer was taken hostage by an armed group of “Cossacks” in Antratsyt in Luhansk region. The family was asked for a ransom of one million UAH (approximately 80,000 USD).
207. Although most of the persons detained are activists, journalists, and town councillors, NGOs in Donetsk have highlighted to the HRMMU a growing pattern of the systematic

persecution against civil society. According to them, fear is spreading in the Donetsk and Luhansk regions, with an increasing number of acts of intimidation and violence by armed groups, targeting “ordinary” people who support Ukrainian unity or who openly oppose the either of the two “people’s republics”.

208. Among cases brought to the attention of the HRMMU, on 14 May, four armed men in camouflage reportedly abducted the principal of a school in Luhansk from the school premises. Allegedly, she had opposed holding the “referendum” on the school premises. She was released a few hours later, but refused to speak about the incident. The same day in Kramatorsk, armed men came to the apartment of an employee and reportedly abducted him. Reportedly they were looking for his 16-year old son, allegedly because of his active “Pro-Ukrainian” position, including in the social media. Since the son was not to be found, they took the father to the occupied building of the Kramatorsk City Council where he was beaten. Allegedly, they eventually found the son and took him to the city council. Both were released a few hours later, and the whole family left the region the same day.

#### *Killings*

209. Increasingly residents have been killed by armed groups. On 8 May, the burned body of Valeriy Salo, a farmer and head of a local cultural organization known as a “Pro-Maidan” activist, was found a day after he had been abducted by armed persons from his village. There have also been several reports of killings at checkpoints held by armed groups. That same day, an Orthodox priest was shot dead at a checkpoint near his hometown of Druzhivka, and a couple was also shot dead in their car at a checkpoint in the Luhansk region. Their daughter survived with head injuries. In the same region, on 23 May, a woman who allegedly did not stop at a checkpoint died when heavy gun fire was opened at her car.
210. The HRMMU is also concerned about reports of “summary executions” by representatives of the “Donetsk People’s Republic”. On 18 May, in a village near Slovyansk an elderly farmer was accused of bringing food to the Ukrainian forces, taken out of his house into the yard, where according to witnesses a “sentence” was read in the name of the “Donetsk People’s Republic” and shot dead, in front of his family and neighbours. Reportedly, on 26 May, by order of Igor Strelkov, Dmytro Slavov (“commander of a company of the people’s militia”) and Mykola Lukyanov (“commander of a platoon of the militia of ”Donetsk People’s Republic”) were “executed” in Slovyansk, after they were “sentenced” for “looting, armed robbery, kidnapping and abandoning the battle field”. The order, which was circulated widely and posted in the streets in Slovyansk, referred to a decree of the Presidium of the Supreme Council of the USSR of 22 June 1941 as the basis for the execution.

#### *Torture*

211. The HRMMU has been following cases of individuals who have been abducted and detained by armed groups in eastern Ukraine. Several interviews conducted with persons who were abducted provide vivid accounts of human rights abuses committed by representatives of the “Donetsk People’s Republic” and the “Luhansk People’s Republic”, including beatings, psychological torture and mock executions. There are instances of relatives of detained persons, including women and children, having been threatened and



terrorised. Witnesses also mention having seen supporters of the “Donetsk People’s Republic” and “Luhansk People’s Republic” being detained and subjected to harsh punishment for looting or insubordination.

212. Among the numerous cases reported to the HRMMU, a journalist from Lutsk who was abducted by armed groups in Donetsk on 25 April, stated that during 23 days of his detention, he suffered from permanent lack of drinking water. He was reportedly tortured with electric shocks, beaten repeatedly over the head with a heavy book, and his captors reportedly tried to cut off one of his fingers.
213. An activist of “Batkivschyna”, abducted on 22 May and detained by supporters of the “Donetsk People’s Republic” in Donetsk, reported being subjected to torture and forced labour while in detention. He stated that he only received food twice in the five days he was detained. He was interrogated about affiliation with the “Right Sector”, with “Euromaidan”, and trips to Kyiv. During one of the interrogations he was reportedly subjected to a mock execution.
214. Three activists of a local human rights NGO were detained in Donetsk on 27 May and released on 1 June. They were taken to the occupied building of the Makiyivka Department of Organized Crime Control, and interrogated on a daily basis, accused of being affiliated to the “Right Sector” and the Ukrainian military. Both of them allege having been tortured.

#### *Enforced disappearances*

215. The HRMMU has received credible reports of individuals being detained in conditions that amount to enforced disappearance, and has a list of 11 such cases.
216. On 10 May, units of the Ukrainian armed forces allegedly detained a streamer, who was covering the activities of armed groups, in particular, the attacks on the government buildings in Donetsk region. The HRMMU filed a request to the Ministry of Foreign Affairs (MFA), asking about the current location of the individual. On 15 May, the HRMMU was informed by the MFA that a criminal case was opened by the MoI under the Article 115 (Murder) of the Criminal Code.
217. In an earlier case of concern, working with the National Preventive Mechanism (NPM), the HRMMU was able to identify the location of an individual whose whereabouts had been unknown for nine days. The location of an activist of the “Donetsk People’s Republic” was identified on 26 May, after he had been allegedly detained by the National Guard on 17 April in the area of Amvrosiyivka. After enquiries made by the NPM, the activist was located in the pre-trial detention centre in Dnipropetrovsk. It remains unknown who exactly arrested the activist and why access was not granted to him for nine days. The NPM confirmed that he had no health complaints, besides having "a few minor bruises" on his body. It is checking on access to legal counsel for him. It is also unclear whether the activist has been officially charged.
218. This has put in motion a good practice for partnership with the NPM on such cases, which was key in drawing attention to the case of the enforced disappearance for six days of two LifeNews journalists, Oleg Sidyakin and Marat Saychenko. Both were detained on 18 May near Kramatorsk during a raid by Ukrainian forces against armed groups. The whereabouts of the two journalists was unknown until their release on the evening of 24 May, when they

were flown to Moscow via Grozny. All attempts by their lawyers to be in contact with them, and gain some access to the two individuals, had failed. The HRMMU worked with the lawyers of the two journalists, and with others including the Ombudsperson, the NPM and the MFA. Through these institutions, requests were made on the case to the General Prosecutor, MoI and SBU. Upon their release, the journalists asserted that they were beaten in the first two days of their detention, initially held in a hole, blindfolded with hands tied, and then transferred to Kyiv. For the period from 18 May to 24 May, the journalists were effectively held in conditions that amounted to enforced disappearance.

219. The HRMMU was also looking into the detention conditions of supporters of the “Donetsk People’s Republic” and “Luhansk People’s Republic” detained by the Ukrainian forces during the security operations. Regular visits to places of detention take place, including in Kyiv when persons arrested have been transferred to detention facilities in the capital. The HRMMU actively cooperates with the Ombudsperson and the NPM to make sure the human rights of detained persons are upheld, including from the point of view of access to medication and to the services of a lawyer.

#### *Children*

220. The HRMMU is particularly concerned about the impact of the situation in eastern Ukraine - especially in the area between Donetsk and Slovyansk - on the human rights of women, and the most vulnerable persons - children and persons with disabilities, including those in institutional care, older persons, and those needing medical assistance.
221. According to a rapid psychological assessment of 204 children conducted by the UNICEF<sup>64</sup> in four cities of the region of Donetsk from 15 to 22 May, nearly every second child experienced fear, anger, sadness or problems with sleep. Other behavioural changes were also observed in a number of children.
222. According to Donetsk Regional State Administration, in the period between 9 – 30 May, seven children had been wounded as a result of the illegal activities of the armed groups. According to credible reports received by the HRMMU, 14 children from the children’s institution in Slovyansk have been evacuated from the city. An NGO in Kharkiv expressed concern that there were no evacuation plans for persons with disabilities living in closed institutions. On 7 June, the Ministry of Social Policy informed the HRMMU that out of 1,494 children who are in closed institutions (children’s institutions, shelters, and so forth) in Donetsk region, 663 have been evacuated; in Luhansk region out of 760 children, 464 have been evacuated.
223. As fighting intensifies and with the end of the school year on 30 May, parents are reportedly increasingly looking for ways to evacuate their children to safety. There is information that a group of children from Slovyansk has arrived in Crimea and most recently on 6 June to Odesa. On 30 May, various media outlets informed that a group of 148 children from Slovyansk was taken to a summer camp in Crimea. There were also reports that on 31 May, a group of 21 children crossed into the Russian Federation on foot, after having to disembark from their bus at the border. This information cannot be verified by the HRMMU.

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<sup>64</sup> UNICEF, Rapid Psychosocial Assessment of Children in Donetsk Oblast, 2014.

### C. Freedom of expression

224. Journalists' safety continues to be a serious issue in the Donetsk and Luhansk regions due to fighting between the Government's security forces and armed groups. On 24 May, an Italian photojournalist, Andrea Rocchelli, and his interpreter, Andrey Mironov, Russian citizen, were killed under mortar fire, while covering fighting between government forces and armed groups in Andreyevka near Slovyansk, Donetsk region. On 9 May, it was reported that a freelance cameraman of the video agency RUPTLY, which is part of the TV channel Russia Today, was wounded while filming events in Mariupol. Reportedly, he received necessary medical treatment and is in satisfactory condition.
225. The working environment for journalists has become increasingly dangerous, with the threat of abduction and illegal detention by armed groups. On 7 May, it was reported that armed groups in Luhansk offered a reward of USD 2,000-10,000 for each detained journalist. The HRMMU continues to closely monitor cases of detentions of journalists in Donetsk and Luhansk regions. Although all but one of the journalists abducted and known to the HRMMU before 6 May (cut-off date of the previous report) have been released, the HRMMU is aware of new cases abducted after that date. The HRMMU interviewed many of the released journalists, who reported ill-treatment, beatings, and sexual harassment (of women). They also confirmed the fact that other detainees were being kept in the seized administrative buildings; but the exact number and their identities remain unknown.
226. Also, journalists and editorial offices continue to be threatened and intimidated by armed groups. For instance, on 14 May, the HRMMU received credible reports that those journalists who work in the region but refuse to comply with the orders of the "Donetsk People's Republic" are threatened and harassed. Reportedly, the state regional television is in a particularly difficult situation; its office has been practically blocked by approximately 100 heavily armed men. On 21 May, an unidentified man called the editorial office of the Public television of Donetsk region and threatened its journalists.
227. Local journalists have reported having to flee Donetsk and Luhansk regions due to such threats and intimidation. On 8 May, two journalists from Donetsk had to move to Lviv out of fear of persecution and threats. On 13 May, an internet resource in Severodonetsk (Luhansk region) announced the forced suspension of activities and advised its journalists to leave the town because of growing pressure and threats against their lives from the armed groups. On 27 May, the editorial office of another local web-based outlet was forced to relocate to a different town, reportedly, due to threats from the self-proclaimed "Army of the South-East". On 26 May, it was reported that the publisher and editor in chief of one of the local newspapers in Kramatorsk was forced to flee the region with his family due to threats they were receiving after he had refused to publish materials armed representatives of "Donetsk People's Republic" demanded him to publish.

#### *Arbitrary arrests of journalists*

228. In the reporting period, Ukrainian and Russian journalists have been arbitrarily arrested; this raises concerns about the possibility for journalists to conduct their professional activities safely.

- On 10 May, a journalist of Russian TV channel Kuibishev 61, was allegedly detained by the Ukrainian security forces at a checkpoint on the road between Slovyansk and Kramatorsk. His whereabouts remain unknown to the family. On 22 May, the HRMMU sent an official inquiry to the MoI (via the MFA) about the case. On 5 June, the HRMMU was informed that as of 15 May a criminal investigation had been opened under Article 115 (Murder) of the Criminal Code. The HRMMU has requested more information on this case.
- On 15 May, a journalist and cameraman of the ICTV Ukrainian channel were arrested on the border (Kharkiv / Belhorod) while performing editorial tasks by the Border Service and Federal Security Service of the Russian Federation,. Reportedly, after more than 15 hours of questioning without water and food and deleting all photo and video materials, the journalists were released.
- Two LifeNews journalists, Oleg Sidyakin and Marat Saychenko, were detained on 18 May near Kramatorsk during a raid by Ukrainian forces against the armed groups. They were released on 24 May (see section B, chapter V).
- The HRMMU also followed closely the case of a British journalist working for Russia Today detained by the National Guard in Mariupol on 20 May for allegedly filming military objects. He was released on 21 May and transferred to the Consulate of the United Kingdom in Kyiv. After his release he tweeted details of his detention, including that he had been treated fairly.
- On the night of 6 June, two journalists of the Russian TV station “Zvezda” were detained by the National Guard of Ukraine (NGU) at a checkpoint near Slovyansk. According to their driver, who was also initially detained and later released, the journalists were cuffed, balaclavas were put on their heads, and they were forced to kneel down in a ditch (allegedly, to protect them from possible shooting). On 7 June, the NGU issued a statement saying that journalists were suspected of monitoring and collecting information. The MFA of the Russian Federation reportedly filed a note of protest to the MFA of Ukraine. On 8 June 2014, the TV station “Zvezda” received information from the SBU that the two journalists were in good health. They were released on 9 June and transferred to the Russian Federation.

*Obstruction to lawful professional journalist activities*

229. On 11 May, it was reported that Ukrainian journalists were not allowed to photograph or film the voting process during the “referenda” in the Donetsk and Luhansk regions.
230. The same instances were reported prior and during the election day on 25 May. For instance, the journalists of the Voice of America were warned not to film the seizure of one of the polling stations in Donetsk.

*Attacks on editorial offices and TV towers*

231. In the reporting period, there has been a growing number of armed attacks on the editorial offices of the local media outlets by armed men. Some of the examples are provided below.
- On 7 May, the office of the local newspaper “Hornyak” in Torez (Donetsk Region) was reportedly attacked and its equipment was broken and damaged.

- On 8 May, the independent newspaper “Provintsiya” in Kostyantynivka was attacked by armed, masked men, allegedly members of the “Donetsk People’s Republic”. The editors were told the paper was “closed” and taken to the “city commander’s office” situated in the occupied building of the City Council, where they were threatened and suggested to leave the town. The police was called, but did not interfere or arrested the attackers. The editors did not file a complaint because they do not trust the police will act and because they feel threatened and fear for their lives.
- On 11, 13, 19 and 20 May, armed groups shelled the TV tower in Slovyansk, which led to interruptions in broadcasting. On 14 May, in Kramatorsk, the armed groups blocked the TV tower, which transmits the channels not only for Kramatorsk, but also Slovyansk, Horlivka and Makiiivka.

*Censorship / access to information*

232. According to NGOs, freedom of media in the Donetsk region is severely curtailed, with Ukrainian TV channels switched off by the “Donetsk People’s Republic” and replaced by the its own media programmes and Russian TV. Some of the examples include the following:

- On 8 and 25 May, armed group stormed the office of the local TV Channel “Union” with demands to report about the activity of “Donetsk People’s Republic” and declared their intent to control the activity of journalists. The target audience of the channel is about 3 million people in nine towns of Donetsk region.
- On 8 May, under threat of physical violence from the armed groups, the company “Vokar Holding” was forced to stop retransmission of Ukrainian TV Channels: “Inter”, “Ukraine”, “1+1”, ICTV, STB, “New Channel”, “5<sup>th</sup> Channel”, “112 Ukraine”, and “TVI” in Severodonetsk, Luhansk region. Instead the Russian channels were broadcasted. The same incidents occurred throughout May in Luhansk and its region (Krasnyi Luch, Alchevsk).
- On 2 June, armed members of the so-called “Donbas People’s Militia” arrived at the office of the newspapers “Donbas” and “Vecherniy Donetsk” and blocked all entrances and exits. They abducted the editor-in-chief of the “Donbas” and his deputy and the editor-in-chief of “Vecherniy Donetsk”. The armed men reportedly used psychological pressure and death threats to change the editorial policy of the newspapers and ensure more positive coverage of the “Donetsk People’s Republic”. The three editors were eventually released on 3 June after which all the “Donbas” employees were sent on leave and the newspaper stopped its publication. Also, the HRMMU has noted specific hate speech on the “official” media outlet of the “Donetsk People’s Republic” “Anna Info News”. On 20 May Oleksandr Mozhayev, known as "Babai" (a fighter participating in the armed groups) referred to the on-going operations as a “Holy War” and spoke of exterminating America.

· On 5 June, a local cable TV and Internet network provider in Donetsk terminated the broadcast of Ukrainian channels: “1+1”, “Donbas”, “UBR” and “News24” at the demand of “Donetsk People’s Republic” representatives.

#### *Propaganda*

233. The HRMMU reiterates the importance to counter misinformation, incitement to hatred, discrimination, and violence. As an example, the “Donetsk People’s Republic” denied all responsibility for the attack near Volnovakha, claiming that it was the National Guard “paid by Kolomoiskiy” which perpetrated this attack on the Ukrainian military. On 27 May, LifeNews posted a photo of a wounded child stating he was shot in the Donetsk International Airport; however the StopFake.org experts discovered that the photo was from the Syrian city of Aleppo in April 2013. Although the original publication in twitter was deleted, the photo was widely used for similar posts on alleged shootings of children. A different photo with a dead boy's body in a coffin was used for similar messages of alleged shooting of children in eastern Ukraine. The photo, however, was made in 2010, in the Crimean city Dzhankoy, of a boy killed by a local criminal.
234. Similarly, various videos became viral, allegedly showing either atrocities by the Ukrainian army, seizing of "Grad" complexes by armed groups, or of the use UN symbols on Ukrainian helicopters used in the security operations. It was also demonstrated that originals of such videos were also filmed earlier in the Russian Federation or in other countries, and had nothing to do with the current events in Ukraine.
235. Misinformation adds to the instability and fear which affect the lives of people in the region, and all sides should refrain from using it, especially to the extent that it amounts to advocacy to national hatred that constitutes incitement to discrimination, hostility or violence, which is prohibited under Article 20 of the ICCPR.

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

236. On 15 May, the Ukrainian Orthodox Church of the Kyiv Patriarchy (UOC-KP) condemned the violence and threats to the life and health of the clergy and the faithful of eastern Ukraine by armed groups. The statement by the Holy Synod of the UOC-KP calls for the Moscow Patriarchate to condemn collaboration with the supporters of the self-proclaimed “people’s republics” and distance itself from it. The UOC-KP requested the Government of Ukraine to protect the clergy and congregation of the Kyiv Patriarchy in the Donetsk and Luhansk regions from the attacks and threats of the “criminals”.
237. In the statement, the Church also appeals to the international community and inter-religious social human right organizations to pay attention to the infringement of rights of the believers of UOC-KP in the eastern parts of Ukraine and in Crimea.
238. In Donetsk, numerous attacks against the inter-religious Prayer Marathon (attended by all major denominations except the Moscow Patriarchy) took place almost on a daily basis in May, including heavy beatings of participants, the destruction of property, and threats to organisers and volunteers. On 23 May, after a repeated attack by 15 representatives of the “Donetsk People’s Republic”, in an attempt to discuss security arrangements for the Prayer Marathon, its coordinator allegedly went to the occupied building of the Donetsk Regional

State Administration. While there he was allegedly heavily beaten and had to seek medical assistance. The Prayer Marathon has continued gathering in June. No incidents have been reported.

239. Reports have also been received of other denominations being attacked, for example, Protestants.

#### **E. Economic and social rights – impact of the violence**

240. As background to the situation in the eastern regions and the current impact on economic and social rights being faced by the local population, the HRMMU recalls that Ukraine is a middle-income country, ranked 78 in the Human Development Index in 2013.
241. The recent evaluation of the UN Committee on Economic, Social and Cultural Rights (ESCR) published on 23 May 2014, highlighted the positive steps of the Government in ratification of, or accession to, various human rights instruments. At the same time the Committee identified major problems that have an adverse impact on the enjoyment of all human rights, including the large extent of corruption, discrimination against Roma and Crimean Tatars, a low level of social standards, unemployment among youth, around 30% gender pay gap, employment in the informal economy, a stable poverty rate of 24.7%, absence of a health insurance system, and low expenditure on health care.
242. The Committee made related recommendations to address the root causes of the aforementioned challenges.
243. The violence and security operations in the eastern regions has had a direct impact on the existing level of enjoyment of economic, social and cultural rights, and has also influenced the State capacity to progressively realize the rights and comply with the Committee's recommendations in the areas struck by the conflict.

#### *Right to education*

244. Despite the efforts of the Donetsk Department of education and science, as well as school administrations, studies had to be suspended in several towns of the Donetsk region in May. In Slovyansk, Krasnyi Lyman and Krasnoarmiysk, 62 schools and 46 kindergartens were not functioning, which affected 21,700 students and 5,600 children, respectively. On 28 May, it was reported that during the fights in Slovyansk two school buildings have been damaged; no one was injured.
245. In other towns in the Donetsk region schools remained open, but attendance varied from 25% in Slovyansk district to 98% in Makiivka district.
246. Most schools in the Donetsk and Luhansk regions managed to complete the academic year, which finished on 30 May. The main concern had been the organisation of the “External Independent Assessment<sup>65</sup>” for the students of these eastern regions. On 29 May, the Ministry of Education announced that testing in these regions would be postponed until 11 July to 27 July, and if necessary could be postponed again.

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<sup>65</sup> A final test for the high school students to enter universities in Ukraine.

247. Following instructions issued by the Ministry of Education and Science, all universities in the eastern regions had to ensure that foreign students finished their studies earlier, by 20 May, so that they could leave the country.<sup>66</sup>
248. Reportedly, school administrations have faced various forms of pressure from representatives of the “Donetsk People’s Republic” including in the preparation and holding of the “referendum” of 11 May, as well as establishing temporary “hideouts” in school premises.

*Right to health*

249. Due to the growing number of wounded, hospitals are overcrowded and understaffed. As of 28 May, in order to minimize the risk to life and security of patients, the Regional Hospital of occupational diseases in Donetsk partially discharged patients whose medical condition did not require in-ward treatment. A sanatorium for children with cerebral palsy was closed in Donetsk due to its proximity to the occupied Security Service of Ukraine building. On 26 May, Children’s Hospital Nr 1 and city hospital Nr 18 had to close due to the proximity to Donetsk airport<sup>67</sup>.
250. Access to medical services, treatment and supplies for residents in areas most affected by the fighting is becoming more and more challenging. This is of particular concern as more residents are caught in the crossfire between the armed groups and Ukrainian forces. The situation is most difficult in Slovyansk. The overcrowded, understaffed and under resourced hospitals are only admitting those who are severely injured. Primary Health Care services are overloaded and at times called to provide treatments and care that are within their capacity. Patients from the Mental Health Hospital (229 persons) were evacuated from Slovyansk. All emergency services have been relocated to the nearby village of Mykolayivka, with a number of medical number units set up in Svyatohirsk (location of a large Russian Orthodox monastery - the Lavra). Some patients were transferred to Poltava region. Pharmacies are open only a few hours per day.
251. The delivery of supplies, particularly medicines, becomes more complicated every day; especially with the Donetsk airport being out of service. Reports and requests sent to the UN agencies indicate the lack of specific medications, including some antibiotics, pain-killers, vaccines and consumables. In Donetsk, insulin was distributed to various locations; however, such deliveries are becoming more difficult. Supplies of food in hospitals are running low.

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<sup>66</sup> On 29 and 30 April, The Ministry of Education and Science issued two letters Nr 1/9 - 228 and Nr 08.01-47/12033 instructing all universities of Ukraine, particularly in the East, to terminate the studies of all foreign students by 20 May, which is much earlier than usually. Reportedly, the decision was made upon request of the embassies of foreign countries so that foreign students could complete exams and leave the country if they wish so due to the security situation. Allegedly, at the end of April there were two attacks in eastern regions on foreign students; however the HRMMU could not verify these facts.

<sup>67</sup> On 26 May 2014, approximately 20-30 armed representatives of the “Donetsk People’s Republic” reportedly arrived at Donetsk International Airport. According to the Press-Secretary of the Donetsk International Airport Dmytro Kosinov, they demanded the Ukrainian Armed Forces, which were guarding the airport, to withdraw. Fighting broke out at 7.00 a.m. and at that time the airport was closed. It was reported that it will stay out of service till 30 June. According to some reports the main terminal was partially destroyed and some fighting is still on-going there.



252. There have been reported difficulties to ensure uninterrupted provision of opioid substitution therapy (OST)<sup>68</sup>. This directly affects 759 persons (56% of whom are HIV positive) in Donetsk region and 609 (13% are HIV positive) in Luhansk region. According to the HIV/AIDS Alliance and the World Health Organisation, in a number of cities, such as Slovyansk, the healthcare facilities providing OST are completely controlled by armed groups. The fact that pharmaceuticals in the healthcare facilities in the districts have fallen beyond the legitimate authorities' control, is in its essence a certain risk factor for medical staff and patients. On 30 May, OST treatment was stopped for more than 100 patients in Mariupol, due to drugs not being delivered because of the security situation. As of 2 June, HIV service organisations reported that for some patients such an interruption in treatment had resulted in people using illegal drugs. In the long run, this may lead to an increase in cases of HIV and hepatitis infections due to intravenous drug use. Due to the numerous check-points and blocked roads, as well as interruptions in public transport, the specialized hospital for HIV/AIDS patients in Yasynovata, Donetsk region, is practically inaccessible.

*Conditions for treatment of patients*

253. The conditions for the treatment of patients, including those who have been wounded in fighting and violence, are precarious. As the security situation deteriorates, so does the access to hospital care and the quality that can be provided by medical professionals. For example, in Slovyansk, medical personnel were already highlighting the problems with the delivery of medical supplies to the city. In the regions affected by violence and the ongoing security operations, hospitals are trying to allocate what funds they have to purchase the medical supplies they require. In early June, some hospitals in Donetsk discharged patients, except those in critical condition or those who were immobile, leaving the hospitals almost empty.
254. Due to the lack of trust regarding law enforcement, both the medical personnel and patients try to conceal the facts and nature of wounds (the standard protocol is that medical institutions have to report any gunshot and/ stab wounds to the police). The HRMMU has received credible reports that doctors are at times trying to ensure the security of the wounded.
255. Cooperation with local civil society and community volunteers is an important part of treatment of those who suffered in the recent months. The volunteers, local NGOs, political parties and priests donated money, clothes, food, and medical drugs and provided psychological support. In some cases, when expensive purchases were necessary – such as plates for head surgery – they were purchased by charitable organizations, which also provided financial support to the victims after they were discharged from the medical institutions – to receive rehabilitation treatment in sanatoria. In the local hospitals where the wounded were brought – such as after the shooting on 22 May near Volnovakha in the Donetsk region – there were instances when the local community cared and protected the wounded, bringing them medical drugs, food and clothes.

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<sup>68</sup> This has been an integral part of the widespread implementation of harm reduction programmes. These programmes are an essential element in controlling HIV/AIDS and other infectious diseases among injecting drug users in Ukraine, as elsewhere in Eastern Europe.

256. Security in hospitals has been reported to the HRMMU as a concern with patients having to be protected from potential abductions by armed groups. The officials from the Donetsk Regional State Administration confirmed that such kidnappings of the wounded had taken place, however there is no official record of such cases, thus no exact figure could be provided. There is also an increased risk for healthcare professionals themselves, particularly if it involves moving around in the case of ambulance medical teams.

*Right to an adequate standard of living*

257. Since 17 May, prices for basic commodities (including bread) have been rising by a minimum 0.73 Hryvnia (UAH) and 1-2 UAH on average due to higher risks of production and delivery of goods into the occupied towns through numerous checkpoints. Seasonal vegetables and fruits are 4-5 UAH more expensive than usual.

258. Also, due to increased cases of looting, private businesses and retailers prefer to close down, which creates scarcity of supply. Consequently, while the minimum set of products is always available, the variety is much less. Often times there are interruptions in delivery of dairy products, fruits and vegetables, and non-alcohol drinks.

*Housing*

259. The HRMMU is concerned when security operations take place in residential areas of towns and villages of the Donetsk and Luhansk regions. As of 30 May, there had been reports of ruined residential buildings in Slovyansk, Kramatorsk and Donetsk. Additionally, on 7 June, it was reported that nine houses were damaged by the Ukrainian army shelling in Semyonovka near Slovyansk.

260. The HRMMU will raise this and other similar issues with the Ukrainian Government, including advocating for monetary compensation to be awarded to the victims for damages to their property in the course of these security operations.

*Electricity and water supply*

261. As of 18 May, in the Slovyansk region, 22 electrical sub-stations stopped functioning. As a result, more than 2,000 households were left without access to electricity. According to the Press-service of the company “Donetskoblenergo”, the company has all the necessary material and human resources for reconstruction. However, repair crews are unable to access the site due to the ongoing security operations.

262. In the northern part of the Donetsk region, the supply of water supply is increasingly under threat, with regular interruptions. Moreover, as of 3 June, residents of Slovyansk, Konstyantynivka, Druzhkivka and Kramatorsk (cities in Donetsk region) had no access to running water, due to damage to the water supply reportedly as a result of the security operations.

*Social security (services and benefits)*

263. Due to the deteriorating security situation in the Donetsk and Luhansk regions, it is a growing challenge to ensure continuous work of State institutions. On 14 May, the Pension Fund department resumed its work (after the seizure of its building on 5 May) in Slovyansk, but the department’s office hours were cut. On 15 May, it was reported that the

National Bank of Ukraine suspended<sup>69</sup> the operations of its office in Donetsk region due to the threats by the representatives of the "Donetsk People's Republic". On 15 May, the Ministry of Revenue and Duties of Ukraine also evacuated the staff of its directorate and tax inspections in the region.

264. On 7 June, the Ministry of Social Policy informed the HRMMU that all social payments had been made to the regions of Donetsk and Luhansk. However, there were major challenges in delivering cash to Antratsyt in Luhansk region and Slovyansk and Kramatorsk in Donetsk region. The Ministry has already addressed the MoI and SBU to develop a mechanism of the safe delivery of cash to these regions if the situation remains the same or aggravates.
265. On 30 May, the head of Department of Marketing Communications of the Novokramatorskiy Machine-Building Plant Volodymyr Zhuliy spoke of the imminent "humanitarian catastrophe" in Kramatorsk, due to the termination of the work of the city department of the State Treasury of Ukraine since 20 May. In particular, Mr Zhuliy mentioned that thousands of the city's pensioners, local governance workers, educators and public health workers were deprived of the means for existence. Reportedly, the Treasury's debt to the workers and pensioners in Kramatorsk for the payments due in May already amounted to UAH 61.4 million.

*Increased lawlessness resulting in loss of individual property*

266. On 15 May, the Parliament Commissioner for Human Rights informed the HRMMU that there are numerous incidents in Donetsk and Luhansk regions when the armed groups' members seize personal phones and especially cars from ordinary citizens. The police rarely intervene or take any action, as they are usually unarmed and thus unable to perform their functions in the current situation. Consequently, although criminality is increasing, there is nobody to apply to in case of an alleged crime, and no effective means to intervene for police. It also becomes dangerous for persons to report about such crimes, so in most cases they chose to leave the region. The increase in criminality is, in the view of some, returning the regions to the "lawlessness of the 1990s":
- For example, on 8 May, the private residence of a local activist was allegedly shot at from a car; the attackers broke into the house and looted everything of value. The police called by the neighbours, allegedly made several photos of the location, but did not even walk into the building. Reportedly, the activist left the region to Kharkiv with his family, due to previous threats to his life, including attempted arson of his home with Molotov cocktails on 4 May.
  - On 15 May, owners of car-dealerships in the cities of Donetsk and Luhansk regions formed rapid response groups to protect their businesses against attacks aimed at robbery that have multiplied since the beginning of May.
  - On 28 May, the HRMMU spoke to one of the local political leaders in the Donetsk region. He reported that his legal firm's office was ruined when attackers took his computers, documentation on the legal cases and stole the firm's car. He was also

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<sup>69</sup> The staff of the Bank was evacuated, and online banking in the region was reportedly suspended.

detained for 7-8 hours and subjected to life threats, inhumane treatment and beating. After his release he fled the region together with his family.

*Labour rights*

267. There are growing concerns about the ability of enterprises in Donetsk and Luhansk regions to continue functioning due to the on-going fighting, targeted attacks and intimidations by the armed groups.
268. The presence of uncontrolled armed groups and rise of criminality obstruct the business activity of entrepreneurs, which first of all affects small companies in the sphere of services and retail (banks, logistic companies, stores, petrol stations, and bakeries).
269. On 20 May, the Mayor of Donetsk, Oleksandr Lukyanchenko, stated that a wide range of enterprises do not work in full capacity and some of them suspend production, in particular, “Donetsk Metallurgical Plant” employing approximately 2,100 persons.
270. On 29 May, the Secretary of the National Security and Defence Parliamentary Committee, Sergey Kaplin, stated that due to the current events in the Donetsk and Luhansk regions, approximately 60 % industrial enterprises of companies were forced to suspend their work, leaving thousands of employees without regular income.
271. There also have been armed attacks on mining companies, which constitute the main share of the regions’ economy. On 9 May, it was reported that local miners repelled an attack by the pro-Russian supporters of the “Donetsk People’s Republic”, who attempted to take down the Ukrainian flag and threatened the miners that they would throw explosives into the mine’s shafts for their disobedience. Allegedly, the miners decided to organize their own “self-defence” to protect themselves. On 19 May, there were armed attacks on the operational and closed coal mines in Horlivka, Donetsk region. On 22 May, a group of unidentified armed individuals allegedly captured four operating mines of the JSC “Lysychanskvuhillya” in Luhansk region. All of the four attacked mines temporarily suspended production activities. Reportedly the armed men pointed guns at the mines’ workers, demanding to supply them with explosives. The Ministry of Energy of Ukraine appealed to the SBU demanding that necessary steps be taken to protect the mines. Previously, on 26-27 May, due to pressure by the armed representatives of the “Donetsk People’s Republic” on the “Donetsk Coal-Mining Company”, coal production was suspended at several mines, including “Octyabrskiy Rudnik”, “E. Abakumov”, “A. Skochinskogo” and “Trudovskaya”.
272. On 20 May, Denys Pushylin, “speaker” of the “Donetsk People’s Republic”, announced the launch of the nationalization campaign in the region. According to their official sources, Mr. Pushylin blamed the local oligarchs’ unwillingness to pay taxes to the “republic’s” budget, and their opposition to the interests of Donbas as the reason for the adopted decision to start the nationalization. In particular, Mr Pushylin blamed Renat Akhmetov, owner of the company System Capital Management.

*The broader impact of the crisis in the eastern regions of Ukraine*

273. Recent developments in the country have already negatively affected the financial and banking system. In the first quarter of 2014, the national currency depreciated by 27%, dramatically reducing incomes and salaries. Whereas the average monthly wage in

December stood at \$453, by March it had dropped to \$343. This also puts significant pressure on those who have loans in foreign currencies.

274. After remaining quiescent for more than two years, inflation rates have shot up with a 6.8% increase in consumer prices reported for the beginning of May being the highest year-on-year inflation rate recorded since 2011.
275. Food prices have increased by 8.2% above 2013 levels, bringing the socio-economic crisis to many households in Ukraine. Large price hikes were reported for sugar (59%), vegetables (33%), and dairy products and eggs (10%).
276. Other inflationary pressures are now gathering, for example in the form of increases in communal service tariffs. Household gas prices shot up 56% on average in May; a 40% increase in heating tariffs is scheduled for July. These higher tariffs are projected to increase the numbers of low-income households from 1.4 to 4 million during this time.
277. Should these tariff increases be accompanied by a further weakening of the UAH, Ukraine's inflation rates could dramatically accelerate. Even in the best case scenario, consumer and food price inflation rates seem likely to remain in double figures for the rest of 2014, and going into 2015. These developments will place increased pressure, and need, for Ukraine's social welfare system to cushion the impact, particularly for the most vulnerable.
278. The 63 billion UAH deficit recorded on the consolidated government budget in 2013 (some 9% of GDP) is regarded as unsustainable by both the Government and the International Monetary Fund (IMF). Fiscal austerity in 2014 is therefore required. Although a justified measure, it may do little to boost the country's long term competitiveness or development prospects. Already in the first quarter of 2014 Government expenditure<sup>70</sup> in the health sector declined by 5%, and in the education sector by 8%, compared to the budget allocations in 2013. At the same time, the Government has been able to increase spending on social protection by 2% (which includes expenditures on both social assistance and social insurance) for 2014, which may lessen the hardships and pressures that many Ukrainian households are now facing.
279. The economy of the eastern region has already been in decline since April 2014, and it is likely to deteriorate further in any protracted situation of violence and fighting. Business is in decline in the region; personal income is decreasing; investments are dwindling. Compared to 2013, in the first quarter of 2014 investments in the eastern regions had significantly declined. In the annual rating Donetsk region moved from third place in 2013 to twenty-second place in 2014, and the Luhansk region from ninth to twenty-third.
280. Any exacerbation of the violence will lead to the further decline of industrial production in the region and Ukraine as a whole. The industries of the Donetsk and Luhansk regions account for 18.5% and 6.1% of all production in the country respectively. Such a decline would therefore increase the imbalance between the income of the state budget from the Donbas and expenditure provided to the region. This will augment the budget deficit. One

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<sup>70</sup> Changes are given in real terms: changes in nominal expenditure amounts divided by changes in the consumer price index.

result could be that it would jeopardise compliance with the agreed parameters of the IMF loan.

281. Official statistics released in May indicate that Ukraine's GDP dropped 1% in the first quarter of 2014. The recession is expected to worsen over the course of the year: IMF and the Ministry of Economic Development and Trade forecast a 3% decline in GDP, while other, more pessimistic forecasts point to 5-10% declines in output and income. The largest decline in exports (70-85%—relative to the fourth quarter of 2013) has already been recorded in the regions of Donetsk, Luhansk, Cherkasy, and Khmelnytskyi, as well in the Autonomous Republic of Crimea. Any collapse in exports could trigger a decline in industrial output, and subsequently in household incomes and livelihoods. These trends should be closely monitored.
282. There are concerns that if these macro-economic tendencies continue, the State will no longer be able to guarantee existing social standards, which could lead to the social unrest spreading throughout the country.

## **VI. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

### **A. Civil and political rights of Crimean residents**

283. Crimean residents faced difficulties in exercising their civil and political rights. A very small number participated in the Presidential elections of 25 May. Simplified registration procedures had been put in place to ensure that residents of Crimea and persons who resettled from Crimea to other regions can take part in the vote. Ukrainian citizens living in Crimea had to register in person at any polling station on the mainland no later than five days prior to the elections. The HRMMU monitored the situation near Kherson, where most of the Crimean voters had registered. Some 20 cars had left Crimea and were welcomed by local authorities. They drove to the polling station in a column with Crimean and Ukrainian flags. Prior to the election they had been summoned by the Crimean police for "conversations" and issued 'warnings' about the unacceptability of 'extremist activities'. While the cars were crossing the administrative border, representatives of the Crimean 'self-defence' reportedly wrote down license plates, passport numbers and driving licenses' details. Among those who intended to vote, many allegedly did not do so because of the cost of travelling, the uncertainty linked to having to cross the administrative border and the fear of reprisals by the authorities in Crimea.
284. During its month-long monitoring of events in Crimea, the HRMMU noted a continuation of worrying trends, including instances of enforced disappearances, arbitrary detentions, violence and ill-treatment committed by the so-called 'Crimean self-defence', often targeting journalists, human rights defenders and political opponents, and impunity for human rights violations. Furthermore the enforcement of the Russian Federation law on the territory of Crimea, at variance with UN General Assembly resolution 68/262 and applicable bodies of international law, is creating difficulties for Crimean residents to enjoy their human rights, as there are many differences with Ukrainian laws.

*Rule of law and the judiciary*

285. The judicial system remains practically paralyzed. Ukrainian laws will be in effect in Crimea until 31 December 2014<sup>71</sup>. Nevertheless, the judicial system is already being transformed to use Russian laws: restriction measures are implemented pursuant to the Criminal Procedural Code of the Russian Federation, and judicial decisions are adopted in the name of the Russian Federation. Pending cases that have not been decided by 18 March 2014 must be tried in accordance with the laws of the Russian Federation. This poses numerous problems in practice, especially in administrative and criminal cases, when Russian and Ukrainian legislation differs on the existence, nature and scope of rights and obligations; and remedies and sanctions available. The outcome of court decisions that are currently being appealed is unclear.
286. There are reports that, at least, 15,000 judicial cases are in legal limbo between Ukrainian and Russian laws. The Ukrainian “Law on the occupied territories” allows the transfer of judicial cases from the peninsula to Kyiv. However, in practice, this is unlikely to happen. The HRMMU notes that the current situation has detrimental consequences affecting access to justice, the right to fair trial and due process for Crimean residents.

*Right to life, liberty and security*

287. The Russian Security Service (FSB) confirmed on 30 May, the detention of four Ukrainian citizens in Simferopol (Crimea), including film-maker Oleg Sentsov. The other three are Aleksandr Kolchenko, Gennady Afanasiev and Aleksei Chyrnyi. The HRMMU spoke to Mr. Sentsov’s lawyer who stated that while his client had been arrested on 11 May, he managed to speak to him for the first time on 27 May. He also claims his client has been tortured while in detention to confess to criminal intentions he did not have. According to the FSB press release, the people detained are members of the Ukrainian ‘Right Sector’ party and were planning acts of sabotage and terrorism in Simferopol, Yalta and Sevastopol. On 6 June, Sentsov was, according to his lawyer, officially charged with terrorism and arms trafficking under Article 205, Part 2; Article 205.4, Part 2; and Article 222, Part 3 of the Criminal Code of the Russian Federation.
288. On 26 May, Timur Shaimardanov (born in 1980) left his home in Simferopol and did not return. He had participated in campaigns against Crimea becoming a part of the Russian Federation. The day before he went missing, he allegedly said that the whereabouts of one of his friends, Leonid Korzh, (born in 1990) had not been known for 3-4 days. On 30 May, Seiran Zinedinov, who had been coordinating the efforts to find Korzh and Shaimardanov also went missing.
289. Mr. Mustafa Dzhemilev, former head of the Crimean Tatar Mejlis (Assembly) who was banned from the authorities in Crimea to enter the peninsula on 3 May, informed the HRMMU that the “Crimean police” had brought to his Crimean house a summons for an interrogation related to illegal possession of weapons. Dzhemilev assumes that this could be an attempt to initiate a criminal case against him. Ms. Ella Panfilova, Ombudsperson of the Russian Federation, announced that her office has requested from the relevant

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<sup>71</sup> Paragraph 2 of Article 23 of the Federal Constitutional Law of 21 March 2014 N 6-FCL “On Acceptance of the Republic of Crimea into the Russian Federation and the Creation of the New Constituent Entity within the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol”.

Governmental bodies an explanation of the actions undertaken by officials towards Mustafa Dzhemilev, particularly regarding his ban on entering Crimea.

290. The Head of the Kurultai (Congress) of the Crimean Tatars, Zayr Smedlyayev, informed HRMMU that he had received a written “warning” from the Crimean police about the “inadmissibility of extremist activities and unlawful assemblies”, in line with Russian legislation. The notice says that on 3 May, the leaders of the Mejlis publicly spoke in support of ‘extremist statements’ by Mustafa Dzhemilev and provoked extremist manifestations from people.
291. On 15 May, three houses of Crimean Tatars in Simferopol were searched by FSB officials. Two houses belong to the head of the External Relations Department of the Mejlis, Ali Khamzin. The searches were performed at his actual place of residence (Bakhchysarai) and his place of registration (Strogonovka village, Simferopol region). FSB officials explained that these persons were suspected of preparing terrorist attacks.
292. On 15 May, the “Chairman” of the Council of Ministers of Crimea, Sergey Aksyonov, announced that the so-called “Crimean self-defence” would become regular and receive budgetary support to ensure public security. The HRMMU underlines that such an intention raises concern as the “Crimean self-defence” has reportedly been involved in numerous human rights violations.

#### *Accountability*

293. The HRMMU is concerned that after more than two months of investigation of the murder of 39-year-old Reshat Ametov, the Crimean law-enforcement authorities have not yet established the identities of perpetrators, although a video of the attackers is available that would allow their identification. Crimean Tatar Reshat Ametov was abducted by unidentified persons wearing military uniform in the centre of Simferopol in early March during a picket near the Council of Ministers of Crimea. On 17 March, his corpse was found with traces of torture in the Zemlyanichnoye village of the Belogorsk district.
294. The acting Prosecutor General of Ukraine reported on 27 May that an interagency ‘working group for legal issues relating to the temporarily occupied territory of Crimea’ had been established. The working group will coordinate the activities of the Ukrainian authorities on a wide range of legal issues connected with the violations that took place after the March “referendum”.

#### *Citizenship*

295. The HRMMU received worrisome information that, in some cases, Crimean residents were forced to give up their Ukrainian citizenship, which may amount to arbitrary deprivation of nationality. Judges of the Crimean Commercial Court in Simferopol and the administrative staff, who were granted Russian citizenship on a priority basis, were reportedly compelled to complete application forms renouncing Ukrainian citizenship. In general, the procedure of issuing Russian passports is slow. According to different calculations, providing passports to the whole population of Crimea will take up to 15 months while Russian laws allocated only three months for this procedure. Besides, it is unclear how citizenship issues, applications for social benefits and payments and other rights and entitlements are



organised for persons in closed institutions: orphanages, geriatric institutions, psycho-neurological hospitals, penitentiaries, and others.

296. The status of refugees and asylum seekers has not been regulated. Prior to the “referendum” there were 18 refugees on the territory of Crimea. It is unclear how their situation will be affected by the changed legal regime.
297. On 4 June, the President of the Russian Federation signed amendments to the law “On citizenship of the Russian Federation”, introducing criminal responsibility for concealment of dual citizenship. According to the amended law, those concealing their second citizenship will be fined up to 200,000 Rubles (\$5,700) or subjected to compulsory community service of up to 400 hours in case of a failure to notify the Federal Migration Service within two months from the date of the acquisition of the second citizenship. The new provisions will become effective on 1 January 2016.

*Freedom of expression*

298. The HRMMU is alarmed by excessive limitations placed on freedom of information and expression in Crimea. Journalists, human rights defenders and other individuals must be able to freely exercise their right to freedom of expression, in accordance with article 19 of the International Covenant on Civil and Political Rights. Any restrictions should comply with the strict requirements of article 19, paragraph 3 of the Covenant.
299. On 15 May, a photojournalist of the "Crimean telegraph" newspaper Maksim Vasilenko was briefly detained and ill-treated by members of the "self-defence of Crimea" in Simferopol while preparing a report about the training of the special police forces before the commemoration of the 70<sup>th</sup> anniversary of the Crimean Tatar Deportation. A cameraman of the "FM" television channel was also attacked; his phone was taken and his equipment was broken.
300. On 18 May, Osman Pashayev, Chief Editor of "Open Crimean Channel" internet project, and his crew (correspondent, cameraman and driver) were detained by members of the “Crimean self-defence” during the mourning events related to the anniversary of the Crimean Tatar Deportation. They were deprived of their equipment, phones and personal belongings, and subjected to physical and psychological pressure for four hours. No reasons were given for the detention. After being brought to the central district police station of Simferopol, they saw their lawyers and were released. Their money and personal belongings were not returned. Russian Human Rights Ombudsperson Ella Pamfilova condemned the incident, saying that the detention and interrogation of Pashayev and his crew without the presence of a lawyer for several hours constituted a human rights violation.
301. On 19 May, the “Crimean self-defence” detained for a short period of time Petr Ruzavin, a correspondent of Russian television company "Dozhd", subjected him to violence and damaged his equipment. According to Ruzavin, camouflaged people approached him when he was filming the central square of Simferopol and they were filmed as well. They requested him to delete his records, which he did. Ruzavin said he was beaten and his equipment was damaged. After being interrogated he was released.

302. On 2 June, the “Acting Prosecutor” of Simferopol summoned the Chief Editor of the Crimean Tatar newspaper “Avdet” Shevket Kaybullayev for questioning over possible “extremist activity”. According to the notice, Kaybullayev had to appear on summons to the Prosecutor’s Office. As written in the summons, the Prosecutor is investigating violation of the Russian law “On counteraction to extremist activity”. The ‘Avdet’ newspaper is a press organ of the Mejlis of the Crimean Tatar people, published since 15 June 1990.
303. On 2 June, the Editor of the “Crimean Centre for Investigative Journalism”, Sergey Mokrushyn, and his cameraman Vladlen Melnikov were attacked by members of the “Crimean self-defence” in Simferopol, taken to their headquarters (on Kirova 26) and beaten. They were eventually transferred to the police station for questioning, and released without any explanation being given for their detention and or any protocol of detention having been drawn up by the police.
304. The HRMMU recalls that acts of aggression, threats and intimidation against journalists must be investigated, prosecuted and punished and victims provided with appropriate remedies.
305. In the period of 12-25 May, the Russian Ministry of Communication and Mass Media and the Federal Service for Supervision of Telecom, Information Technologies and Mass Communications held seminars for Crimean journalists to explain requirements of Russian legislation with respect to the media. The HRMMU is concerned that the imposition of Russian media legislation is already negatively impacting the conditions for journalists to freely perform their functions. There is also concern that media representatives can be subjected to criminal prosecution pursuant to Article 280 (Public calls for extremism), Article 282 (Organisation of the activities of an extremist organisation) and Article 319 (Insult of a public servant) of the Criminal Code of the Russian Federation, which are too broad and can be used to criminalize conduct that is protected under international human rights law.

#### *Freedom of movement*

306. While air connections between other parts of Ukraine and Crimea were suspended in March 2014, it still remains possible to travel by train and car. However, freedom of movement is affected by a number of factors related to the status of Crimea and different regulations - Russian Federation and Ukraine’s - being applied. This creates difficulties to maintain personal and professional ties.
307. Pursuant to the Law of “On guaranteeing citizens’ rights and freedoms and legal regime in the temporarily occupied territory of Ukraine”, which entered into force on 10 May, foreigners and stateless persons may enter and leave Crimea through security check-points only subject to special permission. The procedure for obtaining such permission remains unclear. On 16 May, the Press Secretary of the Chairman of the State Border Service of Ukraine, Sergey Astakhov, confirmed that Ukrainian border guards around the Melitopol checkpoint (in the Kherson region bordering Crimea) obliged persons going from Crimea to continental Ukraine with Russian passports and Crimean residence permits to get off trains. He reported that the Crimean residents with Russian passports are considered as

foreign citizens and, consequently, shall entry into Ukraine and leave it only through special border points. According to him, the administrative border of Kherson and established control line is not a border of Ukraine. Therefore, the foreign citizens, including Russian citizens, may not be allowed via this line. He also noted that the Crimean residents with Russian passports who wish to enter Ukraine shall go to the Russian Federation first, for example, to Rostov-on-Don, and cross the borders there.

308. The Russian Federation illegally established its State border at the northern entrance to Crimea on 25 April. Citizens of Ukraine who are not registered in Crimea are regarded as foreigners and obliged to fill out an immigration card. Such a category also comprises the people who permanently reside in Crimea, own real estate or are employed there, but whose place of registration is mainland Ukraine. The Federal Immigration Service issued warnings that foreign nationals must promptly (within 90 days) leave the territory of Crimea and re-enter it pursuant to Russian laws applicable to foreign nationals. Inter alia, such regulations will create inconveniences for students who study in other regions of Ukraine and are temporarily registered there. While returning home to the territory of Crimea during summer vacations, they will be regarded as foreigners with an admitted stay of up to 90 days.

*Freedom of association*

309. Since the “referendum” on 16 March, many NGOs and human rights activists left Crimea out of fear of being prosecuted, detained and subjected to ill-treatment. Legislation of the Russian Federation - the so-called “foreign agents” law – has discouraged the activities and development of NGOs. Besides, Crimea does not yet have an institution to register civil society organisations; consequently, those that have not been registered before the Crimean “referendum” are deprived of such a possibility.

*Freedom of peaceful assembly*

310. Dozens of Crimean Tatars have been summoned to courts for participating in protest actions against the prohibition imposed on 3 May by the Crimean authorities on their leader, Mustafa Dzhemilev, to enter the peninsula. As of 8 May, the courts of Crimea had examined 55 cases related to those events. In 52 cases, the activists were fined on the basis of Article 20.2.2 (Public disorder) of the Code on Administrative offences of the Russian Federation.
311. On 16 May, the authorities in Crimea issued a decree prohibiting all mass events until 6 June. A similar prohibition was issued in Sevastopol. The decrees were motivated by security developments in south-eastern Ukraine and the need to prevent "possible provocations of extremists which can penetrate into the Republic of Crimea". The HRMMU recalls that under Article 4 of the ICCPR, a derogation from the right to freedom of assembly and association is only permissible “in time of public emergency” and “to the extent strictly required by the exigencies of the situation” and would require immediate notification to the other State Parties to the ICCPR through the UN Secretary-General.

*Freedom of religion or belief*

312. The HRMMU is concerned about reports of violations of freedom of religion and belief on the territory of Crimea.

313. On 8 May, the League of Muslim Women “Insaf” informed the HRMMU that some 150 persons from Kirovskoye and Sary Krym, including women, were being called in for interrogations. Reportedly, they were being invited to the local police stations for “a conversation”. They were reportedly fingerprinted and photographed.
314. On 20 May, the Head of the Ukrainian Greek Catholic Church made a statement expressing concern for the safety of the Greek Catholic priests remaining in Crimea. He reported that all five Crimean parishes had experienced pressure, allegedly from the representatives of the Orthodox Church of the Moscow Patriarchate.
315. On 1 June, men in Russian Cossack uniforms reportedly broke into the local Orthodox church of the Kyiv Patriarchate in the village of Perevalnoe (Crimea), shouting and terrorizing churchgoers. The car of the priest was allegedly damaged. The “Cossacks” said they were seizing the building for the Moscow Patriarchate. After three hours, the “Crimean self-defence” arrived with assault rifles and sided with the attackers. The police were called but reportedly did not show readiness to properly investigate the incident. On 2 June, the local authorities of the city of Evpatoriya conducted a check of the church documentation and called it an “illegal building”. In addition, the authorities in Crimea significantly raised the rent for the main Ukrainian Orthodox Cathedral in Simferopol. The rent increase has not affected Crimean Tatar mosques or Russian Orthodox churches. Mosques and Russian churches on the peninsula either belong to the religious communities (mosques) or to the Moscow Patriarchate (Russian churches) or are rented for a token fee.

## **B. Economic, social and cultural rights**

316. Crimean residents face serious challenges in realizing their rights under the International Covenant on Economic, Social and Cultural Rights (ESCR). This can be attributed, in part, to the complicated transition between two different legal systems, but also to the absence of appropriate reactions of the authorities in Crimea to human rights violations affecting certain communities. This concerns, in particular, the Ukrainian and Crimean Tatar communities who are being harassed, assaulted and prosecuted for speaking Ukrainian or Tatar languages in public places or using national symbols. Such conditions are also reflected in the diminishing possibilities to receive education in another language than Russian, particularly in Ukrainian.

### *Language and education*

317. There are only two Ukrainian schools in Crimea: in Yalta and Simferopol. According to the head of the Department of Education in Simferopol, three out of four classes in the Simferopol gymnasium will now use the Russian language. The decision is motivated by the decision of 86 % of the parents who reportedly decided to switch to Russian-language studies. The director of the gymnasium was allegedly forced to resign. There is information that the local authorities in Sevastopol are planning to close the only Ukrainian boarding school/orphanage.
318. On 14 May, the press service of the Ministry of Education and Science of the Russian Federation reported that teachers of the Ukrainian language and literature of general educational institutions could be re-trained to become teachers of the Russian language and

literature. The Presidential Council for Civil Society Development and Human Rights of the Russian Federation recommended to keep the study in the Simferopol Ukrainian gymnasium in Ukrainian language and to resume the work of the Faculty of Ukrainian and Crimean-Tatar Philology in the Tavrida National University.

319. In light of Article 27 of the ICCPR, the HRMMU recalls that all the national communities in Crimea must be supported to preserve, develop and promote their identity, language and culture, and to use their mother tongue in education and daily life.

*Property rights*

320. In early March, public notaries stopped documentation of property acquisition and sale deals in Crimea, when Ukraine blocked access to the peninsula for the State Register of Real Estate and Land Plots. Crimean residents face serious difficulties in exercising their right to property due to the pending court decisions, transactions, and the privatisation process. On 10 May, the Russian Minister of Crimean Affairs stated at a press conference that the Russian authorities would deal with cases of unauthorized acquisition of land in Crimea "with full responsibility and caution". On 28 May, a draft law "On the special procedure for real estate registration in Crimea" was introduced in the Russian Parliament. The text proposes to delegate to the local authorities, during a two-year transitional period, the right to resolve land issues.
321. The HRMMU stresses that decisions concerning such important issues as land and property must be taken through an inclusive, transparent and fair process that will eliminate the risk of corruption and tensions.

*Right to an adequate standard of living*

322. On 13 May, the Ukrainian State Water Resources Agency stated that Ukraine shut off water supplies to Crimea via the North-Crimean Canal, which accounts for 85% of all fresh water on the peninsula. The Canal water is mostly used for irrigation purposes, and its closure could severely impact agricultural land and the upcoming harvest. This situation has reportedly had no negative implications for drinking water, according to the 'First Deputy Chairman' of the Council of Ministers of Crimea, Rustam Temirgaliyev. Having no access to Crimea, the HRMMU does not have additional information about the impact of the shut-off of water supplies on the economic and social rights of the Crimean residents.

*Banking*

323. Access to banking services remains complicated for Crimean residents. On 7 May, the National Bank of Ukraine (NBU) decided to suspend operations of Ukrainian banks in Crimea until 6 June. However the activities of Ukrainian banks were terminated on 2 June, by decision of the Central Bank of Russia motivated by the need to protect the interests of depositors and customers. Compensation payments will reportedly be made by a non-profit organization, the "Depositor Protection Fund", which acquired the rights to deposits.

**C. The rights of indigenous peoples**

324. The 18 May marked the 70<sup>th</sup> anniversary of the massive deportation of Crimean Tatars and other minorities by the Soviet authorities. A Decree of the President of the Russian Federation, in force on 21 April, had instructed the authorities in Crimea and Sevastopol to

support events commemorating the deportation. However, referring to security considerations linked to the events in south-eastern Ukraine, the authorities in Crimea issued on 16 May a decree prohibiting all mass events until 6 June. Eventually, the “Council of Ministers” of Crimea decided on 17 May that the commemoration could go ahead, although not in the centre of the capital of Crimea, Simferopol. The commemorations passed without incidents, albeit with significant and sometimes intimidating police presence.

325. On 29 May, the State archive of the SBU handed over the documents on Crimean Tatar deportation from Crimea in 1944 to the representatives of the Crimean Tatar Mejlis. The head of the SBU, Valentyn Nalyvaichenko, and the former head of the Crimean Tatar Mejlis, Mustafa Dzhemilev, participated in this event.
326. On 4 June, the Crimean Parliament adopted a Decree providing for social guarantees to the people who were deported on an ethnic basis in 1941-1944 from the Crimean Autonomous Socialist Soviet Republic. The Decree will provide social benefits in the form of one-time payments to the Crimean Tatars, Armenians, Bulgarians, Greeks and Germans, along with their families and children who were born in exile. This document was adopted pursuant to a Decree signed by Russian President Vladimir Putin on 21 April 2014, rehabilitating formerly deported people from Crimea.

## **V. CONCLUSIONS AND RECOMMENDATIONS**

327. During the reporting period, the HRMMU identified acute human rights concerns particularly in the eastern regions, Crimea and in the aftermath of the Odesa 2 May violence. They are symptomatic of the particular local contexts, not least involving the presence of armed groups, the breakdown in law and order and on-going security operations. As highlighted in the report issued on 15 April 2014 by OHCHR, short-term human rights concerns should be addressed within the broader and longer term framework that will see institutional reform and enable change that will impact on the enjoyment of all rights – civil, cultural, economic, political, and social. The root causes of the current crisis were initially due to the systematic and structural curtailment of human rights and widespread corruption. The way out of the current crisis, to ensure reconciliation of communities through peaceful and democratic means, will be through the accountability for violations and the full respect and guarantee of all human rights for all.
328. With the election of President Poroshenko, there is the opportunity for the Government of Ukraine to prioritise addressing these systemic and structural concerns through institutional reform focusing on human rights challenges in the short-term, and progressively paving the way for the establishment of a system that promotes and protects human rights for all, ensures justice, good governance and the rule of law through inclusive, non-discriminatory and participatory means. A comprehensive national human rights action plan reflecting all recommendations from the international and regional mechanisms is highly recommended, as well as the creation by the Government of a senior level coordination mechanism of

implementation open to state institutions, civil society and having the combined support of the UN, regional organisations and the international community.

329. Recommendations have been made below on Crimea to both the authorities in Crimea and the Russian Federation, which exercises de facto control over the peninsula. With the negative impact of the current situation, including the legal uncertainty, on the full enjoyment of human rights by the residents of Crimea, the HRMMU is advocating for the legal framework of Ukraine to remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
330. The recommendations should be read in conjunction with - and seen as complimentary to – those outlined in the OHCHR reports on the human rights situation in Ukraine, issued on 15 April and 16 May 2014, which have not yet been fully implemented.
331. The HRMMU takes note of the joint report by the OSCE Office for Democratic Institutions and Human Rights and the OSCE High Commissioner on National Minorities issued on 12 May 2014, and calls upon all relevant parties to implement its recommendations.

#### **To the Government of Ukraine and other stakeholders**

- a) There should be constitutional inclusive and meaningful consultations with all political parties, regardless of their ideology, as well as representatives of civil society and minority (national and ethnic, linguistic, religious and other) groups and indigenous peoples in order to embrace all components of society, including women in the dialogue for the new constitution, which will reflect the new reality of the country with a full-fledged system of checks and balances. The peaceful population of the east should participate in these consultations.
- b) As a representative body of the country, the Parliament should reflect the new political and social reality of the country; therefore there is a need for new parliamentary elections.
- c) All armed groups must immediately put an end to their violent activities and lay down their arms.
- d) The Government must ensure that its armed forces refrain from using excessive force, and ensure that its ongoing security operations are at all times in line with the relevant international standards applicable to different types of operations. In all circumstances, it must ensure the protection of those who are not involved in the fighting.
- e) All people detained in the context of the security operations should be treated in line with international norms and standards and guaranteed their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law. In order to protect its security personnel and persons not involved in the fighting, the Government should consider providing assurances that acts of abduction and detention by armed groups will not be prosecuted provided that they do not target people not involved in the fighting and the victims are treated humanely at all times.

- f) The role and position of the Ombudsperson and National Preventive Mechanism, as the main bodies / institutions working towards the strengthening of the national human rights system and the protection and guarantee of human rights for all, should be enhanced.
- g) All gaps of legislation should be brought in line with the recommendations of the international human rights mechanisms (treaty bodies, universal periodic review and special procedures); the Judiciary, Office of the Prosecutor General and the Bar Association should operate in line with relevant international norms and standards in order to ensure fair trial without which it is impossible to tackle corruption.
- h) The Constitutional Court should be enhanced – legal, social and all other guarantees need to be elaborated in order to ensure the genuine independence of the Constitutional Court.
- i) The State Migration Service should propose amendments to bring the refugee law in line with international standards, and to allocate sufficient funds to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.
- j) A language law should be adopted in line with international standards that enables the promotion of the official national language as well as other languages.
- k) A central authority should be established to respond to the humanitarian needs of IDPs, including by establishing a comprehensive registration system, formulation of legislative and regulatory acts to ease access to important social and economic rights, establishing public assistance programmes, mobilization and coordination of civil society-initiated relief efforts, and cooperation with international donors and technical assistance.
- l) All stakeholders should refrain from using messages of intolerance or expressions, which may incite hatred, violence, hostility, discrimination or radicalisation.
- m) Access for international organisations to the areas affected in eastern Ukraine by the security operations (urban areas in the epicentre of the fighting) should be facilitated so that the real needs of the population can be assessed and addressed.
- n) Normative acts to ensure freedom of movement for residents of Crimea should be enacted as soon as possible.

**To the authorities in Crimea and the de facto governing authority of the Russian Federation**

- o) Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
- p) Journalists, human rights defenders and individuals must be able to fully exercise their right to freedom of expression, in accordance with Article 19 of the International Covenant on Civil and Political Rights.



- q) Ukrainian legislation should remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
- r) Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security
- s) Criminal and administrative liability should not be used as a mechanism of intimidation against Crimean Tatars and other residents of Crimea, but used in line with international law.
- t) Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.
- u) All forms of intimidation and harassment of religious communities must be put to an end and all incidents, including those where there have been attacks on Ukrainian Orthodox Church, Greek Catholic Church and the Muslim community must be properly investigated, thus enabling the effective promotion and protection of the freedom of religion or belief.
- v) The promotion and protection of the rights of national minorities, including the Crimean Tatars and other indigenous peoples must be ensured, enabling them to participate fully and inclusively in public and political life.
- w) The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

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

## **Report on the human rights situation in Ukraine 15 July 2014**

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## **I. EXECUTIVE SUMMARY**

1. The continuing deterioration of the human rights situation in eastern Ukraine, the rapid escalation of hostilities and the growing impact on the rest of the country have been the main developments during the past month<sup>72</sup>.
2. Egregious human rights abuses have been committed in the Donetsk and Luhansk regions of eastern Ukraine, where armed groups supporting the self-proclaimed “Donetsk People’s Republic” and “Luhansk People’s Republic” (DPR and LPR respectively) have, until recently, controlled a large part of the territory, including most of the main population centres. There have been hundreds of abductions with many victims tortured.<sup>73</sup> Increasing numbers of civilians have been killed.
3. The Ukrainian security operation, referred to as an ‘anti-terrorist operation’ (ATO), aimed at regaining control of the regions of Donetsk and Luhansk held by these armed groups, involves the army, the military police (National Guard), the National Security Service (SBU) and volunteers’ battalions. In any law enforcement operation security forces must act proportionally to the threat and must at all times respect the right to life. In addition, in the conduct of hostilities all those involved in the hostilities must comply with principles of distinction, proportionality and precautions. This is particularly important in an environment in which armed groups and civilians are inter-mingled.
4. The current intense fighting using heavy weaponry in and around population areas, has devastated towns and villages, demolishing residential buildings and killing an increasing number of their inhabitants. Precautionary measures should be taken to avoid the deaths and injury of civilians.<sup>74</sup>
5. There has been deliberate targeting by the armed groups of critical public utilities like water, electricity and sewerage plants that have shut down essential supplies to the residents. Public and private properties have been illegally seized and residences destroyed. Banks have been robbed and coal mines attacked. Railways were blown up. Hospitals and clinics were forced to shut down and essential medicines and emergency medical services became scarce or totally unavailable. People were unable to leave their homes in some places, trapping older persons or persons with disabilities. The rule of law no longer existed and was replaced by the rule of violence. The increased level of fear, intimidation, harassment and fighting inflicted on the population of the region resulted in an ever growing flood of internally displaced persons fleeing, at latest count 86,609<sup>75</sup> people.
6. Some regional and local officials were abducted and tortured. The regional government in effect ceased to function in the two eastern regions. Some local authorities continued to work but with greatly reduced control or were co-opted by the armed groups. Salaries, pensions and other social welfare payments stopped in some places. The police and judiciary ceased to function. Residents were left to cope in whatever way they could. Volunteers attempted to fill the gaps.

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<sup>72</sup> This is the fourth report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU). It covers the period from 8 June to 15 July 2014.

<sup>73</sup> Illegal acts committed by the armed groups include abductions, detentions, torture, murder, executions, extortion, and destruction of property.

<sup>74</sup> On 23 July, the International Committee of the Red Cross (ICRC) issued a News Release calling the fighting in eastern Ukraine a ‘non-international armed conflict’ and urging all parties to comply with international humanitarian law. This requires to impose restrictions on the means and methods of warfare and to distinguish at all times between civilians and persons directly participating in the conflict. In particular, no attacks must be directed against civilian objects such as homes, schools, medical facilities and places of worship, among others.

<sup>75</sup> UNHCR, 15 July 2014.

7. In some places the situation was worse than in others. Slovyansk city (normal population about 130,000 which by early July was down to less than half) in northern Donetsk region was, since April, the stronghold and main base of operations for the armed groups. The residents were particularly badly affected due to the almost constant shelling and fighting there for weeks as the armed groups and Government forces clashed.
8. The professionalization of the armed groups fighting in the east has become openly acknowledged and self-evident. Their leadership, many of whom are nationals of the Russian Federation, are trained and hardened by experience in conflicts, such as in Chechnya (Russian Federation) and Transnistria (Republic of Moldova). What was previously something of a rag tag of armed groups with different loyalties and agendas is now being brought together under the central command of these men. Heavy weaponry including mortars and anti-aircraft guns, tanks and armoured vehicles, and landmines are now being used by them. As the 'Minister of Defence' of the armed groups told the HRMMU on 8 July: "we are in the state of war".
9. The armed groups from the Donetsk and Luhansk regions have themselves joined forces in a self-proclaimed 'People's Republic of Novorossia'. They claimed to have adopted a constitution and to be making other preparations for establishing an unlawful self-government.
10. Throughout the reporting period, the Government of Ukraine pursued its "anti-terrorist" operation (ATO), under the direction of the State Security Service, as it sought to regain control of territory in the eastern regions. This security operation has intensified in the past two weeks involving the use of heavy weaponry and airstrikes. Following the announcement of a Peace Plan by the President of Ukraine on 20 June, the Government implemented a 10-day ceasefire but this was reportedly breached at least 108 times, killing 27 Ukrainian soldiers and wounding 69. At least 9 people not involved in the fighting were also killed, including one eleven month old child. After the ceasefire ended on 30 June, the Government mounted an intense offensive, recapturing territory including the main strategic base of the armed groups in the Donetsk region - the city of Slovyansk - and stating it had regained control of the Ukraine-Russian Federation border areas that had previously been under the control of the armed groups. But the price was high with at least 30 civilian deaths, many wounded, and a great deal of destruction to the recaptured villages, towns and cities. And the control was tenuous, as evidenced by the continuing attacks by armed groups that have killed and wounded soldiers and many civilians. Neither side expressed any public willingness to come together to discuss a negotiated peace. The level of rhetoric and propaganda escalated, with allegations of deliberately targeting civilians. The President, however, stated his readiness to restore a ceasefire upon the following conditions: (i) all hostages should be released; (ii) Governmental control over the border with the Russian Federation should be restored; and (iii) armed groups should be disarmed.
11. The protection of civilians in the eastern regions has been of increasing concern. On 4 July, the United Nations High Commissioner for Human Rights expressed concern about the safety of people caught in the crossfire between Ukrainian forces and the armed groups, and reminded all those involved in the fighting of the need to scrupulously respect residents' fundamental rights, including the right to life. The Government appeared to take notice and, on 8 July, said it would give special attention to the prevention of civilian losses and would not bombard the cities of Donetsk and Luhansk, to which the armed groups had retreated. Instead it would blockade those cities in an effort to force the armed groups to surrender. A leader of one of the armed groups said it was prepared to start a full-scale guerrilla war.

12. Nevertheless people trapped in areas controlled by the armed groups continue to be killed as the heavy shelling continues from both sides. Questions arise about the conformity of these attacks with the rules governing the conduct of hostilities. It is essential that the authorities conduct full and impartial investigations of all incidents where civilians have lost their lives or been wounded.
13. Civilians continue to be abducted by the armed groups. Some people previously abducted and recently released have reported being tortured by them. New allegations of executions by the armed groups have arisen. There have also been cases reported of enforced disappearances of people detained by Government forces, including in areas where the Ukrainian authorities have regained control. The Government must guarantee accountability for all its actions, curtailing impunity and ensuring the local population do not face reprisals. There is also concern about the arbitrary detention of people who are suspected of being supportive of the armed groups.
14. Meanwhile, the situation in the east has begun to impact the rest of Ukraine. Although most people carried on their lives as normal outside the Donetsk and Luhansk regions, there are already signs that violence in the east is having an impact elsewhere.
15. One of the most obvious and immediate impacts has been the increase in the number of internally displaced persons (IDPs) – the majority of whom are women and children - having to be accommodated in the rest of the country. Initially the Government was slow to react to the growing flood of people fleeing the violence in the east, relying on volunteers and the goodwill of the local receiving communities. But as the numbers increased and the lack of coordination, planning and resources became evident, the State Service for Emergency Services stepped in. However, many problems remained to be addressed, including the need for a central registry to document the IDPs, and for the central government to ease access of the IDPs to important social and economic rights. This was partly addressed in a decision in June by the Cabinet. However, other concerns remain, including meeting the specific needs of women and children, who make up the majority of the IDPs. Most IDPs are accommodated in private homes, sanatoriums, student dormitories (that are currently vacant during the summer holidays), or in other temporary situations. If the fighting and hostilities in the east continue, there is concern about how this temporary accommodation will be maintained, especially as the weather gets colder and if the summer sanatoriums are not winterized.
16. At the same time, there is concern that there might be a new wave of IDPs from Crimea in the next few months because of tightening restrictions, the continuing harassment and discrimination against ethnic Ukrainians, Crimean Tatars, and representatives of minority groups in general, as well as stringent limitations of the rights of association, peaceful assembly and expression.
17. A second impact of the worsening situation in the east, are the instances of use of hate speech. High level public condemnations of such troubling developments are required. There are reports of Russian-owned banks and some businesses having been targeted by activists who charged them with ‘financing terrorism’ in the eastern regions. Steps have been taken to ban the Communist Party. Negativity about IDPs has begun to surface, in particular on social media, further dividing opinions between east and west.
18. Concerned about the lack of military equipment, families and local communities themselves have provided basics such as flak jackets, ammunition, and food to new troops being sent to the Government security operation. Local and regional authorities have tried to manage with the growing need to provide social protection to the increasing number of

local families who have members serving in the security operation. As the number of military deaths rise, it can be expected that there will be additional tensions.

19. In some places, tensions have risen for other reasons. In Odesa, there have been a series of bomb hoaxes and violent incidents. This has further affected communities already traumatised following the 2 May violence when 48 people were killed. Accountability for such loss of life must be guaranteed, ensuring justice for the victims as well as perpetrators. Regional and local authorities appear unwilling or unable to take steps to calm the current situation. Arrests have started to be more frequent around the country of people accused of being part of or linked to the armed groups in the east. Dissatisfaction with the lack of accountability in the appointment of regional and other high-level officials, and with the slowness of central government in effectively tackling corruption, has begun to come to a head with confrontational demonstrations.
20. The social impact of the violence and fighting should not be underestimated. It is further exacerbated by the propaganda war, alongside the rhetoric of hate speech that is fuelling further violence. On the other hand, there were some positive developments. Citizens, both individually and in groups have stepped in where their government has been unable to respond quickly enough to rapidly changing events, assisting their communities in the east, accommodating the people fleeing the fighting, and even providing support and equipment to the armed forces. Perhaps this new civic spirit will help drive the next phase of the much needed change in Ukraine.
21. On 27 June, President Poroshenko signed the trade agreement with the European Union (EU) that completes the Association process. Recognising the significance of the occasion, the President said after signing the agreement that this was the second most important event in Ukrainian history after independence. As promised, the Government published on 2 July its proposed amendments to the Constitution allowing for greater regional autonomy and for the use of their own languages. Other important legislation was passed tackling corruption and there were some institutional reforms, including the firing of staff who were found to be inept, corrupt or had committed other violations. Most notable among these, in terms of the large numbers involved, were the firing of 17,000 law enforcement officers and of 1,500 employees of the Office of the General Prosecutor, although the latter appeared to be more an austerity measure. It is essential that in undertaking such action, the rights of the individuals be fully respected.
22. With so much of its attention focused on the escalating security operation in the east and responding to the increase of violence of the armed groups, other key aspects of reform are beginning to receive less attention from the Government. Reform of the judiciary and the system of justice remain to be addressed. Initial steps have been taken to reform law enforcement with a pilot project to start in Lviv, the results from which will form the basis of a reform package. Reform also needs to address the powers of the State Security Service (SBU). The results of the investigations into the Maidan and Odesa violence are still awaited.
23. The unexpected cost of fighting an escalating security operation in the east, which could amount to many millions of dollars, will impose a heavy economic burden on Ukraine. The negative impact of this will be even greater given the current recessionary economic situation in the country, as will the damage inflicted by the armed groups on the infrastructure of the Donbas region, which houses a large part of Ukraine's heavy industry.
24. As it reclaims territory in the east that was formerly held by the armed groups, the Ukraine Government faces a daunting task of rebuilding communities ravaged by the months of fighting, instances of intense violence against protesters and the polarizing

impact of the on-going propaganda war. Humanitarian assistance is already being provided by the international community and a Donor's Conference is being organized by the EU for later in the year. This will provide resources for Ukraine to undertake necessary reform.

25. Corruption and mismanagement has existed for many years. The respect and promotion of good governance, the rule of law and human rights, including through the introduction of critical reforms, must continue as a priority as Ukraine seeks to fulfil its EU aspirations and establish a democratic, pluralistic and prosperous society.

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

26. The rights to life, liberty and physical security are usually the first to be abused during hostilities, such as that happening in eastern Ukraine. It is the responsibility of the Government to ensure that civilians are never targeted and that all precautions are taken to spare the loss of innocent lives. Detained persons must be treated humanely and provided with all due process guarantees, starting with the right to counsel and information about the reasons for the detention. Arbitrary detention and abduction, hostage taking and other human rights abuses must be promptly investigated and the perpetrators brought to justice. In addition, any allegations of extrajudicial killings and enforced disappearance must be duly investigated and perpetrators brought to account. The armed groups fighting in the east must abide by international law but unfortunately this has not been the case. Grave human rights abuses have been committed by those armed groups. And it must be remembered that these groups have taken control of Ukrainian territory and inflicted on the populations a reign of intimidation and terror to maintain their position of control. The Government is undertaking its security operation, within a legislative framework that includes anti-terrorism laws and the criminal procedure code. It also needs to ensure respect for international law and the protection of human rights for all those who live in the Donetsk and Luhansk regions.
27. All allegations of abduction, enforced disappearance, arbitrary detention, torture, ill treatment and other human rights abuses must be investigated and the perpetrators held to account. However, ensuring an impartial investigation of the multiple killings, detentions, cases of torture and enforced disappearances and other reported violations and abuses has not been possible until now because of the dangerous situation in the east and the limited control of the Ukrainian Government in the territory.

### ***Casualties***

28. The number of casualties is hard to ascertain. However, based on the best data available conservative estimates by the HRMMU and the World Health Organisation (WHO) are that at least 1,000 people have died from mid-April until 15 July. This includes military and civilians (including members of the armed groups). According to the Ministry of Health, as of 10 July, 478 civilians have been killed (441 men, 30 women and 7 children) and 1,392 injured (1,274 men, 104 women and 14 children) since the fighting began in eastern Ukraine in mid-April. However, the Ministry withdrew these figures the same day they announced them, and have issued no further data since. In addition, the Ministry's figures only include those dead who were delivered to morgues of medical establishments, or those wounded and who later died in hospital. In fact, many dead were buried without being taken to morgues. The number of casualties of the Ukraine armed forces is given as 258, with 922 wounded, according to the Council for National Security and Defence on 15 July.



The number of members of armed groups who have been killed is unknown, but some may have been counted within the numbers of civilians killed.

29. Since 10 July, there have been at least 44 more civilian casualties, including two children, for a total of 522 people, as reported by civil medical establishments and regional administrations in the Donetsk and Luhansk regions. Most of these recent have been the result of intense shelling of villages, towns and cities, the so-called ‘collateral damage’ to the fighting that is taking place in and around population centres.
30. In this report, the HRMMU has enumerated cases where people were killed by indiscriminate shelling. However, of the figures above, the Government has said that most of the deaths were by gunshot wounds.
31. The armed groups are locating their military assets in and conducting attacks from densely populated areas thereby putting the whole civilian population at risk. Locating military objectives within or near a densely populated area, and launching attacks from such areas may constitute a violation of international humanitarian law.
32. Human Rights Watch and Memorial, sometimes accompanied by Ukrainian human rights defenders, have visited the town of Krasny Liman, and the villages of Stanista-Luganskaya and Staraya Kondrashovka to investigate the circumstances in which civilians have been killed. In Stanista-Luganskaya and Staraya Kondrashovka, at least 11 people were killed including 2 children on 2 July; in Krasny Liman, shelling hit the Railway Hospital, killing the chief surgeon and wounding three others.
33. As the increasing number of casualties in the past few days attests, there has not been sufficient precaution taken to preventing death and injury to civilians. Recent examples include the shelling of the village of Maryinka and of the Petrovskiy district of Donetsk on 11 and 12 July when at least 16 people were killed, including one child. There was an air strike on the town of Snizhne in the Donetsk region on 15 July, and at least 11 people were killed from shrapnel wounds and eight more wounded, including one child. On 11 July, Ukrainian forces claimed to have destroyed a camp of an armed group located in the premises of an empty school in the village of Golmovsky, near Horlivka. The armed group claimed that one civilian had been killed during that air strike. On 13 July, two civilians were killed in Krasnogrovka in the Donetsk region. On 15 July, the Mayor of Luhansk announced that 17 Luhansk residents were killed in residential areas during attacks on 14 July and 73 people received shrapnel and gunshot wounds during the fighting. On 15-16 July, one civilian died and nine more were injured as a result of gunfire in Luhansk. During the hostilities, paramedics reported responding to 160 calls.
34. However, not all of the deaths and injuries can be attributed to reported shelling or air strikes of towns/villages. Some deaths had other causes. For example anti-personnel landmines have killed at least three and injured two others; people have been killed when the passenger buses they were travelling in were shot at; and people have been killed when travelling in their car. Three traffic policemen were killed at close range and without warning, according to an eyewitness, in Donetsk city on 3 July. A criminal investigation has been opened into the police killings. A motorist was killed when armed groups stole the car he was driving in Noviy Svit (Donetsk region). There have been reports of people being used as ‘human shields’ by the armed groups, as for example in Horlivka on 14 June. In this incident, after two people were killed and 8 injured, reportedly during an airstrike, the armed group then threatened to organise “human shields”, by placing detainees on the roof of a city municipal building. The detainees, included five servicemen from the Kirovograd region and two 25<sup>th</sup> army brigade officers and their driver who were all from Dnepropetrovsk region.

### *Abduction and detention*

35. According to the Ukrainian government<sup>76</sup>, since mid-April, 717 people have been abducted by armed groups in eastern Ukraine. These included: 46 journalists, 112 police officers, 26 representatives of the OSCE, 22 deputies, members of political parties and heads of district (town) councils, 5 employees of the prosecution office, 2 lawyers, 2 judges, 1 employee of the penitentiary service and 481 other people (including 392 girls and women). The armed groups also detained 91 servicemen and border guards as well as 4 Security Service officers. 437 people were released. The whereabouts of 375 people remains unknown.
36. The HRMMU has been following the cases of 400 people who were abducted since mid-April. Of these, 4 people are dead (having been found dead with visible signs of torture), 211 are still detained, and 185 have been released. Of those still detained, 202 are men and 9 are women.
37. The number of people abducted by the armed groups has significantly increased in Luhansk city during the past 2 weeks. For example, a group of 13 employees of PrivatBank were abducted on 7 July. Four were subsequently released and 9 remain in captivity.
38. Intimidation and violence by the armed groups against civilians in the east has continued, with people being abducted and detained often for purposes of hostage taking. The armed groups also carry out acts of ill-treatment, torture and murder.
39. Some of those detained by the armed groups are local politicians, public officials and employees of the local coal mining industry; the majority are ordinary citizens, including teachers, journalists, members of the clergy and students.
40. The motivation for the abductions and detentions by the armed groups appears to be: a) exchange with detainees held by the Government; b) gain some influence on the situation; c) extortion of property or money; d) source of labour for digging trenches and preparing military barricades; e) opportunistic 'arrests' of people; and f) 'internal discipline' of the armed groups themselves. With these acts, the armed groups continued to exercise their power over the population in raw and brutal ways.
41. Examples of the 400 cases that the HRMMU has been following include the following: in Donetsk, a free-lance cameraman was reportedly abducted in Slovyansk. In Soledar (Donetsk region) the chairman of a Trade Union organization at the Artyomsol Company was abducted. A professor at the Luhansk National University was abducted. A resident of Pionerske village in the Luhansk region was reported missing. The Head of a company called Agrovostok in Malarovo (Luhansk region) was abducted. According to unconfirmed reports, the police chief of Severodonetsk (Luhansk region) was detained by armed persons. Two university students were abducted in Donetsk allegedly for breaking the curfew and told they would be drafted into the DPR army. They were later found in an occupied public building and had been engaged in 'forced labour'. A university professor was abducted by armed persons 'for questioning' for allegedly taking photos and videos of the movements of armed groups and posting them online. Two senior managers of a private company were abducted at a checkpoint while driving at night near Karlivka (Donetsk region). A protestant pastor and his wife were abducted and held in Druzhkivka (Donetsk region) by the 'Donbas People's Militia'. Three drunk people driving a car in Luhansk were reported missing; two others who were drinking with friends outside a café in downtown Luhansk were 'arrested' by armed men after a fight broke out. An assistant of the Donetsk Regional Governor was abducted on 26 June and the chief of the Artemivsk pre-trail

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<sup>76</sup> Ministry of the Interior figures as of 18 July.

detention centre was abducted on the same day, when armed groups robbed the centre's armoury. Reportedly, armed members of the "Right Sector" abducted the Mayor of Kurakhovo and a deputy of the city council on 8 July. They later confirmed to the HRMMU that they were questioned about their collaboration with the armed groups in Maryinka, and then were released on 9 July.

42. The length of period for those detained varies considerably – some are held for a few hours, others for several months. In the majority of cases, release depends on factors such as whether there is an exchange of some sort, e.g. money. However, there have also been occasions in the past month of a number of detainees being released without any particular "exchange". Between 7-13 June, some 32 people were released by the armed groups. However, a pattern emerged that no sooner were some people released than others were detained, reinforcing the opportunistic and resource providing element to the abductions and detentions.
43. In addition to the abductions and detentions of local citizens, there were the cases of the eight monitors (in two separate teams) from the OSCE Special Monitoring Mission who were abducted by armed groups in May. All eight were released over a period of a few days in early July.
44. Other cases of detention include the former Mayor of Slovyansk, the current mayor of Mykytivka (a village near Slovyansk), and the head of the Artyomivsk city department of the Ministry of the Interior (MoI), all of whom were detained by armed groups. In a 25 June meeting in Mariupol, the HRMMU learned that the acting Head of the Mariupol city department of the MoI was conducting investigations into "pro-Russian" activities in Mariupol in connection with the 9 May incidents. In addition some activists being detained by Ukrainian law enforcement and voluntary battalions, allegedly committed crimes under Article 258 (Act of terrorism) of the Criminal Code. No clarification has been provided to the HRMMU on the exact whereabouts of those detainees. It was also reported that the Right Sector in coordination with the Ukrainian military had detained a leader of one of the armed groups in the Donetsk region on 25 June.
45. Since 5 June there have been instances when drug users (even those in remission) and people living with HIV/AIDS who, because of their status, have been detained by armed groups. Reportedly, some are being tortured and kept in basements. The relatives of the detained are frequently required to pay a "fine" (ransom) ranging from 200 to 1,000 USD. Many detainees are also forced to "work off their guilt" as forced labour or to fight on the front lines for 15 days. Those who cannot pay the ransom are given the option to "wash off their guilt with blood"; in other words, they are sent to the front lines to fight on the side of the armed groups. Evidently, the armed groups consider these actions to be "prevention measures for drug addicts". At the same time there were some cases of abduction reported in other regions of Ukraine. For example, a local leader of a Right Sector chapter in Ivano-Frankivsk region was reported abducted by unknown persons during the reporting period.

#### *Torture and ill-treatment*

46. In discussions with the HRMMU following their release, many detainees who were held by armed groups report beatings, ill-treatment, sleep deprivation and very poor conditions while in detention, and forced labour, including digging trenches on the front lines. As an "alternative" to torture and ill-treatment, it was suggested that detainees join the ranks of those fighting for the armed groups. Some, allegedly, are forced to participate in the abduction of other people. The son of a man abducted in Donetsk on 7 July reported that his father had been transferred by the armed groups to Snizhne where about 100 detainees, males aged from 14 to 60 years old, were being held. He said that during the day the

detainees were forced to dig trenches near the Ukrainian-Russian Federation border, which has been on the front lines of heavy fighting between the armed groups and the Ukraine forces. A Donetsk Regional State Administration official was released from captivity in Horlivka on 10 July. He had been held since 26 June and said he had been tortured.

### ***Executions***

47. Written records of execution orders authorized and signed personally by the ‘Commander-in-Chief’ of the armed groups, Igor Girkin (known as Strelkov), as well as protocols of hearings of a ‘military tribunal’ convicting people to death, were found in Slovyansk by a journalist on 7 July. The convictions were apparently of people associated with armed groups, and a common criminal. The HRMMU is verifying these records with relatives of the victims and a witness.

### ***Abduction of children***

48. Children face particular hazards in the conflict zones. Orphans, many very young or with disabilities, in the Donetsk and Luhansk regions have faced particular difficulties, sometimes being used as pawns in the larger geo-political dispute. For example, in Donetsk, the chief medical officer reported difficulty in evacuating children from an orphanage in Kramatorsk city, because armed groups did not want to send Donbas children “to an enemy country, Ukraine” and wanted them to go to the Russian Federation. All 32 children were eventually evacuated safely to the Kharkiv region on 28-29 June thanks to the intervention of a Moscow-based NGO. In so doing, one of their representatives faced some personal danger, including being briefly detained by local armed groups on 25 June.
49. A group of 16 children and two chaperones, who were allegedly abducted and transferred to the Russian Federation territory on 12 June by armed groups, were returned back to Ukraine on 13 June.<sup>77</sup> The Ombudspersons of Ukraine and the Russian Federation actively cooperated to facilitate the return of the children.
50. On 7 July, the UN in Ukraine received an official communication from the Government of Ukraine informing the UN of possible attempts by armed groups to forcefully transport 206 orphans from the Donetsk region to the Russian Federation, saying that it had informed the Embassy of the Russian Federation in Ukraine about the above-mentioned situation and called for the implementation of international obligations to guarantee the rights of children.
51. On 13 July, 54 children from a Maryinka orphanage were taken to Donetsk by armed groups after attempts to transfer the children to the Russian Federation were unsuccessful. This was in spite of intense pressure being placed on the directors of the orphanage. The children remain in Donetsk.

### ***Allegations of sexual violence***

52. The HRMMU has received reports of allegations of sexual violence being committed against individuals by members of the armed groups. It has also received allegations concerning a National Guard in Kramatorsk. The HRMMU is trying to verify such claims.

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<sup>77</sup> The Ministry of Foreign Affairs (MFA) of Ukraine issued a statement on 12 June accusing the Russian Federation of having allowed the illegal transfer to its territory of 16 orphans. The children were reportedly part of a group of people abducted in the town of Snizhne by armed representatives of the “Donetsk People’s Republic”. According to the MFA, the children did not have proper permits to cross the border, and that in such conditions their transfer qualifies as an act of international abduction of children. The MFA sent a note verbale to the MFA of the Russian Federation requesting urgent measures to be taken to ensure the immediate return of the children in Ukraine and the prosecution of persons involved in the promotion of their illegal entry into the Russian Federation.

### *Arbitrary detentions and enforced disappearances*

53. Members of the Ukrainian territorial battalions and the National Guard are alleged to have arbitrarily detained a number of suspected supporters of the armed groups and subjecting them to enforced disappearances. The HRMMU is seeking verification on a number of cases.
54. On 11 June, the HRMMU with the Head of the National Preventive Mechanism (NPM) visited the Headquarters of the Government's security operation in the eastern regions, which is based in Izyum, to gain information on the situation of those detained by the Government armed forces in the context of the security operation. According to information provided to the HRMMU, all persons detained by the Ukrainian armed forces during the security operation are sent directly to the State Security Services of Ukraine (SBU).
55. On 27 June, the HRMMU met with the head of the Investigative Department of the SBU, who said that in the current situation, detentions are often carried out in areas within close proximity to the fighting, which sometimes does not allow for entire compliance with the procedure of detention of the Criminal Procedure Code. Also, since in many towns of the two eastern regions the police was not functioning, detainees had to be transferred to Kyiv, which reportedly did not allow for timely notification of the relatives about the fact of detention. The HRMMU was also told that none of the detainees kept in Kyiv by the SBU have been tortured or ill-treated.
56. On 4 July, the Ministry of Interior stated to the HRMMU that if detentions are undertaken by battalions subordinated to the Ministry of the Interior, they are carried out in accordance with the law "On police", which obliges battalions' volunteers to fill out a protocol for detention, and then they usually transfer detainees to the authorities (mostly in Kyiv). The HRMMU is, however, concerned that such procedures are not respected, following reports it has received on the situation of individuals detained in the course of the security operation. According to the Criminal Procedure Code of Ukraine, the detaining authority must immediately take steps to ensure that a person arrested can benefit from the services of a counsel; in addition, the person must appear before a court within 60 hours following his or her arrest in order to determine the measure of restraint to be applied. The HRMMU has observed that these two requirements were often not met because the security environment did not allow securing the services of a defence lawyer and for the suspect to appear before court within the prescribed deadline. In addition, the powers granted under Ukraine's counter-terrorism legislation, place emphasis on the collection of information, including interrogation of suspects. Thus, persons detained as part of the security operation may often be victims of a protection gap, and consequently suffer a violation of their rights, due to the application of provision of the Criminal Procedure Code in a context characterized by active fighting and limitation of movements.
57. Together with the NPM, the HRMMU is following up on cases of detention by the security forces, a number of which are cause for concern, in particular those of enforced disappearance.
58. For example, a Donetsk resident was detained by the SBU in the main Kyiv train station on 13 June. Information about the detention was published on the SBU website, which mentioned that the individual was "an active member of the terrorist DPR". However, the SBU later denied having detained this individual who is currently unaccounted for. His defence lawyer has been unable to contact him since the arrest took place.

59. Reports suggested that members of the Ukraine forces have been responsible for the ill-treatment and torture of detainees. On 18 June, the editor-in-chief of the local newspaper "Vestnik Priazovya" was detained by armed men of one of the Ukraine battalions in Mariupol. The HRMMU has received very contradictory information on this case of enforced disappearance, and is now closely cooperating with the NPM to verify it.
60. On 10 July, unknown persons reportedly opened fire on the Artemovsk Pedagogical College, in which the Ukrainian battalion "Donbas" was based. A soldier of the Battalion "Donbas" was reportedly arrested by his own battalion as of 8 July and accused of transmitting information about the deployment of the battalions to the supporters of the armed groups. Reportedly he was beaten and taken to Izyum police department (the Ukrainian security operation base in the Kharkiv region) and kept in solitary confinement. However, as of 15 July his whereabouts remain unknown.

#### ***Landmines and explosive remnants***

61. The first indication of the use of landmines by the armed groups came on 2 July when Ukraine forces regained control of the border area in Luhansk. In so doing, it discovered anti-tank landmines, one of which blew up a Ukraine Border Control vehicle, wounding the six border officials inside. Anti-personnel mines killed three civilians and wounded two more in separate incidents near Luhansk and Kramatorsk; both towns were at that time controlled by armed groups.
62. Ukraine is a party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction.
63. On 4 July, the Ministry of the Interior informed the HRMMU that the armed groups have been using two types of blast land mines. One of the types is an anti-personnel non-removable land mine complex with two wires between the mines which makes it almost impossible to safely de-activate. It was also reported that anti-tank mines are used in combination with anti-personnel mines, which make them more dangerous, not only for the armed forces, but also for the residents not involved in the fighting.
64. After Ukrainian forces regained control of Slovyansk, they discovered explosive remnants on many roads, enterprises and buildings. The Ukrainian Defence Minister reportedly said on 8 July that many highways were mined, in particular the routes from Slovyansk to Kramatorsk and from Slovyansk to Donetsk, saying "a lot of landmines and unexploded shells lie on the sides of the roads" and that they were working to dispose of them. There were reports of more civilian deaths from landmines on the outskirts of Donetsk city.

#### ***Other incidents***

65. As the fighting has escalated in the east, there has been a concurrent rise in incidents and 'preventive' action by the authorities elsewhere in Ukraine. For example, in the Dnipropetrovsk region, a woman who is allegedly the local coordinator for the armed groups in the Marinski and Velikonovoselski districts was arrested on 20 June for allegedly inciting people to disobey the Ukrainian Government and to support the "independence" of the Donetsk region.
66. During the week of 7-13 July, the SBU in Kharkiv announced the arrest of two people it alleged to be 'terrorists' participating in the armed groups in the east; the SBU also announced the arrest of a resident of Dnipropetrovsk who is the alleged leader of a terrorist group commissioned by the intelligence service of the Russian Federation to undertake intelligence and subversive activities against Ukraine. According to the SBU Press centre on 6 July, in Kherson, one of the leaders of the armed groups was detained while trying to cross from the Ukraine mainland into Crimea. In Odesa, the SBU on 10 July arrested two

- people (including one citizen of the Russian Federation) in connection with an event at which, along with 50 other people, they were allegedly planning to create an ‘Odesa People’s Republic’.
67. Bomb threats have plagued Odesa since June targeting public buildings and facilities such as train stations and the courts. There were also a number of actual explosions and other incidents. An explosion at a military unit on the night of 3 July was called a ‘terrorist act’ by the Government. Two fires on 6 July at a bank and the office of a political party were considered suspicious. Two branches of the PrivatBank were damaged by powerful explosions on 13 July. No casualties were reported. A spokesperson of the bank said it was another attempt to de-stabilize the city. Nevertheless, a week-long international film festival in Odesa opened as planned on 11 July.
  68. On 1 July the SBU blocked several streets in Odesa while arresting three individuals suspected to be “rebel fighters”. In the Kherson region, border guards and the SBU arrested two people trying to escape to Crimea who were wanted for allegedly participating in the storming of a military unit in Mariupol.
  69. In Odesa, the city Department of the Ministry of Justice appealed to the Odesa District Administrative Court to ban a “pro-Russian” movement called ‘Molodizhna Ednist’ as being contrary to Ukrainian law on civil organizations. In June, one leader of the organization was arrested in March under Article 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code and is being held in Kyiv; his brother has been in hiding since the 2 May violence and is rumoured to have fled to the eastern region of Ukraine that is under the control of the armed groups.
  70. On 8 July, authorities in the Russian Federation announced that the former Ukrainian military pilot, Nadiya Savchenko, who is being held in a pre-trial detention centre in Voronezh in the Russian Federation<sup>78</sup>, was being charged with complicity in the killing of two Russian TV journalists on 17 June near Luhansk. There has been a great deal of controversy surrounding the circumstances of the capture of Ms. Savchenko, with the Russian authorities insisting she crossed the border freely into its territory and was then arrested for having no documents and pretending to be a refugee. The Ukrainian Government insists she was abducted in Luhansk by the armed groups and was taken to the Russian Federation ‘as a result of an agreement or joint operation between the terrorists and the Russian secret services.’ The Ukrainian Government is appealing to the international community to help free Ms. Savchenko. On 19 June, the office of the Ukrainian Prosecutor General said a criminal investigation was being undertaken into the circumstances leading to the death of 10 persons, including the 2 Russian TV journalists, who were killed in a mortar attack near Luhansk on 17 June. On 10 July, the HRMMU was informed this is now an investigation under Article 258 of the Criminal Code (Terrorism) and the investigation is being handled by the SBU. On 10 July, the Luhansk Ministry of the Interior opened a criminal investigation into the abduction of Ms. Savchenko under Article 146 of the Criminal Code (Illegal confinement or abduction of a person).

### III. RULE OF LAW

#### A. Impunity in the east

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<sup>78</sup> The Government of Ukraine states that the Russian Federation did not allow a Ukrainian Consul to visit Ms. Savchenko for several days. Her lawyer said she went on a hunger strike to protest this treatment. Ms. Savchenko was allowed to see the Consul on 16 July.

71. The armed groups do not recognize the authority of the Ukraine Government. In the areas of the east that they control the rule of law has collapsed. The police are de facto under the control of armed groups. Police investigations concerning crimes attributed to armed groups are not conducted. During evening hours, the police do not respond to phone calls made on the emergency line. Some courts continue operating, but even in these there have been examples of hearings being interrupted by armed groups entering the courtroom.
72. Public buildings, such as those hosting the local or regional branches of the Ministry of the Interior, the Office of the Prosecutor, the State Security Service (SBU) and local government institutions, are occupied and are often used to detain and torture civic activists, journalists or political opponents. Criminal proceedings or other legal measures initiated by the Ministry of the Interior and the Prosecutor General of Ukraine remain a dead letter in territories controlled by the armed groups.
73. The armed groups claim that they are putting into place parallel ‘institutions’. For example, they claimed a ‘prosecution system’ had been set up, and that a ‘court martial’ temporarily carried out (unlawful) judiciary functions. They claim that a special (illegal) ‘military police’ is in the process of being created as well as a Criminal Code and Criminal Procedure Code, replicated from the Russian equivalents.
74. The Ukrainian security operation involves the army, the military police (National Guard), the National Security Service (SBU) and a number of volunteers’ battalions.<sup>79</sup> The involvement of battalions of volunteers (Donbas, Azov, Aydar, Dnipro, Ukraina, etc.) raises important questions. While they nominally operate under the command of the Ministry of the Interior or the Ministry of Defence, they would appear to enjoy a large degree of autonomy in their operation. There are allegations of human rights violations committed by these battalions. Currently four types should be distinguished: operational assignment battalions, special police forces battalions (both are under the Ministry of the Interior and function according to the law “On Police”), battalions of territorial defence (under the Ministry of Defence), and self-organised battalions who do not subordinate or report to State institutions. On 3 July, the Ministry of the Interior created a special department, which will oversee the activity of its battalions. However, the legal basis for the functioning of other battalions is not as clear. The Ministry of the Interior said it was deeply concerned about these groups and planned to reach out to as many of them as possible with a view to integrating them into existing battalions. This would solve the question of their legality and would also allow for coordination of their activities. It is imperative, for purposes of accountability, to clarify the legal framework within which these battalions operate.
75. Heavy armament, including tanks, military aviation and helicopters were used in addition to artillery. The armed groups also use heavy weaponry, including missiles and tanks. Incidents involving civilian deaths have occurred without any possibility to ascertain beyond any doubt whether the casualties were caused by Ukrainian forces or armed groups. Among them: a five-year-old and his mother were killed by mortar shelling in Slovyansk on 20 June; two Russian journalists were killed on 17 June during a mortar attack near Luhansk; 2 employees of the Public Utility Company “Water of Donbas” were killed by shelling at the water canal in the village of Semenovka on 10 June.

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<sup>79</sup> The first volunteer battalions appeared in mid-April in the eastern regions of Ukraine as small groups of pro-Ukrainian activists who wanted to protect their neighbourhoods from the lawlessness of armed groups. Eventually more people joined. By the end of May, a number of battalions (each battalion is around 500 people) were formed. As of July, some have already been officially integrated into the structure of relevant Ministries.



76. The authorities of Ukraine can legitimately claim they have a duty to restore law and order, including, if necessary, by resorting to force. In any law enforcement operation security forces must act proportionally to the threat and must at all times respect the right to life. In addition, in the conduct of hostilities all those involved in the hostilities must comply with principles of distinction, proportionality and precautions. This is particularly important in an environment in which armed groups and civilians are inter-mingled.
77. The use of heavy artillery and aviation, in particular, have increased the risks to civilians and caused casualties. It is essential that the authorities conduct full and impartial investigations of all incidents where civilians may have lost their lives or have been injured by the Ukrainian forces since the launch of the security operation. Remedies must be available to victims, if the damage to their property was done illegally.
78. The Ukrainian forces have regained several areas formerly controlled by armed groups since 5 July; it is essential to ensure that no reprisals are applied against civilians. The questioning of people and verification of information conducted by Ukrainian forces in areas, formerly controlled by the armed groups, must at all times uphold the presumption of innocence and respect human rights and human dignity<sup>80</sup>. The Government needs to provide information on how these activities are conducted and what human rights guarantees are attached to this process. The HRMMU stresses the paramount importance to uphold the right to life and ensure protection against arbitrarily deprivation of liberty, in accordance with Ukraine's obligations under the International Covenant on Civil and Political Rights (ICCPR) and other international instruments.
79. There are disturbing reports of cases, including journalists, politicians and of people allegedly supporting the armed groups, of having been arrested by the Ukrainian forces but whose whereabouts could not be ascertained for a long period of time or are still not known. These cases constitute a violation of the right to liberty and security, which implies a prohibition of arbitrary arrest or detention, and of the 'minimum guarantees', such as the right to a counsel, that every person deprived of liberty is entitled to benefit from under international human rights law.

## **B. Constitutional amendments**

80. On 2 July, the Parliament registered a draft law (№ 4178a) initiated by the President of Ukraine, proposing to amend the Constitution of Ukraine.
81. According to this document, Ukraine is to be divided into regions, districts and communities, based on the principles of unity, integrity and decentralization. Local self-government institutions with legislative and executive functions are to be created and local state administrations abolished. Representatives of the President are to be appointed at local level and entrusted with powers to suspend local decisions deemed to be in violation of the constitution. The draft mentions that the division of power between the different levels of self-governance is based on the principle of subsidiarity and that the President can revoke the powers of the local self-government institutions. The provisions regulating self-government institutions in Ukraine also apply to Crimea, but the function of the representative of the President in Crimea is abolished. Other new provisions include the possibility to grant "special status" to the Russian language and languages of other national minorities at the level of villages, towns, districts and regions; increasing the powers of the parliament to initiate or approve appointment of ministers and heads of state institutions;

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<sup>80</sup> In accordance with Article 10 of International Covenant on Civil and Political Rights (ICCPR) for detainees as well as the prohibition of torture and ill-treatment under Article 7 of ICCPR.

and abolishing the power of the Prosecution to oversee compliance with fundamental rights and freedoms. It should also be noted that the amendments do not contain provisions strengthening the independence of the judiciary. The Venice Commission of the Council of Europe was requested to present an opinion on the draft law and is expected to do so in the second half of July.

82. The draft law is expected to be discussed in parliament and amendments are likely to be proposed. The HRMMU insists on the importance of reaching out to the country in all its diversity to ensure a process of transparency, and inclusive consultations. Debates must be organized to enable the participation of a wide array of constituencies. Human rights defenders, associations of legal professionals, media and other civil society organisations including those representing women, children, minorities, indigenous peoples, refugees, and stateless and displaced persons, and labour and business<sup>81</sup> from all the regions of Ukraine should be given a voice. To facilitate this, the draft Constitutional changes should be made available in minority languages, such as Russian. Durable solutions to controversial issues will only be found through an inclusive, open dialogue and readiness for compromise.

### **C. Justice Sector Reforms**

#### *Law enforcement reform*

83. Initial steps have been taken by the Government of Ukraine to reform the law enforcement system. An Expert Council “on the issues of human rights and reformation” was established in the Ministry of the Interior on 4 April in order to develop a concept for the reform of law enforcement bodies. On 1 July, the Minister of the Interior tasked the Expert Council to prepare and implement a pilot project in Lviv seeking to analyse the work of the police, its performance and cooperation with the local authorities, its relation to citizens, community policing practices, and issues of transparency and accountability. The results of the pilot project are expected to be presented at an Expert Council meeting in November 2014 and to form the basis of a law enforcement reform package. The HRMMU recommends that this pilot should be gender sensitive and ensure that it includes an assessment of how the police deal with domestic violence, rape and other crimes that affect women disproportionately.
84. The HRMMU stresses the importance of reforming the law enforcement system, which as a first step, should include the adoption of a new law on the police. The latter needs to move away from a militarized structure into a civilian, professional public service. Reform also needs to address the powers of the State Security Service (SBU). According to the Parliamentary Assembly of the Council of Europe Recommendation 1402 (1999) the SBU should be devoid of the authority for criminal investigation and arrest of persons<sup>82</sup>.
85. Training<sup>83</sup> should be developed and conducted on all aspects of policing (including or e.g. arrest, pre-trial detention, use of firearms, as well as gender sensitive issues as mentioned above) and a lot remains to be done to ensure that they conform to international standards. This should be another key element of the reform of the law enforcement system.

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<sup>81</sup>[http://www.unrol.org/files/Guidance\\_Note\\_United\\_Nations\\_Assistance\\_to\\_Constitution-making\\_Processes\\_FINAL.pdf](http://www.unrol.org/files/Guidance_Note_United_Nations_Assistance_to_Constitution-making_Processes_FINAL.pdf)

<sup>82</sup> “The control of internal security services in the member states of the Council of Europe”; para. V.iii

<sup>83</sup> UPR recommendations from 2012 require Ukraine to provide training for staff of law enforcement bodies on the rights of detainees.

86. Currently, internal oversight mechanisms are not effective in reviewing incidents of injury or loss of life resulting from the use of force by law enforcement personnel. In addition, the police are generally distrusted and perceived as being corrupt and lacking professionalism. For these reasons, it is important to create platforms, open to civil society and other non-police actors, including women's groups, to discuss the work of the police and its performance and to put in place conditions for greater public accountability of law enforcement officials.

#### *Administration of justice reforms*

87. As noted in previous reports, many of the concerns that led to the Maidan events and the crisis in the east are systemic ones, rooted in a weak rule of law and the absence of effective checks and balances. The law "On the restoration of the credibility of the judiciary in Ukraine" developed a mechanism for the dismissal of judges who have discredited the judiciary institution by violating professional and ethical standards or being corrupt. A lustration procedure has been put in place to undertake a vetting of judges. However it does not follow some generally recognized requirements in the area of judicial proceedings. For example, past court decisions can be scrutinized by an 'Interim Special Commission', which can decide to immediately dismiss judges. The Commission held its first session on 3 July, elected its head and deputy head, but has not initiated any vetting yet. There is concern that the implementation of the law could lead to unjustified and non-motivated dismissals of judges and jeopardize the administration of justice. There is an urgent need to strengthen the institutional independence of the judiciary. This can be done by ensuring, among other things, that the appointment and dismissal of judges, as well as the initiation of disciplinary proceedings against them, leave no room for undue political or other pressure. On matters of judicial self-administration, international standards require that any decision affecting the selection, recruitment, appointment, career progress or termination of office of a judge should be taken by an independent authority within which at least one half of those who sit are judges elected by their peers. However, the High Council of Justice, which plays a central role in the appointment judges, does not fulfil this requirement: only 3 out of 20 members are appointed by the Congress of judges. In addition, when appointed, judges serve for a 5-year trial period after which they can be elected by parliament to a lifetime position. This lengthy trial period is of concern as it opens up the possibility for undue influence on the decision-making of judges during that time. Legal and constitutional amendments should address obstacles to an independent judiciary, namely the role and composition of the High Council of Justice; the length of the trial period, and the role of Parliament in the appointment process. The authorities must also ensure that the justice system is sufficiently funded from the state budget. This would lower the dependency of the judiciary on public and private interests, and minimize the risk of corruption.
88. No progress has been made in reforming the prosecution system, which is another pillar of the justice system, and many recommendations have been made to that effect. The prosecution used to have broad powers outside the criminal justice process. Legal amendments in 2012 reduced them slightly by narrowing prosecutorial general supervision over the application of laws and abolishing the power to issue orders that have the effect of suspending an action undertaken/required. ("submissions"). In addition, the new Criminal Procedure Code, in force since November 2012, gives the Prosecution Service a greater role within the criminal justice process, which is a positive development. However, these measures are insufficient. It is important to provide the prosecution with a clearer mandate focused on leading pre-trial criminal investigations and prosecutions. Such changes can be implemented by amending the law "On the Prosecutor's Office" and possibly the Constitution. It should also be noted that no progress has been made in establishing a State

Bureau of Investigation, as required by the Criminal Procedure Code of Ukraine and recommendations from the Universal Periodic Review and the HRMMU.

89. The role of defence lawyers is critical to a well-functioning legal system and the fairness of trials. A National Bar Association exists that serves as a body of self-administration. However, the exercise of the profession and working conditions require enhanced protection. Courts do not have any premises for defence lawyers; legislation does not regulate the right to rest or social protection for defence lawyers. The current Criminal Procedure Code limits the number of defence lawyers allowed to work on one case; in case of absence, a lawyer can be replaced by a state-appointed lawyer. A law on the legal profession was adopted in 2012 and draft amendments are under discussion. It would be necessary to ensure that the new amendments create improved conditions of work for defence lawyers and a professional environment conducive to a proper exercise of the right to defence. Equality of arms should characterize the relationship between defence lawyers and prosecutors.

#### **D. Legislative developments**

90. An important number of laws, legal amendments or regulations adopted in recent months have been dictated by the necessity to address topical issues in a difficult and evolving context, characterized by the ‘referendum’ in Crimea<sup>84</sup> and a grave deterioration of the security situation in the east. They include: internally displaced persons; issues related to the rights of those taking part in the security operation and their families; sanctions for criminal actions threatening territorial integrity or aimed at overthrowing the government; the introduction of new penalties for financing illegal activities; amendments to the anti-terrorism law and others. The HRMMU is following these developments, which will be analysed and, if necessary, reflected in future recommendations.
91. In some cases, the new legislation foresees increased compliance with international instruments and recommendations of international human rights mechanisms. For example the definition of complementary protection applying to refugees was extended to include persons fleeing “international or internal armed conflict” and other serious human rights violations, in line with international and European standards. On the issue of discrimination, the definition, scope of prohibited ground, and range of sanctions have largely been aligned with relevant international norms and standards. Finally, the terms applicable to persons with disabilities in domestic legislation – such as “reasonable accommodation”, “universal design ” and “discrimination on the basis of disability ” - are used as defined in the Convention on the Rights of Persons with Disabilities. However, the amendments to the anti-discrimination law do not integrate the jurisprudence of the UN Human Rights Committee and the European Convention on Human Rights on the prevention of discrimination on the basis of sexual orientation.

#### ***Anti-corruption***

92. The legislative basis for combating corruption has improved in recent months: bribery is now classified as an offence under the Criminal Code and corruption in all its forms is treated as a crime. Liability of companies (“legal persons”) has been introduced under the Criminal Code. Regulations have been put in place concerning confiscation and seizure of proceeds of crime. A government Commissioner for anti-corruption policy has been appointed to lead the National Anti-Corruption Committee, established in 2010. However,

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<sup>84</sup> This referendum was ruled to be unconstitutional by the Constitutional Court of Ukraine; the UN General Assembly declared the referendum to have no validity in its resolution 68/262.

the latter was not given a sufficient level of independence to carry out a meaningful monitoring function of anti-corruption policies. The Government has indicated its intention to adopt a new anti-corruption strategy for 2014. Eradicating corruption is also inextricably linked to improving the functioning of other institutions. This includes amendments to the legal framework governing the powers and work of the Prosecutor's Office, public procurement procedures and reforming the public administration and civil service. In all these areas, no progress has been made during the reporting period.

### *Asylum*

93. On 30 May 2014, the amendments to the Refugee Law of Ukraine, which brought the complementary protection and temporary protection definitions in line with international and European standards, came into force. The definition of complementary protection now includes persons fleeing armed conflict and other serious human rights violations<sup>85</sup>. Also, in May 2014, asylum seekers were granted access to emergency medical care. Another recent development is the beginning of practical implementation of the age assessment procedure for unaccompanied children seeking asylum which was adopted by the State migration service in 2013. The first age assessment committee was convened in June 2014 in the Kyiv region.
94. However, numerous gaps remain in the current refugee law particularly affecting the quality of due process in the asylum procedure and the reception conditions for asylum-seekers. Asylum-seekers frequently have to find and pay for their own interpreters; if their applications are rejected, they are not provided the reasons for rejection, yet have only five days to file an appeal; asylum-seekers are frequently left undocumented because of gaps in the asylum procedure. Without documentation, asylum-seekers cannot exercise their right to temporary employment. Since reception conditions are generally poor (few spaces available in Temporary Accommodation Centres, no social assistance available outside these centres), many are compelled to work informally in order to meet their basic needs. This places them at risk of exploitation, and given the general economic downturn in the country, their livelihoods are extremely precarious.
95. The quality of decision-making on asylum applications remains a concern, as many persons with genuine international protection needs continue to be rejected and at risk of *refoulement*. For example, in 2013, 46% of Syrian asylum applicants received refugee status or complementary protection.
96. State funding for asylum matters is inadequate. Low staffing levels and high turnover at some migration service offices means that staff is frequently unavailable to perform regular tasks, such as receiving asylum applications or renewing documents. For example, in early May, one asylum-seeker had to approach the migration service on five different days in order to file an application. This gap means that asylum-seekers are often undocumented and at risk of detention. The state does not provide language classes, so asylum-seekers struggle to adapt. Recognized refugees receive a one-time grant of only 17 UAH (less than \$2), which is clearly insufficient.

## IV. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS

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<sup>85</sup> On Amending Article 1 of the Law of Ukraine "On refugees and persons that require additional or temporary protection", available at <http://zakon1.rada.gov.ua/laws/show/1251-18>

97. The state has a duty towards its citizens to ensure accountability for the violations of their rights and freedoms. This is of paramount importance in the context of the situation in the east. It is also essential in relation to events in Maidan and Odesa, which have struck a deep chord within society.

#### **A. Investigation into human rights violations related to Maidan protests**

98. Five months after the end of the Maidan protests, which started on 21 November 2013 and ended with the arrival of a new Government on 22 February 2014, much remains to be done to ensure accountability for human rights violations committed during this period.

99. As a result of violent clashes between demonstrators and representatives of different law enforcement agencies, and the use of arms, an estimated 103 protesters (including three women) and 20 law enforcement officers died. Hundreds more were wounded on both sides. There have been numerous reports of violence, torture and ill-treatment of protesters, mainly attributed to the ‘Berkut’ special police. In addition, according to a civil society organization “EuroMaidan SOS”, 32 Maidan protesters (31 men and 1 woman) remain unaccounted for as of 14 July.

100. The killings on Maidan occurred during two periods: on 19-21 January 2014 and on 18-20 February 2014. To this date, nobody has been sentenced. Three ‘Berkut’ police officers accused of involvement in the killing of protesters have been detained under murder charges and are held in pre-trial detention. Regarding the killing of law-enforcement officers, the investigations have not led to the identification of suspects.

101. In relation to another incident, the violent dispersal of demonstrators by the riot police on the night of 30 November 2013 which triggered the Maidan protest, a Kyiv court is to decide whether two persons suspected of having ordered the dispersal are covered by an amnesty law voted in December 2013. Hearings have been postponed several times.

102. The only sentences passed so far involve 3 police officers who confessed to having ill-treated a demonstrator who had been stripped naked in the street in freezing conditions and was forced to stand in the snow while being mocked, assaulted and filmed. One of them was sentenced to three years of imprisonment with a probation period of one year, and another to two years, including a one-year probation period.

103. The Government of Ukraine submitted on 9 April a request to the International Criminal Court (ICC) to investigate the events that occurred on Maidan from 21 November 2013 to 22 February 2014. The Registrar of the ICC received a declaration lodged by Ukraine accepting the ICC jurisdiction. The declaration was lodged under article 12(3) of the Rome Statute, which enables a non-party to the Statute to accept the exercise of jurisdiction of the Court. The Prosecutor of the ICC has decided to open a preliminary examination into the situation in Ukraine in order to establish whether the Rome Statute criteria for opening an investigation are met. The government of Ukraine is currently considering the possibility to ratify the Rome statute of the ICC.

104. Various interlocutors contacted by the HRMMU expressed their concern at the slowness and inefficiently of the investigations. In particular, concerns were raised about the following: (a) the collection and preservation of evidence and forensic examinations may not have been systematic; (b) documentation related to the activities of the special police unit “Berkut” during Maidan has been destroyed; (c) it is believed that some suspects could be involved in the security operations in the east, hence the unwillingness to carry out meaningful investigations at a sensitive time; (d) corruption and general

inefficiency of the judicial and law enforcement system were cited as obstacles to an impartial and comprehensive investigation; (e) some witnesses may be afraid to talk.

105. Most families of Maidan victims, who have joined in an ‘initiative group’, are reported to have received one-time social payments of 121,800 UAH (about USD 10,100). The allocation of payments to all families should be completed by the end of July. The initiative group is finalizing negotiations with the Ministry of Education to ensure that 52 children from the families of people killed at Maidan will be entitled to education free of charge in all pedagogical institutions.
106. Different groups which actively participated in the Maidan demonstrations, continued to occupy buildings and facilities in central Kyiv that were taken over during the anti-government protests between December 2013 and February 2014. According to the Office of the Kyiv City Prosecutor, an estimated 950 people affiliated with the Maidan "self-defence", the Right Sector and the Social National Assembly have established themselves in and around 12 buildings, including the Ministry of Agriculture, the main post office, several cultural and business centres, shops, bars, restaurants and banks. This presence has been condemned by the Minister of Interior, the Prosecutor General of Ukraine, the Prosecutor of Kyiv, Mayor of Kyiv who have also called for the vacation of buildings. However, this has not led to the vacation of the buildings.

## **B. Investigation into human rights violations related to the violence in Odesa**

107. The violent incidents in Odesa on 2 May resulted in the deaths of 48 people, with over 200 injured. This appears to have hardened the resolve of those opposing the Government, and deepened division between communities. There is a need for resolution to the violent events of that day. The perpetrators must be brought to justice in a fair and non-selective manner.
108. More than two months after the 2 May violence in Odesa, the incidents still divide those who live in the city. Six investigations, official and independent, have been initiated into the killings of six people by gunshot that took place during the afternoon of 2 May, and the deaths of 35 men and 7 women in the fire in the Trade Union building<sup>86</sup>. Considering the number of investigations launched by law enforcement agencies and experts, there is a high risk of miscommunication and contradictory information. The HRMMU follows these criminal investigations and has received alarming information from different sources on violations of human rights by law enforcement agencies and free legal aid incompetence. On several occasions high ranking officials have disclosed information, which has since been refuted. Overall, the communities in Odesa have no trust in the law enforcement investigation independence. This negative atmosphere is deteriorating further due to the fact that there has been little transparency within the framework of the investigations, limiting access to information for the citizens of Odesa. Both the Ministry of the Interior (MoI) Investigation Commission and the Special Parliamentary Commission have requested the assistance of foreign experts.
109. The Deputy Minister of the Interior has requested international assistance in conducting the investigation process, by written appeals to four embassies (Germany, Israel, the United Kingdom and the United States). The Independent Commission has requested the assistance of foreign experts from the Organization for Security and Cooperation in Europe and the Council of Europe. The Commission has officially requested expertise from the UN Secretary General, the High Commissioner for Human Rights, the Human Rights Monitoring Mission in Ukraine and the UN Resident

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<sup>86</sup> See HRMMU monthly report of 15 June 2014, paragraphs. 37 – 93.

Coordinator in Ukraine. It is felt that such independent international experts would be able to receive more adequate answers since witnesses would have more confidence in foreigners than in local officials. The HRMMU recommends the following: (a) in the interest of the investigation, law enforcement officials should refrain from spreading damaging rumours and disclosing information; (b) all Commissions, within their mandates, should meet on a regular basis; (c) the regional and local authorities, should work on strategies to deescalate tensions within the communities and to initiate dialogue focusing on reconciliation; (d) law enforcement agencies should ensure the protection, fulfilment and promotion of human rights within their criminal investigations; (e) the Governmental Free legal aid system should ensure the competence of lawyers providing free legal defence.

***Criminal investigation by the Ministry of the Interior Investigation Unit***

110. The Main Investigation Department of the MoI in Kyiv (under the control of the Deputy Minister of the Interior) is investigating the 2 May violence. According to the MoI, at the expiration of the 60 days legally granted for investigation, the investigative team requested an additional five (5) months. More time is needed to conduct the following investigative proceedings: to identify all people involved in the mass riots and identify witnesses; identify organisers of the Odesa “Euromaidan”, Right Sector, local Self-Defence, Odesa “Narodnaya Druzhyna” and other participants; identify and interrogate policemen involved with securing public order on 2nd and 4th May; identify and interrogate State Emergency Service employees who received emergency fire calls and who dispatched fire brigades to the various locations on 2 May; analyse the phone-call registry between city centre and Kulikovo Pole; conduct a full-scale analysis of the video files; question victims claiming material damage; question all Trade Union building employees present at work on 2 May.
111. The HRMMU conducted a number of meetings with defence lawyers in the 2 May violence cases, who notified that the Investigation Commission requested a prolongation of measure of restraint for all detainees (under custody or house arrest) for an additional 60 days. The HRMMU received information that the investigation process, including the interrogation of detainees, has been very limited so far. Some detainees since their apprehension on 2 May have been questioned only twice.
112. The Primorsky District Court of Odesa has favourably satisfied all petitions presented by the MoI.
113. The HRMMU has not had any obstacle in cooperating with the Commission of MoI. As of 12 July, the Investigation Commission provided the HRMMU with the following information: 12 men remain in Pre-trial detention centres under the Penitentiary Services; 41 men are placed under house arrest; 53 persons were interrogated as suspects, 83 persons were interrogated as victims; 430 persons were interrogated as witnesses; 242 forensic examinations were appointed, of which 62 are still on-going; out of 42 men and 6 women deceased, one man is still not identified; one injured man remains in hospital; five detainees (all men) are reported to be foreign citizens.
114. None of the preliminary conclusions were made public by the Investigation Commission. However, although the investigation is still ongoing, several controversial statements were made by the MoI. In May, when the forensic examinations had just started, the deputy Minister of Interior stated that people in the Trade Union building died from breathing chloroform, which has never been confirmed. Furthermore, the Head of the Regional Office for Forensic, at a public meeting with the Regional Council Investigation Commission stated that none of the deceased at Kulikovo Pole were shot or



beaten to death, but that their death was caused by carbon-monoxide gas poisoning, some unidentified chemical substance or by burns. In addition, he disclosed personal private information regarding one deceased person without prior consent from the family. The Head of the Regional Office for Forensic has regularly refused to provide information regarding the cause of death, referring to the confidentiality of the investigation.

115. The Investigation Commission is in charge of investigating the actions of the Odesa Regional Emergency Service (fire brigade). The Head of the Emergency Unit was accused of negligence, due to improper performance of his official duties (i.e. delay in deploying the fire brigade to the Trade Union building). For the purposes of the internal investigation he was temporarily dismissed. The internal and criminal investigations remain on-going.
116. The Investigation Commission has provided internal investigation documentation to families who have requested information regarding their deceased relatives. Following meetings with victims, witnesses and relatives, the HRMMU has observed a growing dissatisfaction regarding the lengthy and non-transparent investigation process. In general, witnesses shared with the HRMMU their concern about revealing information regarding the incidents. On 11 June, several claims regarding the insufficient and lengthy investigation process were brought against the Government at the Kyiv District Administrative Court.

#### ***General Prosecution Investigation Unit regarding police duty performance***

117. On 3 May the General Prosecution Investigation Unit launched a criminal case against police officials based on article 365 (Excess of authority or official powers) and, article 367 (Neglect of official duty) of the Criminal Code.
118. The Regional Prosecution Office confirmed the allegation regarding the inaccessibility of high ranking officials during the 2 May violence, noting that all were at the time attending a closed meeting at the request of the Deputy General Prosecutor.
119. The investigation process into 2 May violence is challenged by the fact that the main suspect, the former Deputy Head of the Regional MoI, is currently on a “wanted” list.

#### ***Criminal investigation under the State Security Service of Ukraine (SBU)***

120. As of 15 July, the SBU had initiated several criminal investigations under article 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government), article 110 (Trespass against territorial integrity and inviolability of Ukraine), and article 258-2 (Public incitement to commit a terrorist act) of the Criminal Code. The SBU arrested at least 35 people allegedly engaged in the above-mentioned criminal activities, mostly activists and supporters of the “pro-Federalism” movement. The HRMMU attended 6 court hearings and tried to establish contacts with the SBU investigators. The HRMMU regretfully underlines the lack of working cooperation from the Regional office of the SBU at the local level.
121. The Penitentiary Services administration fully cooperated with the HRMMU and has been granting access to detainees recently arrested. The HRMMU has also met with detainees’ lawyers and relatives. The HRMMU has the following concerns about actions committed by the SBU in the investigation, including violations of legal guarantees and ill treatment during the investigation process, which are as follows: (a) excessive use of force during arrest and house searches contravening fundamental human rights; (b) the illegal practice of disclosing personal data in relation to arrested foreign citizens, which violates the presumption of innocence; (c) the obligation to immediately inform the arrested person, in detail and in a language he/she understands, of the reasons for his/her

arrest and any charges against him/her, as well as of the right to have the assistance of legal counsel, receive medical assistance free of charge, not to be compelled to testify against him/herself or confess guilt, inform promptly other persons about his/her arrest or detention and whereabouts, in accordance with the provisions of applicable international human rights law and the Ukrainian Criminal Procedure Code; (d) the failure to provide written notice of charges to the arrested person within 24 hours after the apprehension in accordance with article 278 of the Criminal Procedure Code; (e) the use of psychological intimidation and threats (in some case sexual threats) in order to obtain information.

#### ***Special Parliamentary Commission Group***

122. The Special Parliamentary Commission continues to investigate the facts of mass murder. As of 15 July, it had held 9 sessions. The Head of the Commission informed the HRMMU that the members met with witnesses, victims, relatives and doctors. In addition the commission received a written statement from the former Deputy Head of the Odesa Regional MoI, who remains at large. All the collected documentation has been shared with the Office of the General Prosecutor. In addition, the request for foreign experts was raised. The Commission plans to present its preliminary findings in September.

#### ***Ukrainian Parliament Commissioner for Human Rights (Ombudsperson Office)***

123. The Ombudsperson's Office has finalized its findings regarding the 2 May violence and concluded that the positive obligations of Ukraine to protect human rights (the rights to life and to liberty and security of the person and the freedom of peaceful assembly) were violated during the 2 May incidents. Moreover, the Ombudsperson concluded that the Head of the Regional MoI Odesa did not fulfil his mandatory duty to initiate the special police tactical plan "Khvyliya". This neglect resulted in a high number of victims. The Ombudsperson appealed to the Office of the General Prosecutor to investigate the law enforcement agencies performance of duty during 2-4 May, and launch a criminal investigation against responsible officials.

#### ***Independent Commission investigating the 2 May violence***

124. The Independent Commission including civil society activists, journalists and experts, continued to gather information on 2 May violence. Witnesses mentioned to the HRMMU that they feel more comfortable to share information with this Commission. Several conclusions of the Commission were already broadly publicised, including the chronology of the events in the city centre, which tend to counter numerous rumours and allegations. In the course of their investigation, the Commission members requested MoI, the State Agency on Emergency Situation and the Centre of Forensic Examination for information, with no success to date. The Commission intends to take legal action against these agencies: in accordance with the law "On access to public information" (2939-17, dated 2011), information has to be shared.

#### ***Temporary Oversight Commission on the 2 May violence of Odesa Regional Council***

125. The Temporary Oversight Commission on the 2 May violence has been working in close cooperation with the Special Parliamentary Commission Group. Since its establishment, this Commission held two hearings to monitor the criminal investigation process. Its conclusions were presented to the Odesa Regional Council. It deplored the fact that the SBU and the Regional Prosecution Office were not always fully cooperating. According to the statement of this Commission, based on the MoI criminal investigation there are four scenarios that triggered the 2 May violence: (1) actions committed by radical groups to destabilize the situation in the Odesa region and in other regions of Ukraine; (2) attempts by local authorities to discredit the Government; (3) uncontrolled

football fans and law enforcement negligence; (4) provocation by the “pro- Unity” movement in order to intimidate the “pro-Federalism” movement.

### **C. Investigations into other human rights violations**

126. The Parliamentary Committee investigating the events in Odesa is also in charge of investigating the violence in Mariupol, which became the theatre of heavy fighting on 9 May. Nine people died when Ukrainian security forces fired into unarmed protesters and, earlier that day, tried to dislodge armed protesters from a police station<sup>87</sup>.
127. The head of the Committee told the HRMMU that after having listened to many witnesses it was now in possession of a very detailed factual description, including information about the time and sequence of events, names of individuals who allegedly gave specific orders or took key decisions that led to the tragic outcome. The Committee will interview the persons mentioned by the witnesses and transfer the information collected to the Investigative Department of the State Security Service of Ukraine. The deadline for the Parliamentary Committee report, initially planned to be issued on 15 June, was extended until 20 October 2014.

## **V. INTERNALLY DISPLACED PERSONS**

128. As of 15 July, UNHCR reports there are 86,609 internally displaced persons (IDPs) from Crimea and the eastern regions of Ukraine. The number of IDPs from the east has increased dramatically since mid-June with a change in the composition of the IDP population - 85% now coming from the east and 15% from Crimea. Given the large numbers of IDPs reported as having left the eastern regions, it appears that there is a significant gap in the registration of IDPs. The numbers may swell if these IDPs are registered in coming weeks. Though disaggregated statistics on the age and gender breakdown of the IDP population are not available, it is observed that the vast majority of IDPs appear to be women and children.
129. IDPs from eastern Ukraine have left home predominantly due to security concerns, including the risk of being caught in crossfire. Some IDPs express individual fear of persecution for their political views, ethnicity or fear of being forcibly recruited into the insurgent groups. IDPs also report having experienced or heard of incidents of abduction, extortion and harassment in their neighbourhoods, leading them to take preventive flight. Another reason that prompts people to flee is the material damage to housing and infrastructure in the region, where the water and electricity systems were no longer functioning. Given the insecurity in the region, delivery of basic goods is paralyzed to many towns, and IDPs say that food supplies are erratic and expensive, and medicines are frequently unavailable. With the breakdown in the banking system, many could not obtain the cash they needed to purchase basic goods, even if they did become available. Many IDPs are particularly vulnerable as they remain within the eastern regions, caught in the on-going fighting to which international humanitarian actors currently do not have access.
130. IDPs from the Donetsk and Luhansk regions report leaving the region with few personal belongings, sometimes without time for preparation, in order to disguise the purpose of their departure from the region, so they have few resources to establish

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<sup>87</sup> A description of the case is provided in the HRMMU Monthly Report of 15 June 2014.

themselves. IDPs who leave the eastern regions generally maintain a low profile, since they report fearing reprisals against family members who have remained at home. Many are psychologically traumatized, having witnessed violence. For example, children are afraid of loud noises and hide under furniture whenever they hear an airplane passing overhead.

131. IDPs from Crimea are mostly Tatars, but also include ethnic Ukrainians, ethnic Russians, mixed families, refugees and foreigners married to Ukrainians citizens. Many IDPs from Crimea are political activists and journalists who fear harassment, or those who have economic, professional or family ties within Ukraine, and, therefore, feel compelled to leave to other parts of Ukraine in order to continue a normal life. Many Crimean Tatars fear limitations on their religious and cultural expression. IDPs from Crimea live dispersed across the entire territory of the country, but with significant concentrations in Kyiv and Lviv. Ukrainian military from Crimea and their families are mainly staying in Odesa, Mykolaiv and Kherson.
132. The State's system to protect IDPs has significant gaps. Many IDPs leaving Donetsk and Luhansk regions report that they do not have information about where to go or which services are available. Despite the creation of governmental coordination mechanism, the law on IDPs has not been adopted yet and there is no central information gathering system or database on IDPs. The present registration mechanism system is ad hoc and rudimentary which does not provide the accurate number of IDPs in Ukraine or individual needs of those who approach the authorities for assistance. The government is currently developing a list of available accommodation facilities for IDPs, but, so far, has allocated financial resources only to cover the costs of accommodating those from Crimea. Owners of sanatoriums and summer camps accommodating IDPs from the Donetsk and Luhansk regions report being frustrated that they do not know when or if they will be compensated for the expenses they are incurring for taking in IDPs. Several administrative matters remain unresolved, hindering IDPs' ability to start their new lives: many IDPs cannot obtain residence registration, transfer employment record from places of displacement, register their business activities and access their personal savings in bank accounts. There are also the problems of access to day care, schools for the children and assistance for the elderly to enable women to seek employment. Also, Ukraine's legislation and policy of imposing taxes on humanitarian aid and personal income precludes tax-free provision of international aid to IDPs.
133. Many IDPs have exhausted the resources they had available. There are limited options for most IDPs to secure long-term housing arrangements, in particular those who are currently hosted by friends, family or volunteers, or placed in temporary accommodation centres provided by regional authorities. Many IDPs are temporarily housed in summer camps or hotels which are normally closed for the winter and therefore are not insulated or heated. These facilities are generally in rural areas far from schools. Thus, this accommodation is suitable only for the very short term; longer term planning is not yet underway. Furthermore, given the high cost of heating, it is likely that many temporary accommodation facilities will be unable to continue housing IDPs into the month of October unless they receive financial support. Plans should also be developed to cover shelter, clothing and heating needs, during the winter, in case a massive return to the areas currently under conflict does not materialize before or during the winter months.
134. The Government was slow to respond to the rapidly growing number of IDPs coming from the Donetsk and Luhansk regions. For many weeks the authorities relied totally on voluntary assistance and the goodwill of the receiving communities to respond to meeting the IDPs accommodation and other needs. Most IDPs were accommodated in

private homes, public sanatorium or in other voluntary arrangements. By early July, many local and regional authorities began to complain that they did not have the resources to cope with the numbers of IDPs arriving. Lack of coordination, planning and resources was coupled with growing concern about the need to provide social protection to the increasing number of local families who had members fighting with the Government military and security operation in the East. In Rivne, for example, as of 1 July there were 785 people mobilized from that region to serve in the Government's security operation, while it had received 584 IDPs.

135. In June the State Service for Emergency Situations was tasked with the responsibility for coordinating the accommodation and other needs of IDPs throughout Ukraine. However, because of the involvement of civil society, in the form of volunteer groups and a loose association of concerned individuals that has provided the bulk of assistance so far to IDPs, the authorities need to coordinate with them and work systematically together. The HRMMU has been working to facilitate this.
136. Odesa became the destination of choice for IDPs with disabilities because it has a sanatorium designed to accommodate persons with disabilities. However, much of the sanatorium was already occupied by soldiers and their families from Crimea. Nevertheless, Odesa has received more than 700 IDPs with disabilities. By early July, Odesa was reporting it had reached capacity with 3,000 IDPs plus an additional 500 military and their families, all housed in summer sanatorium. There were many other unregistered IDPs staying privately with friends or family who were not reflected in that figure. IDPs continue to arrive daily in Odesa.
137. Roma IDPs have faced unique problems. Roma families tend to be large and move in groups, sometimes as large as 50 people, including many children, all of whom need to be housed together. This is often impossible because of the lack of available collective housing. Therefore some Roma camp in public parks or privately owned camping grounds which has caused additional problems. For example, in the Kharkiv region, the owners of a camping ground in Visoky, initially agreed to let a group of about 40 Roma from Slovyansk stay, but then tried to evict them when, lacking any other means to cook, the Roma families built cooking fires out in the open. The police were called to evict them and the situation escalated: the Roma threatened to block the neighbouring road and the police reportedly threatened to 'plant narcotics' on the group to make their problems harder. The HRMMU intervened after being alerted to the situation by a volunteers' group, calling the Ombudsperson and some journalists. When the media showed interest in the situation, the police left and the Roma and the camp owners worked out an agreement that the Roma could stay until a more permanent solution is found. No suitable alternative accommodation has yet been found by local authorities for this group who continue to stay in the camp.
138. In addition to the practical problems, Roma also face negative attitudes from the public, stereotyping, and bias. For example, in June, an outbreak of measles in Kharkiv, mostly among unvaccinated people, caused public animosity towards Roma (expressed in social media and publications), who accounted for about 40% of the measles cases, and who were blamed by some people for spreading the disease. The Kharkiv Deputy Governor said that the regional authorities are now working with the Roma communities in the Kharkiv region to find a systematic solution of how to assist Roma IDPs.
139. Negative information of a more general nature about IDPs has also been spreading on social media and through the internet. In Lviv, the authorities said the misinformation about IDPs was deliberately planted to cause further divisions between people from the east and west. Some of this misinformation related to the notion that male IDPs were

shirking their military duty to serve back where they came from. In Rivne, the city council decided to no longer host IDP men of military conscription age. (Women make up two-thirds of all adult IDPs). On the other hand, regional authorities, as for example in Volyn, started checking male IDPs when they arrived in the west for fear that they might be ‘separatists’ posing as IDPs, and the local population was encouraged to report any suspicious person or object.

## **VI. FREEDOMS OF EXPRESSION, ASSOCIATION, PEACEFUL ASSEMBLY, MOVEMENT, RELIGION OR BELIEF**

### **A. Peaceful assembly**

140. Ukrainians with the exception of those living in the east were generally able to fully exercise their freedom to peaceful assembly in a variety of ways: by gathering in ‘flash mobs’, pickets, rallies, demonstrations and other groups to articulate publicly their concerns. Peaceful demonstrations must be permitted, as a matter of international human rights law, and also as a way for people to exercise their rights to the freedoms of expression and peaceful assembly which are the foundation for a free and democratic society. Mostly these gatherings were held without incident and without hindrance, although almost always with a large police presence.
141. In Odesa, the HRMMU noticed that since June, most of the assemblies were prohibited by court decisions. Generally the court referred to an alleged danger to public order which, in accordance with Ukrainian legislation, was among the grounds justifying interference with the right to peaceful assembly. In addition the court referred to the 2 May violence, and recent arrests of people allegedly planning terrorist acts, as grounds for the potential threat to public order.
142. No violence on the scale which occurred with the Maidan protests or in Odesa on 2 May has occurred at peaceful assemblies held during the reporting period. However, those seminal events continue to be a guiding concern for the authorities when approving demonstrations: they appeared to prefer to ban one rather than be blamed for any violence it triggered. In some places, public mass rallies were banned altogether, for example, in Odesa on 22 June, although two peaceful rallies went ahead anyway. In other places it was because the authorities thought the subject matter might incite violence. In Kyiv, for example, this justification appeared to be behind the eventual cancellation of an LGBT rights parade, to be held on 5 July, when police said they could not guarantee the safety of participants. It is the job of law enforcement officers to facilitate peaceful assemblies and to ensure the protection of the participants, irrespective of their political or other views. In order to be able to do this, law enforcement must receive adequate training to be able to handle rallies and protests, in line with international human rights standards.
143. Overall, law enforcement has managed to contain violent intent, although there have been incidents of serious damage to property and some injuries. There have also been more isolated scuffles and clashes that generally have been kept to a minimum by law enforcement. Police have been criticized for sometimes not doing enough to stop violent actions (as for example, when the trade unions meeting was violently disrupted in Kyiv on 26 June) and, conversely, for cracking down unnecessarily hard on demonstrators to prevent any kind of possible public disorder from the very beginning. This was the concern in Kharkiv on 22 June, when a large presence of law enforcement officers successfully kept opposing groups apart but was later criticized by one side for abuse of

power<sup>88</sup>. There remains a need to adopt legislation and other measures to clarify the role and responsibilities of law enforcement to ensure the principles of necessity, proportionality, non-discrimination and accountability underpin the management of peaceful assemblies.

144. Currently a chilling trend has been observed where groups with different political agendas have demanded the authorities not allow peaceful assemblies of people with opposing viewpoints to theirs. This illustrates once again, the need for national legislation in line with international norms and standards.
145. In Crimea, the authorities would not allow the Crimean Tatars to hold their normal celebration in the city centre of Flag Day on 26 June, but smaller gatherings took place elsewhere.
146. The subject matter of the peaceful assemblies held during the reporting period covered a broad spectrum of people's current concerns and included: protests against specific cases of alleged corruption; protesting the lack of consultation on the appointments of regional and local officials; families of soldiers protesting military service and conditions; against Russian-owned banks and business; for peace in the east; in observance of Crimean Tatar Flag Day and Constitution Day; and in support of both sides of the 'pro-Ukraine/pro-Federalism' debate (separate demonstrations). Since 8 June the Sunday 'viche' (people's assembly) has been held in Kyiv on Maidan and is now a regular weekly happening, having taken root in public consciousness as a watchdog for Government accountability.

## **B. Freedom of association**

147. Freedom of association is an essential condition for the effective exercise of the right to vote and must be fully protected. It includes the freedom to engage in political activity individually or through political parties and other organizations. In this regard, it is noted that on 8 July the Government filed a lawsuit to ban the Communist party of Ukraine.

## **C. Freedom of expression**

148. There were some worrying trends observed in the area of freedom of expression in both the eastern and western parts of the country. As the severity of the violence increased in the east and the crisis there dragged on, opinions became more polarized in Ukraine. As a result, the level of hate speech has escalated dramatically, especially on social media, but also in demonstrations and protests and even in Parliament<sup>89</sup>. Acts of hate speech must be publicly condemned and prohibited by law<sup>90</sup>. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech.<sup>91</sup> In an indicative action, some news sites in Ukraine have started blocking

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<sup>88</sup> The Prosecutor's office has started an investigation on possible criminal responsibility of the police during the two rallies held on 22 June in Kharkiv, for excessive use of force, under article 365 of the Criminal Code.

<sup>89</sup> During a parliamentary session on 20 June, MP Ivan Stoyko made the following statement: 'We are now at war with the Mongoloid race, fascist Russia, which climbs on Ukraine like a locust in order to destroy our country, our nation.' Verbatim report.

<sup>90</sup> Article 20 of the ICCPR; Article 4 of the ICERD.

<sup>91</sup> Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. A/HRC/22/17/Add.4., appendix.

comments to their stories because of the virulent comments people were posting. The increasing level of hate speech must be addressed by the country's political leaders, who have yet to speak out publicly against it.

149. There remains a need to combat intolerance and extremism and to prevent national, racial or religious hatred that constitutes incitement. As armed groups fighting in the east are no longer just local people wanting more regional autonomy or a separate autonomous state, but are being organized by professional fighters not Ukrainian citizens, there has been an increased 'anti-Russia' rhetoric with demonstrations targeting Russian-owned banks and business on the grounds that they are 'financing terrorists'. Some of these demonstrations have resulted in the defacement of property.
150. Given the rise in Ukraine of instances of hate speech and other forms of intolerance expressed through social media and the internet, it is worth noting here the report on racism, the internet and social media, recently issued by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance<sup>92</sup>. In it he says that while the internet serves as a formidable vehicle for the exercise of free speech, it also provides a powerful platform for the rapid dissemination of racist ideas, ideologies and incitement to hatred. A comprehensive, multi-stakeholder approach is necessary to effectively counter expressions of racism on the internet and social media.
151. Journalists, media professionals and human rights defenders need protection so that they are able to do their jobs. Harassment, intimidation, manipulation and abductions of journalists have continued to occur in the east, and at least five journalists have been killed since the fighting began in April. None of these journalists was using any personal safety equipment<sup>93</sup>. The circumstances around one of the latest cases were particularly horrifying. In an operation led by an armed group on 30 June as the 10-day curfew ended, a bus of civilians, including journalists and a group of women, was sent in the middle of the night to a besieged Ukrainian military base, endangering the lives of the civilians during an attack on the base. The journalists had been told that the women on the bus were mothers of soldiers and their presence would ensure that the Ukrainian soldiers in the base would surrender peacefully. However, one of the journalists on the bus reported later that he spoke with the women and was told that none of them was a mother of any soldier. Gunfire broke out as the bus approached the military base; the bus driver was wounded and one journalist killed. The armed group has evidently 'arrested' one of its own activists for organizing this staged provocation.
152. In the east, attempts at manipulation of the media have been especially egregious. Many journalists previously working in the east have already fled after being abducted, harassed, intimidated or otherwise threatened. Those that remain in Luhansk have been instructed by the armed groups on how they should report the news. Words such as 'separatist' and 'terrorist' should not be used, they were told, and each Monday there would be a meeting with the editors of local media to instruct them on what to cover and how. Media outlets were threatened that if they did not cover the activities of the armed

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<sup>92</sup> Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Available at: <http://www.ohchr.org/Documents/Issues/Racism/A-HRC-26-49.pdf>.

<sup>93</sup> On 3 June, the National Journalist Union announced that in cooperation with the OSCE, a special point was opened where journalists could rent flak jackets and other personal safety equipment. On 15 July, the Ukrainian NGO Institute of Mass Information informed the HRMMU that they collect and provide flak jackets to all accredited journalists who work in the east. The accreditation is granted by the Security Service of Ukraine. So far, all journalists who applied for accreditation have received it. The IMI is deeply concerned that many Russian journalists work in Donbas without any accreditation or proper documents and without even basic security training.



groups positively, their equipment would be destroyed and employees put in danger. In Donetsk, all media outlets are required to register with the armed groups' 'Ministry of Information and Communications'. This extends to online resources, including individual bloggers, as well as distributors of print media. Any outlet that does not register would be banned from all media activities. Ukrainian television channel ICTV and the local municipal TV channel 12 in Donetsk were replaced by Russian TV channel broadcasts. On the other hand, four Russian TV channels have already been banned from broadcasting in Ukraine and the process is underway to ban three more following complaints about their content in compliance with the national legislation, particularly related to the use of hate speech and media.

153. The polarization and hardening of attitudes in Ukraine has resulted in some people attempting to muzzle the press or intimidate media outlets in an attempt to influence their editorial policy that they consider contrary to their own viewpoint. For example, the newspaper offices of 'Vesti' in Kyiv were attacked twice within a week, on 28 June and again on 5 July. In Chernivtsi, the local chapter of the National Council of Journalists has appealed to the President and others concerning a number of recent judgments which the organization says will impair journalists' independence and force them to stop writing about important issues and which, in the organization's view, contravene European and Ukrainian law.

#### **D. Freedom of movement**

154. Restrictions on the freedom of movement are a daily experience in areas of the east. Roadblocks and ad hoc checkpoints manned by armed groups regularly stop people who are then searched and valuables stolen or destroyed. Women and girls feel especially vulnerable because of the violence and general lawlessness and, according to the testimony of IDPs, do not go out. The ability of men to freely move in and out of areas controlled by armed groups in the eastern regions is curtailed due to abductions, which at times, lead to forced mobilisation to armed groups.
155. Ukrainian citizens continue to face restrictions and long delays crossing from Ukraine mainland to Crimea and vice versa due to the Crimean border guards.

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

156. The freedom of religion or belief has come under increasing pressure in the last weeks. A disturbing number of incidents have been reported in the east and Crimea. The armed groups have declared that the main religion in Donetsk region was Orthodox Christianity (of the Moscow Patriarchate) and that sects were prohibited. This approach explains to a large extent, the increasing number of attacks on Protestant, Mormon, and Roman Catholic churches in the areas controlled by the armed groups. Religious leaders have been harassed, threatened and abducted.
157. There have been reports of incidents in other parts of the country. For example, in Odesa, law enforcement pre-emptively surrounded a synagogue that was to be a target of an anti-Jewish demonstration thereby deterring the protestors and no gathering occurred.
158. In Kyiv, on 22 June, a more violent protest targeted a religious group perceived as being affiliated with the Russian Federation. The demonstrators included men armed with baseball bats and hammers, some wearing bulletproof vests and clearly intending to do damage. However, once again a large law enforcement presence prevented any

violence. The demonstrators claimed the event, being held at the Orthodox Church, was an attempt by ‘separatists’ to form a ‘Kyiv People’s Republic’.

159. This trend is particularly disturbing as Ukraine until now has demonstrated a general tolerance for different beliefs and religions.

## **VII. ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

160. The full enjoyment of social and economic rights by everyone throughout Ukraine was one of the main aims of the civil society activists, experts and journalists who united after Maidan to lobby for the necessary reforms. However, the new society that they hoped would be created by the “reanimation package of reforms” is still far from reality.
161. The country’s economy remains in recession, with a consequent adverse impact on the right to work. Unemployment increased from 8% to almost 9% in the first 6 months of this year, the inflation rate has reached 16% and utility rates have increased by an average of 30%. Meanwhile salaries and social benefits have been frozen since December 2013. The majority of the registered unemployed are women (at 52.2%) and young people aged 15 to 35 (42.3%). According to the Federation of the Trade Unions of Ukraine, every third person is employed illegally without any social guarantees or protection. There is a need to align labour legislation with international standards<sup>94</sup>, in particular concerning the strengthening of inspections and the protection of public servants, whose mid-level salaries are 48% of the average salary in Ukraine and who lack guarantees of employment, often being the first to be fired when a new administration comes to power.<sup>95</sup>
162. The trade unions are warning that because of these factors, coupled with the lack of meaningful social dialogue or transparency in government, there may be major social unrest in autumn.
163. The Government has proposed that in order to finance the security operation against the armed groups in the east, as well as the repair and revitalization of the Donetsk and Luhansk regions, the Ukraine budget would be amended. Currently the Government estimates that repair of east Ukraine will cost 8 billion UAH (about 750 million USD). Social programmes would be cut by 4.6 billion (about 420 million USD) while the defence and security sectors would grow by 8 billion UAH (about 750 million USD). The budget cuts would include a reduction of 2 billion UAH (about 180 million USD) in unemployment and disability benefits; funding for education and health would also be cut. The salaries of State employees would not be adjusted to keep pace with inflation (currently at 16%).
164. The situation in the east is dire. As of now, 104 buildings remain seized by the armed groups. Of these 24 are military premises, 16 are administrative and local authorities’ buildings, 16 are buildings of the Ministry of the Interior, 7 are Security Service buildings, 5 are prosecutor offices, 4 are of the emergency service of Ukraine, 1 is a tax administration building, and 1 is a court. With banks, the Treasury and pensions funds closed because of the violence and robberies, salaries and social security benefits have not been paid regularly for more than two months. The situation has been especially critical in Slovyansk, Kramatorsk, Snizhne and Krasnyi Luch.

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<sup>94</sup> Labour Inspection Convention, 1947 (No. 81) (would strengthen the institution of inspectors and allow ad-hoc checks at enterprises) and Convention 151 - Labour Relations (Public Service) Convention (would protect rights of public servants).

<sup>95</sup> According to the Trade Union of public servants.

165. Women have been particularly affected in this situation. They make up about 80% of those employed by the government (teachers, doctors, public servants) and were therefore hard hit by the lack of government payments of salaries and social security benefits like child support. Economically women already face a wage gender gap and discrimination in the workplace. With a scarcity of money and food coupled with their responsibility for their households and families, women in the east were further burdened by the constant fear for their lives and security.
166. Negative impacts are also apparent on the right to health. Access to healthcare remains limited in the east, as many hospitals of the region are not operational or are working below their normal capacity, according to the Ministry of Health. The availability of health care staff has decreased, as doctors, especially specialists and surgeons have left. The lack of fuel means the Emergency Medical Service is not operating properly, especially in Slovyansk and Kramatorsk where medical help is mainly delivered by volunteer squads from Kharkiv. Delivery of medicines, including insulin and ARV therapy, has been often disrupted.
167. Due to threats and intimidation, many factories and businesses have had to shut down. For example, in the Luhansk region, four coal mines owned by the DTEK Mining Company were shut down on 10 July because of the risk to miner's lives. This followed an incident in which four miners were killed and 16 wounded, including women, when a bus they were travelling in came under fire. The company also closed its 2 coal enrichment factories. These closures affect 4,500 employees. Armed groups have also seized warehouses and factories, using the premises for such things as training camps or military repair shops. Companies that produce materials that can be used to make weapons have also been seized by the armed groups.
168. In addition, big industrial enterprises and mines are functioning under great risk of sudden power cuts, which can occur anytime as a result of damage caused by shelling. Especially in mines, such an emergency would result in miners being trapped under ground, threatening their lives and their right to safe and healthy work conditions. Numerous factories and other large enterprises use chemicals in their production and have large storage areas of containment. In situations of shelling, these could be damaged causing leakage of dangerous chemical substances, with a negative impact on the right to health and environmental safety for the residents.
169. Eastern Ukraine is the centre for the country's heavy industry. With the economic life of Donetsk and Luhansk now crippled, the impact on the rest of the country will be severe.
170. The rights to an adequate standard of living and the quality of life for residents in the east has been severely impacted and the damage to their towns and villages extensive. In some places this has reached critical levels. For example, as of 15 July, because of damage to the water systems, there was no water in Semenivka, Mykolaivka or Petrivka and residents of Slovyansk were relying on well water which was turbid and with sediment and reaching its limit. In Mykolaivka deliveries of water were being made daily but older persons and people with disabilities had no way to get into town to get the water. There were no water deliveries to Semenivka. In Luhansk, 28 villages were without electricity on 2 July; the power was also cut to 34 cities and villages in the Donetsk region on 4 July because of the fighting and repair work was in progress; according to the electricity company on 2 July, power to healthcare facilities in Kramatorsk was disrupted; 200 people were reported without gas when a gas pipe was damaged by shelling in the village of Vlasivka (Luhansk) on 3 July. Fuel was reportedly in short supply with only one petrol station remaining open to serve Kramatorsk and

Slovyansk (15 miles away) on 4 July. On 27 June, the Donetsk Mayor said the sewage pumping station was not operational in Slovyansk, causing all sewage to flow untreated into the river which is relied on by people in downstream towns for drinking water. Semenivka, in the suburbs of Slovyansk, has suffered so much damage from the fighting it likely will not be repaired.

171. In the Donetsk and Luhansk regions there have been at least 24 explosions of railway lines, bridges and freight trains since 19 June. There are concerns that these acts are part of the armed group's policy to control and raise corrupt profits from trade, as train transport is harder to control than trucks. Meanwhile, in mid-July residents of Donetsk were reported to be waiting for hours in order to catch a train to leave the area, anticipating the blockade around their city that the Government had warned it would impose. Damage to public transportation negatively affects the right to an adequate standard of living.
172. In Crimea, water supply through the North Crimean Canal was blocked by the Ukrainian Department of the North Crimean Canal on 12 May. As much as 80% of Crimea's water reserves used to come from mainland Ukraine. While this situation will not affect drinking water, the consequences of the decision to halt water supply have already started being felt on the harvest of crops, particularly rice and potatoes, which was lower than in the previous year.

## **VIII. MINORITY RIGHTS AND OTHER GROUPS FACING DISCRIMINATION**

173. Despite the escalation of violence in the east and the rise of hate speech, particularly in social media, incidents of actual harassments or violent attacks on minorities remain isolated and rare.<sup>96</sup> Representatives of ethnic and national groups who the HRMMU have spoken to, do not report any systematic negativism or discrimination against them.
174. A few individual cases of hostility and anti-minority acts were reported to the HRMMU. For example, on 25 June in Ivano-Frankivsk region, an activist of the Ukrainian Greek Ethnic and Cultural Society had his property defaced with the Russian and armed groups' flags. He believes it was done by the local Self Defence group who have threatened him previously for questioning the lawfulness of their activities. He also believes there is a connection to his Greek ethnic origin and perceives the situation as inciting hostile attitudes in the region. On 3 July, in Mykolaiv, a monument commemorating Holocaust victims was defaced with brilliant green dye.
175. Representatives of some ethnic communities raised specific concerns about intolerant attitudes towards them. For instance, Roma activist mentioned to the HRMMU that Roma IDPs are less likely to receive help, particularly accommodation; in several towns and villages, local authorities requested Roma families to leave; some local residents were also hostile. People belonging to the Chechen minority fear that because citizens of the Russian Federation from the Republic of Chechnya are known to have participated in the fighting in the eastern regions of Ukraine, people belonging to the Chechen minority in Ukraine might eventually face threats and discrimination.

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<sup>96</sup> In her visit to Ukraine in April, the Special Rapporteur on minority issues reported that the country had a history of harmonious inter-ethnic and inter-faith relations and a legislative, policy and social environment that is generally conducive to the protection of their rights, including cultural and linguistic rights. Nevertheless it was noted that some grievances do exist and that minority rights had become a highly politicized issue.

176. A few incidents of intolerance were based on sexual orientation and gender identity. On 8 June in Donetsk and on 6 July in Kyiv, LGBT clubs were attacked by armed men. The attackers insulted visitors on the basis of their sexual orientation. Although the LGBT rights parade ‘March of Equality’ planned for 5 July in Kyiv was cancelled, as reportedly police could not guarantee participants’ safety, the organisers of the event still received threats and numerous hate comments in social media.
177. In its previous recommendations, the HRMMU stressed the importance of ensuring inclusivity and equal participation of all in public affairs and political life. The law “On Minorities” adopted in 1992 is declarative and does not provide sufficient legal basis for the active participation of minorities in decision-making processes. Unfortunately, no particular efforts were made to develop a mechanism which could have facilitated participation of all minorities and indigenous peoples in the recent national unity round tables on the constitutional changes.
178. Among positive developments, on 18 June, the Cabinet of Ministers created a Commissioner on Ethno-National Policy. The mandate, defined by the Decree of the Cabinet of Ministers Nr. 164 as of 4 June, is to facilitate cooperation between authorities and civil society to “ensure protection of ethnic and national minorities and indigenous peoples, preserve inter-ethnic unity and concord in Ukrainian society”. The Commissioner should develop and present the Cabinet of Ministers with measures to improve ethno-national policy and to prevent inter-ethnic conflicts and acts of discrimination.

## **IX. POLITICAL RIGHTS**

179. In the past few weeks there has been growing frustration expressed by citizens in many different regions (e.g. Ivano-Frankivsk, Ternopil and Lviv) over the way regional and local appointments are made without regard to public opinion. In numerous demonstrations and meetings, people have demanded that they be consulted before such appointments are made and that senior officials, usually appointed by central government, should be of local origin and of people well trusted by the community. Sometimes these protests have been effective in stopping a particular appointment. However, the public lack of trust in political institutions and actors - the result of years of widespread corruption and mismanagement – needs to be systematically addressed, in particular at the regional, district and local levels. It remains to be seen if changes currently being drafted to the Constitution will sufficiently address this issue.
180. Recommendations made in the previous report concerning the conduct of the Presidential election held on 25 May and about the need for inclusive consultations, are pertinent to the anticipated Parliamentary election. This election must be free, fair and transparent. Equally important is the need for political parties and their supporters to refrain from intolerance and hate speech, as well as from harassment or physical attack on candidates, all of which were factors during the Presidential election. It is hoped that a new Parliament will reflect the new political and social reality of the country.
181. Women hold less than 10% of the parliamentary seats in Ukraine and only one woman has a Cabinet position. A draft law that provided for gender quotas, requiring political parties to ensure that women comprised 30% of their party lists of candidates, languished after the first reading last year.

182. There is also a need for inclusiveness and meaningful consultations with people from all components of society (national, ethnic, linguistic, religious and other minorities, women, indigenous people, representatives of civil society, all political parties and of the ‘peaceful population’ of the east) about important government decisions. As previously reported, this did not happen sufficiently in the development of the new constitutional amendments which were finally published on 2 July.
183. Concerning consultations with the peaceful population of the east referred to above, this is particularly meaningful since there appears to have been a lack of communication with central government due in large part to the fighting and the consequent disruption of regional and local government. This has been coupled with an increase in the level of fear, intimidation, rhetoric and propaganda aimed at the residents of the east by the armed groups that has escalated along with the fighting. As the Government regains control of areas in the east, it should make every effort to include representative voices from the peaceful population in decisions about the rebuilding and rehabilitation of their region. Only through such inclusive and participatory dialogue will there be a de-escalation of tensions and the restoration of law and order.

## **X. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

184. In the previous three reports, the HRMMU made 17 recommendations relating to the situation in Crimea, primarily addressed to the Russian Federation. They addressed ways the authorities could protect and enhance the enjoyment of human rights for all residents of Crimea. There has been no progress in implementing them. The HRMMU will continue monitoring the situation.
185. According to UNHCR, as of 15 July 13,381 people have moved from Crimea. A new Crimean Ombudsperson has been appointed, the first to occupy such a post. She was appointed after a majority vote in the Crimean Parliament/State Council of Crimea on 9 July. In Lviv, a Crimean NGO warned that there could be a new wave of IDPs during August-September. This would include business people who were having serious difficulties with continuing to operate their businesses in Crimea; lecturers and teachers because they fear they will be sacked at the beginning of the new academic year for holding Ukrainian nationality or because they are Crimean Tatar; and families with sons of military age who do not want to be called for service into the Russian Federation army.
186. In contravention of General Assembly resolution 68/262 on the territorial integrity of Ukraine, the Russian Federation applies laws and regulations of the Russian Federation to the people of this territory. This continues causing confusion, legal problems and jeopardizing the rights of the residents of this region, in particular those who do not hold Russian Federation citizenship. Prisoners in Crimea are facing specific challenges: they could not leave the peninsula after the March “referendum”, as other residents chose to do. In addition, the right to reject Russian citizenship within the specified timeframe of one month from 16 March until 18 April 2014, was hampered by their deprivation of liberty.
187. All the issues previously reported on remain concerns. This is particularly true of harassment and discrimination against ethnic Ukrainians, Crimean Tatars, representatives

of religious minorities, minority groups in general, and activists who opposed the 16 March 'referendum' in Crimea.<sup>97</sup>

188. The detention of Ukrainian filmmaker Oleg Sentsov, who was arrested in Crimea and transferred to the Russian Federation on terrorism charges, was extended until 11 October. Three other activists are also detained on the same grounds. Despite the fact that Sentsov is a citizen of Ukraine, Federal Security Service (FSB) of the Russian Federation allegedly wrote in the official investigation file that "Oleg Sentsov is a Russian citizen with a Ukrainian passport". According to Sentsov's lawyer, his client has never applied for Russian citizenship. It would appear that since Sentsov did not explicitly renounce Ukrainian citizenship within the deadline provided under Russian legislation, he is automatically considered to have become a Russian citizen<sup>98</sup>. The head of the Crimean centre of business and cultural cooperation "Ukrainian House", who currently lives in Kyiv, was informed by his neighbours that his apartment in Crimea was sealed by the self-defence forces. A madrasa (Islamic religious school) in the village of Kolchugino was searched on 24 June by men in camouflage uniforms who said they were officers of the "centre for combating extremism" of the Russian FSB. During the search, several doors and windows were broken. No reason was provided for the search.
189. Representatives of religious minorities are under pressure to leave Crimea. A pastor of the Protestant Church from Simferopol and his family decided to leave Crimea after he was told by FSB officers that he could 'disappear' like the three pro-Ukrainian activists who went missing in May 2014. According to the pastor, it became dangerous even to wear clerical cloths since the "Russian Cossacks" and representatives of other 'pro-Russian' groups were very aggressive. The Bishop of the Ukrainian Orthodox Church (from the Kyiv Patriarchate) in Crimea reported about increasing pressure on believers and the church property being under threat.
190. The whereabouts of three pro-Ukrainian activists who disappeared in May 2014 are still unknown. On 23 June, the director of a Crimean human rights organization was told by an investigating officer from Crimea that the three were neither in a pre-trial detention centre nor in an FSB facility. No less critical is the situation of people living with HIV/AIDS, particularly drug addict patients and prisoners who do not have access to the substitution maintenance therapy that they previously received; several patients have reportedly died since 10 June due to the lack of necessary medication.
191. Movement to and from Crimea continued to be strictly controlled, and in some cases, prohibitions have been imposed. Representatives of the Crimean Tatar community have been targeted who opposed the March 'referendum'. Thus, the authorities of Crimea have barred on 5 July the head of the Mejlis of the Crimean Tatar People, Refat Chubarov, from entering Crimea. A similar measure had been taken against the former head of the Mejlis, Mustafa Dzhemiliev, in May 2014. In both cases, the decision was justified by alleged 'extremist' statements having been made. The Ukrainian Foreign Ministry condemned the ban and the Ombudsperson of Ukraine said it infringed international law and violated fundamental rights and freedoms of the indigenous people of Crimea.
192. Restrictions continued to be placed on the exercise of the right to peaceful assembly. The authorities in Simferopol rejected three proposals submitted by the representatives of the Crimean Tatar community concerning the location to celebrate the Crimean Tatar Flag Day, a festive event celebrated since 2009. The authorities insisted that the event be

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<sup>97</sup> The UN General Assembly in Resolution 68/262 on 27 March, 2014, declared the 'referendum' held in Crimea on 16 March 2014 as having no validity.

<sup>98</sup> In its second and third public reports, the HRMMU raised concerns that unclear procedures of acquiring and renouncing citizenship would cause difficulties and violations of the right to citizenship.

held far from the city centre and in areas mainly populated by Crimean Tatars. The official celebration, with about 500 people, eventually took place on 26 June in the district of compact settlement of the Crimean Tatars instead of the central area of the capital of Crimea. The police controlled the perimeter of the gathering and people were searched. No significant incidents were reported. Several Ukrainian and Crimean Tatar media outlets are under threat of closing. The editor's office of "Krymskaya Svetlitsa", the only Ukrainian language newspaper in Crimea, received an order from the Crimean authorities to leave the premises which they have been renting for years. The distribution network refuses to distribute the newspaper in its newsstands and it has not been included in the subscription catalogue. New laws have been rapidly introduced, without any prior consultation or notice that may have significant implications for those affected. For example, for employment purposes, Ukrainian nationals resident in Crimea who rejected Russian citizenship are now considered foreigners, and may be employed only if their employer has a permit to employ foreigners. A quota system providing the number of foreigners who may be employed in Crimea is provided by the Russian Federation. Employers had very little notice of the need to apply for a permit by 15 July, and those without could be fined 800,000 RUB (more than 22,000 USD). The effects of this law on Crimean residents who are Ukrainian nationals have yet to be seen.<sup>99</sup>

193. Russia and Ukraine have reached agreement on the price of electric power supplies to Crimea but no official contacts have been established as regards water supply. The current impact of water restrictions in Crimea is described earlier<sup>100</sup>. The Ukrainian Ministry of Infrastructure announced the closure of its ports in Crimea (Evpatoria, Kerch, Sevastopol, Feodosia, and Yalta) for international shipping, effective 15 July.
194. On 7 July 2014, the International Civil Aviation Organization officially confirmed that the airspace over Crimea belongs to Ukraine and the organization denied that it had transferred the management of the airspace to the Russian Federation. The Ukrainian Ministry of Justice said it was seeking 1 million UAH per day (about 91,000 USD) compensation from the Russian Federation for illegally providing air navigation services over Crimea and its territorial waters (the 19-kilometer zone). Otherwise Ukraine will file a claim for the expulsion of the Russian Federation from the Convention on International Civil Aviation.
195. The situation of people living with HIV/AIDS is difficult, particularly for prisoners. Due to the differences in the approved schemes for HIV treatment in Ukraine and the Russian Federation, patients in Crimea have been forced to change their medications. Drug users have been put in a particularly vulnerable position, as they do not have access to the Opioid Substitution Therapy<sup>101</sup>, which is prohibited by legislation of the Russian Federation. Since 10 June, 20 patients have reportedly died due to the lack of necessary medication and some have allegedly returned to the usage of illegal drugs.

## **XI. CONCLUSIONS**

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<sup>99</sup> In its second and third public reports, the HRMMU warned that imposed legislative changes over such a short period of time would inevitably have an adverse impact on the possibility of residents to exercise the full scope of their rights.

<sup>100</sup> See Chapter VII.

<sup>101</sup> World Health Organisation recognizes Opioid Substitution Therapy as one of the most effective harm reduction programmes, which are widely used to control HIV/AIDS and other infectious diseases among injecting drug users.



196. Notwithstanding the challenges the Government faces trying to restore law, order and security as well as combat armed groups in the east, it needs to address the wider systemic problems facing the country with respect to good governance, rule of law and human rights. This requires deep and badly needed reforms, especially as Ukraine seeks to fulfil its EU aspirations and establish a democratic and pluralistic society.
197. It is thus imperative for the Government to ensure priority attention to addressing comprehensively the recommendations made by international human rights mechanisms (UN treaty bodies, special procedures, and the UPR).
198. Annex 1 to this report contains recommendations from the UN Human Rights mechanisms and OHCHR based on the monitoring work of the HRMMU, which could form the basis of a multi-year national human rights action plan to be developed and implemented – with clear benchmarks and timelines – through a senior coordination mechanism led by the Government of Ukraine, with the participation of key Ministries, relevant State Institutions, including the Ombudsman, and civil society organisations. The international community and the UN system stand ready to support Ukraine in the implementation of such a plan, firmly convinced that it will be essential to ensuring the success and long-term sustainability of on-going peace, security and development efforts.

**Compilation of recommendations by the UN Human Rights Mechanism  
and the UN Human Rights Monitoring Mission in Ukraine**

The following recommendations are a thematic compilation of recommendations from the UN Human Rights mechanisms – treaty bodies, special procedures and the universal periodic review (UPR) – as well as from the first three reports of the UN Human Rights Monitoring Mission in Ukraine (HRMMU).

*A glossary of acronyms is on the last page of this Annex.*

**Theme 1: Rule of law, accountability and administration of justice**

*Treaty Bodies*

- CAT (2011) reiterated its recommendation that the reform of the Prosecutor's Office should ensure its independence and impartiality and separate the criminal prosecution functions from those of investigating alleged abuse. WGAD (2009) made similar observations.
- CRC urged the Government to put in place a juvenile justice system; ensure a restorative juvenile justice system promoting alternative measures to deprivation of liberty and strengthen the social support services. WGAD made similar recommendations.
- The HR Committee (2013) recommended the State party to take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body.
- The HR Committee urged the State party to adopt a law providing for clear procedures and objective criteria for the promotion, suspension and dismissal of judges.
- The HR Committee also noted that Government should ensure that prosecuting authorities are not involved in deciding on disciplinary actions against judges and that judicial disciplinary bodies are neither controlled by the executive branch nor affected by any political influence.

*Special Procedures*

- WGAD (2009) recommended that Ukraine provide the legal and operational framework for an independent and effective judiciary, including through appropriate recruitment.
- WGAD recommended that Ukraine amend the Criminal Procedure Code to the effect that convictions exclusively based on confessions are inadmissible.
- WGAD recommended that Ukraine: (a) ensure that in practice all detainees have recourse to lawyers from the moment of arrest and (b) legally enact a Bar Association with an independent and effective mandate.

*UPR recommendations (2012)*

- Speed up the work to bring the Criminal Procedure Code in line with European standards, as proposed by the Council of Europe.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to limit the powers of the Prosecutor General's office.
- Implement genuine measures ensuring truly independent judiciary, including establishing transparent procedures and criteria regarding the appointment and dismissal of judges and the use of disciplinary measures.
- Continue strengthening the independence and impartiality of the judiciary and guaranteeing greater transparency of legal procedures, through measures such as the review of the Criminal Code and of the Public Prosecutor's Office.
- Provide the legal and operational framework for an independent judiciary, inter alia, by establishing fair procedures and criteria regarding the appointment and dismissal of judges.

- Consider establishing enhanced procedures and transparent criteria regarding the appointment and dismissal of judges, and the application of disciplinary measures in order to dispel concerns of the international community regarding the independence of the judiciary.
- Provide the legal and operational framework for an independent and effective judiciary, and undertake reform of the Prosecutor's Office that ensures its independence and impartiality and separate the criminal prosecution functions from those investigating alleged abuse.
- Further strengthening of the judiciary by investigating all allegations of human rights violations by law enforcement officers and the police.
- Take concrete steps to improve the objectivity and independence of the criminal justice system by incorporating the recommendations of the Venice Commission, implementing the judgments of the European Court of Human Rights, and addressing concerns about selective justice.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to limit the powers of the Prosecutor General's office, and establish an impartial and independent criminal justice system, in line with Ukraine's obligations under the ICCPR.
- Full implementation of the new criminal procedure code, and that the independency of judges is strengthened, the role of the public prosecution is balanced and corruption in judiciary system is tackled.
- Continue to make efforts with regard to reform in criminal proceedings, including enhancing the independence and impartiality of the Prosecutor's Office, as well as the updating of pre-trial investigation procedures.
- Create an independent body to investigate cases of torture and guarantee compensation for victims. Additionally, bring conditions of detention in line with international standards and ensure respect for the judicial guarantees of detainees.
- Further pursue its effort to provide human rights training for police personnel to effectively fight hate crimes.
- Issue a comprehensive anti-discrimination law and update the national action plan in order to dedicate special attention to addressing the practices of law enforcement officials, as well as the legal and practical measures needed to combat incitement and hate crimes.
- Provide training for staff of law enforcement bodies on the rights of detainees.
- Take urgent measures to prevent cases of ill-treatment and torture by police officers.
- Protect and promote effectively the right to a fair trial in accordance with internationally established standards.
- Take the necessary steps to ensure that all allegations of mistreatment are impartially investigated.
- Ensure non-selective prosecutions on its territory and a fair trial for persons being prosecuted, in conformity with the standards as under article 14 of the ICCPR, including the right to appeal laid down in paragraph 5.
- Urgently address the problem of the acceptance by the courts of evidence obtained as a result of ill-treatment in detention.
- Consider stepping up efforts towards reform in juvenile justice.
- Strengthen and advance its efforts for establishing a juvenile justice system and promote alternative measures to deprivation of liberty for juvenile offenders.
- Ensure that the new Criminal Procedure Code respects the human rights of those held in custody, and that the statements informing migrants of the justification for their deportation is in one of the languages that the deportee understands.

*HRMMU 15 April 2014 Report*

- Ensure the institutional independence of the State Bureau of Investigation, under Article 216 of the new CCP, which provides for its creation within five years (as of 2012) to enable it to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. It will be very important to ensure that this new body is

independent from the Prosecutor's Office. Public accountability and sufficient resourcing is essential to enable it to function effectively, promptly, independently and impartially.

*HRMMU 15 May 2014 Report*

- The deterioration in the east of Ukraine – the unlawful activities of the armed groups, including the seizure and occupation of public and administrative buildings, and numerous human rights abuses, inter alia, unlawful detentions, killings, torture/ill-treatment and harassment of people – remain the major factor in causing a worsening situation for the protection of human rights. A prompt, impartial and comprehensive investigation should be undertaken into the events and violence in the east.
- The violent clashes in Odesa on 2 May resulted in the deaths of 46 people, with over 200 injured and 13 remaining missing. It appears to have hardened the resolve of those opposing the Government, and deepened division between communities. There is a need for an independent investigation into the violent events of that day. The perpetrators must be brought to justice in a fair and non-selective manner.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All gaps of legislation should be brought in line with the recommendations of the international human rights mechanisms (Treaty Bodies, Universal Periodic Review and Special Procedures); the Judiciary, Office of the Prosecutor General and the Bar Association should operate in line with relevant international norms and standards in order to ensure fair trial without which it is impossible to tackle corruption.
- The Constitutional Court should be enhanced – legal, social and all other guarantees need to be elaborated in order to ensure the genuine independence of the Constitutional Court.
- Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
- Ukrainian legislation should remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
- Criminal and administrative liability should not be used as a mechanism of intimidation against Crimean Tatars and other residents of Crimea, but used in line with international law.

Accountability and Rule of Law:

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Ensure accountability for all human rights violations committed during the period of unrest, through securing of evidence and thorough, independent, effective and impartial investigations, prosecutions and adequate sanctions of all those responsible for these violations; ensure remedies and adequate reparations for victims.
- Ensure that any lustration initiatives are pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.

To the authorities in Crimea:

- Act to re-establish the rule of law, including by the effective disbandment of any and all ‘self-defence forces’ and/or para-military groups. Reform the administration of justice system so that it functions independently, impartially and effectively; reform the security sector so as to ensure that it functions in full respect of international norms and standards; provide for full accountability for human rights violations.

- Strengthen rule of law institutions so that they fully comply with relevant international and regional human rights norms and recommendations of human rights mechanisms.

*HRMMU 15 May 2014 Report*

- All armed groups must disarm and their unlawful acts brought to an end, including the immediate release all those unlawfully detained, and the vacation of occupied public and administrative buildings, in line with the provisions of the 17 April Geneva Agreement. Those found to be arming and inciting armed groups and transforming them into paramilitary forces must be held accountable under national and international law.

*HRMMU 15 June 2014 Report*

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.

Judiciary

*Treaty Bodies*

- HR Committee (2013) – urges the State party to ensure that judges are not subjected to any form of political influence in their decision-making and that the process of judicial administration is transparent. The State party should adopt a law providing for clear procedures and objective criteria for the promotion, suspension and dismissal of judges. It should ensure that prosecuting authorities are not involved in deciding on disciplinary actions against judges and that judicial disciplinary bodies are neither controlled by the executive branch nor affected by any political influence. The State party should ensure that prosecutions under article 365 of the Criminal Code fully comply with the requirements of the Covenant.

*UPR Recommendations (2012)*

- Take the necessary steps to ensure that all allegations of mistreatment are impartially investigated.
- Implement genuine measures ensuring truly independent judiciary, including establishing transparent procedures and criteria regarding the appointment and dismissal of judges and the use of disciplinary measures.
- Continue strengthening the independence and impartiality of the judiciary and guaranteeing greater transparency of legal procedures, through measures such as the review of the Criminal Code and of the Public Prosecutor's Office.
- Provide the legal and operational framework for an independent judiciary, inter alia by establishing fair procedures and criteria regarding the appointment and dismissal of judges.
- Consider establishing enhanced procedures and transparent criteria regarding the appointment and dismissal of judges, and the application of disciplinary measures in order to dispel concerns of the international community regarding the independence of the judiciary.
- Provide the legal and operational framework for an independent and effective judiciary, and undertake reform of the Prosecutor's Office that ensures its independence and impartiality and separate the criminal prosecution functions from those investigating alleged abuse.
- Take concrete steps to improve the objectivity and independence of the criminal justice system by incorporating the recommendations of the Venice Commission, implementing the judgments of the European Court of Human Rights, and addressing concerns about selective justice.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to establish an impartial and independent criminal justice system, in line with Ukraine's obligations under the ICCPR.
- Full implementation of the new Criminal Procedure Code, and that the independency of judges is strengthened, the role of the public prosecution is balanced and corruption in judiciary system is tackled.

- Continue to make efforts with regard to reform in criminal proceedings, including enhancing the independence and impartiality of the Prosecutor's Office as well as the updating of pre-trial investigation procedures.
- Urgently address the problem of the acceptance by the courts of evidence obtained as a result of ill-treatment in detention.

#### *HRMMU 15 May 2014 Report*

- The Law "On the restoration of the credibility of the judiciary in Ukraine" must be brought in line with international norms and standards.

#### Equality before the law, courts and tribunals

##### *UPR Recommendations (2012)*

- Fulfil its commitments on the use of minority language in justice, in both criminal and civil procedures.

#### Right to a fair trial

##### *UPR Recommendations (2012)*

- Protect and promote effectively the rights to a fair trial in accordance to the internationally established standards.
- Ensure a fair trial for persons being prosecuted, in conformity with the standards as under article 14 of the ICCPR, including the right to appeal laid down in paragraph 5.

#### *HRMMU 15 June Report*

To the Government of Ukraine and other stakeholders:

- The State Migration Service should propose amendments to bring the refugee law in line with international standards, and to allocate sufficient funds to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.

#### Impunity

##### *Treaty Bodies*

- HR Committee (2013) - The State party should take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body, that sentencing practices and disciplinary sanctions against those found responsible are not overly lenient, and that appropriate compensation is provided to families of victims.

##### *UPR Recommendations (2012)*

- Improve the legislation and its application in order to combat police impunity and to increase the number of criminal investigations of suspected perpetrators accused of police brutality.
- Take sincere efforts to hold accountable those police and law enforcement officers responsible for the torture and ill-treatment of detainees.
- Ensure police officers accountability for any criminal acts.

#### Juvenile justice

##### *UPR Recommendations (2012)*

- Consider stepping up efforts towards reform in juvenile justice.
- Strengthen and advance its efforts for establishing a juvenile justice system and promote alternative measures to deprivation of liberty for juvenile offenders.

#### Law Enforcement

##### *HRMMU 15 April 2014 Report*

- Ensure that policies, practices and instructions applicable to the management of peaceful assemblies are observed through rigorous training for the personnel involved. In particular, effective internal oversight mechanisms must be put in place in order to review all incidents of

injury or loss of life resulting from the use of force by law enforcement personnel as well as all cases of use of firearms during duty.

#### *HRMMU 15 May 2014 Report*

- Security and law enforcement operations must be in line with international standards and guarantee the protection of all individuals at all times. Law enforcement bodies must ensure that all detainees are registered and afforded legal review of the grounds of their detention.
- There is an increasing tendency in some critical urban areas for rallies of opposing groups to be held simultaneously, often leading to violent confrontations and clashes. This trend can be reverted by replacing incitement to hatred with the culture of tolerance and mutual respect for diverging views. Peaceful demonstrations must be permitted, as a matter of international law, and also as a way for people to express their opinion. Law enforcement agencies must facilitate peaceful assemblies, ensuring the protection of participants, irrespective of their political views. In this context, law enforcement officers must receive adequate training for handling rallies and protests in line with the international human rights standards.
- The law enforcement reform package should aim to reinforce the rule of law; to de-politicise, de-militarise, de-centralise and strengthen the structure of the law enforcement bodies through accountability, transparency, and closer cooperation with the public and local communities, as well as professionalising the staff.

### **Theme 2: Right to life, liberty and security of the person, torture and ill treatment**

#### *Treaty Bodies*

- The HR Committee (2013) urged Ukraine to take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body.
- HR Committee recommended Ukraine to adopt a new legislation on prevention of domestic violence.
- CEDAW (2010) urged Ukraine to work towards a comprehensive approach to preventing and addressing all forms of violence against women; ensure effective penalties in cases of domestic violence and access of victims of domestic violence to shelters and social centres and to immediate means of redress and protection.
- CRC (2011) urged Ukraine to step up its efforts to prevent and combat all forms of abuse and neglect of children, adopt preventive measures and provide protection and services for their recovery.
- CRC urged Ukraine to end all forms of corporal punishment in the home and other settings by implementing the existing legislative prohibition.
- CRC urged Ukraine to eliminate exploitative child labour, in particular in the informal sector and ensure effective enforcement of applicable sanctions against persons violating legislation on child labour.
- CRC recommended that Ukraine develop a national strategy for the prevention of, support for and social reintegration of such children and increase the number and quality of shelters and psychosocial rehabilitation centres for children in street situations.
- CEDAW (2010) called upon Ukraine to address the root causes of trafficking, establish additional shelters for rehabilitation and social integration of victims and ensure systematic investigation, prosecution and punishment of traffickers. CRC also recommended that Ukraine seek technical assistance from UNICEF, IOM and other partners.

#### *Special Procedures*

- WGAD (2009) recommended that Ukraine ensure a policy of zero-tolerance of torture and that any related allegation is promptly and properly investigated. CRC made similar recommendations.

#### *UPR Recommendations (2012)*

- Establish an independent national preventive mechanism in accordance with its obligations under the OPCAT.
- Consider bringing national legislation relating to trafficking in and sale of children in line with the Optional Protocol to the CRC, on the sale of children, child prostitution and child pornography.
- In the realm of the new criminal procedure code, establish an independent mechanism for the investigation of alleged cases of torture by officers of law-enforcement agencies independent from the Ministry of the Interior and the Prosecutor's Office.
- Pay due attention to the recommendations made by the Special Rapporteur on torture.
- Take further measures to ensure systematically safeguards against occurrence of torture or ill-treatment in particular in prison and detention facilities, while implementing also recommendations of the European Committee for the Prevention of Torture.
- Create an independent body to investigate cases of torture and guarantee compensation for victims.
- Ensure that the right of victims of torture or other cruel, inhuman or degrading treatment to obtain reparation is respected.
- Continue to strengthen provisions to address domestic violence, and programmes to reinforce mechanisms for the protection of women and children;
- Respect the principles and standards provided by the Council of Europe Convention on preventing and combating violence against women and domestic violence, even prior to its ratification and entry into force.
- Allocate adequate resources to ensure the effective implementation of the Combatting Trafficking in Persons Act (2011).
- Step up the national efforts in the field of trafficking in persons through a victim-oriented approach that attaches special focus on the protection of children from abuse and sexual exploitation.
- Continue efforts in combating human trafficking and provide the necessary assistance to victims of trafficking.
- Redouble its efforts in regard to combating trafficking in persons, particularly in combating the trafficking of children for sexual and labour exploitation, including through addressing the root causes of trafficking, establishing additional shelters for rehabilitation and social integration of victims and ensuring systematic investigation, prosecution and punishment of traffickers.
- Give adequate training on the Law on combating trafficking in human beings to all those involved in the fight against human trafficking, especially border guards.
- Continue its efforts aimed at fighting trafficking in persons, particularly children and women, and at ensuring compensation and rehabilitation for trafficking victims.
- Improve the legislation and its application in order to combat police impunity and increase the number of criminal investigations of suspected perpetrators accused of police brutality, as well as provide training for staff of law-enforcement bodies on the rights of detainees.
- Ensure that the right of victims of torture or other cruel, inhuman or degrading treatment to obtain reparation is respected.
- Take sincere efforts to hold accountable those police and law enforcement officers responsible for the torture and ill-treatment of detainees.
- Take urgent measures to prevent cases of ill-treatment and torture by police officers and ensure their accountability for any criminal acts.
- Strengthen the effectiveness and the independence of the mechanisms to supervise the observance of human rights of inmates and persons under police custody with the aim of preventing ill-treatment.

#### *Treaty Bodies*

- HR Committee (2013) - The State party should reinforce its measures to eradicate torture and ill-treatment, ensure that such acts are promptly, thoroughly, and independently investigated,



that perpetrators of acts of torture and ill-treatment are prosecuted in a manner commensurate with the gravity of their acts, and that victims are provided with effective remedies, including appropriate compensation. As a matter of priority, the State party should establish a genuinely independent complaints mechanism to deal with cases of alleged torture or ill-treatment. It should also amend its Criminal Procedure Code to provide for mandatory video recording of interrogations, and pursue its efforts towards equipping places of deprivation of liberty with video recording devices with a view to discouraging any use of torture or ill-treatment.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All armed groups must immediately put an end to their violent activities and lay down their arms.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security.

Right to life – excessive use of force

*UPR Recommendations (2012)*

- In the realm of the new Criminal Procedure Code, establish an independent mechanism for the investigation of alleged cases of torture by officers of law enforcement agencies independent from the Ministry of the Interior and the Prosecutor's Office.
- Further strengthening of the judiciary by investigating all allegations of human rights violations by law enforcement officers and the police.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- The Government must ensure that its armed forces refrain from using excessive force, and ensure that its on-going security operations are at all times in line with the relevant international standards applicable to different types of operations. In all circumstances, it must ensure the protection of those who are not involved in the fighting.

Arbitrary arrest and detention

*UPR Recommendations (2012)*

- Additionally, bring conditions of detention in line with international standards and ensure respect for the judicial guarantees of detainees.
- Strengthen the effectiveness and the independence of the mechanisms to supervise the observance of human rights of the inmates and the persons under police custody with the aim of preventing ill-treatment.
- Ensure non-selective prosecutions on its territory.
- Ensure that the new Criminal Procedure Code respects the human rights of those held in custody.

*HRMMU 15 April 2014 Report*

To the authorities in Crimea:

- Publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions.
- Take all measures to ensure that the human rights of Ukrainian soldiers based in Crimea are also fully respected.

- Take all needed measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to access to citizenship, right of residence, labour rights, property and land rights, access to health and education.

*HRMMU 15 May 2014 Report*

To the authorities in Crimea:

- Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All people detained in the context of the security operations should be treated in line with international norms and standards and guaranteed their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law. In order to protect its security personnel and persons not involved in the fighting, the Government should consider providing assurances that acts of abduction and detention by armed groups will not be prosecuted provided that they do not target people not involved in the fighting and the victims are treated humanely at all times.

### **Theme 3: Corruption**

*CESCR (2014)*

- The State party should, as a matter of priority, address the root causes of corruption and adopt all necessary legislative and policy measures to effectively combat corruption and related impunity and ensure that public affairs, in law and in practice, are conducted in a transparent manner. It also recommends that the State party make politicians, members of parliament and national and local government officials aware of the economic and social costs of corruption, and make judges, prosecutors and the police aware of the need for strict enforcement of the law.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Put in place, as a matter of priority, all legislative and policy measures needed to effectively eradicate corruption.

### **Theme 4: Equality and Non-Discrimination**

*Treaty Bodies*

- The HR Committee (2013) recommended the State party to further improve its anti-discrimination legislation to ensure adequate protection against discrimination in line with the Covenant and other international human rights standards. The Committee noted that Government should explicitly list sexual orientation and gender identity among the prohibited grounds for discrimination and provide victims of discrimination with effective and appropriate remedies.
- The HR Committee urged the Government to state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or trans-sexuality, or hate speech, discrimination or violence against persons because of their sexual orientation or gender identity.
- The HR Committee urged that State party to strengthen its efforts to combat hate speech and racist attacks, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also step up its

efforts to ensure that alleged hate crimes are thoroughly investigated, that perpetrators are prosecuted under article 161 of the Criminal Code and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated.

- CERD (2011) urged Ukraine to accelerate the adoption of an anti-discrimination act stipulating the definition of direct/indirect and de facto/de jure discrimination.
- CEDAW (2010) recommended that Ukraine implement temporary special measures, including quotas, to achieve gender equality in areas where women are underrepresented or disadvantaged and for women suffering from multiple forms of discrimination, such as Roma women.
- CEDAW called upon Ukraine to amend the Equal Rights and Opportunities Act to strengthen the complaints and sanctions mechanisms and to bring the definition of discrimination against women into conformity with the Convention, by encompassing both direct and indirect discrimination. CEDAW recommended that Ukraine strengthen the national mechanism for the advancement of women by raising its authority and provide it with adequate resources. CEDAW also encouraged Ukraine to adopt a national plan of action with a comprehensive approach to gender equality and to allocate sufficient resources for its implementation.
- Noting the adoption of the Plan of Action to Combat Xenophobia and Racial and Ethnic Discrimination (2010-2012), CERD (2011) recommended that Ukraine establish institutional mechanisms to counter racial discrimination and re-activate institutions which had ceased to be operational, particularly the Inter-departmental Working Group against Xenophobia and Ethnic and Racial Intolerance. Furthermore, it recommended that Ukraine mandate the Parliamentary Commissioner for Human Rights with specific competence in the field of racial discrimination, in particular to process complaints and take measures in response to the victims' concerns of racial discrimination and ensure their access to the Commissioner's Office at the regional, district and municipal levels.
- CERD recommended that Ukraine establish civil and administrative liability for racial discrimination, including hateful opinions spread by the media and guarantee remedies and compensation to victims. CERD urged Ukraine to: investigate hate crimes; ensure that the police do not engage in racial or ethnic profiling and bring perpetrators to justice.
- CERD strongly recommended that the State party closely monitor the activities of extremist organizations, and adopt legal and policy measures with the aim of preventing their registration and disbanding their activities, as necessary, and ensuring the protection of foreigners and members of "visible minorities" against all acts of violence.
- CRC (2011) urged Ukraine to ensure that all children enjoy their rights without discrimination on any ground.
- The HR Committee (2013) recommended the State party to strengthen its efforts to combat hate speech and racist attacks, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also step up its efforts to ensure that alleged hate crimes are thoroughly investigated, that perpetrators are prosecuted under article 161 of the Criminal Code and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated.

#### Anti-discrimination legal framework

##### *CESCR (2014)*

The State party should expedite the adoption of amendments to its anti-discrimination legislation to ensure adequate protection against discrimination in line with article 2(2) of the Covenant, taking also into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, inter alia by:

- (a) explicitly including all the prohibited grounds for discrimination listed in article 2(2) of the Covenant in its comprehensive anti-discrimination law;

- (b) bringing the definitions of direct and indirect discrimination in line with the State party's obligations under the Covenant;
- (c) prohibiting discrimination in both public and private spheres;
- (d) providing for a reversal of the burden of proof in civil proceedings;
- (e) adding provisions for access to redress in cases of discrimination, including through judicial and administrative procedures, and providing for effective and appropriate remedies for victims of discrimination.

#### Discrimination against Roma

The CESCR (2014) requests the State party to step up its efforts in combating discrimination against Roma with a view to giving full effect to their Covenant rights in practice and, to this end:

- (a) collect statistical data, on the basis of voluntary self-identification, on the number of Roma living in the country and on their situation in the areas of employment, social security, housing, healthcare and education with a view to formulating, implementing and monitoring targeted and co-ordinated programmes and policies at national and regional levels aimed at improving their socio-economic situation;
- (b) simplify the procedure and remove existing obstacles to ensure that all Roma are provided with personal documents, including birth certificates, which are necessary for the enjoyment of their rights under the Covenant;
- (c) ensure that the Action Plan for Roma provides for concrete measures aimed at addressing the problems faced by Roma in accessing employment, social security, housing, healthcare and education;
- (d) establish quantitative and qualitative indicators to monitor the implementation of the Action Plan nationwide and provide adequate financial resources for its effective implementation.

#### Discrimination against Crimean Tatars

- The State party should take measures to further improve the situation of Crimean Tatars and ensure their de facto access to employment, housing, health care, social services and education.

#### Gender pay gap

The CESCR recommends that the State party, taking into account the Committee's general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights:

- (a) take steps to eliminate the persistent gender pay gap by combating vertical and horizontal segregation in employment that results in women occupying lower paid jobs and facing obstacles in the enjoyment of career opportunities on an equal footing with men;
- (b) take measures to change society's perception of gender roles, including through awareness-raising campaigns on shared family responsibilities for men and women and about equal career opportunities as a result of education and training in fields other than those traditionally dominated by either sex.

#### *Special Procedures*

- The Special Rapporteur on freedom of expression (2008) urged Ukraine to take action to thwart the wave of racist violence.

#### UPR Recommendations (2012)

- Adopt a comprehensive anti-discrimination legislation that would include also a definition of direct and indirect discrimination and a comprehensive list of grounds for discrimination.
- Enact legislation which clearly prohibits child prostitution and other forms of sexual exploitation, consistently with the international obligations undertaken by the country, bearing

in mind that the Lanzarote Convention will enter into force as regards Ukraine on 1 December 2012.

- Adopt a comprehensive anti-discrimination law that addresses the worrying trend of incidents based on gender, sexual orientation, racial and ethnic discrimination.
- Step up efforts to strengthen the national mechanism for the advancement of women and to provide such mechanism with adequate resources.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- Continue the promotion of the rights of national minorities, as well as governmental policy on combating discrimination.
- Remove from the legislation discriminatory provisions based on race, sex or sexual orientation, and adopt comprehensive anti-discrimination legislation.
- Continue its effort to combat discrimination and promote equality in accordance with international treaties establishing guarantees of fundamental human rights and freedoms, and equality in the enjoyment of such rights, without privileges or restrictions based on race, colour, political, religious or other belief, gender, sexual orientation, ethnic or social origin, property status, place of residence, language or other grounds.
- Take more effective procedures to counter discrimination and xenophobia.
- Continue efforts to combat different forms of discrimination and ensure respect for the rights of ethnic minorities.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- In line with the observation made by CERD, ensure proper investigation and continue its actions to stop hate crimes.
- Continue its efforts to combat discrimination and ensure that manifestations of racial, ethnic and religious hatred are promptly investigated and acted upon accordingly; and in this regard, intensify its efforts in enacting anti-discrimination laws.
- Intensify its efforts to fight hate crimes and encourage senior State officials to take a clear position against these crimes and to publicly condemn racist acts of violence and other offences motivated by hatred.
- Further pursue its efforts to create appropriate institutional mechanisms to counter all forms of discrimination and further pursue its efforts to provide human rights training for police personnel to effectively fight hate crimes.
- Respect its international commitments on fundamental rights related to non-discrimination, prevent the adoption of a law prohibiting freedom of expression with regards to homosexuality and raise awareness of civil society on combating all forms of discrimination, including discrimination based on sexual orientation and gender identity.
- Study the possibility of expanding measures to combat discrimination, especially in the case of children with disabilities and HIV.
- In line with the observation made by the Committee on the Elimination of Racial Discrimination, ensure proper investigation and continue its actions to stop hate crimes.
- Intensify its efforts to fight hate crimes and encourage senior State officials to take a clear position against these crimes, and publicly condemn racist acts of violence and other offences motivated by hatred.

## **Theme 5: Minorities and Indigenous Peoples**

### *Treaty Bodies*

- CERD (2011) urged Ukraine to adopt special measures to preserve the language, culture, religious specificities and traditions of those communities.
- CERD recommended that Ukraine ensure the restoration of political, social and economic rights of Tatars in the Crimea, in particular the restitution of property.
- CERD recommended that Ukraine provide education to Roma children, and on Roma language and culture.
- CERD urged Ukraine to issue identification documents to all Roma to facilitate their access to the courts, legal aid, employment, housing, health care, social security, education and other public services. CRC made similar observations.
- CERD recommended that Ukraine respect the right of persons and peoples to self-identification and consider the issue of the Ruthenians' status, in consultation with their representatives.
- CERD urged Ukraine to adopt legislation to protect indigenous peoples and guarantee their economic, cultural and social development.

#### *CESCR (2014)*

##### Linguistic rights of national or ethnic minorities

- The Committee recommends that the State party ensure the meaningful and comprehensive participation of concerned minorities in the process of drafting the new language law with a view to giving expression to the linguistic diversity of different minorities. It should further ensure that the revised law conforms to the relevant international and regional standards for the protection of the linguistic rights of national or ethnic minorities.

##### Cultural rights of Crimean Tatars

- The Committee recommends that the State party, taking into account the Committee's general comment no. 21 (2009) on the right of everyone to take part in cultural life, strengthen the measures aimed at ensuring favourable conditions for Crimean Tatars to preserve, develop and promote their identity, language and culture, inter alia by providing adequate financial support to cultural organizations for their activities and creating more opportunities for Crimean Tatars to promote and use their mother tongue in education and daily life.

#### *UPR Recommendations (2012)*

- Continue efforts to combat different forms of discrimination and ensure respect for the rights of ethnic minorities.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- Continue the promotion of the rights of national minorities, as well as governmental policy on combating discrimination.
- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.
- That no effort be spared for the improvement of the current status and living conditions of the Crimean Tatars along with the other minorities.
- Take further action in ensuring and preserving the political, economic, social and cultural rights of the Crimean Tatars, which would also be conducive to better inter-communal relations.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.

- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Ensure that legislation on minorities, in particular on linguistic rights, is adopted following full consultation of all minorities concerned and according to relevant international and regional human rights standards.

To the authorities in Crimea:

- Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.

*HRMMU 15 May 2014 Report*

To the Government of Ukraine:

- The announced national consultations on the discussion of the amendments to the Constitution of Ukraine on the decentralization of state powers should be advanced in accordance with the principle of equal inclusion of all, including national minorities and representatives of civil society, and ensuring equal role for women. A system of checks and balances should be fully provided. If conducted in a broad, consultative and inclusive manner, this may be a positive step leading to the de-escalation of tensions and genuine national reconciliation.
- The adoption of measures, including making official public commitments on minority protection and ensuring participatory and inclusive processes in public and political life - reassuring all members of minorities regarding respect for their right to life, equality, political participation in public affairs and public life, as well as their cultural and linguistic rights would significantly ease tensions within the Ukrainian society.

To the authorities in Crimea:

- All acts of discrimination and harassment towards members of minorities and indigenous peoples – in particular Crimean Tatars – and other residents who did not support the “referendum” must come to an end, and all their human rights must be guaranteed.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- A language law should be adopted in line with international standards that enable the promotion of the official national language as well as other languages.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- The promotion and protection of the rights of national minorities, including the Crimean Tatars and other indigenous peoples must be ensured, enabling them to participate fully and inclusively in public and political life.

## **Theme 6: Right to participate in public and political life**

*Treaty Bodies*

- CEDAW (2010) urged Ukraine to increase the representation of women in elected and appointed bodies through, inter alia, the implementation of temporary special measures.

*UPR Recommendations (2012)*

- Take appropriate measures aimed at increasing the number of women in decision-making positions as well as address the issue of a persisting wage gap between men and women;

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Ensure inclusivity and equal participation of all in public affairs and political life, including members of all minorities and indigenous peoples and establish a mechanism to facilitate their participation.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- There should be constitutional inclusive and meaningful consultations with all political parties, regardless of their ideology, as well as representatives of civil society and minority (national and ethnic, linguistic, religious and other) groups and indigenous peoples in order to embrace all components of society, including women in the dialogue for the new constitution, which will reflect the new reality of the country with a full-fledged system of checks and balances. The peaceful population of the east should participate in these consultations.

## **Theme 7: Freedom of expression, association, and peaceful assembly**

### *Treaty Bodies*

- Concerned about the lack of a domestic legal framework regulating peaceful events, the HR Committee (2013) urged Ukraine to adopt a law regulating freedom of assembly, imposing only restriction that are in compliance with the strict requirements of article 21 of the Covenant.
- HR Committee recommended that State party ensure that journalists, human rights defenders and individuals are able to freely exercise their right to freedom of expression, in accordance with article 19 of the Covenant and the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. Any restrictions on the exercise of freedom of expression should comply with the strict requirements of article 19, paragraph 3, of the Covenant. Furthermore, the State party should ensure that acts of aggression, threats and intimidation against journalists are investigated, prosecuted and punished and victims provided with appropriate remedies.
- HR Committee urged the State party to ensure that individuals fully enjoy their right to freedom of assembly. The State party should adopt a law regulating the freedom of assembly, imposing only restrictions that are in compliance with the strict requirements of article 21 of the Covenant.

### *Special Procedures*

- The Special Rapporteur on freedom of expression (2008) urged Ukraine to guarantee that crimes against media professionals and opinion-makers will not go unpunished. The Special Rapporteur also called for a broad and comprehensive revision of media legislation, especially on TV and radio broadcasting, to increase TV and radio broadcasting bodies' independence from political lobbies.
- The Special Rapporteur urged Ukraine to ensure that human rights defenders do not face harassment or discrimination and to create a safe environment conducive to their work.

### *UPR Recommendations (2012)*

- Further promote freedom and pluralism of the media as key elements for enabling the exercise of freedom of expression.
- Create an enabling environment for journalists and media professionals and ensure fully transparent and impartial investigation and prosecution in all cases of attacks against them.
- Further develop measures to fully guarantee freedom of expression, particularly the protection of the integrity of persons working in the media in the exercise of that right.
- Ensure better protection of journalists and combat abuse and violence to which they are subject.
- Pursue measures against State organs which attempt to limit media and journalists.



- Implement a law on freedom of assembly that complies with applicable standards under article 21 of the ICCPR.
- Adopt a law on bar association that recognizes the right of the bar to self-government and guarantees a proper representativeness by regular elections and regional representation.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Adopt legislation and other measures needed to ensure the right to peaceful assembly in compliance with the requirements of article 21 of the International Covenant on Civil and Political Rights. In particular, ensure that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management of peaceful assemblies.
- Prevent media manipulation by ensuring the dissemination of timely and accurate information. Take action against deliberate manipulation of information, in compliance with international standards of freedom of expression and in full respect of due process guarantees.
- Combat intolerance and extremism and take all measures needed to prevent advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and punish such incitement or acts of violence, which is of fundamental importance. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.
- Take resolute steps to prevent negative stereotyping of minority communities in the media, while fully respecting the freedom of the press. Efforts to train media professionals must be increased, including by further promoting the visibility and effectiveness of the work of the national union of journalists in this regard.
- Review legislation and policies applicable to the management of peaceful assemblies, and if necessary, modify them to ensure their compliance with human rights standards. In particular, these should specify that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management. In this regard, particular attention should be paid to the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

To the authorities in Crimea:

- Investigate all allegations of hate speech and media manipulation, and take appropriate measures to prevent them and take appropriate sanctions while fully ensuring and strengthening freedom of expression.

*HRMMU 15 May 2014 Report*

To the Government of Ukraine:

- Primarily as a result of the actions of organised armed groups, the continuation of the rhetoric of hatred and propaganda fuels the escalation of the crisis in Ukraine, with a potential of spiralling out of control. Acts of hate speech must be publicly condemned and deterred. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech.
- There are increasing reports of harassment and intimidation of journalists. These should be investigated and addressed in order to ensure accountability and protect fundamental human rights and freedoms. Freedom of expression must be ensured allowing journalists the space and security to carry out their work objectively.

To the authorities in Crimea:

- At variance with UN General Assembly resolution 68/262, the legislation of the Russian Federation is being enforced on the territory. In addition, its differences in comparison with

Ukrainian laws already have and will continue having serious implications for the enjoyment of human rights and fundamental freedoms, including freedom of expression and media as well as freedoms of peaceful assembly, association and religion.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All stakeholders should refrain from using messages of intolerance or expressions, which may incite hatred, violence, hostility, discrimination or radicalisation.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- Journalists, human rights defenders and individuals must be able to fully exercise their right to freedom of expression, in accordance with Article 19 of the International Covenant on Civil and Political Rights.

### **Theme 8: Freedom of Movement**

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- Normative acts to ensure freedom of movement for residents of Crimea should be enacted as soon as possible.

### **Theme 9: Freedom of Religion or Belief**

*HRMMU 15 June 2014 Report*

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- All forms of intimidation and harassment of religious communities must be put to an end and all incidents, including those where there have been attacks on Ukrainian Orthodox Church, Greek Catholic Church and the Muslim community must be properly investigated, thus enabling the effective promotion and protection of the freedom of religion or belief.

### **Theme 10: Right to health**

*Treaty Bodies*

- CRC (2011) recommended that Ukraine develop specialized youth-friendly drug-dependence treatment and harm-reduction services, ensure that criminal laws do not impede access to such services and address root causes of substance use and abuse among children and youth.

*CESCR (2014)*

Health insurance system

- The State party should expedite the process of establishing a mandatory national health insurance system in the context of ensuring a sustainable public social security system without prejudice to maintaining the guaranteed universal health care services provided free of charge.

Health care system

The Committee recommends to the State party to:

- (a) progressively increase the health care expenditure as a proportion of gross domestic product (GDP) with a view to giving practical expression to its obligation in fulfilling the right to health under the Covenant and the State party's Constitution;
- (b) take measures to further improve the infrastructure of the primary health care system, including dental care;
- (c) take concrete measures to address the problem of the high health care costs, the shortage of certain drugs and the limited availability of health care services, especially in rural areas, in order

to ensure de facto access to affordable, quality and timely health care and medical treatment for all segments of the population, including disadvantaged and marginalized individuals and groups;

(d) reverse the current negative trend in vaccination coverage.

#### Mortality rates

- The Committee recommends that the State party step up its efforts with a view to further reducing the high rate of infant, child and maternal mortality, including by improving the quality, availability and accessibility of medical assistance throughout the country.

#### Access to emergency medical care for asylum-seekers

- The Committee recommends that the State party take all the necessary measures to guarantee that asylum-seekers have full access to free emergency medical assistance.

#### HIV/AIDS

The State party should continue its efforts to prevent and combat HIV/AIDS, including through the effective implementation of the National HIV/AIDS Programme 2014–2018, inter alia by:

- (a) enhancing its national preventive strategy, including its awareness-raising activities, taking into account the spread of HIV infection beyond the original risk groups and providing adequate funding for its prevention activities, including for needle and syringe exchange (NSE) programmes;
- (b) improving the coverage of adequate confidential testing throughout the country;
- (c) enhancing its counselling and referral services;
- (d) addressing shortages of antiretroviral drugs;
- (e) providing for access to adequate laboratory monitoring for HIV-infected persons;
- (f) progressively increasing the antiretroviral therapy coverage, including by considering the introduction of generic-based antiretroviral drugs.

#### Tuberculosis

The Committee recommends that the State party step up its measures with a view to improving its policies and strategies for disease prevention and detection, ensuring sufficiency and accessibility of specialized tuberculosis treatment and medication and adequate service delivery for patients at the primary health care level.

#### Drug use

The Committee recommends that the State party adopt a human rights-based approach in addressing the problem of drug use, including by:

- (a) conducting awareness-raising programmes about the serious health risks associated with drug use;
- (b) addressing the discrimination against drug dependent persons;
- (c) providing appropriate health-care, psychological support services and rehabilitation to such persons, including effective drug dependence treatment such as opioid substitution therapy (OST);
- (d) allocating financial resources for the proper operation of opioid substitution therapy (OST) and needle and syringe exchange (NSE) programmes and increasing their coverage, ensuring inter alia better access to such programmes in prison settings.

#### *UPR Recommendations (2012)*

- Continue to implement measures and programmes to promote and protect the rights of children, in particular the right to education and the right to health.

- Take effective measures to increase budgetary allocation to the health sector.
- Continue to develop the national health sector, with special focus on access to health for poorer segments of the population.
- Adopt effective measures to ensure access of all categories of citizens to treatment and prevention of HIV.
- Take steps to reverse the negative trend of the decrease in vaccination coverage in Ukraine.

## **Theme 11: Right to social security and to an adequate standard of living**

### *Treaty Bodies*

- CEDAW (2010) recommended that Ukraine use a gender-sensitive approach in all poverty alleviation programmes.
- CRC (2011) recommended that Ukraine ensure that poverty reduction reforms focus on social assistance and benefit to low-income families and on child protection. It urged Ukraine to address poverty in families with children in the Poverty Reduction and Prevention Programme.

### *CESCR (2014)*

#### Unemployment

The Committee recommends that the State party step up its efforts to further reduce unemployment, in particular youth unemployment and unemployment among persons with disabilities, Roma and Crimean Tatars, including by:

- (a) maintaining the incentives for employers who create new jobs for individuals who have been unemployed for at least two years, including persons who have difficulty competing on the job market, and ensuring that individuals so employed retain their jobs when such incentives are no longer offered;
- (b) reviewing the vocational education and training system to ensure it reflects the current labour market demands;
- (c) taking specifically targeted measures aimed at reducing youth unemployment;
- (d) ensuring effective compliance by public and private companies and institutions with the 4 per cent quota accorded to persons with disabilities, including by providing for dissuasive sanctions for employers in case of non-compliance;
- (e) ensuring equality of opportunity and treatment in employment for Roma and Crimean Tatars and providing for sustainable income-generating opportunities, including by enhancing their skills training.

#### Employment in the informal economy

- The Committee recommends that the State party take all appropriate measures with a view to achieving the progressive reduction of the level of informal employment and access of persons employed in the informal economy to basic services, social protection and other Covenant rights. It also recommends that the State party systematically include the informal sector in the operations of the labour inspection services, deal with regulatory obstacles to job creation in the formal economy, and raise public awareness of the fact that labour rights and social protection apply to the informal economy.

#### Wage arrears

The State party should step up measures to address the problem of wage arrears, including by:

- (a) ensuring effective monitoring of the payment of wages;
- (b) providing for appropriate and dissuasive sanctions in case of violations;
- (c) ensuring that a wage guarantee institution is in place in order for workers to secure payment of their wages when such payment cannot be made by the employer due to insolvency;

- (d) ensuring that mechanisms of redress provide not only for the full payment of the overdue amounts, but also for fair compensation for the losses incurred on account of delayed payment.

#### Social security

- The State party should take measures to progressively bring its State social standards in line with its core obligations under articles 7, 9 and 11 of the Covenant and progressively increase their amounts.

#### Poverty

- The Committee draws the State party's attention to its statement concerning Poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10) and recommends that the State party strengthen its efforts to combat poverty, with a particular focus on most disadvantaged and marginalized individuals and groups, and reduce the disparities between rural and urban areas. The State party should guarantee that its social assistance system is effectively targeting the poor and ensure that adequate financial resources are allocated for the effective implementation of poverty reduction programmes and that these are adjusted accordingly when measures taken do not bring the expected positive impact.

#### *UPR Recommendations (2012)*

- Further strengthen a gender-sensitive approach in all poverty alleviation programmes.
- Use a gender sensitive approach in all poverty alleviation programmes.

### **Theme 12: Right to adequate housing and right to food**

#### *Treaty Bodies*

#### *CESCR (2014)*

#### Right to adequate housing and right to food

The State party should, taking into account Committee's general comment no. 4 (1991) on the right to adequate housing, adopt all appropriate measures to ensure access to adequate housing for Roma, inter alia by ensuring that adequate resources are allocated to increase the supply of social housing units and by providing appropriate forms of financial support, such as rental subsidies. The Committee also recommends that the State party take steps to ensure that Roma communities are consulted throughout the eviction procedures, are afforded due process guarantees and are provided with alternative accommodation or compensation enabling them to acquire adequate accommodation, taking into account the guidelines adopted by the Committee in its general comment no. 7 (1997) on forced evictions. The Committee further recommends that the State party take effective measures to secure access to adequate housing and food for asylum-seekers.

### **Theme 13: Right to education**

#### *Treaty Bodies*

- CRC (2011) recommended that Ukraine ensure adequate funding for the public education system; improve availability, accessibility and the quality of general education in rural areas; and seek assistance from UNICEF and UNESCO.
- CRC urged Ukraine to develop a national plan of action for human rights education.

#### *CESCR (2014)*

#### Inclusive education for Roma

- The Committee recommends that the State party address the segregation of Roma children in schools and their overrepresentation in special education schools by ensuring the effective enforcement of its anti-discrimination legislation and by raising teachers' and the general public

awareness of these laws. It further recommends that the State party adopt an inclusive approach to the education of Roma children.

*UPR Recommendations (2012)*

- Continue to implement measures and programmes to promote and protect the rights of children, in particular the right to education and the right to health.
- Ensure adequate funding for the public education system and improve the availability, accessibility and quality of general education in rural areas.
- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.

**Theme 14: Cooperation with UN mechanisms**

*Treaty Bodies*

- HR Committee (2013). The State party should reconsider its position in relation to Views adopted by the Committee under the First Optional Protocol. It should take all necessary measures to establish mechanisms and appropriate procedures, including the possibility of reopening cases, reducing prison sentences and granting ex gratia compensation, to give full effect to the Committee's Views so as to guarantee an effective remedy when there has been a violation of the Covenant, in accordance with article 2, paragraph 3, of the Covenant.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Closely cooperate with the HRMMU and act upon its recommendations and steps needed to provide protection for persons at risk.
- Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.

To the authorities in Crimea:

- Actively resolve cases of missing persons, and grant access to places of detention, including the military facilities and offices in Simferopol and Sevastopol, to all international organisations requesting it.
- Grant access to independent and impartial human rights monitors, including by OHCHR.

*HRMMU 15 May 2014 Report*

To the Government of Ukraine:

- Welcome steps taken to support the establishment of the HRMMU and encourage further cooperation in order to support the Government in addressing human rights concerns. OHCHR assures the Government of its on-going support in its efforts to address human rights concerns in line with international standards, and within the framework of the UN General Assembly resolution 68/262 and the Geneva Agreement of 17 April 2014.

To the authorities in Crimea:

- Agree to the deployment of independent and impartial human rights monitors, including by the HRMMU.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- Access for international organisations to the areas affected in eastern Ukraine by the security operations (urban areas in the epicentre of the fighting) should be facilitated so that the real needs of the population can be assessed and addressed.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

## **Theme 15: Economic, Social and Cultural Rights**

### *Treaty Bodies*

#### *CESCR (2014)*

- The Committee reminds the State party of its obligation under the Covenant to respect, protect and fulfil economic, social and cultural rights progressively, using the maximum resources available to it. While acknowledging that certain adjustments are at times inevitable, the Committee draws the attention of the State party to its open letter on economic, social and cultural rights and austerity measures during economic and financial crisis, dated 16 May 2012, which outlines the requirements that any proposed policy change or adjustment by States parties in reaction to the economic crisis must meet. The State party should also ensure that any measures adopted with a view to stabilizing the current economic situation do not disproportionately affect the most disadvantaged and marginalized individuals and groups and do not lead to lowering the existing social protection standards below the minimum core content as well as that its obligations under the Covenant are duly taken into account when negotiating financial assistance projects and programmes, including with international financial institutions such as the International Monetary Fund.
- The Committee recommends that the State party establish a statistical data collection system to assess the enjoyment of economic, social and cultural rights situation by disadvantaged and marginalized individuals and groups, including but not limited to Crimean Tatars, persons with disabilities, persons living with HIV/AIDS and non-citizens, with due respect for the principles of confidentiality, informed consent and voluntary self-identification of persons as belonging to a particular group.

#### *HRMMU 15 April 2014 Report*

- Take concrete steps to redress disparities in standards of living and equal access to and quality of health, education, employment, and social support structures for all, including marginalised communities throughout the country.

#### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- A central authority should be established to respond to the humanitarian needs of IDPs, including by establishing a comprehensive registration system, formulation of legislative and regulatory acts to ease access to important social and economic rights, establishing public assistance programmes, mobilization and coordination of civil society-initiated relief efforts, and cooperation with international donors and technical assistance.

## **Theme 16: Additional Human Rights Instruments**

### *Treaty Bodies*

- The HR Committee (2013) recommends that the State party provide the Office of the Commissioner for Human Rights with additional financial and human resources commensurate with its expanded role, to ensure fulfilment of its current mandated activities and to enable it to carry out its new functions effectively. It should also establish regional offices of the Commissioner for Human Rights, as planned.

#### *CESCR Report 2014*

- The Committee encourages the State party to sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Committee also encourages the State party to consider signing and ratifying the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and the International Convention for the Protection of all Persons from Enforced Disappearance, as well as the individual complaint mechanisms under various core human rights treaties which the State party has not accepted with a view to further strengthening the protection of human rights by providing rights holders with additional opportunities to claim their rights at the international level when domestic remedies have been exhausted.
- The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials, members of the Verkhovna Rada and judicial authorities, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.
- The Committee invites the State party to submit its common core document in accordance with the harmonized guidelines on a common core document (HRI/GEN/2/Rev.6, chap. I).

*HRMMU 15 April 2014 Report*

- Ratify international human rights instruments to which Ukraine is not yet party. These include, the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.
- Implement recommendations of international human rights mechanisms. The recommendations and concerns expressed in the past few years by several human rights mechanisms continue to be of relevance and should be taken into account by the authorities when considering various reforms that will greatly impact on the protection of human rights for all people in Ukraine:
  - f. In particular, the UN Human Rights Committee issued several important recommendations in July 2013 when it considered the latest periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights;
  - g. The recommendations adopted by the UN Human Rights Council following the Universal Periodic Review of the human rights situation in Ukraine in October 2012 should also be taken into consideration.
  - h. The report of the UN Sub-Committee on the Prevention of Torture following its visit to Ukraine in 2011 should be made public immediately and taken into consideration by the authorities when considering issues related to torture, ill-treatment, and detention related matters.
  - i. Ukraine has issued a standing invitation to special procedures. It should accommodate requests for such visits.
- Encourage the development of a national human rights action plan, with clear timelines and benchmarks, addressing every recommendation resulting from the international and regional HR systems to be implemented within a certain time-frame - with the support of the international community, regional and bilateral actors, and the UN system.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:



- The role and position of the Ombudsperson and National Preventive Mechanism, as the main bodies / institutions working towards the strengthening of the national human rights system and the protection and guarantee of human rights for all, should be enhanced.

### **Theme 17: Elections**

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- As a representative body of the country, the Parliament should reflect the new political and social reality of the country; therefore there is a need for new parliamentary elections.

### **Glossary**

CAT – Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CCP – Criminal Code Procedure

CEDAW – Committee on the Elimination of Discrimination Against Women

CERD – Committee on the Elimination of Racial Discrimination

CESCR – Committee on Economic, Social, and Cultural Rights

CRC – Committee on the Rights of the Child

HRC – Human Rights Council

HR Committee – Human Rights Committee

HRMMU – Human Rights Monitoring Mission in Ukraine

ICCPR – International Covenant on Civil and Political Rights

IOM – International Organization for Migration

OHCHR – Office of the High Commissioner for Human Rights

OPCAT – Optional Protocol on the Convention Against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment

UNESCO – United Nations Educational, Scientific, and Cultural Organization

UNICEF – United Nations Children’s Fund

UPR – Universal Periodic Review

WGAD – Working Group on Arbitrary Detention

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

**Report on the human rights situation in Ukraine  
17 August 2014**

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## I. EXECUTIVE SUMMARY

Intense and sustained fighting, as a result of the continuing violence by the armed groups and the ongoing security operation being undertaken by the Ukrainian Government, took a heavy toll on the human rights and humanitarian situation in eastern Ukraine during the past month, with at least 36 people being killed on average every day.<sup>102</sup> The number of casualties has more than doubled in total since the last report issued one month ago. As of 17 August, the total number of people killed (civilians, military personnel and some members of armed groups) is at least 2,220<sup>103</sup> since the fighting began in mid-April.<sup>104</sup> At least 5,956 people have been wounded.

As previously noted,<sup>105</sup> the armed groups are now professionally equipped and appear to benefit from a steady supply of sophisticated weapons and ammunition, enabling them to shoot down Ukrainian military aircraft such as helicopters, fighter jets and transport planes. The Ukraine Government claims that the Russian Federation is providing such equipment as well as fighters. The Ukrainian military has reported shelling from the territory of the Russian Federation, and of the illegal use of landmines in Ukraine territory near the border area.<sup>106</sup>

During the past month, the Ukrainian armed forces have tightened their blockades around the main strongholds of the armed groups – the cities of Luhansk, Donetsk and to a lesser extent Horlivka – and the situation in these cities has further deteriorated.

Armed groups have continued to prevent residents from leaving, including through harassment at checkpoints where residents report being robbed, and firing at vehicles conveying fleeing civilians. The armed groups are locating their military assets in, and conducting attacks from, these densely populated areas, thereby putting the civilian population at risk. Targeting civilians and civilian infrastructure as well as indiscriminate attacks are violations of international humanitarian law and more must be done to protect them. Responsibility for at least some of the resulting casualties and damage lies with Ukrainian armed forces through reported indiscriminate shelling.

All those involved must make a greater effort towards achieving a lasting and peaceful political solution which “is the most effective way to save lives and avoid a humanitarian disaster.”<sup>107</sup>

The situation was particularly dire in Luhansk as the fighting increased. On 1 August, the Luhansk City Council warned that the city was on the verge of a humanitarian catastrophe: its residents were without water, electricity or gas, food sources were unreliable, cell phone communication was cut off and medical services were virtually non-existent. It reported that 93 civilians had been killed and 407 injured between 1 and 28 July. There had been extensive damage to buildings, including schools, residences, factories and stores.

Starting on 30 July, a “safe corridor”, unilaterally established by the Ukrainian forces, enabled people to leave the city daily between the hours of 10am and 2pm; many thousands did so. Similar corridors were created for Donetsk and Horlivka. But the corridors traverse areas

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<sup>102</sup> This is the fifth report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU). It covers the period from 16 July to 17 August 2014.

<sup>103</sup> This is a very conservative estimate based on officially provided figures; the number of people killed or wounded may be considerably higher.

<sup>104</sup> This date marked the beginning of the armed groups’ occupation of public buildings in a coordinated fashion in areas of the east.

<sup>105</sup> See 4<sup>th</sup> monthly report of OHCHR on the human rights situation in Ukraine.

<sup>106</sup> For example, the briefings of Andrii Lysenko, spokesperson for the Information-Analytical Center of the National Security and Defense Council of Ukraine at Ukraine Crisis Media Center on 10 and 11 August 2014.

<sup>107</sup> Statement of the United Nations Secretary-General, 8 August 2014.

where the fighting is ongoing and casualties have been reported. This raises concerns about the security of such corridors to ensure safe passage for those wishing to flee the hostilities.

The armed groups have obstructed the international investigation into the crash of the Malaysian Airlines flight MH17 that on 17 July killed all 298 passengers on board, despite an order by the President of Ukraine to implement a 40 kilometre ceasefire zone around the crash site, which is under the control of armed groups. Sporadic fighting made it impossible for international investigators to properly conduct their search, which had to be suspended on 6 August.

In addition to the fighting, armed groups continued to commit killings, abductions, physical and psychological torture, ill treatment, and other serious human rights abuses and violations of international humanitarian law continued to be committed by the armed groups. It is unknown how many people remain in captivity, although it is estimated to be, at least, 468 people as of 17 August: some have been released by Ukraine forces as they regained control of territory; others have been released through negotiation, including through an exchange of detainee process, the payment of ransom or other means.

The HRMMU also received reports of human rights violations committed by territorial battalions under the Ministry of Defence or special battalions under the Ministry of Internal Affairs. This includes cases of arbitrary detention, enforced disappearances and torture.<sup>108</sup> Allegations of such activities by these volunteer battalions must be investigated and the perpetrators held accountable. In addition, the relevant Ministries should exercise more control over these volunteer battalions, in particular instructing them in international humanitarian law.

Everyone is reminded that efforts will be made to ensure that “anyone committing serious violations of international law including war crimes will be brought to justice, no matter who they are.”<sup>109</sup>

The Ukrainian forces increased operations to arrest people it allegedly suspects of subversive or terrorist activity, both in the east and in other regions of Ukraine. The Security Service of Ukraine and police have detained more than 1,000 people in the Donbas region, as of 16 August, because of “irrefutable evidence of their participation in terrorist activities.”<sup>110</sup> The procedural rights of these people have not always been observed and there are reports of ill-treatment during arrest or while in custody.

Parliament approved three laws during its 12-15 August session that would significantly expand the powers of law enforcement bodies in relation to the security operation in the east. These include laws to expand the powers of the prosecutor and extending the period of preventive detention of suspects, which appear to be in conflict with international human rights standards, and to restrict the rights of due process and presumption of innocence. While acknowledging that security measures might require the adoption of specific provisions limiting certain guarantees, they must always be consistent with the norms, standards and procedures of international law.<sup>111</sup>

A new round of peace talks initiated by the President of Ukraine was held in Minsk on 31 July, with representatives of Ukraine, the Russian Federation and the armed groups, under the auspices of the Organization for Security and Cooperation in Europe (OSCE). Agreement appeared to have been reached on securing safe access for the international investigators to reach the Malaysian Airlines crash site and on the release of a “sizeable number” of persons

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<sup>108</sup> Reported to HRMMU by a Ukrainian human rights organization on 30 July 2014.

<sup>109</sup> Statement by the UN High Commissioner for Human Rights, 28 July 2014.

<sup>110</sup> Statement of Colonel Andrii Lysenko, spokesperson for the Information-Analytical Center of the National Security and Defense Council of Ukraine, 3 August 2014.

<sup>111</sup> Report of the Working Group on Arbitrary Detentions, E/CN.4/2004/3.

deprived of their liberty – the latter being one of the key pre-conditions for establishing another ceasefire.<sup>112</sup> Some detainees were subsequently released but it is not known if this was a result of the Minsk agreement.

As the Government regains territory formerly seized by armed groups, it must ensure that all allegations of human rights abuses and violations by armed groups and its forces are fully investigated in accordance with international human rights norms and standards. Particular attention must also be paid to ensure that those people who remained in the areas under the control of armed groups do not face false claims of collaboration, with any such allegation being met with due process and the avoidance of reprisals. Military prosecutors and the Security Service of Ukraine have already investigated over 1,500 cases of various offences committed by local officials and citizens in the east, and more than 150 people have been prosecuted.<sup>113</sup> In Slovyansk, the Ministry of Internal Affairs launched 86 criminal investigations into allegations of kidnapping and enforced disappearance.<sup>114</sup> The police in the Donetsk and Luhansk regions have come under scrutiny with 80% - about 20,000 police officers - requiring 're-qualification' to ascertain they were not involved in any crimes while under the control of armed groups. The remaining 20% were dismissed for misconduct or for not returning to work.<sup>115</sup> It was reported that all police officers were subjected to a lie detector test to determine their possible affiliation with the armed groups.<sup>116</sup> Residents of these regions back under the control of the Government report the fear of reprisals, the lack of confidence that their own cases will be investigated, and fear that impunity will continue with no accountability.

By 3 August, the Government stated it had regained control of 65 towns and villages in eastern Ukraine that had been held by the armed groups. Some 20,000 residents who had fled the fighting have since returned home to Slovyansk.<sup>117</sup> Government ministries and volunteer groups began working on restoring essential services, clearing away the rubble and unexploded ordinances and rebuilding areas that had been ravaged by months of fighting. By the end of July, the acting mayor of Slovyansk reported to the HRMMU that the city no longer required humanitarian aid and electricity, gas and water supply had resumed to 95% of the normal level. Residents started receiving pensions and other social welfare benefits that had not been paid during May and June while the city was under the control of armed groups.

The continued violence by the armed groups and the ongoing security operation being undertaken by the Government of Ukraine, will leave deep psychological scars on Ukrainians living in the affected areas. Many residents, especially children, who have been affected by this atmosphere of fear and intimidation and the prolonged fighting, may need psychological assistance to heal and rebuild their lives. Many others, such as victims of torture and former hostages, especially those held for long periods, will also need help to recover. In order to ensure accountability and an end to impunity, all such grave human rights violations must be investigated and the perpetrators brought to justice, and victims provided with remedies and reparations. Only then will effective national dialogue and reconciliation be possible.

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<sup>112</sup> The other two elements are Government control of the border and disarming of the armed groups, as previously stated by the Ukraine President. Following the Minsk talks, the OSCE said other elements were an OSCE supported monitoring and verification mechanism to become effective simultaneously with the entry into force of a ceasefire and the effective control and verification of the border between Ukraine and the Russian Federation. Currently, armed groups remain in control of about 100 kilometers of the Ukraine-Russian Federation border.

<sup>113</sup> According to the Ukraine Prosecutor General on 2 August.

<sup>114</sup> Reported to the HRMMU on 30-31 July 2014.

<sup>115</sup> As reported to HRMMU by the Ministry of Internal Affairs.

<sup>116</sup> Reported to the HRMMU on 30-31 July 2014.

<sup>117</sup> According to UNHCR, since early July.

The effects of the four months of fighting are not restricted to the Donbas region. In addition to receiving increasing numbers of internally displaced persons leaving the conflict area,<sup>118</sup> the other parts of Ukraine have also been affected by the conflict. Partial mobilization, decreed by Parliament on 23 July, is expected to call up an additional 50,000 men and women aged between 18 and 60, including eligible IDPs. This has triggered protests especially from relatives of people being mobilized, but also on social media.

There has been a rise in violent incidents in Ukraine targeting local officials that would seem to be coordinated. For example, the mayor of Kremenchuk (Poltava region) was shot dead and a rocket attack was launched on the home of the mayor of Lviv; both incidents occurred within 24 hours of each other, on 25 and 26 July. Bomb threats have increased in most of the major cities in Ukraine over the past month. In reaction, law enforcement measures and emergency preparedness have been increased.

Ukrainians will also be facing more economic difficulties due to the financial implications of the continuing security operation in the east, which is now entering its fifth month. On 31 July, Parliament authorized changes to the national budget allocating an additional 9 billion UAH (about 607 million USD) for the conduct of the security operation in the east and 2 billion UAH (about 140 million USD) for the rebuilding and revitalization of the east.

Investigations into the Maidan violence of November 2013 – February 2014 continued; 445 cases of unlawful acts against demonstrators have been open of which 114 cases of unlawful police or other law enforcement actions are under investigation.<sup>119</sup> The investigations also continued into the 2 May violence in Odesa. The impartiality of the ongoing processes must be assured to dispel any concerns related to the investigations.

In the Autonomous Republic of Crimea, harassment and discrimination continued against Ukrainian nationals, Crimean Tatar and other minorities. No serious attempts have been made to investigate allegations of human rights abuses committed by the so-called Crimean self-defense forces following the March “referendum”. Meanwhile complaints against the self-defense forces continued. The number of IDPs from Crimea is now more than 16,000 according to United Nations High Commissioner for Refugees (UNHCR). The continued flow could be attributed to increasing human rights restrictions, which particularly affect members of minorities, and more broadly to the tense security environment, compounded by fighting in the east of Ukraine.

The transformation of Ukraine into a fully democratic society, with no place for corruption, was among the key demands of the Maidan protestors and civil society activists, who have since been advocating for reforms. However, many in civil society consider that the central Government has been unreceptive to private initiatives and recommendations.

As part of its European Union aspirations and required reforms, and in order to address the multiple issues raised in this and previous reports by the Office of the United Nations High Commissioner for Human Rights, (OHCHR) the Government should develop a multi-year human rights national plan of action. OHCHR reiterates its readiness to work with the Government in this regard, in close cooperation with the international community, regional organizations and the United Nations Country Team.

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<sup>118</sup> As of 14 August the number of IDPs in Ukraine was more than 155,800, according to UNHCR, of which 139,621 were from the east.

<sup>119</sup> For the period November 2013 until 1 August 2014, according to the General Prosecution Office.



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

### B. Casualties

Intensified fighting, including the use of heavy weaponry (artillery, tanks, rockets and missiles), in the east of Ukraine continued to cause considerable loss of life among civilians as well as members of the Ukrainian armed forces and armed groups. During the reporting period, the fighting lines moved to the suburbs of Donetsk and Luhansk cities, and a number of other settlements, such as Avdiyivka, Debaltsevo, Horlivka, Snizhne, Stepanivka and Yasynuvata in the Donetsk region, and Pervomaisk in the Luhansk region, became arenas of fighting.

There have been numerous reports alleging the indiscriminate use of weapons, such as artillery, mortars and multiple rocket launcher systems, in and around the densely populated areas. Ukrainian officials have reiterated that the Ukrainian armed forces never target populated areas. These officials suggest that all reported cases of such targeting should be attributed to the armed groups only. However, in those urban settlements which have been controlled by the armed groups and insistently attacked by the Ukrainian armed forces, responsibility for at least some of the resulting casualties and damage to civilian objects lies with the Ukrainian armed forces. On the other hand, the armed groups are locating their military weaponry within or near densely populated areas, and launching attacks from such areas. This constitutes a violation of international humanitarian law by the armed groups. However, such actions by the armed groups do not absolve the Ukrainian armed forces of the need to respect their obligations under international law, including upholding the principles of distinction, proportionality and precautions in attack.

As a result of intensified hostilities, there has been an escalation in the number of casualties which has more than doubled in total since the last report. By a very conservative estimate of the HRMMU and the World Health Organization (WHO), based on the best data available, at least 1,200 people have been killed, and at least 3,250 have been wounded in east Ukraine between 16 July and 17 August. On average, at least 36 people have been killed and 98 have been wounded every day during this period.

In total, since mid-April, and as of 17 August, at least 2,220 people (including at least 23 children) have been killed and at least 5,956 (including at least 38 children) have been wounded in the fighting in eastern Ukraine. This includes civilians, personnel of the Ukrainian forces and some members of the armed groups (for whom no separate casualty figure is known). This overall figure does not include the 298 people killed in the crash of the Malaysian Airlines flight MH-17 on 17 July.

According to the Council for National Security and Defence (RNBO), casualties within the Ukrainian armed forces comprised, at least, 618 killed and 2,302 wounded as of 17 August. According to the reports by civil medical establishments on the number of people delivered to hospitals and morgues, and by local administrations, casualties among civilians and armed groups include, at least, 949 killed and 1,727 wounded in the Donetsk region, and, at least, 653 killed and 1,927 wounded in the Luhansk region.

The actual number of fatalities due to the violence and fighting in the east of Ukraine is probably much higher. Indeed, casualties in the areas controlled by the armed groups have been underreported for two major reasons. First, although many of the hospitals continue to work, insecurity has prevented people from seeking medical aid. Second, many of those killed have been buried without being taken to morgues or bureaus of forensic expertise. In addition, communications have frequently been disrupted. There are also allegations that bodies of some members of the armed groups killed in action have been taken to the territory of the Russian Federation.

In addition, there appear to be large discrepancies in figures provided by different local authorities. For example, in the Luhansk region, hospitals and morgues reported, at least, 439 killed as of 5 August, while in an interview published on 6 August, the acting head of the Luhansk regional state administration said that “among civilians in Luhansk region in general... one and a half thousand were killed” since mid-April.<sup>120</sup>

Reports of medical establishments from the areas under the control of the armed groups do not distinguish between civilian and military casualties. A gender imbalance of casualties reported by these establishments (as of 11 August, women comprised 11% of killed and 13% of wounded in the Donetsk region)<sup>121</sup> may indicate that members of the armed groups who are predominantly male constitute a considerable part of these casualties. On the other hand, women comprise a large proportion of the internally displaced (IDPs) who have left the areas of fighting.

The cities of Donetsk and Luhansk continued to account for the majority of fatalities, but a number of other settlements were also severely affected by fighting. For instance, in Horlivka, 52 persons, including 9 children, were killed, and 170 wounded between 27 July and 10 August.<sup>122</sup> According to people who had left Pervomaisk, 200 people had been killed in the town, and more than 400 wounded since 22 July, with the dead being buried in courtyards.<sup>123</sup>

### **C.Evacuation of civilians**

Beginning on 29 July, the Ukrainian armed forces established special “corridors” to allow civilians to leave Donetsk, Horlivka (Donetsk region) and Luhansk city where there was heavy fighting. However, these corridors traverse areas where there is fighting and casualties have been reported. This raises concerns about the security of such corridors to ensure safe passage for those wishing to flee the hostilities.

The exact number of people who have used the corridors so far is not known. According to the Luhansk regional administration, during the week of 4-10 August, more than 4,000 people left Luhansk using the corridor, and 7,000 by 13 August. Trains continued to run intermittently from Donetsk, enabling people to leave that city. Estimates suggest that about half the population of Donetsk and Luhansk cities has left. The remaining population in these cities is estimated at 200-500 thousand in Donetsk, and about 250,000 in Luhansk.

The evacuation of institutionalized children started too late and was not properly coordinated as it was conducted by various ministries. During the reporting period, some additional efforts were undertaken to evacuate 138 children and 26 young people housed in institutions in the area of hostilities. In addition, 128 family-type institutions were evacuated. As of 15 August, 119 children remained in institutions in the area of the security operation, according to the RNBO spokesperson.

As previously reported, the armed groups have allegedly prevented the evacuation of institutionalized children to other parts of Ukraine. On 13 August, it was reported that eight children (aged 8 months to 2 years) from a Luhansk institution who were taken to the Russian Federation on 8 August 2014, by the supporters of Luhansk People’s Republic (LPR), had safely returned to Ukraine following efforts by of the Ukrainian Ombudsperson, the Russian Federation Ombudsperson, the Ukraine Ministry of Foreign Affairs and the Consulate General of Ukraine in Rostov-on-Don.

Evacuation of institutionalized older persons and persons with disabilities has not been given adequate attention, and it is not known how many remain in the hostilities area. On 13 August,

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<sup>120</sup> The HRMMU tried to receive information about primary data behind this estimate, with no success.

<sup>121</sup> The breakdown of statistics is not available for the Luhansk region.

<sup>122</sup> According to the health department of the city council.

<sup>123</sup> Interviewed by the OSCE Special Monitoring Mission (SSM) on 11 August.

400 older persons were evacuated from the Veterans' House in the Kirovskiy district of Donetsk, and 417 patients of a psychiatric clinic in the city of Torez. On 13 August, it was reported that the situation of the 200 patients of the Horlivka Mental Hospital was critical due to the lack of electricity, water, food and medication. Many patients came from Semenivka Mental Hospital near Slovyansk which was completely destroyed during the fighting. Many older persons have been left behind when their families fled the fighting, increasing their vulnerability.

Prisoners held in the east have been another group at risk. On 29 July, 272 prisoners from a women's prison, located in Chervonopartyzansk (Luhansk region), were evacuated to other prisons around the country due to fighting in the immediate vicinity. The penal colony No. 124, was hit by artillery shells on the outskirts of Donetsk city during the night of 10/11 August, resulting in the death of one prisoner, and injures to five prisoners and two guards.

#### **D. Arbitrary and illegal detention<sup>124</sup> and enforced disappearances**

##### ***Detention by Ukrainian armed forces and police***

As the Government's security operation continues, Ukrainian armed forces are gaining back control over more localities in the Donetsk and Luhansk regions that were previously seized by armed groups. A number of people suspected of collaborating with or belonging to the armed groups have been detained by the Security Service of Ukraine (SBU), by territorial battalions under the Ministry of Defence, or by special battalions under the Ministry of Internal Affairs. From mid-April until 16 August, more than 1,000 "militants and subversives" had been detained by police and SBU in the Donbas territory, according to the Ministry of Internal Affairs. The detainees are usually accused of violation of the territorial integrity of Ukraine (Article 110 of the Criminal Code) or participating in terrorism (Article 258 of the Criminal Code).

The cases followed by the HRMMU suggest that there have been violations of the criminal procedural law during some of these arrests, particularly regarding detention by the volunteer battalions. People are being detained without being given any explanation, for example while they were leaving the security operation areas affected by the fighting and security operation, and questioned without being delivered to law enforcement agencies. The presumption of innocence and privacy rights of those detained have been violated when their apprehension was filmed and made public through the Internet and TV. Detainee's relatives were often not notified about the detention, and legal aid was rarely made available.

According to the Criminal Code, an illegal detention is a crime, and as a consequence, the individual who is unlawfully detained must be immediately released. This does not seem to have been the case for those arrests which the HRMMU followed: in the few cases of what appeared to be arbitrary detention that were brought to the attention of a court, releases have been rare.

On 8 July 2014, servicemen of the Aydar battalion under the Ministry of Internal Affairs detained the deputy head of Shchastya town administration. According to his relatives, he was accused of "separatism". Reportedly, he was released on 29 July. However, the HRMMU has no information about any criminal investigations initiated against him or the people who were in charge of his detention. On 5 August, the head of the Mariupol city police was detained by the leader of the Radical Party of Ukraine, Oleh Lyashko (MP) and servicemen of the Shakhtarsk battalion under the Ministry of Internal Affairs. Mr Lyashko uploaded a video of the detention to an open source, accusing the detainee of "collaboration with the separatists". However, the detainee was released on the same day of his detention, and the HRMMU has no

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<sup>124</sup> United Nations Working Group on Arbitrary Detention regards as detention all forms of deprivation of liberty.

information of any investigation undertaken into the circumstances of his detention. On 7 August, the head of the Luhansk city council was detained at a check-point in the town of Shchastya by the Aydar battalion. On 12 August, the head of the Luhansk regional department of Internal Affairs described this action as illegal. According to him, the detainee, whose whereabouts had been unknown since the day of detention, was now in “a safe place”, protected by the police, and considered a “crime victim”.<sup>125</sup> All such cases, as well as others alleging human rights violations, require prompt verification and investigation with perpetrators held accountable and justice provided to victims.

The HRMMU continues to receive reports of cases of enforced disappearances by Ukrainian forces in the areas restored to the control of the Government. In one particular case, the HRMMU was informed on 15 August that a video-blogger was released as part of an exchange of over 26 detainees between Ukrainian armed forces and armed groups. He was apprehended by Ukrainian servicemen on 10 May near Slovyansk and was a case of enforced disappearance until early August when he was found in a detention facility. In June, following an intervention on the case by the HRMMU the Authorities took action by opening an investigation for murder.

Some people who had previously been detained by armed groups were later detained by the Ukrainian law enforcement agencies as they took control of areas of the Donetsk and Luhansk regions formerly under the control of the armed groups. For example, the HRMMU interviewed the father of an adult man from the Slovyansk district who said that around 30 June, his son was detained by the armed groups for being drunk, and was then sent to dig trenches near a checkpoint about 2.5 km from the his house. He dug trenches for four days, after which he was allowed to return home. On 24 July, he was detained by the Ukrainian armed forces and accused of separatism and collaboration with the armed groups, despite the fact that he was detained and subjected to forced labour. His arrest and detention was later authorized by the court.

Some people were kept in detention by the Ukrainian armed forces for up to 14 days, subjected to ill-treatment and released after signing a paper that they do not have any claims against those who detained them.<sup>126</sup> According to a Ukrainian human rights organization, many such cases have been associated with the Aydar battalion. The organization informed the HRMMU about the detention by the battalion of an armed group commander nicknamed Batko who reportedly died as a result of torture. The HRMMU was also informed about the arrest and torture of a member of the Aydar battalion who allegedly tried to protect Batko from torture, and who had to leave the unit in order to save his own life. Some of those armed groups members who were exchanged for Ukrainian servicemen allege that while in detention, they were beaten, kept in dungeons, and deprived of food and medical aid.

Mrs. Nelia Shtepa, the former mayor of Slovyansk, mentioned in the previous report,<sup>127</sup> continued to remain in detention. She was arrested on 11 July, and is being detained in the Kharkiv pre-trial detention facility without bail for 60 days by order of the court,<sup>128</sup> despite alleged numerous violations of her rights invoked during the hearing.<sup>129</sup> The HRMMU is

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<sup>125</sup> As he informed the OSCE Special Monitoring Mission.

<sup>126</sup> As reported by human rights organizations at a roundtable in mid-August.

<sup>127</sup> See the 4<sup>th</sup> monthly report on the human rights situation in Ukraine paragraph 44.

<sup>128</sup> Ms. Shtepa is being charged under part 3 of article 110 of the Criminal Code “encroachment on the territorial integrity and inviolability of Ukraine, if appropriate actions have led to death or other serious consequences”. If found guilty, she could be sentenced to between 10 to 15 years or life imprisonment.

<sup>129</sup> Ms. Shtepa had previously been detained by the armed groups for almost 3 months, accused of collaboration with the Right Sector. She was only was able to leave captivity when the armed groups fled Slovyansk as the Ukraine forces regained control of the city on 5 July. She told HRMMU that during her captivity by the armed groups she was beaten and threatened with her husband’s murder unless she undertook to speak at a ceremony in

aware of other similar cases and is concerned about cases of detention that appear to be politically motivated or may constitute a measure of reprisals.

The HRMMU has also observed that some judges overlook procedural irregularities in the arrest and detention of individuals suspected of “anti-Ukrainian” activities. In one of the southern regions of Ukraine, for example, senior law enforcement officials stated that pro-unity (or pro-Maidan) activists were considered “heroes” and Ukrainian patriots and were given “immunity” from being arrested or prosecuted. In the Lviv region, on 12 August, traffic police detained seven members of the Right Sector (pro-Ukraine) who were driving from the security operation area to the Zakarpattia region carrying a large number of rifles, shells and explosives. Although a criminal investigation was opened for illegal possession of weapons, the suspects were released later that day.

#### *Detention by the armed groups*

D. Estimates vary concerning the number of people detained by armed groups, although the numbers are coherent in scale and reflect the constantly evolving pattern of detentions and releases. According to the adviser to the Minister of Internal Affairs, as of mid-August, some 1,026 people have been abducted or detained by armed groups since mid-April, and of these, 468 people were still missing. Victims come from all walks of life: police, servicemen, border guards and security personnel; journalists; judges, advocates and prosecutors; local executives, city and regional council officials; politicians and civil activists; volunteers involved in humanitarian action; and many persons not affiliated to any of the warring parties and who were not engaged in any public activity. The HRMMU has been following the cases of 510 people who have been abducted or detained by armed groups since mid-April. Of these, 200 have been released, 9 people are dead (some having visible signs of torture), 301 are still in the captivity of armed groups, of whom 293 are men and 8 are women.

Negotiations on an exchange of detainees with the armed groups mostly involve a swap for Ukrainian servicemen. On 14 August, Ukrainian military reported that 13 Ukrainian servicemen had been released from the captivity of the armed groups. The number of members of the armed groups released in this exchange is not known. On 15 August, the President of Ukraine met with 25 people released from captivity by the armed groups. During this swap, according to one of the people released, 26 Ukrainians were released in exchange to 27 members of the armed groups. On 17 August, the Kharkiv regional state administration announced that five Ukrainian servicemen were released that day.

According to the adviser to the Minister of Defence on the release of captives and hostages, who himself spent 88 days in captivity of the armed groups, Ukrainian military personnel (who comprise on average 10-15% of all people in captivity of the armed groups)<sup>130</sup> are kept separately from civilians, usually in decent conditions and treated according to the “rules of war” and “officers dignity”. According to him, other detainees are usually kept in basements and in very poor conditions. Their release almost entirely depends on the efforts of relatives, civil activists and international organizations.

Examples of detentions by the armed groups include the detention of a policeman and his father, a retired policeman, by the armed groups in Donetsk on 19 July. The alleged reason was that the police officer did not take an oath of loyalty to the armed groups. As of 11 August, their whereabouts were unknown. On 21 July, 29 employees of the Spetsselektrobud Company were abducted by armed groups in Donetsk on their way to the Russian Federation, reportedly for “betrayal of the Fatherland”, and urged to join the armed groups. According to

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support of the 9 May “referendum”. She also said her arrest by SBU was “extremely brutal” with the officer beating her violently.

<sup>130</sup> Calculated by the HRMMU on the basis of statistics on people abducted or detained by the armed groups as of 18 July and as of 6 August provided to the HRMMU by the Ministry of Internal Affairs.

one of the released detainees, six individuals who rejected the proposal were subjected to psychological pressure, including death threats. All of them were released the next day. On 31 July, it was reported that two volunteers from Kyiv who were delivering humanitarian assistance to the security operation area, went missing in the Donetsk region. Later, the HRMMU learned that armed men who had taken the volunteers considered the abductees had assisted the Ukrainian military by directing airstrikes from the ground. On 1 August, armed men abducted a retired resident of Luhansk. According to his son, those who detained his father were looking for his brother who is head of the Luhansk branch of the NGO Youth Association of Ukraine. While searching the apartment, the armed men allegedly found a photo of the detainee in a “vyshyvanka” (a traditional Ukrainian embroidered shirt), and accused him of being the “Kyiv junta’s accomplice and terrorist”. On 9 August, a Donetsk journalist working for NGO.donetsk.ua, currently relocated to Kyiv, learned that her parents were detained “until the clarification of circumstances”. Ukrainian servicewoman Nadiya Savchenko who was allegedly taken captive in Luhansk region, continues to remain in a detention facility in the Russian Federation.

According to the reports from former detainees, people held by the armed groups are often subjected to ill-treatment. On 28 July, the HRMMU learned that on 17 June, a watchman of a communal enterprise in Druzhkivka, Donetsk region was detained by the armed groups. They put a bag on his head and beat him. He reportedly remained in custody for 4 days; all this time he was subjected to ill-treatment and forced to confess that he was a supporter of the Right Sector. In late July, two surgeons of the Institute of Emergency and Reconstructive Surgery were detained by an armed group and subjected to harassment including threats of execution by a firing squad. On 15 August, a Ukrainian serviceman released from armed groups’ captivity said that he had spent 17 days in a basement, and was tortured every day.

Although the fighting and security operation is ongoing, in the areas where the Government has restored control, it needs to immediately start investigating allegations of violations of international law by armed groups and Ukrainian forces. Any delay causes further risk that vital evidence will be lost. Meaningful and sustainable reconciliation of communities requires justice for victims, the curbing of impunity and accountability of perpetrators for crimes.

### **III. FREEDOMS OF EXPRESSION, PEACEFUL ASSEMBLY, RELIGION OR BELIEF**

#### **A. Freedom of expression**

The media, including social media, has the potential to support efforts for peace building as well as the capacity to incite violence. Therefore, impartial, objective, balanced reporting is important in a situation of conflict. Journalists must be afforded the same protection that international humanitarian law affords to civilians and attacks against journalists exercising their professional activities are prohibited.

#### ***Physical safety of journalists and other media professionals***

Abductions, threats, harassment and intimidation of foreign and Ukrainian journalists by armed groups continued to take place in the east of Ukraine. For example, on 19 July, 10 foreign journalists, who had been attempting to report on the MH17 crash, were detained by armed groups in Donetsk. All were released several hours later after interrogation. On 22 July, a CNN freelance journalist and field producer was abducted from the Donbas Palace hotel in Donetsk and accused of being a Ukrainian spy. He was released on 26 July after being severely beaten. On 31 July, two Ukrainian freelance journalists were detained by the armed

groups in the Luhansk region and on 2 August, the operator of the NTN channel was abducted in Donetsk. The whereabouts of all three remains unknown.

On 31 July, the NGO Institute of Mass Information (IMI), which monitors violations of journalists' rights in Ukraine, published<sup>131</sup> an overview of its study covering the cases of 51 journalists who have been abducted and held as hostages by armed groups in the Donetsk and Luhansk regions from April to the end of July. It provides examples of abducted journalists who against their will were forced to give false statements to Russian media, in particular, LifeNews. It appears that cooperation with Russian or pro-Russian media was sometimes a prerequisite for ending or lessening their inhumane treatment and, in some cases, release.

### ***Obstruction to lawful journalist activities***

On 21 July, the so-called “defence minister” of the self-proclaimed Donetsk People’s Republic (DPR), Igor Strelkov, announced that journalists, cameramen and photographers were not allowed to take photos, videos and audio recordings, or to be present in a combat zone or in the immediate proximity of military objects. Several journalists were subsequently harassed, regardless of whether or not they had accreditation from the so-called DPR. For example, a freelance field producer (fixer) for foreign media crews told the HRMMU that on 31 July, armed groups stopped her and the crew in Shakhtarsk (Donetsk region), threatened them with guns and confiscated their camera.

It was reported on 15 August, that in Krasnodon, Luhansk region, the representatives of the so-called “Army of the south east” have prohibited photographing and filming in public places in the city, under the threat of prosecution by their so-called military tribunal.

### ***Arrests and detentions of journalists by Ukrainian forces***

On 18 July, the central district court of Mykolaiv sentenced the editor of the local website “Nabat”<sup>132</sup> to four years of imprisonment with two years’ probation for publishing incorrect information about the security operation and spreading anti-Ukrainian information, which was classified as trespass against territorial integrity and inviolability of Ukraine under article 110/1 of the criminal code.

On the night of 22 July, a freelance journalist from the TV channel Russia Today<sup>133</sup> was detained by the SBU near the Donetsk airport where heavy fighting was going on. He reported having been held for three days and that his Ukrainian colleague was beaten up. He was then reportedly taken to the Polish border and “dumped out” after being told he was banned from Ukraine for three years; the Ukrainian journalist was released on 24 July.

On 1 August, a female journalist (citizen of the USA and Russian Federation) working for Russia Today was detained by the SBU in Rakoshyno, Zakarpattia region for questioning. She was released after three hours and reportedly obliged to leave the territory of Ukraine by 4 August.

Three journalists (from the Serbian weekly Pecat, 112 Ukrainian TV channel, and a freelance journalist from the Luhansk region) went missing on 1 August. Five days later, all three were found by local residents in Dniprodzerzhynsk. The journalists reported that they were detained

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<sup>131</sup> The study, published on 31 July, included, among other cases, those of Volyn Post’s journalist (held hostage from 26 April to 18 May), a freelance photographer (22-25 April), Hromadske TV’s journalists (30 June-2 July) and a freelance journalist and field producer (22-26 July). The HRMMU has mentioned these cases in its previous reports.

<sup>132</sup> The “Nabat” website is known for its pro-federalism views.

<sup>133</sup> The Russia Today journalist had been previously detained by the Ukraine Security Service on 30 May for unauthorized filming of classified military objects, but was later released. On 24 July, it was reported that based on the complaints in the UK about the coverage of the Malaysian Airlines crash by the TV channel Russia Today, it might be sanctioned by the UK organization that oversees broadcast standards. Several employees of Russia Today have recently resigned accusing the channel of covering the Malaysian Airlines crash story with “total disregard for the facts”.

by the territorial defence battalion Kryvbas at a checkpoint near Amvrosiivka after crossing the Russian Federation-Ukraine border. They reported having being blind-folded for five days, with their hands tied, ill-treated, threatened and forced to remove their clothes before being released separately at night. Local residents took the journalists to the police, who recorded their complaints and provided them with food and clothing.

The chief editor of the Donetsk newspaper “Municipalna Gazeta” was arrested on 3 August by the SBU while leaving Donetsk for Mariupol. It was reported that she was trying to reach Crimea and is accused of supporting terrorism by heading a pro-Russian information unit in Donetsk. She was detained with her 17-year-old son, who was with her at that time. Both were taken to Kyiv where the son was released. According to the ruling of the investigating judge, the journalist is to be held in custody without bail for 60 days, until 4 October, while the pre-trial investigation is ongoing. An appeal on this will take place on 21 August.

A photojournalist of the International Information Agency RIA Novosti went missing in the Donetsk region on 5 August. His colleagues allege he has been detained by Ukrainian armed forces; however the Government military spokesman has denied this. On 11 August, the police opened an investigation into his disappearance.

### *Media regulation*

During the period under review, the Government of Ukraine has sought to regulate the media in order to censor and control the growing number of publications and radio and television outlets that are publishing or broadcasting unverified information or one-sided, judgemental reports, especially Russian media broadcast or distributed in Ukraine.

On 18 July, the SBU asked the Ukrainian Internet Association for its assistance in limiting access in Ukraine to 24 Internet resources registered outside Ukraine, alleging they promoted violence, ethnic hatred and violation of the territorial integrity of Ukraine, based on the conclusions of the National Expert Commission for the Protection of Public Morals.<sup>134</sup> On 7 August, the head of the Association stated that while supporting the SBU initiative to ensure informational safety in Ukraine, she would not block web-sites without a proper investigation and a court decision for each case.

The National Council of TV and radio broadcasting issued a statement on 7 August, demanding that cable TV providers stop broadcasting the Russian channel RBK-TV, because it does not comply with Ukraine law. The decision is based on the results of monitoring that the Council conducted on 25, 29 July and 1, 4 August. The Council has already banned at least 12 Russian channels including “First Channel”, “RTR Planet”, “Russia 24”, “NTV-Mir”, “TV Centre – International”, “Russia 1”, “NTV”, “TNT”, “Petersburg 5”, “Zvezda”, “Ren TV”, and “LifeNews”.

Any restrictions on the right to freedom of expression are only permissible to the extent that they are compatible with article 19 (3) of the ICCPR. Launching and supporting initiatives<sup>135</sup> that debunk false reports, educate the public on and promote ethical standards (particularly while reporting on conflict situations) are one of the ways to counter disinformation and low-quality reporting regarding the events in the eastern regions of Ukraine without imposing restrictions.

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<sup>134</sup> The National Expert Commission for the Protection of Public Morals was created in 2003. According to its mandate it has the right to conduct monitoring of the activity of media outlets, as well as companies that organise mass entertainment events, to ensure that they do not popularize products of sexual, erotic content or that contain elements of violence and cruelty. The decision of the National Expert Commission adopted within its competence are mandatory for consideration by central and local governments, the media of all forms, and natural and legal persons.

<sup>135</sup> For example, the volunteer initiative “Stop Fake” launched on 2 March 2014.



### ***Inflammatory speech***

Developments in the eastern regions have exacerbated tensions between those with opposing views, which often results in the usage of inflammatory or even hate speech, particularly on social media networks, in the mass media and during rallies. For example, in Odesa, public displays of a symbol, slogan or poster associated with one side or the other,<sup>136</sup> including displays of the Ukrainian flag or of St. George ribbons,<sup>137</sup> has on many occasions sparked a negative, sometimes violent reaction.<sup>138</sup>

It is of particular concern that some public figures, particularly political and religious leaders, resort to inflammatory speech, including on social media. At the same time, the Government and civil society activists are making efforts to address it. For example, on 6 August, during the session of the Temporary Oversight Commission of the Odesa Regional Council, a senior police investigator described “pro-federalism” activists who were gathering at Kulikove Pole as “previously convicted lumpen, from marginal circles, foreigners and unemployed” and “having the intellectual level equal to a 14-year-old”. The Ministry of Internal Affairs reacted to this statement and disciplinary measures have been taken.

On 5 August, volunteers and journalists from the Zakarpattia region sent a letter to the leaders of all regions represented in Zakarpattia describing instances of priests addressing parishioners with “ambiguous statements and negativism” that may provoke intolerance. The letter was intended as a precautionary measure and urged the senior priesthood to ensure that the religious sphere was not politicised and that priests refrained from any such statements.

### **B. Freedom of peaceful assembly**

The right to peaceful assembly was exercised without restrictions in most of Ukraine during the reporting period. In Donetsk and Luhansk regions, rallies could not be held either due to security reasons and active fighting, or because of restrictions imposed by armed groups. The only peaceful assembly in the east was the Prayer Marathon<sup>139</sup> held in Donetsk. However, because it is “unsanctioned” by DPR, its activists are regularly harassed, intimidated and abducted by the armed groups.

For the first time since March, in Severodonetsk (Luhansk region), once the Ukrainian Government regained control of the city on 22 July, residents were able to openly gather on 1 August, in the central square, for a pro-Ukraine rally in the form of a flash mob.

A number of rallies have taken place in western Ukraine expressing dissatisfaction with local or regional officials, opposing Russian-owned companies, in support of or against IDPs, against mobilization, or with demands for law-enforcement and criminal justice reforms. In some cases the protesters blocked critical roads. However, no violent incidents were reported. In western regions, the local authorities appeared more open to dialogue with the protesters. For example, in Lviv there were several instances when activists were invited by the mayor to the sessions of the city council to present their demands.

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<sup>136</sup> In Odesa, the two opposing sides are referred to as “pro-unity” or “pro-federalism” supporters.

<sup>137</sup> Saint George ribbons are associated with the pro-federalism movement

<sup>138</sup> For example, in Odesa, some activists told the HRMMU that they would like to have psychological help as a result of trauma following the 2 May violence, but are afraid that because of their pro-federalism views they might be harassed or reported to law-enforcement agencies. In Bessarabia (south Odesa region) there have been reports of people demonstrating aggressiveness against pro-unity symbols, including the Ukrainian flag.

<sup>139</sup> The Prayer Marathon is an inter-denominational initiative, which started on 4 March 2014 in Donetsk. It was initiated by the Council of Christian Churches in the Donetsk region. Representatives of different religious traditions, beliefs and people of good will were invited to gather at the main square to pray for peace, freedom and unity. Since April, the activists of the Marathon have been regularly harassed and abducted by the armed groups.

In Kharkiv, parallel rallies<sup>140</sup> of two opposing groups (the supporters of a unified Ukraine and the supporters of federalisation) were held again on Freedom Square, under the surveillance of about 100 police officers, with no clashes reported.

Compared to previous months, the assemblies tended to involve more participants. An increased in participation of women in public protests could be observed, on average representing over 60% of demonstrators. This could be attributed to the growing number of protests against mobilization, in which mothers of the drafted soldiers play a leading role.

In Odesa, activists supporting federalisation continued to gather on the main square, Kulikove Pole, protesting against the security operation in the east and the slow investigation into the 2 May events and demanding fair trials for pro-federalism activists who had been detained. On the other hand, pro-unity activists organised protests in relation to lustration, corruption, environmental protection, as well as “anti-Russian” protests, such as requests for a boycott of products from the Russian Federation. In the past few weeks, there has been an observable increase in tensions as a result of rallies where activists of opposing sides gathered in the same place, trying to provoke each other. Some activists were arrested due to aggressive behaviour and “hooliganism” and all were released after a maximum of three hours.

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

On 8 August, after the regular evening session of the Prayer Marathon in Donetsk, four activists (three men and one woman) were abducted by the armed groups. The female activist was released the same day; two abducted Protestant pastors were released the following day. The fourth activist (also Protestant) was released on 12 August. According to the Prayer Marathon participants, his health was satisfactory, yet he required recovery.

They were initially detained because in the view of the armed groups they were participating in an “unsanctioned” rally. However, once identified as Protestants, they were subjected to harsher treatment. In the so-called constitution of the self-proclaimed Donetsk People’s Republic, the Orthodox Christianity of the Moscow Patriarchate is the only recognised religion, and all other “sects” are prohibited.

## **IV. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS**

### **104. Investigations into the 2 May violence in Odesa**

The official investigation into 2 May violent events in Odesa has made little progress. The Ministry of Internal Affairs and the Office of the General Prosecutor, which are two of the entities leading the investigation, have not provided results. However, they did present some preliminary findings.

On 6 August, at the request of the Temporary Oversight Commission of the Odesa Regional Council, the Ministry of Internal Affairs, the SBU and the Regional Prosecutor’s Office presented their preliminary findings on at a Council session. Most of the information provided did not contain new elements; some information published by the Ministry of Internal Affairs and the Office of the General Prosecutor appeared to be contradictory with regard to the number of suspects and detainees and the results of forensic examinations. There was also a difference of opinion about the proposal to disclose the detainees’ political affiliation since this might be considered as influencing the case.

The following information was reported by the Ministry of Internal Affairs of the 33 suspects regarding 2 May violence in the city centre, 12 were in custody and 21 under house arrest, and

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<sup>140</sup> The holding of parallel rallies in one place was commonplace previously, especially during April-May, when in many cases it led to clashes between the protestors with resulting casualties.

are charged under Article 115, part 1 (Intentional homicide) and Article 294, part 2 (Mass riots/unrest). The suspects included people from the Russian Federation and the Transnistrian region of the Republic of Moldova. It was announced that trials will be scheduled for the end of August. The SBU stated that five additional persons (four of whom were in detention) were suspected of committing crimes against the State during the events in Odesa. The HRMMU visited all 12 detainees in the pre-trial detention centres in Odesa, Vinnytsya and Kyiv.

According to the Ministry of Internal Affairs, the cause of deaths in the Trade Union building remained unclear and required further investigation. This contradicts information provided by the Head of the Regional Forensic Office on 20 June at a public session of the Temporary Oversight Commission of the Odesa Regional Council, who stated that the causes of all deaths were determined.

The information provided did not contain any new elements. Some information published by the Ministry of Internal Affairs and the Office of the General Prosecutor appeared to be contradictory with regard to a number of suspects and detainees, and forensic examinations.

The Office of the General Prosecutor continues to investigate police negligence on 2 and 4 May. Regarding 2 May, the main suspect (the former Deputy Head of the Regional Ministry of Internal Affairs) remains at large. Its investigation Unit is preparing materials for court hearings related to the 4 May events when detainees were “illegally” released from police custody. In this case the Head of Odesa’s City Police, the Head of the Temporary Detention Centre under the Ministry of Internal Affairs, and the Duty Officer have been notified that they are under suspicion.

Members of the Independent Commission on the Investigation of the 2 May violence have expressed serious concerns about factual errors in the forensic evidence and suggested annulling all previous forensic results. All 42 people (except one body that remains unidentified) who were killed in the Trade Union building and who have been buried were identified through the use of forensic evidence.

On 8 August, the Independent Commission published further conclusions, including an analysis of the police conduct during the 2 May violence. They deplore that fact that the principal initiators of the violence remain unknown and therefore enjoy impunity. (1) The Regional Ministry of Internal Affairs was well informed in advance about the tense situation in Odesa at the beginning of May, and of the plans of the pro-unity and pro-federalism activists. (2) A special police tactical plan had reportedly been approved by the Head of the Regional Ministry of Internal Affairs, and was supposed to guarantee police readiness. However, for reasons that remain unknown, this plan was not implemented. (3) The Independent Commission concludes that despite prior knowledge and planning, police forces were deployed to secure public order, for unknown reasons. In addition, the police units in the city centre were not adequately equipped to control a large gathering or mass disorder. As a result, according to official data, 14 National Guards and 50 police officers were injured or wounded. Reportedly, additional 50 police officers from other districts of the Odesa region were injured but did not register with any of the city hospitals. (4) The Independent Commission is currently studying the official State Emergency Service (fire brigade) transcript of emergency telephone calls received during the evening of the 2 May. According to the transcript, it took the fire brigade 38 minutes to arrive at Kulikove Pole (site of the violence) following the first emergency call, although it is only 5 minutes away.

Every Sunday since 2 May, pro-federalism supporters gather at Kulikove Pole, the square in front of the Trade Union building. A memorial with the photos of the deceased people and candles was set up but demolished twice within 24 hours, on 19 and 20 July, by unknown people. This reflects the continued sensitivity and division following the 2 May violence, and the need for a thorough and independent investigation.

### **105. Investigations into human rights violations committed at Maidan**

Eighty-four criminal proceedings have been instituted in connection with human rights violations committed during the Maidan protests, held in Kyiv and other cities of Ukraine from November 2013 until February 2014. They concern the circumstances surrounding the forceful dispersal of protesters on 30 November 2013, the killing of protesters on 19-21 January 2014 and mass killings on 18-20 February 2014. In addition 30 cases of unlawful acts by law enforcement officers against participants of the AutoMaidan are under investigation.

The Ministry of Internal Affairs and the Prosecutor's offices investigated 445 cases of unlawful acts against demonstrators between November 2013 and 1 August 2014 according to the Office of the General Prosecutor. Of these 66 cases were closed with no crime having been committed, 265 were merged with other cases and 84 are ongoing, as of 1 August. On the basis of these investigations, 76 civil servants, including law enforcement officers, 6 judges, and 2 civilians are to undergo pre-trial criminal investigation.

#### ***Forceful dispersal of protesters on 30 November 2013***

As noted in previous reports, the forceful dispersal of protesters on 30 November 2013 was the first instance of the excessive use of force against peaceful Maidan demonstrators and triggered further protests.

A law<sup>141</sup> adopted shortly after the 30 November events, decriminalized all the protesters' deeds and some acts of violence and human rights violations committed during the forceful dispersal of the demonstration, thus discharging the perpetrators from criminal responsibility for these actions. The law was repealed on 21 February. The Office of the General Prosecutor informed the HRMMU that five persons were on 24 February notified of being under suspicion for illegal obstruction of public meetings, rallies and demonstrations. However, the pre-trial investigation into this was suspended on 17 July due to the prosecution being unable to locate three of the suspects who have apparently fled Ukraine. In addition, by court order on 29 July, the Office of the General Prosecutor was requested to undertake further investigations into possible abuse of power by two of the suspects, who were previously exempted from criminal responsibility according to the law.

#### ***Killing of protesters on 19-21 January and 18-20 February 2014***

The Office of the General Prosecutor is conducting an investigation into the circumstances of the death of four people between 19 and 21 January 2014 and of at least 98 people between 18 and 20 February 2014. So far there has been no significant progress in this investigation. However, the Office of the General Prosecutor expected that the case would be submitted to the court in the nearest future.

The Prosecutor's investigation has found that these crimes were instigated by a group, headed by the then President of Ukraine, Victor Yanukovich, and composed of the highest level officials, including from the law enforcement agencies such as the SBU and special police forces. The Office of the General Prosecutor said that the investigation is complicated by the fact that all members of the group have fled Ukraine and are beyond its jurisdiction. The Government of Ukraine have taken all the necessary procedural steps at the international level to be able to prosecute the suspects.

With regard to the actual perpetrators of the crimes, the Office of the General Prosecutor informed the HRMMU that three former servicemen of the Berkut special police force, who are suspected of killing 39 of the 98 protesters who died between 18 and 20 February 2014, were in detention and 24 suspects were put on the wanted list. The Office of the General Prosecutor was expecting to submit materials about these cases to court in the near future.

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<sup>141</sup> The Law of Ukraine on Elimination of the Adverse Effects and Prevention of Prosecution or Punishment of Individuals with regard to Events which Took Place During peaceful assemblies, adopted on 13 December 2014, was repealed on 21 February 2014.

According to the Office of the General Prosecutor the case of a journalist who was severely beaten and shot by so-called “titushky”<sup>142</sup> on the night of 18 February and who died in hospital on 19 February, was submitted to the court with an indictment. However, seven perpetrators of the crime have not yet been located.

The report submitted to the Office of the General Prosecutor on 7 July by the Provisional Investigating Commission of the Ukrainian Parliament on the Maidan events<sup>143</sup> largely reiterated the prosecutor’s findings. The Commission emphasised the malicious negligence of law enforcement investigators, which resulted in their failure to collect and/or duly secure evidence. This led to an unalterable loss of material evidence, due to which it has become almost impossible to bring the actual perpetrators to trial.

People who had been living in the Maidan encampment since the end of the protests refused to dismantle the barricades in Instytutska Street in Kyiv, claiming that it would destroy potential remaining evidence. On 24 July, the Kyiv city prosecutor initiated criminal proceedings against the Kyiv city administration, accusing them of having failed to ensure the departure of pro-Maidan activists from 12 buildings they have been occupying illegally since December 2013 and for not restoring public order and normal traffic in and around the Maidan area of Independence Square. From 7 to 15 August, the Maidan encampment in Independence Square in Kyiv was removed by the voluntary battalions under the auspices of the Ministry of Internal Affairs. This triggered resistance from the inhabitants of Maidan who tried to defend their camp; a number of tents and tires were set on fire and clashes occurred. Some Maidan inhabitants were arrested and one suffered a gunshot wound. He said to HRMMU that he was shot in the back by law enforcement officers.

#### **106. Investigations into other human rights violations**

Investigations are ongoing into the human rights violations in the Rymarska case in Kharkiv in March 2014, when members of the pro-Russian organisation Oplot clashed with members of the far-right Patriots of Ukraine. As a result two Oplot activists were killed and several wounded. The SBU said that two suspects are in pre-trial detention, but are not yet charged. The SBU told the HRMMU that it considers that the killings of the Oplot activists were in self-defence, arguing that the victims had committed an armed attack.

Investigations are also ongoing into the human rights violations perpetrated during the assault and seizure, on 9 May, of the Mariupol Department of the Ministry of Internal Affairs and the military base by pro-Russian armed groups. When the special police battalion Azov sought to prevent the seizure of the administrative building 20 armed persons were reportedly killed and even more hospitalized. According to the Office of the General Prosecutor, the pre-trial investigations into both these events are expected to be submitted to court in the near future.

Investigations into three cases of Volodymyr Rybak, Yurii Popravko and Yurii Diakovskiy, who were abducted by armed groups and found dead in the river near Slovyansk (Donetsk region) with visible signs of torture in mid-April, have not made any progress in four months. According to the relatives, the law enforcement bodies have not questioned the live witnesses or collected the evidence in the building where victims were held as hostages.

According to an advocate providing legal aid to people released from the captivity of the armed groups, the investigation of detentions is often sent back to the police precincts in the Donetsk and Luhansk regions (as it is their jurisdiction). However, when these crimes were

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<sup>142</sup> Organized groups of young men, sometimes armed, used to attack peaceful rallies or stage provocations; see first report.

<sup>143</sup> Provisional Investigatory Commission of the Parliament of Ukraine on investigation of unlawful acts of the law enforcement organs and particular officials, encroachment of rights and freedoms, life and health of citizens during the events, related to mass socio-political protests, which took place in Ukraine from 21 November 2013.

committed, the police were cooperating with the armed groups and some of the same people are still police officers. Therefore it seems unlikely that any action will be taken concerning these investigations. In addition, there are concerns about reprisals, particularly against family members of the former detainees who might still reside in the east. Some cases have not even been registered in the unified registry of pre-trial investigation.

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

On 23 July, the President created a National Reform Council to spearhead the national reform process. While there were no developments in amending the constitution, the lustration commission for judges has started vetting requests and a draft law on lustration had its first reading in Parliament.

During the reporting period, Parliament adopted several pieces of legislation relating to the security operation in the east, which expands the powers of law enforcement agencies in “counter-terrorist operation area”, and thus imposing restrictions on human rights.

In Lviv, a pilot project on police reform that was launched on 1 July has begun work.

### **B. Changes to the legislative framework**

#### ***Constitutional amendments***

So far Parliament has not considered the draft law<sup>144</sup> introduced by the President on 2 July to amend the Constitution of Ukraine. As noted in the previous report, the proposed amendments foresee the decentralization of power as well as enhanced protection of minority rights, particularly linguistic minority rights, among other issues.

The draft law was submitted for review to the Venice Commission of the Council of Europe in early July. The Venice Commission was expected to present its opinion on these amendments by the end of August but this was postponed. A review of the draft law has been included in the agenda of the 100<sup>th</sup> Plenary Session of the Venice Commission, which will take place on 10-11 October 2014.

#### ***National Reform Council***

The President created a statutory framework for reform on 13 August detailing the mandate and functions of three bodies: the National Reform Council (NRC)<sup>145</sup>, an Executive Committee and an Advisory Council for Reforms. The Executive Committee will be responsible for strategic planning, harmonizing the implementation of reforms and monitoring their implementation. It is currently preparing a strategic plan for the sustainable development of Ukraine until 2020, which it is to submit to the NRC by 23 October. The Advisory Council will ensure that reforms being proposed are based on best international practices and will promote their implementation. Along with the President, other members of the NRC include the Speaker of Parliament, the Prime Minister and other members of the Cabinet, the Head of the National Bank of Ukraine, the heads of the Committees of Parliament, four representatives of NGOs, and one representative of the Advisory Council.

The NRC is to coordinate the activities of ministries and government agencies in formulating and implementing reforms. It is foreseen that a special donors’ committee will be established within the NRC to fundraise and manage funds provided in support of reforms.

#### ***Legislation***

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<sup>144</sup> No. 4178a

<sup>145</sup> The National Reform Council will be chaired by the President.

On 23 July, the President signed into law partial mobilization according to which, for the following 45 days, people aged between 18 and 60 are to be mobilized for deployment to the security operation. According to the Ministry of Defence, up to 50,000 people could be mobilized, bringing the total number of active servicemen to 100,000. The law applies to all regions of Ukraine, except Crimea. Students, members of Parliament and men or women with no military experience were exempt from the mobilization plan. It was clarified later that this mobilization would also apply to eligible IDPs.

According to the presidential decree that was approved by Parliament on 22 July, the need to declare partial mobilization was justified by the concentration of forces with significant offensive potential on the territory of the Russian Federation near the border with Ukraine, the threat of an attack, and a threat to Ukraine's state independence. This is the third wave of mobilization of servicemen and reservists since the beginning of the security operation in mid-April.

Ukraine's Parliament on 12 August adopted three laws that would significantly expand the powers of law enforcement bodies in the areas where the security operation is being conducted.<sup>146</sup> Although these laws are intended to address a temporary situation – the current security operation in eastern Ukraine – there is no provision concerning their term of validity and their temporary character is not mentioned. These laws appear to be in conflict with international human rights norms and standards. While it is acknowledged that times of emergency might require limiting certain guarantees, in all circumstances such measures must remain consistent with the norms of international law.<sup>147</sup>

One law<sup>148</sup> would extend the period of time a suspect could be held in preventive detention on suspicion of terrorism without initiating criminal proceedings and a court decision. The Criminal Procedure Code requires that a suspect be brought before a court within 60 hours (72 hours for judgment) while the new law allows a suspect to be held for up to 30 days before appearing before a court. This appears to be in conflict with international human rights norms and standards, in particular article 9(3) of the International Covenant on Civil and Political Rights which requires that “(any)one arrested or detained on a criminal charge shall be brought *promptly* before a judge or other officer authorized by law to exercise judicial power...” (emphasis added).

In a second law,<sup>149</sup> Parliament expanded the authority of the prosecutor in emergency situations or under martial law. In this law, the prosecutor is given judiciary functions in that the prosecutor can order searches of property, documents, premises and other related activities in cases of suspected terrorist activity. Previously only a court could authorize this. The law does not provide for any appeal mechanism regarding the prosecutor's action. It is in contravention of provisions of the Ukraine Constitution prohibiting any delegation of court functions, the limitation of rights and personal immunity. In addition, the law runs conflicts with international recommendations, which call for reducing the powers of the prosecution not related to the criminal justice process.

The third law,<sup>150</sup> regarding conditions permitting the use of force, special munitions and guns without notice in the region of the security operation, would enable the police to shoot at a person under any circumstances without warning. This law, if applied in the context of law enforcement operations, could be contrary to the UN Basic Principles on the use of force and firearms by law enforcement officials, which stipulate that intentional use of firearms may

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<sup>146</sup> As of 28 August all three laws entered into force.

<sup>147</sup> Report of the Working Group on Arbitrary Detention, E/CN.4/2004/3.

<sup>148</sup> Amendment to the Law of Ukraine “On Fighting Terrorism”.

<sup>149</sup> Amendment to the Criminal Procedure Code of Ukraine regarding a special regime of pre-trial investigations under martial law, state of emergency and in the region of the anti-terrorist operation.

<sup>150</sup> Amendment to the Law of Ukraine “On Police”

only be made when strictly unavoidable in order to protect life and that in such cases, officials shall identify themselves as such and give a clear warning of their intent to use firearms.

Parliament also adopted a law<sup>151</sup> on the creation of military prosecutors which would establish a Military Prosecutor's Office within the General Prosecution Office of Ukraine, to be headed by a Deputy Prosecutor General of Ukraine who will also be the Chief Military Prosecutor. The Prosecutor General can also authorise him/her to perform other duties. The law enables the military prosecutor's office to perform the functions of general prosecutors in exceptional circumstances, which are unspecified. If implemented in line with human rights standards, this law could fill a gap in the current criminal justice system in the east. Currently in most of Donetsk and Luhansk regions, the judicial system, prosecutor and law enforcement do not function.

### **C. Law enforcement and judiciary reforms**

#### ***Law enforcement***

The Ministry of Internal Affairs launched on 1 July a pilot project in Lviv, which would provide some preliminary research and assessments to develop nationwide police reform. This pilot project involves seven expert groups with a total of around 110 experts – policemen, representatives of civil society, sociologists and journalists – from different regions of Ukraine, who will examine all aspects of the current state of the police and propose changes, including possible draft legislation.

According to some of the participating experts who met with the HRMMU, one proposal would be to link the efficiency of the work performed by the police, not to the number of crimes solved (as is currently the case), but to the public's evaluation of safety in a particular city and its level of satisfaction with police activities. Another expert group proposes to introduce a lie detector test for anyone wishing to become a police officer. According to some of the experts, the root cause of many current problems with the police force is legislative and budgetary and these need to be addressed before any meaningful change will happen to the police. An additional problem that does not seem to be addressed in any of the expert groups' mandates is the systemic corruption in the police force. In addition, according to the experts, reform of the police will not have the desired impact unless it is accompanied by simultaneous reform of the prosecutorial and judicial systems. Nevertheless, the experts noted that this project is the first time that central authorities have expressed the political will to change the law enforcement system and they considered this a hopeful breakthrough for a long-lasting improvement of police activity.

#### ***Administration of justice***

On 3 July, a Temporary Special Commission<sup>152</sup> began its assessment of the decisions and conduct of general court judges who considered civil, administrative or criminal cases related to Maidan mass protests held throughout Ukraine from 21 November 2013 and until the law entered into force of the law<sup>153</sup> on 11 April 2014. The Commission will also review the decisions and conduct of judges who ruled on cases which were assessed by the European Court of Human Rights as having violated the European Convention on the Protection of Human Rights and Fundamental Freedoms. Any person or legal entity can request a judge to be assessed by the Commission under the above two circumstances.

In addition the Commission will also review cases related to the October 2012 Parliamentary elections and the preceding election campaign. Only people whose rights were violated during these events can apply for the Commission's review. The Commission will conduct its first

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<sup>151</sup> No. 4446a Amendments to the law "On prosecution".

<sup>152</sup> Established according to the Law on Restoration of Confidence in Judiciary in Ukraine.

<sup>153</sup> Law on Restoration of Confidence in Judiciary in Ukraine.



public hearings in September 2014. The mandate of the Commission will expire on 3 July 2015.

As of 8 August, 541 applications had been submitted to the commission for review, of which 82 were accepted and 459 rejected. In most cases, the rejections were because they failed to meet the time frame criteria or to the fact that the cases did not fall within the Commission's mandate. The applications mostly requested a review of decisions made during the Maidan events or related to alleged violations of the right to peaceful assembly, as well as illegal arrests and detentions. The conclusions of the Commission on each case will be of an advisory character, and will be shared with the High Council of Justice of Ukraine, which will decide on what measures to apply against the judges.

### *Lustration*

The lustration<sup>154</sup> or vetting of corrupt officials and those associated with the previous administration was one of the central demands of the Maidan activists and remains an important focus of civil society. Local communities have been playing a key role in this process by demanding better governance by local and regional officials, including accountability.

In most regions throughout Ukraine, especially the western ones, local lustration committees have been created which lead public discussions about whether people in local positions of power should be subject to lustration for their past actions and in identifying and recommending specific candidates to replace them. For example, a Lustration Committee of the Khmelnytskyi region was set up in April consisting of 8 members from civil society and political parties. In March, the People's Council<sup>155</sup> of Ivano-Frankivsk established a Lustration Commission of 9 members (local journalists, entrepreneurs and civil activists) which later integrated five local civil society organizations. Volyn was the first western region to establish a Public Lustration Committee (in late February), which includes 10 members (journalists, academics, workers, and pensioners); it has a public office in the building of the Volyn Regional Council where anyone can initiate a lustration procedure against any public official or candidate for an official post. In Rivne, there are two separate lustration committees and an on-line platform,<sup>156</sup> whereby anyone can express an opinion about public officials or candidates. The Lviv region Lustration Committee, also created in late February 2014, consists mainly of civil activists and journalists and has its own weekly TV programme, "Lustration", broadcast on the local TV channel ZIK. Candidates for Lviv state jobs are invited by the Committee to participate in the programme, during which the Committee questions them and decides whether the candidate "passed" lustration. The civic initiatives have had some success in having regional and local officials dismissed and others appointed.

However, many of the people responsible for human rights violations remain in positions of power. Activists demand that anyone who ordered violations during Maidan, past leaders of communist organizations, former Security Service of the USSR (KGB) agents, anybody who supports the separatists and public officials who are unable to explain the sources of their property, should be deprived of public office and roles in the government.<sup>157</sup>

On 14 August, Parliament held a first reading of a draft law on the Lustration of State Authorities. The draft law does not create a single independent lustration body; responsibility for carrying out lustration is given to the heads of each body concerned. It proposes to dismiss virtually all state officials occupying leading posts in previous years, thus entailing wholesale

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<sup>154</sup> The term "lustration" literally means "cleansing" but is taken to mean "investigation and dismissal" of corrupt officials and those associated with previous regimes.

<sup>155</sup> A special local body created during the Maidan protests and authorized to represent the people's interests.

<sup>156</sup> <http://rv.lustration.co.ua/about> .

<sup>157</sup> Stated at a press conference of Kharkiv lustration activists, Kyiv 8 August 2014

dismissal within certain departments. There is no mechanism for replacing these officials that would guarantee that qualitatively different persons would occupy these posts.

## **VI. ECONOMIC AND SOCIAL RIGHTS**

The fighting in the eastern regions continues to have a negative impact on economic, social and cultural rights, not only in the Donetsk and Luhansk regions, but in the whole country. As of July, there was evidence of further decline in the economic situation: the GDP decreased by 4.7% compared to last year, capital investments dropped by 23.1%, the consumer price index grew by 11.6% and the unemployment rate increased from 8 to 8.8%.

In order to finance the security operation in the east and to address reconstruction in the Donetsk and Luhansk regions (the main strongholds of armed groups), Parliament approved amendments to the budget on 31 July which will make cuts in social programmes, pensions, unemployment and disability benefits, and salaries of state employees. These cuts will negatively affect women disproportionately, as they constitute 67% of the population over 65 years old, 55% of the registered unemployed and 75% of state employees.

At the same time on 31 July, the Government introduced a 1.5% “military tax” to be paid from all salaries and wages until 1 January 2015. Already there are large wage arrears in Ukraine, amounting to 970.7 million UAH (about 72.5 million USD) as of July 2014, with the highest rates in Kyiv region (125 million UAH), Donetsk region (121.1 million UAH) and Kharkiv region (102.6 million UAH). These factors will have negative impacts on businesses and households.

The principal driver of the further deterioration of the economic and social situation in the east is the continuation of the fighting which is concentrated in densely-populated areas. On 14 August, an UN-led preliminary response plan on the humanitarian aspects of the situation in eastern Ukraine was presented to a donors’ conference. According to the plan, some 3.9 million people live where fighting is ongoing or where fighting was taking place until very recently. The population remaining in the Donbas region, even those not directly affected by hostilities, face reduced or disrupted services, with water and electricity supply and transportation badly affected.

According to the Ministry of Social Policy, as of 15 August, the security situation made it impossible to deliver pensions to 11 towns and districts in the Donetsk region: Snizhne, Horlivka, Yenakieve, Zhdanivka, Kirovske, Makiivka, Torez, Khartsyzk and Shahtarsk town and district. In the Luhansk region, pensions could not be paid in 5 districts. Elderly people are particularly affected as many have been left alone when their families fled the area. According to Donetsk Regional authorities, about 20,000 persons with disabilities and the elderly, were left alone in their homes in Donetsk, Makiivka and Horlivka, have no access to their pensions and food.

Other social welfare benefits (for families living in poverty, families with children, children with disabilities) could not be paid in 14 towns and districts of the Donetsk region: Avdiivka, Horlivka, Yenakieve, Zhdanivka, Kirovske, Makiivka, Snizhne, Torez, Khartsyzk, Marjivka, Shahtarsk town and district, Yasynuvate town and district and Donetsk city. Due to technical difficulties, State allocations for social welfare benefits could not be delivered to the Luhansk region.

The situation is particularly critical in Luhansk city, directly affecting the 250,000 residents who remained. According to the Luhansk city council, as of 15 August, the city had been under continual shelling for 13 days, without electricity, water and mobile/telephone connection. There was a shortage of food, potable water and medications. Water had not been sanitised and the rubbish had not been collected for more than two weeks.

The assessment of the World Health Organisation suggests that access to, and the provision of, quality emergency and primary health care in hospitals and medical facilities in the Luhansk and Donetsk region has been severely impacted by the security situation, which has led to a deterioration and the insufficient provision of services due to the extreme lack of pharmaceuticals, consumables and human resources, as well as intermittent electricity and water supply. According to preliminary estimates, in Donetsk and Luhansk regions 15 hospitals have been damaged in the course of fighting, 20 medical institutions closed and 70% of the medical personnel have fled the area.

Medications for patients in need of renal dialysis, vaccinations and antiretroviral treatment (ARV), as well as insulin dependents, patients with rare diseases and the disabled are currently provided through available local resources, which will soon run out. The incidence of tuberculosis may increase due to the risk of treatment interruption or inadequate treatment. It is increasing difficult to distribute some live-saving medications, such as ARV and insulin. These medications are bought through national tenders and delivered to regional centres first. In the current situation, with fighting concentrated in Luhansk and Donetsk, such treatment cannot be delivered even to smaller towns where fighting has stopped.

People who are in institutions face particular difficulties. Institutions where older persons live were not evacuated from the eastern regions. Most of these homes had been in very poor condition with little equipment and resources. They are located off the main roads making deliveries difficult; they thus now face severe shortage of food, medicines and basic commodities. Furthermore, due to the constant stress experienced by the residents as a result of prolonged fighting and shelling, cases of heart attacks and strokes have become more frequent.

More than 23% of all prisoners in Ukraine are held in the eastern regions. As of beginning of August, out of 36 penitentiary institutions, 28 were in territories controlled by the armed groups in the Luhansk and Donetsk regions. Due to the lack of food delivery, it has become a major challenge to feed the inmates. Some penitentiary institutions do not have sufficient supplies of ARV treatment. Since April 2014, due to the security situation and fighting, inmates could not be sent for treatment to the regional hospital of Donetsk.

As a result of fighting, public infrastructure in the east has been severely damaged and its reconstruction will require significant time, human and financial resources. Availability of basic infrastructure and adequate living conditions is a determining factor for IDPs who plan to return home. In such towns as Kramatorsk, Slovyansk, the electricity and water supply have been fully restored. Nevertheless, as of 13 August, 76 towns and villages in the Donetsk region had limited or no electric power. Reconstruction of buildings damaged by shelling, particularly residential ones, will be required. For example, in Semenivka, a suburb of Slovyansk, 250 houses were completely destroyed by shelling; in Slovyansk, approximately 2000 buildings were damaged.

On 12 August, the Confederation of Free Trade Unions of Ukraine reported that out of 93 mines (which provide a large proportion of the jobs available in the eastern regions), only 20 were fully functioning, 48 were semi-operational, 6 were flooded and others were closed and/or damaged.

On 7 August, during a roundtable on access to education for children from the eastern regions, the Ministry of Education and Science reported that the buildings of at least 51 kindergartens and 102 schools in the Donetsk and Luhansk regions had been damaged. It is expected that in the districts where fighting has stopped, the school year will be postponed by a month and will start on 1 October. For the towns where the fighting is ongoing, alternative plans will be developed, most likely distance learning.

It is also expected that with the beginning of the school year, problems will arise in other regions of Ukraine regarding education. Many IDPs have not registered officially with the

local authorities; this prevents an assessment of their various needs, including education. To facilitate IDP children's enrolment in schools, the Ministry of Education allowed school administrations to enrol IDP children only based on the written request of their parents. Also the Ministry is cooperating with the Ministry of Health to simplify the procedure for children to obtain medical clearance to be able to register in schools.

In large towns, people have to wait for a year, on average, to place their children in a kindergarten. To tackle this problem, on 8 August, the President of Ukraine signed a law allowing for the transfer of state property to local authorities in order to create new kindergartens.

## **VII. SITUATION OF INTERNALLY DISPLACED PERSONS (IDPs)**

As of 14 August, UNHCR reported that 155,800 IDPs had been identified by the Government of Ukraine. Of these, 139,621 were from the Donbas region, and 16,179 were from Crimea. The actual scale of internal displacement is higher, as many IDPs have not identified themselves at this stage, namely those staying with friends and relatives or hosted by civil society groups. Mostly those IDPs have registered who require social welfare assistance, despite the fact that the procedures for registration are not clear.

Despite this, IDPs from the Donbas area continue to report hoping that their displacement will be short-lived and that they will be able to return home at the end of the summer. For this reason, many remain near to their homes, staying in rural areas of the Donetsk and Luhansk regions or in the nearby regions of Kharkiv, Dnipropetrovsk and Zaporizhzhya. Due to insecurity, humanitarian actors have not been able to assess the situation of persons displaced in the Luhansk region.

Among the IDP population registered by the Government, 53% are adults. 65% of all IDPs are women, 35% are children, and 12% are older persons and persons with disabilities. Older persons and persons with disabilities are having difficulty obtaining (or paying for) healthcare, including medication. They cannot move as easily to new locations. A large number of displaced children need to be enrolled in schools, a process that is only just beginning. With many men having remained behind, IDP women face the often overwhelming challenge of caring for elderly and disabled relatives, supporting children who are deeply affected by the violence they have witnessed.

The movements of people over the last month have responded to the developments of the continuing fighting. After the Government re-established control of various towns in the northern Donetsk region in early July, many IDPs returned. For example, some 20,000 IDPs returned to Slovyansk from other areas of the Donetsk region. Local authorities in Slovyansk estimate that while some 40% of the population was displaced at the peak of the hostilities, up to 90% had returned home by 17 August.

However, the intensified fighting in the urban areas of Donetsk and Luhansk cities and neighbouring towns has led to larger waves of displacement, with the number of displaced rising by more than 50,000 persons in the three weeks from 15 July – 8 August. According to local authorities and IDP accounts, between a third to one half of the population have left Donetsk and Luhansk cities, which suggests that over 450,000 people would have been displaced from these cities alone. However, leaving these cities has become more dangerous with IDPs reporting that armed groups block the departure of men, and that they must travel on long winding journeys riddled with dozens of checkpoints.

Regional and local authorities are providing some emergency shelter for IDPs in collective centres, but large cities like Kharkiv, Kyiv and Lviv – where employment opportunities are generally better – report that they do not have any more free spaces to accommodate IDPs. In

part, their reluctance stems from the fact that the central Government has not yet guaranteed any funds to help regions pay for accommodation of IDPs from the Donbas area.

Shelter and humanitarian assistance are also being provided by a wide array of business, religious and civic groups, but this has started to subside. With the displacement entering its fifth month, fatigue and lack of capacity has started to set in, and this is compounded by the economic downturn.

Deeper tensions are also emerging. Host populations and IDPs are competing over scarce resources. In various cities, this competition is expressed over the issue of pre-school slots, since these are in short supply in Ukraine's urban areas. In western Ukraine, host populations increasingly resent male IDPs, accusing them of evading military service while men from the west are being mobilized<sup>158</sup>. IDPs staying at a church-run centre near Kyiv reported being threatened by their neighbours who accused them of stealing jobs and evading their military duties. Some media outlets are fuelling these resentments with alarmist articles about the alleged misbehaviour of IDPs from the east. According to UNHCR and civil society, some IDPs in Kyiv and Lviv have reported that landlords have become reluctant to rent apartments to them because they are from the Donbas area. Those IDPs who have fled without their "labour book" - a document normally retained by employers - face difficulties in obtaining official employment or accessing unemployment insurance.

In the area around Mariupol, some IDPs live in dire conditions, sleeping in tents, cars or decrepit summer camp facilities. A joint UN mission visited locations with insufficient toilet facilities and no potable water. These conditions pose serious health risks, and are completely untenable for the winter months. An unknown number of IDPs are staying in camps and other old buildings, which cannot be efficiently heated. The regional authorities are just beginning to plan how to extend shelter to IDPs over the winter, which is expected to be complex and costly.

Local and regional governments throughout the country are responding to these humanitarian needs to the best of their abilities with limited resources and guidance from the central level. What is needed is a more systematic approach backed by a clear allocation of responsibilities and resources from the central level.

The President vetoed a law adopted by Parliament on 17 June on the rights of persons displaced from Crimea or the "zone of the anti-terrorist operation". Civil society organizations expressed serious concerns about it, including that it would have established overly complex procedures for registration and would not solve the administrative problems IDPs face in accessing their social and economic rights. The Presidential Administration has consulted extensively with civil society in drafting a new piece of legislation.

## **VIII. SITUATION OF PERSONS BELONGING TO MINORITIES**

The Commissioner for Ethno-National Policy in Ukraine informed the HRMMU that although instances of discrimination based on ethnicity occurred, they were neither systemic, nor regular. Most ethnic communities have raised concerns about insufficient financial allocations for their cultural needs and of the necessity to adopt an ethno-national policy, which should become the basis for updating current legislation, particularly the law "On national minorities in Ukraine" (1992), to fully meet international standards. Based on consultations with the minorities' leaders and the head of the Parliamentary commission on human rights, minorities and religions, the Commissioner for Ethno-National Policy plans to lobby for the adoption of such a policy after the upcoming parliamentary elections.

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<sup>158</sup> The Government has announced that eligible IDPs are subject to the current partial mobilization.

Among all of the different ethnic communities that live in Ukraine, Roma communities seem to be the least integrated largely due to negative stereotypes and bias. Residents and local officials of some small towns and villages have tried to discourage Roma IDPs from settling in those places. In order to avoid discrimination, many Roma allegedly choose to conceal their nationality by pretending that they are Moldovan or Greek.

The main struggles of the Roma community remain coping with poor living conditions, inability to obtain basic identity documents (birth and marriage certificates and passports) and overcoming obstacles accessing education, employment and healthcare. The Government tried to address these issues in 2013 by adopting the Strategy for the Protection and Integration of the Roma national minority into Ukrainian society for the period until 2020 and the Action Plan for its implementation. Roma representatives were not invited to participate in the development of the Strategy or the Plan. The two documents have been criticized for being declarative and inefficient; also no State funding was allocated for this programme.

On 30 July, during their all-Ukrainian conference, the Roma Council of Ukraine presented a detailed analysis of the Strategy, based on which the delegates prepared an appeal to the Government with a request to: (1) revise or cancel the Strategy; (2) create an inter-agency working group to draft a new State programme, under the responsibility of the Ministry of Culture, with the participation of Roma community representatives; (3) Ukraine to join the Decade of Roma Inclusion.

In the Donetsk and Luhansk regions, particularly those areas that were previously controlled by the armed groups, new challenges may arise. Media propaganda that was systematically used by the armed groups and the lack of reliable information about the ongoing situation from local authorities has created artificial tensions between the residents of these regions. Ethnicity and the language spoken were used as elements for creating differentiation. It is important to direct efforts at reconciliation and re-integration regardless of the ethnicity or language spoken. The Commissioner for Ethno-National Policy considers this as an important task and focus of his work for the nearest future. It is also important to secure the right of all ethnic minorities to effective and inclusive participation in decision-making processes, especially those that affect them and to enjoy their own culture freely without interference or any form of discrimination.

## **IX. HUMAN RIGHTS ISSUES IN CRIMEA**

The situation in the Autonomous Republic of Crimea during the reporting period was characterized by human rights violations and restrictions on freedoms affecting in particular minority groups, and a tense security environment, compounded by fighting in the east of Ukraine. Since the last report about 2,800 residents of Crimea were internally displaced from the peninsula to mainland Ukraine.

Intimidation of political opponents, independent journalists and civic activists continued. Crimean law enforcement agencies have conducted raids in order to identify cafés, sales outlets and service providers operating illegally. Crimean Tatar representatives claimed that these actions were aimed at intimidating their community which largely opposed the March “referendum”; most of the cafés and facilities visited by the police and the Federal Security Service of the Russian Federation (FSB) were owned by representatives of the Crimean Tatar Mejlis (Assembly) or had been used for their meetings. On 22 July, the Mayor of Bakhchisaray initiated a procedure to terminate the lease of the building where the regional Mejlis is located. Many facilities built by the Crimean Tatars were constructed without authorization and have not been legalized and, according to Crimean Tatar activists, this is used to exercise pressure on them.

Media outlets identified as being pro-Ukrainian are increasingly under threat. The chief editor of the Crimean Tatar newspaper Avdet was summoned on 24 July by the Crimean FSB and informed that a complaint had been lodged against the newspaper by a media monitoring body, the Russian Federal Service for the Supervision of Communications, Information Technology and Mass Media (Roskomnadzor). The complaint relates to the publication of information about the decision of the Mejlis to boycott elections in Crimea scheduled for September 2014. A similar complaint has been made against another Crimean Tatar newspaper, Qirim. Since March 2014, no Ukrainian TV channels have been broadcast in Crimea and they were switched off by the Crimean cable operators as of 1 July.

Human rights organisations<sup>159</sup> report that freedom of expression; in particular freedom of the media is being restricted in Crimea. Reportedly, journalists perceived to be pro-Ukrainian are not allowed to attend official events of the Crimean authorities; according to a Crimean journalist from the Chernomorskaya TV Company, they are not allowed in since they are not on the list of so-called “approved journalists”. Journalists as well as ordinary Crimean residents are at risk to incur criminal responsibility due to the recent Russian legislation concerning extremism and separatism.<sup>160</sup>

Priests and followers of the Ukrainian Orthodox Church of the Kyiv Patriarchate (UOC-KP) continued to report of harassment. For example, on 21 July, a house in the village of Mramornoye (near Simferopol), which was the property of the UOC-KP, was burnt to the ground. A church and buildings, also belonging to the UOC-KP and located on the same land plot, were not damaged. In June, this church had been robbed. Four out of 12 churches of the UOC-KP have closed<sup>161</sup> since the March “referendum”.

The situation of four people, including Ukrainian filmmaker Oleg Sentsov, who were detained in Crimea in May 2014 and later transferred to a FSB detention facility in Moscow, remains unchanged. All are accused of terrorism charges, which two of them deny. The others two reportedly were forced to plead guilty to the charge. The Ukrainian Embassy in the Russian Federation was informed of their arrest two weeks after they were detained but representatives of the Ukrainian Consular Office have not been allowed to meet with them under the pretext that the detained men were now citizens of the Russian Federation, which the detainees deny and try to litigate. The Ukrainian Ministry of Foreign Affairs considers them to be political prisoners. Their lawyers have had difficulties accessing their clients. Oleg Sentsov complained of having been tortured during his detention in Crimea. His defence lawyer in Moscow was not permitted to take any written statement from his client or to meet him without the presence of FSB officials. Visitors of the FSB detention facility, including defence lawyers, must sign a declaration of non-disclosure of information obtained during the visit prior to seeing the inmates. On 15 July, the Russian Ombudsperson declared that Mr. Sentsov should not be held in the same cell as inmates who had earlier served several custodial sentences.

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<sup>159</sup> Media lawyer of the Ukrainian NGO Regional Press Development Institute mentioned violations and restrictions in his interview to Hromadske Radio on 8 August; representatives of the Crimean Human Rights Field Mission mentioned this during a press conference on 4 August

<sup>160</sup> On 22 July, the President of the Russian Federation signed into law (№ 274-ФЗ dd. 21.07.2014 “On amendments to article 280-1 of the Criminal Code of the Russian Federation”) provisions that increase the punishment for public calls for separatism, including on the Internet. The maximum punishment is imprisonment of up to four years; on 30 July, the President of the Russian Federation signed a law (N 179-FL dd. 28.07.2014 “On amendments to certain legislative acts of the Russian Federation”) that introduces prison sentences for public calls for extremism, or attempts to humiliate people. This applies to internet posts as well as mass media publications. The maximum punishment for this felony is imprisonment of up to five years.

<sup>161</sup> Two churches were located on the territory of the Ukrainian military units and were sieged by pro-Russians paramilitary and the other 2 were closed due to administrative pressure.

The whereabouts of three pro-Ukrainian activists who disappeared in May<sup>162</sup> are still unknown (Hennadiy Afanasiev, Alex Cirno, and Alexander Kolchenko). Two of them are not registered by the police as missing, hence the absence of any investigation to find them. The third one was registered by the police but no investigation has been undertaken. On 15 March, a pro-Ukrainian activist disappeared in Sevastopol; reportedly he was abducted by the pro-Russian self-defence militia. The police in Sevastopol refused to register that he was missing. On 3 July, a student from Nigeria went missing and his disappearance was later registered with the police. His whereabouts remain unknown.

In spite of numerous allegations of human rights violations committed before and after the March “referendum” by different groups, including the so-called Crimean self-defence forces, no serious attempt has been made to investigate any of these allegations and punish the perpetrators. On 11 June, the self-proclaimed parliament of Crimea passed a law which resulted in the integration of self-defence groups into a “people’s militia”, with powers to assist the police in keeping law and order. During the reporting period a bill<sup>163</sup> was registered in the self-proclaimed parliament of Crimea that would consider all actions committed by the self-defence forces between 25 February and 11 April 2014, including those resulting in harm or damage, as “acts of extreme necessity”. The perpetrators of violations would therefore be immune from prosecution. Meanwhile, complaints continued being made against the Crimean self-defence forces.

Ukrainian companies are increasingly finding it difficult to continue their activities in the peninsula. The Ukrainian gas company Sevastopolgas was reportedly asked to leave its equipment or negotiate its sale. The energy company Sevastopolenergo and the Ukrainian telecom carrier Ukrtelecom have also been forced to leave Crimea since the authorities of Sevastopol want to replace the companies with new ones. There are discussions about adopting a law, which would allow the authorities of Crimea to “reprivatize” Crimean enterprises whose owners are in Ukraine.

The alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol, at variance with UN General Assembly resolution 68/262, and the resulting introduction of an administrative line, has restricted the freedom of movement between Crimea and mainland Ukraine. Russian customs officers deny Crimean residents the right to leave the peninsula if they do not have Russian passports and have either lost their Ukrainian passports or have invalid Ukrainian travel documents. A third Crimean Tatar leader has been subjected to a five-year ban from entering Crimea.<sup>164</sup> On the other hand, Ukrainian border guards deny entry into mainland Ukraine to people holding Russian passports that do not contain an entry registration done at one of the official border crossing points between Ukraine and Russia.

Several institutions or bodies dealing with Crimea have been created by the Government of Ukraine. On 16 May, a department for Crimea and social adaption was created in the Presidential Administration. On 1 July, a Department on issues related to the Autonomous Republic of Crimea and the city of Sevastopol was established within the Cabinet of Ministers of Ukraine. On 17 July, a Government Service on issues related to the Autonomous Republic of Crimea, the city of Sevastopol and IDPs was set up to implement decisions of the Department on Crimea. The position of representative of the President of Ukraine for Crimea was established on 26 May, based in Kherson. These institutions have been established to deal with issues related to economic, social and property rights and the needs of those Ukrainians who have left Crimea, as well as those who still live in the peninsular. On 21 July, a bill was registered in the Parliament of Ukraine calling for the creation of a Ministry on Crimean issues

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<sup>162</sup> See 15 May monthly report.

<sup>163</sup> “On the prohibition of the pursuit of persons for actions committed with the purpose to maintain public order and protect the interests of the Crimean Republic”

<sup>164</sup> In May, two other Crimean Tatar leaders had 5-year entry bans imposed on them by Crimean authorities.



and IDPs. There are discussions by the Government of Ukraine NGOs and activists on the development of a strategy on the 'reintegration' of Crimea into Ukraine, to be prepared by the National Council on Security and Defence of Ukraine, and the holding of a conference on Crimea.

During its session from 12 to 14 August, the Parliament of Ukraine adopted a law that affects Crimean IDPs. According to the law<sup>165</sup>, citizens from Crimea will be able to continue their education at higher educational institutions in mainland Ukraine in accordance with the usual procedure, which means that additional government-funded places in higher educational institutions will not be created for students from Crimea, as had been previously proposed.

Crimean IDPs on the mainland are considered by the government to be temporarily displaced. For this reason, the Minister of Social Policy of Ukraine said on 17 July that IDPs from Crimea will not be provided with subsidized housing on the mainland. The task of the state, according to the Minister, is to provide IDPs with affordable temporary housing conditions until they return home.

## **X. CONCLUSIONS AND RECOMMENDATIONS**

While the Government of Ukraine has a legitimate responsibility to restore law and order in areas seized by armed groups, nevertheless, the security operation must at all times respect its obligations under international law, including by upholding the principles of distinction, proportionality and precautions in attack. It is urgent to find a peaceful solution to end the violence in the eastern regions. This is the only way to save lives and to avoid a large scale humanitarian disaster. Effective control of the state border between Ukraine and the Russian Federation is a priority. Rule of law and the respect for human rights should be ensured for all. Accountability and curbing impunity are the basis for meaningful national reconciliation and dialogue.

The continued fighting coupled with the breakdown of law and order in the areas controlled by the armed groups in the east will leave deep scars on Ukrainians. Many residents, especially children, who have been affected by this atmosphere of fear and intimidation inflicted by the armed groups and the prolonged fighting, may need psychological assistance to heal and rebuild their lives. Many others, such as victims of torture and former hostages, especially those held for long periods, will also need to recover. In order to ensure accountability and an end to impunity, all such grave human rights violations must be investigated and the perpetrators brought to justice, and remedies provided to victims. Only then will reconciliation efforts be really successful and sustainable.

As highlighted in previous OHCHR reports, short-term human rights concerns should be addressed within the broader and longer term framework that will see institutional reform and enable change that will impact on the enjoyment of all rights – civil, cultural, economic, political, and social. OHCHR reiterates its firm call for needed human rights reforms to be part of the EU aspirations of Ukraine and its reform agenda.

The root causes of the current crisis were due to the systematic and structural curtailment of basic human rights, especially the weaknesses of rule of law institutions and widespread corruption. These were exacerbated by the alteration of status of the Autonomous Republic of Crimea and the city of Sevastopol, as well as the violence and fighting in eastern Ukraine. The way out of the current crisis in the east, to ensure reconciliation of communities through

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<sup>165</sup> "On amendments to the Law of Ukraine "On ensuring citizens' rights and freedoms and legal regime on the temporary occupied territory of Ukraine" re place of residence and the right to education" No. 4931 dd. 12.08.2014.

peaceful and democratic means, will be through accountability for violations and the full respect and guarantee of all human rights for all.

All recommendations contained in the OHCHR reports issued since 15 April 2014 remain valid.

In addition, OHCHR calls upon all those involved to implement the following recommendations:

- a) Urgently put an end to fighting and violence in the eastern regions of Ukraine.
- b) Ensure that the protection of civilians in the areas of conflict is a priority: all those involved in the hostilities in the affected areas of the east must comply with the principles of distinction, proportionality and precaution. This is particularly important in densely populated areas.
- c) Targeting civilians and civilian infrastructure are violations of international humanitarian law, and more must be done to protect them; those who have committed such crimes must be held accountable.
- d) Access to areas affected by the hostilities – including the crash site of MH17 - must be guaranteed for international organisations and independent investigators.
- e) The armed groups and the Ukrainian law enforcement and security forces must allow and facilitate rapid and unimpeded safe passage for civilians wishing to flee the areas of violence and fighting; as well as the delivery of humanitarian relief for the civilian population, in strict compliance with international norms and standards.
- f) Rule of law should replace the rule of the gun; justice and accountability must replace impunity for major human rights violations in the east.
- g) In line with international norms and standards, all those involved in detaining individuals should promptly release all those abducted and unlawfully or arbitrarily detained.
- h) All violations of international law, including war crimes, must be fully investigated; perpetrators must be promptly brought to justice and victims provided with remedies and reparations.
- i) A law on IDPs must be introduced and adopted by Parliament and signed by the President as soon as possible, as well as the establishment of a central registry.
- j) Reprisals against people in territories regained by the Ukrainian Government should be avoided and the rights of those detained/charged must be fully observed by the Ukrainian armed forces and law enforcement agencies.
- k) In the cases of the violence at Maidan, Odesa, Mariupol and Rymarska, investigations must be in full compliance with international norms and standards, guaranteeing justice for the perpetrators, and ensuring remedies for the victims.
- l) All manifestations of incitement to hatred and intolerance in public life must be publicly condemned.
- m) Legislative reforms should comply with international norms and standards and Ukraine's obligations under human rights treaties.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- n) OHCHR reiterates the need to implement UN General Assembly resolution 68/262, entitled "Territorial integrity of Ukraine", as well as to undertake measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.

- o) In addition, OHCHR recalls the earlier 17 recommendations from the previous four reports and urges their prompt and effective implementation.

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# Annex 48

OHCHR, Report on Human Rights Situation in Ukraine (15 November 2014)



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

**Report on the human rights situation in Ukraine  
15 November 2014**

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## I. EXECUTIVE SUMMARY

1. This is the seventh report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU). It covers the period from 17 September to 31 October 2014.

2. There were major developments during the reporting period that significantly impacted on the human rights situation.

3. Despite the ceasefire, which entered into force on 5 September, hostilities in the east and related human rights violations and abuses continued. On 19 September, in Minsk, the Trilateral Contact Group<sup>1</sup>, with political representatives of the self-proclaimed 'Donetsk people's republic'<sup>2</sup>, and the self-proclaimed 'Luhansk people's republic'<sup>3</sup> agreed on a Memorandum to implement 'the Peace Plan of the President of Ukraine and the initiatives of the President of the Russian Federation'. Despite the announcement of 'silent regimes'<sup>4</sup> by the Ukrainian Government (on 5 and 7 October) and by the 'Donetsk people's republic' (on 11 October), violations of the ceasefire were reported by the Ukrainian security forces and the armed groups. Fighting was particularly severe around the Donetsk airport, Debaltseve and Mariupol (Donetsk region), and Shchastia (Luhansk region), causing casualties among civilians, military servicemen and members of the armed groups. On average 13 people were killed every day between 6 September and 31 October. Since the beginning of the hostilities in mid-April until 31 October, at least 4,042 people were killed and 9,350 were wounded in the conflict affected area of eastern Ukraine<sup>5</sup>.

4. There are credible reports from different sources, including the OSCE Observer Mission, that hundreds of people in military-style clothing have been observed crossing the two border crossing points of Gukovo and Donetsk in both directions<sup>6</sup>. The Ukrainian Government and some civic groups report the delivery of weapons from the Russian Federation to the eastern regions. On 19 September and 31 October, two further convoys were sent by the Russian Federation to territory under the control of the 'Donetsk people's republic' and 'Luhansk people's republic'. As on the previous occasions, the convoys crossed at the Izvaryne border crossing point without the authorisation of Ukraine, and were not inspected.

5. In the territories under the control of the 'Donetsk people's republic' and 'Luhansk people's republic' there continues to be a total breakdown in law and order, and a lack of any human rights protection for the population under their control. In addition, parallel governance structures are being set up, with so-called 'ministries', as well as legislative and administrative procedures being established. Both 'republics' announced plans to hold 'presidential and parliamentary elections' on 2 November, outside the legal framework of Ukraine<sup>7</sup>. There were strong objections to these initiatives from the Government of Ukraine, some Member States and international organisations, including the United Nations.

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<sup>1</sup> The Group is composed of senior representatives of Ukraine, the Russian Federation and of the OSCE Chairperson-in-Office.

<sup>2</sup> Hereafter referred to as 'Donetsk people's republic'.

<sup>3</sup> Hereafter referred to as the 'Luhansk people's republic'.

<sup>4</sup> During which armed hostilities and shelling should cease in the conflict zone.

<sup>5</sup> This is a very conservative estimate by the HRMMU and WHO based on available official data. Both believe that the casualties have been under reported, and that their actual numbers are considerably higher.

<sup>6</sup> From 24 September to 31 October 2014, the OSCE Observer Mission at Russian checkpoints Gukovo and Donetsk has reported 2,751 persons in military-style clothing crossing the border in both directions at the two aforementioned border crossing points.

<sup>7</sup> Further observations on these 'elections' will be documented in the eighth HRMMU report.

6. In territories under the control of both ‘republics’<sup>8</sup>, cases of serious human rights abuses by the armed groups continued to be reported, including torture, arbitrary and incommunicado detention, summary executions, forced labour, sexual violence, as well as the destruction and illegal seizure of property. These violations are of a systematic nature and may amount to crimes against humanity.

7. On 23 September, reports of the discovery of alleged mass graves near the village of Nyzhnia Krynka not far from Donetsk city (Donetsk region) received much attention. One grave contained five bodies; two further graves found on the territory ‘Komunarska’ No. 22 mine contained two bodies each. The bodies in the first grave were identified as members of the armed groups, killed in action. With regard to the four bodies found in the two graves, there are allegations of forensic evidence of a summary execution, according to the ‘Donetsk people’s republic’. The Ukrainian Government has denied the involvement of its security forces in the allegations of summary executions. On 26 September, the National Security and Defence Council announced the continuation of investigations into the alleged ‘mass crimes’ committed against civilians by the armed groups in the Luhansk and Donetsk regions, including an investigation into the three ‘mass graves’ found in July in the town of Sloviansk (Donetsk region).

8. The reports on the use of cluster munitions in the hostilities in both urban and rural areas are a matter of concern. Due to their wide radius and indiscriminate impact, their use in areas with a civilian presence would constitute a violation of international humanitarian law and may amount to a war crime. The Government has denied the use of cluster munitions. Reports on the use of cluster munitions, as well as those of indiscriminate shelling, need to be investigated promptly and thoroughly.

9. The exchange of persons deprived of their liberty, as foreseen by the Minsk Protocol, was largely non-transparent. The Government of Ukraine claimed that by 20 October, 1,509 people had been released by the armed groups. Priority was given to military personnel, while an unknown number of civilians continued to remain in the captivity of the armed groups. There were worrying reports of individuals being included in the exchange process by the Ukrainian authorities who had not been involved in the conflict: some were already in detention facilities; others were deprived of their liberty for the purpose of exchange.

10. There have also been allegations by victims and their relatives, as well as civil society representatives of secret and illegal places of detention being operated by the armed groups, as well as some being maintained by some volunteer battalions outside of judicial oversight. The HRMMU continued to receive credible reports of persons deprived of their liberty being subjected to torture and ill-treatment while being illegally held or detained by either the armed groups or by Ukrainian law enforcement agencies and some volunteer battalions.

11. Procedural rights of detainees are of concern. Some volunteer battalions continued to arrest people and detain them incommunicado, with many cases amounting to ‘enforced disappearance’. For those who appear before the judiciary there have been many due process concerns from the moment of their arrest, with systematic violations of the relevant national legislation and fair trial guarantees, provided in international norms and standards.

12. The overall number of IDPs increased from 275,489 as of 18 September to 436,444 on 29 October according to the State Emergency Service of Ukraine. Of these 417,410 people have come from the conflict affected areas, including 62,306 and 29,727 people who are now in the

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<sup>8</sup> The territory under the control of the two ‘republics’ is approximately 16,400 square km, about one-third of the territory of the Donetsk and Luhansk regions, including the two major cities of Donetsk and Luhansk. It is estimated that approximately 3.1 million people live on this territory. Some armed groups operating on the territory do not see themselves as being under the control of either the ‘Donetsk people’s republic’ or the ‘Luhansk people’s republic’, such as the self-proclaimed ‘Stakhanov Republic’ in the Luhansk region.

Government controlled territories of the Donetsk and Luhansk regions respectively; as well as 19,034 IDPs from Crimea. IDPs who were living in summer camps or sanatoria have had to move to warmer shelters. In the absence of a countrywide assistance programme, relocation efforts have depended on local resources and approaches. Given that they are mainly dependent on unsustainable assistance from civil society, IDPs are faced with legal barriers to access employment and social welfare benefits. Some families have returned home to conflict-affected areas, encouraged by the ceasefire but also due to scarce resources in their host communities. While some remain, others just visit.

13. The situation in Crimea, the status of which is prescribed by General Assembly resolution 68/262, is marked by reports of increasing human rights violations and protection challenges, especially for minority and indigenous groups and those in a position of vulnerability, for example the growing number of enforced disappearances of Crimean Tatars.

14. The so-called authorities in Crimea continued to conduct raids actively searching for weapons and religious literature, with a focus on literature considered to be of an extremist nature. These overwhelmingly target Crimean Tatar properties.

15. The space for freedom of expression in Crimea has further shrunk due to the activities of the so-called authorities, in particular with the disruption to the work of more media outlets, including that of *Avdet* (the weekly Mejlis newspaper), and the Crimean Tatar ATR television channel.

16. There has been no significant progress in the investigations of crimes committed during the Maidan protests, except for limited progress in the investigation into mass killing of protesters by officers of the former *Berkut* police unit, with three former officers having been accused of killing 39 protesters on 20 February 2014. On 25 September, the Ministry of Internal Affairs (MoIA) announced the completion of the pre-trial investigation into the 2 May violence in the centre of Odesa. Twenty-four suspects have been named as either organising or participating in the disorder; and nine people are on a wanted list. The investigation into the violence and fire in, and around, the Trade Union building is reportedly in its final stage.

17. The parliamentary elections of 26 October resulted in political parties with pro-reform and pro-European agendas (Petro Poroshenko Block, the People's Front and the Self-Reliance Party) gaining the majority of votes. These parties are in discussions over forming a coalition Government. The 'Donetsk people's republic' and the 'Luhansk people's republic' denied, as for the May 2014 Presidential elections, all those living in these eastern territories under their control their right to vote by preventing the elections from being held.<sup>9</sup> In order to vote, residents of Crimea had to cross to mainland Ukraine, which limited their participation in the election due to the distance, cost and difficulties in crossing the administrative boundary line, as well as due to fears of possible repercussions.

18. The armed conflict in the eastern regions continued to negatively affect the economic situation in Ukraine and access to, and the quality provision of, basic services. GDP dropped by 4.6 per cent compared to the previous year. Inflation reached 102.9 per cent in the first nine months of 2014. Unemployment increased to a level of 8.4% as of 1 October, 2014. Growing numbers of IDPs and wounded decreased the accessibility to healthcare services not only in the conflict areas, but also in adjacent regions. Overall in the country, one of the most pressing concerns relates to the threat of the interrupted treatment as of 1 January 2015 of more than 59,448 HIV-positive and approximately 11,600 multi-drug resistant tuberculosis patients in all

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<sup>9</sup> It is estimated that between 50-60 per cent of registered voters in the Donetsk and Luhansk regions were not able to participate in the 26 October parliamentary elections, either because their residence was in areas controlled by the armed groups, or because they were displaced or refugees, and so if they voted, it was not in their domiciled location. From Crimea, only 2,800 residents voted, which is 0.2 per cent of the pre-March 2014 total of registered voters in the peninsula.

regions, due to the non-completed tenders for the purchase of needed live-saving medication.

19. On a positive note, parliament adopted legislation that should introduce reform in the rule of law area and for the protection of human rights. This includes reform of the Office of the Prosecutor and the introduction of an anti-corruption package.

20. On 20 October, the law on IDPs was adopted by parliament and is to be signed by the President. It should guarantee specific rights, provide access to low-cost housing loans, and simplify the procedures for access to various economic and social rights. On 1 October, the Cabinet of Ministers adopted two resolutions establishing regulations for the registration and assistance of internally displaced persons. Parliament adopted a law providing special status to certain territories in the Donetsk and Luhansk regions, including more powers to local authorities as foreseen in the Minsk Protocol.

21. More laws were adopted or came into force, including the law on lustration, which seek to ban from public office some State employees who had worked under the administration of the former President Yanukovich, which could affect up to one million people.

22. On 15 October, President Poroshenko signed a Decree tasking the Government to elaborate a national human rights strategy for Ukraine by 1 January 2015. At the end of October the Government tasked the Ministry of Justice, with the support of the Ombudsman's Office, to elaborate a draft strategy by 1 December. The HRMMU is working with the UN Country Team and the Council of Europe to support the Government and the Ombudsperson towards the elaboration of the strategy.

23. In addition, on 25 September, President Poroshenko presented his 'Strategy 2020', promising that Ukraine would apply for European Union membership by 2020. The strategy foresees more than 60 reforms in that context, prioritising the fight against corruption, decentralization and energy independence, as well as the modernisation of the judiciary and the defence system.

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

### *Hostilities*

24. Following the 5 September ceasefire agreement, fighting between the Ukrainian armed forces and various armed groups continued almost on a daily basis due to breaches of the ceasefire. The main flashpoints were: the Donetsk airport and the surrounding northwest suburbs of the city; the Ukrainian-controlled Debaltseve salient (Donetsk region) which intersects the main road and rail links between the Donetsk and Luhansk; the town of Shchastia (Luhansk region); and the area around Smile (Luhansk region) along the south bank of the river Siverskyi Donets, which the armed groups captured on 28 October after the Ukrainian military withdrew. After the announcement of a so-called 'silence regime' (for example, "cease of armed hostilities and shelling") by the Ukrainian Government, on 5 and 7 October, and by the 'Donetsk people's republic' on 11 October, the intensity of hostilities somewhat decreased, especially by the time of the parliamentary elections. According to the Ukrainian Government, since 5 September, its armed forces were shelled and attacked more than 2,000 times by the armed groups.

### *Use of explosive weapons in populated areas - Indiscriminate shelling*

25. Before, as well as after, the announcement of a 'silence regime', residential areas continued to be indiscriminately shelled by various artillery and multiple launch rocket systems (MLRS) throughout the whole reporting period. This led to military and civilian casualties. Targeting of military positions occurred in the immediate vicinity of residential areas, but areas which were not located near military positions were also shelled, particularly in the city of

Donetsk.

26. The reported use of cluster munitions in fighting between Ukrainian forces and the armed groups in more than 12 urban and rural locations in early October is of concern<sup>10</sup>. The use of cluster munitions in populated areas violates the laws of war due to the indiscriminate nature of the weapon and may amount to war crimes. It is imperative that such reports be investigated promptly and thoroughly, as well as the reports of indiscriminate shelling of residential areas by conventional weapons.

27. The Government of Ukraine continued to blame the armed groups for the use of heavy weapons in populated areas, notably for the following incidents: the 29 September shelling of the town of Popasna (Donetsk region), which killed four civilians; the 1 October rocketing of the centre of Donetsk, which hit a bus and a bus stop, killing six civilians and wounding 25; the rocketing of a school, on the same day, which killed two civilians and wounded five; and the 2 October shelling near the ICRC office in Donetsk, which killed an ICRC administrator. On 14 October, the village of Sartana (north-east of Mariupol in the Donetsk region) was reportedly shelled with mortars and a MLRS 'Grad'. According to the Mariupol city council, shells hit a funeral procession, killing seven civilians and wounding 18. According to the Ukrainian army, a Ukrainian checkpoint 1 km away from the village was the supposed target. On 10 October, the Government of Ukraine accused armed groups of targeting an ambulance near the village of Shyroke (Donetsk region) which killed two medical personnel and a patient<sup>11</sup>. The Government of Ukraine attributed some attacks on the populated areas to armed groups that report neither to the 'Donetsk people's republic' nor to the 'Luhansk people's republic'.

28. The armed groups have declined any responsibility for the aforementioned incidents and other instances where residential areas were shelled, blaming the Ukrainian armed forces. For instance, the 'Donetsk people's republic' claims that the Ukrainian army killed four civilians in Kuibyshevskiy and Kyivskiy districts of Donetsk city by shelling.

29. Since the start of the ceasefire, between 6 September and 31 October, at least 718 deaths were reported<sup>12</sup>. Among them, at least 84 women were killed by indiscriminate shelling in Donetsk region<sup>13</sup>. The share of women among casualties reported by medical establishments of Donetsk region remained at the same level as during the peak of hostilities in August (approximately 15%). Between 9 September and 28 October, the number of children killed in Donetsk and Luhansk regions increased by 28%, from 28 to 36 deaths, whilst the number of wounded increased by 82%, from 56 to 102 cases.

#### **A. Missing persons and the identification of their remains**

30. The Security Service of Ukraine (SBU) reported that between 5 September and 1

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<sup>10</sup> Ukraine: widespread use of cluster munitions, Human Rights Watch, 20 October 2014.

<sup>11</sup> The ambulance was to deliver a wounded civilian from a territory controlled by the Ukrainian Government to a hospital in Donetsk.

<sup>12</sup> Some of the individuals may have been killed prior to the period under review with data recorded at a later stage. Thus, between mid-April and 31 October, a total of at least 4,042 people have been killed and 9,350 wounded in the conflict area of eastern Ukraine. This is a conservative estimate by the HRMMU and the World Health Organization (WHO) based on the available official data and the actual numbers of fatalities may be much higher. These numbers include casualties within the Ukrainian armed forces (at least 1,167 killed and 3,808 wounded) as reported by the National Security and Defence Council, the Prosecutor-General, the Chief Military Prosecutor and the Ministry of Foreign Affairs; civilians and elements of the armed groups reported without distinction by civil medical establishments and local administrations: at least 1,719 killed (including 22 children) and 2,797 wounded (including 64 children) in the Donetsk region, and at least 858 killed (including 14 children) and 2,745 wounded (including 38 children) in the Luhansk region; the 298 passengers of flight MH17.

<sup>13</sup> The breakdown of statistics is not available for the Luhansk region as there have been no reports to the WHO by medical establishments from the region.

October its Inter-agency Centre for Assistance in Release of Captives, Hostages and Search of Missing Persons had received 2,600 requests for the search of military personnel and civilians from individuals and families. On 3 October, the ‘Donetsk people’s republic’ head of the ‘commission on issues of prisoners of war and refugees’ reported that at least 1,300 people (members of the armed groups and civilians) were recorded as missing.

31. There may be some duplications in the lists of missing persons maintained by the Government of Ukraine and by the armed groups as relatives of some missing people may have filed applications both to the Inter-agency Centre at the SBU and to the ‘commission on issues of prisoners of war and refugees’. The Government of Ukraine, the armed groups, NGOs and local communities have intensified their efforts to search and collect the unburied remains of those killed in hostilities. Additionally, there have been exhumations of *ad hoc* graves so as to establish the identities of those found and to hand over their bodies to relatives.

32. Between 3 September and 11 October, members of an NGO, the People’s Memory Union, reported finding and exhuming the remains of over 150 Ukrainian servicemen and two civilians in Donetsk region (the bodies were subsequently taken to the territory controlled by the Government of Ukraine). Of 31 *ad hoc* graves exhumed by the Union in Donetsk region, 11 contained two or more bodies with the largest one containing 12 bodies.

On 1 October, the first deputy head of the Main Investigative Department of the MoIA stated that more than 1,000 bodies had been found in the territory of Donbas, with the identity of more than 200 determined. On 29 September, the ‘deputy prime minister’ of the ‘Donetsk people’s republic’ reported that about 400 unidentified bodies were awaiting forensic examination in Donetsk and other towns of the region. In this regard, more systematic efforts have been initiated by the Government of Ukraine and the armed groups to identify the bodies delivered to the forensic offices, including through proper documentation and DNA sampling, before burial.

33. On 25 September, an adviser to the SBU Head stated that “on the territories freed from terrorists, law enforcement officials continue to find newer and newer burials of those who were tortured to death by the punitive organs of the so called ‘people’s republics’. Thanks to local residents, we establish locations of these burials and carry out exhumation of bodies”.

34. On 26 September, the National Security and Defence Council announced that law enforcement agencies “continued to investigate mass crimes against civilians perpetrated by the armed groups in the Luhansk and Donetsk regions”. It claimed that three “mass graves” had been found in the town of Sloviansk, and that bodies had been exhumed and were awaiting official forensic examination. Twelve people had reportedly been identified. According to the Council, these people perished in the first half of June, when the town was controlled by the armed groups. On 2 October, a grave with three bodies (one female and two male) was found in the town of Mykolaivka (Sloviansk district). According to the acting press secretary of Sloviansk police department, “efforts to identify illegal graves on the territory of local cemeteries continue”.

#### *Allegations of mass graves*

35. On 23 September, the ‘Donetsk people’s republic’ announced the discovery of graves in the vicinity of the village Nyzhnia Krynka, 35 km north east of Donetsk. These graves were initially described by the ‘Donetsk people’s republic’ as graves or ‘fraternal graves’, but later referred to as ‘mass graves’<sup>14</sup>.

36. One of these graves (located near the entrance to the village) contained five bodies. Two

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<sup>14</sup> There is no internationally agreed definition of ‘mass grave’. The former United Nations Rapporteur on extra-judicial, summary or arbitrary execution, Bacre Ndiaye, defined mass graves as locations where three or more victims of extra-judicial, summary or arbitrary executions were buried, not having died in combat or armed confrontations (1991). This definition was used by the UN tribunals for Rwanda and former Yugoslavia.

further graves discovered on the territory of the ‘Komunarska’ No 22’ mine contained two bodies each. People whose bodies were found in the first grave were identified as members of the armed groups, reportedly killed in action. Currently to the knowledge of the HRMMU, there are no allegations that they were summarily executed. As regards to the four people from the two graves near the mine, according to the ‘Donetsk people’s republic’, there allegedly exists forensic evidence that they could have faced a summary execution. On 15 October, an HRMMU team visited the three grave locations, and interviewed relatives of two people whose bodies were reportedly identified, having been exhumed from one of the two graves where those buried could have faced a summary execution. Their testimonies indicate that these people may have previously been detained by Ukrainian forces. This has been denied by the Ukrainian Government. The alleged summary execution of four people found in the graves near ‘Komunarska No 22’ mine needs to be investigated, and all measures should be taken for the preservation of evidence.

37. On 3 October, an adviser to the SBU Head presented a map marking the location of “concentration camps, torture sites of punitive bodies of terrorist organisations, places of torture and executions of local population”. According to him, the map is based on the testimonies of witnesses received through an SBU hotline, and the locations were “verified by satellite photos, intercepted telephone calls between members of the armed groups, SBU intelligence data, and by testimonies of detained and arrested perpetrators”.

38. The map lists five places where ‘local residents were tortured, killed and buried’ by the armed groups: ‘five bodies in a pit in Nyzhnia Krynka’ (it is not clear whether this is the same grave as the one mentioned below); ‘mass graves’ in Sloviansk (described above); ‘numerous hastily made graves close to fighters’ camp near the Iziium-Sloviansk highway’; and ‘the burial of 30 civilians in Telmanivskyi district’.

39. The requests of the HRMMU to the SBU to provide additional details concerning these cases have so far not been met. The HRMMU was only informed that criminal cases had been initiated and an investigation was being carried out.

## **B. Deprivation of liberty and enforced disappearance<sup>15</sup>**

### *By the armed groups*

40. On 8 October, the head of the ‘commission on issues of prisoners of war and refugees’ of the ‘Donetsk people’s republic’ publicly declared that “about 600 Ukrainians” were held by the ‘Donetsk people’s republic’. The number of people held by the ‘Luhansk people’s republic’ and by other armed groups is not known.

41. According to the SBU, as of 30 September, there were at least 21 new ad hoc places of detention set up since the conflict started in the areas controlled by the armed groups (in the cities of Donetsk and Luhansk, as well as Horlivka, Makiivka and Shakhtarsk). In addition, the ‘minister of internal affairs’ of the ‘Donetsk people’s republic’<sup>16</sup>, claims that it controls all penal colonies, pre-trial detention centres and temporary detention facilities which existed before the hostilities started in its territory. However, there are also places of detention managed by the ‘military police’ subordinated to the ‘ministry of defence’, and some managed by the ‘ministry of state security’. There are also numerous detention facilities, which are reportedly maintained

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<sup>15</sup> The arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law (Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance).

<sup>16</sup> The information was given to HRMMU in a meeting on 12 October in Donetsk.



by various armed groups operating under the auspices of either the ‘Donetsk people’s republic’ or the ‘Luhansk people’s republic’, as well as ad hoc detention facilities that are operated by armed groups not under the control of either of the aforementioned ‘republics’.

42. On 6 October, an unknown group of people reportedly abducted the warden of Penal Colony № 82, in Selidove (Donetsk region), from his home in Donetsk. On 11 October, it became known that, on 29 September, a civil activist and deputy of Novoazovsk district council (Donetsk region) who provided assistance and accommodation to IDPs, was taken by armed men. He had previously also been deprived of his liberty on 29-30 August by the armed groups, and taken to a forest where he was forced to dig his own grave, but later released. His current whereabouts are unknown.

43. On 8 October, the HRMMU was informed about the deprivation of liberty of the head of the Independent Miners’ Trade Union of the Kalinin mine, and of his two sons. Allegedly, on 6 October, his private apartment was stormed by eight armed men who introduced themselves as the ‘Donetsk people’s republic’ police. They reportedly claimed having received a complaint that an “enemy of the republic” was living in the apartment, and that they had to detain him to “clarify circumstances”. When contacted by his wife, neither the local ‘police department’ where he and his sons were supposedly taken, nor the ‘state security committee’ of the ‘Donetsk people’s republic’ had any information about the individual.

*By the Government of Ukraine*

44. The Ukrainian law enforcement agencies continued to detain people in relation to the hostilities in the east, particularly on the grounds of terrorism and separatism. The number of those detained is constantly in flux due to detainees being released and new detentions, including in the context of the exchanges as foreseen under the Minsk Agreement. The SBU declared that as of 17 October, it was carrying out about 1,500 investigations cases with the aforementioned allegations although the number of people in detention is unknown. On 7 October, an adviser to the Minister of Internal Affairs reported that MoIA servicemen in the Luhansk region had put 99 persons under arrest or home arrest for suspicion of ‘crimes related to terrorism and separatism’.

45. There continue to be allegations that the Ukrainian law enforcement agencies and volunteer battalions maintain secret and illegal detention facilities outside of judicial oversight with reports of arbitrary detention and enforced disappearances. An illustrative example is the case of a man who was suspected of organizing riots which led to the seizure of the Kharkiv Regional State Administration in March. On 26 April, he was arrested and kept in a pre-trial detention facility in Poltava. He was to be released on 12 September, upon a decision of the Kyivskiy District Court but according to his lawyer, he was immediately detained by the SBU without any order. The next day, the MoIA posted on his Facebook page that the man was placed in an “SBU isolation facility”. On 17 September, his lawyer filed a complaint to the investigative judge in the Kyivskiy District Court<sup>17</sup>. In an official answer to the court, the SBU denied that the man was in its custody. However, the HRMMU was informed by a credible source received on 18 September that the man was being held in a secret SBU facility in Kharkiv. The HRMMU inquiries to the SBU and the prosecutor’s office have not produced any results.

46. The HRMMU has also been following the case of a professor in Kharkiv – a well-known opponent to Ukraine’s association with the European Union – who was arrested by the SBU during the night of 29 to 30 June. After spending two and a half months in pre-trial detention in Poltava, he was supposed to be released on bail, but his whereabouts have remained unknown

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<sup>17</sup> In accordance with article 206 of the Criminal Procedure Code: ‘Each investigating judge of the Court within the territorial jurisdiction of which a person is held in custody has the right to pass a resolution which obliges any organ of State power or service person to ensure observance of the rights of such persons’.

since 18 September.

47. On 2 October, a deputy of the Luhansk Regional Council<sup>18</sup> was reportedly taken by soldiers of the 24<sup>th</sup> Voluntary Territorial Defence Battalion *Aidar* in Sievierodonetsk (Luhansk region). The MoIA reported that two battalion members transferred the man to Kyiv reportedly in accordance with an earlier agreement with the Luhansk regional department of the SBU. On 3 October, following a report of the deprivation of his liberty made by his wife to law enforcement agencies, the *Aidar* soldiers were apprehended by the police in Kyiv. The office of the Military Prosecutor initiated a criminal investigation under article 146 (Illegal deprivation of liberty) of the Criminal Code. The whereabouts of this individual remain unknown.

#### *Exchanges of persons deprived of their liberty*

48. Between 5 September and 31 October, about 20 exchanges of persons deprived of their liberty, as part of the Minsk Protocols, were reported by various Ukrainian officials and/or civil initiatives, with 400 to 420 people (predominantly members of the Ukrainian military) released by the armed groups. There are no official figures as to how many have been released by the Government of Ukraine. Meanwhile, the SBU reports that from 5 September to 20 October, 1,509 people have been released by the armed groups. The SBU reported having secured the release of 822 people, including 628 soldiers or police officers of various formations and 194 civilians, including five journalists. The number of people released by the Government of Ukraine is not known.

49. Some credible reports question the voluntary nature of the exchanges, which has not always been observed, with some detainees following their exchange reporting that they were forced to participate in the process. For example, the HRMMU received information that on 25 September, some ‘pro-federalism’ detainees held in the pre-trial detention facility in Odesa were forced by the SBU to participate in detainee exchanges. At that time they were notified that the criminal charges against them were dropped. Although they were warned unofficially by the SBU that if they did return to Odesa they would again face prosecution. On 16 October, the HRMMU was informed by the relatives and lawyers of the detainees, that having been exchanged, criminal proceedings had indeed been reopened against them.

### **C. Torture and ill-treatment**

50. During the reporting period, the HRMMU continued to receive reports of torture and ill-treatment by the Ukrainian law enforcement agencies and volunteer battalions and by the armed groups, including beating, death threats, cruel, inhuman and degrading treatment, and lack of access to medical assistance. Some detainees who had been selected by the Government of Ukraine to be released, under the Minsk agreements, reported spending several days in detention without food and water.

#### *By the armed groups*

51. A serviceman of the 24<sup>th</sup> Voluntary Territorial Defence Battalion *Aidar*, released by armed groups on 27 September, after being wounded and detained in an ambush on 26 September, reported being beaten and that his right arm marked with a tattoo of the Ukrainian coat of arms and ‘Glory to Ukraine’, was cut off with an axe.

52. On 24 October, the HRMMU interviewed a man who had been detained for 48 days by the ‘Donetsk people’s republic’ for ‘espionage’, and was released on 27 September. At a detention facility managed by the ‘ministry of state security’ (a former plant of isolation materials), the man reported seeing several dozens of people, most of whom were beaten. He reported that there was no separation between men and women; that detainees were poorly fed;

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<sup>18</sup> He had recently been the ‘deputy minister of health’ of the ‘Luhansk people’s republic’.

with limited or no access to water; humiliating sanitation arrangements; extremely limited access to medical care; and no opportunity to communicate with relatives. A further HRMMU interview with a Donetsk resident who had been detained on 6 August by an armed group because of his 'anti-governmental propaganda subversive activities', revealed that he was taken to the former Donetsk regional SBU building. There he was heavily beaten, for two days, with wooden bats and rubber sticks, and threatened to be shot. His abductors allegedly started cutting off his ear. He was reportedly kept in a very small cell with three Ukrainian servicemen, and then transferred to another place where he was beaten again and then imprisoned in an iron box already containing one man, with little capacity to even hold one person. They were left there for a day under the sun, which caused him to lose consciousness. After the detainees began banging the box, they were eventually let out for a short while, received pain killing injections and given some water, but were later put back in the box again. They were subsequently taken to a garage, handcuffed and beaten for 10 days.

*By the Ukrainian forces*

53. On 6 October, the HRMMU contacted the Head of the National Preventive Mechanism (NPM) with regard to the allegations of ill-treatment of detainees by the Ukrainian authorities in the pre-trial detention facility (SIZO) №18, located in Starobilsk (Luhansk region). Further to an inspection, the NPM reported on 10 October that it could not confirm the allegations but it had found that some detainees bore signs of physical abuse on the arrival to the SIZO, as recorded by SIZO officials.

54. On 13 October, the HRMMU interviewed a resident of Debaltseve (Donetsk region) who claimed that when with the armed groups, he was involved in building and guarding checkpoints and roadblocks. On 16 September, he was allegedly detained at home by Ukrainian servicemen of the 25<sup>th</sup> Territorial Defence Battalion 'Kyivska Rus' and was reportedly kicked repeatedly. He was then taken to the Debaltseve department of the MoIA, where he was allegedly interrogated and beaten for three days, and urged to tell where weapons, ammunition and supporters of the 'Donetsk people's republic' were located. He was suffocated with a plastic bag; he was hanged from an opened door and pulled by a rope tied to his hands on his back; he was also beaten on the head with a rubber hammer. He was threatened to be taken back to the *Kyivska Rus* battalion to be shot dead. After two weeks, he was transferred to the Iziium department of MoIA, where he was again beaten on his back with wooden sticks for a couple of hours. At the end of September, he was the subject of a detainee exchange.

55. On 14 October, the HRMMU interviewed a resident of Krasnoarmiisk (Donetsk region) who claimed that he never participated in armed hostilities and only manned an unarmed anti-Maidan checkpoint. On 5 August, some military servicemen pulled him out of his car and took him to a location in Krasnoarmiisk, where he was kept in a basement. He was accused of operating checkpoints with weapons, and of 'engagement in terrorism'. He was beaten, and death threats towards his family were made. The servicemen reportedly wore balaclavas, camouflage, with Ukrainian flags and the inscription *Donbas* on their chevrons. He was later transferred to an official detention facility after his detention was sanctioned by a court. On 17 September, he was put in a cell where 15-25 persons were detained. They were allegedly ordered to crawl to another cell, while on each side of the corridor guards and operatives were standing and beating them with clubs. On 28 September, the detainee was the subject of a detainee exchange.

### III. FREEDOMS OF EXPRESSION, PEACEFUL ASSEMBLY, RELIGION OR BELIEF

#### A. Freedom of expression

56. In the period covered in this report, violations of freedom of expression continued. The number of reported incidents involving media workers in conflict affected area has decreased compared to previous months; nevertheless the working conditions of media professionals in Donetsk and Luhansk regions remain dire due to security concerns. Instances of intimidation of journalists became more frequent in other regions of Ukraine during the Parliamentary elections campaign.

##### *Safety of journalists and media workers in the conflict affected area*

57. As of 31 October, the HRMMU was aware of at least six more journalists and media workers that remain held by armed groups of the 'Luhansk people's republic': a local journalist and a public relations specialist of the Stakhanov town council, captured on 31 July; a journalist of the Kharkiv-based magazine *Ukrainian Space* and his aide, captured at a check point on 15 August; an editor-in-chief of internet-based outlet Politics 2.0, captured on 28 July, in Luhansk region; and a journalist of a pro-Russian newspaper *Donetskii Kriazh* who went missing on 1 August and was last seen in the office of the Commandant of the 'Donetsk people's republic' in Horlivka.

58. During the period covered by this report, five journalists who had been held by armed groups were released. On 25 September, a blogger of Ukrainian Truth was released after 48 days of being held by an armed group of the 'Donetsk people's republic'. On 30 September, a freelance journalist of the *Vesti* newspaper and the Reporter magazine, together with a free-lance photojournalist, who had been held by the armed groups since 22 September, were released in Sverdlovsk, Luhansk region. On 6 October, a journalist of Espresso TV was released after 38 days of detention by an armed group in Makiiivka, Donetsk region. He was reportedly ill-treated and forced to give a false testimony on camera about the Ukrainian Armed Forces. He was later forced to make video reports as a pre-condition for his release, under the supervision of members of the Don Cossack unit that was holding him. On 11 October, a freelance journalist from the Lviv-based agency ZIK had been released after he had been held by armed groups in Luhansk region since 23 July, along with a group of priests with whom he was travelling to report on their missionary work in the conflict area. All were held in the basement of the Luhansk State Administration for more than two months and severely beaten. On 27 October, a local civic activist and blogger captured on 22 September by armed groups of the 'Donetsk people's republic', was released during a detainee exchange.

59. There have been cases of detention of journalists by Ukrainian forces. On 12 October, the HRMMU interviewed a Russian photographer of the *New York Times*, who was reportedly beaten up by servicemen of the Ukrainian army or of the National Guard on 4 October. He and a journalist for Deutsche Presse-Agentur were detained at a Ukrainian checkpoint in Mariynka (Donetsk Region) for taking a picture of a Ukrainian tank. Both journalists were ordered to get out of the car and forced to lie on the ground for half an hour, while their documents were checked. Both were beaten. They were then escorted to a camp, where their documents were checked again. After the arrival of SBU officials, the *New York Times* journalist was allowed to pass through the checkpoint, but was asked to sign a paper that he had no complaints. The other journalist did not have proper accreditation and was escorted by the SBU to a hotel. He reportedly managed to reach Donetsk on 6 October.

60. On 26 September, during a meeting with the OSCE Representative on freedom of the media in Vienna, representatives of media organisations of Ukraine and the Russian Federation

released a joint statement, condemning incidents of killing, beating and detention of journalists in the conflict-affected areas. They also agreed to ‘continue ... cooperation and to undertake the necessary efforts regarding matters such as the safety of journalists, the development of professional media and de-escalation of the conflict in Ukraine’. Such efforts are welcome as disinformation presented in the media has contributed to deepen tensions within society

61. In addition to international human rights law, in the context of armed conflict also international humanitarian law provides protection for journalists. In armed conflict, journalists are entitled to all the protections afforded to all other civilians. Journalists will lose this protection if they directly participate in hostilities for as long as they take direct part. It is therefore prohibited to target journalists who carry out their lawful professional activities.

*Attacks, harassment and intimidation of journalists*

62. During the Parliamentary election campaign, some journalists, mainly those dealing with authorities and political issues, were attacked, harassed and threatened in some parts of the country. Some incidents seemed to be an attempt to restrict freedom of expression, particularly regarding corruption issues or what is perceived as a pro-Russian stance – with arbitrary judicial and administrative measures targeting individual journalists, editors and heads of media companies. Others were individual acts of violence against journalists and media workers.

63. On 23 September, a Kyiv-based journalist for the programme *Our Money* and her family were threatened by a man who demanded the non-airing of a video report about one of the deputies of the Office of the General Prosecutor, suspected of embezzlement. The police have opened an investigation into the incident.

64. On 1 October, the general director of the Odesa-based TV Channel Seven reported being threatened by two unknown young men demanding a change to the editorial policy. The general director noted that over the last couple of months the channel had been preparing and broadcasting programmes aimed at combatting corruption, extortion, and bribery. It was also the only local channel that refused to broadcast any political advertisements, but which provided free-of-charge space for interviews and debates involving authorities at all levels.

65. On 21 October, the editor of the Odesa website ‘INFO-centre’ – and member of the Journalists Union of Ukraine – was arrested by the SBU on the street. Immediately after, his house was searched, and he was brought to the SBU on the grounds that files related to the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ were found in his home. His lawyer was informed about the arrest the following day. On 23 October, he was placed in custody for two months as a measure of restraint, accused of complicity with terrorist organizations and concealment of a crime, based on electronic files related to his journalist activities. On 31 October, the court prolonged the journalist’s custody until 23 December.

66. On 24 October, the MoIA Main Investigation Department searched the offices of three media companies in the context of an investigation into “funding actions aimed at overthrowing the constitutional order or seizing State power). The MoIA stated that it had established that the companies had violated the decision of the District Administrative Court, which banned broadcasting of Russian TV channels in Ukraine, and that they had “used the funds received from the sale of advertising time on the specified channels to fund terrorist groups in Ukraine”. Based on a court decision, the accounts of the companies were blocked, whilst the financial documents and some technical equipment were seized.

67. On 23 September, unknown persons in camouflage attacked the editor of the magazine *Political Critique* and severely beat him in the centre of Kyiv, accusing him of separatism.

68. On 6 October, five men wearing uniforms of the Territorial Defence Battalion *Donbas* came to the office of the Internet and TV provider LLC Matrix in Krasnoarmiisk. They reportedly instructed everybody to kneel, whilst one of them struck the senior office manager

with a rifle, accusing him of collaboration with pro-Russian armed groups by broadcasting Russian TV channels. All office equipment and documentation was seized and taken away. According to the Press Office of the Krasnoarmiisk City Police Department, an investigation was opened into the incident. On 8 October, the deputy commander of the *Donbas* Battalion stated that all equipment and documentation had been returned, and that the serviceman who had acted aggressively was “punished”.

69. On Parliamentary Election Day, 26 October, the NGO Institute of Mass Information registered nine instances of obstruction of journalists’ professional activity, mainly in southern regions of Ukraine. They included physical threats and intimidation of journalists and their crews, as well as preventing their access to, and filming of, polling stations.

## **B. Freedom of peaceful assembly**

70. On 26 September, the Kharkiv State Administration and a local court banned a ‘peace march’ planned by the Communist party on the following day, arguing that this measure sought to ‘ensure safety ‘due to notifications about alleged provocations of conflict’. Despite this ban, the rally took place and activists were detained.

71. On 28 September, a large crowd of ‘pro-unity’ protestors was able to gather in Freedom Square in Kharkiv and tore down the statue of Lenin. Several clashes occurred on 29 September between rival groups of activists but the police did not appear at the scene.

72. As a general rule, neither a perceived or potential risk of public disorder, nor the presence of a hostile audience should justify the banning of peaceful assembly.<sup>19</sup> It is preferable to detain and prosecute people later for any outbreak of violence, rather than impose prior restraints on an assembly based upon the possibility of violence. At the end of September, in a new development, protests emerged in parts of Luhansk and Donetsk regions controlled by the armed groups. Citizens of Stahanov, Antratsyt, and Rovenky (Luhansk region) on 14 September, 22 September, and 27 September respectively, demanded that the Government of Ukraine address the issue of pensions as armed groups were not able to provide such payments. On 12 October, in Donetsk, activists protested against the upcoming elections of self-proclaimed ‘top officials’ of the ‘Donetsk people’s republic’.

73. The armed groups responded to some of these movements with acts of intimidation. For example, on 5 October, in Sverdlovsk (Luhansk region) during a protest to demand payments of salaries and other social payment by the ‘Luhansk people’s republic’, armed supporters of the ‘republic’ tried to prevent the gathering by shooting at people, injuring three citizens. Similarly, on 22 October in Brianka (Luhansk region), armed supporters of the ‘Luhansk people’s republic’ prevented pensioners who had not received pensions for four months from rallying by shooting in the air.

74. The protest in Kyiv on 13 October of uniformed National Guard conscripts demanding their demobilisation (they had been mobilised beyond their terms of initial conscription or had later been remobilised). In case this demand could not be met, they asked to be paid their due cash benefits and to be provided with winter clothing. The demands of the conscripts were transmitted to the President. The Office of the General Prosecutor initiated criminal proceedings against the organisers of the protest for absence without leave. Servicemen in 10 other locations supported the protest.

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<sup>19</sup> See the decision of the European Court of Human Rights, ‘Makhmudov v. Russia. See also Report of the Special Report of the Special Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/20/27, para.25.

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

75. There have been increasing reports of violations of freedom of religion or belief in the areas controlled by the armed groups. All faith traditions, except for the Orthodox Church of the Moscow Patriarchate, appear to be targeted by the armed groups through the persecution and detention of clergy members and believers, as well as the seizure of church property.

76. Thus, on 27 September, armed men abducted a Protestant pastor of the Seventh-day Adventist church in Horlivka, Donetsk region, reportedly stating that “this is Orthodox land and there is no place for various sects”. The pastor was released on 16 October.

77. On 23 September, the Evangelical Christian Baptist Church announced on its website that from the beginning of April until September, seven Baptist church buildings had been seized by the armed supporters of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’.

78. On 4 October, armed Don Cossacks seized the Holy Trinity Cathedral (Orthodox Church of Kyiv Patriarchate) in Luhansk and gave the clergy one hour to “get out”, declaring that the Church would be used as their dormitory.

79. On 18 September, the Metropolitan of Luhansk and Alchevsk, Mytrofan, issued an official statement claiming that the local Orthodox clergy had nothing to do with the forcible seizure of religious buildings, which was exclusively the initiative of the armed groups. He stated that diocese bishops disapproved of such actions and would not accept any buildings belonging to Baptists or any other confessions that had been seized by the armed groups and offered to his denomination for use.

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

80. The hostilities continue to severely affect the enjoyment of economic, social and cultural rights. In the first nine months of 2014 prices increased by 16.2 per cent, utility rates by 24.3 per cent on average, whilst the average salary increased by 4.9 per cent<sup>20</sup>. The situation of the approximately 5.2<sup>21</sup> million people living in the conflict and post conflict affected areas is particularly difficult due to the considerable breakdown and disruption of the economic infrastructure and social services. The availability of healthcare in those areas is increasingly limited, with particularly serious consequences for the most vulnerable people.

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

81. The hostilities have exposed some more systemic problems in the healthcare system affecting patients across the country. One of the most pressing concerns relates to the threat of interrupted treatment of HIV-positive and multi-drug resistant tuberculosis patients in all regions as of 1 January 2015, due to the non-completed tenders for the purchase of the life-saving medication<sup>22</sup>. As of 31 October, only 25 per cent of the required amount of medication had been purchased. Now even if the tenders are finalised shortly, the medications may be delivered only in April 2015. The National Council on Tuberculosis and HIV/AIDS prevention has already requested the Global Fund to provide treatment for the first three months of 2015; however civil society service providers are greatly concerned that the life-saving medication will not be delivered in time. The absence of treatment will directly affect 59,448 HIV-positive patients and

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<sup>20</sup> According to the data of the State Statistics service released on 31 October.

<sup>21</sup> As of 31 October according to the *Situation Report No.18*, of the UN Office for the Coordination of Humanitarian Affairs.

<sup>22</sup> This year the Ministry of Health of Ukraine has not completed tenders for procuring life-saving medications for more than five months. For this, the Minister has been suspended from his position in September.

approximately 11,600 multidrug resistant tuberculosis patients. Ukraine is a country with high HIV as well as multi-drug resistant tuberculosis burden<sup>23</sup>. Thus discontinuation of treatment is life-threatening for more than 70,000 patients and may lead to the uncontrolled spread of epidemics. Provision of essential medicines is one of the core obligations of the State to ensure the satisfaction of the minimum essential level of the right to health<sup>24</sup>. While some disruption may be unavoidable, the conflict may not be used to justify long delays or large scale disruption in the provision of essential drugs.

*Access to healthcare in the conflict affected area*

82. Access to healthcare services in Donetsk and Luhansk regions, especially in areas controlled by armed groups, remained limited. At least 45 hospitals out of 601 medical establishments in Donetsk and Luhansk regions are destroyed or damaged and many other are partially functioning or not operational. Access to specialized care, including for non-communicable diseases, diabetes, cancer, palliative care, maternal and new-born care and safe blood transfusion, is significantly limited due to a lack of staff and medications. Specialized care is concentrated in Luhansk and Donetsk cities, which are now controlled by armed groups, and hence not at present accessible for residents in the two regions, particularly those in towns controlled by Ukrainian Government. Shifting the provision of such care to other hospitals is complicated and resources-consuming. Whilst local antiretroviral therapy-sites<sup>25</sup> and the regional tuberculosis (TB) dispensary in Luhansk are non-operational, the Donetsk and Luhansk regional AIDS centres are providing limited services. However, the provision of tests for timely diagnosis of HIV is critical, for those who are entitled to this service free of charge: pregnant women, blood donors, individuals with positive results of first tests, and children under 18 months born from HIV positive mothers. In addition, residents of the conflict-affected areas report on the lack of medications available for purchase in pharmacies, especially for heart diseases and high blood pressure, sedatives, and antiviral treatment.

83. Although many medical professionals have left the conflict affected area, most hospitals still seem staffed by some doctors and nurses. In the areas controlled by armed groups, a shortage of paramedics<sup>26</sup> is reported. This is likely to have an impact on the quality of services provided as such personnel play an important role in the post-surgery recovery of patients. As reported by local doctors to *Médecins Sans Frontières* (MSF) and WHO, one of the main concerns in the conflict affected area is the increasing lack of medical supplies including anaesthetic, vaccination, insulin, consumables, solutions, surgical instruments and equipment, TB, HIV and cancer drugs, and reagents for haemodialysis.

84. The growing numbers of IDPs, wounded and disabled, are also putting additional pressure on hospitals across Ukraine, leading to limited access and low quality of healthcare, including rehabilitation. On 29 October, the HRMMU has received reports that, in several instances, ambulances refused to drive to collective accommodation for IDPs due to the lack of fuel. Also, many have access to doctors, some cannot obtain specialized care, and many are unable to buy the medicines prescribed<sup>27</sup>. There are also constraints in accessing dental care, which is mainly provided by private dental clinics and are paid out-of-pocket. This has a particularly negative effect on groups in a position of vulnerability, such as people living in poverty, older persons, and some IDPs.

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<sup>23</sup> WHO Tuberculosis profile, Ukraine ([http://www.who.int/gho/countries/ukr/country\\_profiles/en/](http://www.who.int/gho/countries/ukr/country_profiles/en/)).

<sup>24</sup> CESCR General Comment on the right to health, paragraph 43.

<sup>25</sup> Located in Krasnyi Liman, Shakhtarsk, Snizhne in Donetsk region.

<sup>26</sup> According to the regular surveys of WHO in the 'Luhansk people's republic' there are only 30 cent of non-professional medical staff available.

<sup>27</sup> Due to the absence of the system of medical insurance and limited financing of hospitals, most medications, even prescribed, are not available free of charge.



## **B. Right to an adequate standard of living (including food, clothing, housing, water and sanitation)**

85. As of 31 October, 36 settlements in Donetsk region remained without electricity as a result of the continued fighting. Electricity was only partially available in Mariinka, Avdiivka, Donetsk and Horlivka. Information about the situation in Luhansk region was not available. In the last days of October, there were reports of more frequent shelling of electric power stations in Schastia, Luhansk and Donetsk cities, which depending on the circumstances may constitute a violation of International Humanitarian Law.

86. Access to water in Donetsk and Luhansk regions has been improving, although water utility companies continued to face difficulties in inspecting and repairing pipelines due to insecurity in many places. The majority of the regions still had only a partial flow of water and, in some areas people were digging shallow wells to cope with the shortage. As of 31 October, 29 settlements in the Donetsk region had limited access to water supply.

87. Humanitarian aid delivery in September slightly improved in the conflict-affected area. Due to an ongoing shortage of cash, residents in the areas of the Donetsk and Luhansk regions under the control of the 'Donetsk people's republic' and the 'Luhansk people's republic' have continuing fears of being unable to buy the limited food and commodities that are available. Residents of five towns (Kirovske, Pervomaisk, Avdiivka, Stanytsia Luhanska and Stakhanov) reported a shortage of food, especially cereals, dairy, meat and fish products. Hygiene items were reported to be lacking in Novotoshkivske, Stanytsia Luhanska, Pervomaisk, Avdiivka and Yunokomunarivsk.

## **C. Right to property**

88. The HRMMU continued to receive reports about illegal seizure of property in the areas controlled by armed groups. On 30 September, the spokesman of the Information Centre stated that the armed groups of 'Luhansk people's republic' organised the sale of about 100 cars stolen from local residents or dealerships and had been forcing local residents of Lutugino to sell their homes for as little as USD 100 to USD 1,000.

89. On 28 October, the HRMMU learned that private entrepreneurs and those trading on local food markets had to 'urgently' re-register with the so-called 'ministry of revenues and duties' of the 'Donetsk people's republic' and pay taxes in order to further carry out their activities. Earlier in October, it was reported that entrepreneurs in Rovenky and Antratsyt towns (Luhansk region), were required respectively, to either pay a specific sum, or pay a 20 % tax on profits to support the armed groups. On 28 October, the self-proclaimed 'Ataman of Antratsyt District of the Great Don Cossacks Army Major-General' stated that entrepreneurs should now maintain at their own expense the Cossack units, which reportedly took control of the Krasnyi Luch (Luhansk region). Due to the absence of law-enforcement in the areas controlled by the armed groups, the residents are left without any real means to protect their rights. All of these demands amount to extortion.

## **D. Right to work and favourable working conditions**

90. Unemployment is growing in Ukraine. As of 27 October, there were 1.7 million

unemployed<sup>28</sup> (8.4 per cent of economically active population) including 1,147,425 who were officially registered as such. The largest number of unemployed was registered in the Donetsk region<sup>29</sup> (87,097 persons) and in the regions with the highest influx of IDPs, namely Dnipropetrovsk (81,875 persons), Kharkiv (70,752), Lviv (62,547) and Zaporizhzhia (62,179). Women accounted for 57.6 per cent of registered unemployed.

91. As of 29 October, wage arrears amounted to UAH 1.9 billion (approximately USD 148 million)<sup>30</sup> across Ukraine. The highest rates of unpaid salaries were registered in Donetsk, Luhansk, Kyiv and Kharkiv regions. In some regions, particularly in the south, the illegal practice of sending teachers on unpaid leave was identified by respective authorities. For example, in Kherson region, the teachers were proposed to go on unpaid leave for 5 or 10 working days due to the lack of funding for wages. The non-payment of salaries is an acute issue in those areas controlled by the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, especially for teachers and doctors. Until August, the Government of Ukraine attempted to transfer money to those areas. In some medical establishments, workers received payments for August and September, while in others, for example in Shakhtarsk and Torez, employees have not received their salaries since July. In September, the ‘leadership’ of the ‘Donetsk people’s republic’ made attempts to pay salaries, however there is no specific data as to how many people received the payments.

92. The HRMMU continued to receive worrying reports about abuses of the right to work and favourable working conditions in the east. The medical and educational institutions continued to be subordinated to the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ in areas under their control, leading to numerous violations. Medical employees and teachers in several towns controlled by armed groups were dismissed without being duly informed about the reasons: the employees of the Luhansk City Hospital № 9 were forced to write letters of resignation and sign papers pledging their loyalty to the ‘Luhansk people’s republic’ should they wish to continue working at the hospital.

93. The HRMMU was informed that in September and October, armed groups forced medical personnel of medical institutions to terminate their labour contracts and to sign new ones with ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. Those unwilling to do so were threatened with dismissal.

#### *Reprisals*

94. On 17 October, the Deputy Minister of Internal Affairs stated that 17,000 police officers had been dismissed in Luhansk and Donetsk regions for ‘failure to comply with the oath, obeying the enemy, or merely for being supported [sic i.e. paid] while waiting to see what would happen’. A number of dismissed officers interviewed by the HRMMU consider this decision to be a punishment for not abandoning their posts and continuing to fulfil their law enforcement duties in the absence of direction from the central authorities, when they found themselves in areas controlled by the armed groups.

### **E. Right to social security**

95. Due to the suspended work of the State Treasury and the breakdown of banking system in the areas controlled by armed groups, the delivery of social benefits remained limited in the settlements controlled by armed groups. The payment arrears to citizens in these areas amounted to UAH 6.6 billion (approx. USD 508 million)<sup>31</sup>. As of 31 October, most residents had not

<sup>28</sup> According to the data released by the State Statistics Service on 27 and 31 October.

<sup>29</sup> In the 6<sup>th</sup> OHCHR report, the HRMMU noted that enterprises and business had to close due to security situation.

<sup>30</sup> According to the data of the State Statistics Service, released on 29 October.

<sup>31</sup> According to the Ministry of Social Policy, as of 24 October.

received benefits for more than three months, which is particularly difficult for older persons and persons with disabilities.

96. The Ministry of Social Policy of Ukraine has developed simplified procedures to enable residents of Donetsk and Luhansk regions under the control of armed groups to access their benefits, but according to the regulations, social benefits can only be received by in the areas under control of the Government. The HRMMU learned that some social workers in the territories controlled by armed groups have organized schemes, unlawfully charging retirees money (UAH 300 per person) for processing their applications to receive pensions from Ukraine on a bank card, and to organize trips for retirees to the Government-controlled towns to submit such applications in person.

97. Reportedly, the ‘Donetsk people’s republic’ has commenced disbursing social benefits in the territory it controls. But people have to submit application forms to claim their benefits and must present a passport, and a photo. Such social benefits have been disbursed reportedly varying between UAH 900 and 1800 (approximately USD 69 and 138). But they have not been systematic and have not reached all those who are entitled to social benefits.

## **F. Right to education**

98. The Administration of big cities continues facing difficulties to accommodate children in pre-school facilities; for example, in Kyiv 8,000 children were left without a place in kindergarten, in Odesa 10,000 are waiting for placement<sup>32</sup>. The Ministry of Education and Science reported that no problems occurred with accommodation of children in the schools, even in the areas with the highest influx of IDPs. However funding to cover the salaries of additional staff was lacking dramatically.

99. Across Ukraine, access to education facilities in remote areas remained complicated, as many school buses remained mobilized for the military operation in the east<sup>33</sup>. This especially affects children in rural areas. In the territories controlled by the armed groups, schooling is limited, mainly due to the destruction of buildings and insecurity. On 10 October, the ‘minister of education’ of ‘Donetsk people’s republic’ stated that on the territory controlled by the ‘republic’, 85 educational buildings, 26 kindergartens and 51 schools had been damaged or destroyed. In Donetsk city, 48 out of 150 secondary schools and 54 out of 185 kindergartens were reportedly damaged. As of 13 October, in Luhansk city, 5 out of 60 schools had been destroyed completely and 43 had been damaged. Out of 63 kindergartens, 38 had been damaged. The overall number of children, who still had no access to secondary education in both regions, remained unknown<sup>34</sup>.

100. In these areas, the curricula have been altered to exclude the teaching of Ukrainian language and history, which makes it problematic to obtain State school diplomas. This also violates the cultural rights of Ukrainian speaking children.

## **G. Groups facing discrimination**

### *Roma*

101. Roma NGOs continued to report about difficulties faced by members of their community face seeking to access social services or employment. The main underlying reason seems to be a

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<sup>32</sup> Lack of places in the kindergartens will also have a negative impact on women’s economic situation and their right to work.

<sup>33</sup> In paragraph 130 of the 6<sup>th</sup> OHCHR report, the HRMMU stated about such problems in Kherson, Mykolaiv, Volyn and Rivne regions.

<sup>34</sup> As of 16 September, the number of children who were not able to resume their studies on 1 September was 260,000 children; primarily in the territories controlled by armed groups.

lack of education and absence of identity documents. It is particularly the case for Roma IDPs. Insufficient outreach activities, lack of coordination among volunteer initiatives, limited awareness among the Roma concerning available assistance and lack of documents, exacerbates their vulnerability.

*People living with HIV/AIDS*

102. On 14 October, UNAIDS and UNODC raised concerns about reckless disclosure of the status of people with HIV/AIDS in Donetsk and Luhansk regions, as medical records have often become available to non-medical staff while hospitals are being seized by armed groups.

103. On 10 October, the NGO All-Ukrainian Network of People Living with HIV/AIDS confirmed to the HRMMU that most people living with HIV and former drug users had left the region due to fear of persecution, as well as the lack of available services.

*Persons deprived of their liberty*

104. The HRMMU regularly receives reports from civil society organisations regarding the situation of people deprived of their liberty in areas controlled by armed groups. As of 31 October, approximately 15,000 people reportedly remained in detention facilities in the conflict affected area. Most of them are reportedly at the point of starvation, as humanitarian aid rarely reaches them due to the insecurity.

*LGBTI*

105. The prevalence of negative stereotypes vis-à-vis LGBTI remains quite high. For example, on 22 September, an NGO from Lviv informed the HRMMU that it had recently exposed a social network that requested users to share information about LGBTI members, sex workers and drug dealers in the town and to vote as to whether such people should be attacked and beaten. The NGO also reported a case of police officers collecting information about LGBTI persons and extorting UAH 3,000 (approx. USD 230) from each, threatening to otherwise reveal their sexual orientation to their family and friends. The LGBTI community is often reluctant to report threats and violations of their rights.

106. The HRMMU is particularly concerned about the safety of the LGBTI community in the Donetsk and Luhansk regions. In the ‘Luhansk people’s republic’ a law<sup>35</sup> was passed, which criminalizes homosexuality with a prison term of two to five years.

*Trafficking in persons*

107. The armed hostilities, the deterioration of the economic situation, including growing unemployment, significant wage arrears, and the large numbers of IDPs create an environment that is propitious to increased trafficking in human beings. The International Organization for Migration (IOM) in Ukraine reported about the identification of 642 victims of trafficking (282 women and 360 men) in January-September 2014 throughout Ukraine, which is fewer than the number reported by IOM in the respective period of last year. This, however, may indicate gaps in the identification mechanism of victims, as the responsible ministries, as well as key NGOs, have concentrated their efforts on addressing other immediate and acute issues arising from the conflict.

108. The HRMMU welcomes the steps undertaken by the Government of Ukraine to prevent trafficking in human beings from the conflict affected area. For example, the creation of a working group under the Ministry of Social Policy to draft a new national action plan aimed to protect civilians, including against the risks of trafficking; as well as the strengthened control over the movement of children out of the country, given the numerous attempts of illegal movement of orphans and children deprived of parental care who have not reached the age of 16

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<sup>35</sup> ‘Law on the protection of Christian values of the ‘Luhansk people’s republic’ from the negative influence of the customs of hostile states such as Ukraine, the European Union, Canada and the USA’.

abroad, especially to the territory of the Russian Federation.

## V. HUMAN RIGHTS IN THE ELECTORAL PROCESS

109. According to legislation<sup>36</sup>, voters can directly vote both for one national deputy under the majority system and for a party list of candidates under the proportional system. However, voting under the majority system requires a permanent residence in Ukraine. Some IDPs from Crimea and those who left their electoral districts due to the hostilities in the eastern regions, and conscripts or soldiers and volunteers located out of their home areas, faced difficulties in exercising their right to vote, particularly under the majority system. The Central Electoral Commission (CEC) facilitated a special procedure to allow IDPs to vote at least for the party lists under the proportional system, IDPs from Donetsk and Luhansk regions<sup>37</sup> and from Crimea<sup>38</sup> could apply to any office of the State Register of Voters to change their place of voting with their valid internal passports.

110. The Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea informed Crimean residents wishing to vote at the parliamentary elections that they needed to register at a local polling station no later than 20 October. Crimean residents were to produce an internal passport showing that they came from Crimea. According to the CEC 2,864 IDPs from Crimea, 21,704 IDPs from Donetsk region and 11,119 IDPs from Luhansk region changed their voting places before the parliamentary elections. Approximately 80 per cent of servicemen were able to vote on Election Day according to the National Security and Defence Council (NCSD).

111. On 25 September, the CEC closed the deadline for applications of candidates wishing to stand in the parliamentary elections. Twenty-nine political parties contested 225 seats in proportional voting for party lists and 3,321 candidates contested 198 out of the 225 remaining seats, under the majority electoral system. Fifteen seats from the areas of Donetsk and Luhansk regions controlled by the armed groups and the 12 seats for Crimea remain vacant according to the law<sup>39</sup>. It was possible to hold elections in 12 out of 21 single-mandate electoral districts in Donetsk region and in 5 out of 11 single-mandate electoral districts in Luhansk region. On 10 October, the Chairman of parliament announced the possibility of holding by-elections within those single-mandate electoral districts of Donetsk and Luhansk regions under the control of armed groups as well as in Crimea. As the election campaign became more active, the public lustration campaign (see Chapter on Administration of Justice) against allegedly corrupt officials became more aggressive, with some actions targeting some parliamentary candidates. The HRMMU received at least 20 reports of attacks (not lustration-related) against candidates or parliamentary deputies, which resulted in injuries. Violence was also reported against political party campaign workers, their relatives, and electoral workers and monitors, as well as destruction of or damage to party offices, and of promotional material in public places.

112. On 23 October, a law aimed at strengthening penalties for violations of electoral rights,

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<sup>36</sup> Law as of 17 November 2011 ‘On elections of national deputies in Ukraine’.

<sup>37</sup> Resolution as of 7 October No. 1529 ‘On questions of temporary change of voting place by voters whose address belongs to the territory of Donetsk or Luhansk regions for the period of holding of early parliamentary elections in Ukraine on 26 October 2014’.

<sup>38</sup> On 29 April, the CEC adopted Resolution No. 415 that allows changing an address of voting without changing the place of registration for residents of the Crimea and the city of Sevastopol where SRVs are not functioning.

<sup>39</sup> The Law of 15 April 2014 No. 1207-VII On Ensuring Rights and Freedoms of Citizens and Legal Regime on the Temporary Occupied Territory of Ukraine’.

including for bribery of voters entered into force<sup>40</sup>. On 30 October, the MoIA stated that 300 criminal cases had been registered for breaching the electoral process, including 71 (until 21 October) for bribery of voters<sup>41</sup>.

On Election Day incidents were few and isolated. According to the MoIA, there were 19 cases of temporary disruption of voting with bomb and mine threats at polling stations, including seven incidents in the Mykolaiv Region; voting was resumed after the police conducted security checks. Incidents reported on Election Day included cases of: bribery of votes<sup>42</sup>; attacks in Kryvyi Rih (Dnipropetrovsk region) or threats to members of the election commissions in Rubizhne and Sieverodonetsk (Luhansk region); abduction of a member of an election commission in Volnovakha (Donetsk region); provocation of violence at polling stations; and interference in the vote counting. The OSCE/ODIHR led International Election Observation Mission, in its preliminary findings, stated that “in most of the country Election Day proceeded calmly, with few disturbances. Voting and counting were transparent and assessed positively overall.”

## VI. SITUATION OF INTERNALLY DISPLACED PERSONS

113. Despite the proclaimed ceasefire an average of more than 2,000 new IDPs registered each day during the reporting period as people continued to flee the hostilities. The overall number of IDPs increased thus from 275,489 as of 18 September to 436,444 on 29 October, according to the State Emergency Service of Ukraine. This includes 417,410 people coming from the east, and 19,034 IDPs from Crimea.

114. According to UNHCR, as of 24 October, the overall number of people who had fled the conflict affected areas to other states since April reached 454,339 people 387,355 of them went to the Russian Federation.

### *Returnees*

115. On 24 October, the OSCE SMM has observed that at the Russian Checkpoints Gukovo and Donetsk [sic] (in the Rostov Region of the Russian Federation) there has been a clear reverse flow of people back to the eastern regions of Ukraine for the last two months since the ceasefire agreement.

116. According to the Minister of Social Policy, as of 26 October, approximately 135,000 people had returned to their homes on territories back under the control of the Government of Ukraine.

117. IDPs have been also returning to the territories controlled by the armed groups. Some go back temporarily to visit relatives, inspect property or take items. Others return because they have been unable to find a job or shelter, or for fear that their property will be confiscated by either the ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’.

### *Accommodation*

118. With the onset of autumn, IDPs who were living in summer camps or sanatoria have had to move to warmer shelter. According to statistics from the Government of Ukraine, fewer than 1,500 IDPs remained in non-winterized shelters as of the middle of October; but this number

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<sup>40</sup> The law ‘on amendments to the Criminal Code of Ukraine regarding strengthening of penalties for violations of electoral rights of citizens’.

<sup>41</sup> The largest numbers of such cases was reported in Zaporizhzhia, Kyiv, Kharkiv, Odesa, Zhytomyr, Donetsk regions and Kyiv city.

<sup>42</sup> The cases of bribery or attempted bribery of voters mostly occurred in Kyiv city and region, Kharkiv and Odesa regions.

only includes IDPs who have registered and not others who may be living in various forms of private shelters like those run by religious organizations, some of which may not be suitable for winter conditions.

119. On 1 October, the Cabinet of Ministers adopted Resolutions No 505 and No 509 establishing regulations for the registration of, and financial assistance to, IDPs. According to resolution No 509, the Ministry of Social Policy will be responsible for the registration of IDPs, and will maintain a centralized database on the profile and specific needs of the IDPs. This should help better identify needs for IDPs, and plan and coordinate the response.

120. According to resolution No 505 IDPs will be eligible for monthly financial assistance as long as they fulfil certain conditions, including the requirement for adults to actively seek employment. The assistance will be UAH 884 (approximately 68 USD) per month for individuals not able to work (for example, children, elderly, disabled persons), and UAH 442 (approximately 34 USD) per month for working-age adults. The assistance is limited to six months and is intended to help families pay for housing.

121. The registration process started on 15 October and according to the Ministry of Social Policy, as of 26 October more than 70,000 IDPs were registered, more than 35,000 families had applied for financial assistance and 19,000 started receiving it.

#### *Employment*

122. Despite significant attempts undertaken by the State Employment Bureau (SEB)<sup>43</sup> IDPs continued to face barriers to finding employment and receiving unemployment benefits. In order to receive unemployment benefits, IDPs need to provide the SEB with their employment record books (a system inherited from the Soviet Union). However, these are normally retained by the employer. IDPs, having fled the conflict-affected areas, have often not taken their employment record books, and are consequently not eligible to obtain unemployment benefits. The SEB accepts letters of resignation as formal evidence of unemployment for IDPs, which allows them to receive the benefits.

123. In addition, some IDPs have complained of facing discrimination, with claims that they are usually offered worse working conditions than normal, and expected to work for a lower salary due to the lack of other options.

#### *Financial assistance to IDPs*

124. Many IDPs owe loans for cars or homes, which they are not in a position to reimburse. Parliament partially sought to address this issue through the adoption of legislation to excuse interest payments on outstanding loans<sup>44</sup>. This law would decrease the risks of IDPs losing their homes due to foreclosure.

## **VII. WOMEN'S HUMAN RIGHTS**

### **A. Women affected by the hostilities in the east**

125. Women may be particularly affected by the short and long-term effects of the hostilities in the eastern regions. This is due to a number of factors including: gender inequality, their status in society, and the lack of structures to protect them.

#### *Displaced women*

126. Women comprise two thirds of the IDPs in Ukraine. Women continue fleeing with

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<sup>43</sup> The SEB is under the Ministry of Social Policy, which keeps a record of all job vacancies in Ukraine.

<sup>44</sup> Law of Ukraine on Temporary Measures for a Period of Anti-Terrorist Operation as entered into force on 15 October 2014.

children, elderly or relatives with disabilities, without male relatives. Thus, they often carry a heavy burden of caring for others and trying to make decisions about the future. Many women report<sup>45</sup> feeling overwhelmed by the magnitude of their daily tasks. Their general problem is a lack of support from the State or local authorities and unemployment. Some of them managed to find a job but none of those who are registered in Donetsk and Luhansk regions could obtain legal employment.

*Sexual and gender-based violence*

127. The HRMMU continued to receive allegations of sexual and gender-based violence in the eastern regions.

128. On 13 October, the HRMMU interviewed a woman from Donetsk, who was “arrested” in May for violating a curfew by the ‘Vostok Battalion’. She was intimidated, forced into a car and brought to a place, which, she thought, was a police department seized by the armed groups. She was beaten with metal sticks for three hours, suspected of being a Ukrainian sniper because of callosities on her fingers, and released the next day. The woman referred to being raped by several men from the ‘Vostok Battalion’.

129. The HRMMU spoke with other women who were detained by armed groups or Ukrainian forces and who stated that while not physically abused, they were often threatened with rape and in some cases forced to undress. For example, on 14 October, the HRMMU interviewed an activist of the ‘Donetsk people’s republic’ activist and medical volunteer, who was detained by Ukrainian forces in July along with four other persons. She reported that she and another female detainee were regularly threatened with rape, and were once ordered to undress and interrogated while standing naked and blindfolded. They were later transported to the Kharkiv SBU, and one of the women reported being slapped on the back of her head several times during interrogation. On 2 August she was subject of a detainee exchange, after being asked to sign an undated protocol of detention.

130. On 14 October, an NGO informed the HRMMU that a couple was detained by armed groups at an opioid-replacement-therapy site on the grounds of being former drug users. While the man was forced to dig trenches, the woman was reportedly forced to cook meals for members of a ‘Donetsk people’s republic’ unit and provide sexual services to them. Both were later released.

131. On 15 October, the ‘authorities’ of the ‘Donetsk people’s republic’ informed the HRMMU of two cases of alleged rape. In Torez, a member of an armed group reportedly kidnapped a local female resident, raped her and at the same time placed a grenade in her mouth. Members of the local armed group reportedly caught and detained the perpetrator; the ‘General Prosecutor’ of the ‘Donetsk people’s republic’ has opened a criminal case. The second case of rape reportedly took place in Dokuchaivsk (Donetsk Region) while it was under the control of Ukrainian armed forces. Ukrainian policemen reportedly detained the suspect, and placed him in a pre-trial detention, but he was released when the Ukrainian troops retreated from Dokuchaivsk. The ‘police’ of the ‘Donetsk people’s republic’ claimed its ‘officers’ have detained the perpetrator, and have opened a criminal case after the victims’ relatives filed a complaint.

132. On 23 September, it was reported that a member of a ‘Luhansk people’s republic’ armed group raped a 22-year old girl. He was later subjected to public humiliation by his commanders as punishment. On 25 October, in Alchevsk (Luhansk region) the ‘Phantom Brigade’ organised ‘the first people’s trial’, which considered two cases of sexual violence. In the first case, a 37-year old man, also a member of an armed group was accused of raping a 15-year old girl on 12 September. In the second case, a man was accused of raping a 20-year old girl on 27

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<sup>45</sup> Such reports are received by the UNHCR and NGOs and volunteer initiatives that provide services to IDPs.



September<sup>46</sup>. The ‘trial’ was filmed and clearly did not meet any fair trial standards. The death penalty was pronounced in both cases. Following a vote of the 340 residents who had gathered, the first perpetrator was allowed to “go to the front-line to pay his guilt with blood”. While the second was sentenced to death. It is not known whether the death penalty has been implemented. During this ‘trial’, the commander of the ‘Phantom Brigade’, presiding over the proceedings, made some derogatory comments regarding women and stated that ‘from now on any woman seen in a cafe or bar will be immediately detained’, adding that women should sit at home (see Chapter VIII, section D Administration of Justice).

## **B. Participation and representation of women**

133. The Constitution of Ukraine guarantees equal rights between men and women, including in public and political life. This is further protected by the Law on Ensuring Equal Rights and Opportunities of Women and Men. However, the level of women’s representation in political and public life remains low.

134. The Ministry of Social Policy reported that due to austerity measures, in 2014 only 10 per cent of the required state contribution was allocated for the implementation of the two State programmes On Ensuring Equal Rights and Opportunities for Women and Men until 2016 and Support of the Family until 2016.

135. The demand of civil society to introduce gender quotas was only partially implemented in the amendments to the Law on Political Parties in Ukraine. Article 8 of the Law, since 1 February 2014, obliged all political parties to amend their statutes to ensure that at least 30 per cent of their candidates on their election lists are women; though the majority of political parties have not complied with this requirement<sup>47</sup>.

136. Women comprised around a quarter of the candidates on party lists. Women are represented the least in the following political parties: Svoboda (14 per cent), Civic Position (12 per cent), Right Sector (9 per cent), *Vidrodzhennia* (8 per cent) and Congress of Ukrainian nationalists (0 per cent). Among majoritarian candidates, women accounted for only 13 per cent. A key reason for this, according to the IEOM observers, was the difficulty women candidates faced in securing funding for their campaigns. Women were well-represented at the District election committees, where they accounted for 54 per cent of all members and held many senior positions<sup>48</sup>. In the Central Election Commission, five of the 15 members, including one of the two deputy chairpersons and the secretary, were women. Issues of equal participation of men and women in elections and the country’s political life more broadly, were generally not part of the campaign and did not feature prominently in most candidate or party programmes.

## **VIII. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS AND ABUSES**

### **A. Accountability for human rights violations and abuses in the east**

#### *Command responsibility*

137. As of 28 October, the Office of the Military Prosecutor had opened three criminal investigations into inaction of the military authorities concerning the failure of the command of the Voluntary Territorial Defence Battalion ‘Aidar’ to prevent and stop the crimes committed by

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<sup>46</sup> See the administration of justice section of this report for more details on this trial.

<sup>47</sup> The data was presented on 7 October during the press-conference in frames of the USAID-supported project *Gender monitoring of the 2014 elections*, which is implemented by the NGO *Women’s Consortium of Ukraine*.

<sup>48</sup> These included 99 committees chaired by women, with 107 female deputy chairpersons and 144 secretaries.

its subordinates, and to notify law enforcement regarding such crimes.

138. On 15 October, the SBU announced that a criminal investigation had been opened against both the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ for ‘crimes against peace and security of mankind’.<sup>49</sup> The SBU is to investigate cases of inhuman treatment of civilians and captured military servicemen, notably torture, forced labour and looting of national treasures in the captured territories.

#### *Military prosecutions*

139. Only three criminal proceedings for violence against the population in the areas of hostilities<sup>50</sup> were opened by the Office of the Military Prosecutor as of 18 September. The current status of these proceedings is unclear, as according to the Office of the Military Prosecutor, it has not conducted investigations into these crimes as of 27 October.

140. In response to reports of violations committed by Ukrainian volunteer battalions, the Minister of Internal Affairs announced on 16 October that the Voluntary Special Police Patrol Battalion ‘Shakhtarsk’ had been disbanded due to multiple cases of looting committed by 50 out of its 300 members.

141. On 21 October, servicemen of the Voluntary Special Police Patrol Battalion ‘Slobozhanshchina’ filed an open submission to the head of Kharkiv Regional Department of the MoIA and to the Prosecutor’s Office in relation to violence, looting, intimidation of servicemen, and other acts allegedly committed by their commander.

#### *Investigations into the use of explosive weapons in populated areas*

142. According to the MoIA, from 1 August to 26 October, more than 300 criminal proceedings were opened into indiscriminate shelling of residential areas in Donetsk region. The Ministry claims that all necessary investigative actions have been taken, but that has been hampered by the hostilities and lack of access to the territories controlled by the armed groups.

143. On 4 October, the HRMMU was informed that the Office of the Military Prosecutor of the Southern Region had initiated a criminal investigation under terrorism charges into the shelling of residential areas in Debaltseve (Donetsk region).

#### *Investigations into detention by the armed groups*

144. As more people have been released by the armed groups, the HRMMU is concerned that some of these people have not been interviewed by the law enforcement agencies, which may lead to a failure to collect all necessary information and evidence to ensure accountability for crimes committed.

#### *Case of Nadiia Savchenko*

145. The HRMMU is following the case of Nadiia Savchenko, a Ukrainian servicewoman and newly elected member of Parliament, who was reportedly captured on 17 June and moved to Voronezh in the Russian Federation,. She was then moved to pre-trial detention centre in Moscow. Ms Savchenko is charged with killing two Russian journalists in Ukraine, while on duty. On 27 October, Basmanyi District Court of Moscow ruled in a closed hearing to hold Ms Savchenko in custody until 13 February 2015. On 30 October, on the basis of an allegedly compulsory psychiatric examination, Ms Savchenko was declared sane. The investigation into her case will therefore proceed.

146. On 29 October, Ms Savchenko’s lawyer informed that she had recognized Ihor Plotnitskiy, the head of the ‘Luhansk people’s republic’ as one of those involved in her abduction. Mr Plotnitskiy is a former commander of the ‘Zaria Battalion’ and a ‘minister of

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<sup>49</sup> Chapter 20 of the Criminal Code of Ukraine.

<sup>50</sup> It was not clear which particular charges they faced apart from violence. Article 433 of the Criminal Code of Ukraine, also encompasses illegal destruction and taking of property as well as robbery against local population.

defence' of 'Luhansk people's republic' whom Ms Savchenko mentioned in her 17 July appeal to the Consul General of Ukraine, after she was moved to the Russian Federation<sup>51</sup>. As a result, on 30 October, the Office of the Prosecutor General of Ukraine has notified Ihor Plotnitskyi and Aleksandr Popov (a Russian Federation citizen who was allegedly involved in the attack on the 'Aidar' battalion that resulted in Ms Savchenko's detention) of being suspects in committing crimes under article 146, part 3 (illegal deprivation of liberty), article 258, part 2 (terrorist act), and article 332, part 3 (illegal conveying of persons through the state border of Ukraine) of the Criminal Code.

#### *Case of Nelia Shtepa*

147. The HRMMU is also concerned over new developments in the case of the former mayor of Sloviansk, Nelia Shtepa, who was previously found in pre-trial investigation to be an accessory to the trespassing of the territorial integrity and inviolability of Ukraine, resulting in death of people. On 8 October, Ms Shtepa was presented an amended notice of suspicion, saying that she was also suspected of membership in a terrorist organisation – the 'Donetsk people's republic'. Ms Shtepa had also been held in detention for more than two months by that same 'Donetsk people's republic'.

148. On 31 October, the Kharkiv Regional Prosecutor's office submitted an indictment to the court, accusing Ms Shtepa of calls to change the boundaries of Ukraine, assisting in the conduct of a so-called 'referendum' on the separation of the Donetsk region from Ukraine, and setting the stage for activities of terrorist groups and organisations. The maximum sanction for such crimes is life sentence.

149. Ms Shtepa has informed the HRMMU that she was attacked and beaten while in the bathroom of the Office of the Kharkiv Regional Prosecutor. She immediately complained of the assault but was threatened with a lawsuit for slander. She was examined by the doctor at the pre-trial detention facility she is being held in, who observed and documented a number of bruises on her thighs and forearms. The HRMMU visited Ms Shtepa in detention and observed and documented the bruises on her body as a result of the alleged ill-treatment.

150. According to the Office of the Kharkiv Regional Prosecutor, the pre-trial investigation is completed and it is expected that the case materials will be submitted to court for consideration in the near future.

### **B. Investigation into the 2 May violence in Odesa**

151. The MoIA investigation into the 2 May violence in Odesa has been split into several criminal proceedings: on mass disorder in the city centre, on the mass disorder at the Trade Unions building (the Kulikovo Pole square), and against the single 'pro-unity' activist charged with murder.

152. While the investigations into the second and third criminal proceeding are on-going, the investigation into the mass disorder in the city centre was completed on 24 September. 24 'pro-federalism' supporters were charged with mass disorder, and 9 suspects were put on a wanted list. The MoIA expects the court trial to commence in early November.

153. Further, the SBU has started its own investigation on five criminal cases, in relation to the 2 May violence, but due to the secrecy of investigation, it is reluctant to provide any information.

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<sup>51</sup> Yet in her appeal to the Consul General of Ukraine in the Russian Federation of 17 July, Ms. Nadiia Savchenko stated that she was taken prisoner by the armed groups of the 'Luhansk people's republic' on 17 June and was attended by *inter alia* a man who introduced himself as a commander of the 'Zaria Battalion' and 'minister of defence' of the 'Luhansk people's republic'.

154. On 17 October, the local media disclosed phone transcripts from the Odesa fire brigade registered on 2 May, which may constitute evidence of negligent behaviour on the part of the firemen. Numerous emergency phone calls reporting the fire at Kulikovo Pole, including from police officers, appeared not to have been fully addressed. However, there has so far been no investigation of this element. The Independent Commission investigating the 2 May violence reiterated that the results of the official investigation process cannot be deemed reliable. In particular, it objects to the fact that the forensic examinations were conducted by the municipal forensic bureau, which is not a governmental institution as required by Ukrainian legislation. It also noted that according to experts who received copies of the autopsies, the post mortem examinations had not been properly conducted in terms of quantitative and qualitative samples of the deceased people. This concern is all the more serious as all bodies have been buried or incinerated.

155. Following research, some members of the Independent Commission consider that the 2 May violence was planned by all parties for political purposes: the Regional State Administration – to disperse the ‘pro-federalism’ tent camp; the MoIA – to disperse the camp with the help of football fans in order to avoid responsibility; the ‘pro-unity’ movement – to disperse the ‘pro-federalism’ tent camp and show the strength and unity of local ‘pro-unity’ forces; and the ‘pro-federalism’ movement - to obtain evidence of the impartial attitude of the local authorities by exposing the intimidation of the ‘pro-unity’ movement and the violation of their rights (freedom of peaceful assembly and freedom of speech). However, those in the Independent Commission who hold this opinion believe that the plan to disperse the ‘pro-federalism’ tent camp at Kulikovo Pole square went out of control, with none of the parties expecting such grave consequences.

156. On 29 October, the Main Investigations Directorate of the Investigative Committee of the Russian Federation opened a criminal case against members of ‘the Right Sector, Maidan Self-defence, as well as Ukrainian football fans and some officials of the Ukrainian MoIA, as well as the SBU’ for attempts to commit, murder and torture under the Criminal Code of the Russian Federation, against a Russian citizen.

157. According to the Directorate’s statement, a Russian citizen was apprehended on 2 May by the Odesa city department of the MoIA near the Trade Union Building. He was later interrogated by the SBU, notified of suspicion in participating in mass disorder and placed in custody as a measure of restraint. It reported serious violations by Ukrainian law enforcement officials, including ill-treatment, failure to provide a translator (being a Russian-speaker he did not understand the contents of the procedural documents drafted in Ukrainian), and refusal to grant him official victim status (having been exposed to carbon monoxide in the Trade Unions building instead of being treated as a victim he was perceived as a suspect). The lawyer stressed that the law enforcement agencies and the court had shown a negative and biased attitude towards his client based on his Russian citizenship.

### **C. Investigations into crimes committed during the Maidan protests**

158. The HRMMU is particularly concerned about a lack of significant progress into investigations of crimes committed during the Maidan protests. Three major criminal proceedings have resulted from these events: an investigation into forceful dispersal of protesters on 30 November 2013; investigations into mass killings of protesters on 19-21 January and 18-20 February; and an investigation into the killings of police officers on 18-20 February. However, so far the only result in these high profile cases was the outcome of the investigation into mass killing of protesters by members of the *Berkut* officers. The Office of the Prosecutor General found grounds to believe that three former members of the unit committed killings of 39 protesters on 20 February 2014 and noted that the main obstacle to the effective investigation

was the impossibility of locating most of the suspects, many of whom had fled Ukraine. In such a case, the Criminal Procedure Code provides that criminal proceedings be suspended until the suspects are tracked down.

*Investigations into mass killings of protesters (January and February 2014)*

159. There is a risk that very few individuals will be brought to justice for their role in the mass killings of demonstrators in January and February 2014, especially among those in positions of command. This probability has been strengthened with the news of the apparent escape of the former *Berkut* commander.

160. The commander, one of only three suspects identified and detained for the killing of 39 demonstrators at Instytutska Street on 20 February, was placed under house arrest on 19 September. According to the Office of the Prosecutor General this allowed him to escape and to presumably flee Ukraine<sup>52</sup>. The decision of the Pecherskyi District Court (in Kyiv) to change the commander's measure of restraint from custodial detention to house arrest is now under scrutiny. According to the Criminal Procedure Code, an investigating judge enjoys great discretion in deciding on this issue. However, according to the Office of the Prosecutor General, this is not the usual practice and judges are normally extremely cautious when it comes to such grave crimes. The judge has been notified that she is now under suspicion of rendering a knowingly unjust decision. Results of a pre-trial investigation into this will be soon submitted to the court. A further high-profile case from the night of 18 to 19 February may also reveal shortcomings in the Kyiv courts to adequately handle the Maidan cases. This involves the killing of a journalist by a group of *Titushky* (thugs hired by the then authorities to disperse demonstrators) and the infliction of bodily harm to two other people. On 15 October, the Shevchenkivskyi District Court of Kyiv in a closed judicial session released from detention the only suspect located so far. The six other suspects have been put on an international wanted list. The victims and activists believe that the accused is now free to escape following the example of the *Berkut* commander, thus creating another example of impunity.

161. In the meantime, the Office of the Prosecutor General has been conducting investigations into other crimes committed by the law enforcement officers during Maidan protests. On 17 October, a high-profile case of bodily harm and humiliation inflicted to a Maidan demonstrator was sent to the Pecherskyi District Court (of Kyiv) with an indictment against an officer of the MoIA internal troops. He is accused of not stopping the attack against the demonstrator. This is already the fourth law enforcement officer brought to account for committing this act.

*Investigations into killings of law enforcement officers on 18 and 20 February 2014*

162. An investigation into the murder of 13 police officers and MoIA interior troops, and injuries to some 600 law enforcement officers on 18 - 20 February in Kyiv is on-going. The HRMMU is concerned that the Law on Prevention of Persecution and Punishment of Individuals in Respect of Events which have Taken Place during Peaceful Assemblies<sup>53</sup>, passed immediately after former President Yanukovich fled, may block this investigation. According to Article 3 of this Law "all criminal proceedings, opened in respect of crimes, envisaged in Article 1 of this Law, in which no person was notified of suspicion, shall be closed" and "all individuals who have committed a large number of crimes, including murder and attempted murder of police officers due to their activities, shall be exempted from criminal responsibility".

#### **D. Administration of justice**

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<sup>52</sup> Although, according to the MoIA, there is no data that he has legally crossed the border of Ukraine.

<sup>53</sup> Law of Ukraine on prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies, and recognising the repeal of certain laws of Ukraine, as adopted by the Parliament on 21 February 2014.

### *Establishment of parallel structures*

163. In the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ various armed groups have performed quasi-judicial functions: issuing arbitrary sentences, deciding on the detentions of civilians and members of the armed groups on charges of looting, desertion, drinking, and other alleged acts. Detention by the armed groups is often accompanied by ‘correctional labour’, and physical punishment. Armed groups have also established ad hoc martial tribunals as was the case in Sloviansk in May-June, rendering death sentences against their own members and civilians suspected of activities directed against the ‘Donetsk people’s republic’. A ‘resolution on field courts’ apparently adopted on 17 August by the ‘supreme council’ of the ‘Donetsk people’s republic’ provided for the establishment of field and martial courts. So far, the HRMMU has received no information on the existence of such bodies.

164. The ‘Donetsk people’s republic’ is also reportedly in the process of establishing its own ‘judiciary system’, with two key officials already appointed. On 23 September, the former ‘prosecutor general’ of the ‘Donetsk people’s republic’ was appointed as ‘head’ of the ‘supreme court’ and a ‘minister of justice’ of the ‘Donetsk people’s republic’ was also appointed. On 10 October, the ‘Donetsk people’s republic’ invited all eligible candidates with a background in law to apply for the vacant positions in its ‘supreme court’.

165. In areas controlled by the Government of Ukraine, the HRMMU was presented with numerous due process violations, both in civil and administrative cases. Public authorities and courts sometimes justified non-compliance with international human rights standards by the “actual state of war” in the country. The HRMMU is also concerned with the neglect of procedural rights of detainees. In the Odesa region in particular, the HRMMU collected evidence of systematic violations of the Criminal Procedure Code, which should lead to the immediate release of the detainee (for example, the late presentation of a written notice of suspicion and/or violation of the terms of detention, apprehension and house search without the order of an investigating judge or a court). However, during the court hearings judges have tended to systematically ignore these violations, which in turn constitute a violation of fair trial standards.

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

166. On 25 September, President Poroshenko presented his ‘Strategy for the Sustainable Development of Ukraine - 2020’, a roadmap enabling the country to apply for EU membership by that date. The strategy foresees over 60 legislative and institutional reforms, prioritising fighting corruption, decentralizing government and energy independence, and modernising the judiciary and defence system. Legislative developments during the reporting period touched upon some key reform aspects of this Strategy, notably the fight against corruption and the powers of the Office of the Prosecutor General. In addition, the President also created a Council for Judicial Reform and tasked the government to elaborate a national human rights strategy.

167. The popular demand for lustration voiced during the Maidan protests resulted in a law that would ban public office primarily for some State employees who worked within the administration of the former President Yanukovich. A separate lustration procedure applies to judges. Parliament also passed a law allowing absentee trials, which could be applied to former President Yanukovich and government officials who fled the country. While the issue of decentralization has not been addressed by parliament, the Venice Commission published an opinion on draft constitutional amendments dealing partly with it.

### **A. Constitutional reform**

168. The Venice Commission of the Council of Europe has reviewed the draft law amending

the Constitution of Ukraine, as submitted by President Poroshenko to Parliament on 2 July 2014. It delivered an Opinion on 27 October. One of the positive aspects noted by the Commission is that the draft eliminates the power of the Prosecutor's Office to supervise respect for human rights and fundamental freedoms and observance of laws by the authorities. These powers are, according to the Commission, a 'reminiscence of the old system of the Soviet *prokuratura*'.

169. Advances, according to the Venice Commission, also concern decentralization of powers towards more local self-governance. The draft proposed that regional and district councils independently elect their own executive bodies and that State administration at the regional and district level be removed. New levels of territorial units are defined; the principle of subsidiarity is introduced; planning powers and taxes go to the community. A new provision empowers villages, settlements, cities, districts and regional councils to provide a special status for the Russian language and other languages of national minorities.

170. The Venice Commission also recommended improvements. It found that some competencies under the draft law gave the President significant power or overlapped with governmental functions and could be a source of conflict. The President would be able to appoint and dismiss certain key state officials without the involvement of any other State organs. In addition, his representatives in the regions and districts would be able not only to supervise compliance by local self-government bodies with the law and constitutional principles but also to ensure coordination of the inter-action between the central government authorities. Further, the principle of financial support by the State for local self-government is not given clear constitutional entrenchment and the amendments do not address reform of the judiciary. In respect of the new provision on the special status of Russian and other minority languages, the Venice Commission notes that it 'raises issues of harmonization' with relevant international norms and standards and statutory guarantees for the use of languages 'irrespective of the support of more than 50% of the local government council'. Finally, the Commission notes that Ukrainian civil society has neither been informed nor consulted on the amendments, which should be prepared in an inclusive manner and submitted to public discussion.

## **B. Lustration**<sup>54</sup>

### *Lustration of government*

171. A law 'On the Purification of Government' aimed at subjecting officials who performed State or local self-government functions to a screening procedure entered into force on 16 October. The intention behind the law was to revive people's trust in the authorities and respond to demands expressed during the Maidan protests to address past human rights violations and curb corruption in various levels of power.

172. Article 1.1 of the law states that 'Purification of government (lustration) shall be the prohibition set by the Law or by court decision for some individuals to hold certain positions in state authorities and local self-government bodies'. It is to be applied to people who implemented or contributed to measures aimed at "usurpation of power" by former President Yanukovich, undermining national security or violating human rights and freedoms.

173. The law provides for *ex-officio* prohibition of holding office for a period of 10 years after the law comes into force for people who occupied for at least one year between 25 February

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<sup>54</sup> Lustration (from Latin lustration - 'purification by sacrifice') is an evaluation and examination process used in order to eliminate abusive and corruptive officials through due procedure. To define lustration very broadly, it is a measure barring officials of a former regime from positions of public influence in a country after a change of government.

2010 and 22 February 2014, a number of high level positions enumerated in the law<sup>55</sup>. It also provides for a five year *ex-officio* prohibition from holding office for those who occupied positions during the same period in the judiciary and law enforcement spheres and who, through their actions or omissions, enabled human rights violations or threatened national security<sup>56</sup>.

174. In addition, several categories of public officials will be subjected to screening regarding the reliability of data on their property and its value as indicated in the declaration of assets, and income submitted for the tax year obtained from legal sources.

175. The vetting envisioned under one of the forms indicated above could apply to tens of thousands of people who held certain positions or executed decisions in various official capacities at central, regional and local levels.

176. According to the law, the Ministry of Justice shall be the body authorized to carry out the vetting procedure. It shall elaborate and submit for approval to the Cabinet of Ministers a list of bodies and the procedure and plans of vetting for each state authority and local self-government body where those to be inspected currently work. The body conducting the vetting sends the vetting opinion to the head of the institution, whose terms of reference include dismissal for the person subject to vetting from the position. The vetting opinion can be appealed to court. In case the unreliability of the data reviewed on property and income is traced during the inspection, the vetting body sends a copy of the vetting opinion to the Ministry of Justice for official publication on the web-site of the Ministry of Justice and for recording of the person in the Unified State Register. The official who fails to pass the screening or did not agree to it shall be dismissed by the inspection body and prohibited to hold the post for 10 years after dismissal. An advisory body of the Ministry of Justice for lustration issues, including representatives of the mass media and the public, will also be established in order to guarantee independent monitoring and control over the process.

177. On the same day the law entered into force, the Government started applying it. The first decisions applied to 39 individuals who will have to leave high level civil servant positions. The President's administration and the Ministry of Defence also announced that they had started vetting their employees under the new law.

178. Since the start of implementation of the law there have been a number of complaints about its application, particularly regarding the dismissal of those who are pregnant or are on paternity leave.

179. Several provisions of the law are questionable from the point of view of their compliance

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<sup>55</sup> The list of prohibitions covers several hundred positions in the State, as well as regional and local administrations. They include the President, Prime Minister, first Vice Prime Minister, Vice Prime Minister, Ministers, heads of central bodies of executive authority who are not members of the Cabinet of Ministers, the Governor of the National Bank of Ukraine, chairs of all state committees, commissions, directorates and funds, the Prosecutor General of Ukraine and agencies related to the prosecutor's office, the heads of all law enforcement agencies and military institutions, tax and customs institutions, members of judicial institutions, heads and deputy heads of regional, district and city administrations. The prohibition also applies to persons who were elected and worked in supervisory functions in the Communist Party of the USSR, of Ukraine and other republics of the former USSR, or were staff members or secret agents of the KGB.

<sup>56</sup> The five year prohibition to hold office for positions to which lustration applies concerns judges, public prosecution and law enforcement officials who permitted detention, passed guilty verdicts, or implemented measures aimed at prosecution of persons to whom amnesty has been applied under the amendments to the Law 'On Amnesty in Ukraine Concerning Full Rehabilitation of Political Prisoner' of 27 February 2014. It also includes all public officials who implemented measures aimed at power usurpation, undermining national security and infringing human rights, as established by a court decision as well as any official concerning whom it has been established by court decision that he collaborated with the secret services of other countries, implemented measures undermining national security, defence and territorial integrity of Ukraine, or called for violation thereof, and led to the infringement of human rights and fundamental freedoms as determined by a decision of the European Court of Human Rights.



with international standards. The vetting grounds are overly broad in scope and establish a principle of collective responsibility, which is contrary to international human rights law and Recommendation 7568 of the Council of Europe<sup>57</sup>. This recommendation contains Guidelines to ensure that lustration laws and similar administrative measures comply with the requirements of a State based on the rule of law.

180. The Guidelines also indicate that lustration should be administered by ‘a specifically created independent commission of distinguished citizens nominated by the head of State and approved by parliament’<sup>58</sup>. However, the law gives responsibility for carrying out lustration to a multiplicity of public government bodies under the control of the Ministry of Justice. The law also prohibits the possibility to maintain or obtain positions for those whose past work has violated the right to peaceful assembly or curtailed the right to life, as proven by court. Return to government service would, in some cases, be banned for 10 years while the Guidelines state that disqualification based on lustration should not exceed five years. Finally, prohibition from holding office on the sole basis of having occupied certain functions, rather than as a consequence of a proven violation or abuse can be viewed as contravening the presumption of innocence<sup>59</sup>.

#### *Lustration of judges*

181. On 24 September and 24 October, the temporary special commission on the Inspection of Judges, which was established according to the Law on Restoration of Trust in the Judicial System, conducted its first public hearings. Pursuant to its mandate, it examined cases involving 12 judges<sup>60</sup> who considered civil, administrative or criminal cases regarding defendants who had participated in the Maidan protests. Several plaintiffs or lawyers representing them were in attendance. All were given the opportunity to make statements. The commission found that eight judges were guilty of a ‘violation of oath’ due to their decisions which the commission viewed as: politically motivated, in violation of procedural rules, or made on the basis of falsified materials. Two judges were found to have taken decisions which, while not constituting violations of oath, were considered as deserving disciplinary sanctions. One judge was acquitted and consideration of one case was postponed upon the request of the plaintiff. In its decisions<sup>61</sup> the commission mentioned violations of national and international legal acts and the practice of the European Court of Human Rights.

182. The commission is not competent to decide on sanctions and its decisions are advisory in nature. Thus, cases involving findings about violations of oath were submitted to the High Council of Justice and those where disciplinary measures are recommended were addressed to the High Qualification Commission of Judges. However, none of these institutions currently function, as their members were dismissed by the same law that established the temporary special commission on the inspection of judges. The HRMMU will continue following the work of the Commission.

#### *So-called ‘public lustration’*

183. The HRMMU is concerned about an increased number of acts of ‘public lustration’<sup>62</sup>,

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<sup>57</sup> See also PACE Res. 1096 (1996), paras. 11-12.

<sup>58</sup> See also Rule of Law Tool for Post Conflict States, ‘Vetting: An operational Framework’ also requesting a specially created mechanism in the form of a commission.

<sup>59</sup> See PACE Res. 1096 (1996), para. 12; ECtHR decision of 30 May 2006, *Matyjek v. Poland*, app. No. 38184/03, paras. 48 et seq; decision of 24 October 2006, *Bobek v. Poland*, app. No. 68761/01, para.2.

<sup>60</sup> The cases regarded ten judges in Kyiv and two in Dnipropetrovsk.

<sup>61</sup> Most cases involved decisions limiting the right to take part in protests or applying measures of restraint in the form of pre-trial detention.

<sup>62</sup> Public lustration or the ‘rubbish container challenge’ came to the fore during the month. Under the slogan “that ‘rubbish’ should be in rubbish containers” it aims to publicly lustrate (i.e. purify) state and regional authorities of corrupt officials and politicians, or those who served under the former President Yanukovich. This has usually

and other actions by groups of people deciding to take justice into their own hands<sup>63</sup>, which circumvents the law, placing public officials perceived to be involved in corrupt activities in rubbish containers, and at times forcing them to resign from their positions.

### C. Corruption

#### *Anti-corruption legislation*

184. On 14 October, the Parliament passed a package of laws aimed at uprooting the country's deeply embedded corruption. The legislation was drafted in cooperation with anti-corruption organizations, including Transparency International, which in 2013 ranked Ukraine among the 30 world's most corrupt nations (144 out of 177). The laws, signed by the President, have different dates of entry into force.

185. The package foresees the creation of a State anti-corruption bureau<sup>64</sup>, competent to conduct investigations of crimes believed to have been committed by high level public officials, including judges and prosecutors. After an investigation, the bureau will be able to file cases in court through specially trained prosecutors to be appointed by the Office of the Prosecutor General and responsible to the head of the anti-corruption bureau. The law creating the anti-corruption bureau will enter into force on 25 January 2015.

186. Another law<sup>65</sup> aims at revealing company ownership by requiring disclosure of all information about the actual owners of commercial entities and real estate registered in Ukraine, and creates a public register of assets. A mandatory e-declaration of income and expenditures of all public officials is introduced<sup>66</sup> and a National commission on preventing corruption is created, with responsibilities that include, in particular, checks on the lifestyle and declarations of officials. The law creating the national commission on the prevention of corruption will become applicable on 26 April 2015.

187. Further a law<sup>67</sup> creates conditions for implementing international recommendations on combatting money laundering and the financing of terrorism or proliferation of weapons of mass destruction, and another law provides for a three-year National Anti-corruption Strategy<sup>68</sup>, defining Ukraine's objectives, policy and tools in the fight against corruption until 2017. The law containing the new anti-corruption strategy came into force on 26 October.

188. The adoption of the anti-corruption package should improve Ukraine's ability to fight corruption. It provides new instruments to identify and investigate corruption practices. It enables enhanced transparency and public information about the owners or beneficiaries of assets and properties. It creates specialized anti-corruption bodies, such as the anti-corruption bureau and the commission for prevention of corruption. Civil society will be able to exercise 'civil control' of the new anti-corruption agencies by monitoring their work and assessing their

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involved a mob forcing a particular civil servant into a rubbish container. The actions appear to be led by the Right Sector political party and the 'Automaïdan' activist group, but other parties and groups have also since conducted their own public lustration events. In certain cases where victim refused to be 'dumped', they were beaten. The most emblematic cases are beating of members of the parliament Yurii Miroshnychenko on 17 September in Kyiv and Nestor Shufrych in Odesa on 30 September. There have been numerous events of public lustration in Odesa.

<sup>63</sup> Within the reporting period the 'Right Sector' of Odesa and Kherson also attacked up to ten private shops allegedly involved in drug trafficking. In most cases, the sales assistants were publicly humiliated and tied to trees.

<sup>64</sup> Law No. 1698-VII 'on national anti-corruption bureau'.

<sup>65</sup> Law 1701-VII 'on amendments to several legislative acts of Ukraine on determining ultimate beneficiaries of legal persons and public figures'.

<sup>66</sup> Law No. 1700-VII 'on preventing corruption'.

<sup>67</sup> Law No. 50671702-VII 'on prevention and fighting legalization (laundering) of incomes received illegally, financing of terrorism and financing the spread of weapons of mass destruction'.

<sup>68</sup> Law No. 1699-VII 'on the principles of state anti-corruption policy in Ukraine (anti-corruption strategy) for 2014-2017'.

performance. The new three year anti-corruption strategy contains, for the first time, a clear set of success indicators and performance measurements.

189. While all these novelties constitute clear advances, they are not a panacea. The new legal framework will have to be accompanied by a genuine political commitment to implement it. Corruption investigations of high-level officials conducted by the anti-corruption bureau may turn out to be effective, but the decision on their outcomes remains with the courts, which at times in the past have lacked independence and integrity. The police and the prosecutor's office continue to be responsible for investigating corruption cases involving non-senior public officials, despite very limited success in the past. Eradicating corruption is also inextricably linked to improving the functioning of other institutions. This includes amendments to the legal framework governing public procurement procedures and reforming the public administration and civil service. In all these areas, progress still remains to be made.

#### *National Council on Anti-Corruption Policy*

190. On the same day that Parliament adopted the anti-corruption legislation, President Poroshenko signed a Decree 'On the National Council on Anti-Corruption Policy' (NCACP). This new body placed under the authority of the President replaces the National Anti-Corruption Committee, which was established in 2010 but never became operational. The role of the NCACP will be to analyse the situation of corruption in Ukraine, as well as to coordinate and monitor state anti-corruption policy, including the implementation of the national anti-corruption strategy and Ukraine's international anti-corruption obligations. The NCACP will consist of 17 members, 9 of whom will be from civil society.

191. The creation of an independent anti-corruption body with monitoring functions was a long-standing requirement of international anti-corruption institutions (such as the Council of Europe's anti-corruption monitoring body: the GRECO). Ukraine had been urged to establish a body distinct from the law enforcement bodies, with the responsibility of overseeing the implementation of national anti-corruption strategies and related action plans, as well as proposing new strategies and measures against corruption. Such a body should be given the necessary level of independence to perform an effective monitoring function. While the 2010 anti-corruption committee had been given appropriate functions, its composition reflected a very low representation of civil society, which cast doubt about the level of independence of the commission. The composition of the NCACP appears to have addressed this concern.

#### **D. Reform of the judiciary**

192. On 16 October, President Poroshenko issued a decree establishing the Council for Judicial Reforms pursuant to his Strategy for Sustainable Development 'Ukraine – 2020'. The task of this consultative body is to prepare and submit to the President a draft strategy on reforming the judiciary, the administration of justice and legal institutions. This is to be done by the President-appointed Coordinator of the Council within three months, following the appointment of the other Council members who include the heads of appropriate central government bodies and judicial institutions, the Prosecutor General, representatives of legal and scientific institutions, NGOs and international organizations. The Decree abolishes the Working Group on Judicial Reforms established in 2010.

#### **E. Office of the Prosecutor**

193. On 14 October, the Parliament adopted a Law on the Office of the Prosecutor General. The law eliminates prosecutorial functions with regard to the supervision of the observance and application of the laws, the so-called *nadzor* ('general supervision'). It contains amendments in respect to the recruitment of prosecutors, their appointment for administrative positions and

hierarchical and disciplinary measures and procedures. The main body of the prosecutorial authorities is the National Conference of Prosecutors. It is to address issues related to the internal activities of the Prosecution Service and to appoint members of its qualification and disciplinary commissions, which, in turn, will carry out the functions of selecting candidates for vacant posts and disciplinary proceedings. This law will enter into force on 25 April 2015. However, a few provisions, including those eliminating the ‘general supervision’ function of the Prosecution became effective on 26 October.

194. While in previous amendments Parliament had considerably limited the overly broad powers of the Prosecution Service not related to the criminal justice process, this new law appears to take into account most of the remaining international recommendations regarding the attributes, internal organization and guarantees for an independent functioning of Office of the Prosecutor General. In particular, a key concern addressed regards the general supervisory powers (*nadzor*) of the Office of the Prosecutor General related to the observance and application of laws. This function used to give the Office extensive ability to interfere with the interests and activities of private individuals and organizations. This capacity was compounded by the entitlement of the Prosecutor General and other public prosecutors to participate in the proceedings of the Parliament, boards of ministries, central executive agencies, local councils and other administrative bodies. These powers and rights ran counter to the separation of powers and posed a threat to rights and freedoms.

195. The new law, however, maintains a function relating to the representation of the interests of the individual and the State in court that go beyond the criminal justice sphere. This ability to represent the interests of citizens is problematic because it confers the right to participate in any legal proceedings where such interests are seen to arise regardless of the wishes of the individual. Furthermore, the Prosecutor General is also mandated to act in pursuit of the State interest, which does not necessarily coincide with the interests of the individual being represented.

#### **F. Criminal proceedings in absentia**

196. On 7 October, the Parliament adopted a draft law on criminal proceedings *in absentia*<sup>69</sup> for persons who are accused of crimes and have fled the country. The law entered into force on 31 October. The intention behind this law was to create the legal conditions to try the former President of Ukraine and other high level officials who left the country, and to recover the vast assets they are accused of having usurped. The law allows for proceedings *in absentia* to be opened for defendants who seek to avoid court hearings, but with the presence of their lawyer for the following crimes: overthrow of the constitutional order, violation of the territorial integrity or its financing, high treason, attempt against the life of a statesman, sabotage, espionage, murder, murder committed as a crime of passion, murder in excess of necessary defence, and a list of corruption crimes.

197. In its General Comment № 32, the United Nations 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. In international judicial practice, trial in absentia is usually avoided. Article 63 of the Rome Statute of the International Criminal Court (ICC) provides that such trials are permitted only where the defendant is removed from the proceedings on the

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<sup>69</sup> The draft law ‘On Amendments to the Criminal Code and Criminal Code of Procedure of Ukraine regarding Inevitability of Punishment for Certain Crimes against the Fundamentals of National and Public Security and Corruption-Related Crimes’.

grounds that he has repeatedly and continually disrupted them. In the current document the grounds for prosecution in the absence of the accused are very wide, making the frequent use of this procedure a real possibility. The provisions stipulated to inform the accused in a timely manner of a court hearing, as well as to request attendance, are not in line with international norms and standards, as they do not provide adequate procedures to inform the accused in a timely manner of the date and place of the trial.

### **G. Legislation in follow up to the Minsk Protocol of 5 September 2014**

198. On 16 September, Parliament passed two laws pursuant to the Minsk Protocol of 5 September.

#### *The Amnesty Law*

199. The draft law on ‘the prevention or punishment of participants in events on the territory of Donetsk and Luhansk regions’ cancels criminal and administrative liability for acts committed by ‘armed formations’ from 22 February 2014 until when the law enters into force, although it lists a number of crimes to which amnesty will not be extended<sup>70</sup>. It should be noted, however, that the law does not explicitly include torture and other ill-treatment in the list of exceptions, which means that such acts could be amnestied. This must be avoided as it would contravene the prohibition under international law of amnesties for international crimes and other gross violations of human rights. The acts of all those suspected of having committed or ordered these acts must be investigated, perpetrators must be brought to justice, and victims should be given full reparation. The law is to be signed by the President.

#### *The Law on Special Status*

200. The other law passed on 16 September and which entered into force on 18 October is the Law ‘On the Special Procedure of Local Self-Government in Some Districts of Donetsk and Luhansk Regions’, which is to be in force for three years. The law provides for local authorities to facilitate the use of Russian and other languages in public life and for local elections to take place on 7 December 2014. The law provides for powers for the local authorities greater than those enjoyed by other local authorities in Ukraine. In particular, they will have the right to take part in the appointment of heads of courts and prosecution offices at local level. The special status allows for the creation of voluntary people’s police, accountable to the local authorities. The law provides for specific financing to be allocated to these areas, without the possibility to diminish this financing, even in case of amendments to the State budget. The territory enjoying special status will be able to establish closer cooperation with administrative and territorial units of the Russian Federation on the basis of treaties on trans-border cooperation.

### **H. Law on Internally Displaced Persons**

201. On 20 October, the Parliament passed a law “On ensuring the rights and freedoms of internally displaced persons”. It has yet to be signed by the President. The law establishes a unified IDP database, simplifies residence registration and voting rights, prohibits discrimination, protects the rights of IDPs with disabilities and obliges the state to provide free temporary accommodation for 6 months (although the IDPs need to pay for utility fees). It also

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<sup>70</sup> These include: ‘crimes against life and health (murders and infliction of serious bodily harm); sexual crimes; hostage taking; human trafficking; banditry; smuggling; acts of terrorism; violation of graves, burial places, or corpses; attacks against the life of a law enforcement officer, a judge, an official or a citizen performing his/her public duty, a defence attorney, or a foreign state representative; threats or violence against a public official or a citizen who performs his/her public duty, internationally protected persons and institutions in connection with their activity related to the administration of justice; genocide; and persons who committed a crime connected with the crash of the ‘Malaysia Airlines’ flight MH17’.

makes provisions to return home voluntarily and access to social housing or home loans on favourable terms for those who wish to settle elsewhere. Another positive initiative concerning IDPs was the adoption of amendments<sup>71</sup> to the Tax Code of Ukraine exempting IDPs of income tax payment for charitable aid received for the purchase of drug costs, medical items and supplies, and technical and other means of rehabilitation, among others.

202. The new legislation generally conforms to international legal standards, in particular the United Nations Guiding Principles on Internal Displacement. It should be noted, however, that the law does not provide for an on-line registration system for IDPs, which makes the process unnecessarily burdensome and time-consuming. In addition, internally displaced stateless persons as well as foreigners legally residing in Ukraine who have been displaced are not covered by the provisions of this law. This contravenes earlier resolutions of the Cabinet of Ministers of Ukraine on registration of IDPs and on monthly targeted financial support to IDPs, both of which apply to stateless and foreign IDPs legally residing in the country. This contradiction will need to be clarified. Another aspect of these resolutions is that they apply to people coming from the Autonomous Republic of Crimea as well as the 'anti-terrorist operation area'. On 30 October, the Cabinet of Ministers of Ukraine defined a list of territories that are comprised in the 'anti-terrorist operation area'. The list encompasses territories of the Luhansk and Donetsk regions, but also some districts, towns and villages in the neighbouring Kharkiv region. Thus, it would appear that people from territories that have not been directly affected by the fighting in the east could be eligible to be recognized as IDPs. Finally, considering that two thirds of the IDP population are women, specific attention should be devoted to ensure their specific needs and fundamental rights, including access to quality healthcare, the provision, where required, of social security, food, water and sanitation, as well as access to justice.

### **I. Human rights strategy**

203. On 15 October, President Poroshenko signed a Decree tasking the Government to elaborate a draft national human rights strategy for Ukraine by 1 January 2015. The document is to be prepared with the participation of state and local authorities, civil society and international experts on the basis of international experience.

204. The elaboration of a national human rights strategy could ensure greater prominence and attention to the promotion and protection of human rights in the country.

### **J. Police reform**

205. On 22 October, the Minister of Internal Affairs organized a conference to inform about his proposals for police reform. They include: renaming the militia (the current name) as the police; reducing the number of police officers according to United Nations defined standards (from 376 officers to 222 officers per 100,000 people); authorising the MoIA to only conduct the functions of law enforcement, protection of territorial integrity, civil protection, fire and rescue, migration control and protection of the state border; merging of certain departments; terminating separate special police units and instead setting up unified rapid response units; establishing a municipal police accountable to local self-government bodies and the MoIA; demilitarising the police by keeping 'officers in uniform' only for practical law enforcement functions; and re-assessing of staff through the use of the lustration law.

206. Following the conference, the Cabinet of Ministers held a meeting where several provisions of the police reform concept were adopted as decrees<sup>72</sup>. The next steps are to

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<sup>71</sup> In force since 26 September 2014.

<sup>72</sup> The first decree concerns termination of several departments of the police, such as the General Department on Combating Organized Crimes, the veterinary police and the transport police. The second decree concerns

implement the adopted decrees and to draft an act on the general structure and quantity of staff in the MoIA.

## **X. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA**

207. The situation in Crimea was marked by the continued implementation of the policy aimed at integrating the peninsula into the legal and political system of the Russian Federation and by persistent acts of intimidation targeting the Crimean Tatars, as well as those who opposed the March ‘referendum’ or were critical of the *de facto* ‘authorities’. As a result, the number of people leaving Crimea is constantly increasing.

208. On 23 September, the ‘Crimean prosecutor general’ posted a statement mentioning that all actions aimed at the non-recognition of Crimea as part of the Russian Federation will be prosecuted. The position of the United Nations on the status of Crimea and Sevastopol is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine, which calls on all states and international organizations “*not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol*”.

209. Key developments in the period included a new wave of disappearances of Crimean Tatars. Vivid disquiet over this led to the establishment by the *de facto* ‘authorities’ of a ‘contact group’ to tackle the issue of missing people and other instances of human rights violations against Crimean Tatars. Furthermore, following months of intrusive searches (supposedly to fight extremism) affecting dozens of properties and other facilities owned mostly by Crimean Tatars, a ‘moratorium’ on police raids, was announced by the *de facto* ‘authorities’. Nevertheless, the Mejlis<sup>73</sup> continued to be seen as an illegal organization and had to leave its premises in Simferopol. In general, freedom of expression in Crimea remains stifled as a result of actions seeking to influence media content.

210. On 27 October the report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, was made public following his mission to Kyiv, Moscow and Crimea from 7 to 12 September 2014. This was the first *in situ* assessment by an international organisation of the human rights situation in Crimea since March 2014. Mr. Muižnieks noted that more resolve is needed in investigating all cases of serious violations of human rights that have occurred in Crimea since February 2014, including recent abductions. The Commissioner expressed concern about groups rendered vulnerable by events unfolding in the region, including Crimean Tatars, ethnic Ukrainians and all those who have refused Russian citizenship. He also stressed the urgent need to ensure “free and unconditional access of international humanitarian and human rights organizations to Crimea” as well as “unimpeded international monitoring”.

### **A. Civil and political rights**

#### *Rule of law*

211. On 29 September, a Moscow city Court extended the detention until 11 January 2015 of the Ukrainian citizen and film maker Oleg Sentsov, arrested in Simferopol (Crimea) in May 2014 and accused by the FSB under terrorism charges. On 13 October, the same Court upheld the ban on Mr Sentsov’s lawyer from commenting on his criminal case. Mr Sentsov’s defence considers these actions to be a violation of his rights. He also informed that his client’s name has recently been placed on a list of suspected terrorists and extremists on the web-site of the

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identification of police officers by placing special badges on uniform, and the last decree concerns ceasing certain administrative functions for the traffic police, for example the issuance of driver’s license, and so forth.

<sup>73</sup> Crimean Tatar Assembly.

Russian Federal Financial Monitoring Service, under number 2,460 in the section ‘Private persons – Russian citizens’. The prosecution asserts that Mr Sentsov ‘automatically’ became a Russian national as he did not formally and in person indicate his wish to retain Ukrainian citizenship.

*Impunity for human rights violations*

212. Between 27 September and 31 October, five Crimean Tatars disappeared in unclear circumstances. One of them, Edem Asanov, who went missing on 29 September, was later found hanged in a deserted sanatorium in the city of Evpatoria. Other disappearances include two Crimean Tatars cousins, Islyam Dzhapparov and Dzhevdet Islyamov, who are relatives of a former Mejlis member and were abducted on 27 September by unknown men in military uniform in the town of Belogorsk. In October, two more Crimean Tatars from Simferopol went missing on 3 and 23 October respectively.

213. On 1 October, the so-called ‘prime minister’ of Crimea, Sergei Aksionov, met with relatives of the two cousins abducted on 27 September and pledged to create a ‘contact group’ to investigate cases of abduction as well as other incidents involving Crimean Tatars.

214. On 14 October, the first meeting of the ‘contact group’ was chaired by Mr. Aksionov and the deputy head of the Crimean branch of the Russian Federation Investigation Department for especially serious crimes. Five relatives of victims attended. Information was provided on actions undertaken in relation to both recent and earlier disappearances, including the cases of two other Crimean Tatars, Timur Shaimardanov and Seiran Zinedinov, who disappeared in late May. Both were members of a pro-Ukrainian group – ‘Ukrainian House’ and went missing a few days after another group member, Leonid Korzh, also disappeared. Regarding Shaimardanov and Zinedinov, where no witnesses were found, the Crimean police opened criminal proceedings under article 105 (murder) of the Criminal Code of the Russian Federation. In the cases of Dzhapparov and Islyamov, where some witnesses claim to have seen the two being pushed into a car, criminal proceedings were initiated under article 126 (abduction). The investigations, initially conducted by the Crimean police, were subsequently transferred to the Russian Federation Investigation Department. During the meeting, it was decided that this Department would similarly take over the investigation concerning the case of enforced disappearance of 3 October. The ‘prime minister’ stated he was interested in an objective investigation of all criminal acts and invited the contact group to closely cooperate with the investigation bodies.

215. The establishment of the contact group, coupled with the direct involvement of Russian Federation investigative organs and the presence of relatives of the disappeared, are important developments. Investigating all disappearances both before and after the March ‘referendum’ is a duty of the *de facto* authorities. The HRMMU is aware of nine cases of disappearances and two deaths<sup>74</sup> since early March 2014. It would appear that some investigations have not taken place while others were inconclusive, a situation which supports impunity and creates tensions. The HRMMU sent a letter urging the *de facto* authorities to provide information on the state of the investigations regarding all disappearances and deaths in Crimea since March 2014, including those that have not been reviewed during the first meeting of the contact group.

216. Civil society groups and some witnesses claim that the so-called ‘Crimean self-defence’ was directly involved in most cases of abductions, deaths and other human rights abuses in the past six months. Its members supported the takeover of public buildings in the peninsula in late February and early March 2014 and are said to have been responsible for multiple human rights abuses during and after that period, including torture and ill-treatment. However, the *de facto*

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<sup>74</sup> In addition to Edem Asanov who was found hanged on 6 October, another Crimean Tatar, Reshat Ametov, had been found dead, on 16 March, in the village of Zemlyanichne apparently with signs of torture. See HRMMU report of 15 April, pp. 20-21



authorities have always treated these groups with respect due to their active opposition to the Ukrainian authorities and support to the March ‘referendum’.

217. Further, on 11 June, the so-called ‘parliament of Crimea’ passed a law which resulted in the integration of the ‘self-defence’ into a ‘people’s militia’, with powers to assist the police in keeping law and order. More recently, on 2 October, a draft law was submitted by the *de facto* authorities of Crimea to the Parliament of the Russian Federation proposing to amnesty ‘militants’ and members of the ‘self-defence forces’ in Crimea. According to the draft, the actions of the ‘self-defence forces’ and ‘militants’ committed between 27 February 2014 and 1 January 2015, including those which caused physical and moral damage, should be acknowledged as having been ‘of extreme necessity’. The amnesty should also cover suspects, defendants and those convicted in criminal cases. Excluded from the amnesty would be actions committed for financial gain, as well as other self-serving motives<sup>75</sup>. It should be noted that it contravenes the prohibition under international law of amnesties for international crimes and other gross violations of human rights. The acts of all those suspected of having committed or who ordered such crimes or violations must be investigated, perpetrators must be brought to justice, and victims should be enabled full reparation.

*Actions targeting Crimean Tatar institutions and their supporters*

218. On 16 September, FSB officers and the police searched the houses of two Mejlis officials, seizing notebooks, computers and hard drives. Later that day, they conducted an 11-hour search of the Mejlis building in Simferopol. Mejlis session protocols were seized, as well as religious books, computers, hard discs, and some personal belongings of Mustafa Jemiliev, the former head of the Mejlis. On 17 September, a court writ was served on the charitable organization Crimea Fund which owns the Mejlis building, giving it 24 hours to evacuate the building. The document prohibits the charity from carrying out its powers as owner of the building and six other premises. On 19 September, the Mejlis members left the building. On 29 September, the Central District Court of Simferopol upheld a request of the Crimean ‘Prosecutor’s Office’ to exclude Mustafa Jemiliev from the founders of the Crimea Fund.

219. The Mejlis opposed the March ‘referendum’ and has repeatedly criticized human rights violations committed in Crimea since that time. Its supporters consider the actions of the Crimean *de facto* authorities to be part of a concerted effort to undermine the authority and influence of this institution among the Crimean Tatar community. On 22 September, in an interview to a Russian media, ‘prime minister’ Aksionov stated that the Mejlis had no legal existence as it was not properly registered under Russian law.

220. On 22 October, the Crimean ‘police’ arrested Tair Smedlyaev, brother of Zair Smedlyaev, the head of the *Kurultai*’s election committee. The *Kurultai* is the parliament of the Crimean Tatars. Tair Smedlyaev was accused of violating article 318 (violence against police officer) of the Criminal Code of the Russian Federation during the 3 May action in Armyansk, when Crimean Tatars gathered in support of Mr Jemilev’s attempts to enter the Crimea<sup>76</sup>. On 24 October, a Simferopol Court in a closed session ordered the two month pre-trial detention for Mr Smedlyaev as a measure of restraint.

*Actions targeting possession and dissemination of ‘extremist’ literature*

221. The Crimean authorities continued actively searching for weapons, guns and religious literature. Dozens of raids reportedly took place since August, focusing on literature considered

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<sup>75</sup> On 16 October, during a press conference in Moscow, the so-called Crimean ‘prime minister’ Sergei Aksionov said that if the amnesty bill was not passed over 100,000 members of the ‘Crimean Self-Defence’ could be judged and sentenced on the basis of the current legislation.

<sup>76</sup> The protest involved thousands of Crimean Tatars gathering at the Crimean administrative border with the mainland, to meet Crimean Tartar leader Mustafa Jemilev, who earlier had been banned by the Crimean ‘authorities’ from entry to Crimea because of his alleged ‘extremist activity’.

to be of an extremist nature, as listed on a federal list of extremist materials. While the searches have overwhelmingly concentrated on Crimean Tatar properties - mosques, madrassas (Islamic religious school), schools, libraries and private homes - there have also been reports of raids on Jehovah's Witness Kingdom Halls.

222. Possession or distribution of 'extremist material' is punishable under article 20.29 of the Administrative Code of the Russian Federation<sup>77</sup> with a fine or imprisonment of up to 15 days and confiscation of banned literature. For example, on 26 August, the Dzhankoi District Court fined with RUB 2,000 (approximately USD 50) one of the deputy heads of the Crimean *Muftiyat* in charge of education issues after the police raided a madrassa he oversaw in the settlement of Azovskoe and seized religious literature. On 7 October, a librarian of a boarding school in the village of Tankovoe (Bakhchisaray district) was fined RUB 1,000 (approximately USD 25) because the school library contained three books from a collection of sermons by a Turkish Muslim theologian, and one Jehovah's Witnesses booklet. About a dozen other cases have been opened under article 20.29 between August and October 2014 and most have led to fines being imposed.

223. The Crimea 'ministry of education, science and youth' is participating in the campaign to remove extremist religious literature and other banned books. In a letter dated 12 September, the ministry 'orders the administrations of educational organizations to conduct [...] an analysis and audit of literature present in libraries and educational premises on the subject of the presence of materials on the Federal List, with the aim of its removal and destruction'.

224. Confronted with mounting criticism from the Crimean Tatar community<sup>78</sup>, the *de facto* 'authorities' have attempted to lower tensions. On 13 October, whilst meeting 150 Crimean Tatars, including the head of the *Muftiyat*, who returned from the Hajj pilgrimage to Mecca, 'prime minister' Sergei Aksionov announced a three month moratorium indicating that no punishments for possessing such literature would be imposed during that time. Furthermore, in an interview given to a Russian news agency on the following day, 'prime minister' Aksionov stated that the *de facto* authorities would conduct "educational work" among Muslims in cooperation with the *Muftiyat* during the moratorium and that the media would publish a list of materials whose possession was prohibited.

225. The HRMMU is not aware of instructions having been issued to law enforcement organs to halt raids and prosecutions until January 2015. However, the moratorium appears to be respected. Furthermore, on 21 October, in one case involving a schoolteacher from Belogorsk, the 'supreme court' of Crimea cancelled a District Court decision of 16 September, which had found the schoolteacher guilty under article 20.29 of the Administrative Code of the Russian Federation. She allegedly 'repented' and, instead of a fine, was given a 'verbal warning'.

#### *Freedom of expression*

226. The space for free media in Crimea continued to shrink. The latest media outlet whose activities were disrupted by actions of the *de facto* 'authorities' was the weekly Mejlis newspaper, *Avdet*. On 17 September, *Avdet* editor was given an official warning by the FSB for 'actions that might incite extremist activities'. A day earlier, the paper's offices in Simferopol were searched and on 18 September the FSB forced all tenants, including *Avdet's* staff, to vacate the premises. In June and July, the editor had received written and oral 'warnings' related to the newspaper's reporting. *Avdet* continues to regularly publish but from different premises. The

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<sup>77</sup> This article punishes the "mass distribution" of items on the Federal List, as well as their "production or possession for the purposes of mass distribution".

<sup>78</sup> The Council of Europe's Commissioner for Human Rights visited Crimea on 10-11 September and heard complaints from many Muslims about raids. He reported to local officials that he regarded these raids as "disproportionate and excessive".

editor in chief of the Crimean Tatar ATR television channel informed the HRMMU that a letter from a Russian Federation media supervisory body to the Russian MoIA claimed that ATR was disseminating false rumours about repression on an ethnic and religious basis and promoting extremism. ATR was subsequently instructed by the police to show all documentation and a list of employees. Like *Avdet*, ATR continues operating, but with the understanding that the channel could be subject to legal or administrative actions should the content of its programmes be deemed by the *de facto* ‘authorities’ to question that Crimea is part of the Russian Federation.

227. In an apparent attempt to limit freedom of expression, Nadir Bekirov, the head of the Fund for Research and Support of the Indigenous Peoples of Crimea, was attacked in Crimea on 19 September. He was travelling to New York to take part in the UN General Assembly World Conference on Indigenous Peoples. On his way to catch a train to Kyiv, a minivan blocked the road and four masked men pulled him out of the car. He was beaten up and his passport and mobile phone stolen. The Crimean police are investigating the incident.

228. On 30 September, the Crimean ‘vice-minister of internal policy, information and communications’ informed that starting from 1 January 2015, the Russian Federation Service for Supervision in the Sphere of Communications, Information Technology and Mass Media will apply sanctions to any of the Crimean mass media which conducts a ‘provocative policy’. An example given was the Crimean on-line news agency Crimean Events, which publishes pro-Ukrainian articles.

229. On 1 October, six editors and journalists of Crimean Tatar programmes on the Crimean State TV and Radio Company Krym were dismissed from their posts due to ‘restructuring’. According to the former chief editor, the authorities in Crimea appointed a new editor, who announced the enrolment of new staff in order to change the content of the Crimean Tatar programs.

#### *Freedom of movement*

230. The HRMMU travelled to Chongar, a crossing point on the administrative boundary line between the region of Kherson and the Autonomous Republic of Crimea, and spoke to representatives of the State Border Service of Ukraine. According to the information obtained on the rules governing the entry of vehicles and passengers from Crimea into mainland Ukraine, holders of Russian passports issued in Crimea and cars with Crimea-issued Russian license plates are not allowed to cross the boundary line. Additionally a foreigner will not be allowed to enter mainland Ukraine from Crimea because access to Ukraine can only be from a recognized State border crossing.

231. An average of 300 vehicles circulate daily between Crimea and mainland Ukraine on both sides and about three to five persons per day are denied entry into mainland Ukraine due to one of the reasons cited above. However, the HRMMU learned from reliable sources that there were also instances of Ukrainian nationals prevented from entering mainland Ukraine from Crimea. This is in violation of the law “On Guaranteeing the rights and freedoms of citizens and on the legal regime on the temporarily occupied territory of Ukraine”, which provides that ‘Citizens of Ukraine have the right to free and unimpeded access to the temporarily occupied territory and exit from it through the control points of entry and exit upon presentation of a document confirming the identity and citizenship of Ukraine’<sup>79</sup>. This may also constitute a violation of the right to enter one’s own country, as provided for in article 12(4) of the International Covenant on Civil and Political Rights.

#### *IDPs*

232. According to the State Emergency Service of Ukraine, 19,056 IDPs (including 5328 children) from Crimea and Sevastopol were registered in mainland Ukraine on 31 October.

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<sup>79</sup> See Article 10 of the law.

233. The HRMMU met with Natalia Popovych, the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea. Her office informs IDPs and Crimean residents about their rights and entitlements and provides advice and support in legal, civil or administrative matters as required. As of 1 October, Ms. Popovych's office had received 312 requests, mostly on employment issues and the issuing of identification documents, including passports. Other claims include education, property, pensions, banking deposits, and various social benefits and entitlements. The Permanent Representative initiated the establishment of a consultative council, made up of representatives of 13 civil society organizations, mainly from Kherson region to discuss IDP issues and agree on joint solutions.

*Persons deprived of their liberty*

234. As of 10 September there were 2,671 inmates from the Autonomous Republic of Crimea serving sentences in various institutions throughout Ukraine. Of that number, 287 have expressed the wish to return to Crimea after having served their prison term, but 56 did not have identification documents enabling them to travel. A penitentiary institution in Kherson claims it assists inmates with obtaining Ukrainian passports. However, an NGO in the region which assists former prisoners maintained that they often leave prison with nothing but a document confirming their discharge. They have no place to go to and, for those wishing to return to Crimea, no possibility to travel. In this situation, they often become homeless.

**B. Economic and social rights**

*Property rights*

235. Using various pretexts, the self-proclaimed local authorities in Crimea and Sevastopol continued to conduct actions amounting to forcible seizure of private property from individuals or companies maintaining links to Ukraine. On 25 September, the public company *Ukrtelecom JSC* informed that unknown persons had seized its premises and equipment. Employees' access was restricted, while the director was handed over a decree from the Sevastopol authorities announcing that he was discharged from office.

236. Between 18 September and 9 October, the 'state council' of Crimea nationalized over 20 facilities, including health resorts, pensions and hotels, owned by the entrepreneur and Governor of Dnipropetrovsk, Ihor Kolomoiskyi.

237. On 23 October, the Minister of Justice of Ukraine announced that Ukrainian investigatory authorities had initiated criminal cases against judges, law enforcements officials and Crimean executive service employees who had violated Ukrainian citizens' rights in Crimea and were involved in expropriations. A law adopted by the Crimean 'Parliament' on 31 July 2014 regulating property and land relations bans Ukrainian citizens, including those Crimean residents who rejected Russian citizenship from using agricultural land which they own. They are required to sell their land plots to Russian citizens only or to Russian legal entities. According to Russian legislation, agricultural land includes horticultural, market-gardening and dacha (cottage) cooperatives, as well as lands of former collective farms which were divided between village residents and former workers of the collective farms.

*Right to education*

238. According to information obtained on 21 October from Ms. Natalya Popovich, the Permanent Representative of the Ukrainian President in the Autonomous Republic of Crimea, out of the 600 secondary schools in the peninsula, only 20 teach Ukrainian language and literature three hours per week. Teachers of Ukrainian language and literature have been forced either to retrain on their own account or to resign. In the last six months, the number of high schools teaching Ukrainian has dropped from 96 to 12. According to Ms. Popovich, this would be explained by a cessation of funding to schools that refused to join the newly created Crimean

Federal University.

### **C. The rights of indigenous peoples**

239. The HRMMU travelled to Novooleksiivka (Kherson region), a town of 10,000 inhabitants of whom almost 4,000 are ethnic Crimean Tatars. The head of the regional Mejlis in Kherson, Asan Aliev, explained that the greatest danger faced by the Crimean Tatar community on the mainland was assimilation. Over 90% of the Crimean Tatars allegedly do not speak their native language and communicate in Russian. There are two schools where the Crimean Tatar language is taught, but only for two hours per week.

240. Several Crimean Tatars mentioned to the HRMMU that they considered themselves to be an indigenous nation, entitled to recognition by law and to specific rights, such as the right to have its own self-government institutions. They noted that the law on national minorities adopted in 1992 did not provide for such recognition and that Ukraine did not have a law on indigenous peoples. They expressed the hope that the new parliament elected on 26 October would be more open to the adoption of legal measures confirming the status of the Crimean Tatars as an indigenous people, which is a category recognized by the Constitution of Ukraine.

## **XI. CONCLUSIONS AND RECOMMENDATIONS**

241. A peaceful solution must be found to end the fighting and violence in the eastern regions, to save lives and to prevent further hardship for those people living in the conflict affected area and in the neighbouring regions. With the tenuous respect for the ceasefire and the Minsk Protocols, people continue to be killed, and violations of international human rights law and international humanitarian law persist. The situation in the conflict affected area is becoming increasingly entrenched, with the total breakdown of law and order and the emergence of parallel governance systems in the territories under the control of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’. The continuing presence of a large amount of sophisticated weaponry, as well as foreign fighters that include servicemen from the Russian Federation, directly affects the human rights situation in the east of Ukraine. Guaranteeing the protection of those who live within the conflict affected area must be of the highest priority, so too the control and respect of the Ukrainian borders with the Russian Federation.

242. The impact of the hostilities on the whole of Ukraine, the economic downturn and the potential energy crisis require timely and dedicated attention, to heal divisions within families and communities, and to ensure that all human rights concerns are addressed. Accountability and an end to impunity are at the core of ensuring peace, reconciliation and long term recovery. Violations and abuses of international human rights law and violations of international humanitarian law must be investigated and, where there is evidence of crimes, the perpetrators brought to justice.

243. The situation for those living in Crimea, the status of which is prescribed by General Assembly resolution 68/262, remains of particular concern with increasing violations occurring for vulnerable and minority groups, including intrusive searches of mainly Crimean Tatar properties. New cases of enforced disappearances are a matter of great concern and could further fuel mistrust and increase tensions.

244. The root causes of the Maidan protests were the systematic and structural curtailment of human rights and widespread corruption. As peace is pursued, Ukraine should be commended for the steps already undertaken as outlined in this report, yet it must continue to meaningfully

reform its governance and legislative system to effectively enable the change that will promote and guarantee human rights protection.

245. Recommendations made in the OHCHR reports published since April 2014 that have not yet been acted upon or implemented remain valid and are reiterated. In addition, OHCHR calls upon all parties to implement the following recommendations:

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

- a) Immediately release all persons illegally or arbitrarily deprived of their liberty.
- b) Guarantee transparency regarding the release of detainees, and prevention of abductions, enforced disappearances, trafficking in persons and other human rights violations and abuses.
- c) Ensure the treatment with due respect and dignity of the bodies and remains of people killed as a result of hostilities. Free and safe access to the areas where such bodies and remains can be found must be provided to collect them and ensure their identification and a dignified and decent burial, and return them to their families.
- d) Increase efforts to search for missing people, ensure unfettered access by independent experts and preserve evidence of possible mass graves.

**To the Government of Ukraine**

- e) Investigate promptly and systematically allegations of summary, extra-judicial or arbitrary executions in the conflict zone, and take all measures to ensure the preservation of evidence.
- f) All allegations of sexual and gender-based violence must be promptly investigated, perpetrators held accountable and victims provided with an effective remedy, as well as the required help and support.
- g) Close all secret and ad hoc detention facilities and ensure that detainees are kept only in officially recognised and supervised places of detention, and that all their rights are fully respected.
- h) Guarantee that all detainees can communicate with and be visited by their families, have access to doctors and legal counsels. Lawyers must have access to the information concerning: 1) the authority that ordered the detention; 2) the date, time and place where the person was arrested and admitted to the detention place; 3) the authority responsible for supervising the detention place; 4) the whereabouts of the detainee, including, in the event of a transfer to another detention place, the destination and the authority responsible for the transfer; 5) the date, time and place of release; and 6) elements relating to the state of health of the detainee.
- i) Urge the expedient signature and implementation of the law on IDPs.
- j) Initiate wide public consultations to ensure that the law on lustration fully complies with the relevant international norms and standards and provides adequate guarantees against human rights violations affecting those concerned by this procedure.
- k) Urge that the draft law ‘on the prevention or punishment of participants in events on the territory of Donetsk and Luhansk regions’ is further amended in line with international norms and standards, and to clearly prevent acts of torture and ill-treatment committed by armed groups from being subject to amnesty, before being signed into law.
- l) Call on all the authorities to support the drafting of a national human rights strategy for Ukraine by 1 January 2015.

**To the self-proclaimed authorities of Crimea and the de facto governing authority of the Russian Federation**

- m) Urge the ‘contact group’ to make progress on investigations of cases of disappearances and deaths and ensure that perpetrators of crimes are held to account.
- n) Reconsider the legislative initiative to grant amnesty to the ‘Crimean self-defence’ group and reiterate that all allegations of gross human rights violations and abuses must be investigated, their perpetrators identified and punished and their victims duly compensated.
- o) Put an end to selective searches of facilities and the confiscation of property belonging mostly to Crimean Tatars.
- p) Promote inter-ethnic harmony, and put an end to intimidation and persecution.
- q) Promote and protect freedom of expression, guaranteeing full and non-discriminatory access to information for all.





# Annex 49

OHCHR, Accountability for Killings in Ukraine from January 2014 to May 2016




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

**Accountability for killings in Ukraine  
from January 2014 to May 2016**



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## Executive Summary

Since its deployment on 14 March 2014<sup>1</sup>, the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU) has been gathering substantial information related to the arbitrary deprivation of life, one of the gravest human rights violations, notably during assemblies, in 2014 and 2015, as well as in the eastern areas affected by the ongoing conflict.

Violence during the Maidan protests in Kyiv and some other cities (November 2013 – February 2014) resulted in the death of 108 protestors and other individuals<sup>2</sup> and 13 law enforcement officers. On 26 February 2014, two people died as result of clashes in the city of Simferopol, Autonomous Republic of Crimea. On 14 March 2014, two people were killed during clashes between ‘pro-unity’ and ‘pro-federalism’ supporters in Kharkiv. In Odesa, 48 people were deprived of their lives in the violence of 2 May 2014. On 22 February 2015, four people were killed by a blast during the ‘March of Dignity’ in Kharkiv. On 31 August 2015, four law enforcement officers were killed during protests near the Parliament building in Kyiv.

The armed conflict in certain districts of Donetsk and Luhansk regions, which has been ongoing since mid-April 2014 and which is fuelled by the inflow of foreign fighters and weapons from the Russian Federation, including former servicemen and servicemen on leave, accounts for the majority of violations of the right to life in Ukraine over the last two years. OHCHR estimates that between mid-April 2014 and 31 May 2016, at least 9,404 people, of which up to 2,000 are civilians, have been killed as a result of the conflict. The vast majority of civilian casualties, recorded on the territories controlled by the Government of Ukraine and on those controlled by armed groups, were caused by the indiscriminate shelling of residential areas, in violation of the international humanitarian law principle of distinction.

OHCHR recorded executions of members of Ukrainian forces and elements of armed groups who had surrendered, or were otherwise *hors de combat*. These took place mainly in 2014 and during the first half of 2015. OHCHR also recorded a considerable number of alleged summary executions and killings of civilians who were not taking part in hostilities; for the most part in 2014 and in early 2015. In some cases, because of the prevailing insecurity, it was difficult to ascertain the cause of the killing.

OHCHR was able to establish incidents of arbitrary killings allegedly committed by armed groups, either under effective control of the self-proclaimed ‘Donetsk people’s republic’<sup>3</sup> or the self-proclaimed ‘Luhansk people’s republic’<sup>4</sup>, or by those which acted independently (such as Cossack groups). In some cases, presented in this report, members of the following armed groups were allegedly involved: ‘Brianka SSSR’, ‘International Piatnashki battalion’, ‘Kerch’, ‘Odessa’, ‘Rus’, ‘Somali’, ‘Sparta’, ‘Vostok’ and ‘Zaria’.

OHCHR also found acts of arbitrary deprivation of life allegedly committed by elements of Ukrainian armed forces and law enforcement. In some cases, described in this

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<sup>1</sup> OHCHR has been invited by the Government of Ukraine to monitor the human rights situation in the country, and to provide regular public reports on the human rights situation and emerging concerns and risks. HRMMU is also mandated to recommend concrete follow-up action to relevant authorities in Ukraine, the United Nations and the international community at large to address human rights concerns, prevent human rights violations and mitigate emerging risks.

<sup>2</sup> Investigative bodies of Ukraine have not yet established with certainty the link between the death of some individuals and Maidan events (see Annex I, footnotes 106-110).

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

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

report, the servicemen of the following units were allegedly involved: 'Aidar', 'Azov', 'Dnipro-1', DUK, 'Harpun', 'Kyiv-2', 'Shakhtarsk' ('Tornado'), 25<sup>th</sup> Separate Airborne Brigade, and the Security Service of Ukraine (SBU).

In a number of cases, the alleged perpetrators could not be identified by the victims and witnesses, and their affiliation with a specific armed group or a unit of Government forces cannot therefore be sufficiently established. There are cases where the alleged perpetrators, despite their formal affiliation with a certain group or unit, may have acted on their own initiative or upon instruction, possibly of a supervisor, but this is hard to prove. OHCHR suggests, however, that all killings in the context of the armed conflict in eastern Ukraine described in the report were carried out by, at the behest of, or with the acquiescence of members of the armed groups or elements of Ukrainian military or law enforcement. OHCHR also considers that some of the executions or killings would not have occurred had those bearing command responsibility not failed to prevent them.

There has been no accountability for the vast majority of alleged summary executions and killings committed in the conflict zone. OHCHR welcomes the efforts of the Government of Ukraine to investigate some incidents, and notes that a number of perpetrators have been brought to justice. At the same time, OHCHR is concerned that in many cases, investigations and prosecution have been protracted, often reportedly due to the lack of evidence. It is therefore critical that forensic and other evidence related to such summary executions and killings is properly collected and preserved, notably mortal remains must be recovered in the conflict area and DNA samples collected. At all times, family members should be kept informed of the loss of their loved one.

Parallel 'law enforcement' entities set up in the 'Donetsk people's republic' and 'Luhansk people's republic' have reportedly 'investigated' some selected killings. These have focused mainly on acts committed by armed groups which have been disbanded or otherwise re-organized for their alleged lack of discipline or loyalty.

OHCHR considers that in devising an approach to implement the Minsk Agreements, it is essential for the Government of Ukraine to send a strong and consistent message to all those responsible for gross violations of human rights, some of which may amount to war crimes and/or crimes against humanity, that there will be no amnesty and that they will be held fully accountable for their acts.

In the Autonomous Republic of Crimea and the city of Sevastopol, the status of which is determined by the United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine, OHCHR recorded at least one alleged summary execution and ten cases of alleged disappearances, which may have resulted in deaths. These allegations are based on witness accounts, the profile of the disappeared and the fact that some disappearances appear to have resulted from abductions involving paramilitary groups often associated with the so-called Crimean 'self-defence'. The cases need to be properly investigated and perpetrators brought to justice.

In light of the pervasive impunity, it is critical to mobilize the national and international criminal justice systems, especially in the context of the armed conflict in certain districts of Donetsk and Luhansk regions. OHCHR views this report as a tool to encourage and support investigations and prosecutions of killings, and to ensure that those responsible are held accountable.

## **I. Introduction**

1. The report covers the period from January 2014 to May 2016, and applies to the whole territory of Ukraine, including the Autonomous Republic of Crimea and the city of Sevastopol<sup>5</sup>, as per United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine. Special attention is paid to the east of Ukraine where an armed conflict has been ongoing since mid-April 2014, causing the highest number of fatalities.
2. The report is based on information that HRMMU collected through: interviews with witnesses, relatives of victims and their lawyers; analysis of corroborating material confidentially shared with HRMMU; official records; open-source documents and video, photo and audio materials (including some produced by alleged perpetrators); forensic reports; criminal investigation materials; court documents; and other relevant and reliable materials. OHCHR has exercised due diligence to corroborate the validity of information received, and detected a number of fabricated allegations disseminated through the internet and other media.
3. OHCHR is committed to the protection of its sources and therefore ensures the preservation of their confidentiality. OHCHR therefore does not disclose any information which may lead to the identification of sources, unless the latter have provided their informed consent to it. OHCHR also systematically assesses the potential risks of harm and retaliation against its sources.
4. Based on OHCHR fact-finding methodology, the standard of proof applied by HRMMU is that there are “reasonable grounds to believe” that a particular incident occurred or that a given pattern of violations prevailed.
5. Due to the scale and intensity of violence in the territories affected by the armed conflict, HRMMU did not have the capacity to examine all allegations of arbitrary deprivation of life brought to its attention. This report therefore presents a sample of cases (Annex I) that illustrate broader patterns and trends.

## **II. Legal framework**

### **A. Applicable international law**

#### **1. International human rights law**

6. The right to life is a fundamental human right from which all other human rights stem. It is recognized in a variety of widely ratified international and regional treaties and other instruments.<sup>6</sup> The right to life is non-derogable, and cannot be suspended even at times of public emergency, such as political instability.<sup>7</sup> Respect for the right to life is also a rule of customary international law<sup>8</sup> and has been described as part of *jus cogens*.
7. The right to life has two components: a material component whereby every person has a right to be free from the arbitrary deprivation of his / her life, which places limitations on the use of force; and a more procedural component, which requires prompt, independent

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<sup>5</sup> Hereinafter referred to as Crimea.

<sup>6</sup> African Charter on Human and Peoples’ Rights, Article 4; American Convention on Human Rights, Article 4; Arab Charter on Human Rights, Article 5; European Convention on the Protection of Human Rights and Fundamental Freedoms, Article 2; and ASEAN Human Rights Declaration, Article 11.

<sup>7</sup> International Covenant on Civil and Political Rights, Article 4.

<sup>8</sup> Moeckli et al. (eds.) *International Human Rights Law*, New York, Oxford University Press, 2010, p. 221.

and impartial investigations and accountability where there is reason to believe that an arbitrary deprivation of life may have taken place.<sup>9</sup>

8. International human rights law, in the form of ratified treaties and customary norms, applies throughout Ukraine for the whole period covered by this report.

9. On 21 May 2015, the Parliament of Ukraine adopted a resolution<sup>10</sup> requesting the Ministry of Foreign Affairs of Ukraine to notify the United Nations Secretary-General about the Government's derogation from some of its obligations under the International Covenant on Civil and Political Rights (ICCPR)<sup>11</sup>, namely with regard to the rights to liberty and security of the person; to a fair trial; to an effective remedy; to respect for private and family life; and to freedom of movement. On 5 June 2015, the Government of Ukraine formally notified the Secretary-General about its derogation, as per ICCPR provisions.<sup>12</sup> On 27 November 2015, the Government notified the Secretary-General of a list of localities under its partial or total control where it had decided to apply the derogation.<sup>13</sup>

10. In September 2015, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions expressed concern that the derogation applied to the right to an effective remedy and some elements of the right to a fair trial (such as the supervision by judicial bodies of the lawfulness of detention), recalling that the United Nations Human Rights Committee had interpreted these as non-derogable. Indeed, these elements of the derogation may facilitate *incommunicado* or secret detention, torture, ill-treatment, executions and disappearances.<sup>14</sup>

11. On 20 October 2015, the United Nations Secretary-General received communications from the Government of Ukraine in relation to 16 United Nations treaties, including the ICCPR and Convention against Torture, stating that concerning the territory of Ukraine "occupied and uncontrolled", the application and implementation by the Government of its obligations under these treaties was "limited" and "not guaranteed" until the complete restoration of Ukraine's sovereignty over its territory. The communications refer to treaty provisions concerning "direct communication or interaction". While there is no indication as to which precise treaty provisions are affected, it seems to imply that judicial cooperation and individual complaints procedures may not be considered as applicable to the Autonomous Republic of Crimea and the city of Sevastopol and the territories in the east of Ukraine controlled by armed groups.

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<sup>9</sup> Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/26/36, para 46.

<sup>10</sup> Resolution of the Parliament of Ukraine 'On derogation from certain obligations under the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms' of 21 May 2015.

<sup>11</sup> Ratified by Ukraine on 12 November 1973.

<sup>12</sup> The notification stated that "due to the annexation and temporary occupation by the Russian Federation... of the Autonomous Republic of Crimea and the city of Sevastopol as a result of an armed aggression against Ukraine, the Russian Federation is fully responsible for respect for human rights and implementation of the relevant treaties in the annexed and temporarily occupied territory of Ukraine".

<sup>13</sup> The notification provided a list of localities in the Donetsk and Luhansk regions to which the derogation applies. All these localities were under the partial or total control of the Government of Ukraine as of 1 October 2015. The notification reiterated that the Russian Federation "is occupying and exercising effective control over certain areas of the Donetsk and Luhansk regions" and that it "is fully responsible for the respect and protection of human rights in these territories under international humanitarian law and international human rights law".

<sup>14</sup> End-of-visit statement of the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, visit to Ukraine (September 2015).



12. While non-State actors, including armed groups, cannot become parties to international human rights instruments<sup>15</sup>, it is increasingly accepted that non-State actors exercising government-like functions and control over a territory must respect human rights standards when their conduct affects the human rights of individuals under their control.<sup>16</sup>

13. In regard to Ukraine, OHCHR has consistently affirmed that the ‘officials’ of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ are responsible and shall be held accountable for human rights abuses committed on territories under their control, including individuals bearing command responsibility for the actions of perpetrators.<sup>17</sup>

## **2. International humanitarian law**

14. International humanitarian law regulates the conduct of parties to the armed conflict by protecting those who do not or no longer directly participate in hostilities, and by regulating the means and methods of warfare with the aim of restricting the use of armed force “to the amount necessary to achieve the aim of the conflict, which – independently of the causes fought for – can only be to weaken the military potential of the enemy”.<sup>18</sup>

15. In situations of armed conflict, all parties to the conflict are bound by the applicable rules of international humanitarian law, whether customary or treaty based. Obligations of parties to the conflict in the conduct of hostilities are governed by the principles of distinction, proportionality and precaution, at all times. The concurrent application of international humanitarian law and international human rights law in situations of armed conflict means that the provisions of the two bodies of law should be read together and reconciled, as far as possible.

## **3. International criminal law**

16. Ukraine signed the Rome Statute of the International Criminal Court (ICC) in 2000, but has not ratified it. In 2001 the Constitutional Court found the Statute incompatible with

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<sup>15</sup> Except for Article 4 (1) of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict which directly applies to armed groups: “[a]rmed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years”.

<sup>16</sup> The United Nations Committee on the Elimination of Discrimination against Women considers that “under certain circumstances, in particular where an armed group with an identifiable political structure exercises significant control over territory and population, non-State actors are obliged to respect international human rights” (General Recommendation No 30, 2013). The United Nations Security Council strongly condemned “the continued violations of international humanitarian law and the widespread human rights violations and abuses, perpetrated by armed groups” in the Central African Republic (resolution 2127 (2013), para 17). In relation to the situation in the Democratic Republic of the Congo, it reminded all parties “in Uvira and in the area that they must abide by international humanitarian standards and ensure respect for human rights in the sectors they control” (statement by the President of the Council, S/PRST/2002/27(2002)), and indicated that “the RCD-GOMA must... ensure an end to all violations of human rights and to impunity in all areas under its control” (statement by the President of the Council, S/PRST/2002/22(2002)). See also, in relation to the situation in Gaza: A/HRC/16/71, para. 4, and in relation to the situation in Libya: A/HRC/17/45(2011), para. 20. See also Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, A/HRC/17/44, para 72; and Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka, 31 March 2011, para 188.

<sup>17</sup> See 10<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2015, paragraphs 9 and 129; and 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015, paragraphs 6 and 129.

<sup>18</sup> Sassòli, M., Bouvier, A., Quintin A. (eds), *How Does Law Protect in War?* (3rd edn., Geneva: ICRC, 2011), Vol. I, at 1.

the Constitution.<sup>19</sup> On 9 April 2014, however, the Government made a declaration recognising the jurisdiction of the ICC over alleged crimes committed on its territory from 21 November 2013 to 22 February 2014 (the Maidan events). On 8 September 2015, the Government accepted the ICC's jurisdiction with respect to alleged crimes committed on its territory since 20 February 2014. The related declarations were submitted under article 12(3) of the Rome Statute, which enables a State not party to the Statute to accept the exercise of jurisdiction of the Court.

17. On 25 April 2014, the ICC Prosecutor opened a preliminary examination into the Maidan events. The preliminary findings suggest that the crimes that occurred during those events may not fall under the ICC jurisdiction.<sup>20</sup> Following the second declaration of 8 September 2015, the on-going preliminary examination was extended to cover crimes committed after 20 February 2014, with no end date.

## **B. National legislation**

18. The right to life is guaranteed by Article 27 of the Constitution of Ukraine which states that no one may be arbitrarily deprived of his / her life and that it is a duty for the State to protect human life. Charges related to acts of arbitrary deprivation of life can be brought under a number of articles of the Criminal Code, especially where they are at the core of the offence.<sup>21</sup> The Code also contains articles which qualify the deprivation of life as the consequence of an offence and an aggravating circumstance.

## **III. Killings and violent deaths in the context of assemblies**

19. When a State actor employs lethal force, it must be exceptional, strictly necessary (for example, linked to a direct threat to their life or the life of others) and proportionate, with no other means available to neutralize the threat (such as warnings, capture or incapacitation).<sup>22</sup> In public order situations, lethal force may only be used if it is "strictly unavoidable in order to protect life".<sup>23</sup> In all other cases, the use of lethal force during law enforcement is arbitrary and constitutes a violation of the right to life. Any suspected arbitrary killings must give rise to immediate, impartial, independent and effective investigations and, where there is sufficient evidence, prosecution of the perpetrators. Relatives of victims of arbitrary killings are entitled to reparation, including adequate compensation, and the State must take measures to prevent further arbitrary killings.

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<sup>19</sup> On 2 June 2016, the Parliament of Ukraine adopted the amendments to the Constitution of Ukraine regarding the judiciary. The amendments (Article 124(6)) allow for ratification by Ukraine of the Rome Statute of the ICC, though the entry into force of this provision is postponed for three years. As of 13 June 2016, the amendments have not been signed by the President. After they are signed, the entry into force of the amendments is postponed for three months after their official publication.

<sup>20</sup> See International Criminal Court. Report on Preliminary Examination Activities (2015), para 97, 98 and 101.

<sup>21</sup> Articles 115 (intentional homicide as wilfully unlawfully inflicting death with aggravating factors, such as particular brutality, mercenary motives, in collusion, based on racial, national or religious intolerance); 116 (intentional homicide committed in a state of strong mental agitation and caused by unlawful violence, systematic harassment or grievous insult of the victim); 117 (infanticide); 118 (murder committed in excess of necessary defence or as a result of excessive use of force during the arrest of an offender), 119 (homicide by negligence); and 120 (driving a person to suicide with aggravating factors, including if the victim was a minor, or was financially or otherwise dependent on the perpetrator, or if there are multiple victims).

<sup>22</sup> United Nations Human Rights Committee, General Comment No 6, HRI/GEN/1/Rev.6 (1982), para 3; Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/14/24/Add.6 supra, para 32.

<sup>23</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, para 9.

## A. Violence of January-February 2014 during the Maidan events

20. From 21 November 2013 to 22 February 2014, large-scale protests erupted in Kyiv and other parts of Ukraine, triggered by the decision of then President Viktor Yanukovich not to sign the Association Agreement with the European Union. Underlying the protests was a widespread, deeply entrenched dissatisfaction with a system broadly perceived as corrupt and lacking accountability, with weak rule of law institutions. The protests were characterized by violence and excessive use of force by the police and other law enforcement agencies. Such incidents were particularly on Independence Square (Maidan) in Kyiv, and resulted in the death of 108 protestors and other individuals<sup>24</sup> and 13 law enforcement officers.<sup>25</sup> The deaths of 80 individuals and 13 law enforcement officers are investigated by the Department for Special Investigations of the Office of the Prosecutor General.

21. On 12 November 2015, the Office of the Prosecutor of the ICC released a legal analysis of the Maidan events, concluding that: “[w]hile some of the acts of violence appear to have been extemporaneous and incidental to the situation of unrest, the information available tends to indicate that the commission of violence against protestors, including the excessive use of force causing death and serious injury as well as other forms of ill-treatment, was actively promoted or encouraged by the Ukrainian authorities”.<sup>26</sup>

22. On 17 October 2015, the Prosecutor General of Ukraine reported that his Office had established the chronology of the violent events that had taken place during the Maidan protests, noting it had identified almost all individuals involved in the organization of the “unlawful crackdown” that resulted in the deaths of protestors. As of 1 June 2016, there have been 55 individuals charged in relation to the deaths of Maidan protestors: ten senior Government officials, 29 former commanders and servicemen of the ‘Berkut’ special police regiment, 10 ‘titushky’<sup>27</sup>, a Maidan protestor and five other persons.<sup>28</sup>

23. The Office of the Prosecutor General refers to the following impediments to bringing the alleged perpetrators to justice: fleeing of the majority of suspects from the country; loss of essential evidence due to the failure of the law enforcement to collect and/or preserve it immediately after the events; and overall complexity of the case. The Special Investigations Department, the key investigating actor, have reportedly conducted more than 9,500 investigative actions, interrogated almost six thousand witnesses and victims, and commissioned more than 1,800 expert assessments. The number of case files exceeds 2,300.

24. OHCHR is concerned that the investigation into the killings of 13 law enforcement agents has been hampered by the provisions of the law of 21 February 2014<sup>29</sup>, which provides that all people who participated in mass protests and are suspected or accused of crimes, including violence or killing of a law enforcement officer, between 21 November 2013 and 28 February 2014 are exempted from criminal responsibility. The law also

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<sup>24</sup> See Annex I, Table 1.

<sup>25</sup> See Annex I, Table 2.

<sup>26</sup> International Criminal Court. Report on Preliminary Examination Activities (2015), para 93.

<sup>27</sup> Armed civilians, sometimes wearing camouflage and masks, often having criminal record, engaged by the law enforcement to attack the protestors.

<sup>28</sup> Of ten senior Government officials: nine reportedly fled the country and are on a wanted list, and one is in pre-trial custody; of 29 ‘Berkut’ commanders and servicemen: eight were being tried in courts (seven kept in custody and one under house arrest), and 21 were on a wanted list having reportedly fled the country; of 10 ‘titushky’: nine were on a wanted list, and one was indicted and kept under house arrest; a Maidan protestor was exempt from criminal responsibility for killing another protestor; and of five persons indicted for a killing of Maidan protestor in April 2014: three were in custody and two were put on a wanted list.

<sup>29</sup> Law of Ukraine ‘On prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies and recognising the repeal of certain laws of Ukraine’.

requires the prosecution offices to close all the criminal proceedings where no one was charged<sup>30</sup>, and to destroy the existing case files. The Office of the Prosecutor General informed HRMMU that it, however, continues to investigate the killing of 13 law enforcement officers on 18-20 February 2014.

## **B. Violence of 2 May 2014 in Odesa**

25. On 2 May 2014 in Odesa, 48 people died<sup>31</sup> as a result of clashes between ‘pro-unity’ and ‘pro-federalism’ groups. Deliberate inaction in the face of the violence, ill-preparedness or negligence on the part of various authorities contributed to this death toll. First, the police did not intervene to prevent or stop the violence at Kulykove Pole square. Then the fire brigade, which is located very close to the House of Trade Unions where many protestors suffocated to death, received repeated urgent calls for intervention but responded with a fatal delay of 45 minutes.

26. While the ‘pro-unity’ and ‘pro-federalism’ groups both played a part in the escalation of violence, the subsequent criminal prosecutions for hooliganism or public disorder appear to have been initiated in a partial fashion. Only activists from the ‘pro-federalism’ camp have been prosecuted so far, while the majority of victims were supporters of ‘pro-federalism’ movement. Despite a large number of deaths during the 2 May 2014 violence, the trial of the only person to be accused of an act of killing in the city centre has not yet started. It is persistently transferred from one court to another court in Odesa. Judges have refused to try the accused, reportedly due to pressure from the ‘pro-unity’ camp.

27. OHCHR remains concerned that to date, the investigations into the violence have been affected by systemic institutional deficiencies and characterized by procedural irregularities, which appear to indicate an unwillingness to genuinely investigate and prosecute those responsible. There has also been direct and indirect political interference into the investigations, consisting of deliberate acts leading to the obstruction of, and the delay in, the judicial proceedings.<sup>32</sup>

## **C. Other assemblies marked by violent deaths**

28. On 26 February 2014, two people died as result of clashes in the city of Simferopol. In Kharkiv, two people were killed on 14 March 2014, during the clashes between ‘pro-unity’ and ‘pro-federalism’ supporters, and four people were killed by a blast during the ‘March of Dignity’ on 22 February 2015. On 31 August 2015, four servicemen were killed during protests near the Parliament building in Kyiv. As of 1 June 2016, accountability for all these deaths is pending.<sup>33</sup>

## **IV. Killings in the context of armed conflict in eastern Ukraine**

29. The protection of certain persons from arbitrary deprivation of life is closely related to the cardinal principle of international humanitarian law regulating the conduct of hostilities, which requires that parties to a conflict must at all times distinguish between civilians and fighters. International humanitarian law requires that “[a]ttacks may only be directed

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<sup>30</sup> By the time the law was adopted, no individuals were charged for killing a law enforcement official during the Maidan events.

<sup>31</sup> See Annex I, table 3.

<sup>32</sup> See 14<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016, paragraphs 76-80; 13<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 November 2015 to 15 February 2016, paragraphs 97-101; and 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 August to 15 November 2015, paragraphs 122-128.

<sup>33</sup> See Annex I, paragraphs 2-5.

against combatants. Attacks must not be directed against civilians”. Additional Protocol II to the 1949 Geneva Conventions requires that “[t]he civilian population as such, as well as individual civilians, shall not be the object of attack”. The jurisprudence of ICC<sup>34</sup> and the International Criminal Tribunal for the former Yugoslavia (ICTY)<sup>35</sup> confirms that the prohibition on directing attacks against civilians is customary in both international and non-international armed conflicts. Important rules of the conduct of hostilities are also prohibition of indiscriminate attacks<sup>36</sup>, proportionality<sup>37</sup> and precautionary measures.<sup>38</sup>

30. Murder may constitute a crime against humanity if committed as part of a widespread and systematic attack against any civilian population, with knowledge of the attack.<sup>39</sup> Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities is a war crime.<sup>40</sup> The murder of civilians, medical or religious personnel, or other persons taking no active part in hostilities or no longer doing so, is recognized as a war crime in an armed conflict.<sup>41</sup>

#### **A. Killings resulting from armed hostilities**

31. As of 31 May 2016, OHCHR has recorded 9,404 killed and 21,671 injured in the conflict zone of eastern Ukraine since the beginning of the armed conflict in mid-April 2014. This figure includes civilians, Ukrainian armed forces and members of the armed groups. This is a conservative estimate based on available data.

32. OHCHR estimates that up to 2,000 civilians may have been killed during the armed conflict period, with an additional 298 people killed in the crash of Malaysia Airlines flight MH17 on 17 July 2014.<sup>42</sup> About 85 to 90 per cent of these deaths, recorded by OHCHR both in the territories controlled by the Government and in the areas controlled by armed groups, are as a result of shelling of populated areas with mortars, canons, howitzers, tanks and multiple launch rocket systems.

33. None of the armed groups or the Government of Ukraine has taken responsibility for any civilian deaths caused by the conduct of hostilities. OHCHR is not aware of any cases where alleged perpetrators – either those who carried out attacks or those who bore command responsibility – have been brought to justice. As noted by the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, instead of responding to, investigating or prosecuting cases of indiscriminate shelling by their own military forces, “each side is dedicating its time to documenting in laudable detail the violations of the other side with a view to continuing their confrontation in national or international courtrooms”.<sup>43</sup>

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<sup>34</sup> International Court of Justice, Nuclear Weapons case, Advisory Opinion, para 179.

<sup>35</sup> ICTY, Kupreškić case, Judgment, para 180, and Kordić and Čerkez case, Decision on the Joint Defence Motion and Judgment, para 182.

<sup>36</sup> ICRC, *Database on customary international humanitarian law*, rules 11ff.

<sup>37</sup> ICRC, *Database on customary international humanitarian law*, rule 14.

<sup>38</sup> ICRC, *Database on customary international humanitarian law*, rules 15ff.

<sup>39</sup> Rome Statute, Article 7(1)(a).

<sup>40</sup> Rome Statute, Article 8(2)(b)(ia).

<sup>41</sup> Rome Statute, Article 8(2)(c)(i).

<sup>42</sup> On 13 October 2015, the Dutch Safety Board released the reports “Crash of Malaysia Airlines flight MH17”. It concluded that “[t]he aeroplane was struck by a 9N314M warhead as carried on a 9M38-series missile and launched by a Buk surface-to-air missile system... The area from which the possible flight paths of a 9N314M warhead carried on a 9M38-series missile as installed on the Buk surface-to-air missile system could have commenced measures about 320 square kilometres in the east of Ukraine. Further forensic research is required to determine the launch location”.

<sup>43</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Ukraine, A/HRC/32/39/Add.1, para 61.

34. This report focuses on cases of alleged killings of the civilian population or persons otherwise protected under international humanitarian law in the conflict zone while no armed hostilities were taking place in the immediate vicinity of the sites of the incidents.

## **B. Use of force by use of firearms**

35. At the outset of the armed conflict, a considerable segment of Ukrainian forces comprised hastily mobilized or volunteer soldiers, while the armed groups hastily assembled. The lack of discipline among the armed groups but also within Ukrainian forces was widespread. Besides, a significant number of persons who had served prison sentences or were known to be part of criminal networks joined the armed groups as well as some Ukrainian voluntary battalions.

36. All these factors summed led to an unbridled rule of the gun with armed men readily resorting to violence towards civilians, especially to those who “disobeyed” their orders. In some cases, civilians were killed or injured while in the proximity of military objects, military convoys or near check points in circumstances which do not allow the establishment of the wilful character of a killing with certainty. In many such cases, however, civilians did not appear to pose any danger to the alleged perpetrators. Details on five cases (with seven victims) annexed to the report<sup>44</sup> are far from being an exhaustive account of this type of incident. A conservative OHCHR estimate is that some dozens of individuals were killed in such incidents in the conflict zone, both in the territories controlled by armed groups and those controlled by the Government of Ukraine.

## **C. Execution of persons who surrendered or were otherwise *hors de combat***

37. During armed conflict, it is unlawful to kill any individual not, or no longer, taking part in hostilities. Thus it is prohibited to kill members of armed forces who have surrendered, or are otherwise *hors de combat*, such as injured or captured fighters.<sup>45</sup> States have an obligation to investigate all allegations of wilful killings or murder of persons who are *hors de combat*. Where there is sufficient evidence of the commission of an offence, States have a duty to prosecute those responsible. A State responsible for such violations must also ensure full reparation for the loss suffered.<sup>46</sup>

38. Since the beginning of the armed conflict in eastern Ukraine, HRMMU received numerous allegations of execution of persons who had surrendered or were otherwise *hors de combat*. These allegations incriminate both members of the armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, and the Ukrainian armed forces and law enforcement entities, including voluntary battalions. The real scale of this phenomenon is difficult to assess, but it is estimated to be dozens of incidents, particularly between June 2014 and February 2015 – the most intense period of the hostilities. Details of 10 cases concerning the execution of 16 individuals (all men) are annexed to the report. In most cases, the executions appeared to have been driven by either ideological motives<sup>47</sup>, or were seen by the alleged perpetrators as retaliation for killings or other atrocities

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<sup>44</sup> See Annex I, paragraphs 6-14.

<sup>45</sup> Additional Protocol II, Article 4(2)(a) and Common Article 3 to the Geneva Conventions.

<sup>46</sup> ICRC, Customary International Humanitarian Law: Volume 1: Rules, rule 158.

<sup>47</sup> See Kalynovskyi, Malashniak, Norenko and Vlasenko case (Annex I, paragraphs 20-21); Branovytskyi case (Annex I, paragraph 25); Sarukhanian, Sekh and Slisarenko case (Annex I, paragraphs 26-28); and Vuhlehirsk case (Annex I, paragraph 32).

believed to have been committed by the opposing side<sup>48</sup>, or by an unwillingness to extend medical aid to, and/or evacuate, those heavily injured.<sup>49</sup>

39. OHCHR was not able to corroborate over a dozen allegations that were brought to its attention of execution of persons who had surrendered or were otherwise *hors de combat* brought to its attention. This was due to a lack of access to information and witnesses. Such allegations were not included in the report. This particularly concerns allegations of summary executions of persons *hors de combat* committed by Ukrainian forces. OHCHR also assumes that there could be cases which are unknown due to the chaotic circumstances, absence of witnesses and unavailability of the bodies of victims.

40. Accountability for such acts is particularly lacking. OHCHR is not aware of any cases when members of the armed groups were brought to the responsibility by their commanders for executing captured Ukrainian servicemen, or when elements of Ukrainian forces were brought to account for executing members of the armed groups. OHCHR was informed that the Office of the Chief Military Prosecutor is carrying out pre-trial investigations into alleged cases of killing, torture and ill-treatment of Ukrainian soldiers and civilians by members of the armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. OHCHR is also aware that the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ collect evidence of alleged executions of members of the armed groups by Ukrainian forces.

#### **D. Arbitrary or summary executions**

41. States have an obligation to investigate all allegations of wilful killings or murders of civilians or other protected persons committed by their armed forces. The State is also responsible for violations committed by non-State actors operating in support, or as agents of State authorities. Where militias or paramilitary groups are used to guarantee security, States should bring them under an established chain of command and control, and must ensure they comply with human rights obligations, such as respect for the right to life.<sup>50</sup> The same obligation applies to armed groups. Where there is sufficient evidence of the commission of an offence, States have a duty to prosecute those responsible.<sup>51</sup>

42. OHCHR recorded a considerable number of alleged summary executions and killings of civilians, who were not taking part in hostilities, mostly in 2014 and in early 2015. Details of 24 cases concerning the execution of 58 individuals are annexed to the report.<sup>52</sup>

43. The armed groups started resorting to summary executions and killings as early as in April 2014.<sup>53</sup> They mainly executed individuals, who had vocal ‘pro-unity’ views or were believed to have such views, or provided or were believed to have provided support to Ukrainian forces.<sup>54</sup> Some of the executions were allegedly carried out upon the imposition

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<sup>48</sup> See Chepiha case (Annex I, paragraphs 15-16); Kudriavtsev case (Annex I, paragraphs 17-19); and Kapatsii case (Annex I, paragraphs 30-31).

<sup>49</sup> See Havryliuk case (Annex I, paragraphs 22-24), Vuhlehirsk case (Annex I, paragraph 29).

<sup>50</sup> Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Principle 2.

<sup>51</sup> ICRC, Customary International Humanitarian Law: Volume 1: Rules, rule 158.

<sup>52</sup> See Annex I, paragraphs 33-92.

<sup>53</sup> See Diakovskiy, Popravko and Rybak case (Annex I, paragraphs 33-36).

<sup>54</sup> See Bradarskiy, Albert and Ruvim Pavenko and Velichko case (Annex I, paragraphs 39-42); Kulish and Alekhin case (Annex I, paragraphs 51-53); the Bochnyevychs case (Annex I, paragraphs 54-55); Chubenko case (Annex I, paragraphs 47-49); and Khitrenko case (Annex I, paragraph 50).

of a death sentence following the semblance of a judicial process.<sup>55</sup> In at least one case, the victims may have been executed out of racial hatred.<sup>56</sup>

44. The alleged summary executions or killings by Ukrainian forces recorded by OHCHR appear to have been mostly driven by either the alleged affiliation of a victim with the armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, or by his/her support to them<sup>57</sup>, or by the “separatist” or “pro-Russian” views of a victim.<sup>58</sup>

45. In some cases, because of the prevailing insecurity, it was difficult to ascertain whether an execution or murder was committed out of hatred, discrimination, reprisal, for material gain, or whether the killing may have been opportunistic.<sup>59</sup> Nevertheless, each of these killings was clearly linked to the armed conflict in eastern Ukraine.

46. The pattern of accountability for such acts is uneven. The Government has brought some perpetrators from the ranks of its military and security forces to account: they are either under investigation<sup>60</sup>, or being tried in courts<sup>61</sup>, or already sentenced.<sup>62</sup> In some cases, however, the progress in the investigation is slow and no suspects have been identified so far<sup>63</sup>, or the investigation is protracted beyond reasonable limits even when it is known who had physical custody of the victim at the time of his/her death.<sup>64</sup> In some cases, it appears that an investigation is protracted deliberately so that alleged perpetrators are provided with opportunities to escape justice.<sup>65</sup> Armed groups appear to ‘investigate’ some cases<sup>66</sup> with no information on the situation of alleged perpetrators made available to OHCHR.

## **E. Death during deprivation of liberty**

47. A death in custody constitutes a human rights violation if it results from unjustified or excessive use of force by public officials or others exercising State functions; torture or cruel, inhuman or degrading treatment or punishment by public officials or others exercising State functions; or failure by the detaining authorities to protect the life of a detained person, for example due to neglect or poor prison conditions, including failure to provide food or health care, or violence by fellow detainees if not adequately investigated. According to the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, “[s]tates have a heightened level of responsibility in protecting the rights of detained individuals. Indeed, when an individual dies in State custody, there is a presumption of State responsibility”.<sup>67</sup>

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<sup>55</sup> See Klymchuk case (Annex I, paragraphs 43-45); and Pichko case (Annex I, paragraph 46).

<sup>56</sup> See Lyana Vidak, Margarita Vidak and Marina Fedorenko case (Annex I, paragraphs 56-57).

<sup>57</sup> See Verenich and Verenich case (Annex I, paragraphs 61-62); Piven case (Annex I, paragraphs 63-65); Kolomyitsev and Tsarenko case (Annex I, paragraphs 66-70); and Agafonov case (Annex I, paragraphs 71-72).

<sup>58</sup> See Kulmatytskyi and Holota case (Annex I, paragraphs 75-77); and Buzyna case (Annex I, paragraphs 79-84).

<sup>59</sup> See, for example, Brianka case (Annex I, paragraphs 58-60).

<sup>60</sup> See Piven case (Annex I, paragraphs 63-65); and Buzyna case (Annex I, paragraphs 79-84).

<sup>61</sup> See Agafonov case (Annex I, paragraphs 71-72); and Bakulin, Plotnykov and Ustinov case (Annex I, paragraphs 83-84).

<sup>62</sup> See Verenich and Verenich case (Annex I, paragraphs 61-62); and Kulmatytskyi and Holota case (Annex I, paragraphs 79-84).

<sup>63</sup> See Dolhov case (Annex I, paragraphs 104-105); Bukreniov case (Annex I, paragraphs 73-74); Bobrov case (Annex I, paragraph 78); and Cherepnia case (Annex I, paragraphs 91-92).

<sup>64</sup> See Kazantsev case (Annex I, paragraphs 102-103); and Nazdrychkin case (Annex I, paragraphs 85-86).

<sup>65</sup> See Buzyna case (Annex I, paragraphs 79-84).

<sup>66</sup> See Chubenko case (Annex I, paragraphs 47-49); Kulish and Alekhin case (Annex I, paragraphs 51-53); and Brianka case (Annex I, paragraphs 58-60).

<sup>67</sup> Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/14/24, para 49.



48. Any death in custody must be fully and impartially investigated to determine its circumstances and any responsibility of public officials, and the next of kin needs to be immediately informed. States must ensure that those responsible for deaths in custody are prosecuted, regardless of whether they are public officials or private individuals. If public officials are responsible, authorities must provide reparation to victims' relatives, including adequate compensation within reasonable time.

49. *De facto* authorities must also protect the lives of persons they detain.<sup>68</sup>

50. OHCHR has observed that arbitrary deprivation of liberty has reached an unprecedented scale in the territories controlled by the armed groups, with a broad network of detention facilities – those existing before the conflict (SIZOs<sup>69</sup>, ITTs<sup>70</sup> and penal colonies) – as well as improvised ones (often referred to as “basements”). Thousands of persons deprived of their liberty have gone through these places since mid-April 2014, subjected to inhuman conditions of detention, torture and ill-treatment.<sup>71</sup> Dozens of them were executed or died in custody, as witnessed by people who were released.<sup>72</sup> In some cases, no witnesses of death were available, but circumstances in which bodies with signs of violent death were found indicate that victims were deprived of their lives while in detention.<sup>73</sup>

51. HRMMU has also received allegations concerning the death of people in custody of the Government or its constituent armed forces. The majority of these allegations pertain to the initial stages of the conflict, i.e. June 2014 – February 2015. They mostly concern individuals who had been members of the armed groups<sup>74</sup> or were suspected of affiliation with them.<sup>75</sup> Most often, the death of victims was allegedly caused by torture and ill-treatment, or by inadequate or absent medical aid.

## **F. Disappearances which may have led to death**

52. Everyone has the right to be protected from enforced disappearance<sup>76</sup>, including in times of emergency. Enforced disappearances violate or constitute a grave threat to the right to life. States should take specific and effective measures to prevent disappearances by establishing effective facilities and procedures to thoroughly investigate cases of missing

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<sup>68</sup> Communication No. 120/1998, *Elmi v. Australia*, Views adopted by the Committee against Torture, 14 May 1999, para 6-7.

<sup>69</sup> Pre-trial detention facilities.

<sup>70</sup> Temporary detention facilities.

<sup>71</sup> See 14<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2016, paragraph 12.

<sup>72</sup> See Donetsk case (Annex I, paragraph 93); Snizhne case (Annex I, paragraphs 96-97) and Slisenko case (Annex I, paragraphs 98-100). See also 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015, paragraphs 35-36; 11<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015, paragraph 43; and 8<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 1 to 30 November 2014, paragraph 41.

<sup>73</sup> See *Asieiev and Pikalov* case (Annex I, paragraph 94) and *Yevtushenko* case (Annex I, paragraph 95).

<sup>74</sup> See *Niiesh Papa* case (Annex I, paragraph 101).

<sup>75</sup> See *Kazantsev* case (Annex I, paragraphs 102-103).

<sup>76</sup> An enforced disappearance is constituted by three elements: a person is detained or otherwise deprived of liberty; the deprivation of liberty is carried out by State agents, or by persons or groups of persons acting with their support or acquiescence; and those responsible refuse to acknowledge the detention, or conceal the concerned person's fate or whereabouts, placing him/her outside the protection of the law.

and disappeared persons, especially in circumstances which may involve a violation of the right to life.<sup>77</sup>

53. Hundreds of people remain missing in the conflict zone of eastern Ukraine as of 1 June 2016. Some might have been killed in armed hostilities and their mortal remains unidentified<sup>78</sup> or pending recovery. In some cases, OHCHR has reasons to believe that some of the missing persons could have been subjected to enforced disappearance and summary executions. Descriptions of four of such cases are annexed to this report. It appears that in many cases people were abducted and allegedly killed to seize their property (such as vehicles).<sup>79</sup> In one case, a person was disappeared because of his political views.<sup>80</sup>

#### **G. Killings within the armed groups and Governmental forces**

54. By early June 2016, the number of non-combat fatalities among Ukrainian servicemen had reached 1,294, according to the Chief Military Prosecutor, including 259 suicides and 121 case of “intentional homicide”. OHCHR is concerned that some deaths – such as those of servicemen who were whistle-blowers regarding misdeeds of Ukrainian forces in the conflict zone (corruption and looting) – have been investigated ineffectively.<sup>81</sup>

55. Armed groups have resorted to execution and killings as a punishment of their elements for the crimes of disciplinary misdeeds they committed.<sup>82</sup>

#### **H. Increase in deaths resulting from ordinary crime**

56. States’ obligation to protect the right to life, and prevent and punish murder (including by non-State actors) also includes putting in place an effective criminal justice system.<sup>83</sup>

57. Since the eruption of the armed conflict, law and order has collapsed in the territories of eastern Ukraine, which has been exacerbated by the easy availability of firearms and access thereto. This has contributed to increasing violent criminality. Dozens of cases of violent deaths were recorded by the police departments in conflict-affected districts during the summer of 2014. Exact statistics about the total number of deaths resulting from ordinary criminal acts in April-December 2014 in Donetsk and Luhansk regions is not available, but OHCHR believes that their level was considerably higher than during the pre-conflict period. A considerable number of criminal deeds, including killings, were perpetrated by members of the armed groups and by elements of Governmental forces.

### **V. Violations and abuses of the right to life in the Autonomous Republic of Crimea and the city of Sevastopol**

58. While not having access to the Autonomous Republic of Crimea and the city of Sevastopol, OHCHR was able to document several cases of missing persons and has reasons to believe that the victims were abducted or deprived of their liberty by the *de facto* authorities of Crimea, or with their authorization, support or acquiescence. These disappearances occurred in the days preceding the unrecognized March 2014 ‘referendum’

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<sup>77</sup> Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Principle 2.

<sup>78</sup> As of 1 June 2016, identification of up to 1,000 bodies in the Government-controlled territories (both in morgues and buried) was pending.

<sup>79</sup> See Popov case (Annex I, paragraphs 106-108); Minchonok case (Annex I, paragraphs 109-110); and Kutsenko case (Annex I, paragraphs 111-112).

<sup>80</sup> See Dolhov case (Annex I, paragraphs 104-105).

<sup>81</sup> See Kostakov case (Annex I, paragraphs 115-116); and Shabratskyi case (Annex I, paragraphs 117-118).

<sup>82</sup> See Annex I, paragraphs 113-114.

<sup>83</sup> United Nations Human Rights Committee, General Comment No 6, HRI/GEN/1/Rev.6 (1982), para 3.

on the status of Crimea and in the months that followed it. In one case, a person who had disappeared was found dead in circumstances resembling a summary execution.<sup>84</sup> The alleged victims were either ‘pro-unity’ supporters<sup>85</sup>, or Crimean Tatar activists.<sup>86</sup> The Office of the Prosecutor General of Ukraine has established a separate department dealing with the crimes committed on the territory of the peninsula. Within the National Police, crimes committed on the territory of Crimea are investigated by the Main Department in the Autonomous Republic of Crimea and the city of Sevastopol which is located in Odesa. However, due to lack of access thereto, no progress in the relevant investigations is observed.

## VI. Conclusions and recommendations

59. Killing has become a widespread phenomenon in Ukraine since January 2014, starting with the Maidan events and escalating as of April 2014 with the conflict in the east. While the majority of deaths were directly caused by the armed hostilities, OHCHR observes—along with intergovernmental organizations, international NGOs, NGOs from Ukraine and the Russian Federation, and other actors<sup>87</sup>—a persistent pattern of violations and abuses of the rights to life and to physical integrity in the country.

60. Impunity for killings remains rampant, encouraging their perpetuation and undermining prospects for justice. No one has yet been brought to account for the violent deaths during the mass assemblies of 2014 and 2015. Similarly, no perpetrators have been brought to justice for the deaths resulting from violations of international humanitarian law, as in the cases of the conduct of armed hostilities or executions of persons *hors de combat*. Accountability for the killing of civilians or for deaths during the deprivation of liberty is still rare.

61. OHCHR welcomes the efforts of the Government of Ukraine to bring perpetrators from its own ranks to justice. It also notes that the Office of the Chief Military Prosecutor is carrying out pre-trial investigations into alleged cases of killing, torture and ill-treatment of Ukrainian soldiers and civilians by members of the armed groups of the self-proclaimed ‘Donetsk people’s republic’ and the self-proclaimed ‘Luhansk people’s republic’. OHCHR acknowledges the difficulties in furthering accountability, including due to the lack of access to the territories where many of the alleged acts took place.

62. At the same time, OHCHR has observed an apparent lack of motivation to investigate some cases and a formalistic approach in the work of investigative bodies, especially when it concerns acts allegedly committed by Ukrainian forces. Cover-up and political bias are not uncommon, especially when alleged perpetrators belong to the ranks of the military and law enforcement. As a result, some perpetrators continue to enjoy impunity. Changes of measures of restraint often provide alleged perpetrators with opportunities to escape from justice. While, forensic experts do not always pay sufficient attention to documenting signs of torture on bodies recovered from the conflict zone, investigators also do not always task forensic experts to answer questions whether a body bears signs of torture. Material evidence related to a summary deprivation of life is often collected poorly and is not properly preserved.

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<sup>84</sup> See Ametov case (Annex I, paragraphs 119-121).

<sup>85</sup> See Bondarets and Vashchuk case (Annex I, paragraph 123); and Chernysh case (Annex I, paragraph 124).

<sup>86</sup> See Shaimardanov and Zinedinov case (Annex I, paragraph 125); Dzhepparov and Islyamov case (Annex I, paragraph 126); Usmanov case (Annex I, paragraph 127); Arislanov case (Annex I, paragraph 128), and Ibrahimov case (Annex I, paragraph 129).

<sup>87</sup> See Annex I, footnote 90.

63. Relatives of victims are often the ones urging authorities to initiate an investigation. In some cases law enforcement officials only register the case in the Unified Register of Pre-trial Investigations (ERDR). They barely carry out any investigative actions, citing various pretexts: in particular the lack of access to territories not under the control of the Government of Ukraine where suspects might be hiding; and the absence of the body of the alleged victim.

64. OHCHR notes that the National Human Rights Strategy<sup>88</sup> recognizes ineffective investigations into violent deaths as a systemic problem. One of the expected results of the National Human Rights Action Plan is the availability of legal remedies and mechanisms, including for effective investigation of violations of the right to life. It is stipulated that a draft law to be developed on amending legislative acts in order to create compensation mechanisms for those who become victims due to the drawn out and ineffective investigation in the deaths of their relatives.

65. Parallel ‘law enforcement’ entities, set up in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, have reportedly investigated some killings which occurred in the territories under their control. These entities do not have any legal status under Ukrainian law. Their ‘investigations’ appear to be selective, focusing exclusively on acts committed by armed groups which have been disbanded or otherwise re-organized for their alleged lack of discipline or loyalty. The ‘investigations’ appear to lack due process and fair trial guarantees.

66. All available accountability mechanisms – both national and international – must ensure that those responsible, directly or as superior, for killings and other violations, abuses and crimes are brought to justice.

67. The below recommendations include a number of immediate and medium-term measures to prevent arbitrary deprivation of life and ensure that perpetrators are held accountable. Some recommendations in previous OHCHR reports on the human rights situation in Ukraine are reiterated as they are particularly relevant for the prevention of acts of arbitrary deprivation of life.

**68. To the Government of Ukraine:**

- a) Ensure investigations into all alleged acts of arbitrary deprivation of life are prompt, independent, impartial and effective;
- b) Allocate necessary human and technical resources to the National Police and Security Service of Ukraine (SBU) investigative bodies and to the prosecutor’s offices investigating alleged cases of arbitrary deprivation of life, including in the conflict zone;
- c) Improve the collection of forensic and preservation of other material evidence related to acts of arbitrary deprivation of life in the conflict zone, including documenting signs of torture or ill-treatment in accordance with international standards;
- d) Systematically interview people who were deprived of their liberty by the armed groups to document cases of alleged acts or arbitrary deprivation of life which they may have witnessed;
- e) Ensure that no illegal armed formations are taking part in the hostilities on the side of Governmental forces;

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<sup>88</sup> See 11<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 May to 15 August 2015, paragraph 162.

- f) Strengthen internal and prosecutorial oversight of military and law enforcement bodies in the conflict zone, especially at check points and in settlements where an effective civilian administration is absent;
- g) Ensure that investigations into the violent deaths which occurred during assemblies in 2014 and 2015, such as during the Maidan events and Odesa events, are completed in accordance with international standards and without undue delay;
- h) Amend the Law of ‘On prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies and recognising the repeal of certain laws of Ukraine’ of 21 February 2014 so that it does not prevent the prosecution of the killings during the Maidan events;
- i) Ensure that judges, lawyers and other justice professionals are fully protected from threats, intimidation and other external pressures that seek to challenge and threaten their independence and impartiality;
- j) Ensure that families of victims are kept fully informed on the progress of investigations into the death of their relatives;
- k) Ensure that the ‘all for all’ release envisaged by the Minsk Agreements or any other forms of “exchanges” or “simultaneous releases of detainees” do not lead to impunity for those suspected of killings or other violations, abuses or crimes, either directly or as accomplices, or as superiors;
- l) Ensure that no impunity to perpetrators complicit with acts of arbitrary deprivation of life and other gross violations of human rights and serious violations of international humanitarian law shall take place in the context of amnesty and pardoning envisaged by the Minsk Agreements or any other amnesty or pardoning;
- m) Take measures to limit the direct or indirect negative impact of the derogations from certain of Ukraine’s obligations under international human rights instruments on the protection and promotion of human rights;
- n) Accede to the Rome Statute of the International Criminal Court;
- o) Closely cooperate with civil society actors which document killings and analyse relevant legislation and law enforcement practices;
- p) Actively cooperate with those international actors who can bring expertise to investigate killings, whether during assemblies, or in the context of armed conflict;
- q) Immediately terminate the practice of secret or incommunicado detention; keep all detainees in official places of detention; and allow access of family members, lawyers, judges and international monitors to all detainees;
- r) Ensure protection for witnesses and for members of the armed and security forces who act as whistle blowers by reporting on violations committed by their colleagues.

**69. To all parties involved in the hostilities in Donetsk and Luhansk regions, including the armed groups of the self-proclaimed ‘Donetsk people’s republic’ and self-proclaimed ‘Luhansk people’s republic’:**

- a) Take urgent measures to put an end to fighting and violence in the conflict zone, including by continuing to seek full implementation of the Package of Measures for Implementation of the Minsk Agreements, and fully observing the regime of “complete silence” along the contact line;
- b) Fully respect international humanitarian law obligations, including the principles of distinction, precaution and proportionality;

- c) Facilitate the investigation and prosecution by the competent authorities of any person allegedly responsible for human rights' violations or abuses and violations of international humanitarian law, including wilful killings and executions, notably by ensuring that relevant information and evidence are preserved;
- d) Immediately release all persons arbitrarily deprived of their liberty;
- e) Ensure unimpeded access of OHCHR and other international monitors to all places where people deprived of liberty are held;
- f) Provide effective access for OHCHR to witnesses and material evidence of alleged summary executions and killings.

70. **To the *de facto* authorities of Crimea<sup>89</sup> and to the Russian Federation:**

- a) Ensure the investigations into all allegations of disappearances and killings involving members of the security forces and the so-called Crimean 'self-defence';
- b) Ensure direct and unfettered access to the Crimean peninsula by OHCHR and other international human rights monitoring mechanisms to enable them to carry out their mandate in full conformity with General Assembly resolution 68/262.

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<sup>89</sup> The status of the Autonomous Republic of Crimea and the city of Sevastopol is determined by United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine.

## Annex I. Cases of violations or abuses of the right to life in Ukraine from January 2014 to May 2016

1. The cases presented in this Annex are not exhaustive. Some other cases were presented in the previous OHCHR reports on the human situation in Ukraine, and in the reports of intergovernmental organizations, international NGOs, NGOs from Ukraine and the Russian Federation, and other actors<sup>90</sup>, and some allegations were under OHCHR consideration as of 1 June 2016. Besides, OHCHR was unable to verify or corroborate many allegations of arbitrary deprivation of life it received since mid-April 2014. Some of these allegations were accounts of people who themselves did not witness the killing, but referred to the information received from actual witnesses or other sources; this information lacked details which would have enabled further verification. In many cases, there were no witnesses to the summary executions, killings and murders reported to OHCHR, and/or it was otherwise difficult for OHCHR to verify the alleged incident.

### I. Killings and violent deaths in the context of assemblies

#### A. Violence of January-February 2014 during the Maidan events

**Table 1. Deaths of protestors and other people during Maidan events**

Number of protestors died and circumstances of their death	Alleged perpetrators and accountability status
On 17 October 2015, the Office of the Prosecutor General reported that nine senior officials of the former Government <sup>91</sup> , involved in the “unlawful crackdown” that resulted in the death of protestors during the Maidan events, had been charged under various articles of the Criminal Code. As of 1 June 2016, none of them has been brought to trial as they all allegedly fled Ukraine on 20 February 2014 or shortly afterwards	
	21 January 2014
Mr Yurii Verbytskyi found dead on 22 January, in the forest near the village of	As of 1 June 2016, the pre-trial investigation is completed and two suspects are indicted. The investigation concerning 10 other suspects was on-going, and they were put on a wanted list.

<sup>90</sup> Reports of the International Advisory Panel of the Council of Europe on its review of the Maidan Investigations, published on 31 March 2015, and on its review of the investigations into the tragic events in Odesa of May 2014, published on 4 November 2015; “Summary Killings during the Conflict in Eastern Ukraine” and “Breaking Bodies: Torture and Summary Killings in Eastern Ukraine” by Amnesty International; “Fighting Impunity in Eastern Ukraine: Violations of International Humanitarian Law and International Crimes in Eastern Ukraine” by the International Partnership for Human Rights; “War Crimes of the Armed Forces and Security Forces of Ukraine: Torture and Inhumane Treatment” by the Foundation for the Study of Democracy, the Russian Public Council for International Cooperation and Public Diplomacy and the Russian Peace Foundation; “Russian War Crimes in Eastern Ukraine in 2014” by a group of volunteers commissioned by a member of the Polish Parliament Małgorzata Gosiewska; “Surviving Hell: Testimonies of Victims on Places of Illegal Detention in Donbas” by the Coalition of public organizations and initiatives ‘Justice for Peace in Donbas’; “Total Impunity in the ATO Area: Investigation of Killings and Disappearances” by the Ukrainian Helsinki Human Rights Union; and “Searching for Justice: Investigation of Crimes Related to Violations of Rights to Life, Freedom and Physical Integrity and to Freedom from Torture in the Anti-Terrorist Operation Zone – Deficiencies in the Work of Investigative Bodies and Recommendations of Human Rights Defenders” by the Centre for Civil Liberties under the auspices of the Coalition ‘Justice for Peace in Donbas’.

<sup>91</sup> Former President, former Prosecutor General, former Prime Minister, former Minister of Internal Affairs, former Head of the Security Service, former Deputy Minister of Internal Affairs, former Commander of the Internal Troops of the Ministry of Internal Affairs, former First Deputy Head of the SBU and former Head of Public Security Militia in Kyiv.

Hnidyn (Borospilskyi district of Kyiv region), after being abducted from the hospital on 21 January	
22 January 2014	
Mr Serhii Nihoian and Mr Mykhailo Zhyznievskiy were shot dead at Hrushevskoho Street in Kyiv; Mr Roman Senyk, died in hospital on 25 January after being shot at Hrushevskoho Street <sup>92</sup>	As of 1 June 2016, no perpetrators have been identified. Pre-trial investigation is ongoing
18-19 February 2014	
10 protestors (nine men <sup>93</sup> and a woman <sup>94</sup> ) sustained lethal bodily injuries at Instytutska Street, Hrushevskoho Street, Kriposnyi Lane and in Mariinskyi Park in central Kyiv as a result of the forceful dispersal of protestors who were trying to reach the Parliament during the so-called 'Peaceful advance'	<p>Pre-trial investigation established the involvement of three 'Berkut' servicemen in the forceful dispersal of protestors at Instytutska Street and Kriposnyi Lane, which resulted in grave consequences, including death of three individuals.<sup>95</sup></p> <p>On 12 November 2016, two of the three servicemen were indicted on the charges under articles 263 (unlawful handling of weapons), 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. On 31 March 2016, they were also indicted under articles 367 (neglect of official duty) and 371 (knowingly unlawful apprehension, taking into custody, arrest or detention). As of 1 June 2016, they remained under house arrest.</p> <p>On 16 October 2015, the third serviceman, former commander of 'Berkut' regiment from Kharkiv, was charged under articles 115 (intentional homicide) and 365 (excess of authority or official powers) of the Criminal Code for killing the three protestors. As of 1 June 2016, he remained under house arrest.</p> <p>On 12 March 2016, a Maidan protestor indicted on charges under articles 286 (violation of traffic rules) and 289 (unlawful appropriation of the vehicle) of the Criminal Code for killing another protestor<sup>96</sup>, was exempted from criminal responsibility by Pecherskyi District Court of Kyiv.<sup>97</sup> It was done pursuant to the law of 21 February 2014 (see paragraph 38 below). The Office of the Prosecutor General is challenging this decision</p>

<sup>92</sup> According to the Office of the Prosecutor General, Nihoian was killed with a hunting case shot which could have been fired from a pump-action gun, and Zhyznievskiy and Senyk were killed by bullets normally used by police to stop vehicles.

<sup>93</sup> Volodymyr Kishchuk (died a gunshot injury sustained at Kriposnyi Lane, on 18 January), Andrii Korchak (died of a chronic ischemic heart disease caused by a chest trauma he sustained at Hrushevskoho Street, on 18 February), Serhii Didych (died of a closed craniocerebral injury he sustained at Hrushevskoho Street as a result of being hit by a car, on 18 February), Serhii Shapoval (died of a gunshot injury he sustained at Instytutska Street, on 18 February), Ihor Serdiuk (died of a gunshot injury he sustained at Instytutska Street, on 18 February), Artem Mazur (died of open craniocerebral injury he sustained in Mariinskyi Park, on 3 March), Ivan Nakonechnyi (died of open craniocerebral injury he sustained at Instytutska Street, on 7 March), Anatolii Nechyporenko (died of closed craniocerebral injury he sustained at Instytutska Street, on 28 March) and Zurab Khurtsiia (died of cardiac failure at Instytutska Street, on 18 February).

<sup>94</sup> Ms Antonina Dvorianets (died of cardiac failure at Instytutska Street, on 18 February).

<sup>95</sup> Mr Serhii Shapoval, Mr Ihor Serdiuk and Mr Volodymyr Kishchuk.

<sup>96</sup> Mr Serhii Didych.

<sup>97</sup> Ruling of Pecherskyi District Court of Kyiv of 12 March 2016 in the case № 757/39355/15-к, available at: <http://reyestr.court.gov.ua/Review/56433235>.



<p>10 protestors (all men)<sup>98</sup> died of gunshot injuries sustained during the so-called “anti-terrorist operation” in central Kyiv from 7 p.m. on 18 February until 6 a.m. of 19 February; a man<sup>99</sup> was found dead at the crossing of Velyka Zhytomyrska and Volodymyrska Streets, another man<sup>100</sup> – at Triokhsvyatytelska Street, and four other protestors (all men)<sup>101</sup> died of other types of injuries they sustained during the “anti-terrorist operation”</p>	<p>Former Head of the Security Service, his former First Deputy and former Head of the Security Service for the city of Kyiv and Kyiv region have been charged under articles 255 (creation of a criminal organization), 340 (illegal interference with the organization or holding public assemblies, rallies, marches and demonstrations committed by a group of people upon prior collusion), 365 (abuse of power), 115 (intended grievous bodily injury, killing of two or more individuals in a way dangerous to the lives of many people, committed by a group of people upon prior collusion) and 408 (desertion) of the Criminal Code.</p> <p>On 9 April 2014, former Head of the Security Service and then on 26 January 2015, his former First Deputy were put on a wanted list after allegedly fleeing Ukraine.</p> <p>On 21 August 2015, the Pecherskyi District Court of Ukraine placed former Head of the Security Service for the city of Kyiv and Kyiv region under custody, where he currently remains. On 16 February 2016, he was indicted, pending trial</p>
<p>Mr Viacheslav Veremii, a journalist of a daily newspaper ‘Vesti’, beaten and shot dead after attempting to catch on video of a group of so-called ‘titushky’<sup>102</sup></p>	<p>Nine ‘titushky’ (all men) have been charged under article 115 (intentional homicide committed by a group upon prior collusion out of hooliganism) of the Criminal Code. All are on a wanted list. A man has been indicted on charges under article 296 (hooliganism act with the use of cold arms prepared in advance to cause bodily harm) of the Criminal Code, and kept under home arrest.</p> <p>As of 1 June 2016, the pre-trial investigation was ongoing</p>
<p>20 February 2014</p>	
<p>48 protestors (all men)<sup>103</sup> died of gunshot wounds in Instytutska street, in the morning, while attempting to reach certain areas up the street and to push back the ‘Berkut’ special police regiment from Zhovtnevyi</p>	<p>Commanders and servicemen of the ‘Berkut’ special police regiment (26 individuals<sup>104</sup>, all men).</p> <p>Five of these servicemen (two detained in early April 2014, two detained on 23 February 2014, and one detained on 26 June 2015) have been charged under articles 365 (abuse of power), 262 (illegal appropriation of weapons) and 115 (killing of two or more people in a way dangerous to the lives of many people committed by a group of people upon prior collusion) of the Criminal Code. As of</p>

<sup>98</sup> Eight protestors died immediately after having sustained the gunshot injuries: Volodymyr Boikiv, Valerii Berezdeniuk, Serhii Bondarev, Oleksandr Plekhanov, Vasyl Prokhorskyi, Andrii Chernenko, Viktor Shvets and Yurii Paskhalin; two others died later in the hospital: Viktor Orlenko (died on 3 June 2014) and Yurii Sydorochuk (died on 28 June 2014).

<sup>99</sup> Vitalii Vasiltsov.

<sup>100</sup> Volodymyr Kulchytskyi.

<sup>101</sup> Dmytro Maksymov (died of blast trauma, on 18 February), Oleksandr Kapinos (died of open craniocerebral trauma, on 18 February) and Volodymyr Topii and Oleksandr Klitynskyi (both died in the fire in the House of Trade Unions, on 19 February).

<sup>102</sup> Armed civilians, sometimes wearing camouflage and masks, often having criminal record, engaged by the law enforcement to attack the protestors.

<sup>103</sup> Heorhii Arutiunian, Vasyl Aksenyn, Serhii Baidovskyi, Oleksandr Baliuk, Ivan Bliok, Serhii Bondarchuk, Oleksii Bratushka, Bohdan Vaida, Roman Varenysia, Nazarii Voitovych, Ustym Holodniuk, Eduard Hrynevych, Roman Huryk, Mykola Dziavulskyi, Andrii Dyhdalovych, Ihor Dmytriv, Anatolii Zhalovaha, Volodymyr Zhrebnyi, Vladyslav Zubenko, Bohdan Ilkiv, Serhii Kemsykyi, Anatolii Kornieiev, Ihor Kostenko, Yevhenii Kotliar, Vitalii Kotsiuba, Volodymyr Melnychuk, Andrii Movchan, Vasyl Moisei, Valerii Opanasiuk, Ivan Panteliev, Mykola Pankiv, Yurii Parashchuk, Ihor Pekhenko, Leonid Polianskyi, Andrii Saienko, Vitalii Smolenskyi, Bohdan Solchanyk, Ivan Tarasiuk, Ihor Tkachuk, Roman Tochyn, Oleh Ushnevych, Oleksandr Khrapachenko, Oleksandr Tsariok, Volodymyr Chaplinskyi, Viktor Chmilenko, Yosyp Shilinh, Maksym Shymko and Oleksandr Shcherbaniuk.

<sup>104</sup> Former commander of the ‘Berkut’ special police regiment, former commander of Kyiv ‘Berkut’ unit, his deputy and 23 other ‘Berkut’ servicemen.

Palats (Palace)	<p>1 June 2016, they remained in custody, pending trial.</p> <p>In early April 2014, a ‘Berkut’ commander was detained along with two of his subordinates (mentioned above). On 19 September 2014, the Pecherskyi District Court of Kyiv placed him under house arrest, with the obligation to stay at home from 11 p.m. until 7.00 a.m. On 3 October 2014, he did not appear at the court hearing. He had reportedly left his home in the morning and has since disappeared.</p> <p>On 16 January 2015, the Office of the Prosecutor General filed an indictment against two ‘Berkut’ servicemen detained in early April 2014. On 9 February 2016, the Office filed an indictment against the three other detained ‘Berkut’ servicemen with the Sviatoshynskyi District Court of Kyiv. On 16 February 2016, the Court consolidated these cases into one and started to hear the testimonies of victims.</p> <p>Twenty other Berkut servicemen, identified as being involved in the killing of the 48 protestors, are on a wanted list as they have reportedly fled the country<sup>105</sup></p>
22 December 2013 – 3 June 2015 <sup>106</sup>	
Five protesters <sup>107</sup> died in Kyiv and other places due to gunshot and other injuries they sustained in Kyiv and other places	<p>Three persons have been indicted for intentional homicide of Vasyl Serhiienko; two other suspects in this case were put on a wanted list.</p> <p>Office of the Prosecutor General conducts investigation into abuse of powers by the SBU servicemen which resulted in the killing of Dmytro Pahor and Liudmyla Sheremet.</p> <p>Pre-trial investigation into the killing of Andrii Pozniak is ongoing</p>
According to the Office of the Prosecutor General, the link between Government’s counteraction to the Maidan protests and the deaths of 17 persons (all men) <sup>108</sup> has not been established; death of	

<sup>105</sup> See paragraph 117 of the 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015.

<sup>106</sup> The individuals listed below were decorated by the President of Ukraine with title “Hero of Ukraine”, or their relatives were found eligible for social benefits by the Ministry of Social Policy due to loss of their lives during the Maidan events, or were reported as Maidan victims by human rights NGOs. According to the Office of the Prosecutor General, however, the circumstances of some deaths do not provide reasons to believe that they were related to the protests either in Kyiv or in other places.

<sup>107</sup> Mr Dmytro Pahor and Ms Liudmila Sheremet (died from gunshot injuries sustained in the city of Khmelnytskyi near the SBU building, on 19 and 22 February respectively); Mr Andrii Pozniak (died of a gunshot injury of the head sustained at Khreshchatyk Street in Kyiv, on 3 March); Mr Vasyl Serhiienko (abducted from his house in Korsun Shevchenkivskyi, Cherkasy region, on 4 April, and found dead, with signs of torture, in the forest the following day, 15 kilometres away from his house), and Mr Davyd Kipiani (died of chronic ischemic heart disease in Kyiv, in the night to 21 February, while in the ambulance).

<sup>108</sup> Andrii Tsepun (died of hypothermia, not related to protests, in Kyiv, on 21 February), Viktor Khomiak (committed suicide at Independence Square, in Kyiv, on 27 January); Taras Slobodian (disappeared in December 2013 and found dead in the forest in March 2014, in Sumy region; died of loss of blood caused by amputation of wrist; due to putrefaction of the body, date of his death has not been yet established); Serhii Synenko (found burned to death in his car, on a road between villages Ivan Horod and Chervonyi Yar, Zaporizhzhia region, on 13 February); Volodymyr Naumov (committed suicide, in Kyiv, on 18 February); Yakiv Zaiko (died of cardiac failure at Instytutska Street, on 18 February); Viktor Chernets (died in a car accident, in the village of Podibna, Cherkasy region, when he and other local residents were blocking the highway to prevent anti-Maidan groups from coming to Kyiv, on 19 February); Bohdan Kalyniak (died of pancreatonecrosis which was not related to bodily injuries, in Ivano Frankivsk, on 28 January); Ivan Horodniuk (died of septic bronchopneumonia, at his home in the village of Berezne, Rivne region, on 19 February); Vasyl Sheremet (died of chronic ischemic heart disease, in Kyiv, on 7 March); Pavlo Mazurenko (died of septic pneumonia, in Kyiv, on 22 December 2013); Petro Hadzha (died of acute cardiac failure, in Kyiv, on 22 March); Oleksandr Hrytsenko (died of chronic ischemic heart disease, after nine months

one person<sup>109</sup> is not investigated either by the Prosecutor's Office, or by police; and exact circumstances of the death of seven persons<sup>110</sup> and their relation to the Maidan events have not been established

**Table 2. Deaths among law enforcement officers during Maidan events**

Number of law enforcement officers killed and circumstances of their death	Alleged perpetrators and accountability status
18 February 2014	
Seven law enforcement officers (all men) <sup>111</sup> died after being shot in central Kyiv	As of 1 June 2016, no perpetrators were identified. The pre-trial investigation is ongoing
19 February 2014	
One Berkut serviceman <sup>112</sup> died after being shot in central Kyiv into the night of 19 February; and one serviceman died in hospital on 2 March from gunshot injuries sustained on 19 February <sup>113</sup>	As of 1 June 2016, no perpetrators were identified. The pre-trial investigation is ongoing
20 February 2014	
Four Berkut servicemen <sup>114</sup> died from gunshot injuries they sustained in central Kyiv	As of 1 June 2016, no perpetrators were identified. The pre-trial investigation is ongoing

## B. Violence of 2 May 2014 in Odesa

**Table 3. Deaths as a result of violence of 2 May 2014 in Odesa**

Number of victims and circumstances of their deaths	Alleged perpetrators and accountability status
Six people (all men) were killed (four <sup>115</sup> died on the spot and two <sup>116</sup> died on the way to or at the hospital) from firearms at Hretska Square (city centre). Four victims were 'pro-federalism'	A 'pro-unity' supporter is charged with murdering one of the victims, Mr Yevhen Losinskyi, a 'pro-federalism' activist; perpetrators responsible for the killing of the five other victims have not been identified. The trial of the accused, under articles 115 (intentional homicide) and 348 (trespass against life of a law enforcement officer) of the

spent in hospital due to craniocerebral trauma sustained at Maidan, on 9 December 2014); Anatolii Kurach (died of liver cirrhosis, in Rivne, on 21 February); Oleksandr Badera (died of chronic ischemic heart disease, in Kyiv, on 22 January); Volodymyr Zakharov (died in the fire in the Party of Regions' office, in Kyiv, on 18 February); and Viacheslav Vorona (died of bodily injuries sustained in a fight not related to the Maidan protests, in Kyiv, on 9 March).

<sup>109</sup> Mr Maksym Horoshyshyn died of an acute type of pneumonia, on 20 February.

<sup>110</sup> Mr Ihor Bachynskyi (died of chronic ischemic heart, in Boiarka, Kyiv region, on 25 February); Mr Yurii Nechyporuk (allegedly abducted from Kyiv and taken to the village of Hlevakha, some 30 km from Kyiv, where he was stabbed to death, on 18 February); Mr Oleksandr Trofymov (allegedly died in the fire at the House of Trade Unions, in Kyiv, on 19 February); Mr Mykhailo Kostyshyn (died in a car accident, on 26 February); Mr Oleksandr Podryhun (died of craniocerebral trauma and bodily injures on 23 February); Ms Olha Bura (died of anaphylactic shock caused by a painkiller injection to treat the cut of her hand sustained at Maidan field kitchen, on 10 March); and Mr Dmytro Cherniavskyi (died after being stabbed during participation in a 'pro-unity' rally, in Donetsk, on 13 March).

<sup>111</sup> Vasyl Bulitko, Dmytro Vlasenko, Vitalii Honcharov, Oleksii Ivanenko, Ivan Tepliuk, Maksym Tretiak and Andrii Fediukin.

<sup>112</sup> Serhii Tsvyhun.

<sup>113</sup> Vitalii Zakharchenko.

<sup>114</sup> Volodymyr Zubok, Serhii Mykhailovych, Mykola Symysiuk and Serhii Spichak.

<sup>115</sup> Oleksandr Biriukov, Oleksandr Zhulkov, Hennadii Petrov and Mykola Yavorskyi.

<sup>116</sup> Yevhen Losynskyi and Ihor Ivanov.

<p>supporters while two were 'pro-unity' supporters</p>	<p>Criminal Code, has been transferred between all Odesa district courts.<sup>117</sup> On 31 May 2016, Kyivskyi District Court of Odesa returned the indictment to prosecution to fix the inaccuracies. The trial of the former Head of Odesa Regional Police Department under articles 135 (leaving in danger), 364 (abuse of authority or office) and 365 (excess of authority or official powers) of the Criminal Code started in February 2016<sup>118</sup></p>
<p>42 people (34 men<sup>119</sup>, seven women<sup>120</sup> and a 17-year-old boy<sup>121</sup>) died in a fire that erupted in the House of Trade Unions, at Kulykove Pole Square. All victims were either pro-federalism supporters or people who happened to be at the site of the incident. Thirty-two of the victims (26 men and six women) died of asphyxiation with carbon monoxide while trapped in the building; 10 people died as a result of injuries sustained after jumping out of the building (eight died on the spot – six men, a woman and a 17-year-old boy – and two men died in hospital)</p>	<p>Those who set fire to the House of Trade Unions have not been identified. The fire brigade and senior police officers<sup>122</sup> are under investigation for negligence in not taking appropriate actions to prevent or minimize the damage. On 15 January 2016, the Office of the Prosecutor General authorized the National Police of Odesa region to continue the pre-trial investigation into the death of people in the House of Trade Unions.<sup>123</sup> The investigation is conducted under articles 115 (intentional homicide), 194 (wilful destruction or damage of property), 294 (riots), 296 (hooliganism), 341 (seizure of government or public buildings or constructions) and 345 (threats or violence against a law enforcement officer) of the Criminal Code with 27 persons indicted. Thirteen pro-federalism supporters are on a wanted list being suspected of riots and mass disorder in Odesa. On 16 October 2014, the Office of the Prosecutor General opened an investigation into negligence by the senior management of the State Emergency Service (SES) for Odesa region under articles 135 (leaving in danger) and 367 (neglect of official duty) of the Criminal Code. The SES Head for Odesa region and one of his deputies are on a wanted list as they fled Ukraine on 1 March 2016, when three of his subordinates – SES Deputy Head for Odesa region, the Shift Head and the Assistant to the Shift Head – were placed in custody on the same day. As of 1 June 2016, the pre-trial investigation was on-going</p>

### C. Other assemblies marked by violent deaths

2. On 26 February 2014, Mejlis of Crimean Tatar People organized a rally near the building of the Supreme Council of the Autonomous Republic of Crimea. The head of Mejlis stated that the rally aimed at preventing the decision on accession of the

<sup>117</sup> See paragraph 77 of the 14<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016.

<sup>118</sup> He is accused of negligence in ensuring public safety in the city centre and at Kulykove Pole square.

<sup>119</sup> Oleksii Balaban, Leonid Berezovskyi, Andrii Brazhevskyi, Volodymyr Bryhar, Viktor Bullakh, Andrii Hnatenko, Yevhen Hnatenko, Ihor Zaiats, Dmytro Ivanov, Petro Kair, Anatolii Kalyn, Mykola Kovryha, Oleksandr Kononov, Serhii Kostiukhin, Hennadii Kushnariov, Ruslan Kushch, Ihor Lukas, Viacheslav Markin, Ivan Mylev, Yevhen Mytchuk, Serhii Mishyn, Vadym Nehaturov, Maksym Nykytenko, Dmytro Nykytiuk, Volodymyr Novytskyi, Ihor Ostorozhniuk, Viktor Poliovyi, Oleksandr Pryimak, Oleksandr Sadovnychyi, Viktor Stepanov, Taras Sharf, Mykhailo Shcherbynin, Yurii Karasev and Mykhailo Viacheslavov.

<sup>120</sup> Khrystyna Bezhanyska, Hanna Varenkyna, Nina Lomakyna, Svitlana Pikalova, Hanna Poluliakh, Iryna Yakovenko and Liubov Halahanova.

<sup>121</sup> Vadym Papura.

<sup>122</sup> Former Head of the State Service on Emergency Situations in Odesa region; two his former deputies; head of duty shift of the fire station on 2 May 2014; assistant of the head of duty shift of the fire station on 2 May 2014; former Head of the Odesa Regional Police; and former Deputy Head of the Odesa Regional Police.

<sup>123</sup> The pre-trial investigation was suspended due to the reform of the Ministry of Internal Affairs and establishment of the National Police.

Autonomous Republic of Crimea to the Russian Federation. Clashes erupted between participants in the rally and a group of individuals who opposed the newly established interim Government of Ukraine and supported Crimea's accession to the Russian Federation. As a result, two individuals died – Mr Viktor Postnyi and Ms Valentyna Korenieva. Postnyi reportedly died of a heart attack, while Korenieva was trampled to death. Having no access to the peninsula, OHCHR has relied on the statements of the 'prosecution' and the lawyers of eight Crimean Tatars, including the Deputy Head of Mejlis, whom the *de facto* authorities detained in 2015 for their alleged role in organising the February 2014 protests.<sup>124</sup>

3. On 14 March 2014, clashes between activists of the 'pro-federalism' group 'Oplot' and of the 'pro-unity' group 'Patriots of Ukraine' erupted in the city of Kharkiv, at Rymarska Street. The violence resulted in the deaths of two 'Oplot' members<sup>125</sup> caused by the use of firearms. Two years after the incident, there has been no progress in the investigation into the case, with no alleged perpetrators identified. Information from SBU, the Ministry of Internal Affairs, and Kharkiv Regional Prosecutor's Office suggests that the majority of the members of 'Patriots of Ukraine' involved in the shooting subsequently served in the 'Azov' battalion in the conflict zone.

4. On 22 February 2015, an explosive device killed three participants<sup>126</sup> and one law enforcement officer<sup>127</sup> during the "March of Dignity" in Kharkiv. On 25 February 2015, three men were detained on charges under articles 258 (act of terrorism resulted in death) and 263 (illegal handling of weapons, ammunition or explosives) of the Criminal Code. As of 1 June 2016, all have been indicted, and the case was being heard by the Frunzenskyi District Court of Kharkiv.

5. On 31 August 2015, while the Parliament of Ukraine was to vote on the draft constitutional amendments foreseeing some "special order of self-governance for certain districts of Donetsk and Luhansk regions", several hundred people gathered outside the building to protest against the amendments. After the amendments were adopted, protestors started to confront police officers. One of the protestors launched a combat grenade which killed four<sup>128</sup> and injured over 80 police officers. A man suspected of launching the grenade was arrested on the same day and has since been in detention. As of 1 June 2016, the pre-trial investigation into the case was ongoing.

## **II. Killings in the context of armed conflict in eastern Ukraine**

### **A. Use of force by use of firearms**

#### **1. Territories controlled by armed groups**

##### *The Burykhins case*

6. On 9 May 2014, residents of the town of Antratsyt (Luhansk region) Mr Oleh Burykhin and Ms Iryna Burykhina were killed while driving in two jeeps from their home town to the Russian Federation. At approximately 2 a.m., near the village of Novoborovytsi (Sverdlovsk district of Luhansk region), they went under submachine gun fire by the armed groups. Reportedly, they thought that it was the Right Sector members who were driving the cars, though no presence of Ukrainian forces was observed in the area. According to the

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<sup>124</sup> See 14<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016, para 182; and 13<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 November 2015 to 15 February 2016, para 187.

<sup>125</sup> Mr Oleksii Sharov and Mr Artem Zhudov.

<sup>126</sup> Mr Danyla Didyk, Mr Mykola Melnychuk and Mr Ihor Tolmachov,

<sup>127</sup> Mr Vadym Rybalchenko.

<sup>128</sup> Mr Bohdan Datsiuk, Mr Ihor Debrin, Mr Oleksandr Kostin and Mr Dmytro Slastnykov.

forensic record, the cause of death of Burykhin was “trauma of the body with damage to bones”, and Burykhina died of a “gunshot wound of the heart”.

*Snizhne case*

7. In the evening of 9 May 2015, three women and a man (reportedly, a member of an armed group) fell under submachinegun fire while driving in the town of Snizhne (Donetsk region), which was under the control of the armed groups since May 2014. Two of the three women were killed. They reportedly did not stop at the request of members of the local ‘military commandant’s office’ of the ‘Donetsk people’s republic’.<sup>129</sup>

## **2. Territories controlled by Government**

*Volodymyr Lobach case*

8. On 8 May 2014, Mr Volodymyr Lobach was killed by members of ‘Azov’ battalion who were passing through the town of Reshetylivka (Poltava region) in a convoy. The victim was shot dead after a verbal confrontation with ‘Azov’ servicemen at the petrol station. When the Poltava Prosecutor, the Head of the Department of Internal Affairs and the Head of SBU Department arrived at the scene, they were threatened by ‘Azov’ battalion members and had to leave.<sup>130</sup> HRMMU learned that the convoy included more than 200 ‘Azov’ members who reportedly proceeded to the conflict zone.<sup>131</sup> The local police conducting the investigation had not identified any suspects as of 1 June 2016.

*Serhii Skrypnik case*

9. On 17 December 2014, at the Government checkpoint near the town of Kostiantynivka (Donetsk region), a police officer from Poltava, temporarily deployed to the security operation area, stopped a car with three civilians travelling to the then Government-controlled town of Vuhlehirsk. As the passengers did not have their passports, the police officer asked them to pull over. When one of them asked the way to Vuhlehirsk, he approached the front passenger seat and tried to open the door. As the door was closed, the police officer broke the window with the butt of his submachine gun and shot dead the passenger, Mr Serhii Skrypnik, and wounded the driver. He then ordered the latter to take the backseat and the other passenger to replace the driver and to leave. They obeyed, fearing for their lives.

10. No action was taken by the commander of the police officer and his colleagues who, at the time of the incident, stood some 10 meters away from the scene. They later claimed they had not heard or seen anything suspicious. In the course of the criminal investigation launched by police, the perpetrator maintained that the shot was accidentally triggered as he slipped on the uneven surface of the road. On 19 February 2016, the Kostiantynivskiy District Court of Donetsk region sentenced him to 12 years of imprisonment on charges of intentional homicide and negligent, grievous bodily injury as a result of abuse of power.

*Roman Postolenko case*

11. On 17 February 2015, Mr Roman Postolenko, a taxi driver from the Government-controlled town of Selydove (Donetsk region), was driving two armed servicemen of the Ukrainian Armed Forces to their military unit. At approximately 3 p.m., a patrol of the State Border Guard Service of Ukraine (SBGS) started pursuing Postolenko’s car, assuming he was attempting to escape. At some point, Postolenko stopped his car to discharge the soldiers who, while wearing civilian clothes, were carrying submachine guns.

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<sup>129</sup> [http://vlada.io/vlada\\_news/v-snezhnom-boeviki-dnr-ubili-na-trasse-dvuh-devushek-v-den-pobedy/](http://vlada.io/vlada_news/v-snezhnom-boeviki-dnr-ubili-na-trasse-dvuh-devushek-v-den-pobedy/)

<sup>130</sup> HRMMU interview of 10 November 2014.

<sup>131</sup> *Ibidem*.

12. According to the soldiers' version of the incident, as they stepped out of the taxi, one of them approached the driver to pay him while the other stayed behind the car. The soldiers claim that the SBGS patrol opened fire without warning. Both soldiers managed to hide behind the taxi; one of them sustained a gunshot wound and the other ran to the military unit for reinforcement.<sup>132</sup> According to the lawyer of the victim's wife, 10 bullets hit Postolenko. According to the death certificate, he died of numerous penetrating gunshot wounds of head, chest and right leg.

13. According to SBGS, their vehicles stopped some 30 metres away from the taxi, and a SBGS colonel ordered the soldiers to drop the arms on the ground and retreat from the car. According to the SBGS, the soldiers did not obey and opened fire at the patrol. The SBGS servicemen claim opened fire in response. They also stated they decided to leave when noticing two cars approaching the site of the incident.<sup>133</sup>

14. The same day, the Office of the Military Prosecutor initiated an investigation into the incident, which was closed in October 2015 due to lack of evidence. In February 2016, the Court of Appeal of Donetsk region cancelled the decision on the closure of the investigation. The SBGS servicemen involved in the incident have not been charged and enjoy witness status. An internal SBGS investigation concluded that the use of firearms in the circumstances of the case was permissible and shall not entail any repercussions for the servicemen.<sup>134</sup>

## **B. Execution of persons who surrendered or were otherwise *hors de combat***

### **1. Territories controlled by armed groups**

#### *Mykola Chepiha case*

15. On 17 June, a member of 24<sup>th</sup> territorial defence battalion 'Aidar', Mr Mykola Chepiha, was captured near the village of Metalist (Luhansk region), during a clash with the armed groups of the 'Luhansk people's republic'. He was kept for several days in the former premises of the regional military commissariat, in the city of Luhansk, and was eventually stabbed to death – allegedly in retaliation for the death of an armed group leader, Mr Serhii Niiesh Papa, who had died while in the Aidar battalion's captivity on the same day or several days before.<sup>135</sup> In March 2016, a former commander of an armed group of the 'Luhansk people's republic' stated publicly that one of two Ukrainian servicemen, captured on 17 June 2014 near the village of Metalist, had been executed.<sup>136</sup>

16. The body of Chepiha was thrown on Krasnodonskaia Street, in the city of Luhansk. It was then taken to the regional morgue in Luhansk where it was kept until early July, when it was delivered to the territory controlled by the Government.<sup>137</sup> According to forensic records obtained by OHCHR, "penetrating perforated injuries of the chest that injured the heart" caused Chepiha's death.

#### *Oleksii Kudriavtsev case*

17. On 14 July 2014, Mr Oleksii Kudriavtsev, a member of the special police patrol battalion 'Artemivsk', was captured by the armed groups near the city of Horlivka (Donetsk region). He was taken to the building of the former Horlivka city department to combat organized crime, where he was interrogated by an armed group commander. The interrogation was videotaped and appeared online the following day. On the video,

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<sup>132</sup> Ibidem.

<sup>133</sup> HRMMU interview of 4 March 2015.

<sup>134</sup> Ibidem.

<sup>135</sup> See paragraph 101 below.

<sup>136</sup> <https://meduza.io/feature/2016/03/21/ya-ee-vzyl-i-lichno-peredal-plotnitskomu>

<sup>137</sup> HRMMU interview of 25 September 2015.

Kudriavtsev admits that as a police officer, he had been engaged in illegal practices, including torturing and killing civilians suspected of membership in the armed groups. On the same video, the commander states Kudriavtsev had been executed for the crimes he had admitted. The body of Kudriavtsev has not been found.

18. On 13 August 2014, the Sloviansk police department opened a criminal investigation into the abduction and intentional homicide of Kudriavtsev. Having seen no progress in the investigation, the victim's father found and interviewed nine people who were deprived of their liberty by the armed group on 14 and 15 July 2014, when his son was interrogated and allegedly executed. One former detainee stated that he had seen Kudriavtsev alive on 14 July when he was being brought to the building of the former department to combat organized crime. According to him, on 15 July, he and two other detainees were sent to the second floor of the building, where he saw a corpse which he recognized as being Kudriavtsev. They reportedly packed the body in a garbage plastic bag and took it outside. The witness noticed a gunshot wound on the chest and that the scalp had been removed. The next day, he loaded the body onto a black Audi A6 without number plate but ignores where it was taken.<sup>138</sup>

19. On 10 November 2015, after numerous applications of the victim's father, in addition to previous charges under article 258 (terrorist act), the armed group commander was charged under articles 146 (illegal abduction) and 115 (killing of a person by a group of people upon their prior collusion) of the Criminal Code. At the time of publication of this report, he was alleged to be in the Russian Federation and was put on a wanted list by the Government of Ukraine. As of 1 June 2016, the investigation into the death of Kudriavtsev was ongoing.

*Pavlo Kalynovskiy, Andrii Malashniak, Andrii Norenko and Dmytro Vlasenko case*

20. HRMMU interviewed two Ukrainian soldiers who, on 5 September 2014, together with five other soldiers, were retreating through the corn fields around the villages of Kruta Hora, Raivka and Shyshkove (Slovianoserbskyi district, Luhansk region) after their unit was defeated by the armed groups. At approximately 7 or 8 p.m., the armed groups reportedly came across them and the group split. While the two witnesses and another soldier managed to hide in the grass, four others were captured – Mr Pavlo Kalynovskiy, Mr Andrii Malashniak (who had a shrapnel injury), Mr Andrii Norenko and Mr Dmytro Vlasenko. The witnesses heard members of the armed groups opening fire, ordering the four hidden soldiers to surrender. They also heard Kalynovskiy urging them not to shoot because one of the soldiers was wounded. The armed groups members reportedly said: 'let us put bags on their heads' and 'take them to the dam'. Shortly thereafter, the witnesses noticed a KamAZ truck leaving the area. The following day, they returned to the place and found none of their fellow servicemen, and assumed they had been captured alive.<sup>139</sup>

21. On 4 June 2015, the bodies of four men were recovered from a mass grave located some 500 metres to the east from the village of Kruta Hora, on the road to the village of Raivka. They were transferred to the Government-controlled territory and underwent forensic examination in Dnipropetrovsk. According to DNA tests, the bodies of Malashniak and Vlasenko were identified. To date, the other two bodies have not been identified. In March 2016, HRMMU obtained a video footage showing the bodies of four killed Ukrainian soldiers. The video was made by members of the armed groups, allegedly in the morning of 6 September 2014. One of the witnesses in the case identified the bodies as belonging to Kalynovskiy, Malashniak, Norenko and Vlasenko.<sup>140</sup>

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<sup>138</sup> HRMMU interview of 23 July 2015.

<sup>139</sup> HRMMU interview of 30 October 2015.

<sup>140</sup> *Ibidem*.



*Andrii Havryliuk case*

22. The Donetsk international airport, controlled by Ukrainian forces since May 2014, was under constant attacks by the armed groups of the ‘Donetsk people’s republic’. On 20 January 2015, a massive explosion in the basement of the new terminal resulted in the demolition of its second, third and fourth floors, and in the deaths and injuries of many of Ukrainian soldiers. Some of those injured died overnight; at least three of them survived, including Mr Andrii Havryliuk, who could not move as one of his arms and right leg were most probably fractured.

23. In the morning of 21 January, due to a lack of weapons, ammunition and medicine, one of the Ukrainian soldiers approached the armed groups to negotiate the evacuation of his injured colleagues. Sometime later, all Ukrainian military that remained in the building of the new terminal were captured by members of the so-called ‘Sparta’ battalion, loaded onto military trucks and taken to the ‘Sparta’ base in the city of Donetsk.<sup>141</sup> After extracting two less heavily injured soldiers from the building, members of the ‘Sparta’ went back to take Havryliuk. An injured Ukrainian soldier, who witnessed the scene from the truck, heard three single shots and saw armed group members exited the building shortly afterwards.<sup>142</sup>

24. On 5 February 2015, after his transfer to Government-controlled territory, the witness was shown a video footage of the bodies of Ukrainian servicemen in the demolished airport terminal and recognized Havryliuk among dead soldiers.<sup>143</sup> On the video, a gunshot wound is visible on the victim’s forehead. The body of Havryliuk was transferred to the Government-controlled territory by mid-February 2015. According to the forensic report obtained by HRMMU, the death of Havryliuk was caused by brain tunic haemorrhage and numerous open wounds of the head, including a penetrating gunshot.

*Ihor Branovytskyi case*

25. Mr Ihor Branovytskyi was among those Ukrainian soldiers who were captured and taken to the former military base used by the ‘Sparta’ battalion on 21 January 2015. All were reportedly lined up along a wall and beaten one after the other by some 20 people, for a few hours, with metal pipes, wooden batons and rifle butts. The perpetrators were reportedly looking for a machine gunner and when Branovytskyi said he was the one they were looking for, he was separated from the other detainees, beaten with a blunt object and sustained traumatic gunshot wounds, according to a forensic examination received by OHCHR. After Branovytskyi fainted, the commander of the battalion reportedly refused to call an ambulance and shot twice at the victim’s head. In addition to physical torture and ill-treatment, the other persons deprived of their liberty were subjected to mock executions.<sup>144</sup> An investigation into the execution of Branovytskyi has been carried out by the SBU since April 2015. On 12 August 2015, the alleged perpetrator was charged under article 115 (intentional homicide) of the Criminal Code and put on a wanted list.

*Albert Sarukhanian, Roman Sekh and Serhii Slisarenko case*

26. On 22 January 2015, the armed groups of the ‘Donetsk people’s republic’ claimed gaining control over the village of Krasnyi Partyzan (30km north of Donetsk). A video footage made by the armed groups was disseminated through social media and formed the basis of allegations that several Ukrainian soldiers captured in the village had been executed. In February and March 2015, nine Ukrainian soldiers who had been captured by

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<sup>141</sup> HRMMU interview of 16 December 2015.

<sup>142</sup> HRMMU interview of 21 December 2015.

<sup>143</sup> Ibidem.

<sup>144</sup> HRMMU interviews of 14 May 2015 and 7 October 2015.

the armed groups in the village on 22 January, were released. Three of them confirmed to OHCHR earlier allegations of the summary execution of three of their fellow soldiers – Mr Albert Sarukhanian, Mr Roman Sekh and Mr Serhii Slisarenko.<sup>145</sup>

27. On 22 January 2015, the armed groups of the ‘Donetsk people’s republic’ attacked an outpost of the Ukrainian Armed Forces in the village. A group of Ukrainian servicemen had to retreat to the two empty residential houses located nearby. After their surrender, four servicemen from one of the buildings were lined up along the wall of the neighbouring house. They were forced to sit on the ground and several members of the armed group approached them. A woman carrying a sniper rifle asked her fellow fighters if she could shoot, and made shot at Serhii Slisarenko several times, hitting his leg. As he was screaming with pain, another member of the armed group, shot him dead. The woman then reportedly fired two or three shots at Albert Sarukhanian, killing him, before shooting at Roman Sekh. Having injured another person deprived of his liberty, the members of the armed groups turned their attention to another group of seven Ukrainian military captured in the other building.<sup>146</sup>

28. A survivor of the events stated that the bloodshed ended when a member of the armed group asked his fellows to stop, adding “there would be plenty of time for this after securing the area”. The witness believes that the killings were carried out by members of the so-called ‘Vostok’ battalion, stating that those involved in this incident were subordinates of a ‘Vostok’ commander. After the latter arrived at the scene, they started loading two wounded soldiers and six other servicemen onto a truck, but not Roman Sekh, arguing that he was not going to survive.<sup>147</sup>

#### *A case in Vuhlehirsk*

29. In February 2015, seven Ukrainian soldiers, two of whom were injured, were captured by armed groups near the town on Vuhlehirsk (Donetsk region). Five of them were kept in a dug-out shelter, while one injured soldier was in the other dug-out shelter and the other injured – in a trench. The soldier interviewed by OHCHR heard several shots fired by the members of the armed groups. When passing by the places where injured soldiers had been, he saw them lying on the ground showing no sign of life. The remaining soldiers were forced into a hole, which was allegedly a shell crater, where they remained for some time, until members of the so-called ‘international Piatnashki battalion’ took one of them out. The interviewee heard a shot followed by a scream and a second shot shortly thereafter. As he and the three other soldiers were leaving the hole, the witness saw the soldier lying on the ground with blood on his back.<sup>148</sup>

#### *Roman Kapatsii case*

30. On 31 May 2015, a truck carrying six Ukrainian servicemen was attacked by armed groups near the village of Olenivka (Donetsk region).<sup>149</sup> The driver was shot dead and one of the soldiers, Mr Roman Kapatsii, was injured in the arm and leg and remained in the truck. Other soldiers jumped off the truck and hid behind the trees. When the attackers approached one of the soldiers (who was unarmed and injured), they told him to run to the truck if he wanted to live. Guarded by two armed groups’ members, he and Kapatsii, who was unconscious, were driven towards the city of Donetsk. On the road, as Kapatsii started regaining consciousness, a member of the armed group stabbed him in the chest. When the other soldier tried to intervene, he was forced to lie down, and stepped on the head and neck.

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<sup>145</sup> HRMMU interviews of 1 October 2015, 1 October 2015 and 7 October 2015.

<sup>146</sup> Ibidem.

<sup>147</sup> Ibid.

<sup>148</sup> HRMMU interview of 8 May 2015.

<sup>149</sup> HRMMU interview of 12 November 2015.

He could hear Kapatsii being stabbed. One of the armed groups' members suggested to shoot Kapatsii down and to throw him out.<sup>150</sup>

31. When they arrived at what seemed to be a military base near Donetsk, they were met by a man who introduced himself as a "major of the Russian army" and promised he would take care of them as they were injured and would guarantee their safety. Both were taken to the Donetsk regional trauma hospital where they received medical treatment. Medical documents of Kapatsii confirmed that he had multiple penetrating stab injuries to the chest and the abdominal area. While in Donetsk hospital, Kapatsii fell into a coma. His mother was notified that he was hospitalized in Donetsk and managed to reach him on 6 June.<sup>151</sup> On 2 July 2015, he was transferred to Government-controlled territory. On 11 December 2015, he died in the military hospital in Kyiv. The other soldier remained deprived of liberty by the armed groups in Donetsk until 20 February 2016.<sup>152</sup>

## **2. Territories controlled by Government**

*Alleged execution of a member of the armed groups near Vuhlehirsk*

32. According to a former Ukrainian serviceman, in early August 2014, soldiers of the 25<sup>th</sup> Separate Airborne Brigade of the Ukrainian Armed Forces killed a captured member of the armed groups, in early August 2014. According to him, servicemen of the brigade were patrolling in the outskirts of Debaltseve (Donetsk region) when they noticed a sabotage-reconnaissance group entering the town and attempted to capture its members. Two members of the group managed to escape and three were captured. One of them was shot to death.<sup>153</sup>

## **C. Arbitrary or summary executions**

### **1. Territories controlled by armed groups**

*Yurii Diakovskiy, Yurii Popravko and Volodymyr Rybak case*

33. On 18 April 2014, the bodies of Horlivka city councillor, Mr Volodymyr Rybak, and of a student and Maidan activist, Mr Yurii Popravko, were found in the river of Kazennyi Torets, near the settlement of Raigorodok (Sloviansk district, Donetsk region), bearing signs of torture. According to the forensic expertise, before his death, Rybak was tied; his abdomen ripped off, and he was thrown into the water. On 28 April, the body of a student and Maidan activist, Mr Yurii Diakovskiy, was recovered from the river at the same site, also bearing signs of torture.

34. Volodymyr Rybak was last seen alive on 17 April, at approximately 6 p.m., on Peremohy Avenue, in the city of Horlivka (Donetsk region), controlled by the armed groups. According to a witness, unidentified people forcefully took him to a car and drove away. Earlier on that day, he had reportedly tried to replace the flag of the self-proclaimed 'Donetsk people's republic' with the State flag of Ukraine near the building of the city council, but was rebuffed by supporters of the 'Donetsk people's republic'.

35. On 16 April 2014, Yurii Diakovskiy and Yurii Popravko were travelling to the nearby town of Sloviansk, which since 12 April 2014, was under the control of the armed groups of the 'Donetsk people's republic'. They were last seen alive at the border of Kharkiv and Donetsk regions, from which they reportedly continued their travel to Sloviansk on their

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<sup>150</sup> HRMMU interview of 5 April 2016.

<sup>151</sup> HRMMU interview of 12 November 2015.

<sup>152</sup> HRMMU interview of 5 April 2016.

<sup>153</sup> HRMMU interview of 29 March 2016.

own. According to the relatives of Diakovskiy, his last telephone call was at about 1.30 p.m., on 17 April 2014.

36. The Main Investigative Department of the Ministry of Internal Affairs established that all three men were kept at the premises of the SBU department of the town of Sloviansk. Two commanders of the armed groups allegedly involved in the death of the victims were charged and put on a wanted list. Three other individuals allegedly involved into the abduction, illegal deprivation of liberty and torture of the victims were charged under articles 146 (abduction) and 127 (torture) of the Criminal Code and put on a wanted list.

*Alleged summary executions in Luhansk region in summer 2014*

37. A considerable number of bodies bearing signs suggesting summary executions were found in the territories controlled by the armed groups during the summer of 2014. Because local police departments continued to partially perform their functions, they were able to record such cases but could not carry out the necessary investigations. For instance, on 1 July 2014, the local police of Luhansk region found the body of a man on the roadside, near the village of Uralo-Kavkaz (Krasnodon district of Luhansk region). He had gunshot wounds on the head and chest, and his hands were tied behind his back. On 11 July 2014, a local resident informed the police about the body of a man in civilian clothes, some 200 meters to the north of the village of Bashtevych (Antratsyt district of Luhansk region). The hands of the victim were tied behind his back with an electric cable, and he had a gunshot wound in the back of his head. On 15 July 2014, the police found the body of a resident of the town of Alchevsk (Luhansk region), in the forest belt near the village of Lozivskiy (Slovianoserbskiy district of Luhansk region). He had gunshot wounds on the forehead and behind the head, and his hands were handcuffed.

38. OHCHR obtained forensic data on some conflict-related deaths recorded in the town of Antratsyt (Luhansk region), when it was controlled by Cossack armed groups. Some of the records suggest arbitrary killings or summary executions. For instance, on 24 May 2014, a civilian male resident of the town died as a result of gunshot wound to his head. The circumstances of his death are described as “shot by Cossacks on the street”. On 28 June 2014, a civilian man died of a gunshot wound on his chest. He was “shot by militants in the commandant’s office”.

*Viktor Bradarskiy, Albert Pavenko, Ruvim Pavenko and Volodymyr Velichko case*

39. On 8 June 2014, in the town of Sloviansk then controlled by armed groups, the parishioners of the evangelical church ‘Transfiguration of Christ’ were holding the Sunday worship. By the end of the worship, armed men arrived at the church yard, designated four cars, and ordered their owners to come forward and have a talk with them.<sup>154</sup> The deacons, Mr Viktor Bradarskiy and Mr Volodymyr Velichko, and two sons of the church’s Head – Mr Albert Pavenko and Mr Ruvim Pavenko – came forward. The armed men forced them to get into their own cars and drove away.

40. In the morning of 9 June, local residents found a badly burnt body, allegedly that of Velichko, near a burnt car. The bodies of the Pavenko brothers were found next to the car on the same side, unburnt. Bradarskiy’s body was found in the reeds, about 20 metres away from the car. Those who found the bodies did not know the victims and took them to the local morgue, where they were stored until 10 June 2014, when electricity supply was cut. The bodies (allegedly together with some other bodies then stored in the morgue) were buried in a mass grave in the old Jewish cemetery of Sloviansk.

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<sup>154</sup> HRMMU interview of 31 July 2014.

41. On 5 July 2014, Ukrainian armed forces regained control of the town. On 24 July 2014, 14 bodies (13 men and one woman) were exhumed from the mass grave and transferred to the town morgue where photos of the bodies were taken and handed out to the local police department. The bodies of Viktor Bradarskyi, Albert Pavenko and Ruvim Pavenko were identified by their relatives. The body of Volodymyr Velichko could not be identified on the spot and was taken to Kharkiv forensic examination bureau. The bodies of Viktor Bradarskyi, Albert Pavenko and Ruvim Pavenko displayed multiple gunshot wounds and signs of torture. The other bodies belonged to victims of executions ordered by the ‘martial court’ of the ‘Donetsk people’s republic’ in Sloviansk and individuals who either died or was killed during the armed hostilities in the town.

42. Some executions were allegedly carried out by elements of armed groups, following a semblance of a judicial process and the imposition of a death sentence by armed groups. On 14 January 2016, in an interview with Komsomolskaya Pravda Radio<sup>155</sup>, former ‘minister of defence’ of the ‘Donetsk people’s republic’ stated the following regarding events that occurred in Sloviansk between April and July 2014: “[w]e had an acting martial court, and legislation of 1941 was introduced... And based on this legislation we judged, held courts, and we executed by shooting... In total, four people were executed by shooting during my presence in Sloviansk: two for looting among servicemen, one local resident for looting, and one for killing a serviceman, he was a committed *pravosek*”<sup>156</sup>. OHCHR obtained copies of the ‘judgements’ delivered by the ‘martial court’<sup>157</sup> which sentenced four individuals to death (cases of two of them are presented below).<sup>158</sup>

#### *Oleksandr Klymchuk case*

43. According to a ‘judgement’ of 22 June 2014, the ‘martial court’ found Mr Oleksandr Klymchuk ‘guilty’ of attacking two unidentified civilians, and of killing one and injuring the other with a knife, at the checkpoint of the armed groups in Kramatorsk (Donetsk region), on 2 June 2014. The ‘court’ ‘sentenced’ him to death through shooting. According to the transcript of the ‘hearing’, Klymchuk admitted guilty and repented all his deeds.

44. According to a person who, from 29 May to 15 June 2014, was held in the basement of the building of the former prosecutor’s office in Kramatorsk, then controlled by armed groups, an unknown man who, as he later learnt, was Oleksandr Klymchuk, was brought to his cell on 8 June 2014. Klymchuk stated he had been severely beaten and did not remember when exactly he had been captured by the armed groups. He only remembered that he had arrived at Kramatorsk after the Presidential election of 25 May 2014. He also said that members of the armed groups tried to convince him that he had killed someone.<sup>159</sup> Later, presumably on 10 June 2014, Klymchuk was apparently forced to ‘confess’ to a Russian journalist that he had killed a person and was taking drugs.<sup>160</sup> The witness was released on 15 June 2014 and was not aware of the fate of Klymchuk. On 10 November 2014, he identified Klymchuk on a photograph.

45. On 5 August 2014, the body of a man was exhumed from a grave at the Smolnyi cemetery, in the town of Sloviansk. According to the forensic examination, he died due to “an explosion which caused numerous fractures of the facial bones and severe damage to the brain”. On 28 January 2015, the State Criminalistics Research Centre established a probable relationship between Klymchuk’s mother and the examined body.

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<sup>155</sup> The audio file can be found at: <http://www.kp.ru/radio/stenography/142906/>

<sup>156</sup> A derogatory term referring to members of the Pravyi [Right] Sector.

<sup>157</sup> The ‘martial court’ comprised of ‘chair’ and ‘judges’, ‘prosecutor’, ‘defender’ and ‘secretary’.

<sup>158</sup> See two other cases in paragraphs 113-114 below.

<sup>159</sup> Protocol of the witness interrogation of 10 November 2014.

<sup>160</sup> The video file can be found at: <https://www.youtube.com/watch?v=hRuLnzqCum0>.

*Case of Oleksii Pichko*

46. On 17 June 2014, the ‘martial court’ ‘sentenced’ Mr Oleksii Pichko, a Sloviansk resident, to death for looting. On 14 June 2014, the victim reportedly illegally entered a civilian residence in Sloviansk and stole a pair of pants and two T-shirts. He was deprived of liberty the same night after being identified by local residents. Referring to the Decree of the Presidium of the Supreme Council of the USSR “On martial law” of 22 June 1941, Pichko was “sentenced” to execution by shooting. His body was exhumed on 12 August 2014. On 24 July 2014, a criminal investigation was initiated into his death under article 115 (intentional homicide) of the Criminal Code.

*Stepan Chubenko case*

47. In July 2014, Mr Stepan Chubenko, a 16-year-old resident of the Government-controlled town of Kramatorsk (Donetsk region), told his mother of his intention to go to Kyiv to see his friends. The last time he called her was on 23 July. On 25 July, a man who introduced himself as a ‘rebel’ from the ‘Donetsk people’s republic’ called his mother and said that Chubenko was deprived of liberty in Donetsk (controlled by armed groups) and sent to dig trenches. His body was found in early October 2014, in the outskirts of the village of Horbachevo Mykhailivka, near the trenches of armed groups. According to the victim’s mother, the body has partially decomposed and she was unable to identify her son; a DNA test later confirmed his identity.

48. Kramatorsk police established that on 27 or 28 July 2014, three members of the so-called ‘Kerch’ battalion of the ‘Donetsk people’s republic’ had taken Chubenko to a trench in the outskirts of the village and forced him on his knees. Two shot at his head while a third shot at him twice in the body. While the investigation falls short of providing a full account of the events, the pre-trial investigation is reportedly completed and the perpetrators are subject to trial *in absentia* as they are hiding.

49. One of the presumed perpetrators is allegedly deprived of liberty by the ‘ministry of state security’ of the ‘Donetsk people’s republic’ and awaits ‘trial’ in Donetsk for intentional homicide. The perpetrators reportedly executed Chubenko because they believed he was a member of the Right Sector and was complicit in the 2 May 2014 violence in Odesa.

*Hennadii Khitrenko case*

50. On 29 August 2014, Mr Hennadii Khitrenko, a retired policeman and a member of the village council of Krymske (Luhansk region), was murdered in his house. According to the forensic record, he died as a result of several gunshot wounds which caused damage to internal organs. According to the victims’ father, two local residents who had joined an armed group of the ‘Luhansk people’s republic’, came to his son’s house in the daytime, took him to the yard and shot him. The alleged perpetrators reportedly told the victim’s father not to do anything, threatening to otherwise massacre all his relatives in the village. According to the father, Khitrenko was killed because he was known to be a supporter of the territorial integrity of Ukraine. Several days before, he had gone to the military commissariat of the town of Lysychansk (Luhansk region) to volunteer into the National Guard of Ukraine.

*Olena Kulish and Volodymyr Alekhin case*

51. On 10 August 2014, at 4 a.m., in the village of Peremozhne (Lutuhinskyi district of Luhansk region) – then controlled by the ‘Luhansk people’s republic’ – eight armed men in camouflage broke into the house of Ms Olena Kulish and her husband Mr Volodymyr Alekhin. At that time, Alekhin, Kulish, her 75-year-old father and four neighbours’ children were hiding in the basement as the area was under heavy shelling. The armed men commanded Alekhin to get out saying that he was exactly who they needed. Both Alekhin and Kulish were delivering food to Ukrainian soldiers in the Luhansk airport and were

known for their ‘pro-unity’ views. Having searched the house, the armed men drove away the couple in Alekhin’s vehicle.

52. On 7 January 2015, the daughter of Kulish, who then resided in Kyiv, was informed by the ‘prosecutor’s office’ of the ‘Luhansk people’s republic’ that two bodies found near the village Piatyhorivka could be her parents. In March 2015, Alekhin’s mother and a friend of Kulish identified the bodies visually and the DNA expertise confirmed that the woman’s body was Kulish. According to the forensic expertise, both victims died of several gunshots to the head. Alekhin bore signs of beating with a dull object, while his wife had fractures of the cranium. In June 2015, the bodies were handed over to the family for burial.<sup>161</sup>

53. The perpetrators allegedly belonged to the so-called separate special brigade ‘Odessa’ of the ‘ministry of state security’ of the ‘Luhansk people’s republic’. According to the ‘prosecutor’s office’ of the ‘Luhansk people’s republic’, they have been deprived of liberty in connection with an ‘investigation’ of the other ‘case’, but indicated the burial site.

#### *The Bochnevychs case*

54. On 22 August 2014, four residents of the village of Peremozhne (Lutuhynskiy district of Luhansk region) controlled by the armed groups – Serhii, Viktoria, Kateryna and Hryhorii Bochnevych – were executed by the armed groups. According to the victims’ relatives, they intended to flee the village, fearing reprisals from the armed groups for providing food to the Ukrainian military deployed to the Luhansk airport. The day of the killing, a relative had gone to the victims’ house and noticed yellow cargo minivan in front of it. She also noticed armed men in the yard. Seven armed men were seen at the Bochnevychs’ house on 22 August 2014, reportedly coming from the nearby village of Pershozvanika.<sup>162</sup>

55. In the evening of 22 August 2014, Hryhorii’s brother came to the house and found four bodies. According to the forensic record obtained by OHCHR, Hryhorii Bochnevych was shot. According to a neighbour, Kateryna was shot in the head. Viktoria was still alive for some time and a local resident living nearby tried to provide first medical aid but the armed men soon returned and killed her. Serhii’s body was found in one of the outbuildings with bullet wounds.<sup>163</sup>

#### *Liana Vidak, Margarita Vidak and Marina Fedorenko case*

56. On 9 September 2014, Ms Margaryta Vidak, her six-year-old daughter Liana and her mother-in-law Maryna Fedorenko went to the village of Shchotove (Anratsyt district of Luhansk region) to check their property (they had left to the Russian Federation some time before). The same day, six armed Cossacks (most likely from the so-called ‘Rus’ armed group) arrived at the house, reportedly to check the local rumours that “those gypsies have gold hidden in their garden and that is why they keep coming back”. After the women got into an argument with the Cossacks, they (one of them with a call sign Pop) took them and the girl to the town of Anratsyt (then controlled by Cossacks) for “interrogation”. Reportedly, the ‘Rus’ commander was informed by phone about the deprivation of liberty of two Roma women and a girl who were “disobeying the authorities”, and ordered “to scare them well and let them go”.<sup>164</sup>

57. On 18 September 2014, their relative posted an announcement on a social network, VKontakte, with a request to provide any information about the disappeared.<sup>165</sup> In November

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<sup>161</sup> HRMMU interview of 18 August 2015.

<sup>162</sup> HRMMU interview of 4 April 2016.

<sup>163</sup> Ibidem.

<sup>164</sup> HRMMU interview of 8 April 2016.

<sup>165</sup> [https://vk.com/wall167364743\\_3775](https://vk.com/wall167364743_3775)

2014, their bodies were found in the forest belt near the village of Orikhivka (Lutuhinskyi district of Luhansk region). OHCHR obtained forensic data stating that the victims died on 10 September 2014 as a result of gunshot injuries to their heads. According to relatives of the victims, no action against the alleged perpetrators has been taken.<sup>166</sup>

#### *Brianka case*

58. In August 2015, 17 bodies were reportedly recovered in the town of Brianka (Luhansk region). The bodies were allegedly victims of the so-called 'Brianka SSSR' battalion, an armed group which has been controlling the town since April 2014.

59. According to a former member of the battalion who fled to the Russian Federation, fearing for her life, the battalion was stationed some four kilometres from the contact line, and was never involved in direct hostilities. It reportedly kept the entire town under terror as its members reportedly targeted everyone – civilians (for instance because they were drunk or violated curfew), members of other armed groups, or of their own fellows. There were reportedly no requirements set for recruiting new members in the battalion. Whoever was coming would receive meals and weapons. Members of the battalion reportedly committed grave human rights abuses, including executions, rapes, abductions, torture and ill-treatment.

60. In August 2015, the 'law enforcement' of the 'Luhansk people's republic' allegedly started to investigate killings, abductions and looting by members of the battalion. Its commander and his deputy were reportedly deprived of liberty.

## **2. Territories controlled by Government**

#### *Anton Verenich and Vasyl Verenich case*

61. On 31 July 2014, Mr Anton Verenich and Mr Vasyl Verenich were detained by Ukrainian military on suspicion that they were engaged in artillery spotting for the armed groups of the 'Luhansk people's republic'. They were taken to the unit of the Ukrainian Armed Forces then located in a recreational facility located near the village of Vesela Hora (Slovianoserbskyi district, Luhansk region). The men were held in a dry well with round concrete walls. A drunken soldier, reportedly convinced that they were involved in the death of a colleague, threw a combat grenade into the well, killing both men.

62. On 1 August 2014, the Office of the Military Prosecutor opened an investigation into the killing. On 29 March 2016, the alleged perpetrator was charged under article 115 (intentional homicide) of the Criminal Code. On 30 March 2016, the Novoaidarskyi district court of Luhansk region ruled on his custodial detention until 28 May 2016, pending investigation.

#### *Dmytro Piven case*

63. On 7 September 2014, Mr Dmytro Piven, a resident of the Government-controlled city of Mariupol (Donetsk region), was found dead in the forest belt, near the nearby village of Shevchenko. According to his mother, his face was in blood, there was a big wound on his head, and the body was covered with bruises and abrasions. According to the autopsy record, the death was caused by a blunt heavy trauma on the head and neck. A criminal investigation was initiated by the Pershotravnevnyi district police department of Mariupol under articles 146 (kidnapping) and 115 (intentional homicide) of the Criminal Code.

64. Based on the available security camera footage and numerous witness statements, the investigation established that on 6 September 2014, at approximately 6.45 p.m., Piven was handcuffed by a person in plain clothes near the entrance to the 'Amstor' shopping centre,

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<sup>166</sup> HRMMU interview of 8 April 2016.



where the victim was working for a charity foundation. The person had introduced himself as an SBU officer to the employees of the shopping centre who came to see what was happening, and showed a service ID. He asked them not to interfere, claiming the victim was a ‘terrorist’. By that time, several men in camouflage without insignia came out of the shopping centre. They sat in two cars, together with the SBU officer and Piven, and left the parking, heading to the city’s exit, presumably towards Mariupol airport. When the victim’s mother approached the checkpoint of the Ukrainian military at the entrance to the airport later that day, she was advised that no one had been brought to the airport.

65. Since 15 July 2015, the criminal investigation into the death of Piven was picked up by the Office of the Military Prosecutor of Donetsk garrison and, as of 13 April 2016, by the Office of Military Prosecutor of the Anti-Terrorist Operation Forces. The SBU officer suspected of detaining Piven has been terminated. Investigations to identify the other individuals involved in the death of Piven are ongoing.

*Mykyta Kolomyitsev and Serhii Tsarenko case*

66. On 23 September 2014, the ‘Donetsk people’s republic’ announced the discovery of mass graves in the vicinity of the village Nyzhnia Krynka, 35 km north east of Donetsk. One of these graves – located near the entrance to the village – contained five bodies, which were identified as members of the armed groups killed in action.

67. Two graves discovered on the territory of the ‘Komunarska No 22’ mine were exhumed between 23 and 26 September, each containing two bodies, according to the ‘office of the prosecutor general’ of the ‘Donetsk people’s republic’. The head of one victim was covered with a canvas bag, and his hands and feet were bound with tape. The men were killed by gunshots to the heads and chests. The ‘office of the prosecutor general’ estimated that they had died 10 to 14 days before the exhumation. According to the Makiivka ‘police department’, “witnesses claimed that the Dnipro-1 volunteer battalion was stationed at Mine 22, while Nyzhnia Krynka had been used as a base by the 25<sup>th</sup> Paratrooper Brigade from Dnipropetrovsk”.<sup>167</sup>

68. On 15 October 2014, HRMMU visited the three grave locations and interviewed the relatives of two victims whose bodies were reportedly identified – Mr Mykyta Kolomyitsev and Mr Serhii Tsarenko. According to Kolomyitsev’s relative, he used to help the armed groups by standing at their checkpoints and digging trenches. On 20 August 2014, he had come to the village of Komunar and stayed at his grandmother’s house. On the same day, he was crossing the main square in front of the “Palace of Culture” (DK) when Ukrainian servicemen allegedly detained him. When another relative of Kolomyitsev went to the DK to solicit his release, he was told by an officer that Kolomyitsev had been arrested on suspicion of separatism and transferred to Dnipropetrovsk in order to be exchanged.<sup>168</sup>

69. HRMMU was also informed that the other identified victim, Serhii Tsarenko, was a person with a disability at birth (mental disability), and was delivering humanitarian aid, mainly food, to elderly local residents. He also allegedly grew cannabis for sale. According to his relative, on 12 September 2014, he and another local resident were arrested by Ukrainian servicemen. The latter was soon released while Tsarenko was transferred to the DK. On 13 September 2014, Ukrainian servicemen came to question the relative and told him that Tsarenko had been arrested on suspicion of drug dealing.<sup>169</sup>

70. HRMMU is not aware of any progress in the ‘investigation’ carried out by the ‘Donetsk people’s republic’. According to the Office of the Prosecutor General, since 3

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<sup>167</sup> Amnesty International. Summary Killings during the Conflict in Eastern Ukraine, p. 13.

<sup>168</sup> HRMMU interview of 15 October 2014.

<sup>169</sup> Ibidem.

November 2014, Kramatorsk department of the National Police carries out pre-trial investigation into the death of nine persons found in the three mass graves.

*Oleksandr Agafonov case*

71. In the morning of 14 November 2014, a Donetsk resident Mr Oleksandr Agafonov was stopped at the Iziium checkpoint, in Kharkiv region, while driving to Donetsk with his wife and an infant. They were asked to go to the police station for an interview. Agafonov was not formally arrested, but from that time was detained by the police. At 6 p.m., a so-called ‘filtering group’ composed of two uniformed masked men and an SBU officer entered the police station and took Agafonov away. They brought him back at 9 p.m. Agafonov complained about not feeling well. An hour later, an ambulance called by the police declared his death. According to the forensic record, the death was caused by a shock and a closed blunt injury to the chest.

72. On 2 December 2014, OHCHR learnt that the identity of the SBU officer, who had taken Agafonov from the police station, had been established. However, the investigation found that he had not taken part in torturing Agafonov, and was therefore neither arrested, nor suspended from his duties. In October 2015, two SBU officers were charged under articles 146 (kidnapping) and 365 (abuse of authority) of the Criminal Code in relation to the Agafonov’s death. On 28 October 2015, the Dzerzhynskyi District court of Kharkiv released both officers on bail. In May 2016, the Office of the Prosecutor of the Anti-Terrorist Operation indicted the suspects on charges under articles 127 (torture committed by a group of persons upon prior conspiracy), 135 (leaving in danger which resulted in death of a person) and 365 (excess of authority or powers by a law enforcement officer which caused grave consequences) of the Criminal Code. The investigation established that the suspects tortured the victim in the premises of Iziium SBU (beating and electrocuting) to force him to confess of his affiliation with the armed groups. The preliminary court hearings in the case were to start in June 2016.

*Volodymyr Bukreniov case*

73. On 17 January 2015, Mr Volodymyr Bukreniov, a resident of the Government-controlled town of Toretsk (then Dzerzhynsk; Donetsk region), was returning home by car from the village of Ocheretyne, with his brother and a friend. They stopped on a roadside some 700 metres after the village in order to let the military convoy moving from the opposite direction pass by. When one of the vehicles from the convoy – identified by witnesses as a KRAZ light armoured vehicle of white-grey colour – approached Bukreniov’s car, two armed men in camouflage stepped out and ordered the three men to leave the car and lay face down on the ground. While one of them was searching the car for “blocks” (probably explosives), others called Volodymyr and his friends “terrorists”, asking who they were and where they were coming from. As Volodymyr tried to talk to them in a friendly manner, an armed man hit him on the back with a rifle butt. Another pointed at him, saying “finish off this one”. The witness then heard a submachine gun burst. The armed men then grabbed two of the witnesses and forced them to run into the forest belt nearby. One armed man fired several shots at the Bukreniov’s car before proceeding towards the village of Ocheretyne with the other armed man.<sup>170</sup>

74. When the armoured vehicle left, Volodymyr’s companions put him into the car and took him to Dzerzhynsk; he died before they arrived at hospital. According to the medical certificate, Bukreniov died of acute bleeding caused by multiple bullet wounds to his face, chest and lungs.<sup>171</sup> The Dzerzhynsk Department of Internal Affairs opened a criminal

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<sup>170</sup> HRMMU interview of 2 March 2016.

<sup>171</sup> *Ibidem*.

investigation into the case, which was then transmitted to the Druzhkivskiy Police Department. The investigation is ongoing, with no alleged perpetrators identified as of 1 June 2016.

*Volodymyr Kulmatytskyi and Hennadii Holota case*

75. On 28 January 2015, Mr Volodymyr Kulmatytskyi and his driver Mr Hennadii Holota were abducted in the Government-controlled town of Sloviansk (Donetsk region). On 31 January 2015, their bodies were found in Kharkiv region with gunshot wounds to their heads. As former deputy mayor of the town of Sloviansk (from 2011 to July 2014), Kulmatytskyi was an important witness in the high profile case of former mayor of Sloviansk Ms Nelia Shtepa.<sup>172</sup>

76. Following a criminal investigation, three servicemen of the special patrol police battalion 'Dinpro-1' were arrested, charged under articles 146 (illegal confinement or abduction of a person) and 263 (unlawful handling of weapons, ammunition or explosives) of the Criminal Code in relation to the death of Kulmatytskyi and Holota. The criminal proceeding against a fourth serviceman and the only suspect in the murders was suspended after he died in unclear circumstances (either killed or having committed suicide during his arrest). On 21 September 2015, after a one-day court hearing in Dnipropetrovsk, the three men were sentenced to four years of imprisonment, with a three-year probation period, and were immediately released from custody.

77. A friend of Kulmatytskyi who was able to see some materials of the criminal investigation informed HRMMU that he suspected the abduction and murder may have been contracted. According to the document he saw, one of the perpetrators stated that before being killed, the victims were offering large sums of money to their abductors, and one of them (the one who was killed or committed suicide during his arrest), made a phone call seeking instructions.<sup>173</sup>

*Vadim Bobrov case*

78. On 18 September 2014, Mr Vadim Bobrov was killed in his apartment in the Government-controlled town of Shchastia (Luhansk region). According to his neighbours, four men in military uniform came to her son's apartment, asked who was living there and closed the door. Some neighbours heard Bobrov screaming as well as a gunshot. When his body was found, his hands were reportedly tied with tape.<sup>174</sup> The criminal investigation initiated into his death has been ongoing since 22 September 2014. According to the Sievierodonetsk Prosecutor's Office, as of 23 May 2016, the identities of persons complicit in the death of Bobrov have not yet been established.

*Oles Buzyna case*

79. On 16 April 2015, Mr Oles Buzyna, a journalist, writer and former chief editor of the 'Segodnia' newspaper, was killed close to his home in Kyiv. He died of gunshot wounds to his head and chest. Reportedly, two masked men shot him from a car. The police initiated investigation into the incident under article 115 (intentional homicide) of the Criminal Code. Buzyna was known for his criticism of the Government, particularly in relation to the Maidan events and the conflict in the east.

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<sup>172</sup> Nelia Shtepa has been accused under articles 110 (trespass against territorial integrity) and 258-3 (creation of a terrorist group or terrorist organisation) of the Criminal Code for alleged facilitation of seizure of the town by the armed groups in April 2014.

<sup>173</sup> HRMMU interview of 14 September 2015.

<sup>174</sup> HRMMU interview of 3 March 2016.

80. On 18 June 2015, the police detained two suspects in the case. On the same day, the Minister of Internal Affairs announced that the investigation had revealed direct evidence (including DNA match) of the suspects' involvement. The defence claimed that when Buzyna was killed, the suspects were not in Kyiv but in the security operation area: one – in the ranks of the Right Sector Voluntary Corps (DUK), and the other – in the special patrol police battalion 'Harpun'.

81. On 9 December 2015, the Pecherskyi District Court of Kyiv changed the measure of restraint for one of the suspects from being held on bail to a 24-hour house arrest, based on a request of the prosecution which considered that the grounds for holding him in custody had become irrelevant. On 3 February 2016, the court, on its own discretion changed the measure of restraint to prohibition to leave his place of habitual residence from 10 p.m. to 6 a.m. despite a request of the prosecution to extend the previous measure of restraint. On 25 March 2016, the Pecherskyi District Court rejected the prosecution's motion on extension of a measure of restraint and decided to release him for personal obligations.

82. On 31 December 2015, Kyiv City Court of Appeals changed the measure of restraint for the second suspect from custodial detention to a 24-hour house arrest. On 28 January 2016, the Pecherskyi District Court changed this measure to a prohibition to leave his apartment from 7 p.m. to 8 a.m., considering "the specific circumstances of the case, information of the suspected person, his appropriate behaviour during pre-trial investigation and fulfilment of procedural obligations imposed on him during previously ruled measures of restraint".

*Bakulin, Plotnykov and Ustinov case*

83. On 3 November 2014, Mr M. Ustynov, Mr S. Bakulin and Mr A. Plotnykov were abducted by a group of unidentified armed men in camouflage from a restaurant in Sievierodonetsk (Luhansk region). On 7 November, police inspecting a residential house in Starobilsk (Luhansk region) after the explosion of a grenade, found the bodies of the three men in the basement with signs of torture. The house was occupied by armed men who called themselves "commandant's office of 'Aidar' battalion". In the course of investigations carried out by the Office of the Military Prosecutor, four persons were arrested under charges of abduction followed by homicide. None of the Governmental armed formations has acknowledged three of them as their servicemen while one had a document suggesting that he was a serviceman of 24<sup>th</sup> territorial defence battalion 'Aidar'.

84. As of 1 June 2016, 10 servicemen of 'Aidar' battalion were tried by Leninskyi District Court of Kharkiv for the case of Bakulin, Plotnykov and Ustinov. Eight have been accused of abduction, and two of them also face charges under article 115 (intentional homicide committed by a group of persons upon their prior collusion) of the Criminal Code. The court hearings were widely attended by supporters of the accused, who often violated order in the court room, expressing disagreement with prosecution or the court. On 18 March 2016, following the prosecutor's motion to hear the case in a closed-door session so as to ensure the security of the parties, he was attacked by supporters of the accused.<sup>175</sup> As of 1 June 2016, the accused remain in custody.

*Volodymyr Nazdrychkin case*

85. On 18 February 2015, a former sergeant of the special police battalion 'Kyiv-2' sent an open letter to the Prosecutor General, requesting the opening of a criminal investigation into the incident which occurred during the night of 20 to 21 November 2014 at the traffic police check point 'Buhas', near the Government-controlled town of Volnovakha (Donetsk region). He claimed that on 20 November 2014, at approximately 7 p.m., servicemen of his

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<sup>175</sup> Ruling of the Leninskyi District Court of Kharkiv of 18 March 2016 (available at: <http://reyestr.court.gov.ua/Review/56569556>).

battalion stopped a car some 300 metres away from the check point. The driver, Mr Volodymyr Nazdrychkin, was allegedly intoxicated with alcohol. Two servicemen of the battalion reportedly handcuffed him to a tree and beaten him for a long time. He was then reportedly brought to the premises of the check point and chained to a radiator. From approximately 1.00 a.m. to 2.00 a.m. on 21 November, he was allegedly beaten by the commander of 'Kyiv-2' battalion and then driven to an unknown destination. At approximately 2.30, Nazdrychkin's car was reportedly exploded upon the commander's instruction. According to the latter, Nazdrychkin was attempting to explode his car near the checkpoint and escaped into the field after his car was stopped by the gunfire of 'Kyiv-2' servicemen. After searching the car, servicemen reportedly found explosives in the trunk and decided to blow up the car, arguing it could have detonated at any moment. The former sergeant claimed that the car was exploded in order to stage an attack on the check point.

86. On 22 November 2014, the Volnovakha police department received information that near the village of Dmytrivka (Volnovakha district of Donetsk region), by the forest belt, a body was found. It was identified as belonging to Nazdrychkin. A criminal investigation was initiated into his death, with no tangible results so far. OHCHR learned from the legal counsel of the victim party that despite availability of direct evidence about the involvement of commanders of the 'Kyiv-2' battalion, no measures were taken to verify these.<sup>176</sup> Despite the availability of witnesses, no suspect has been identified. Ukrainian human rights defenders believe that the local police, who investigated the case, feared reprisals from members of the battalion which is located in the same town.<sup>177</sup>

#### *Denys Fomenko case*

87. On 18 June 2015, Mr Denys Fomenko disappeared near the Government-controlled checkpoint in Yasynuvata district while trying to cross the contact line to the Government-controlled areas. Fomenko was travelling on a bus which passed the first Government check point in Verkhniotoretske. All passengers then had to get off the bus and walk for three km till the next check point at Fenolna station.<sup>178</sup> Reportedly, on that day, the checkpoint was operated by the 53<sup>rd</sup> brigade of the Ukrainian Armed Forces with the presence of SBU officers. All passengers had permit to cross the contact line, except for Fomenko. He had his Ukrainian passport for travelling abroad with a stamp from a recent visit to the Russian Federation.<sup>179</sup> Reportedly, Fomenko was not allowed to pass the second check point at Fenolna station and was seen by other passengers returning back to the first check point.

88. At 9.17 a.m. Fomenko reportedly called his mother, explaining that he was not let through and was returning. Nineteen minutes later he answered his mother's call, saying he had been injured by a mine (or a booby trap) and required help; he said he was presumably near the village of Novobahmutivka (23 kilometres to the west from the road between the check points). Immediately after the call, his mother started to search for him with the help of volunteers from that area. On 24 June 2015, she filed an application with the Ukrainian police and SBU. On 9 July 2015, the police department in Druzhkivka (Donetsk region)

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<sup>176</sup> HRMMU interview of 12 April 2016.

<sup>177</sup> "Searching for Justice: Investigation of Crimes Related to Violations of Rights to Life, Freedom and Physical Integrity and to Freedom from Torture in the Anti-Terrorist Operation Zone – Deficiencies in the Work of Investigative Bodies and Recommendations of Human Rights Defenders" by the Centre for Civil Liberties, p. 40.

<sup>178</sup> The distance between the two check points is approximately 15 kilometres.

<sup>179</sup> From 26 July 2014 till 8 May 2015, he has been in the Russian Federation (Arkhangelsk region) visiting his grandmother. According to his mother, he was neither politically, nor military active in the territories controlled by the armed groups.

opened a criminal investigation into the death of Fomenko under article 119 (negligent homicide) of the Criminal Code.

89. On 14 July 2015, Fomenko's mother was invited to identify the body of a man in the morgue of Druzhkivka. The body was found on 11 July 2015 near the village Novhorodske (400 meters from the Fenolna station check point). While she recognized her son's personal belongings, she refused to confirm the identity without a DNA test as the body was in a very bad condition.

90. On 6 October 2015, she notified HRMMU that the DNA test confirmed that the body belonged to her son. As of 1 June 2016, there had been no development in the investigation into Fomenko's death. His mother was not given an opportunity to familiarize herself with the materials of the case or see the forensic report; in that regard, the investigator invoked the secrecy of the investigation and stated that the report was not ready. She was told that her son died of injuries caused by the explosion of a booby trap which is indicated in the death certificate.

#### *Volodymyr Cherepnia case*

91. On 27 December 2015, Mr Volodymyr Cherepnia, a resident of the city of Mariupol (Donetsk region), went by car to his country house in the nearby village of Vodiane, which is located on Government-controlled territory, near the contact line. Having passed three check points of Ukrainian forces, he called his wife informing her that he was driving to the village. This was the last call he gave to his family, and nobody managed to contact him thereafter.

92. On 2 January 2016, the police of Mariupol found the burnt car of Cherepnia in Zhovtnevyi district in Mariupol. On 10 January 2016, his body was found in the river, in Hnutove settlement. The police initiated a criminal case into his death and the car arson. The investigation reportedly established that on 27 January 2015, Cherepnia was detained by servicemen of the Ukrainian Armed Forces deployed in the village, and that his house had been looted.<sup>180</sup>

## **D. Death during deprivation of liberty**

### **1. Territories controlled by armed groups**

#### *A death in Donetsk (May 2014)*

93. A woman, who had been kidnapped on 22 May 2014 and deprived of liberty for five days by the 'traffic police' and members of the armed groups of 'Donetsk people's republic' for assisting the Ukrainian armed forces, claimed that her captors beat another detainee to death in her presence.<sup>181</sup>

#### *Oleksandr Asieiev and Dmytro Pikalov case*

94. On 22 July 2014, Ukrainian forces regained control of the town of Sievierodonetsk (Luhansk region), which had been controlled by the armed groups since 7 July 2014. According to the then head of Luhansk Regional Department of Internal Affairs, the bodies of two men, whose identities were established as those of Mr Oleksandr Asieiev and Mr Dmytro Pikalov, with gunshot wounds on their heads were found in the building of town's ITT. On 23 July 2014, the investigative department of Sievierodonetsk police opened a criminal case under article 115 (intentional homicide) of the Criminal Code. According to the Office of the Prosecutor General, the identity of the alleged perpetrator was established; since he was reportedly killed in action, the criminal investigation was closed.

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<sup>180</sup> HRMMU interview of 24 February 2016.

<sup>181</sup> HRMMU interview of 5 May 2015.

*Oleksandr Yevtushenko case*

95. On 30 July 2014, the Ukrainian armed forces regained control over the town of Avdiivka (Donetsk region). During the tour around the fortified positions of the armed groups, they found a garage with handcuffs, 5.45 mm shells and blood traces on the wall and the floor. A dozen meters away, they found the body of a person with an injured knee and a gunshot wound in the chest.<sup>182</sup> The victim was identified as Mr Oleksandr Yevtushenko. On 2 August 2014, a criminal investigation into his death was initiated under article 115 (intentional homicide) of the Criminal Code with no suspects identified as of 1 June 2016.

*Execution in Snizhne (September 2014)*

96. A Ukrainian serviceman, who was deprived of liberty for several weeks by the armed groups in August and September 2014, was kept with his fellow soldiers in a cell at the former ITT in the town of Snizhne (Donetsk region) then controlled by the armed groups. On 4 or 5 September 2014, an UAZ vehicle with an open cabin and a detachable canvas roof was parked in the yard of the ITT. The witness saw a man younger than 30 in underpants sitting in rear bodywork of the UAZ. His hands were handcuffed to handles above the doors. His body was blue and his back particularly badly injured.<sup>183</sup>

97. The man was allegedly a local civilian accused of looting by the armed groups. Guards strictly forbade anybody to give him food or water. The witness saw him sitting in UAZ in the same crooked pose (as there were no seats) for four to five days; his fellow soldiers told him that the man was held in UAZ for more than a week. He was not provided with any food, water or medical aid. At day-time he suffered from heat and the sun, and at night he would reportedly howl in agony because of cold. At about 12.00 on 13 September 2014 he reportedly passed away. Members of the armed groups put his body into a black plastic bag and took him away.<sup>184</sup>

*Mykhailo Slisenko case*

98. On 5 September 2014, while passing through the checkpoint on the Shchastia – Metalist road, 1.5 km away from the village of Tsvitni Pisky (Luhansk region), a group of 23 servicemen of the voluntary ‘Aidar’ battalion were ambushed by members of the armed groups (allegedly of the so-called battalions ‘Zaria’ and ‘Rusichi’). After a fight that lasted approximately 15 minutes, two ‘Aidar’ servicemen escaped while the others were killed or captured. Mr Mykhailo Slisenko was one of those captured. A video footage shows him sitting on the backseat of a car and interviewed by a journalist. He introduces himself as Slisenko, a serviceman of the ‘Aidar’ battalion. He appears to be calm, speaks freely, with no signs of violence. The video then shows him being convoyed by members of the armed groups.<sup>185</sup> His whereabouts have since been unknown.

99. Two men reportedly saw Slisenko on 5 or 6 September 2014 while being deprived of liberty by the ‘Zaria’ battalion in the building of the military commissariat in Luhansk. One of them, a Ukrainian soldier, stated he had seen him being beaten to death by 20 members of an armed group while he was handcuffed to a crossbar. The handcuffs were allegedly released after some 15 minutes of beating and he then reportedly was thrown on the floor

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<sup>182</sup> Video footage is available at: <http://inforesist.org/zverstva-dnr-v-avdeevke-shokiruyushhie-kadry-18/>

<sup>183</sup> HRMMU interview of 21 April 2016

<sup>184</sup> Ibidem.

<sup>185</sup> [https://www.youtube.com/watch?v=FQv0sP7lxyw&oref=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DFQv0sP7lxyw&has\\_verified=1](https://www.youtube.com/watch?v=FQv0sP7lxyw&oref=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DFQv0sP7lxyw&has_verified=1)

showing no sign of life. Twenty minutes later, a so-called ‘black doctor’ entered the room, examined the body and established the death, indicating it resulted from a heart attack.<sup>186</sup>

100. Slisenko’s death was confirmed by a chaplain of the ‘Aidar’ battalion, who had first met the victim in June 2014. He reportedly saw his dead body, along with another, on 7 September, in the premises of the former Luhansk military commissariat, when he was being taken out to the exercise ground, near the toilets. The chaplain heard members of the ‘Zaria’ battalion talking about the disposal of the bodies at the dump, as they were beginning “to smell and attract flies”.<sup>187</sup>

## **2. Territories controlled by Government**

### *Serhii Niiesh Papa case*

101. On 13 June 2014, the volunteer ‘Aidar’ battalion detained Mr Serhii Niiesh Papa (call sign Batya), the leader of the ‘local self-defence of the town of Shchastia (Luhansk region) called the ‘9<sup>th</sup> Company’. His legs were broken and he was kept in the basement of the sausage production facility in the village of Polovinkino (Shchastia district of Luhansk region) where the ‘Aidar’ battalion has been based since May 2014. The man died due to gangrene, reportedly for not receiving medical aid. He was buried nearby.<sup>188</sup> On 26 March 2015, following the application of a relative of Niiesh Papa about his disappearance, a criminal case under article 115 (intentional homicide) of the Criminal Code was initiated with no progress as to identification of his whereabouts and alleged perpetrators achieved as of 1 June 2016.

### *Viacheslav Kazantsev case*

102. On 18 December 2014, Mr Viacheslav Kazantsev was detained by SBU in the town of Artemivsk (Donetsk region), on charges under article 258 (terrorism) of the Criminal Code. On 19 December 2015, at 00.35, he was taken to the Mariupol ITT with a medical certificate from the city’s emergency hospital, with hematomas on the face. On 20 December 2014, the Zhovtnevyi district court of the city of Mariupol detained him for 60 days. On 23 December 2015, he was transferred to Mariupol SIZO where he underwent a medical examination which established that he had numerous hematomas on his face and body as well as several broken ribs. According to the SIZO record, Kazantsev said he suffered these injuries from falling down on his own. On 25 December, an SBU convoy took him from SIZO for carrying out investigative actions. The same day, he was delivered to the emergency department with bodily injuries and died there.

103. On 14 January 2015, a criminal investigation was initiated into his death, allegedly caused by SBU officers, under article 121 (intended grievous bodily injury which caused death) of the Criminal Code. As of 1 June 2016, OHCHR was not aware of any progress in the investigation.

## **E. Disappearances which may have led to death**

### *Serhii Dolhov case*

104. In June 2014, the ‘Azov’ battalion (together with ‘Dnipro-1’ battalion) was deployed to the Government-controlled city of Mariupol (Donetsk region). On 18 June 2014, six armed men wearing balaclavas entered the premises of the ‘Vestnik Piazovia’ newspaper whose editor-in-chief, Mr Serhii Dolhov, was known for his ‘pro-federalism’ sympathies. According to an eyewitness, the armed men beat him. Then they took him away. Local

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<sup>186</sup> HRMMU interview of 2 October 2015.

<sup>187</sup> Ibidem.

<sup>188</sup> HRMMU interview of 25 September 2015.



residents saw Dolhov being forced into the trunk of a car. Neither local police who arrived to the scene, nor the local prosecutor had any information about him and referred to “other forces present in the city”.

105. On 15 September 2015, during a meeting with the Head of Donetsk Regional State Administration, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions raised the case of Dolhov. On 12 October 2015, HRMMU received a response from the Main Department of the Ministry of Internal Affairs in Donetsk region, stating that on 21 June 2014, the Zhovtnevyi district department of the Ministry of Internal Affairs in Mariupol had opened criminal proceedings into the killing of Dolhov under article 115 (intentional homicide) of the Criminal Code. As of 1 June 2016, Dolhov’s DNA profile did not match profiles of any of the unidentified bodies found since the time of his disappearance, and no progress was achieved in establishing his whereabouts.

#### *Maksim Popov case*

106. On 12 August 2014, Mr Maksim Popov, a citizen of the Russian Federation, disappeared in Donetsk region on his way to the city of Nalchik (the Russian Federation) where he was travelling alone in his car from the town of Kakhovka. The last time he contacted his family he texted them he had been arrested by the Ukrainian military as he was approaching the ‘Novoazovsk’ border crossing point. Two days later, his wife went through the same route, looking for him. At all checkpoints, Ukrainian forces remembered having seen Popov’s car and confirmed that had let him pass. It is only at ‘Novoazovsk’ check point that she did not receive any information, and she was threatened with a gun by Ukrainian soldiers manning the check point.

107. On 16 August 2014, Mrs Popov contacted the deputy commander of the then ‘Shakhtarsk’ voluntary special police patrol battalion (currently ‘Tornado’ special police patrol company), who, by phone, confirmed Popov’s detention and agreed to release him upon payment of a certain sum of money. On 17 August, after apparently unsuccessful negotiations between a friend of Popov and the deputy commander of the battalion, the latter informed Popov’s wife her husband had escaped after injuring his guards.

108. On 24 February 2015, Mykolaivskiyi police department opened a criminal investigation into Popov’s disappearance under article 115 (intentional homicide) of the Criminal Code. As of 1 June 2016, his whereabouts remained unknown. Residents of the Government-controlled town of Sievierodonetsk (Luhansk region) told his wife that as of April 2015, the deputy commander of ‘Tornado’ company was using a Hummer H2 car which she recognised as her husband’s, according to the descriptions. In the 62<sup>nd</sup> episode of a TV programme “Classified materials”, an unidentified participant in the security operation confirmed the detention of a “Russian who has a Hummer car”. “This Hummer he [then deputy commander of Shakhtarsk battalion] seized it. Until now, he drives this Hummer”, he said.<sup>189</sup>

#### *Oleksandr Minchonok case*

109. On 21 July 2014, a resident of the town of Lysychansk (Luhansk region) Mr Oleksandr Minchonok was detained by a group of armed men, while he was driving his grandmother to hospital in Kharkiv. They took his grandmother to the hospital in the village of Rubizhne, while Minchonok and his car were taken to some other place. HRMMU received an account of a former member of ‘Aidar’ battalion, who stated that his fellow servicemen had stopped Minchonok’s car seeking an automatic gearbox for the instructor of their battalion. The victim was reportedly killed<sup>190</sup>; his body has not been recovered.

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<sup>189</sup> Can be accessed at: [https://www.youtube.com/watch?v=Ppb0\\_-tHU90](https://www.youtube.com/watch?v=Ppb0_-tHU90).

<sup>190</sup> HRMMU interview of 25 September 2015.

110. On 25 June 2015, the instructor was arrested in Kyiv on charges under articles 146 (illegal confinement or abduction of a person) and 289 (unlawful appropriation of a vehicle) of the Criminal Code. The investigation established that along with other members of ‘Aidar’ battalion, he illegally seized the victim’s car. He was placed in custody, but further to pressure by the so-called ‘patriotic’ groups on the court, his measure of restraint was changed to a non-custodial one; he was released and reportedly fled Ukraine.

*Serhii Kutsenko case*

111. On 24 July 2015, Mr Serhii Kutsenko drove to the Government-controlled town of Krasnohorivka (Donetsk region), where he was to have a meeting. In the evening, his brother called their mother to alert her that he had seen Kutsenko’s car driving past him with two men wearing military uniform. He noticed the windshield was broken. As she was unable to contact her son, Ms Kutsenko went to all check points in the area in search for him. At a check point, a serviceman told her he had seen her son driving from Krasnohorivka but he later saw two military men driving the car back.

112. Sometime after, Ms Kutsenko and her younger son saw Kutsenko’s car, decided to follow it and called the police. The police questioned the men who were in the car. The following day, SBU found the mobile phone of Kutsenko on the side of the road leading to Kurakhove. On 26 July 2015, a criminal case into his disappearance was initiated under article 115 (intentional homicide) of the Criminal Code, and on 25 May 2016, a suspect in the case was detained. As of 1 June 2016, the pre-trial investigation was on-going.

## **F. Killings within the armed groups and Governmental forces**

### **1. Within the armed groups**

113. On 24 May 2014, a ‘company commander’ of the ‘militia’ of the ‘Donetsk people’s republic’ Mr Dmitry Slavov (call sign Bolgar) and a ‘platoon commander’ Mr Nikolai Lukyanov (call sign Luka) were sentenced to death by a ‘martial court’ in Sloviansk). The ‘order’ announcing their execution is dated 26 May 2014 and was signed by the ‘commander of DPR militia’.<sup>191</sup> The two men were incriminated for “looting, armed robbery, abduction of a person, leaving the military positions and concealing committed crimes”.

114. A man, deprived of liberty for being drunk during the curfew by members of the armed groups in Donetsk, was punished with 21 days of compulsory labour for the so-called ‘Somali’ battalion. He was taken to the Donetsk airport, part of which was controlled by the armed groups, where he spent several days. On 9 or 10 November 2014, he witnessed two members of the so-called ‘Somali’ battalion being caught drunk while on guard. The man heard battalion commander ordering their execution by shooting. They were beaten; their chevrons were torn off, they were undressed and taken somewhere. The witness did not see them after the incident.<sup>192</sup>

### **2. Within Governmental forces**

*Serhii Kostakov case*

115. On 22 November 2014, Mr Serhii Kostakov, a serviceman of the 72<sup>nd</sup> separate mechanised brigade of the Armed Forces, went missing in the Government-controlled town of Volnovakha (Donetsk region). He was last seen during the night of 23 November at the checkpoint ‘Bugas’ manned by the ‘Kyiv-2’ special police patrol battalion. He was alive but had reportedly been beaten and handcuffed to a radiator inside the checkpoint building.<sup>193</sup> Only half a year later, on 2 June 2015, his body was found near the village of

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<sup>191</sup> [http://lb.ua/news/2014/05/26/267846\\_seti\\_poyavilsya\\_prikaz\\_strelka.html](http://lb.ua/news/2014/05/26/267846_seti_poyavilsya_prikaz_strelka.html)

<sup>192</sup> HRMMU interview of 8 April 2014.

<sup>193</sup> HRMMU interview of 12 April 2016.

Prokhorivka (Volnovakhskyi district of Donetsk region). According to the victim's lawyer, he sustained a number of gunshot wounds in the head and his hands were cuffed.

116. The victim was known for his public statements exposing the illegal activities of his commanders which, according to his lawyer, could have been the cause for his death. The investigation into his death was conducted by the police, with the Office of the Military Prosecutor not taking procedural control of the investigation, despite the high probability that the crime may have involved military elements.<sup>194</sup>

*Dmytro Shabratskyi case*

117. On 26 March 2015, Mr Dmytro Shabratskyi, a commander of the 3<sup>rd</sup> reconnaissance and sabotage squad of the 'Aidar' battalion, was found dead on the territory of the military unit in the town of Lysychansk (Luhansk region). According to the forensic report, he died as a result of a penetrating gunshot injury in the head and a mine-blast trauma. The victim also reportedly sustained an open gunshot fracture of the left thighbone. Despite the nature of the injuries, the National Police, who investigated the case, concluded that it was a suicide.

118. According to the victim's lawyer, the investigation failed to take reasonable steps to investigate the case. For example, they were no ballistic tests. The lawyer collected accounts of the victim's co-servicemen, who said that he had a conflict with the commanders of the battalion. No internal investigation was conducted by the military authorities, despite the statements by the victim's parents that two servicemen of the battalion had reportedly threatened their son on several occasions. On 30 March 2016, the National Police closed the investigation into the death of Shabratskyi invoking the absence of elements of a crime. The victim's lawyer has filed an appeal to challenge the decision.<sup>195</sup>

### **III. Violations and abuses of the right to life in the Autonomous Republic of Crimea and the city of Sevastopol**

#### **A. Summary executions**

*Reshat Ametov case*

119. On 3 March 2014, Mr Reshat Ametov, a pro-Ukrainian activist, disappeared after staging a one-man picket in front of Crimea's government building in Simferopol. He was allegedly led away by three men in military-style jackets. Footage of the incident was shown on the Crimean Tatar television channel ATR.

120. The following day, the victim's family reported him as missing to the local police and disseminated information about his disappearance through social networks. They did not receive any detailed information about his fate or whereabouts from their police contact who alleged that Ametov had been briefly deprived of liberty by 'self-defence' groups and subsequently released. Reportedly, a local representative of the 'self-defence' groups informed the family that he was only taken away from the square but was not held "in custody" by 'self-defence' forces.

121. On 15 March 2014, Ametov's body was found 67km east of Simferopol, in the village of Zemlyanichne (Bilohirsk district), bearing signs of torture. He was hand-cuffed, with adhesive tape over his mouth. Criminal proceedings were opened by the Crimean 'police' under article 105 (murder) of the Criminal Code of the Russian Federation. Reportedly, more than 270 witnesses have been questioned and over 50 forensic analyses

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<sup>194</sup> Ibidem.

<sup>195</sup> Ibid.

conducted into this case.<sup>196</sup> However, no perpetrator has been identified. OHCHR is not aware of whether the video recordings purportedly showing Ametov being taken from the site of the 3 March protest was subject to expert analysis and whether any steps were taken to identify and find the three men shown in the videos.

## **B. Disappearances which may have led to death**

122. Since March 2014, OHCHR identified ten cases (all men) of people who went missing in Crimea under circumstances which could suggest a criminal intent and political motivations. These circumstances include witness accounts, the profile of the victims and the fact that some disappearances appear to have resulted from abductions involving paramilitary groups often associated with the so-called Crimean ‘self-defence’. Once reported, the disappearances are investigated by the ‘Crimean police’, but so far they have not yielded any concrete results.

123. On 7 March 2014, Mr Ivan Bondarets and Mr Vladyslav Vashchuk, both Maidan activists from Rivne (western Ukraine), went missing after arriving at the Simferopol railways station from Kyiv. At 7.30 a.m., Vashchuk had called his sister to inform her of their arrival and complained he had been searched and had undergone identity checks upon arrival at the station. Their trace has since been lost.

124. On 15 March 2014, Mr Vasyl Chernysh, an Automaidan activist and a former SBU member, who lived in Sevastopol, went missing. Before he disappeared, he had posted messages on his Facebook page criticizing former SBU colleagues for continuing to work after the Russian flag was hoisted on the SBU building in Sevastopol. HRMMU is not aware of any request addressed to the Crimean ‘police’ to investigate this case.

125. On 26 May 2014, Mr Timur Shaimardanov left his home in Simferopol and has since gone missing. On 30 May, Mr Seiran Zinedinov, an acquaintance of Shaimardanov, who had been coordinating efforts to find him, also went missing. Both men belonged to the pro-unity political movement ‘Ukrainian House’. On 9 July 2014, the Crimean ‘police’ opened criminal proceedings in connection with the disappearances of Shaimardanov and Zinedinov. Relatives of the two men have been questioned by the ‘police’ and other investigative work has been conducted. However, both are still reported as missing.

126. On 27 September 2014, two men in black uniform were allegedly seen by witnesses forcing Mr Isliam Dzhapparov and his cousin, Mr Dzhevdet Islyamov, into a dark blue Volkswagen minibus outside the village of Sary-Su near Bilohirsk (central Crimea). Both men were observant Muslims. In 2013, Dzhevdet Islyamov allegedly spent several months in Syria. None of them was known to have participated in anti-Russian rallies. Dzhapparov’s father, Abdureshyt, stated that the version of the ‘police’ was that the abduction was linked to his political activism and squabbles over land rights on the peninsula. Until 2013, Abdureshyt Dzhapparov was deputy chairman of the Mejlis, and was involved in allocating land to Crimean Tatars returnees. The ‘police’ opened criminal proceedings into the case but the whereabouts of the two men remain unknown.

127. On 23 October 2014, Mr Ernest Usmanov, a Crimean Tatar from Simferopol, disappeared after the ‘police’ conducted a search of his apartment.

128. On 27 August 2015, Mr Mukhtar Arislanov, a Crimean Tatar, disappeared in the city Simferopol. A witness allegedly saw two men in police uniform forcing him into a minivan.

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<sup>196</sup> See “List of issues in relation to the seventh periodic report of the Russian Federation to the United Nations Human Rights Committee. Replies to additional questions by members of the Committee concerning the seventh periodic report of the Russian Federation on its implementation of the International Covenant on Civil and Political Rights”; Human Rights Committee, 18 December 2014, p. 26, paragraph 173.

On 3 September 2015, the Investigative Committee of the Russian Federation in Crimea opened criminal proceedings. On 10 September 2015, Crimean ‘police’ officers searched Arislanov’s house without providing any explanation to his wife. After the search, his wife was summoned for an interrogation.

129. On 25 May 2016, Mr. Ervin Ibrahimov, member of the Coordination Council of the World Congress of the Crimean Tatars and member of the Bakhchysarai Regional Mejlis went missing. The Investigative Committee of the Russian Federation initiated a criminal case into his disappearance. As of 1 June 2016, his whereabouts were unknown.

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# Annex 50

U.N. General Assembly Resolution 72/190, U.N. Doc. A/Res/72/190 (19 December 2017).







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Seventy-second session  
Agenda item 72 (c)

## Resolution adopted by the General Assembly on 19 December 2017

[on the report of the Third Committee (A/72/439/Add.3)]

### 72/190. Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine

*The General Assembly,*

*Guided* by the purposes and principles of the Charter of the United Nations, and recalling the Universal Declaration of Human Rights,<sup>1</sup> international human rights treaties and other relevant international instruments and declarations,

*Recalling* the Geneva Conventions of 12 August 1949<sup>2</sup> and Additional Protocol I thereto, of 1977,<sup>3</sup> as applicable, as well as relevant customary international law,

*Confirming* the primary responsibility of States to promote and protect human rights,

*Reaffirming* the responsibility of States to respect international law, including the principle that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State and from acting in any other manner inconsistent with the purposes of the United Nations, recalling its resolution 2625 (XXV) of 24 October 1970, in which it approved the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and reaffirming the principles contained therein,

*Recalling* its resolution 68/262 of 27 March 2014 on the territorial integrity of Ukraine, in which it affirmed its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders, resolution 71/205 of 19 December 2016 on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine),

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<sup>1</sup> Resolution 217 A (III).

<sup>2</sup> United Nations, *Treaty Series*, vol. 75, Nos. 970–973.

<sup>3</sup> *Ibid.*, vol. 1125, No. 17512.



and relevant decisions of international organizations, specialized agencies and bodies within the United Nations system,

*Condemning* the ongoing temporary occupation of part of the territory of Ukraine – the Autonomous Republic of Crimea and the city of Sevastopol (hereinafter “Crimea”) – by the Russian Federation, and reaffirming the non-recognition of its annexation,

*Supporting* the commitment by Ukraine to adhere to international law in its efforts to put an end to the Russian occupation of Crimea, and welcoming the commitments by Ukraine to protect the human rights and fundamental freedoms of all its citizens,

*Reaffirming* the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law,

*Welcoming* the reports of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Ukraine, of the Commissioner for Human Rights of the Council of Europe, and of the human rights assessment mission of the Office for Democratic Institutions and Human Rights and the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe, in which they stated that violations and abuses of human rights continued to take place in Crimea and pointed to the sharp deterioration of the overall human rights situation,

*Welcoming also* the report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine), submitted pursuant to resolution [71/205](#)<sup>4</sup>

*Reaffirming its grave concern* that the human rights monitoring mission in Ukraine continues to be denied access to Crimea, despite its existing mandate, which covers the entire territory of Ukraine within its internationally recognized borders,

*Condemning* the imposition and retroactive application of the legal system of the Russian Federation, and its negative impact on the human rights situation in Crimea, the imposition of automatic Russian Federation citizenship on protected persons in Crimea, which is contrary to international humanitarian law, including the Geneva Conventions and customary international law, and the regressive effects on the enjoyment of human rights of those who have rejected that citizenship,

*Condemning also* the reported serious violations and abuses committed against residents of Crimea, in particular extrajudicial killings, abductions, enforced disappearances, politically motivated prosecutions, discrimination, harassment, intimidation, violence, including sexual violence, arbitrary detentions, torture and ill-treatment, in particular to extract confessions, and psychiatric internment, and their transfer or deportation from Crimea to the Russian Federation, as well as reported abuses of other fundamental freedoms, including the freedoms of expression, religion or belief and association and the right to peaceful assembly,

*Reaffirming its serious concern* at the decision of the so-called Supreme Court of Crimea of 26 April 2016 and the decision of the Supreme Court of the Russian Federation of 29 September 2016 to declare the Mejlis of the Crimean Tatar People, the self-governing body of the Crimean Tatars, to be an extremist organization and to ban its activities,

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<sup>4</sup> See [A/72/498](#).

*Condemning* the increasing pressure exerted upon religious minority communities, including through frequent police raids, threats against and persecution of those belonging to the Ukrainian Orthodox Church of the Kyiv Patriarchate, the Protestant Church, mosques and Muslim religious schools, Greek-Catholics, Roman Catholics and Jehovah's Witnesses, and condemning also the baseless prosecution of dozens of peaceful Muslims for allegedly belonging to Islamic organizations,

*Taking note* of the order of the International Court of Justice of 19 April 2017 on provisional measures in the case concerning the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*,<sup>5</sup>

*Recalling* the prohibition under the Geneva Conventions of 12 August 1949 for the occupying Power to compel protected persons to serve in its armed or auxiliary forces, including through pressure or propaganda that is aimed at securing voluntary enlistment,

*Underlining* the importance of the measures to develop transparent, accessible, non-discriminatory and expeditious procedures and regulations governing access to Crimea for human rights defenders, journalists and lawyers, as well as the possibility to appeal, in accordance with national legislation and in conformity with all applicable international law,

*Welcoming* the support provided by Ukraine to media outlets and civil society organizations that have fled Crimea, which improves the ability of the media and civil society to work independently and without interference,

*Welcoming also* the continued efforts of the Secretary-General, the United Nations High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe, the Council of Europe and other international and regional organizations to support Ukraine in promoting, protecting and ensuring human rights, and expressing further concern over the lack of safe and unfettered access by established regional and international human rights monitoring mechanisms and human rights non-governmental organizations to Crimea,

1. *Condemns* violations, abuses, measures and practices of discrimination against the residents of the temporarily occupied Crimea, including Crimean Tatars, as well as Ukrainians and persons belonging to other ethnic and religious groups, by the Russian occupation authorities;

2. *Also condemns* the unlawful imposition of laws, jurisdiction and administration in the occupied Crimea by the Russian Federation, and demands that the Russian Federation respect obligations under international law with regard to respecting the laws in force in Crimea prior to occupation;

3. *Urges* the Russian Federation:

(a) To uphold all of its obligations under applicable international law as an occupying Power;

(b) To fully and immediately comply with the order of the International Court of Justice of 19 April 2017 on provisional measures in the case concerning the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*;<sup>5</sup>

<sup>5</sup> See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 4 (A/72/4)*, chap. V, sect. A.

(c) To take all measures necessary to bring an immediate end to all violations and abuses against residents of Crimea, in particular reported discriminatory measures and practices, arbitrary detentions, torture and other cruel, inhuman or degrading treatment, and to revoke all discriminatory legislation;

(d) To respect the laws in force in Ukraine and to repeal laws imposed in Crimea by the Russian Federation that allow for forced evictions and the confiscation of private property in Crimea, in violation of applicable international law;

(e) To immediately release Ukrainian citizens who were unlawfully detained and judged without regard for elementary standards of justice, as well as those transferred or deported across internationally recognized borders from Crimea to the Russian Federation;

(f) To address the issue of impunity and ensure that those found to be responsible for violations and abuses are held accountable before an independent judiciary;

(g) To create and maintain a safe and enabling environment for journalists, human rights defenders and defence lawyers to perform their work independently and without undue interference in Crimea;

(h) To restore enjoyment of the rights of all individuals, without any discrimination based on origin and on religion or belief, and to revoke the decisions that banned cultural and religious institutions, non-governmental organizations, human rights organizations and media outlets, and to restore enjoyment of the rights of individuals belonging to ethnic communities in Crimea, in particular Ukrainians and Crimean Tatars, including to engage in cultural gatherings;

(i) To ensure the availability of education in the Ukrainian and Crimean Tatar languages;

(j) To revoke immediately the decision declaring the Mejlis of the Crimean Tatar People an extremist organization and banning its activities, repeal the decision banning leaders of the Mejlis from entering Crimea and refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions;

(k) To end the practice of compelling Crimean residents to serve in the armed or auxiliary forces of the Russian Federation, including through pressure or propaganda;

(l) To cooperate fully and immediately with the Office of the United Nations High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe and the Council of Europe on the situation of human rights in Crimea;

4. *Requests* the Secretary-General to seek ways and means, including through consultations with the United Nations High Commissioner for Human Rights and relevant regional organizations, to ensure safe and unfettered access to Crimea by established regional and international human rights monitoring mechanisms, in particular the human rights monitoring mission in Ukraine, to enable them to carry out their mandate;

5. *Urges* the Russian Federation to ensure the proper and unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea, including all places where persons may be deprived of their liberty, recognizing that the international presence in Crimea is of paramount importance in preventing further deterioration of the situation;

6. *Supports* the efforts of Ukraine to maintain economic, financial, political, social, informational, cultural and other ties with its citizens in the occupied Crimea in order to facilitate their access to democratic processes, economic opportunities and objective information;

7. *Requests* the Office of the United Nations High Commissioner for Human Rights to prepare, by the end of its seventy-second session, the second dedicated thematic report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, and to update the Human Rights Council on the issue at its thirty-seventh session, in accordance with the existing mandate and within the existing resources of the human rights monitoring mission in Ukraine, which is currently funded by voluntary contributions;

8. *Requests* the Secretary-General to take all necessary steps to ensure the full and effective coordination of all United Nations bodies with regard to the implementation of the present resolution;

9. *Decides* to continue its consideration of the matter at its seventy-third session under the item entitled “Promotion and protection of human rights”.

*73rd plenary meeting  
19 December 2017*



# Annex 51

Direct Line with Vladimir Putin, President of Russia (17 April 2014)





# Direct Line with Vladimir Putin

The annual special Direct Line with Vladimir Putin was broadcast live by Channel One, Rossiya-1 and Rossiya-24 TV channels, and Mayak, Vesti FM and Radio Rossii radio stations.

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Especially popular in the course of the discussion were questions about Crimea, including the socioeconomic situation in Russia's new regions – the Crimean Republic and Sevastopol, the development of Russia's Black Sea Fleet, and the situation regarding the Crimean Tatars. There were also questions about the situation in Ukraine, and the assessment of the developments in the southeast of the country.

The discussion also touched upon international issues, such as relations with the West and NATO, the deployment of US anti-missile defence systems in Europe, the situation with Transnistria, and economic issues related to the global oil and gas markets. Vladimir Putin answered questions not only from citizens of Russia, but of other countries as well, for instance from experts of the Valdai Club from Germany, the US and Hungary, and a question from Edward Snowden.

Numerous questions dealing with the country's life were raised, including those related to healthcare, housing and utility services, relief efforts following the largest ever flood in the Far East last year, prospects for the future use of Olympic facilities in Sochi, as well as ways of instilling patriotism, and building relations with the opposition.

There were also a few personal questions. In the final part of the Direct Line, the President answered questions of his own choice.

During the live television broadcast that lasted 3 hours 54 minutes, the President responded to a total of 81 questions and appeals.

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**Direct line programme host Kirill Kleymenov:** Good afternoon,

You are watching Direct Line with President Vladimir Putin. Here in the studio today are Maria Sittel and Kirill Kleymenov.

**Direct line programme host Maria Sittel:**

Good afternoon,

I could say that we are having today yet another conversation with Vladimir Putin, however the situation is different since the country we are talking to now has changed. After waiting for 23 years, since the breakup of the Soviet Union, Crimea and Sevastopol have joined Russia. For this reason, every question today will be directly or indirectly related to Crimea.

We will discuss a number of issues today, including healthcare, army, taxes, agriculture and, naturally, Ukraine. There is no doubt that we'll discuss developments in Ukraine's southeast and the genocide that was unleashed in this region. Ukraine is sliding into civil war.

**Kirill Kleymenov:** Our colleagues Olga Ushakova, Valeriya Korableva, Tatyana Stolyarova and Dmitry Shchugorev will assist us during today's broadcast, while Tatyana Remizova and Anna Pavlova are working in the call and SMS processing centre.

I would like to remind you that you can watch us live on Channel One, as well as on Rossiya-1 and Rossiya-24 TV channels, and on Russia's Public Television channel, where interpretation into sign language will be available for people with impaired hearing. Radio listeners can join our conversation on Mayak, Vesti FM and Radio Rossii stations.

We are live with President Vladimir Putin.

**Tatyana Remezova:** Good afternoon, colleagues! Hello, Mr President.

Our call centre has been working for a week, and we will continue to take calls during the Direct Line broadcast. You can call us at the toll-free number 8 (800) 200–4040 or send text messages to 04040. There is a separate Moscow number, which is also toll free, for residents of the Republic of Crimea and Sevastopol: +7 (495) 539–2442. People from other countries can call us at the number you can see on the screen.

Over the past eight days, our call centre has received over two million questions, or 17,500 per minute – we are definitely going to set a new record – and many callers just say, “Thank you for Crimea.”

**Anna Pavlova:** Good afternoon. I’d like to remind you that this year you can send video questions to the President from your PC or any mobile device. Our operators continue to accept your messages on the websites [www.moskva-putinu.ru](http://www.moskva-putinu.ru) and [москва-путину.рф](http://москва-путину.рф). There is still time to record and send your questions.

I’d like to tell you that this is the first time that this programme will be broadcast with a sign-interpreted version on our website. These new options have been introduced to increase the audience.

Maria, Kirill, back to you.

**Kirill Kleymenov:** So, about Ukraine. Events are unfolding there with an incredible and sometimes alarming speed. Indeed, two months ago, during the Olympic Winter Games on February 17, no one thought that Crimea would reunite with Russia and that people in eastern Ukraine would stop armoured convoys sent from Kiev with their bare hands.

Mr Putin, the first question is perfectly obvious: What do you think about the events underway in the Lugansk and Donetsk regions?

**President of Russia Vladimir Putin:** Before I answer your question, I’d like to go back a little to review recent events in Ukraine. As you know, President Yanukovich refused to sign the Association Agreement with the EU. No, he did not refuse to sign it, but said

that he could not sign it on the EU conditions, because it would dramatically worsen the socioeconomic situation in Ukraine and affect Ukrainians. Yanukovich said that he needed more time to analyse the document and to discuss it together with Europeans. This provoked public unrest that eventually culminated in an unconstitutional coup, an armed seizure of power. Some liked it, and some did not. People in eastern and southeastern regions of Ukraine were worried about their future and the future of their children, because they saw a rapid growth of nationalist sentiments, heard threats and saw that [the new authorities] wanted to invalidate some of the ethnic minorities' rights, including the rights of the Russian minority. On the other hand, this description is relative, because Russians are native persons in Ukraine. But an attempt was made to invalidate all decisions regarding the use of the native language. This alarmed people, of course. What happened next?

Instead of starting a dialogue with these people, Kiev appointed new governors – oligarchs and billionaires – to these regions. People are suspicious of oligarchs as it is. They believe that they earned their riches by exploiting people and embezzling public property, and these oligarchs have been appointed to head their regions. This only added to the public discontent. People chose their own leaders, but what did the new government do to them? They were thrown into prison. Meanwhile, nationalist groups did not surrender their weapons, but threatened to use force in the eastern regions. In response, people in the east started arming themselves. Refusing to see that something was badly wrong in the Ukrainian state and to start a dialogue, the government threatened to use military force and even sent tanks and aircraft against civilians. It was one more serious crime committed by the current Kiev rulers.

I hope that they will see that they are moving into a deep hole, and that they are pulling their country along. In this sense, the talks that will start today in Geneva are very important, because I believe that we should get together to think about ways out of this crisis and to offer people a real, not sham, dialogue. The current Kiev authorities have travelled to the eastern regions, but who do they talk to there? They talk to their appointees. There's no need to go to Donbass for this, because they can summon them to Kiev for a meeting. They should talk with people and with their real representatives, with those whom people trust. They should release the arrested [opponents], help people to express their opinion in an organised manner, suggest new leaders and start a dialogue.

People in the eastern regions are talking about federalisation, and Kiev has at long last started talking about de-centralisation. But what do they mean? To be able to understand what they mean, they should sit down at the negotiating table and search for an acceptable solution. Order in the country can only be restored through dialogue and democratic procedures, rather than with the use of armed force, tanks and aircraft.

**Kirill Kleymenov:** So far the dialogue has started between diplomats: top diplomats from the United States, Russia, the European Union and Ukraine are meeting in Geneva at this very moment. Russia is represented by Foreign Minister Sergei Lavrov. Could you outline Russia's stance at the talks in just a few words?

**Vladimir Putin:** I just did exactly that. We feel strongly that this should not be a sham dialogue between representatives of the authorities, but a dialogue with the people to find the compromise I was talking about.

**Kirill Kleymenov:** How would you respond to the statements coming from both Kiev and the West about Russia being behind the protests in eastern Ukraine, allegedly staged and financed by "Moscow's hand"? They even claim that certain Russian armed units are there.

**Vladimir Putin:** Nonsense. There are no Russian units in eastern Ukraine – no special services, no tactical advisors. All this is being done by the local residents, and the proof of that is the fact that those people have literally removed their masks. So I told my Western partners, "They have nowhere to go, and they won't leave. This is their land and you need to negotiate with them."

**Maria Sittel:** I'm sure we'll get back to the events in the southeast later in the course of this conversation. Now let's talk about Crimea and how you took the decision. You never gave as much as a hint about Crimea over the course of your political career. You must have thought about it, but you never even mentioned Crimea in private talks.

So how was this decision made? Can you tell us again? Was this opposed by any members of your team? What was your assessment of the possible risks, from international sanctions to the civil war we are watching unfold now?

**Vladimir Putin:** The most obvious risk was that the Russian speaking population was threatened and that the threats were absolutely specific and tangible. This is what made Crimean residents, the people who live there, think about their future and ask Russia for help. This is what guided our decision.

I said in my recent speech in the Kremlin that Russia had never intended to annex any territories, or planned any military operations there, never. Quite to the contrary, we were going to build our relations with Ukraine based on current geopolitical realities. But we also thought, and have always hoped, that all native Russians, the Russian-speaking people living in Ukraine, would live in a comfortable political environment, that they would not be threatened or oppressed.

But when this situation changed, and Russians in Crimea were facing exactly that, when they began raising the issue of self-determination – that’s when we sat down to decide what to do. It was at this exact moment that we decided to support Crimeans, and not 5, 10 or 20 years ago.

I discussed this problem with the Security Council members, and no one objected. In fact all of them supported my position. And I’m more than happy now that all the steps in the action plan were taken in a very precise manner, quickly, professionally and resolutely.

**Kirill Kleymenov:** I would say the way the plan was executed was unique and unparalleled in history.

Mr Putin, we who live in Russia are very well aware of how things are done here. But indeed, this was done very quickly – a complicated referendum was organised in the shortest time possible, security issues addressed, and Ukrainian units disarmed – that really gave the impression of a long-planned and prepared action.

**Vladimir Putin:** No. This had not been pre-planned or prepared. It was done on the spot, and we had to play it by ear based on the situation and the demands at hand. But it was all performed promptly and professionally, I have to give you that.

Our task was not to conduct a full-fledged military operation there, but it was to ensure people's safety and security and a comfortable environment to express their will. We did that. But it would not have been possible without the Crimeans' own strong resolution.

Also, I must say that I didn't add the concluding line to my Kremlin speech – about initiating a draft law on the inclusion of Crimea in the Russian Federation – until the very last day, last moment, because I was waiting for the referendum results. Polls and surveys are one thing, along with certain groups' sentiments, but a referendum is the expression of the will of all the residents of an area. It was very important for me to know what their will was.

So when the voter turnout reached 83 percent and more than 96 percent supported Crimea's inclusion in the Russian Federation, it became obvious that this decision was made by the majority, if not unanimously. In this situation, we couldn't have done otherwise.

**Kirill Kleymenov:** We'll return to your Kremlin speech later. Now we have an opportunity to hear from Crimea.

**Maria Sittel:** Let's invite Sevastopol, a hero city and a city of military glory – to join in our discussion. Our camera crew in Sevastopol, Dmitry Kaistro and Nikolai Dolgachyov.

**Dmitry Kaistro:** Good afternoon, Mr President.

Good afternoon, colleagues and everybody who tuned in.

Sevastopol is indeed a city of Russian glory. There are hundreds of people gathered here, in the heart of the city, on Primorsky Boulevard. There are people from all walks of life, including navy and civilian personnel. These are people who voted for the accession of Crimea and Sevastopol to Russia.

We are currently working at two sites; this is not the only location. Another site is located very close to the sea. My colleague, Nikolai Dolgachyov, is working there.

**Nikolai Dolgachyov:** Here, on the very shore of the famous Sevastopol Bay where the Russian Black Sea Fleet is based and has been based for over 200 years, people have gathered from across Crimea. There are students and pensioners, veterans, workers, doctors and representatives of self-defence units. We are ready to talk.

Good afternoon, colleagues. Good afternoon, Mr President.

**Vladimir Putin:** Good afternoon.

**Nikolai Dolgachyov:** Primorsky Boulevard is indeed the heart of Sevastopol. The main symbols of the city are located right there. They are the Grafskaya Quay, a memorial to sunken ships, and Admiral Nakhimov Square, named after the navy man who fought and died as an infantry lieutenant. Local residents bring flowers to his statue every night. This is something you will see only here, in Sevastopol.

Sevastopol is a symbol, a fortress, a city full of special meaning for Russia's destiny. And the people of Sevastopol have been contesting that meaning for a long 23 years, which concerns the right to speak Russian and the right to Russian values. They defended their rights. Almost the entire city voted in favour of joining Russia.

Today, Sevastopol residents came here to ask their questions. And they have many. Who would like to ask a question? Please introduce yourself.

**Larisa Medvedeva:** The civilian personnel of the military units are very concerned about the fate of the Black Sea Fleet. For many of us, the fleet means work and people and the only unique artillery repair plant. What will happen to the Black Sea Fleet and other state-owned enterprises?

**Vladimir Putin:** You probably know better than anyone else in Russia that we had certain agreements with Ukraine on upgrading the fleet. Unfortunately, those agreements were not diligently fulfilled, if at all. We had many problems with upgrading the fleet. I hope there will be no such problems anymore and that the major part of modern vessels and support ships will be transferred from Novorossiysk to Sevastopol. This will give us an opportunity to even save some money. This is the first point.



Secondly, Crimea has good shipbuilding and ship-repairing potential. Therefore, a substantial amount of this work will be carried out in Crimean shipyards. The Russian Defence Ministry has already placed an order worth 5 billion rubles with one of the shipyards. We undoubtedly will be increasing this potential of Crimea because currently it is not in high demand, it is idle. This will take time, but we will, of course, move in this direction.

Certainly, Sevastopol is a city of Russian naval glory, which every Russian citizen knows. We will be guided by this understanding.

**Dmitry Kaistro:** Indeed, so many different people live in Sevastopol, people from different walks of life, with different backgrounds and of different ethnicities. And the tragedy that is now happening in Ukraine has upset too many people. Sevastopol residents talk about this too.

So I would like to give you the floor as I can see you have questions. You can address one of them to the President.

**Question:** Good afternoon Mr Putin. Ukraine is currently in a situation where there is a divide within families, not just between nations. I live in Sevastopol, while my sisters live in Ukraine. This is relevant for many Crimean families. Given the current state of affairs in Ukraine, we do not understand each other on many issues and have even become enemies. How can we remain friendly and brotherly nations?

**Vladimir Putin:** Make no mistake, this issue is highly relevant, and all of us are now guided by certain emotions. However, if we love and respect each other, we should find ways and means to understand each other. I think that it should be easier for a family than for a nation. But even if we are talking about relations between countries, I'm confident that we'll find common ground with Ukraine and we'll be there for one another. I hope that people in Ukraine will also understand that Russia could not do otherwise regarding Crimea.

There's another issue I wanted to raise. I think it'll be a recurrent one during today's conversation. What I wanted to say is that if we respect each other, we should

acknowledge that each of us has the right to make our own choices. People living in Ukraine should respect the choice made by Crimean residents. This is the first thing.

Second, Russia has always been close to Ukraine and will always remain closely related to it. I'm not talking about the assistance that Russia has been providing to Ukraine for many long years, and I'm sure that we'll get back to that issue. This assistance adds up to hundreds of billions of dollars. But this is not the point. The point is that we have extensive common interests. If we want to succeed, we must cooperate and join efforts. I'm confident that we will understand this despite all the emotional complications we're seeing today.

**Maria Sittel:** Another question from Sevastopol, please.

**Nikolai Dolgachyov:** It is highly symbolic that people from across Crimea joined us here in Sevastopol. Many of them view reunification with Russia as the end of the third siege of this Hero City. There were two historic sieges, one lasted 349 days during the Crimean War, and the other lasted for 250 days during the Great Patriotic War. Many people regard the last 23 years as the third siege of the city and the whole region. Now that Crimea's dream of reunification has been fulfilled, there are naturally a lot of questions regarding the future. Let's find out what questions local residents have.

**Yevgeny Kostylev:** I would like to start by thanking you, Mr President, on behalf of all the people of Crimea, for the resolve you showed in helping us reunite with our motherland. We can now proudly call ourselves Russian citizens.

That said, the self-proclaimed Ukrainian government is doing its utmost to make life intolerable for the people of Crimea. For example, almost all banks have left Crimea, which means that we now have problems with exchanging hryvnas and people can't make payments and transfers. Specifically, pensioners, who have been saving for many years for a rainy day, can't withdraw their pension savings because Ukrainian banks are ignoring their requests and legitimate interests.

Mr President, my question is the following: How does the Russian Government intend to resolve this issue?

**Vladimir Putin:** This is currently one of the most urgent issues that has yet to be addressed. There are other issues as well, as you know, such as power and water supply. However, the problems with banking have not been fully resolved. We will seek to reach common ground with our Ukrainian partners. These efforts have so far been unsuccessful. Oschadbank and Privatbank with its owner Mr Kolomoisky and the head of the Crimean branch Mr Finkelstein are not willing to meet us halfway. Hryvna circulation is limited, so we have no other choice but to accelerate the transition to the ruble. The solution is to open accounts for individuals and legal entities and establish a new banking network. Doing this the right way takes time. I think that it will take us about one month to open the required number of accounts, roll out the network and equip it with modern technology.

You have also mentioned pensioners and public sector employees. I'm also aware of certain economic setbacks, but it will all pass. We'll overcome all challenges.

As you know, pensioners and public sector employees will have equal incomes with Russian pensioners and public sector employees, and the Russian Government has already adopted a resolution to this effect. In order to prevent any sharp increases in the inflation rate and prices, which is happening in Crimea anyway, we decided to enforce this on a step-by-step basis in four stages: incomes of Crimean pensioners and public sector employees are to rise by 25% from April 1, by another 25% from May 1, and then another 25% on June 1 and 25% more on July 1. During this period incomes of pensioners and public sector employees will surge. For pensioners, income will soar 100%, which means that the gap between pensions in Russian and Crimea... In Russia, pensioners receive twice as much as in Crimea. The average pension in Russia will be 11,600 rubles this year, while in Crimea it is about 5,500 rubles. The same goes for public sector employees, who earn twice or even two and a half times more in Russia. Russian military personnel – and it should be mentioned that a lot of local residents will be serving in Crimea – earn four times as much as in Crimea.

All in all, I'm confident, I hope and believe that people in Crimea will feel the economic benefits of joining Russia, not to mention Crimea's economy, infrastructure development in the tourism and travel industries. We'll get back to those issues.

**Maria Sittel:** Mr President, Sevastopol mothers are asking for some details. For example, there is a question from Elizaveta Maslennikova: “Will a mother in Crimea or Sevastopol expecting her second child be entitled to maternity capital?”

**Vladimir Putin:** Of course. We believe that all benefits and preferences that were available to Crimean residents in Ukraine should remain in place. If some programmes do not exist or didn't exist in Russia, we will keep those preferences in place by providing additional subsidies to the regional budget. Furthermore, residents of Crimea and Sevastopol will be able to benefit from all social norms and allocations that exist in Russia in accordance with applicable laws.

**Maria Sittel:** Thank you.

**Maria Sittel:** Sevastopol, one more question from you, please.

**Nikolai Dolgachyov:** There are a lot of people here. Please introduce yourself and ask your question.

**Question:** Mr Putin, it is widely believed that Crimea is only good for vacationing and tourism. But what about our industry and agriculture? What steps will Russia take to develop all Crimea's industries?

Another question: You promised to establish a free economic zone in Crimea. What will this mean for the average person?

**Vladimir Putin:** You are absolutely right that Crimea is associated with vacationing and tourism. But this isn't the whole story. Crimea has very good industrial and agricultural potential and we'll develop it. What does this consist of? There are viable businesses that require modernisation and additional investment, and we'll certainly take care of that. I've mentioned shipbuilding and ship maintenance, but there are also other industrial centres and promising businesses. The infrastructure has fairly good development potential, including the port; there is an agricultural sector, and so on. Regrettably, agricultural output declined by 60 percent in 2013 in comparison to 1990. In 2013, Crimean agricultural enterprises produced only 40% of what had been their output in 1990. The agricultural sector also needs additional investment. There are many

issues to be addressed. Rice farms, for example, use a lot of water, and water is currently a problem. This takes time and investment. We'll take care of this as well. Regarding services, we shouldn't forget that Crimea was always famous not only as a base for the Russian Black Sea Fleet but also as Russia's and the USSR's top health resort. We'll develop this area as well. Regrettably, the holiday infrastructure, hotels and resorts have been decaying. Our specialists have inspected these businesses, recreation facilities, resorts and hotels, and have come to the conclusion that some of these, if not all, can't be used under Russian sanitary and epidemiological standards.

When they asked how former vacationers could have put up with this sort of quality, they heard this odd – and shameful – answer: “It's OK, we mostly had miners as guests here; it made no difference to them; they'd down half a glass of vodka and go to the beach.” But we can't take this approach with Russian vacationers. This area will require additional investment as well. The free economic zone you mentioned is something that can provide Russian investors with certain privileges in order to encourage them to come to Crimea and Sevastopol and accelerate development.

Many local people have proposals of their own. I talked to Mr Alexei Chaly not too long ago and he suggested that we establish a development agency. We'll certainly support this idea. I'm confident we're on the right track and sure to achieve some positive and visible results.

**Maria Sittel:** Mr Putin, there is a fly in the ointment though. There are many SMS messages from people who are apprehensive that Crimea might lose its distinctiveness. They fear the arrival of big money, people who will put up hunting lodges and big castles, palaces and high fences where there used to be recreation areas and nature reserves, while neglecting to build a sewage system, which Crimea lacks to this day.

**Vladimir Putin:** There are enough castles and high fences there now. We've come face to face with this problem – regrettably. These palaces with fences mushroomed all over the place against the background of an astounding disregard for average holidaymakers. And the owners were the oligarchs or CEOs I mentioned earlier. All of this involved major violations of environmental legislation. I talked to Crimean leaders and the heads of Russia's federal agencies today: we must do our best to approve timely decisions that end these development practices.

**Maria Sittel:** We have a text message on our programme's website: "Who were these young men, after all? They looked a lot like Russians."

**Vladimir Putin:** What young men?

**Maria Sittel:** Those polite young men.

**Kirill Kleymenov:** The "little green men."

**Vladimir Putin:** I have already spoken about this publicly on several occasions, perhaps not loud enough. However, in my conversations with my foreign colleagues I did not hide the fact that our goal was to ensure proper conditions for the people of Crimea to be able to freely express their will. And so we had to take the necessary measures in order to prevent the situation in Crimea unfolding the way it is now unfolding in southeastern Ukraine. We didn't want any tanks, any nationalist combat units or people with extreme views armed with automatic weapons. Of course, the Russian servicemen did back the Crimean self-defence forces. They acted in a civil but a decisive and professional manner, as I've already said.

It was impossible to hold an open, honest, and dignified referendum and help people express their opinion in any other way. Still, bear in mind that there were more than 20,000 well-armed soldiers stationed in Crimea. In addition, there were 38 S-300 missile launchers, weapons depots and rounds of ammunition. It was imperative to prevent even the possibility of someone using these weapons against civilians.

**Maria Sittel:** After Sevastopol, let's bring in Russian Black Sea Fleet Commander Alexander Vitko. He's in the sector covered by Dmitry Shchugorev.

**Dmitry Shchugorev:** Mr Vitko, please go ahead with your question.

**Alexander Vitko:** Comrade Commander-in-Chief, Black Sea Fleet Commander Vice Admiral Alexander Vitko.

**Vladimir Putin:** Where's the commander's commanding voice?

**Alexander Vitko:** Before I ask my question, I'd like to take this opportunity to thank the Russian people and you personally, Comrade Commander-in-Chief, for the support provided to our fleet during that difficult period in Crimea.

Here's my question. There were no major investments in Crimea's military infrastructure over the past 23 years. It is in poor condition, to put it mildly. The housing situation is particularly difficult, especially for former servicemen of the Ukrainian Navy who are now enlisted in the Black Sea Fleet.

Comrade Commander-in-Chief, the results of your projects have become the pride of the Russian people. Will there be a presidential programme or a federal targeted programme for the Crimean troops similar to the programmes for the submarine base in Vilyuchinsk or Geoporta in Novorossiysk? Thank you.

**Vladimir Putin:** First, there will be a programme for the development of the Sevastopol Naval Base and the Black Sea Fleet in general. Of course, all social programmes that are implemented in the Russian Armed Forces, including permanent and service housing, will apply to the City of Sevastopol and the Black Sea Fleet.

**Kirill Kleymenov:** Mr Putin, in your previous answer you mentioned Crimea's self-defence forces. I can see several representatives of these forces in this studio. The officers of the Crimean Berkut and, of course, the Cossacks were the key players. There were many intense and dramatic moments, such as in Perekop where the Berkut was just a few hours quicker than the extremists who were bussed to Crimea, and this helped avoid a major tragedy.

**Kirill Kleymenov:** I would like to ask my colleague Valeriya Korableva to give the floor to commander of Crimea's Berkut riot police Yury Abisov. Go ahead, please.

**Valeriya Korableva:** Yes, let me say just a few words. Mr Abisov's troops, as well as other regional Berkut units, stayed in Kiev during the most difficult time. At some point, they simply stopped receiving any orders. In other words, they were essentially abandoned. Colonel Abisov told me how they had to make decisions on their own, withdrew their soldiers under fire, took the wounded from hospitals and transported them to permanent garrisons – all that while their vehicles were being fired at.

**Yury Abisov:** Good afternoon.

Mr President, here's what I'd like to say. Our squad was in Kiev when the Maidan took power from Yanukovych. They burned us, threw stones and opened fire at us. Dozens of fighters were killed, hundreds were wounded, but we had an order not to shed blood. After that we were betrayed.

I have a question. You have known Mr Yanukovych for a long time, [you knew him] when he was President. Has he always been such a wimp and a turncoat? Thank you.

**Vladimir Putin:** You know, there is a Russian saying: "Heavy lies the crown." The burden of responsibility on the shoulders of a head of state, whether large or small, is great. In critical moments, one relies on his or her own personal experience and moral values.

As for Mr Yanukovych, he fulfilled his duty in the way he considered possible and appropriate. Certainly, I spoke with him many times during the crisis and after he arrived in the Russian Federation. We talked about the possibility of using force, among other things. There can be different attitudes to this, but the essence of his answer was that he thought of using force many times but he said that he did not have the heart to sign the order to use force against his citizens.

As far as the Berkut is concerned, you and your colleagues undoubtedly fulfilled your duty honestly, professionally and honourably. This evokes respect for you and all your soldiers. After all, what happened to you and the way your colleagues are treated now in Kiev will come back to bite the Ukrainian state. You can't humiliate the soldiers who protect the state's interests, or force them to their knees, or malign them, or deprive them of medical assistance when they are in hospital. I know that Berkut officers who are in hospital do not receive proper treatment or even food.

Our numerous appeals to the Kiev authorities to allow us to take everyone in have gone unanswered. If a state treats people who honestly fulfil their duty like this, such a state can hardly count on others to behave similarly in the future.

Actually, this is what we are seeing now. I think that eventually everyone will realise how professionally and honourably you executed your order, and they will thank you for it.



**Kirill Kleymenov:** Many of the callers point to historical allusions in the Ukrainian events. Valery Klimov from the Sverdlovsk Region described a concrete situation: “President of Chile Salvador Allende died fighting for his country, while the President of Ukraine fled his country. Would you fight to the bitter end for your country’s independence?”

**Vladimir Putin:** First, I don’t agree that Yanukovich fled. He had to leave, but he did not flee from Kiev; he was on a regional trip while the presidential administration and government buildings were taken over in Kiev in breach of a signed agreement.

When Yanukovich signed the agreement on February 21, which was guaranteed by three European foreign ministers from Poland, France and Germany, he believed that this agreement would be honoured. Under it, Yanukovich pledged not to use the army or other armed force against protesters and to pull the Interior Ministry units, including the Berkut, out of Kiev, while the opposition was to withdraw from the occupied administrative buildings, dismantle the barricades and disarm its fighters. Yanukovich agreed to hold early parliamentary elections, to return to the 2004 constitution and to hold presidential elections in December 2014. Had they wanted it, he would have agreed to hold presidential elections in a month or a month and a half, because he was ready to agree to anything. But as soon as he left Kiev and pulled the Interior Ministry units out of the city, the opposition renewed its attacks, seizing the presidential administration building, among other government buildings and accomplishing a coup d’état in the full and classical meaning of the word. No one can say why they did it, why they acted so unprofessionally and unwisely, and why they pushed the country towards the current situation. There is no answer.

As for me, you know that the decisions we take in a critical situation depend on our experience and values. You know that I worked for the Soviet Union’s KGB, or, more precisely, foreign intelligence, where we were trained in a specific manner that boils down to absolute loyalty to people and the country.

**Maria Sittel:** Clearly, the Ukrainian issue, the unconstitutional seizure of power and Crimea are the number one issues currently discussed. In Russian society, this topic has provoked heated debates. According to a poll, some 96 percent of Russians think your decision on Crimea was right. But there are those who do not agree.

Today we have representatives of both sides in this studio. Those who spoke in favour of it are Yury Bashmet, Denis Matsuyev and Karen Shakhnazarov. I suggest we give the floor to the people who are present here today.

**Tatyana Stolyarova:** Yes, it's true. Let me remind you about a letter from Russian cultural figures who supported Vladimir Putin and Russia's stance on Crimea. As of now, the letter has been signed by over 500 people. The letter received a strong public response.

Karen Shakhnazarov is here today in this studio. You signed the letter. How would you explain your view?

**Karen Shakhnazarov:** It was obvious to me, and I said so repeatedly. I have two reasons. The first reason is personal. Maybe it is not important to someone else, but it is to me. My late father was one of the soldiers who liberated Crimea. He was 20 at the time. He was a reconnaissance commander in an artillery brigade. He participated in the storm of Sevastopol. By the way, he was an ethnic Armenian. Neither he nor his comrades had any doubt that it was a Russian city. So he would not have understood me at all if I had taken any other stance.

The second reason is probably more important. In the circumstances when, as I see it, the Ukrainian statehood ceased to exist, there was no reason to deprive the people of Crimea of the right to determine their fate. Speaking of which, Mr Putin said that the Ukrainian parliament is partially legitimate. I don't really agree with that because how can a parliament be legitimate if it abrogated its own constitution? I personally think there is no legitimate power in Ukraine now.

Therefore, the people of Crimea had every right to determine their destiny. Of course, I understand that it was a difficult decision which has many international and political implications.

So I have a question for you, Mr Putin. In the past 10 years, we have been forging ties with the People's Republic of China, and I can see that the convergence is mutual. In this situation, is it possible to formalise this partnership as a military and political union?

**Vladimir Putin:** First of all, thank you for your stance on Crimea and your support.

Speaking of our relations with China, they are progressing very successfully in terms of trust and collaboration, which are unprecedented. This includes political cooperation and our shared views on international affairs and global security, which is the basis for these inter-governmental relations. We are neighbours and allies as well, in a sense. We have not raised the question of a military and political union.

Generally, I think that the bloc mentality is a thing of the past. NATO was established as a counterbalance to the Soviet Union and to the Soviet Union's policy in Eastern Europe. The Warsaw Pact was signed in response. The Soviet Union ceased to exist, but NATO remains. We are told it is changing and becoming more of a political organisation. But Article 5 is still in effect, which is an article on mutual military support. Who does NATO act against? Why is it expanding towards our borders?

Are there plans to establish new blocs? I don't know; we haven't thought about this. But it is absolutely clear that we will be expanding collaboration with China. Our trade with the United States is 27.5 [billion], but trade with China is 87 billion, and it is growing. And experts will agree that China is gradually becoming the number one economic power. The question is when it will happen: in 15, 20 or 25 years. But everybody understands that it is inevitable.

With China's population of almost 1.5 billion and its modernised economy, this is basically an accomplished fact. Therefore, we will certainly continue to develop relations with China. We have never had such trust-based relations in the military industry. We began holding joint drills at sea and on land, in both China and the Russian Federation. This gives us reason to assume that Russian-Chinese relations will be a significant factor in global policy and will substantially influence modern international relations.

**Maria Sittel:** Mr President, let us return to the open letter signed by prominent Russian cultural figures. What do you think of open letters in general, and of this particular situation personally, which sounds very much like a question from old Soviet times: artists, where do your loyalties lie?

**Vladimir Putin:** Let me repeat how much I appreciate everyone's support for my policies on Crimea as well as on other issues. As for making public statements, I think this should be up to them. Take, for instance, Mr [Karen] Shakhnazarov – I have known him for years,

but frankly had no idea about his political views. So it came as a big surprise to me when he spelled out our common stance on some issues so clearly, definitively and eloquently, and much more vividly than I ever do.

About collective letters – well I think they do no harm, but I would rather they not be orchestrated. I mean these things should speak from the heart and be spontaneous, rather than coolly organised by someone. This is something I do not support and never will.

**Kirill Kleymenov:** Let us return to the on-going public debate on Crimea and Sevastopol's accession to Russia. I see here in this studio Andrei Norkin, a well-know journalist and my colleague from 20 years ago. His statements on the issue could not pass unnoticed.

Olga, please.

**Olga Ushakova:** Yes. Andrei Norkin, journalist, Kommersant FM radio host.

Mr Norkin, I would like to ask you the following: you are known for your independent positions on various issues, but this time you spoke out in support of the Russian government's actions in Crimea, causing a landslide of criticism from your colleagues. Why do you think your opinion is opposed this time around by the very people who have always shared your views?

**Andrei Norkin:** I would not say this is just about Crimea; the criticism largely came after the Dozhd TV channel events. You know that geopolitical issues are not even my biggest concern with Ukraine. I am more worried about how these events are being discussed in Russia, and what I hear is yet further proof that the problem I first encountered several years ago is still there. I am very much alarmed by the distorted world outlook many young people are developing.

Since I do not only work as a journalist, but also teach journalism, I can tell you that it takes a lot of effort to convince my future colleagues that, for example, the word patriot is not synonymous with idiot, or that Victory Day is not a "Colorado beetle celebration," as it is trendy to call it on social networks. Being trendy is crucial to them, because

for teenagers, for adolescents, being part of a trend – complying with the standards accepted in their community – is extremely important. The Government seems to have abstained from addressing these trends, so to love our motherland just isn't trendy these days.

Mr President, you have mentioned how you were raised and educated. As I was walking to this meeting, I thought I would talk about this, but the fact that our discussion naturally turned this way based on the events in Ukraine further convinces me that I am right. I have four children; two of them – a daughter and a son – are adults, and the other two are still in school. So I must say that schools have fully delegated the functions of upbringing to parents. But parents cannot be with their children all the time. So with my younger boys, I spent a lot of time trying to find a solution to this problem. Finally, I enrolled the older of them in a cadet school in a neighbouring town, and the youngest will go there as well. This school respects historical traditions. All teachers are military people or, at least liable for service, most of them men. So cadets not only receive a more profound education – there are five people in each class, not 35 – but they receive a different kind of guidance. They are taught to love their motherland and its history, to respect women and seniors and peers, and not to be afraid of physical work and pain. They are brought up to be men – honest, decent, honourable citizens of their country, the best part of its human reserve. The problem is, such schools are few – if I remember correctly, there are about 15 in Moscow and Moscow Region.

Therefore, my question is – do you think it would be a good idea to create legislation about this format of education, cadet schools? I know that these things are not done overnight, but is it possible to set up, say, regional funds that would provide financial assistance to families who want to send their children to cadet schools? This I think could make it trendy again to love our motherland.

**Vladimir Putin:** Firstly, about your statement that it is not trendy to love our motherland – you must be talking about some specific group of young people you deal with.

**Andrei Norkin:** Well I mentioned my journalistic experience.

**Vladimir Putin:** Look at how the events in Crimea and Sevastopol shook society. It turned out that patriotism is still out there, somewhere, only we are not always aware of it. Yet, it

is an integral part of our people, part of our identity. On the other hand, it speaks well that you, a journalist, are alarmed to see this lack of love for the motherland or patriotism as an old-fashioned value. If this troubles you, it means you have this deep inside, and that's why you have sent your son to a cadet school.

Do we need to adopt a special law on this? We'll have to look at the legal framework for education that we have. I agree with you that this is a step in the right direction, but we'll have to think if we need to add a new law. I am not ready to say anything right now. But I promise that we'll give it a look and it is definitely a good idea to further develop this form of education. You are right. Your family is well-off, and you sent your son to that school. But it is even more important for families who have problems, such as loss of breadwinner – especially if the father was a military serviceman – to raise their children and teach them the right attitudes. We'll certainly look at this again, also from the financial perspective. By the way we are planning to establish more schools in Crimea, including cadet schools. Thank you.

**Maria Sittel:** Mr Putin, as you probably know, those who disagree with you are speaking out loudly using various platforms. Some have taken a very aggressive stand, asking the West to teach Russia a bloody lesson...

**Vladimir Putin:** Bloody? Is that so?

**Maria Sittel:** Yes. There are people who are openly calling for our soldiers to be fired upon, while others publish lists of Russians who should be sanctioned in US newspapers.

**Vladimir Putin:** That's true.

**Maria Sittel:** This is to say that there are differing views. And today there are people who hold such views here in the studio. Let's give the floor to Tatyana Stolyarova's section so that they can express their views.

**Tatyana Stolyarova:** I would like to remind you that those who have spoken out against Russia's position on Crimea are an absolute minority. The opinion polls have already been mentioned today. That said, there are high-profile people, politicians, musicians and actors among them and their voices are heard.

Here with us today is Irina Khakamada. What's your opinion?

The question is ...

**Vladimir Putin:** Ira, are you really against our position on Crimea? Why has this label been pinned on you?

**Tatyana Stolyarova:** We would like to hear your perspective on why this dispute has emerged in Russian society?

**Irina Khakamada:** Mr Putin, this is not the first time that I've been labelled, so don't worry. By the way, this is a sign that we need to put an end to the information warfare. You simply can't keep using such stereotypes to label people who are trying to oppose you in an intelligent way.

What I wanted to say is that Crimea has always aspired to a Russian identity. I have visited Crimea on numerous occasions. Even during the years of relative calm, when the "blue" were replaced by the "orange" and vice-versa, nobody actually touched Crimea, but its residents have always sought to be part of Russia. Whatever happened, happened. In any case, you are the winner. You conducted a stunning operation without a single shot being fired. I would like to congratulate you on honestly acknowledging that the "green men" were Russian military who protected the Russians in a peaceful manner. It is very important to state such things in public so that there is no speculation. As the winner, you've done even more to seek compromise. Today, for the first time your representative, the Foreign Minister, is meeting with and talking to representative of the Ukrainian authorities, or whatever you want to call them, but they are the only counterpart available to discuss peace. Time magazine has named you the most influential politician in the world.

I don't think that we started this war. But only those who won the war without starting it can put an end to it. The sooner it happens, the better, since ordinary people will soon feel, even in Crimea, that their lives depend greatly on what's happening in Ukraine. Ordinary people are suffering and feeling the consequences of having to fight against their own people. I believe that everything now depends on you, on Russia. Now is the crucial

moment. I'm telling you this as a former politician, I have a sense of when the time is right politically.

My question is the following. Europe has been left by the wayside. It has never solved any problems. Europe doesn't like solving problems because it has grown used to living in peace. The dialogue is between Russia and the United States. The US is ready to pay one billion dollars to ensure that the elections are held on May 25. Russia insists on a referendum or regionalisation, or convening a constitutional assembly to draft a new Ukrainian constitution and holding elections only after that.

It is my firm belief that the war will engulf the entire post-Soviet space if both parties continue to insist on their positions. No one needs this – not Russians, the people of Crimea, which is now part of Russia, Ukrainians, or the east of Ukraine.

The regionalisation of Ukraine is a compromise, which means providing the eastern and southern regions of Ukraine with the ability to speak Russian, elect local governments and live in peace. At the same time, there is an understanding that elections should be held as soon as possible to calm tensions. In your opinion, could Russia put forward a proposal that would facilitate a compromise with the US? So that elections are held on May 25, while at the same time all guaranteeing parties agree before May 25 on the future regionalisation of Ukraine through negotiations or any other diplomatic means.

**Vladimir Putin:** Is there a possibility of Russia reaching a compromise with the US on Ukraine? A compromise should be reached by the various political forces in Ukraine, not third parties. This is actually the key issue here. We can only support and accompany this process.

Regarding the question of what should come first: a constitutional referendum followed by elections, or elections first to stabilise the situation and then a referendum.

The essential issue is how to ensure the legitimate rights and interests of ethnic Russians and Russian speakers in the southeast of Ukraine. I would like to remind you that what was called Novorossiia (New Russia) back in the tsarist days – Kharkov, Lugansk, Donetsk, Kherson, Nikolayev and Odessa – were not part of Ukraine back then. These territories were given to Ukraine in the 1920s by the Soviet government. Why? Who knows. They were won by Potyomkin and Catherine the Great in a series of well-known



wars. The centre of that territory was Novorossiysk, so the region is called Novorossiya. Russia lost these territories for various reasons, but the people remained.

Today, they live in Ukraine, and they should be full citizens of their country. That's what this is all about. The issue is not whether the referendum on decentralisation or federalisation is followed by elections or the elections come before the architecture of the state is changed. The key issue is providing guarantees to these people. Our role is to facilitate a solution in Ukraine, to ensure that there are guarantees. People from southeast Ukraine will ask you, will ask us and the current authorities in Kiev: "Fine, the elections will be held on May 25, but do you want us to recognise their outcome? You'll forget your promises the very next day and send new oligarchs to Donetsk, Kharkov, Lugansk, and so on. What about guarantees? We need answers." I hope that an answer will be found.

**Kirill Kleymenov:** I suggest that we turn it over to another woman with a bold position. We have Irina Prokhorova in our studio.

**Valeriya Korableva:** Irina Prokhorova, the leader of the Civic Platform party and editor-in-chief of the New Literary Review magazine.

**Irina Prokhorova:** Good afternoon, Mr President.

You know, I'll give it a light cultural twist, although it will still concern Crimea. Remember, when Gerard Depardieu was trying to obtain Russian citizenship, he confessed his love for Russia, referring to Russia mostly as a country of great culture. Lately, and the Crimean events have triggered this, we see that not only the budget to support culture and education has been steadily declining, but cultural figures who express a somewhat different position are being persecuted as well. We are witnessing the early stages of persecution of contemporary art, which is being blamed for all imaginable and unimaginable sins. Laws are being drafted that actually reduce culture to the level of a servant of ideology. We've been there, and it has always been a terrible blow not only to culture and education in the narrow sense of the word, but it had sad consequences for society as well. I believe that this internal division that is being carried out by society itself when people voicing other positions are denied the right to be called patriots or people who care about their country is profoundly unfair. After all, you admitted that

the decision regarding Crimea was difficult. It was not a celebratory decision, but a necessary step. Thus, the fears of the people who are concerned about the ensuing complications for their own country are quite understandable.

Don't you think that this internal bitterness in society which, unfortunately, is frequently fuelled by politicians, in particular, members of parliament, who love to flaunt lofty words, undermines the foundations of our truly multi-ethnic culture? Won't Russia lose its status of a great cultural power if things keep going down that road?

**Vladimir Putin:** Thank you for your question.

Frankly, I do not see any particular changes with this situation. Nothing that would stand out even in connection with the events in Crimea and Sevastopol. Admittedly, there is a conflict of motives and viewpoints, but no one is preventing anyone to state them. No one is being arrested, put behind bars or sent to labour camps as in 1937. People who express their opinions are, thank God, alive, in good health and engage in their professional activities. However, some members of the Russian intelligentsia are unaccustomed to the fact that they might meet resistance or have someone else express a different position and disagree with their position. Some people believe that whatever they say is the ultimate truth, and there's no way that things can be any different, so when they get something in response, it causes a strong emotional reaction.

With regard to the situation in Crimea in recent months, I heard and read that some want their country to lose and think that this is a good thing. Here, too, there is certain continuity. As is known, during the First World War the Bolsheviks also wanted the Russian government and Russia in general to lose and the situation quickly got out of hand, which led to the revolution. There is some sort of historical continuity here, not the best, though. However, I agree that in any case we should not slip into some extreme forms of dealing with each other's views or cast aspersions on people for their opinions. I will do my best to prevent this from happening.

**Kirill Kleymenov:** We have been on the air for just over an hour now. Let's take some phone calls. Our colleague, Tatyana Remezova, is at the call centre, which also receives text messages. Tatyana, please, go ahead.

**Tatyana Remezova:** Thank you, colleagues. We have received a huge number of calls about Ukraine. People are calling from Ukraine and also from Crimea and other Russian regions that border Ukraine. But not only from there. People are calling from all of Russia. Here is a call from the village of Pivovarikha, in Irkutsk Region.

Roman Kuznetsov, good afternoon. You're on the air.

**Roman Kuznetsov:** Good afternoon, Mr Putin. My name is Roman.

**Vladimir Putin:** Hello, Roman.

**Roman Kuznetsov:** Are you planning to send a limited contingent of troops to southeastern Ukraine to protect its Russian-speaking population? Thank you.

**Vladimir Putin:** You know, despite the events in Crimea, we should not lose our heads, but should proceed from realities. What are these realities today? First, we must admit that the ethnic composition of Crimea differs from that of southeastern Ukraine. These territories, as I just said, were transferred to Ukraine in the mid-1920s, and in 1954, Crimea was annexed to Ukraine for some reason as well.

The ethnic composition of the population there is approximately 50–50. I have already mentioned that the final decision to return Crimea to the Russian Federation was only based on the results of the referendum. When I saw these results, and saw for myself that almost all residents voted for joining Russia, I repeat, we had no other choice and there could have been no other decision.

As for what is happening in southeastern Ukraine, we don't know for sure. But we believe that we ought to do everything we can to help these people defend their rights and determine their fate on their own. This is what we will fight for. Let me remind you that the Federation Council of Russia gave the President the right to use the Armed Forces in Ukraine. I very much hope that I will not have to exercise this right and that, through political and diplomatic means, we will be able to resolve all the pressing, if not to say burning, issues in Ukraine.

**Maria Sittel:** Mr President, there is a difficult situation right now not only in the southeastern regions of Ukraine, but also in Transnistria. It is blocked by Moldova on one side and by the newly self-proclaimed Kiev authorities on the other. Here's a text message: "What are ways to resolve the current situation in Transnistria and what is Russia's stance on it?" I would like to recall that just yesterday its parliament asked Russia to recognise the republic's independence.

**Vladimir Putin:** This is one of the most complex problems that we inherited after the collapse of the Soviet Union. First of all, the population of the republic is over 500,000 people, if I'm not mistaken. People there express pro-Russian sentiments and a large number of Russian citizens live in Transnistria. They have their own views on how to build their future and their fate. It would be nothing more than a display of democracy if we were to allow those people do as they wish. Of course, we need to maintain dialogue with both Moldova and Ukraine, to boost talks within the 5+2 format, which includes Moldova, Transnistria and five other states that are taking part in the settlement process. I think that the blockade should be lifted without delay; the residents of the republic are feeling its negative consequences both on the part of Moldova and Ukraine. Nationalist armed groups have already gathered on the border between Transnistria and Ukraine; such developments must be stopped without delay. In the long run, people should be allowed to decide their own destiny. This is what we and our partners are going to work on, taking into account the interests of the residents of Transnistria, of course.

**Maria Sittel:** Tatyana, over to you.

**Tatyana Remezova:** Mr President, there was a caller with another very interesting question. I will read the message: "Russia has annexed Crimea by force. Does that mean that power is the only guarantee of a state's sovereignty these days?"

**Vladimir Putin:** Russia did not annex Crimea by force. Russia created conditions – with the help of special armed groups and the Armed Forces, I will say it straight – but only for the free expression of the will of the people living in Crimea and Sevastopol. It was the people themselves who made this decision. Russia answered their call and welcomed the decision of Crimea and Sevastopol. This was natural, and it could not have been any other way.

As for the power factor in international relations, it has always existed and will always exist. That's a different issue, and the thing is that countries, taking into account that power plays a significant role in international affairs, should develop and strengthen, based on their common sense, such rules of conduct which would be stable and would allow for negotiating, compromising and balancing the interests of a state and its people on the international arena without using this power.

The events in Crimea themselves have nothing to do with this. Let's recall what happened in Iraq, Afghanistan, Libya and other regions. In my opinion, when the world becomes unipolar, or when someone tries to make it so, then this one pole has the illusion that all issues can be settled through power. And only when there is a balance of power does the desire to negotiate appear. I hope that we will be moving along the path to strengthen international law.

**Maria Sittel:** Thank you.

**Maria Sittel:** Mr Putin, just a few minutes for our new format – video questions. Anna Pavlova, please.

**Anna Pavlova:** Thank you. Our video centre is receiving a lot of questions on the Ukrainian crisis as well; many people are concerned about our future relations with our neighbours, given the latest events. To continue, let's watch a video question sent by Sergei Lukas from St Petersburg.

**Sergei Lukas:** Mr Putin, who stands to profit from the overblown myth that Russia's Armed Forces are preparing for an invasion in Ukraine? What goals are pursued by those who want to set us against our brothers, neighbours and European partners? And can we openly invite all those willing to visit our cross-border regions? Thank you.

**Vladimir Putin:** The intention to split Russia and Ukraine, to separate what is essentially a single nation in many ways, has been an issue of international politics for centuries. If you recall the statements uttered by the White movement leaders, you'll see that regardless their political disagreements with the Bolsheviks, they never had even the slightest thought about a possible division between Ukraine and Russia, as they

always perceived them as part of a common, united space and a single nation. And they were absolutely right.

But today we're living in separate countries. And, unfortunately, this policy of division, of pulling apart and weakening both parts of a single nation continues. There are enough forces in the world that are afraid of our strength, "our hugeness," as one of our sovereigns said. So, they seek to divide us into parts, this is a well-known fact. Look at what they did with Yugoslavia: they cut it into small pieces and are now manipulating everything that can be manipulated there, which is almost anything. Apparently, someone would like to do the same with us, and if you look at what's happening, you'll be able to answer your own question about who is doing what.

**Maria Sittel:** Mr President, there are millions of ethnic Russians living in Ukraine. After the events in Crimea, the new authorities regard them as outcasts. Ms Tymoshenko even urged her supporters to take up arms and deal with them.

**Kirill Kleymyonov:** The "damned Russians."

**Maria Sittel:** Yes, exactly. There are many utterances of this sort and a huge number – actually the majority – of questions about the fate of ethnic Russians in Ukraine.

Let us give the floor to Mr Lukyanenko, a writer, who has a question on this topic.

**Dmitry Shchugorev:** Sergei Lukyanenko is a well-known writer, who denounced Ukraine as a damned land after the bloodletting on the Maidan in February, which no one wants to investigate, and responded to his Ukrainian colleagues' reproaches by banning his books from being translated and published in Ukraine.

What is your question, Mr Lukyanenko?

**Sergei Lukyanenko:** Mr President, Ukraine has developed as a state hostile to Russia for 23 years...

**Vladimir Putin:** I beg your pardon?

**Sergei Lukyanenko:** I say that Ukraine has developed as a state hostile to Russia for the last 23 years. There was even a saying to this effect: “Ukraine is not Russia.” The most horrible thing is that these seeds have borne fruit. We see what is happening: the country is being plunged into nationalist, if not fascist, hysteria. The authorities are sending army units and punitive squads to southeastern Ukraine. And the most glaring thing, as I see it, is that Russia’s position is being ignored by the West and hushed up in Ukraine.

How, in your opinion, can we bring our point of view across? And is this even possible? Can we convince the West to listen to us and understand us? Sometimes I have the impression that we are unable to get through to them.

**Vladimir Putin:** You know, Sergei (may I call you Sergei?), I don’t agree with you. I know you as one of the best modern writers – a widely read and widely published one. But I can’t agree that Ukraine is a damned land; please don’t use this expression with regard to Ukraine. Ukraine is a long-suffering land; it’s a very complicated community and a long-suffering one in the direct sense of the word. Nationalism and even neo-Nazism are experiencing a resurgence in western Ukraine. But you know well the history of this territory and its people. Some of these territories were part of Czechoslovakia, some of Hungary, some of Austro-Hungary and some of Poland, where they were never full-fledged citizens. You know, something has always been growing in their heart of hearts.

Some people seem to believe that it is this circumstance – because these territories were former possessions of several present-day EU countries – that imbues them with some special European substance. That they were second-rate citizens in those states seems to have been forgotten, but this still lurks in their historical memory, under the crust, deep down in their hearts, see? It’s where their nationalism comes from, I think.

Central, eastern and southeastern Ukraine is another matter. I’ve just mentioned this area, New Russia, which has intertwined its roots with those of the Russian state. The local people have a somewhat different mentality. They found themselves part of present-day Ukraine, which had been pieced together in the Soviet period. Of course, it is difficult for them to establish proper relations and to understand each other. But we should help them to do so as much as we can.

What, under the circumstances, is our role, the role of a good neighbour and the closest relative? Will our overseas partners and partners in Europe hear us? I hope they will. But at the same time – I have just said as much – there are certain apprehensions with regard to Russia itself, its huge territory, its potential growth and power. This is why they prefer to cut us to size and take us to pieces. Will our partners hear us in this case? I've just said what they are largely being guided by, but I think they should hear us, because in the burgeoning modern world, keeping in mind its development trends in the short historical term and in the longer historical term, this world, the whole of Europe, as I said, from Lisbon to Vladivostok, should unite to be competitive and viable in the rapidly developing world. This is an extremely important circumstance. I hope that our partners will hear and understand us.

**Kirill Kleymenov:** Mr Putin, the questions about Ukraine are quite prevalent on the Direct Line website. I browsed through the most frequent ones over the past minutes and found some repeated ones.

**Vladimir Putin:** Just a moment.

Sergei, please, there is no need to ban your books from being published anywhere, including Ukraine. It's not about money but the fact that you are one of Russia's most outstanding authors, part of Russian culture. And we must promote Russian culture there instead of removing it, all right?

**Sergei Lukyanenko:** Right, then I agree.

**Vladimir Putin:** Thank you.

**Kirill Kleymenov:** I found another very typical question on our programme's website. It is a question from Alexander Zhabinsky, Moscow Region. Here it is: "We refuse to negotiate with the current Kiev authorities. We think they are illegitimate. We doubt the legitimacy of the presidential election scheduled for May. We could continue ignoring them, but Ukraine will not just float away from the Russian border. We will have to deal with these officials eventually, legitimate or not. Perhaps it would be better not to waste time and start talks with the potential winners of the presidential race?"



**Vladimir Putin:** We do believe the current authorities are illegitimate. They cannot be legitimate as they do not have a national mandate for running the country, which speaks for itself. At the same time, we do not refuse to deal with them. We stay in touch at the ministerial level. Our ministers continue relations with their Ukrainian counterparts. Mr Medvedev talked to Mr Yatsenyuk. Mr Naryshkin talked to Mr Turchynov. They stay in touch. Speaking of the presidential candidates, you know what is going on with the presidential race. What is happening is absolutely unacceptable. If it goes on like this, we will not be able to recognise anything that happens after May 25 as legitimate.

How can this election be legitimate when candidates from the east are being assaulted, spattered with ink and kept from meeting with voters? What kind of election campaign is this? And that's to say nothing of the Ukrainian constitution. Irina Khakamada had a question about the legitimacy of the election according to the Ukrainian constitution. Without changes to the constitution, the new election cannot be held because Mr Yanukovich remains the incumbent president. According to the constitution, a new president cannot be elected if there is a living incumbent and legitimate president. So if we want the election to be legitimate, the constitution must be changed. Only then can we talk about federalisation and decentralisation. This is what common sense tells me.

We could, of course, continue to act despite common sense, although I don't know where that would lead us. But we stay in touch with everyone. Mr Poroshenko is currently a leading candidate. A substantial part of his business takes place in Russia. His company produces sweets that many of you have probably eaten without even knowing that Poroshenko owns the factory and that he is running for president.

I know Ms Tymoshenko very well. Even though she calls for Russians to be "destroyed by nuclear weapon", I think she said that while having some sort of emotional breakdown. But I know her quite well. By the way, she signed the gas contract that her fellow party members and other contract parties are refusing to honour. However, at some point, we had good business relations with her. I have not met any candidates from the east – Tsarev and former Kharkov Governor – but we generally understand what kind of people they are. And we will definitely work with all of them.

**Maria Sittel:** Could I say something please.

Mr President, the Maidan campaign against the southeast is unconstitutional as well. This is also against...

**Vladimir Putin:** Excuse me, please. Now there is pressure on the people in the southeast to lay down their arms, but I say to our partners: “This is a proper, correct approach, but pull the military back from the civilians then.” They have gone completely mad: bringing in tanks, armoured vehicles (I’m looking at the TV screen) and cannons. What do they intend to do with cannons? Have they completely gone mad?

**Kirill Kleymenov:** The multiple launch rocket system.

**Vladimir Putin:** The multiple launch rocket system, combat aircraft and fighters in the air. Have they lost their minds? And what’s next? Nationalist armed groups are coming. All right, suppose the east will disarm, let’s assume the army will withdraw – why have the nationalist groups not been disarmed yet? And later they’ll say they can’t do anything.

How can the people in the east be disarmed, when Berkut officers, employees of the Interior Ministry and even some military units change sides? The issue should be resolved otherwise. It should be resolved through compromise and guaranteeing people’s legitimate rights.

**Maria Sittel:** But no one is willing to compromise. With whom can we find an agreement? You say there must be guarantees, but who will provide them? The United States, the West, the EU leaders, the self-appointed Maidan authorities? Who?

**Vladimir Putin:** It’s necessary to find an agreement with those who think they are in power in Kiev now. They should rely on common sense and reality.

**Maria Sittel:** Thank you.

**Kirill Kleymenov:** There are people on the sanctions list in this studio. Probably some of them don’t even know they’ve been blacklisted. But Dmitry Kiselev knows for sure that his name is on the list. Valeria, go ahead, please.

**Valeria Korableva:** Dmitry Kiselev, Director General of the Rossiya Segodnya Information Agency.

**Dmitry Kiselev:** Good afternoon, Mr Putin. They've promised us the video question format, and I was eager to support it in some way. But since we're having some technical problems, I'll create an image with my fingers.

Here's a ring, and it seems to me our country is inside it. I have a feeling that someone is stifling me. I think this is NATO because it is spreading like a cancerous tumour. In the past 25 years, this bloc has literally swallowed our Warsaw Treaty allies, then some parts of the Soviet Union, and the Baltic states. It has opened its jaws to swallow Georgia and now Ukraine as well.

Officials at the NATO headquarters say that it would make sense to admit Ukraine into NATO as well, whereas you're saying that the bloc system is dying out. I cannot agree with that because I feel this bloc is stifling me.

Of course, you can call me paranoid, to attribute this to paranoia. But even if someone has paranoia, it doesn't mean he isn't harassed. So it's not about me, but about NATO's expansion. Where is the red line? Does it exist at all? And what do you feel as the national leader? Nothing personal, Mr Putin. Thank you.

**Vladimir Putin:** We'll strangle all of them ourselves! Why are you so afraid? (Applause.)

**Dmitry Kiselev:** No, I'm not afraid, of course. I just want to know where the red line is and where to stop. Are there limits, and who will define them? Thank you.

**Vladimir Putin:** We aren't afraid – neither me nor anyone else. Nobody should be afraid, but we must proceed from reality. As for reality, you've just described it rather vividly in your brilliant manner and given us the creeps in some way. Let me repeat that I wouldn't fear anything, but we must assess the situation realistically. So what is it like? You've conjured up the image.

At one time, we were promised (I mentioned this at the Munich security conference) that after Germany's unification, NATO wouldn't spread eastward. The then NATO Secretary-

General told us that the alliance wouldn't expand beyond its eastern borders. However, it started expanding by incorporating former Warsaw Treaty member-countries and later on, the Baltic states, former Soviet republics.

I used to say at one time: "Why are you doing this? Do you want to ensure the security of these countries? Do you think someone may attack them? Well, it's enough to sign a bilateral treaty on friendship and mutual assistance, including military aid, and their security will be ensured." I heard in response: "This doesn't concern you. Nations and countries have the right to choose a way of ensuring their security themselves."

All right, this is true. But it is also true that when the infrastructure of a military bloc approaches our borders, we have grounds for certain apprehensions and questions. We must take certain steps, and this is also true; nobody can deny us this right. And this compels us to counteract.

I'll use this opportunity to say a few words about our talks on missile defence. This issue is no less, and probably even more important, than NATO's eastward expansion. Incidentally, our decision on Crimea was partially prompted by this.

Needless to say, first and foremost we wanted to support the residents of Crimea, but we also followed certain logic: If we don't do anything, Ukraine will be drawn into NATO sometime in the future. We'll be told: "This doesn't concern you," and NATO ships will dock in Sevastopol, the city of Russia's naval glory.

But it isn't even the emotional side of the issue. The point is that Crimea protrudes into the Black Sea, being in its centre, as it were. However, in military terms, it doesn't have the importance it used to have in the 18th and 19th centuries – I'm referring to modern strike forces, including coastal ones.

But if NATO troops walk in, they will immediately deploy these forces there. Such a move would be geopolitically sensitive for us because, in this case, Russia would be practically ousted from the Black Sea area. We'd be left with just a small coastline of 450 or 600km, and that's it!

In this way, Russia may be really ousted from this region that is extremely important for us, a region for which so many Russians gave up their lives during all the previous centuries. This is a serious thing. So we shouldn't fear anything but we must consider these circumstances and react accordingly.

As I've just said, the same is happening with our talks on the deployment of US missile defence elements. This is not a defensive system, but part of the offensive potential deployed far away from home. Again we're being told: "This is not against you."

However, at the expert level, everyone understands very well that if these systems are deployed closer to our borders, our ground-based strategic missiles will be within their striking range. Everyone is well aware of this, but we're being told: "Please believe us, this is not against you."

Our American partners have turned down our proposal to sign even some trifling legal paper that would say that these systems are not directed against us. Surprising as it is, but this is a fact. Naturally, we are bound to ask: "And why do you refuse to sign anything if you believe this is not directed against us?"

It would seem a trifle – a piece of paper that could be signed today and thrown away tomorrow – but they are reluctant to do even that. If they deploy these elements in Europe, we'll have to do something in response, as we've said so many times. But this means an escalation of the arms race! Why do this?

It would be much better to look at this issue and determine if there are missile threats from some directions and decide how this system should be controlled or accessed. It would be sensible to do it together, but no, they don't want that.

Naturally, we'll continue these talks with patience and persistence, but in any event, we'll do everything to guarantee the security of the Russian people, and I'm sure we'll succeed.

**Kirill Kleymenov:** Mr President, our people, who continue to call in and write to us, want to know the price of our victory in Crimea. Has Russia taken on an unbearable burden by incorporating Crimea?

**Vladimir Putin:** Do they mean related expenditures?

**Kirill Kleymenov:** Yes, primarily financial outlays.

**Vladimir Putin:** Well, speaking about the price of victory and other spending, I can tell you that, unfortunately, the physical infrastructure of Crimea, including its resorts, is in a bad state and we will need to invest heavily in it. We will also have to invest in increasing pensions and public sector wages, and in the development of Crimea's economy, including agriculture.

What kind of money am I talking about? Take pensioners and public sector employees. The spending obligations of Russia's Pension Fund are about 6 trillion rubles. Not counting allocations for the payment of maternity capital and other social benefits, pensions proper account for 4.5 trillion rubles. How much should we allocate this year to help Crimean pensioners? 28 billion rubles. Is this a lot or a little? It may seem like a huge sum, but compared to 4.5 trillion this is a low number. Spending on public sector employees [in Crimea] amounts to only 16.5 billion, which is entirely doable. Apart from infrastructure, we will also have to make other spending choices. We will not need to divert money from other programmes, because we have an additional government reserve fund in the amount of 245 billion, or slightly less, 240 billion rubles for this year. I don't think that subsidies for all Crimean programmes will be more than 100 billion.

**Kirill Kleymenov:** But what about the bridge, electricity and other things?

**Vladimir Putin:** A bridge is a vital element, or it could be a tunnel – we have not decided yet because the issue should be assessed by experts. Some say a tunnel is a more flexible structure, but experts point to the tectonic faults in the area. So we should consider this issue very carefully, because no matter what we choose – a bridge, several bridges or a tunnel – the project will require not only financing but also time. It cannot be accomplished within a year. We have been talking about current spending, but I am absolutely confident that in future, and even in the near or medium term, Crimea will become a donor region. It will go from a region that needs federal subsidies to a self-sufficient region and then a donor region. I can tell you frankly – I think my former colleagues, the Ukrainian leaders, will not resent this: they told me candidly that they deliberately turned Crimea into a subsidised region by taking more money from it than

from other regions to redistribute among other regions where the situation was especially difficult.

**Kirill Kleimenov:** You know, the Crimean issue has taken on a new dimension we didn't expect. I'll read out just one of many similar messages. It arrived from Sergei Bibartsev, a pensioner who lives in Krasnoyarsk Region: "At a teacher's meeting today my wife was told – and she is a teacher at Secondary School No 71 in the village of Kedrovoy – that teachers' salaries will be cut by 20 percent as of May because of Crimea's reunification with the Russian Federation."

**Vladimir Putin:** Crooks!

**Kirill Kleimenov:** "Is this true or not? And why by 20 percent?" Teachers, as everyone knows, are under the jurisdiction of the local authorities. Perhaps...

**Vladimir Putin:** No. Schools are run at the municipal level, and they are supported by the regions. This is, of course, a false statement that has nothing to do with reality.

**Kirill Kleimenov:** We have received numerous similar messages from various regions.

**Vladimir Putin:** Well, I want people to hear me and we will later look at all of the incoming information and sort it all out. As I've already said, we have no need to reduce any of our social programmes and guarantees. I'd like to repeat this with full responsibility and warrant that not a single social programme adopted by Russia and funded out of the Russian budget will be reduced. All of the resources are available. Everything we need for the people of Crimea will come from the Government's reserve funds and will not affect any of our social programmes.

**Kirill Kleimenov:** Where should people go to complain if they get such...

**Vladimir Putin:** Well, they have complained now and we'll try to react.

**Kirill Kleimenov:** Good. Pensioners are similarly worried, saying: "We've been promised that pensions would increase by 3 percent as of April, but they were increased by just 1.7

percent. We think that this is connected with Crimea,” Irina Shalygina wrote from the Khanty-Mansi Autonomous Area.

**Vladimir Putin:** I repeat that this is not in any way connected with Crimea or Sevastopol. It is linked with inflation, the level of inflation and the level of Pension Fund revenues. Under the laws of the Russian Federation, pensions are adjusted for inflation twice a year – in February and in April. I don’t remember that the Government publicly and officially announced that pensions would go up by 3 percent in April.

Opinions were divided in the Government on that score. They debated the issue and in the end, they acted in line with the law.

Under the law, adjusting pensions for inflation is implemented in accordance with accrued inflation and the Pension Fund revenues. In February, pensions were adjusted by 6.5 percent and in April by 1.7 percent. Of course, this is a modest increase, but it is still better than a cut. That is number one.

Number two. This is clearly not sufficient, but if we add 6.5 percent and 1.7 percent, we get 8.2 percent, don’t we? That is still higher than inflation this year. The target is 6 percent, although it will probably be 6.5 percent. However, it is not yet 8.2 percent. This is what the Government should keep an eye on.

In general, we should continue thinking and moving to raise the incomes of our pensioners. This is obvious.

**Maria Sittel:** More from anxious pensioners. “If the West refuses to purchase gas from Russia, how will that affect people’s well-being, especially that of pensioners?” – Lyudmila Budarina, Tambov Region.

**Vladimir Putin:** I have to say that oil and gas revenues make up a large part of the Russian budget revenue. This is a serious component for us in addressing economic development, budget funding for our development programmes and, of course, and meeting of our social commitments to our citizens.



I'll tell you what. I am not sure that I'll get the figures right, but, if my memory serves me correctly, the bulk of oil and gas revenue comes not from gas but from oil. In terms of the dollar equivalent, our oil revenues last year amounted to \$191–194 billion and gas revenues to about \$28 billion. See the difference? 191 from oil and 28 from gas.

Oil is sold on world markets. Is there any way to do us harm? One may try. But what would be the result for those who would attempt to do it? First of all, how would this be done? Of all the countries in the world, only Saudi Arabia has the real potential to increase production and thus bring down world prices. Saudi Arabia's budget assumes a price of \$85-\$90 per thousand cubic metres.

**Kirill Kleymenov:** President Obama has already visited them.

**Vladimir Putin:** I'm sorry, I meant oil, not gas. The budget assumes a price of \$85-\$90 per barrel, and our budget, I think, \$90. So, if one goes below \$85, Saudi Arabia will be on the losing end and have problems. For us a drop from \$90 to \$85 is not critical. That is first.

Second, we are on very good terms with Saudi Arabia. We may, for example, differ in terms of our views on Syria, but we practically have identical positions on the development of the situation in Egypt. There are many other things where we see eye-to-eye.

I have great respect for the custodian of the two Muslim shrines, the King of Saudi Arabia. He is a very clever and balanced man. I don't think that our Saudi friends would make any abrupt changes to harm themselves and the Russian economy.

Furthermore, they are members of OPEC, where we have many supporters. It is not that they have sympathy for us, but that they have their own economic interests and sharply reducing production – which can only be done in a manner agreed upon within OPEC – is a fairly complicated business.

Finally, in the United States, which is developing shale gas and shale oil production, production costs are very high. These are expensive projects. If world prices tumble, these projects may turn out to be unprofitable, loss-making and the nascent industry may simply die.

And one last point. Oil is priced and traded in the world in dollars. If prices fall, demand for dollars will plummet and the dollar will start losing its significance as a world currency. There are very many factors involved. The wish to bite us is there, but the opportunities are limited. That said, some damage can be caused.

Now about gas. We sell gas by pipeline (most of our sales are by pipeline) mainly to the European countries that depend on Russian supplies to cover about 30–35, 34 percent of their needs. Can they stop buying Russian gas altogether? I don't think that this is possible.

Some of our neighbours, very good neighbours with which we have very sound relations, such as, for example, Finland...Finland gets 90 percent of its gas from Russia. Some countries that used to be called People's Democracies in Eastern Europe depend on Russian gas if not for 90 percent, then for 60, 50 or 70 percent of their needs.

Can supplies be stopped altogether? I think that this is totally unrealistic. But one can do this at one's own cost, by hurting oneself. However, I cannot imagine such a situation. Therefore, of course, everyone is keen on diversifying their sources of supplies. Europe is talking about greater independence from Russia as a supplier, and similarly we are beginning to talk and act to become less dependent on our consumers.

However, so far, there is a measure of balance between consumers and suppliers. The only problem is transit countries. And the most dangerous part, of course, is transit via Ukraine with which we have tremendous difficulties in agreeing on energy problems. But I hope that we will be able to bring things back to normal, considering the contracts that have been signed and are functioning.

**Maria Sittel:** Thank you.

Retired people in Russia are very active. Here's the next question: "Are there any plans regarding the annexation of Alaska? We would be very happy to see that happen. Thank you. Pensioner Faina Ivanovna."

**Kirill Kleymenov:** That's a popular joke, Mr Putin. They call Alaska "Ice Crimea" in jest.

**Vladimir Putin:** Yes, I'm aware of that.

Faina Ivanovna, why do you need Alaska? By the way, Alaska was sold sometime in the 19<sup>th</sup> century. Louisiana was sold to the United States by the French at about the same time. Thousands of square kilometres were sold for \$7.2 million, although in gold. We can calculate the equivalent amount, but it was definitely inexpensive. Russia is a northern country with 70% of its territory located in the north and the far north. Alaska is not located in the southern hemisphere, either, is it? It's cold out there as well. Let's not get worked up about it, all right?

**Kirill Kleymenov:** Let's return to Crimea.

**Vladimir Putin:** We'll have to pay them allowances to live in the north. We need to calculate our budget expenses. (Laughter.)

**Kirill Kleymenov:** Here is a question that came in as we were having this conversation. Rishat Akhmadiyev asks, "I'd like to know what steps will be taken to rehabilitate the Crimean Tatars?"

**Vladimir Putin:** Crimean Tatars suffered some serious damage during the Stalinist reprisals and were deported from Crimea, which is their traditional place of residence, their home. We certainly need to do everything we can to rehabilitate and restore the legitimate rights and interests of the Crimean Tatar people at a time when Crimea is joining the Russian Federation.

By the way, immediately after the annexation of Crimea to Russia, in 1783, I believe, forgive me if I'm wrong, Catherine II issued a decree to the effect – I can't quote it word for word – but its meaning was as follows: Crimean Tatars will be perceived by Russia as its own citizens with all ensuing consequences. Their rights, their mosques and their religion will be fully respected, which is extremely important.

It was a very wise and appropriate policy, and we plan to stick to such a policy today as well. That is why my colleagues in the Government and the Presidential Executive Office and I are now preparing an executive order on the rehabilitation of the Crimean Tatars. Not only the Crimean Tatars though, because Armenians, Germans and Greeks also suffered

during Stalin's reprisals, so representatives of all of these peoples should be included as well.

**Kirill Kleymenov:** We have been on the air live for two hours now. Russia's Far East is seven hours ahead of us, so it's already 9 pm there. I mention the Far East because we can't fail to raise the issue of the disastrous floods that occurred there last August. Thousands of people have yet to recover from this natural disaster. We have chosen two communities, the villages of Belgo and Novoye, in which to set up our mobile TV stations. Few people in Russia have heard of these villages, so in order to remind you of what happened back then, we have put together a video sequence that was broadcast by all channels.

So we are joined by the village of Belgo and our colleague Pavel Zarubin.

**Pavel Zarubin:** Hello Moscow! Greetings from Belgo. This village was almost totally destroyed by last year's unprecedented floods in the Far East. This is why a new cottage village is now being erected on this huge mound. A total of 87 houses like this one will be built with all the needed amenities. For instance, local residents will have hot water supply, while there was no running water before the flooding.

People who stayed in the village despite the floods' disastrous consequences came here today. Here with us today we have Presidential Plenipotentiary Envoy to the Far Eastern Federal District Yury Trutnev. He was appointed by the President to head the government commission that coordinates relief efforts in the Far East in the aftermath of the floods.

**Vladimir Putin:** Good afternoon. Mr Trutnev and I meet quite often. I hope that other people who went there will also have an opportunity to say something.

**Pavel Zarubin:** Ok, let's start with questions then. I would like to remind the audience that funding for building houses here was raised during a telethon with assistance from our colleagues. We have been here for several days now and have talked to almost all residents. People say that they really like these houses, but they have a lot of other questions. Here is a question that is relevant to all local residents. Andrei, a local car owner, will ask it.

**Question:** Hello Mr President, here's my question: as a car owner, I pay a 4,000-ruble transport tax, but there's no road here. Belgo is 50 kilometres away from a federal route.

**Vladimir Putin:** Why do you need a car then? If there's no road, why have a car? Where can you drive? Sounds like a provocation to me.

**Question:** No, this is an urgent issue for all of us, not a provocation. Sometimes people get sick and you can't even take them out of the village because the road is just terrible.

**Vladimir Putin:** I see.

**Question:** I wanted to ask you to help us address this issue. New cottages are being built. They are so great. But we also need a decent road. It could be just a dirt road, we're not asking for much.

**Vladimir Putin:** Very well, I understand.

You know, when I visited the territories that had been battered by floods and met with people and heads of municipal government bodies, infrastructure recovery and development were among the issues raised during conversations and meetings we held. It was about supporting agriculture and daily living in communities. We came to the conclusion that no matter how much you invest in, say, agriculture, although this a separate issue and there are probably many things that have yet to be done in this segment, if it is impossible to deliver the equipment needed for agriculture to the villages, these efforts are meaningless. Roads and bridges should be rebuilt. I must say that such funding was factored into relevant federal programmes for helping the affected regions. We could even increase such expenses if the region needs it. In order to do that, these needs should be communicated to the Russian Government first by the municipal government bodies and then by governors. Mr Trutnev is there with you today. You could share the requests and needs of your village with him. When Mr Trutnev comes back, we'll discuss it. If a village is built, there should be a road leading to it. This is the way it should be.

**Kirill Kleymenov:** One more question, Pavel, please.

**Pavel Zarubin:** There is another issue of concern to many Russians living in rural areas. Ms Kuzyurina, please.

**Olga Kuzyurina:** Good afternoon, Mr Putin. I'd like to make a request on behalf of all the villagers. A gas pipeline runs one kilometre outside our village, there is a gas distribution station. We would like to ask you to make a decision to connect our village, which is under construction now, to the gas pipeline. Thank you.

**Vladimir Putin:** If there is a gas system in place (I don't know what kind of gas pipeline it is, a high-pressure system? Most likely, it is), then the construction of low-pressure networks needs to be included in the relevant municipal and regional costs. This is one of the problems of gas infrastructure development in our country. The obligations are shared as follows: Gazprom and the federal budget are responsible for the construction of high-pressure systems, while municipal governments finance low-pressure systems for consumers. But this is a special case, and given that this is essentially a new village, this issue must and will be resolved. Please, send this request to Mr Trutnev as well. I'm sure that we will solve the problem.

**Kirill Kleymenov:** Thank you. Thank you, Pavel, thank you to the village of Belgo. We can see that the houses that are under construction there are almost completed even though construction started just this week. These are pre-fabricated homes, and, as Pavel said, the funds were raised by Channel One's audience during the "All Together" telethon. By the way, Mr Putin, we've received some unexpected ideas from our viewers. "Let's build the Kerch Strait Bridge as a symbol of Russian unity. We'll raise money via television and SMS. I dream of crossing it one day and visiting Crimea and Artek," writes 12-year-old Yana Mikhailenko from Klin. How do you like that idea?

**Vladimir Putin:** It sounds like she's going to spend the money she gets for snacks at school to help pay for a bridge to Crimea. This is very noble, thank her for this. I also thank Channel One, which held such a major campaign. Incidentally, the money that was raised is a considerable amount, Mr Ernst has just told me that it was about \$30 million, which is an enormous sum. And I'd like to thank Channel One and all Russian citizens who responded when they saw the problems that residents of the Far East faced as a result of a major flood, the biggest flood in the last 100 years. At the same time, I'd like to note that the Government is also making its modest contribution by allocating 40 billion rubles

to build housing, infrastructure, dams, etc., and to revive the economy. The key goal is to spend the funds efficiently.

As for the bridge to Crimea, this is a special matter. It will be quite expensive, but we will strive to do this as quickly as possible, with the best possible quality and in a cost-effective manner.

**Kirill Kleymenov:** We'll now switch to the village of Novoye in the Jewish Autonomous Area, to our correspondent Darya Grigorova.

**Darya Grigorova:** Good afternoon. Greetings to Moscow from Novoye in the Jewish Autonomous Area. The mark you can see here is the maximum water level ever recorded here, which is 10.5 metres. It's quite high, well above the average, even at the highest point in the village. When the dam in the village was destroyed, the village was not just flooded, it was isolated from the rest of the world. People held up here, on the second floor of the culture centre where they were supplied with essentials, water and food. Right here, in boats, people voted. Now that spring has come, the culture centre has been restored. Novoye is being restored too. The people who are here today went through that ordeal. I suggest giving the floor to the local residents. This is Galina Alekhina. Ms Alekhina was here with her large family when the disaster happened. She has four children and six grandchildren. She managed to help not only her family but many other residents.

Ms Alekhina, your question please.

**Galina Alekhina:** First of all I would like to thank the people of Russia for their help. Many thanks to those who didn't remain indifferent to our troubles.

My question is about the dams. The dams that are being restored do not meet our needs. They must be higher, and the flood in 2013 proved this. If the dams are not high enough all the restored and newly built houses will just be destroyed again. Without higher dams, all the invested money will just be wasted.

Will there be a government programme for dam building around our villages so people won't have to suffer any more and won't have to worry about another disaster.

**Vladimir Putin:** Of course. I just talked about this. The money that was allocated by the Government to restore the infrastructure and ensure the residents' safety will be spent on the dams. As far as I know, the dams are being built. But you believe they are lower than is necessary for your safety. Initially, we assumed that the housing would be rebuilt on safe ground, at higher levels that won't be flooded. Where that's not possible, dams must be built. I'll look into this by all means. I cannot tell you for sure what is going on there and whether this dam height is enough or whether it should be higher. We'll make sure an additional expert review is done and make corrections, if necessary.

**Galina Alekhina:** Thank you very much.

**Kirill Kleymenov:** One more question from your village please.

**Darya Grigороva:** We have been here for several days. Of course, most of us worry not only about rehabilitating, but also about developing farming. The flood, which has robbed many of us of everything we had, has given us a fresh opportunity to think about whether we should rebuild our homes here. Vladimir Badarin should be in this audience – we met him during the flood last August. Although he was hit hard, Vladimir does not plan to leave his native village.

Vladimir, what did you want to ask?

**Vladimir Badarin:** Good afternoon, Mr President.

**Vladimir Putin:** Good afternoon.

**Vladimir Badarin:** I live in a nearby village, more than half of which was flooded. We received financial compensation for our houses, which were flooded, and we also got coal, firewood, vegetables, potatoes and other kinds of assistance. We are sincerely grateful for this. But there is a question. People are leaving the village, and the number of those who are leaving has increased since the flood. The same is going on in neighbouring villages, which stand on the border. Young people are leaving.

Here is my question: Have you considered drafting a development programme for the border villages in the Amur River area? My question only concerns the border



villages that are not part of the priority development area. For example, a dam should be built in my village to prevent further flooding. Mr President, we really need a dam.

And one more thing: Are there flood forecasts in the Amur River area for July, August and September?

Thank you.

**Vladimir Putin:** Regarding the outflow of people, it's true that young people are leaving. I believe that one of the reasons behind this is that they were given an opportunity to choose between financial compensation for housing reconstruction or construction, and a ready-made house. I think that some people take money and buy housing in some other region. They have the right to do this; we cannot stop them.

But you are right, and I understand and feel your concern, because these are border villages we are talking about. This is an issue we should seriously consider as part of the Far East development programme. I will instruct those who are responsible for this programme to focus on this issue.

Regarding the dam, I will inquire as to whether there are any plans. As for now, I cannot tell you anything. But we will certainly ask about plans to develop infrastructure and [flood] protection for these villages.

As for weather forecasts, we plan to considerably expand the network of monitoring and weather stations. To be honest, I can't say that our plans in this respect are being fulfilled in full. We should monitor this issue more closely. We will do this, and I hope that the government agencies concerned will promptly respond to changes in the situation.

**Maria Sittel:** Thank you.

**Vladimir Putin:** Thank you very much.

**Maria Sittel:** Now let's return to our call centres. Tatyana, first to you.

**Tatyana Remezova:** Thank you, Maria.

The call centre has been operating for a week; over the past days, we have received 2.2 million phone calls, over 400,000 text messages, about 200,000 messages sent to our website and over 7,500 video questions. At this moment we are receiving 91 video questions per minute.

Another interesting detail is that people from Krasnodar Territory have become really active, probably because they saw Governor Alexander Tkachev in our studio.

I would like to remind you that this year we are conducting a public ranking of the topics raised and questions Mr Putin was asked. You can vote online on our website for the questions you like, and thus define how relevant the subject is. At the moment, the ranking is as follows: Crimea and Ukraine are in first place, naturally, followed by social security, housing and utilities, roads and healthcare.

**Maria Sittel:** Thank you.

Anna, what are the most popular video questions?

**Anna Pavlova:** We have a similar picture here in the video centre: Crimea and the events in eastern Ukraine are in the lead. Housing and utilities rank second, followed by social security issues. From this category we have another question, which we simply can't ignore.

Mr Putin, Amangeldy Akhmetov from Omsk would like to address you. Twenty years ago, he was severely injured in a car crash. Please, take a look at the screen.

**Amangeldy Akhmetov:** Good afternoon, Mr Putin.

Here is my question. I've been a wheelchair user since 1995. In 1998, I joined a waiting list to get a flat, but nothing has happened since: I can't have a wash like a normal person and my house gets too cold in the winter. Please help, you are my only hope.

**Vladimir Putin:** You know, it is sad to hear these words. As for this particular case, of course, we will respond and help.

There is something I would like to say on the issue. Providing wheelchair users with housing is the regional authorities' responsibility. In some regions, this issue gets resolved and people can see the results, but in other regions, unfortunately, the process is very slow or nothing happens at all, as in your case, for instance. I would like to repeat that we will by all means respond to this particular request.

But in general, there is a lot for us to do to help people with disabilities feel comfortable in the modern world, in modern society. We are taking steps in this direction, we have allocated significant funding from the federal budget – some 35 or 34.5 billion roubles a year for five consecutive years – for creating an accessible environment for people with disabilities.

But creating an accessible environment in residential areas is a slightly different subject. Housing is also a very urgent issue. We need to think about how to help the regions cope with it more effectively. Again, we will address this particular case separately.

**Kirill Kleymenov:** We've heard the message handling centre's statistics; let's take a live call.

Tatyana, please.

**Tatyana Remezova:** Yes, thank you, Kirill.

A great many callers are outraged by rising prices of housing and utilities. We'll take one of these calls. Our editors are telling me that it is Svetlana Shcherbakova calling from Chelyabinsk.

Ms Shcherbakova, good afternoon. Ask your question, please.

**Svetlana Shcherbakova:** Good afternoon.

Thank you for Crimea, of course. But why are you pursuing a housing and utilities policy that hurts people? Why are you forcing already impoverished people to pay not only their own bills but also for communal meters and needs, increasing costs by almost 50 percent and reducing our standard of living? I hope you don't want us all to starve to death.

**Vladimir Putin:** Housing and utilities are among our most pressing problems, affecting practically every family in Russia. Problems have been piling up for decades in this sector, including dilapidated housing, relocating tenants from dilapidated housing, rundown housing, and the problem of housing and utilities maintenance in general. I will not go into detail now, but what I've heard leads me again to some unhappy thoughts. You've mentioned communal meters that increase an individual consumer's bill by more than 50 percent. This is absolutely unacceptable. Do we have any information about this caller?

**Maria Sittel:** Yes, of course.

**Vladimir Putin:** This issue must be dealt with separately. I will say why. Because it has become standard practice for so-called management companies to shift their costs to tenants via collective expenditure systems. One light bulb somewhere in a hallway appears to consume more electricity than the entire building. What does this reveal? Either the management company itself is inefficient, or, on the contrary, it is stealing from tenants and shifting its costs and whatever else it wants to add to the bill to these communal meters. This requires an additional investigation, and we will certainly investigate.

As far as the system as a whole is concerned, I would like to say this. To avoid the growth in prices, which should certainly be restrained by local authorities, we have taken the following course of action: a bill was signed into law late last year that enabled the regions of the Russian Federation to set the upper price limit, while the state, or rather the Government, presents and proposes the settlement method and determines the upper – so-called combined – payment. Basically, the Government should have done this before April 1 of this year. But it hasn't, as far as I know. I'd like to draw the attention of the relevant government agency to this fact, and I do hope that this will be done shortly.

Moreover, a decision has been approved requiring that management companies be licensed to operate. The issuing of licenses will start later this year. Management

companies lacking licenses will be unable to continue operations starting in mid-2015.

**Kirill Kleymenov:** I think the guests in our studio have not had an opportunity to ask the President a question for a long time. Olga, please.

**Olga Ushakova:** Thank you Kirill. Yevgeny Artyukh, representative of the OPORA Russia SME support organisation and member of the Sverdlovsk Region Legislative Assembly, go ahead, please.

**Yevgeny Artyukh:** Good afternoon, Mr Putin. Here is my question. Russia is a member of many international organisations. Now, given the situation in Ukraine, many of them are not just shaking their finger at us but are threatening to expel us, and they seem to mean it. We know that PACE has suspended Russia's voting rights until the end of the year, as if we were some kind of poor relative or as if they had taken us in out of charity. As if we do not pay our membership fees regularly.

So my question is, do you think, personally, that Russia needs to review its membership in these organisations? Shouldn't we make our move and suspend or even terminate our membership in some of them? I am not insisting on this, but I suggest we think about it and I would like to hear your opinion.

We'll just wait and see who will benefit in the end.

**Vladimir Putin:** You see, the world is evolving fast. If – as I have already said – someone wishes to make it a unipolar world and dominate all international organisations, they are unlikely to succeed with that.

At the same time, we often come up against the failure to understand our position, and sometimes even an unwillingness to understand. We have already discussed this today. We will not insist on continuing our membership in certain international groups, especially those that fail to show an independent attitude and to work out their own perspective on major international issues. On the other hand, we will not make any demarches either. We will continue working as normal.

As for PACE, we do pay our membership fees, and rather substantial fees, I should say. But it won't hurt much if they don't want to see us. But we do not intend to impose isolation on ourselves either.

**Kirill Kleymenov:** Mr Putin, let's return to the consequences of Crimea's integration into Russia – a question about the sanctions. As is known, these sanctions hit several major businessmen such as Yury Kovalchuk, Gennady Timchenko and the Rotenberg brothers. They are rumoured to be your personal friends and part of your inner circle and that their fortunes were made thanks to that friendship. Now as it happens, they have sanctions imposed on them, also to a large extent due to their friendship with you. Don't you get the feeling that the main target of the EU sanctions is you, personally?

**Vladimir Putin:** It looks like they are trying to make me the object of these sanctions. As for the people you mentioned, they are indeed my good acquaintances, my friends. But for the most part they had made their fortunes before we even met. Mr Timchenko, for example, has been doing business since the 1990s, but this story is well known.

Seriously, they certainly have nothing to do with Crimea, absolutely. However, Mr Timchenko's wife had serious surgery and was unable to pay for it because her bank account and credit cards were frozen. This is a flagrant violation of human rights, that's what it is, and an action beyond reason.

I also have to tell you that I am not in any way ashamed for my friends. I'm sure they learned about Crimea from the TV news and they had tears in their eyes when they saw it. If they're being punished for that, well let's say they deserve this punishment. (Applause.)

**Maria Sittel:** An SMS from Saratov Region: "Why is the price of grain falling and the price of bread growing?"

**Vladimir Putin:** Another tough one, but that's the way things are. Indeed the price of grain has dipped. As for bread prices, they have increased a bit, but not much, I am aware of it because bread as you know is the basis of everything and people like myself, members of the Government, are obliged to know it: the price is up 1.3%.

On the whole inflation, that is price growth, as we noted the day before yesterday, was 2.3%, but the latest Central Bank figures put it at 2.8% and bread prices are up 1.3% (not much, as you see). But grain accounts for just 30% of the price of bread, the rest is electricity, power, transport and other factors, including import.

In general the inflation target for this year is 6–6.5% and I hope the Central Bank will keep it within these limits. But what worries me is that the structure of these prices, of the 2.8% increase, is very mixed. In the first quarter of this year the price of vegetables soared by almost 18%, 17.9% to be exact.

And if we look at vegetables as a group there are some differences too – these are small details, but they matter to people: for example – such things as onions and cabbage have gone up by 25, 30 and even more than 50%. The reason is the sagging ruble and the rising cost of imports, because we import a lot of food products at this time of year.

But let me repeat, I very much hope that on the whole the Government and the Central Bank will manage to rein in prices and stay within the 6–6.5% band.

**Maria Sittel:** So, agriculture turns out to be more important than guns and planes, and in the light of the Western threats of sanctions national food security is the number one issue.

**Vladimir Putin:** As much as I may like the army, I have to admit that agriculture has always been more important than guns because without it there can be nothing. As our farmers say, bread comes first. So we have paid and will continue to pay due attention to the development of agriculture.

In 2011 agricultural output grew significantly, by 23%, and it increased last year too, though not by so much. This year the budget envisages subsidies and money in support of agriculture to the tune of 170 billion rubles.

We will keep our finger on the pulse, monitor what is taking place in daily practice and I hope the Government will react promptly. Having said that, I know the mood among farmers who believe that the Government is sometimes late in providing subsidies

and other support measures, that the new system of support per hectare is in need of improvement – we know all that and we will follow all this closely and will respond.

**Maria Sittel:** Thank you.

**Kirill Kleymenov:** Mr President, bread is the staff of life, but Russia is getting its money from exporting energy, gas and petroleum products. We have a lot of questions about this. Why does Russia help Ukraine, and fail to cut gas supplies to debtor countries, but at the same time can cut gas supplies to its own people in winter for failure to pay 3,000 rubles on time? Why are Russians cut off for non-payment and Ukraine is not? We have lots of questions about this.

**Vladimir Putin:** I believe that payment discipline should, of course, be integral to our economic activities. In Ukraine, for example, consumers used to pay around 30%-35%, but now they are paying less than 20%. This undermines the entire national economy and the energy system, even the entire utility sector. This just runs it into the ground. However, given all that and the fact that compliance with payment discipline is very important, we must still always act based on a specific situation. I very much hope that there will be no extreme situation in connection with these cut-offs. It's imperative to assess the situation in each particular household.

With regard to Ukraine (I'll use your question to talk about it), the current contract was signed in 2009. Up until now, Ukraine has been paying us. Not always on time, but it has been paying for its gas nevertheless. The price formula which we expected Ukraine to use to pay for Russian gas hasn't budged since the time this contract was signed in 2009 with Prime Minister Tymoshenko and her then Energy Minister, a gentleman with the telling name Prodan (he's still the Minister of Energy) [prodan is the Russian for "sold" – ed.]. This formula has not changed once since then. What did we do? In 2010, we signed the so-called Kharkov agreements to extend the stay of the Russian fleet in the Crimean city of Sevastopol.

Please note that Russia has been paying about \$90 million (\$95, I think, or even \$97 million) annually for the presence of the Russian fleet in Crimea. In addition, with the sole purpose of supporting the economy of Ukraine, we agreed that the Russian Government would remove or reduce the export duty on gas supplies to Ukraine. The reduction



of export duties resulted in the final cost of Russian gas decreasing by \$100 per 1,000 cubic metres. In fact, we should have begun our payments in 2017, that is, remove this duty in 2017, because the agreement for our fleet staying in Crimea is valid until 2017. Nevertheless, we started paying immediately upon signing the agreement in 2010. That is, we began to pay in advance. We were paying \$100 million in current expenses plus advance payments that were coming due only in 2017. So, that makes it 2011, 2012, 2013 and 2014. Over these four years, in fact for 2018, 2019, 2020, and 2021, we have already paid \$11.4 billion. That's 11.4 billion dollars. This begs the question: where's the money? The event has not yet happened, the agreement on the fleet is still valid, and we have already begun to pay as if it has already ended. This is my first point. Of course, we have now dropped this price decreasing mechanism and cancelled the Kharkov agreements.

Next. Responding to our Ukrainian partners' requests, we took another step in 2013 and loaned them \$3 billion and even lowered the gas price to \$268.5 per 1,000 cubic metres on the assumption, and based on the agreement, that they would pay us the arrears for the previous year which amount to about \$1.5 billion, and would continue the regular current payments at reduced prices. What happened next? By the way, we agreed that if they failed to pay, we'd revert to the previous prices. And what happened? They paid in January, and their debt was reduced slightly. In January, they paid in full; in February, they paid less than half, and in March, the new Ukrainian government has not paid anything at all. Of \$525 million owed, they paid nothing, zero, not a single dollar, not a single ruble. Under the existing agreements, if they fail to make their current payments, Gazprom is entitled to go back to the previous pricing. Why would we lock in the increasing debt at a low price when we can lock it in at the real contract price? That's the problem.

**Kirill Kleymenov:** The previous pricing was \$485, right?

**Vladimir Putin:** Yes, it's going to be \$485.

What do we hear? That Russia has a biased approach to Ukraine, and this is the political cost. However, this is the price that they agreed on with us in 2009. We lowered it under the agreement that they would pay us at least the lower price. But they don't even pay that. Zero. That's the problem. I told our Western partners, including Germany, "We do not insist on the immediate payments. We understand Ukraine's difficulties, but we are asking

you to join us in this work and take part in rescuing the Ukrainian economy.” What does the United States do? They promised Ukraine a billion. A billion what? Guarantees. It's not the actual money, it's just a guarantee to the banks that will agree to loan money to Ukraine. Where are these banks? There's no one to be seen yet. We can wait a little longer, a month. If there are no payments next month, we'll then switch to the pre-payment arrangement in accordance with the contract. What does this mean? This means that Ukraine will need to pay us upfront for the next month, and we'll send them as much gas as they paid for. This is a difficult calculation method, and it can lead to disruptions in the distribution of our gas to our European consumers. This is exactly why we're showing such corporate responsibility, such willingness to negotiate and be patient.

**Kirill Kleymenov:** Mr President, when will this system go into effect?

**Vladimir Putin:** Like I said, we'll wait for another month. We could do it today, but we'll wait one more month.

**Kirill Kleymenov:** News from Europe is coming in just as we are holding this Direct Line event. This has to do with Jose Manuel Barroso's reply to your letter, which says that the European Commissioner for Energy will get in touch with partners in Russia and Ukraine to organise consultations on gas supplies. As far as I understand, they will also discuss the security of gas supply and transit to European consumers. The European Commission said this is Gazprom's responsibility, not Ukraine's.

**Vladimir Putin:** I can agree about the supplies, but the transit is up to Ukraine. The contract I mentioned stipulates supplies to Ukraine at a price calculated according to the well-known formula – \$485 per 1,000 cubic metres at the moment – and unimpeded transit of the Russian gas to Europe.

This was actually one of the reasons we built the Nord Stream pipeline: to secure our exports from such incidents, to ensure direct supplies to our European customers via a pipeline system along the Baltic Sea bottom. This is why we are also building the South Stream, a pipeline across the Black Sea linked to the European Union.

**Kirill Kleymenov:** We have Berlin on the line.

**Vladimir Putin:** Good timing.

**Kirill Kleymenov:** Our correspondent Ivan Blagoi works in Europe's most influential country.

But before giving the floor to him, I'd like to ask you to return to the speech that we discussed at the very beginning, the one that you made before signing the treaty on Crimea and Sevastopol's accession to Russia. Many people were very impressed by it and compared it to your Munich speech. They even called it your best speech.

I'd like to ask you why you made this speech. First, the protocol didn't demand it and, second, the format was very unusual – you addressed peoples rather than countries or governments.

**Vladimir Putin:** The format was chosen based on the importance of the event and the situation. This is an unusual event in the life of our people, our country and our state. This is why I considered it my duty to address the Federal Assembly and the people of the Russian Federation in the presence of members of the State Duma and the Federation Council. This is the first point.

Second. Why was the speech addressed to the peoples of other countries rather than their governments? As you know, the modern world, especially the Western world, is highly monopolised and many Western countries – whether they want to hear this or not – have voluntarily given up a considerable part of their sovereignty. To some extent, this is a result of the politics of blocs. Sometimes we find it very difficult to come to terms with them on geopolitical issues. It is hard to reach an agreement with people who whisper even at home for fear of being overheard by the Americans. This is not a joke or a figure of speech. Listen to me, I'm serious, I'm not joking. However, they are our main partners on economic and some other issues.

But I addressed the peoples of these countries primarily because an ordinary person from Germany, France or Italy will instantly sense whether a statement is false or not. Our position is absolutely open, honest and transparent, and for this reason it is easier to get it across to ordinary people than even to some leaders. It seems to me we succeeded

to some extent. No matter what government rules a country, it will have to consider the opinion of its voters. This is why I addressed the people.

**Maria Sittel:** We have a question from Berlin, from our correspondent Ivan Blagoi, who has been working in one of Europe's most influential countries.

**Ivan Blagoi:** Good afternoon.

How united is the West in its desire to punish Russia? Which EU countries are in favour of isolating Russia? Is this even possible? And lastly, what is going on in Ukraine? These are the questions that the Valdai International Discussion Club experts have been discussing.

Some of them are here in this studio. Let me introduce them: Alexander Rahr, Germany; Nicolai Petro, USA; Gabor Stier, Hungary; Gerhard Mangott, Austria; and Arnaud Dubien, France. The first to ask his question will be Alexander Rahr, member of the Valdai Discussion Club Advisory Board.

Mr Rahr, go ahead please.

**Alexander Rahr:** Good afternoon, Moscow. Good afternoon, Mr Putin.

**Vladimir Putin:** Good afternoon.

**Alexander Rahr:** Greetings from Berlin.

The Valdai Club members had a meeting that lasted several hours yesterday, and many Club members, including our German colleagues, expressed their concern about the kind of Europe we will live in – in addition to the shared task of stabilising Ukraine, which is falling apart as we speak. After all, it is a country of 45 million people and our common concern.

What future do you envision for Europe in five or, say, ten years? Will we live in a common Europe from the Atlantic to the Pacific Ocean? Or will we live in two different Europes?

I remember how you said at the Valdai Club last September that Russia is a different kind of Europe, whole values differ from those of the post-modernist West. Can we bring these two views together? What can Germany do to help build a common Europe?

**Vladimir Putin:** First, good afternoon, Alexander.

Second, I'd like to say that there is no contradiction in what I said at the Valdai Club. Russia's values do not differ dramatically from European values. We belong to the same civilisation. We are different, and we have some features that are unique to us, but we have the same ingrained values. I believe that we must certainly strive to create a greater Europe from Lisbon to Vladivostok, as I have said more than once, including today. If we accomplish this task, we will be able to take our rightful place in the future world. But if we choose a different path, if we divide Europe, European values and people, if we promote separatism in the broad meaning of the word, this will make us all insignificant and mediocre players who will have no influence over their own development, let alone global development.

**Maria Sittel:** Berlin, please, one more question from you.

**Ivan Blagoi:** Yes, Mr Petro, please, your question for the President.

**Nicolai Petro:** Good afternoon, Mr President.

My question concerns Russia-US relations. The relations between Russia and the United States have worsened to a critical level recently. The US media unanimously speak about total mistrust between the US and Russian leaders. However, global issues still need to be resolved, and this requires closer cooperation between the US and Russia.

So my question is: How can the lost trust be recovered? What particular steps are necessary for the US and Russia to transform from rivals to allies in settling global issues?

**Vladimir Putin:** You know the answer is simple. I agree with you that we have lost trust. But why did this happen? We believe it's not our fault, because these double standards, as we call them, have always been disappointing.

We see a situation in which it's appropriate to act the way the United States did in Yugoslavia, Iraq, Afghanistan, Libya but it's inappropriate for Russia to defend its interests. I gave you the example of Kosovo, which is totally obvious and clear to the average person not involved in politics. Everything is being turned upside down. This position is devoid of any logic, any logic whatsoever.

We just mentioned that I addressed the European people and other nations directly, because ordinary people can see insincerity. In order to restore trust we need to respect each other's interests, speak the same language, avoid double standards and lies in international politics, focus on international laws but not on the politics of force, which we also mentioned here. I hope this will be possible. And I can assure you that Russia will certainly strive for this.

**Kirill Kleymenov:** Mr President, you remember the story with a button that Ms Clinton gave to Mr Lavrov as a gift? The "reset" inscription on the button was translated into Russian with a mistake, as "overload" rather than "reload." An overload is what eventually happened.

**Vladimir Putin:** You know, it didn't happen just now because of Crimea. I think it happened much earlier, just after the events in Libya. Dmitry Medvedev, who was Russia's President at the time, supported our western partners and upheld the resolution on Libya. This was about a ban on flights of Libyan government air force.

The actual result was air bombing, the overthrow of Gaddafi, his murder and the murder of the US ambassador, and the collapse of the country. This is where mistrust comes from. This is how the "overload" happened. But I would like to emphasise this once again. Russia is interested in improving relations with the United States and will do whatever is necessary to restore trust.

**Kirill Kleymenov:** We can take one more question from Berlin. Ivan, go ahead.

**Ivan Blagoi:** Mr Stier, your question, please.

**Gabor Stier:** Good afternoon, Mr President. We are witnessing now not just a reframing of the world order, but a reframing of views. We are witnessing a conservative renaissance

in Russia. In many European countries, traditional views are gaining ground; from Hungary to France, people vote for politicians who defend the national interests of their countries without looking constantly to Brussels. This approach is not always appreciated in Europe.

What do you think, will it be possible to build relations, to build a dialogue between Russia and Europe based on interests? Aren't you afraid that the United States could damage the Russia-EU relationship for a long time to come?

**Vladimir Putin:** We, in any case, are not seeking to damage relations with Europe, and I hope our European partners are not planning to either.

As for the rethinking of values in European countries, yes, I agree that we are witnessing this process. So-called conservative values are acquiring a new significance. I spoke about that more than once. The victory of Viktor Orban in Hungary, the success of the conservative forces in the latest election there, the success of Marine Le Pen in France (she came third in the municipal elections), the growth of such trends in other countries is obvious.

As I see it, this is associated with the desire to strengthen national sovereignty, with the realisation that some issues that are vitally important for citizens can be addressed more effectively at the national level than, say, in Brussels. But there is also an understanding that it is important to join efforts to deal with some challenges that concern everyone. But a certain reframing process is underway indeed, and I hope that the results will be positive.

As for our relations with Europe and western countries, I have mentioned before that this is an issue of trust. In fact, you also spoke about it. You know, this is very important, this is a vital issue – trust on both the personal and intergovernmental level.

You know what came to my mind? The current Secretary General of NATO, Mr Rasmussen, used to be Prime Minister of Denmark, a wonderful country with wonderful people. We have excellent relations with Denmark, at least that has been the case so far, and I hope it will remain so in the future. When Mr Rasmussen was Prime Minister, he once asked me to hold an unplanned meeting. I agreed and we met.

It later turned out that he had recorded our conversation and then published it. I could not believe my eyes and ears. Sounds unbelievable, right? He explained that he recorded our conversation for history. All right, I'm flattered, but even for if it was for history, shouldn't he have at least warned me or asked my permission to publish those talks? How can we speak of trust after something like that?

You see, relationships – whether between people or governments – should be more stable, transparent and collaborative.

**Maria Sittel:** Berlin, thank you so much for your participation and your questions. Stay with us; we will continue to discuss international issues in our Moscow studio.

We have a question from the video call centre. Anna, please.

**Anna Pavlova:** Yes, colleagues, thank you. We have a surprise video call, which I would describe as sensational. It was sent by a person who has made an information revolution by exposing a mass surveillance programme that affected millions of people around the world.

Mr President, you have a question from former intelligence agent Edward Snowden.

**Vladimir Putin:** Do I really?

**Edward Snowden:** Zdravstvuyte. I'd like to ask you a question about the mass surveillance of online communications and the bulk collection of private records by intelligence and law enforcement services. Recently, the United States, two independent White House investigations, as well as a federal court all concluded that these programmes are ineffective in stopping terrorism. They also found that they unreasonably intrude into the private lives of ordinary citizens – individuals who have never been suspected of any wrongdoing or criminal activity; and that these kinds of programmes are not the least intrusive means available to such agencies for these investigative purposes. Now, I've seen little public discussion of Russia's own involvement in the policies of mass surveillance. So I'd like to ask you: Does Russia intercept, store, or analyse in any way the communications of millions of individuals, and do you believe that simply increasing



the effectiveness of intelligence or law enforcement investigations can justify placing societies – rather than subjects – under surveillance? Thank you.

**Kirill Kleymenov:** Mr President, did you get the gist of the question?

**Vladimir Putin:** Yes, by and large.

**Kirill Kleymenov:** This is a professional question from Mr Snowden. You speak freely with foreign leaders during summit meetings, as we can see. But I will try to translate the question for our audience.

**Vladimir Putin:** Still, American English is slightly different...

**Kirill Kleymenov:** I tried to write down the question, which, as I have said, concerns some professional aspects...

**Vladimir Putin:** As I understood it, he wants to know if we engage in electronic surveillance.

**Kirill Kleymenov:** He asked about the mass surveillance of online communications and the collection of users' private records. He said that the US federal court concluded that these programmes are ineffective in stopping terrorism. This is an important admission. He also said something about intrusion into the private lives of ordinary citizens. Mr Snowden also said that he had seen the public discussion launched in Russia on this topic. And, lastly, he has asked you if Russia intercepts, stores, or analyses in any way the communications of millions of individuals. He wants to know if you believe that such mass surveillance can be justified.

**Vladimir Putin:** Mr Snowden, you are a former intelligence officer, and I have worked for an intelligence agency, too. So let's talk like two professionals. To begin with, Russia has laws that strictly regulate the use of special equipment by security services, including for the tapping of private conversations and for the surveillance of online communications. They need to receive a court warrant to be able to use this equipment in each particular case. So there is no, and cannot be any, indiscriminate mass surveillance under Russian law.

Since criminals, including terrorists, use these modern communication systems for their criminal activity, security services should be able to respond accordingly and use modern equipment to combat crime, including terrorism. Yes, we do this, but not on such a large scale and not arbitrarily. Hopefully – I hope very much – we will never act in this manner. Besides, we do not have such technical capabilities and funds as the United States. But the main thing is that, happily, our security services are strictly controlled by the state and society and their operation is strictly regulated by law.

**Kirill Kleymenov:** Mr Putin, we have been talking about big politics for over three hours, but our audience is also interested in other issues. One of our viewers is asking when the country is going to see its First Lady.

**Vladimir Putin:** You know, I need to marry off my ex-wife Lyudmila first, and then I'll think about myself.

**Maria Sittel:** And now let's talk about Sochi, our Olympics, our Olympic and Paralympic Games, which have become the brand identity of our country, which were held at the highest organisational level. Many thanks to our athletes – they are here in our studio – for bringing us so much joy.

**Kirill Kleymenov:** I see them behind your back: Alexander Zubkov and Alexei Voyevoda, our wonderful bobsledders. Thank you very much for the emotions you have given us.

**Maria Sittel:** Let's switch on Sochi.

**Kirill Kleymenov:** Sure. We couldn't possibly do without it. We have Sochi, the Olympic and Paralympic capital on the line. Our colleague Anton Vernitsky works there.

**Anton Vernitsky:** Hello, Moscow. Sochi is on the line. Does the empty Olympic Park look unusual? Just recently, a few weeks ago, millions of TV viewers watched what was happening here at the Olympics in Sochi. Tens of thousands of our tourists and foreign fans came here to support their favourite athletes.

Now builders are working in the Olympic Park. They are building the track for Formula One, which will be held next autumn. But otherwise the Olympic Park is unusually quiet and this

is a source of concern for local people who are mostly involved in the tourist business. Our first question is about this.

**Question:** Crimea has joined Russia and this is great. But what will happen with our city? Won't it be forgotten? Hotels have been built in our city and today it is the most accessible Russian city for people with disabilities. We have trained personnel to host foreign guests. Our seaport and airport coped with the foreign and Russian tourist influx. Meanwhile, accessible tickets from different Russian regions have only been arranged for Crimea. Residents of Sochi who had been asked to weather massive Olympic projects have been waiting for this first post-Olympic season for the past few years as for manna from heaven. Will we be forgotten this year and the next two or three years after managing to cope with the pre-Olympic load? Will our home city, Sochi, be supported and developed?

**Vladimir Putin:** It goes without saying we'll support and develop Sochi. It is time to understand what we should do in addition for Sochi's development. I don't think you should worry about what might happen because of Crimea's accession. You've just said yourself that many modern and very comfortable hotels for tourists have been built in Sochi. These are world-class hotels and their rates should not be reduced below the limit – otherwise economically they won't make any sense. This means that Crimea and Sochi should have different categories of tourists and vacationers. Given its current infrastructure, Crimea is designed for people with small incomes. They can hardly afford to stay in glamorous, top-notch Sochi hotels. Regardless of Crimea's jurisdiction – Russian or not – there are categories of people who won't be able to stay in Sochi's chic hotels, and it is important to be clear on that. People without a great deal of money can afford a vacation in Crimea but the question is how to get there, by what means of transport. In this context we are thinking about low-cost air tickets. I don't know whether the Government has announced this or not but if not, it will do so very soon. Anyway, I recently met with my colleagues – I invited them for a meeting on this score – and told them that we must provide return air tickets for vacationers in Crimea at about 7,500 rubles.

**Kirill Kleymenov:** Aeroflot has already announced this, Mr President.

**Vladimir Putin:** Well, that's great. We'll have to provide railway tickets for 2,000, 2,500 and a maximum of 3,000 rubles in an open-berth carriage, because it will be quite difficult

to get there. If we don't offer cheap tickets people simply won't go. What I mean is, it won't be possible to go by the usual northern route because Ukraine will shut down railway service from the north of the peninsula. So people will have to travel to Anapa or Krasnodar and then get to the Black Sea coast, from where they should go by ferry or ship to relevant ports and finally to hotels. This is a fairly complicated route and if such travel is not cheap we won't be able to attract holidaymakers to Crimea. This is why we are trying to create these special conditions for Crimean health resorts and increase the number of aircraft that would carry those who'd like to vacation in Crimea.

However, this doesn't mean at all that we'll forget about Sochi. On the contrary, we'll do everything to support Sochi in the price niche that is designed for people with at least medium incomes. You know that after the Olympics some of its facilities are being converted to other uses. We have the Governor here and he knows all about this. I hope he's already started turning one facility into a major shopping centre and another into a huge exhibition complex. We're planning to host permanent shows of leading figure skaters from Russia and the world on the skating rink that hosted the Olympic figure skating competitions. All these innovations will add to Sochi's appeal to visitors. I think the same is true of Formula One and the future FIFA World Cup.

Of course, it will take time to convert these Olympic facilities into post-Olympic ones but there is no doubt that Sochi will carry on and flourish.

**Kirill Kleymenov:** Mr Putin, speaking of the FIFA World Cup, may I ask you a question as a football fan? There have been threats to relocate the 2018 FIFA World Cup, which Russia is to host. Some US senators have sent a letter to the FIFA headquarters about this. Do you think this is possible?

**Vladimir Putin:** As FIFA head Mr Blatter said, football and politics don't mix, and the organisation is not going to review its schedule or the host countries, including Russia.

**Maria Sittel:** That's good news.

Sochi, one more question please.

**Anton Vernitsky:** Yes, we have questions. Not only business people are present here today. We have invited young Sochi athletes, builders that built all these beautiful facilities, and students of the Olympic University in Sochi. So they have a question.

**Ivan Belyayev** (student of the Russian International Olympic University): Good afternoon.

So here is my question. Construction of the Olympic facilities required substantial money. However, now, as you can see, the Olympic Park is abandoned and out of use. Don't you think the Olympic facilities will become so-called "white elephants"? Who will maintain them and how? And most importantly, how will they be used? Do you plan to develop any government programmes for this?

**Vladimir Putin:** Ivan, I have just said that the future of the facilities is already known. Some of them will be turned into exhibition centres, shopping malls; some will be used as concert halls; some ice rinks will still be used for their initial purpose. For example, the Small Arena [Shaiba] or the Large Arena [Bolshoy Ice Dome]. The Large Arena, I hope, will be available for the Sochi ice hockey team, while the Small Arena will be a permanent sports camp for children with facilities in both the coastal and the mountain cluster. We decided long ago how these facilities will be used. I repeat once again, restructuring and re-equipping them takes time, but everything will be done, all these projects will be completed.

**Kirill Kleymenov:** Mr Putin, we were all amazed by the Olympics, but the Paralympics left just as powerful an impression on us.

**Vladimir Putin:** Yes.

**Kirill Kleymenov:** Above all, we were impressed by our superheroes, the athletes who competed for Russia. Here in the studio we have a person without whom many of our Paralympic victories would not have been possible.

I would like to ask Olga to present the next speaker.

**Olga Ushakova:** It is a great pleasure for me to present Irina Gromova, the coach of the Russian cross-country skiing and biathlon team. She is the person behind

the numerous moments of joy that our Paralympic athletes brought us. Irina trained the athletes who won 30 medals for Russia, including 13 gold medals.

Ms Gromova, your question for the President.

**Irina Gromova:** Mr Putin, the phenomenal success of our Olympians and Paralympians produced a boom: children are dragging their parents to sports centres and parents are eager to get their children involved in sports. What does the Government intend to do to encourage children to take up sports, especially kids with disabilities and disabled people in general, who live in remote areas? How can we reach them? Could it be possible to explore opportunities for creating boarding schools across Russia, including in Moscow, to enable children from remote areas to do sports, since the availability of sports facilities is very poor where they live? Availability is now a major issue. If we could do this, we would be able to achieve great results, including in sport.

What do you think?

**Vladimir Putin:** You and I discussed this issue when we met in Sochi. Responsibilities should be split between regions, municipalities and the Federation. As you know, the Federation is already doing a lot for high performance Paralympic athletes by creating specialised training centres and promoting a barrier-free environment in old venues so that Paralympic athletes can use them.

Popular sports, including for adults and children with disabilities, is a separate issue that has received little attention until recently. Special attention should be paid to disabled sports as part of the efforts to promote mass sport. These initiatives should be coordinated with the regions. We will move in this direction and are committed to encouraging regions to make the necessary allocations for creating specialised facilities. A part of funds that I've already mentioned, 34.5 billion rubles that will be allocated for creating a barrier-free environment, could also go towards such efforts.

**Maria Sittel:** Mr Putin, let me continue with this topic and ask you if you are aware of the fact that in our country people with impaired hearing cannot even call an ambulance? There is no one to help them if anything should happen, and their chances of survival are, in fact, close to zero.

**Vladimir Putin:** We recently discussed practically the same thing with the Agency for Strategic Initiatives, when we talked about an even more difficult case – deaf-blind people. But let's also pay attention to those with impaired hearing and how we can help them adapt. I will ask our colleagues from the Agency to look at this issue as well. There are many energetic, young people at the Agency who have many good ideas. In general, this is a solvable problem.

**Maria Sittel:** Yes, quite so.

**Vladimir Putin:** The internet can be used for this, and there are other ways.

**Maria Sittel:** Mobile apps.

**Vladimir Putin:** We just need to focus on it. I will definitely ask our colleagues to take up the issue.

**Maria Sittel:** Please do.

**Kirill Kleymenov:** Healthcare is a sensitive issue. Lots of questions here. “New healthcare reforms in our region have led to disruptions in supplies of medications for patients with diabetes,” that's from Krasnoyarsk Territory. In the Republic of Khakassia, doctors do not issue prescriptions for free drugs citing the lack of financing in Khakassia; high prices for medications; the shortage of skilled medical personnel; the closing of rural health posts and rural hospitals, and so on. During preparations for the programme, Tatyana Remezova and I identified the regions where these problems are most acute.

Mr Remezova, over to you.

**Tatyana Remezova:** Yes, Kirill, as we looked at the regions, we were able to identify two of the most painful issues for all of Russia from Rostov to Chita. There is an enormous amount of complaints about rural hospitals being shut down. People called us with the same complaint: at best, there's one rural doctor left serving several villages in areas that are hundreds of square kilometres apart; one ambulance that can't negotiate local roads that are so bad that people say they are left to die because ambulances can't get

to them; and not a single decently equipped hospital within their reach. We have tonnes of such complaints.

The second issue concerns low salaries for medical personnel. We have received lots of calls from all over Russia about this. I believe we have an incoming call from Volgograd about this. Sergei, you are on the air.

Good afternoon, Sergei, please go ahead.

**Question:** Good afternoon, I'm a doctor and I have a question for Mr Putin. Why is it claimed that the official salary of doctors is 49,000 rubles a month, whereas in fact doctors are paid anywhere from 12,000 to 15,000 rubles a month (that's for high-skilled doctors who also have to pay utility bills, taxes and so on from their salaries)?

**Tatyana Remezova:** Mr Putin, we have many such questions. Let me quote another one: "It's a shame that healthcare officials from St Petersburg misinform you about doctors' salaries. I'm a registered nurse with 40 years in the industry, including in the intensive care unit at a children's hospital; ambulance; department of toxicology and drug addiction – all of these jobs involve hard work. Now, I work at Outpatient Clinic No. 43, in St Petersburg's Frunzensky District. My base pay is 16,057 rubles a month. I work one and a half shifts and my salary is 26,600 before taxes. My after-tax salary is 23,000 rubles. Executive order No. 597 is not working. Our staff members wrote to the Presidential Executive Office on several occasions. The Chief Physician wrote in a reply letter that the average salary for a nurse is 47,000 rubles. We have only retired people working in our building. Young people refuse to work for such meagre salaries."

Indeed, Mr Putin, Governors invariably report to you that all is well and doctors' salaries are above the average salary paid in their respective regions, but things are different in real life. How come?

**Vladimir Putin:** First of all, I'd like to focus on healthcare in rural areas. People are saying that rural medical posts are being closed. It's very strange indeed that this is happening.

Most of the funds allocated as part of the effort to modernise the healthcare system were used to improve rural medicine. As far as I can remember, the amount of funds allocated



to the programme and the regions in general was almost double the amount used to improve healthcare in urban areas, primarily because we wanted to maintain and reinforce the network of medical institutions in rural areas.

So, if a rural medical post is closed somewhere, then inter-village rural posts should be set up with proper transport access, roads, etc. I'll look into it closely and see what's going on in the regions in question. This is absolutely unacceptable. This is my first point.

Second, with regard to doctors' salaries. In general, the statistics show that salaries in medicine are growing faster than in other industries. Specialists saw their salaries grow 141 percent last year, that is up 41 percent, nurses 80 percent, and paramedics 47 percent.

With regard to the situation described by the nurse from St Petersburg, we need to look carefully into this case in order to understand what's going on there. I promise you that this is exactly what we are going to do. We will take a thorough look at this medical institution in the Frunzensky District of St Petersburg.

If memory serves, the average salary in St Petersburg is around 37,500 rubles, approximately 37,600. If we use this number as 100 percent, we can arrive at the salary paid to medical personnel as a percentage. If this lady's salary is 26,600 rubles, or 23,000 after taxes, how much is that as a percentage? She's a registered nurse. What percentage is that of 37,500? Perhaps less than 80%, but around that figure.

Clearly, this person works one and a half shifts. The Government should then ... The Government makes calculations of real wages: base salary, base salary and a half. I've heard people say this, but we believe that it's not so important.

Importantly, people are earning this money. But then the Government should clearly and openly say how these salaries are being calculated. Whether they are consistent with workplace safety standards. And so on and so forth. There is, of course, something to work on. But all in all, I repeat, the salaries of medical personnel are growing faster than average salaries across Russia.

As for salaries of 12,000–13,000 ruble being paid to highly skilled professionals, we should also look at specific regions, and we will look at it by all means. Again, this should not be significantly different from the average figures nationwide. We should look at the average wage in this particular region.

However, there's another point that I'd like to draw your attention to. The Government has issued a resolution whereby salaries of executives in publicly funded institutions should be no more than eight times higher than the average salary in that particular institution.

This difference is high enough to provide a decent salary to senior executives and recognise their managerial abilities and qualifications. Anything above that is unacceptable. I do not rule out the possibility of violations in this area. We will get back to this and take a look at this issue at the local level.

**Maria Sittel:** Mr President, I have here a question about civil liberties, if I may. I will read you a text message from Ilya Belov from Moscow. He asks: "Do you think that the events in Crimea have greatly reduced the place of the liberal opposition in our society?"

**Vladimir Putin:** I believe that it has never been very broad in our society, and that it only looked strong. We have a small group of revolutionaries who are far removed from the people, as the classics said, but they are an important part of society. Irina Prokhorova addressed this issue today.

Of course, we should take the opinion of the majority of people into account when taking decisions and shaping our domestic and foreign policy. But we must never disregard the opinion of the minority who have a different opinion of the developments taking place in the country and on the international stage, and we must take their opinion into account and listen to what they have to say. But I cannot say that the government is deliberately trying to limit their space.

**Maria Sittel:** As a follow-up, let's give the Nezavisimaya Gazeta editor-in-chief a chance to ask a question.

**Tatiana Stoliarova:** Mr Remchukov, over to you.

**Konstantin Remchukov:** Mr Putin, you have touched upon many questions that I wanted to ask you regarding international relations and the level of trust in the world. I belong to a group of Russians who believe that normal relations with the West are good for Russia and its citizens.

We live in a global world and we need to communicate and exchange opinions in all spheres, including the economy, technology, healthcare, education and culture. This is an important and integral part of our civilisation. It's sad that our relations have deteriorated so much lately.

Interestingly, society has polarised, including on the issue of Crimea: friend-foe, one of us-one of them, black-white, patriot-liberal. If you extrapolate this for domestic policy, these judgments are often mirrored as well. You have made known your position on Crimea and explained your line of thinking: historical circumstances, political injustice, threats, risks, the referendum and the decision.

There are other views as well on this problem, including in our brotherly nation of Ukraine, which are formulated using words, such as violation of Ukraine's territorial integrity. You can't easily overcome such a view of this event, all the more so since most nations, including Russia, are very sensitive with regard to territorial integrity. You have signed an addendum to Article 282 of the Penal Code, which will enter into force on May 9, that holds that public calls through the media for separatism or violation of territorial integrity, will be punished by up to five years in prison. This is a serious matter.

That is, hypothetically, if someone writes in a newspaper on May 10, "I believe that Crimea is part of Ukrainian territory," he or she may well be found guilty. This doesn't mean that this will necessarily be the case, but there will be grounds for that.

I have a feeling of narrowing of space in this situation. The media is treated almost as the main source of troubles: if someone steals money in the Defence Ministry, or someone has a go at someone, or someone shoots someone, no one is going to shut down the Ministry. They'll start looking for the corrupt official, put him behind bars, etc.

However, if a journalist misuses a word, they issue an instant warning. The second warning means that the media outlet will be closed and typesetters, editors

and proofreaders will be on the receiving end, even though they have nothing to do with such a misstep. They cut off TV channels just because they don't like their tone of voice.

However, while I understand your message about the need to heed the majority, I still think that the 21<sup>st</sup> century is all about high-quality discussions. It's not about being pushy, deciding things by the majority or hooting, but rather a meaningful debate.

Here's my question. As President, do you need such a nationwide consensus in order to be able to conduct your policies, or do you need the majority in order to carry out your policies, allowing others to breathe and live, including those in the media with alternative views?

**Vladimir Putin:** I pretty much answered your question when I said that we will be guided by the opinion of the majority and build our policy based on their interests. Of course, we need to hear other points of view, even if they come from a minority. This is my position. You know, in my everyday work I always listen to what my colleagues have to say. Even if I disagree with them, I always give them a chance to speak and always think that maybe there's something useful in what they are saying. Before taking a decision, I always try to discuss the problem again, this time from the perspective of the colleague who has a different opinion. This is important in everyday work and in politics, both domestic and international. This is a necessary thing. That's how I feel about it. I believe this answers your question.

With regard to other issues that you mentioned in your remarks, it's normal to think like that about our relations with the West. Who does not want our relations to be good? We want this. We are part of the common civilisation, which is mostly Christian civilisation. But even Russian Muslims and Russian Jews are very close to us. Fundamentally, we share the same culture. We want our relations to be good, but we simply cannot afford to have someone always presume that we will give up our interests and move the line all the time in exchange for someone agreeing to be friendly with us. For being allowed to sit next to someone, we must make concessions here and there and turn a blind eye to certain things. This is impossible. In the end, we have reached a point beyond which we cannot retreat. You also mentioned our motives. We want to establish good relations with all our partners in the West and the East. Of course, we certainly need to analyse a variety of viewpoints to resolve this or that problem as we develop these approaches.

**Kirill Kleymenov:** Let's hear one more point of view: with us in the studio is Viktor Baranets, an observer with the newspaper Komsomolskaya Pravda. Let's give him the floor.

**Dmitry Shchugorev:** He's also a colonel, journalist and military expert.

**Viktor Baranets:** Good afternoon, Mr President.

First, I would like to make a small remark. Dear friends, I would like to ask all of you, those who are listening today and who are sitting in this room, not to use the words "little green men." I think it is insulting for the people who serve their country, some of whom are present in this room. Let us leave this term to history, to the arrogant manner of addressing soldiers and officers that was current during the times of Vasilyeva and Serdyukov. Thank you.

Now for my question to you, Mr President. It is hard to name an event over the past two decades that injected into the hearts of millions of Russians a more powerful charge of genuine patriotism, rather than poster patriotism, that helped unite the people and the army. This is our most cherished national possession.

And what do we see on the other side? On the other side we see liberal "hamsters" of every stripe who are trying to plunge their little rotten teeth into these pillars of our national pride. Yes, of course, people may have different opinions. But I do not understand what other opinion there may be when 2.5 million people are knocking on our door, asking for help. Are we supposed to tell them, "Guys, get lost, we have enough problems in Russia as it is?" No, we are Christians, we are Russians, and we have opened our door and said, "Welcome home, come back and we shall live together."

So this is my question to you: we have seen all these provocative marches which carried posters reading "No to War," and I would like to ask these people, these provocateurs who were marching in Moscow waving posters that read "We Are Against War," where did they see war in Crimea? Did they see anything similar to what is happening in the southeast now? If we had not brought back Crimea to where it belongs today Crimea would have turned into a huge Maidan or into what we are witnessing today in the southeast of Ukraine.

Mr President, I think the challenge facing the state today is to defend our victories, the Victory in the Great Patriotic War and this other national victory for which we are responsible to ourselves and our posterity.

Thank you very much.

**Vladimir Putin:** Thank you for your views and your uncompromising stand on sensitive problems and issues. I think you are right, but we should use a different set of instruments in conducting the discussion. On the one hand, one cannot apply harsh epithets to the people who have made a substantial, if not the decisive, contribution to enabling the people of Crimea to express their will. They are our servicemen. As I have already said, their actions were very courageous, decisive and highly professional. Analysts will yet study and draw lessons from what has been done and how.

But on the other hand the “hamsters” have sharp teeth, they have no rotten teeth and they don’t need to see a doctor. If they had bad teeth they would all die out. So let us not talk about “little green men” on the one hand and “hamsters with rotten teeth” on the other, let us upgrade the culture of our communication and our discussion. It would do us all good.

**Kirill Kleymenov:** Mr Putin, I suggest we do a lightning round for some questions.

Masha and I have selected some and I know that you usually select the most original and interesting questions.

**Vladimir Putin:** Sure.

**Kirill Kleymenov:** Please give short answers, if possible.

Dmitry Dutrov from Tambov Region asks: “There is a trend in the Government of replacing old governors. Will this positive trend continue?”

**Vladimir Putin:** You know, this is not a trend. There is no trend at all.

Moreover, I will tell you that the governor corps in Russia is healthy and strong. They are ready to take responsibility for their regions. Many of them achieve excellent results.

I can see Mr Kadyrov here. He does a lot for his region.

Only a few years ago, Minutka Square [in Grozny] was totally run-down. I remember flying over Grozny in a helicopter and there was nothing to look at. We even raised the issue of moving the Chechen capital to another city because we didn't believe it would be possible to restore it. Now the city is prospering. A lot has been done in Krasnodar Territory, especially in Sochi.

Of course, there are still problems in the North Caucasus – for example, unemployment and other problems in Ingushetia and Dagestan. But there has been some progress. And it is amazing what is happening in other regions, like Kaluga Region, which, with its scarce natural resources, has achieved outstanding results in increasing regional GDP. However, if we encounter any ethical violations, any abuse of power, we reserve the right to make the appropriate personnel decisions.

**Maria Sittel:** Mr President, our audience is curious. What is your favourite movie?

**Vladimir Putin:** “Chapayev”, of course.

**Kirill Kleymenov:** Here is another interesting question. “Mr President, first I have to say you look tired – please take a few days off. Second, I'm very concerned with the following issue: When will the Russian coat of arms appear on Russian bank notes?”

**Vladimir Putin:** It is for the Central Bank to decide according to Russian law. It hasn't occurred to me, but I will think about that.

**Maria Sittel:** By the way, you have your own folder, Mr Putin. You can take out questions yourself if you like.

**Vladimir Putin:** Yes, I have chosen some. I don't know if they are interesting but they should be informative at least. We have just talked about replacing governors. I hope this doesn't really concern governors. This is not even a question, just someone thinking out

loud: “Maybe if you publicly execute at least 350 major crooks, like they did in China, your people will support you.”

You know, I would like to stress that in our country thieves have never been executed. It is not the severity of the punishment but its unavoidability. This is what we strive for. But I read this question to let officials at various levels of government know what the public mood is like.

**Maria Sittel:** Why don't you make official state visits to the United States? Are they not allowing you to enter the country or do you not want to go?

**Vladimir Putin:** Nothing of the sort. We were planning some contacts but our American counterparts decided to suspend this work. But I hope that eventually we will be back on the same track.

Here's a question: “Will there be another iron curtain?”

The iron curtain is a Soviet invention, a domestic phenomenon. We are not going to isolate our country, our people and our society from anyone. No, there won't be an iron curtain.

“Mr Putin, why does the United States do whatever it wants and remain unpunished while Russia has to face punishment?”

You know, this seems to be a simple question but it is quite important. The United States is a major global player and at a certain point it seemed to think that it was the only leader and a unipolar system was established. Now we can see that it is not the case and everything in the world is interrelated. If they try to punish someone like misbehaving children or to stand them in the corner on a sack of peas or do something to hurt them, eventually they will bite the hand that feeds them. Sooner or later, they will realise this.

So what is the score? You know, I'd rather not speak metaphorically about this. This is not a sports competition. We are partners and I hope our future entails good development prospects because our interests correspond in many aspects. These include international security, non-proliferation of weapons, combating terrorism, and the global economy.



These are our common interests with the US. We will not be able to succeed in these issues if we don't join forces.

“We live some 250 km away from Moscow...” Then it says that their village is in quite a poor condition. “Could you send your representatives here?” The Governor is my representative there. So I'm asking the Governor to immediately go there and see what's happening. This village is in Tula Region. Therefore, this task is for the Tula Governor.

Here is an interesting question about the Crimean economy and banking system. The first part of the question concerns certain difficulties, including economic issues. The second part is as follows: “I hired a car on lease from Privatbank. It will take me only two years to repay the loan. The car officially belongs to Avtoprivat Group in Kiev. Privatbank no longer operates in Crimea. What am I supposed to do?”

Please use the car and don't worry. If Mr Kolomoisky and Mr Finkelstein don't want your money, it's their problem.

But another and more important question concerns private bank accounts, which is very serious. I would like to note that we have a database of Privatbank and Oschadbank depositors. We will of course act according to the data we have. But the decision is almost made, so if people lose any money they have in their accounts we will repay them up to 700,000 roubles in line with Russian laws.

**Vladimir Putin:** “Will you agree to remain president for life?” No.

“Mr President, how many hours do you sleep?” Six, as I said.

“I'm Daniil Chuchin from Shchetino Children's Home #1. Could you say 'hello' to me?”

Daniil, hello to you and all your friends and acquaintances, to everyone living in this children's home. I hope we'll meet one day.

Here's an interesting question from Albina. She's six years old and her question is about Russian-US relations. Just wait, you'll like it.

“Do you think President Obama would save you if you were drowning?”

I sure hope this doesn't happen, but you know that there are personal relationships as well as relations between governments. I can't say that I have a special personal relationship with the US President, but I think he is a decent man and brave enough. So, I think he definitely would.

“I'd like to have a Q&A like this with our ministers at least once a year. Otherwise, it's not democracy.”

You know, the Government has established a whole agency – the Open Government. If such questions are being asked now (I picked this one out on purpose), that means the Open Government is not so open after all and isn't doing such a good job.

**Vladimir Putin:** “We're asking you questions now. But what if these questions were put to the regional Governor?”

As you know, in many of Russia's regions, Governors regularly appear in the media and reach out to the public. This is something I know for a fact.

This question is from Rostov Region. And if this is indeed an issue, the Rostov Region Governor should draw the appropriate conclusions. Hopefully, he'll listen to this.

“If you weren't President, which of the Russian regions would you want to live in?”

St Petersburg, of course. That's where I was born, after all. It's my home city.

Christina says she is “ready to come to Moscow with her parents to shake my hand.”

Thank you very much, Christina. Let me invite you and your parents to the Victory Day parade on May 9.

**Vladimir Putin:** I thought for a long while about whether to answer this question at all. It is not a question that would fit in a blitz Q&A section. This is a philosophical question. I'll

read it out. This question was asked by Yekaterina Shcherbonos from St Petersburg: “I’m asking you as a politician but I’d like to hear your personal rather than political opinion. What is the Russian people to you? By virtue of your position you’ve probably been to all countries of the world. You’ve seen a tremendous number of nations and ethnic groups and learned about their cultural traditions, national habits, cuisine and arts. In this context I’d like to ask you: In your opinion, what does it mean to be Russian? What do you think about their pluses and minuses, their weaknesses and strengths?”

Well, some specialists believe that the people as a community do not have specific features, that only individuals have them. I find it hard to accept this position because if people are using the same language, live in a common state, on a common territory with a certain climate, if they have common cultural values and history, they are bound to have some common features.

As for our people, our country, like a magnet, has attracted representatives of different ethnic groups, nations and nationalities. Incidentally, this has become the backbone not only for our common cultural code but also a very powerful genetic code, because genes have been exchanged during all these centuries and even millennia as a result of mixed marriages.

And this genetic code of ours is probably, and in fact almost certainly, one of our main competitive advantages in today’s world. This code is very flexible and enduring. We don’t even feel it but it is certainly there.

So what are our particular features? We do have them, of course, and I think they rely on values. It seems to me that the Russian person or, on a broader scale, a person of the Russian world, primarily thinks about his or her highest moral designation, some highest moral truths. This is why the Russian person, or a person of the Russian world, does not concentrate on his or her own precious personality...

Of course, in everyday life we all think about how to live a wealthier and better life, to be healthier and help our family, but these are still not the main values. Our people open themselves outward. Western values are different and are focused on one’s inner self. Personal success is the yardstick of success in life and this is acknowledged by society. The more successful a man is, the better he is.

This is not enough for us in this country. Even very rich people say: “Okay, I’ve made millions and billions, so what next?” At any rate, everything is directed outward, and oriented toward society. I think only our people could have come up with the famous saying: “Meeting your death is no fear when you have got people round you.” How come? Death is horrible, isn’t it? But no, it appears it may be beautiful if it serves the people: death for one’s friends, one’s people or for the homeland, to use a modern word.

These are the deep roots of our patriotism. They explain mass heroism during armed conflicts and wars and even sacrifice in peacetime. Hence there is a feeling of fellowship and family values. Of course, we are less pragmatic, less calculating than representatives of other peoples, and we have bigger hearts. Maybe this is a reflection of the grandeur of our country and its boundless expanses. Our people have a more generous spirit.

I don’t want to offend anyone by saying this. Many peoples have their own advantages but this is certainly ours. An intensive genetic, informational and cultural exchange is going on in the modern world. There is no doubt that other peoples have precious and useful things that we can borrow, but we have relied for centuries on our own values, which have never let us down and will stand us in good stead in the future.

Thank you very much. (Applause.)

**Maria Sittel:** Thank you, Mr President.

**Kirill Kleymenov:** Thank you.

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