

INTERNATIONAL COURT OF JUSTICE

**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 IX OF THE ANNEXES
TO THE MEMORIAL
SUBMITTED BY UKRAINE**

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Annex 299

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



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**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* **

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.

* 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.¹ 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 operation² 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

¹ 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.

² 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.³ 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.⁴ 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.

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

⁴ 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.⁵ 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

⁵ 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 movement¹ 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.

¹ 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.² 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.

² 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 May³. 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.

³ 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 duties¹ 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 144th 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 2014.⁴

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

⁴ 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 Kharkiv⁵. Police moved to clear protests sites and arrested the leader of protests in Donetsk⁶. 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:

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

⁶ 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 threats⁷;

- In another alleged incident in early March, Mr. Dmytro Yarosh, leader of the Right Sector⁸, 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)⁹. On 13 March, a Jewish rabbi was attacked by two unidentified young men in the Podol neighbourhood of Kyiv¹⁰. Another attack was reported in the same neighbourhood in Kyiv on the following day against a Jewish couple¹¹. 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-Khmelnytskyi. 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,

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

⁸ 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.

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

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

¹¹ <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 forces¹².

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

¹² 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.

**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)¹³ 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 2014.¹⁴ 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

¹³ Concept note on the HRMMU is attached.

¹⁴ 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”¹⁵ 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

¹⁵ 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"¹⁶ 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.¹⁷

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

¹⁶ 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.

¹⁷ 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 Panel¹⁸ 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 amendments¹⁹ 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

¹⁸ 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.

¹⁹ 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.²⁰ 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 votes²¹ 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

²⁰ 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”.

²¹ 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.²²

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.²³ 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

²² 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).

²³ 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.²⁴

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.

²⁴ 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.²⁵

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.²⁶ 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.

²⁵ See below under section IV. E.

²⁶ 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.²⁷ 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”:²⁸

- 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”.

²⁷ 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.

²⁸ 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".²⁹ 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

²⁹ 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 Kharkiv³⁰, 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.³¹ 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.³² 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

³⁰ Joint marches among fans are a regular tradition before all football matches.

³¹ According to the Odesa City Council Health Department, 230 persons requested medical aid, out of them 214 were delivered to hospitals in ambulances.

³² 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 registration³³ of 23 candidates (20 men and 3 women) for the Presidential elections scheduled on 25 May.³⁴

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

³³ CEC denied registration to 17 candidates as they did not comply with the procedural norms. There were no claims of unlawful refusal in registration.

³⁴ 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.³⁵ 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.³⁶

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

³⁵ 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.

³⁶ 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”.³⁷ 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.³⁸

³⁷ 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”.

³⁸ 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).³⁹
- b) On 15 April, in Donetsk, anti-Semitic leaflets⁴⁰ 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

³⁹ 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).

⁴⁰ 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.⁴¹ Following the discovery of the bodies (with alleged signs of torture) of Volodymyr Rybak⁴², Horlivka city councillor, and Yuriy Popravko⁴³, 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.

⁴¹ See footnote 2.

⁴² 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.

⁴³ 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 released⁴⁴ 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.

⁴⁴ 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”,⁴⁵ 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.

⁴⁵ 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. Worrisome 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 examples⁴⁶ 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.

⁴⁶ 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 speech⁴⁷.

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.

⁴⁷ 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”,⁴⁸ 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.⁴⁹
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

⁴⁸ Hereafter referred to as the “Donetsk People’s Republic” and the “Luhansk People’s Republic”.

⁴⁹ 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)⁵⁰. 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

⁵⁰ 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.⁵¹ 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.⁵² 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.

⁵¹ 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.

⁵² <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”.⁵³
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.

⁵³ 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 2014.⁵⁴ 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

⁵⁴ 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”⁵⁵ 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.

⁵⁵ 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-Dnistrovki) 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 regulations⁵⁶.
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

⁵⁶ 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.⁵⁷

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;

⁵⁷ 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 resolution⁵⁸ 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

⁵⁸ 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.⁵⁹
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

⁵⁹ 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.⁶⁰
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 12,700⁶¹ internally displaced persons (IDPs)⁶². However, the actual number of

⁶⁰ 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

⁶¹ UNHCR estimated that, as of 16 June, there were 34,336 IDPs in Ukraine, with 15,200 located in the Donetsk and Luhansk regions.

⁶² 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 Horlivka⁶³ 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

⁶³ 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 UNICEF⁶⁴ 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.

⁶⁴ 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”, “5th 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 Assessment⁶⁵" 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.

⁶⁵ 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.⁶⁶
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 airport⁶⁷.
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.

⁶⁶ 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.

⁶⁷ 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)⁶⁸. 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.

⁶⁸ 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 suspended⁶⁹ 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

⁶⁹ 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 expenditure⁷⁰ 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

⁷⁰ 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 2014⁷¹. 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

⁷¹ 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 70th 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 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 70th 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.

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 month⁷².
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.⁷³ 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.⁷⁴
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 86,609⁷⁵ 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.

⁷² 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.

⁷³ Illegal acts committed by the armed groups include abductions, detentions, torture, murder, executions, extortion, and destruction of property.

⁷⁴ 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.

⁷⁵ 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 25th army brigade officers and their driver who were all from Dnepropetrovsk region.

Abduction and detention

35. According to the Ukrainian government⁷⁶, 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

⁷⁶ 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.⁷⁷ 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.

⁷⁷ 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 Federation⁷⁸, 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

⁷⁸ 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.⁷⁹ 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 Semenvka on 10 June.

⁷⁹ 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 dignity⁸⁰. 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;

⁸⁰ 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 business⁸¹ 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 persons⁸².
85. Training⁸³ 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.

⁸¹http://www.unrol.org/files/Guidance_Note_United_Nations_Assistance_to_Constitution-making_Processes_FINAL.pdf

⁸² “The control of internal security services in the member states of the Council of Europe”; para. V.iii

⁸³ 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 Crimea⁸⁴ 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,

⁸⁴ 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 violations⁸⁵. 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

⁸⁵ 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 building⁸⁶. 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

⁸⁶ 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 station⁸⁷.
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

⁸⁷ 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

power⁸⁸. 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 Parliament⁸⁹. Acts of hate speech must be publicly condemned and prohibited by law⁹⁰. 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.⁹¹ In an indicative action, some news sites in Ukraine have started blocking

⁸⁸ 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.

⁸⁹ 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.

⁹⁰ Article 20 of the ICCPR; Article 4 of the ICERD.

⁹¹ 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 intolerance⁹². 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 equipment⁹³. 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

⁹² 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>.

⁹³ 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 standards⁹⁴, 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.⁹⁵
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.

⁹⁴ 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).

⁹⁵ 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 underground, 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.⁹⁶ 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.

⁹⁶ 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.⁹⁷

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 citizen⁹⁸. 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

⁹⁷ 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.

⁹⁸ 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.⁹⁹

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 earlier¹⁰⁰. 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 Therapy¹⁰¹, 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

⁹⁹ 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.

¹⁰⁰ See Chapter VII.

¹⁰¹ 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

**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.¹⁰² 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 2,220¹⁰³ since the fighting began in mid-April.¹⁰⁴ At least 5,956 people have been wounded.

As previously noted,¹⁰⁵ 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.¹⁰⁶

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.”¹⁰⁷

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

¹⁰² 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.

¹⁰³ This is a very conservative estimate based on officially provided figures; the number of people killed or wounded may be considerably higher.

¹⁰⁴ This date marked the beginning of the armed groups’ occupation of public buildings in a coordinated fashion in areas of the east.

¹⁰⁵ See 4th monthly report of OHCHR on the human rights situation in Ukraine.

¹⁰⁶ 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.

¹⁰⁷ 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.¹⁰⁸ 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.”¹⁰⁹

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.”¹¹⁰ 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.¹¹¹

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

¹⁰⁸ Reported to HRMMU by a Ukrainian human rights organization on 30 July 2014.

¹⁰⁹ Statement by the UN High Commissioner for Human Rights, 28 July 2014.

¹¹⁰ Statement of Colonel Andrii Lysenko, spokesperson for the Information-Analytical Center of the National Security and Defense Council of Ukraine, 3 August 2014.

¹¹¹ 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.¹¹² 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.¹¹³ In Slovyansk, the Ministry of Internal Affairs launched 86 criminal investigations into allegations of kidnapping and enforced disappearance.¹¹⁴ 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.¹¹⁵ It was reported that all police officers were subjected to a lie detector test to determine their possible affiliation with the armed groups.¹¹⁶ 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.¹¹⁷ 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.

¹¹² 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.

¹¹³ According to the Ukraine Prosecutor General on 2 August.

¹¹⁴ Reported to the HRMMU on 30-31 July 2014.

¹¹⁵ As reported to HRMMU by the Ministry of Internal Affairs.

¹¹⁶ Reported to the HRMMU on 30-31 July 2014.

¹¹⁷ 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,¹¹⁸ 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.¹¹⁹ 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.

¹¹⁸ 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.

¹¹⁹ 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.¹²⁰

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)¹²¹ 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.¹²² 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.¹²³

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,

¹²⁰ The HRMMU tried to receive information about primary data behind this estimate, with no success.

¹²¹ The breakdown of statistics is not available for the Luhansk region.

¹²² According to the health department of the city council.

¹²³ 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 detention¹²⁴ 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

¹²⁴ 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”.¹²⁵ 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.¹²⁶ 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,¹²⁷ 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,¹²⁸ despite alleged numerous violations of her rights invoked during the hearing.¹²⁹ The HRMMU is

¹²⁵ As he informed the OSCE Special Monitoring Mission.

¹²⁶ As reported by human rights organizations at a roundtable in mid-August.

¹²⁷ See the 4th monthly report on the human rights situation in Ukraine paragraph 44.

¹²⁸ 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.

¹²⁹ 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)¹³⁰ 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

support of the 9 May “referendum”. She also said her arrest by SBU was “extremely brutal” with the officer beating her violently.

¹³⁰ 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, published¹³¹ 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”¹³² 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 Today¹³³ 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

¹³¹ 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.

¹³² The “Nabat” website is known for its pro-federalism views.

¹³³ 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.¹³⁴ 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 initiatives¹³⁵ 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.

¹³⁴ 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.

¹³⁵ 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,¹³⁶ including displays of the Ukrainian flag or of St. George ribbons,¹³⁷ has on many occasions sparked a negative, sometimes violent reaction.¹³⁸

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 Marathon¹³⁹ 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.

¹³⁶ In Odesa, the two opposing sides are referred to as “pro-unity” or “pro-federalism” supporters.

¹³⁷ Saint George ribbons are associated with the pro-federalism movement

¹³⁸ 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.

¹³⁹ 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 rallies¹⁴⁰ 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

¹⁴⁰ 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 law¹⁴¹ 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.

¹⁴¹ 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”¹⁴² 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 events¹⁴³ 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

¹⁴² Organized groups of young men, sometimes armed, used to attack peaceful rallies or stage provocations; see first report.

¹⁴³ 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 law¹⁴⁴ 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 100th 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)¹⁴⁵, 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

¹⁴⁴ No. 4178a

¹⁴⁵ 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.¹⁴⁶ 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.¹⁴⁷

One law¹⁴⁸ 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,¹⁴⁹ 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,¹⁵⁰ 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

¹⁴⁶ As of 28 August all three laws entered into force.

¹⁴⁷ Report of the Working Group on Arbitrary Detention, E/CN.4/2004/3.

¹⁴⁸ Amendment to the Law of Ukraine “On Fighting Terrorism”.

¹⁴⁹ 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.

¹⁵⁰ 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 law¹⁵¹ 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 Commission¹⁵² 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 law¹⁵³ 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

¹⁵¹ No. 4446a Amendments to the law "On prosecution".

¹⁵² Established according to the Law on Restoration of Confidence in Judiciary in Ukraine.

¹⁵³ 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 lustration¹⁵⁴ 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 Council¹⁵⁵ 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,¹⁵⁶ 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.¹⁵⁷

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

¹⁵⁴ The term "lustration" literally means "cleansing" but is taken to mean "investigation and dismissal" of corrupt officials and those associated with previous regimes.

¹⁵⁵ A special local body created during the Maidan protests and authorized to represent the people's interests.

¹⁵⁶ <http://rv.lustration.co.ua/about> .

¹⁵⁷ 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 mobilized¹⁵⁸. 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 of 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.

¹⁵⁸ 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 organisations¹⁵⁹ 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.¹⁶⁰

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 closed¹⁶¹ 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.

¹⁵⁹ 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

¹⁶⁰ On 22 July, the President of the Russian Federation signed into law (№ 274-Ф3 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.

¹⁶¹ 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 May¹⁶² 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 bill¹⁶³ 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.¹⁶⁴ 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

¹⁶² See 15 May monthly report.

¹⁶³ “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”

¹⁶⁴ 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 law¹⁶⁵, 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

¹⁶⁵ "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.

Annex 300

OHCHR, Human Rights Council Takes Up People of African Descent, Racism and Racial
Discrimination, and Situation in Ukraine (23 September 2014)

Human Rights Council
AFTERNOON

23 September 2014

Holds Dialogue with Working Group of Experts on People of African Descent, General Debate on Racial Discrimination, and Hears Presentation on Ukraine

The Human Rights Council this afternoon held an interactive dialogue with the Working Group of Experts on People of African Descent, followed by a general debate on racism, racial discrimination, xenophobia and related forms of intolerance. The Council then started an interactive dialogue on the situation of human rights in Ukraine by hearing a presentation by Ivan Šimonović, Assistant Secretary-General for Human Rights, of a report by the Office of the High Commissioner for Human Rights on the situation in Ukraine.

Verene Shepherd, Member of the Working Group of Experts on People of African Descent, said the fourteenth session of the Working Group was focused on access to justice. Many victims of racial discrimination were still unable to obtain remedies, and racism in law enforcement contributed to people of African descent being unfairly over-represented among persons under detention. Racial profiling was unacceptable and required urgent political action by authorities in States at a high level. Ms. Shepherd also presented the report of the Working Group's country visit to Brazil in December 2013.

During the interactive dialogue that followed, speakers stressed the importance of combatting racism, racial-discrimination, xenophobia and related intolerance, and of guaranteeing equal access to justice for people of African descent, including women and children. Speakers referred also to the importance of education and awareness raising. Two non-governmental organizations expressed their disappointment that the Council, for the first time, would not adopt an annual resolution on racism at this session.

Speaking during the interactive dialogue were the European Union, Costa Rica on behalf of the Community of Latin American and Caribbean States, Ethiopia on behalf of the African Group, China, Netherlands, South Africa, Venezuela, Iran, Morocco, United States, Panama and Barbados.

Also speaking were the following non-governmental organisations: COC Netherlands, International Youth and Student Movement for the United Nations, and Commission Africaine des Promoteurs de la Santé et des Droits de l'Homme.

Brazil spoke as a concerned country.

During the general debate on racism, racial discrimination, xenophobia and related forms of intolerance that followed, speakers underlined the importance for States to continue their efforts for the follow-up and implementation of the Durban Declaration and Programme of Action. Speakers were concerned about the persistence of negative stereotypes, racism and xenophobia, including Islamophobia and anti-Semitism, and the resurgence of extremists groups in all parts of the world, including developed countries. Speakers also condemned discrimination against migrants, Roma people and people of African descent.

Speaking during the general debate were Italy on behalf of the European Union, Pakistan on behalf of the Organization of Islamic Cooperation, United Arab Emirates on behalf of the Arab Group, Venezuela, Russian Federation, Cuba, Sierra Leone, Algeria, India, Argentina, Costa Rica, Egypt, Ecuador, Iraq, Iran, Council of Europe, Israel, Barbados, Bangladesh and Sri Lanka.

Also speaking were the following non-governmental organizations: Advocates for Human Rights, International Youth and Student Movement for the United Nations, Federation of Western Thrace Turks in Europe, International Association of Jewish Lawyers and Jurists, International Buddhist Relief Organization, Liberation, Mbororo Social and Cultural Development Association, International Educational Development, International Humanist and Ethical Union, World Jewish Congress, Americans for Democracy and Human Rights in Bahrain, Organization for Defending Victims of Violence, Africa Culture Internationale, International Institute for Peace, Justice and Human Rights, Centre for Inquiry, Maarij Foundation for Peace and Development, Rencontre Africaine pour la Défense des Droits de l'Homme, Commission Africaine des promoteurs de la santé et des droits de l'homme, Khiam Rehabilitation Centre for Victims of Torture, Centre for Human Rights and Peace Advocacy, Indian Council of South America, and World Barua Organization.

Lithuania spoke in a right of reply to a statement made during the general debate.

At the end of the day, the Human Rights Council heard a presentation of the report by the Office of the High Commissioner for Human Rights on the human rights situation in Ukraine. This presentation will be followed tomorrow by an interactive dialogue on the human rights situation in Ukraine.

Presenting the report, Ivan Šimonović, Assistant Secretary-General for Human Rights, said that over the last six months there had been a marked deterioration of the human rights situation in the east and most recently south east of Ukraine. The deployment of the United Nations Human Rights Monitoring Mission in Ukraine was triggered by the serious human rights violations committed during the Maidan protests, and by concerns over the human rights situation in Crimea. The integration of Crimea into the Russian Federation gave rise to a number of human rights challenges, including rights abuses allegedly committed by members of so-called self-defence units and restrictions on freedoms of expression, peaceful assembly,

association, religion or belief. Human rights abuses committed by the armed groups in the areas under their control included abductions, killings, physical and psychological torture, ill-treatment and other serious crimes. The situation of internally displaced persons was also alarming.

Ukraine spoke as a concerned country.

The Human Rights Council will resume its work on Wednesday, 24 September at 9 a.m. to continue its interactive dialogue on the human rights situation in Ukraine and to hold interactive dialogues with the Independent Experts on Cambodia and Sudan.

Documentation

The Council has before it the report of the **Working Group of Experts on People of African Descent on its thirteen and fourteenth sessions** ([A/HRC/27/68](#))

The Council has before it an **addendum** to the report of the **Working Group of Experts on People of African Descent on its thirteen and fourteenth sessions - Mission to Brazil** ([A/HRC/27/68/Add.1](#))

Presentation by the Working Group of Experts on People of African Descent

VERENE SHEPHERD, [Member of the Working Group of Experts on People of African Descent](#), presented the report of the fourteenth session of the Working Group and the report of its country visit to Brazil in December 2013. The fourteenth session of the Working Group had focused on access to justice. Historically, people of African descent had had their human rights violated. It was therefore important that widespread impunity for racism, discrimination or xenophobia was combatted, and that access to justice was guaranteed. Many victims of racial discrimination were still unable to obtain remedies for wrongful acts through their domestic institutions. Racism in law enforcement was part of a larger problem based on previous hierarchy of so-called "races", and contributed to people of African descent being unfairly over-represented among persons under detention. Often, they even suffered torture and harassment on the hands of law enforcement officials. Racial profiling was unacceptable and required urgent political action by State authorities at a high level. Education on Africa, and not only on slavery, could contribute to combat stereotypes. States should ensure that judicial remedies in case of racism or racial discrimination were easily accessible, prompt, impartial and affordable.

With regards to the Working Group's recent visit to Brazil, Ms. Shepherd said that the Working Group had met with a variety of stakeholders to better understand the dynamics of racism and racial discrimination affecting Afro-Brazilians, and welcomed initiatives by Brazil to overcome persisting challenges. Many laws were not being fully implemented, and racism continued to impact upon the economic, social and cultural rights of Afro-Brazilians, maintaining their

unequal access to education, health, employment and adequate housing. The Working Group was also concerned about violence and discrimination affecting Quilombo and Traditional African Religious communities in their realisation of their rights to land, culture and religion. The Working Group was also greatly concerned about racial profiling by the police and the alarmingly high rate of mortality among this group, and urged Brazil to invest in improved training of the police. The Working Group urged Brazil to fully implement the recommendations made by the United Nations Committee on the Elimination of All Forms of Discrimination against Women on maternal mortality concerning the case of Maria Lourdes da Silva Pimentel v. Brazil.

Statement by the Concerned Country

Brazil, speaking as the concerned country, said that inviting and receiving mandate holders was evidence of the effort of the Government to maintain dialogue and cooperation with the Special Procedures. Brazil recognized the persistence of racial discrimination in the country and the need for special measures to overcome it. There was a national system for the promotion of racial equality and social participation was at the core of those policies. The National Council of Policies to Promote Racial Equality had been created with the participation of Government and civil society organizations, while other measures such as poverty eradication had contributed to greater equality in incomes. Programmes were in place to combat the high mortality rate of people of African descent due to violence in areas of high homicide rates, and rights of domestic workers had been equated with the rights of other workers in line with the International Labour Organization Convention 191. There was still a way to go in eradicating racism and racial discrimination and that was why Brazil attached great importance to the recommendations received and was committed to the Decade for People of African Descent and its programme of activities.

Interactive Debate with the Working Group of Experts on People of African Descent

European Union said that States must guarantee access to justice to all and no State was immune to challenges in ensuring this access, including in European States. Costa Rica, speaking on behalf of the Community of Latin American and Caribbean States, stressed that the Durban Declaration and Programme of Action drew attention to the need to enhance effective access to justice for people of African descent and also the need to enlarge the concept of justice to also include social justice. Ethiopia, speaking on behalf of the African Group, remained concerned that despite the guarantees, people of African descent continued to suffer worst forms of discrimination and were unable to access justice through their national systems. Racism was a public enemy of mankind noted China and expressed regret that there was still a way to go in implementing the Durban Declaration which contained a guide to States on combating racism and racial discrimination. Netherlands was committed to fight racial discrimination and was aware that it was a long process; it could not be achieved immediately and required long-term commitment.

South Africa welcomed the emphasis on the application of the principles of restorative justice and supported the recommendation that States should provide equal access to justice to people of African descent as part of their duty to respect human rights. It was critical to raise awareness of problems faced by people of African descent. Venezuela welcomed the Working Group's focus on access to justice. It agreed on the need to implement national action plans against discrimination in any form on the basis of disaggregated data and through designing programmes to promote recognition of the heritage of people of African descent. Iran said that apart from the bitter fact of our time that African persons were often subject to harassment by law enforcement officials, many were unable to obtain redress. It was suggested that States facilitate participation in the preparation of the national mapping requested by the Working Group.

Morocco said that racism and related human rights violations were intimately linked with matters of justice. It was important to stress the difficulties faced, especially by women and children when it came to access to justice. Sustained action was required by the international community in favour of persons of African descent. United States said that the Department of Justice had launched the Access to Justice Initiative to help spearhead national efforts to expand access to civil legal aid and indigent defence for all Americans, including members of racial and ethnic minorities. It would aim to continue expanding this important initiative. Panama recognized that all human rights were universal, indivisible, independence and inalienable and had to be respected on the basis of the principles of equality and non-discrimination. It was important for the Government to include persons of African descent in the policies of the State to raise the quality of life of the population of Panama.

Barbados welcomed the report of the Working Group and regretted that human rights violations remained against people of African descent. Where there were failings in the judicial system, the international community had a duty to help improve deficiencies by offering constructive criticism and providing technical assistance. COC Netherlands in a joint statement said that lesbian, gay, bisexual and transgender persons of African descent were also victims of racism and racial discrimination in Brazil and other parts of the world, and remained vulnerable to violence, poverty, sexual abuse and murder. Urgent measures had to be taken to address these issues. International Youth and Student Movement for the United Nations called for the full implementation of the Working Group's recommendations, including those relating to reparatory justice. It was astonishing that there would be no annual resolution against racism presented at this session, meaning that the Council would not formally welcome or take note of the reports by the Working Group. Commission Africaine des Promoteurs de la Santé et des Droits de l'Homme supported the recommendations in the report of the Working Group, and also regretted that there would be no resolution on racism and discrimination at this session. It called for the implementation of the Durban Declaration and Plan of Action.

Concluding Remarks

VERENE SHEPHERD, Member of the Working Group of Experts on People of African

Descent, said in her closing remarks that the problems and policies of Brazil were not unique in Latin America and recognized challenges posed by trying to correct centuries of wrongs for its population of African descent which was the largest African population outside of Africa. Ms. Shepherd thanked States and civil society organizations who worked on elaborating the Programme of Action for the Decade for People of African Descent, lamented the lack of the full implementation of the Durban Declaration and Programme of Action, and said that the Working Group stood ready to support the implementation of the Decade. The issue of justice was essential and the programme of reparatory justice was a critical issue that would define this century. Ms. Shepherd called on all to unite around this concept. The Working Group continued to be concerned about the lack of sufficient resources for its work, in particular to support the inclusion of civil society organizations in its activities.

General Debate on Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance

Italy, speaking on behalf of the European Union, reiterated its commitment to the fight against racism, discrimination, xenophobia and related forms of intolerance. All members of society must be treated equally in law and in practice. The European Union supported the various civil society organizations in their fight against racism, xenophobia and related forms of intolerance. The importance of ratifying and implementing the International Convention on the Elimination of all Forms of Racial Discrimination was underlined.

Pakistan, speaking on behalf of the Organization of Islamic Cooperation, said that it was deeply concerned by growing manifestations of racial and religious discrimination, xenophobia and other forms of discrimination. Today, Muslims were being dehumanized. Emphasis had been on the need to examine the consequence of unchecked and irresponsible statements and actions deliberately made to incite violence against Muslims on the basis of their religion. Islamophobia had to be treated in law and practice, equal to treatment given to anti-Semitism.

United Arab Emirates, speaking on behalf of the Arab Group, reiterated its entire commitment to all human rights and fundamental freedoms. What was of concern was that despite ongoing national and international efforts over decades to put an end to the various appalling forms of racism which had afflicted so many over centuries, there had been results but the phenomenon continued to prevail in various forms, in various countries, including developed countries. Racism went beyond considerations of race and skin colour, dealing now with matters of ethnicity.

Venezuela called on States to enhance the protection of victims of racial violence and to strengthen education. Venezuela was concerned about discrimination against migrants in developed countries, as well as about the resurgence of neo-Nazism around the world. Venezuela reiterated its support to the Human Rights Council's mechanisms to combat racism and xenophobia.

Russian Federation said that tackling racism and xenophobia had to be a priority for the Council, and said that racism occurred even in countries that called themselves democratic. The Russian Federation referred to the murder of a young black person by a police officer in Ferguson, United States. The Russian Federation was also particularly concerned about the resurgence of extremism and neo-Nazism in European countries and in Ukraine, where Nazi groups had perpetrated violence and other abuses.

Cuba regretted that political parties and organizations continued to make racist speeches against migrants, and was concerned that the Western powers had no political will to address this situation and work on the implementation of the Durban Declaration and Programme of Action. Cuba supported the work of the Working Group of Experts on People of African Descent and took note of its recommendations on access to justice.

Sierra Leone said that around the world people of African descent continued to face economic hardships and difficulties integrating into other societies due to the high level of marginalization and exclusion. Even if they lived in a post-colonial and a post-apartheid world, many negative stereotypes still persisted as a result of racial discrimination, social inequality, marginalization and exclusion.

Algeria said that the International Decade for People of African Descent was an opportunity to remind States of their duties to people of African descent and it should make sure that a whole series of pertinent measures were implemented to achieve a significant impact on the living standards of people of African descent who often lived in precarious situations and exclusion.

India said that now more than ever it was imperative to focus on the implementation of the Durban Declaration and Programme of Action. The issue of racism was of a high priority for India because of the rise of contemporary forms of racism, racial discrimination, xenophobia and related forms of intolerance.

Argentina said that discrimination for reasons of ethnic origin, politics, religion and financial reasons lived side by side with other forms of marginalization. Since 2003 Argentina had been seeking to build concrete tools to consolidate a more equal society. New legislation and the implementation of government policies had been essential aspects of the last decade. Argentina was promoting a more diverse society with greater space for recognition and participation.

Costa Rica said it was a country rich in cultural diversity. Statistics had made it possible to build a map of national diversity which was essential in raising the profile of this group in order to design and implement public policy in closing gaps on the rights of persons of African descent. The Government had worked with valuable advice from the Office of the High Commissioner for Human Rights on formulating an action plan to eliminate all practices of racial discrimination in public policy.

Egypt commended all United Nations bodies on efforts in order to do away with racism and racial discrimination. Despite international efforts to combat racial discrimination and racism in compliance with the United Nations Charter and other subsequent instruments, which had yielded a number of positive results, it was of great concern that racism remained widespread in many countries. There was an increase in Western developed societies of religious racism targeting Islam and Muslims.

Ecuador was proud to be a multicultural country, and said that all ethnic groups enjoyed equal rights without discrimination. Ecuador attached great importance to the Durban Declaration and Programme of Action and had introduced legislation against racism and hate crimes. Ecuador was combatting discrimination through education and awareness raising campaigns. Ecuador was promoting the social inclusion of persons of African descent through scholarships.

Iraq said that equality for all Iraqis without discrimination was enshrined in the Iraqi constitution. The Islamic State terrorist organization did not represent Islam at all, which was a religion of tolerance. It was vital that measures were taken to combat that group.

Iran regretted that the international community was still far behind the expectations of the Durban Declaration and Programme of Action. New technologies had allowed for the widespread dissemination of racist ideas. Racism against Muslims and persons of African descent in some countries was alarming. States were encouraged to promote cultural diversity through education and they should counter the dissemination of ideas based on hatred.

Council of Europe expressed grave concern about the rise of nationalist, populist, xenophobic and neo-Nazi parties in European States and said that the economic recession, which had affected a great number of countries, had increased their audience and hardened moderate political movements. Those political movements propagated hostilities and stigmatised with their hate speech certain categories of persons.

Israel remained extremely concerned about the alarming increase of anti-Semitic attacks in recent months and regretted that no tangible progress in combating them had been achieved. Modern day anti-Semitism was often also expressed in anti-Israeli rhetoric and those claiming that there was no connection between anti-Semitism and hostility towards Israel were wrong.

Barbados said that the deep seated and systemic nature of racism and racial discrimination required that all worked together and that mechanisms such as the Human Rights Council were indispensable in this process. The silence surrounding the experiences with genocide, slavery and colonialism had the effect of distorting aspects of national curriculum and education pedagogy, and produced educational experience for youth that was not always relevant and was dangerous in parts.

Bangladesh said that racism contradicted the principles on which the United Nations was founded. Human rights had to be protected for all without discrimination. Bangladesh was concerned that people of African descent still suffered discrimination and denial of their culture and history. Bangladesh was deeply concerned at violations of the rights of migrants in Western countries, and at the increase of racism and intolerance against Muslims.

Sri Lanka said that the Decade on People of African Descent was an opportunity to address the human rights violations they faced. Sri Lanka reiterated its strong commitment and support to the implementation of the Plan of Action of the Decade of People of African Descent. Sri Lanka underlined the importance of international cooperation.

Advocates for Human Rights underlined the importance for the Working Group of Experts on People of African Descent to take into account the pressing need for many Africans in the diaspora to access justice in their countries of origin. For Africans in the diaspora who had fled persecution, impunity persisted. Human rights violations sometimes continued in the form of reprisals against family members.

International Youth and Student Movement for the United Nations expressed concern over the absence at the Human Rights Council of the annual main resolution on combatting racism, which was the first time ever in the work of the Council. At the same time, the programme of activities for the International Decade had been shelved by the General Assembly and its possible adoption was held hostage to the demands of a few for a reduced budget.

Federation of Western Thrace Turks in Europe said that the right to education was one of the core principles in international human rights and should be implemented by all Member States. The principle of equality and non-discrimination in the enjoyment of this right was a key for equal access to quality education for persons belonging to minority groups. Greece should take measures to guarantee this right to the Turkish Minority of Western Thrace.

International Association of Jewish Lawyers and Jurists expressed deep concern regarding the increase of anti-Semitic incidents in Europe and said that the forces which used different excuses to slander and harm Jewish communities should be stopped. States must direct their efforts and engage in education and preventive legislation which should define anti-Semitism as an offence entailing criminal liability.

International Buddhist Relief Organization said that Dalit women continued to face double discrimination on both gender and caste. They were frequently forced into slave-like work, and faced rape and killing. The global war on terror had substantially raised the leverage of right-wing Hindu fundamentalism to further undermine the position of minorities in the name of superfluous security.

Liberation said that all societies had to condemn racism, discrimination and intolerance.

However this plague was rampant in Indian society. Due to intolerance and extremism in society, minority issues were increasingly taking centre stage in Indian politics. It urged the Government of India to, without delay, take necessary steps to stamp out racial discrimination throughout the whole society.

Mbororo Social and Cultural Development Association said it knew the Council did not believe in race, creed, colour or caste. Unfortunately, the so-called modern Indian society still did. The Dalit people were referred to as untouchables, symbolizing centuries-old oppression under the caste system. The racism-based stigma of untouchability made them especially vulnerable victims of all kinds of discrimination and atrocities.

International Educational Development drew attention to the extreme persecution of persons belonging to ethnic nationalities and asked the Special Rapporteur on racism to act to protect the victims of the approaching genocide. Ethnic nationalities in Iran including Kurds, Baluchis, Arabs, Turkmens and Azeris faced genocidal policies: since June 2013 more than 800 prisoners, most of them ethnic minorities, had been executed and 33 Kurdish activists faced imminent execution.

International Humanist and Ethical Union said that the Indian Ocean or Arab slave trade had been mentioned only once in the Durban Declaration and Programme of Action, even if it had been responsible for exporting an estimated 17 million slaves. The region still had serious issues with contemporary forms of slavery, including forced labour, descent-based slavery, temporary and early marriage and others.

World Jewish Congress said that the last months had seen a proliferation of anti-Semitic violence and savage attacks against Jews and Jewish monuments that spread fear among Jewish communities worldwide. These were not sporadic and isolated events but revealed an ongoing and dangerous trend: the proliferation of extreme and fundamental ideas that should be unequivocally denounced.

Americans for Democracy and Human Rights in Bahrain spoke about cases of religious and cultural intolerance in Bahrain, particularly against Shia Muslims in the country. Bahrain continued to target many Shia religious leaders with detention and other rights abuses. The Bahraini Government was called upon to facilitate a country visit by the Special Rapporteur on freedom of religion and to safeguard against discrimination of followers of all faiths.

Organization for Defending Victims of Violence said while ISIS and other terrorist attacks had left many people dead and injured, there were indications that the Western world and its allies were playing a dual role, supporting terrorist extremist groups but also fighting them on some occasions. States should replace a culture of hatred and conflict with a culture of negotiation, to prevent sectarian violence and mass killings of civilians.

Africa Culture Internationale expressed concern about violence against children, a cross-

border phenomenon that did not respect any racial or social distinction. It was unacceptable that such a scourge was allowed to continue. Awareness of parents, families and communities had to be raised, and all human rights organizations must put an end to the problem once and for all.

International Institute for Peace, Justice and Human Rights drew attention to the issue of discrimination and racial profiling relating to security measures to prevent threats of terrorism and expressed concern about the disproportionate use of such measures. Racial profiling that was based on the criteria of race without prior suspicion raised serious doubts about citizens' protection from discrimination and their right to privacy. Measures of this kind did not limit terrorist acts, but only resulted in an increase in radicalisation.

Centre for Inquiry said that the principles of equality and non-discrimination were confirmed in the Durban Declaration and Programme of Action but nevertheless many States continued to formally recognize only a certain number of religions. This sent the message to citizens of non-recognized religions or no religion at all that they were not equal citizens. State policies that banned citizens from expressing their beliefs freely were contrary to the Durban Declaration.

Maarij Foundation for Peace and Development said that murders, arrests and rapes as well as displacement of people who were forced to live in camps were ongoing in Myanmar. The Rohingya people were considered to be foreigners and the regime was violating human rights standards. The constitution divided citizens in three categories thus enforcing the division between the people.

Rencontre Africaine pour la Défense des Droits de l'Homme recalled that the objectives of three decades against racism and discrimination had unfortunately still not been achieved because of the lack of political will of certain States. It continued to be concerned that many victims were still unable to obtain reparation for illegal action when they turned to their national institutions.

Commission Africaine des promoteurs de la santé et des droits de l'homme said that the first conference on reparation took place in Kingston last year, dealing with reparations following slavery and post-colonial discrimination. A number of important works had been published. The concept of race was a social construct used throughout the history of humanity to promote domination and it was important to dismantle it.

Khiam Rehabilitation Centre for Victims of Torture said that that the Durban Declaration was a spectacular declaration of the international community against racism, xenophobia and discrimination of all kinds, and a show of solidarity with the Palestinian people. The high hopes to eliminate racism and discrimination and segregation had not been fully realised. Discrimination was rampant everywhere, including in the Arab world.

Centre for Human Rights and Peace Advocacy spoke about the 1984 'Operation Bluestar' massacre of at least 2,150 Sikhs in the Punjab state of India and said the Government had made no move to prosecute the political leaders involved directly in instigating the mobs to violence and killings of the Sikhs. The Council was urged to press India to bring the perpetrators of the racial massacre of the Sikhs to justice and to give Sikhs equal rights.

Indian Council of South America said the denial of the right to self-determination on grounds of racial discrimination was a crime against humanity. The Council said the Outcome Document of the High Level Plenary masquerading as the World Conference on Indigenous Peoples did not apply. It called for the General Assembly to change the rules of procedure to allow equal rights and participation of indigenous peoples.

World Barua Organization spoke about discrimination against indigenous peoples, or so-called inferior races, in north-east India. It also raised concerns about common uses of force by State Security forces. It appealed to the United Nations to persuade India to take effective measures to stop the xenophobia, discrimination and intolerance of society on the basis of caste, creed and race.

Right of Reply

Lithuania, speaking in a right of reply in response to the statement by the Russian Federation, said that Lithuania had suffered from persecution of totalitarian regimes, including Nazism and Stalinism. Lithuania would continue to persecute the criminals who carried out crimes no matter what their ideology was.

Documentation

The Council has before it the **report of the United Nations High Commissioner for Human Rights on cooperation and assistance to Ukraine in the field of human rights** ([A/HRC/27/75](#))

Presentation of Report on United Nations Human Rights Monitoring Mission to Ukraine by the Assistant Secretary-General for Human Rights

IVAN ŠIMONVIĆ, Assistant Secretary-General for Human Rights, said the report covered the period from 21 November 2013 to 5 September 2014. The next report would be issued on 30 September, he noted, adding that his oral presentation today included an update. Over the last six months there had been a marked deterioration of the human rights situation in the east and most recently south east of the country. The current registered death toll, as of 21 September, was 3,543, if the 298 victims of the Malaysian plane crash were included, and the actual number was likely to be significantly higher. The deployment of the United Nations Human Rights Monitoring Mission in Ukraine was triggered by two major human rights challenges in Ukraine. First, the serious human rights violations committed during the Maidan protests, and second, concerns over the human rights situation in Crimea. Mr. Šimonović

spoke in detail about the background to the situation, including the Maidan protest movement and numerous reports of torture and ill-treatment of protesters by law enforcement officers which revealed and further exacerbated deep-rooted divisions within Ukrainian society and long-standing grievances with respect to the lack of good governance and the rule of law of previous Governments. Accountability for the violence in and around Maidan was yet to be achieved.

The integration of Crimea into the Russian Federation gave rise to a number of human rights challenges, said Mr. Šimonović, including rights abuses allegedly committed by members of the so-called self-defence units such as abductions and enforced disappearances, arbitrary detentions, torture and ill-treatment. The introduction of Russian legislation in Crimea had curtailed the freedoms of expression, peaceful assembly, association, religion or belief. Crimean residents known for their “Pro-Ukrainian” position faced intimidation, while other Ukrainians, especially Crimean Tatars faced discrimination, particularly in the areas of education, employment, and property rights. Human rights abuses committed by the armed groups in the areas under their control included abductions, killings, physical and psychological torture, ill-treatment and other serious crimes. People had been abducted for ransom, for forced labour, and for exchange for fighters held by the Ukrainian authorities. The exact number of people being held by the armed groups was estimated to be somewhere between 500 and 800 people and ill-treatment of detainees continued unabated. There was a complete breakdown in law and order, and the rule of law had been replaced by the rule of fear and intimidation.

The situation of internally displaced persons was also alarming, said Mr. Šimonović. In one month between early August and early September the number of registered displaced persons had doubled and reached 275,498 registered as of 18 September. However, the majority of internally displaced persons seemed to be unregistered and the actual number could therefore be much higher. A disastrous winter for the internally displaced population had to be prevented. The Special Rapporteur on the human rights of internally displaced persons was visiting Ukraine this week. The 5 September ceasefire agreement and the 12-point Protocol signed the same day presented the most significant opportunity so far for a peaceful solution to the situation in the east. Although the cessation of hostilities in the east remained a prerequisite to improving the overall human rights situation in the country, it was also important to address the underlying and systemic nature of human rights violations in Ukraine. Corruption remained one of the most serious problems in Ukraine and must be tackled as a matter of priority, together with a deep reform of the justice system. OHCHR was ready to support a multi-year human rights national plan of action for Ukraine based on the recommendations of the United Nation human rights mechanisms and the work of the Monitoring Mission. It was critically important that those recommendations be part of the wider reform agenda as the international community and Ukraine prepared for a major donor conference later this year.

Statement by the Concerned Country

Ukraine, speaking as the concerned country, commended the work of the Office of the High Commissioner for Human Rights aimed at presenting objective and impartial information on the human rights situation in Ukraine as it helped to better understand the real causes of its deterioration, which were occupation with further unlawful annexation of the Autonomous Republic of Crimea by Russia and its subversive activities in the southeast of Ukraine. Ukraine would never recognize the Autonomous Republic of Crimea and Sevastopol as Russia's territories. The occupation of the peninsula had already led to substantial violations of rights and freedoms of Crimean Tatars and other minorities as well as ethnic Ukrainians. The international community was called upon to contribute to avoiding another forced deportation of Crimean Tatars.

The safety and security of its citizens was a matter of principle for the leadership of Ukraine. This goal was meant to be reached through the implementation of the President Poroshenko Peace Plan, overwhelmingly supported by the international community. It had already helped to release nearly 1,200 people who were captured by terrorists. In spite of continuing breaches of the cease-fire regime by the Russian military units together with terrorist groups, the President of Ukraine had clearly shown his adherence to peace. Notwithstanding present challenges in the field of security, Ukraine had embarked on the path of comprehensive reforms based on a human rights approach. To ensure better fulfilment of human rights obligations, Ukraine needed appropriate technical assistance, best practices and accumulated knowledge.

For use of the information media; not an official record

Annex 301

Statement by Mr. Ivan Šimonović, Assistant Secretary-General for Human Rights, at the Interactive Dialogue on the Situation of Human Rights in Ukraine at the 27th Session of the Human Rights Council (24 September 2014).

Statement by Mr. Ivan Šimonović, Assistant Secretary-General for Human Rights, at the Interactive dialogue on the situation of human rights in Ukraine at the 27th session of the Human Rights Council, Geneva, 24 September 2014

Mr. President, Excellencies, ladies and gentlemen,

I am honoured to have the opportunity to participate in this discussion on the human rights situation in Ukraine. A report has been submitted in accordance with Council resolution 26/30, which covers the period from 21 November 2013 to 5 September 2014. It provides a snapshot of the key human rights developments and concerns described in the five reports issued by OHCHR between 15 April and 29 August 2014. Altogether, the five reports of the United Nations Human Rights Monitoring Mission in Ukraine issued so far provide a very comprehensive assessment of the human rights situation over the last 6 months. They are annexed to the report before you. The next report is to be issued on September 30. In this oral presentation I will also include an update.

I would like to express appreciation for the open and constructive cooperation extended by the Government of Ukraine since the deployment of the UN Human Right Monitoring Mission in March 2014. OHCHR looks forward to continuing this positive engagement. We are also thankful to the OSCE for the close and excellent collaboration.

Mr. President, Excellencies, ladies and gentlemen,

The deployment of the HRMMU was triggered by two major human rights challenges in Ukraine. First, the serious human rights violations that had been committed during the Maidan protests, and second, concerns over the human rights situation in Crimea.

It is recalled that the Maidan protests resulted in the death of 121 individuals between November 2013 and February 2014. There were also numerous reports of torture and ill-treatment of protesters by law enforcement officers. The Maidan protest movement, however, also revealed and further exacerbated deep-rooted divisions within Ukrainian society and long-standing grievances with respect to the lack of good governance and the rule of law of previous Governments.

The wide use of anti-Russian rhetoric, especially by the so-called “Right Sector”, as well as propaganda exaggerations and fear tactics used by the Russian media, amplified the already volatile environment. At that time, the HRMMU, as well as the Special Rapporteur on minority

rights who conducted a visit to Ukraine in March, could not verify acts of persecution and discrimination against the Russian-speaking minority. Nonetheless, during and in the aftermath of Maidan, there was a notable deepening of the divide within Ukrainian society, in particular between the ultra-nationalists and the pro-Russian sides. The radicalisation of the groups in eastern Ukraine, with the help of external elements, continued to intensify and culminated in the crisis in the east of the country that Ukraine still faces to this day.

The integration of Crimea into the Russian Federation also gave rise to a number of human rights challenges. As of the end of February, allegations of 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, were widespread, especially in the context of the 16 March invalid “referendum”. Human rights abuses were allegedly committed by members of so-called self-defence units, including abductions and enforced disappearances, arbitrary detentions, torture and ill-treatment. There were also reports that voters could not freely exercise their right to hold opinions and the right to freedom of expression.

The introduction of Russian Federation legislation in Crimea has curtailed the freedoms of expression, peaceful assembly, association, religion or belief. Property rights have been violated through “nationalisation” and the illegal seizure of property by the decision of the de facto authorities and actions by the so-called Crimean self-defence. Residents of Crimea who have refused to obtain Russian citizenship are particularly affected. Persons known for their “Pro-Ukrainian” position have been facing intimidation, while other Ukrainians, especially Crimean Tatars face discrimination, particularly in the areas of education, employment, and property rights. Crimean Tatar leaders were banned from entering Crimea and Crimean Tatar activists face prosecution and limitations on the enjoyment of their rights, as has been most recently illustrated with the prevention of Crimean Tatar activist, Nadir Bekirov, from travelling to participate in this week’s World Conference on Indigenous Peoples in New York. In addition, no serious attempts have been made to investigate allegations of human rights abuses committed by the so-called Crimean self-defense forces. As of 18 September, the number of IDPs from Crimea stood at 17,294, according to the State Emergency Services.

The HRMMU continues to monitor the situation in Crimea, in accordance with General Assembly resolution 68/262 on the territorial integrity of Ukraine, although it has not been granted access. The HRMMU has recently renewed a request to the local authorities to visit Crimea.

Mr. President, Excellencies, ladies and gentlemen,

Over the last six months, we have witnessed a marked deterioration of the human rights situation in the east and most recently south east of the country.

The current registered death toll, as at 21 September, is 3,543, if we are to include the 298 victims of the Malaysian plane crash. Let me add that this number covers killings registered by available resources, and that the actual number is likely to be significantly higher.

Our reports have shown a sharp rise in killings, in particular between mid-July and the end of August. Between mid-April and mid-July, the period covered by our first four reports, our human rights monitors registered an average of at least 11 persons being killed daily. Between

mid-July and mid-August the figure had more than tripled to an average of 36 persons killed a day. This number continued to increase since the cut-off date of the report. By the 5 September ceasefire, on average 42 people were killed every day. After the signing of the ceasefire agreement on 5 September, we have witnessed a marked decrease in killings, on a daily average of under 10 killings a day.

The HRMMU has continued to document human rights abuses committed by the armed groups in the areas under their control, including abductions, killings, physical and psychological torture, ill-treatment and other serious crimes. They abduct people for ransom, for forced labour, and to exchange them for their fighters held by the Ukrainian authorities. There is complete breakdown in law and order. The rule of law has been replaced by the rule of fear and intimidation.

The exact number of people being held by the armed groups is estimated to be somewhere between 500 and 800 people. Ill-treatment of detainees continues unabated. Most recently, in Donetsk, a woman suspected of acting as an artillery spotter for the Ukrainian armed forces was subjected to severe beatings. A civil society volunteer, assisting IDPs and other vulnerable groups in the conflict area, was apprehended and taken to a nearby forest where he was forced to dig his own grave and was severely beaten. Both of these people were later released from captivity and treatment of the ones who continue to be detained may be far worse. Such acts only exacerbate the already deepening divide within Ukrainian society. In areas where the Government has restored control, it is crucial to fully and impartially investigate allegations of human rights abuses and violations perpetrated by both armed groups as well as its own forces, especially volunteer battalions. Many victims are still afraid to come forward, due to fears of reprisals.

From mid-April to 16 August, more than 1,000 persons were detained by the police and the Ukrainian security service in the Donbas territory. These persons, as all other persons in Ukraine, have the right to due process and equality before the law.

In that context, the new counter-terrorism laws are a matter of concern. The laws substantially expand the authority of the prosecutor and lengthen the time of preventive detention from 60 hours to 30 days. This is inconsistent with international human rights standards.

The case of Nelia Shtepa, former Mayor of Slovyansk, with whom I met in detention facility illustrates how the conflict can affect people from both directions. Ms. Shtepa, who was detained by the armed groups from 17 April to 5 July was freed at the time of government forces take over only to be arrested and detained again a week later on 12 July by the Ukrainian side.

Mr. President, Excellencies, ladies and gentlemen,

The situation of internally displaced persons is alarming. In one month between early August and early September the number of registered displaced persons has doubled and reached 275,498 registered as of 18 September. However, the majority of internally displaced persons seem to be unregistered and the actual number, could therefore be much higher.

Most IDPs rely on the generosity of family and friends willing to host them in their homes as well as their own existing savings. The conflict in the east has triggered a wave of solidarity

among Ukrainians in support of IDPs. Nonetheless, reports of tensions among residents and IDP arrivals have also increased, mostly due to the scarcity of jobs and other resources and suspicions of potential connections of the displaced with armed groups.

A disastrous winter for the IDP population has to be prevented. It will be important to ensure that national and international assistance is mobilised urgently to cope with what could become a humanitarian emergency if not tackled in a timely and effective manner. It is also crucial that the draft IDP law, which introduces a number of positive changes, and is currently under review by Parliament, is adopted at the earliest. The law contains a number of provisions that allow for basic services, including access to health care, education and employment, in line with the UN Guiding Principles on internal displacement.

This week, the Special Rapporteur on the human rights of internally displaced persons is visiting Ukraine. I welcome the Government's timely engagement with the mandate. The Special Rapporteur's recommendations can serve as a good basis for Government action on this issue.

Mr. President, Excellencies, ladies and gentlemen,

While the situation in eastern Ukraine remains deeply alarming, it is important not to lose sight of other pressing human rights issues in the rest of the country. Accountability is one of them.

Accountability for the violence in and around Maidan is yet to be achieved. Some 445 investigations on cases of unlawful acts against demonstrators have been opened by the Prosecutor-General, but only two persons have been sentenced for ill-treatment of a demonstrator. Three members of a special police unit were placed in pre-trial detention in connection with the shootings of protesters. However, no one has been held accountable for the violent dispersal of demonstrators on 30 November 2013.

Accountability is also still sought for the violence of 2 May 2014 in Odesa between supporters of the unity and those supporting the federalization of Ukraine, resulting in the death of 48 people, mostly federalization supporters. Two people were detained on murder charges and placed by court under house arrest. According to the Government, 12 of the 33 suspects are in custody and 21 under house arrest. Prosecutions have yet to take place.

The HRMMU will continue to monitor these processes closely and report on their progress.

With regard to judicial and legal reforms, the legal framework to fight corruption has been improved, even if it still falls short of establishing an anti-corruption bureau. The anti-discrimination law has been amended and has been brought more in line with international standards. A law seeking to restore trust in the judiciary has been adopted, providing for a vetting procedure, although a number of concerns remain with respect to due process rights. A progressive law, regulating the rights of Ukrainian citizens from Crimea, has been adopted, without compromising freedom of movement or containing discriminatory provisions. On the whole these are positive legal initiatives.

On the other hand, legal guarantees for an independent judiciary have yet to be introduced and the reform of the prosecution has not progressed yet. There is still no law regulating freedom of assembly. While a post of president commissioner for Crimean Tatar issues has been established, there is no law on indigenous peoples and the law on minorities dates from 1992. These laws should also be prioritised.

Mr. President, Excellencies, ladies and gentlemen,

The 5 September ceasefire agreement and the 12-point Protocol signed the same day, present the most significant opportunity so far for a peaceful solution to the situation in the east. Although not fully respected so far, positive effects have already been felt.

On 19 September, senior representatives of Ukraine, the Russian Federation and of the OSCE Chairperson-in-Office in talks with political representatives of the armed groups agreed on a Memorandum on further steps to be taken to implement the Peace Plan.

We are also witnessing reports of IDPs returning to their homes, albeit to uncertain futures.

There is a glimmer of hope that a peaceful solution to this conflict can still be found.

Almost half of the provisions in the 12-point agreement could in fact have a positive bearing on the human rights situation. These include, the devolution of powers on “interim self-rule”; the release of hostages and detained persons; the adoption of the a law on non-prosecution of persons in connection with the events that took place in some parts of Donetsk and Luhansk, except those who committed serious crimes; nation-wide dialogue and finally, measures to improve the humanitarian situation in the Donbas region.

Although the cessation of hostilities in the east remains a pre-requisite to improving the overall human rights situation in the country, it is also important to continue to look for ways to address the underlying and the systemic nature human rights violations in Ukraine.

Corruption was one of the underlying grievances of those who took to the streets in the Maidan movement. A recent Gallup report found that around a quarter of Ukrainians had paid a bribe in the last year. Corruption therefore remains one of the most serious problems in Ukraine and has the potential to affect all human rights, whether civil, political, economic or social. It has exacerbated inequalities, eroded public trust in State institutions including the justice system, led to impunity and undermined the rule of law and good governance. It must therefore be tackled as a matter of priority, together with a deep reform of the justice system. Finally, let me conclude by reaffirming OHCHR’s commitment to assisting the people of Ukraine in the promotion and protection of their human rights. While we intend to continue to monitor and report on the human rights situation in the country, it is also important to ensure that underlying human rights issues are also addressed as part of the wider reforms the country is undertaking in the context of accession to the European Union, but also beyond.

In this context, OHCHR is ready to support a multi-year human rights national plan of action for Ukraine based on the recommendations of the United Nation human rights mechanisms and the work of the Human Rights Monitoring Mission. It is critically important that these recommendations be part of the wider reform agenda as the international community and Ukraine prepare for a major donor conference later this year.

Thank you, Mr. President, and let us all do what we can to support people of Ukraine.

Annex 302

Statement to the Security Council by Ivan Šimonović, Assistant Secretary-General for Human Rights, meeting on Ukraine (24 October 2014)

Statement to the Security Council by Ivan Šimonović, Assistant Secretary-General for Human Rights, meeting on Ukraine, 24 October 2014

Madam President,
Distinguished Members of the Security Council,

Thank you for the opportunity to brief you on the human rights situation in Ukraine. On 8 October, OHCHR issued the sixth monthly report of the UN Human Rights Monitoring Mission in Ukraine, which covered the period from 18 August to 16 September 2014. Today, I will highlight some of the report's key findings and I will then focus on recent developments since the cut-off date of the report.

1. Fragile ceasefire- human rights consequences of the continued breaches

During the reporting period, the 5 September ceasefire agreement was adhered to only in terms of an absence of large-scale offensive actions. While some areas in the conflict zone reported calm, such as Luhansk city, artillery, tank and small arms exchanges continued on a daily basis in other places with Donetsk city (especially around the airport) and the towns of Debaltseve (Donetsk region) and Shchastia (Luhansk region) being the major flashpoints.

Military and civilian casualties continue to grow. The current registered death toll of the conflict in the east, as at 21 October, is at least 3,724- which includes the 298 victims of the Malaysian plane crash. Let me add that this number covers killings registered by available resources, and that the actual number is likely to be significantly higher. Approximately 9 people are being killed per day since the ceasefire agreement. In the height of the fighting over the summer, an average of 42 people were killed a day. The current death toll per day is close to the level during mid-April to mid-July, which was slightly above 10 people a day.

Residential areas continue to be indiscriminately shelled by various artillery and multiple launch rocket systems. For example, the 1 October rocketing of the centre of Donetsk hit a bus and killed six civilians and wounded a further 25. On 14 October, a funeral procession in the village of Sartana (near the city of Mariupol in Donetsk region) was hit by a rocket that killed seven civilians and wounded 18. Similar incidents were reported almost on a daily basis. Recent reports of the use of cluster munitions in residential areas are alarming. Due to the wide impact radius, cluster munitions regularly have an immediate indiscriminate impact when used in areas with a civilian presence. Their use in such situations constitutes a violation of international humanitarian law and may amount to a war crime. The Government has denied

the use of cluster munition, when approached by the Human Rights Monitoring Mission on this matter. It is imperative for the reports on the use of cluster munitions to be investigated promptly and thoroughly – as well as the reports of indiscriminate shelling of residential areas by conventional weapons.

Armed groups continue to terrorise the population in areas under their control, pursuing killings, abductions, torture, ill-treatment and other serious human rights abuses, including the destruction of housing and seizure of property. They continue to abduct people for ransom and forced labour and to use them in the exchanges and simultaneous releases of detainees with the Ukrainian Government. They also continue to practice forced mobilisation of civilians and threaten the local population with executions.

There have also been continued allegations of human rights violations committed by some volunteer battalions under Government control, which have been undertaking police functions in some of the towns and villages taken back by the Government. We have continued to urge the Government to exercise more control over all of its forces, including the volunteer battalions, and to ensure accountability for any violations and crimes committed by their members.

2. Precarious humanitarian situation:

The humanitarian situation in the areas controlled by the armed groups remains precarious, especially in the Luhansk region. Despite the ceasefire, many people in the conflict area remained for a second month deprived of regular access to water and electricity, with limited access to healthcare and educational services.

Humanitarian assistance largely depends on volunteers and a few international organisations, namely the International Committee of the Red Cross (ICRC) and Médecins Sans Frontières (MSF). I would like to take this opportunity to express my sincere condolences to the ICRC on the loss of one of their staff members in an attack in Donetsk city on 2 October. Perpetrators of this, and other violations of international humanitarian law must be brought to justice.

The ceasefire has encouraged many internally displaced persons (IDPs) to go back to their homes in the regions of Donetsk and Luhansk. Some went to collect belongings, others have remained in their homes. Those who have returned face serious difficulties besides the volatile security situation, private property has been destroyed or damaged, and employment is limited as many business or industries have now closed down.

According to the State Emergency Service of Ukraine as of 24 October the overall number of registered IDPs reached a peak of 430,059. A large number of displaced people remain unregistered.

The conflict in the east triggered a wave of solidarity among Ukrainians towards IDPs, but the capacity of host communities to continue to absorb IDPs has shown to be weakening. While most IDPs continue to live from their savings, some of them especially those from Crimea still have no access to their deposits in Ukrainian banks. IDPs have found it difficult to find

employment. On 20 October, the Ukrainian parliament adopted the law on internally displaced persons. This is a welcome development. As we wait for it to be publicly made available and signed by the President, we very much hope that it will provide meaningful guarantees to IDPs, including access to healthcare, employment and shelter. With our partners, including in particular UNHCR, we will monitor its implementation.

3. An ever-deepening divide

Over the last weeks there has been an increase in direct action by Right Sector and other activists to publicly remove alleged corrupt officials or former politicians of the former 'Party of Regions'. Some of these acts involved violence against individuals, particularly when officials were manhandled into rubbish containers.

In Kharkiv region, over 12 statues of Lenin have been toppled by 'pro-Unity' groups since early September. Such acts that exacerbate tensions between the communities, in some cases appear to have been tolerated by local law enforcement officials.

There are also indications in some areas of incidents of election related intimidation and violence against campaign workers, party infrastructure and candidates.

The lustration law, passed on 9 October, has been widely criticised by both the Ombudsperson as well as civil society. This law is broad in its scope, enables lustration of a number of positions, with a prohibition on the current office-holders maintaining or re-gaining these positions. It could theoretically be applied to a million officials. While it is crucial that the Government takes measures to combat corruption, such measures must include basic due process guarantees and they must be applicable in a non-discriminatory fashion. I encourage the Government to align the legislation with the respective regional standards.

These developments have negative human rights implications, and can lead to a deepening of the divide among the Ukrainian population at a time when it should move forward with the Peace Plan and national reconciliation.

4. Awaiting accountability

In this context, accountability is not only a pre-requisite, but also a cornerstone of any lasting peaceful solution to the crisis in Ukraine.

After the 5 September ceasefire, opportunities to collect unburied remains of people killed as a result of hostilities and to identify ad hoc and irregular graves in the conflict zone considerably increased. As a result, hundreds of bodies have been found and many of them remain unidentified. The OHCHR welcomes the efforts that are being undertaken to establish the identities of those found and to hand bodies over to their relatives, as well as to ensure the burial in dignity.

Within this process, the issue of the so-called 'mass graves' near the village of Nyzhnia Krynka in Donetsk region received high publicity. One of these graves (located near the entrance to the village) contained five bodies. Two 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 four people from the two graves near the mine, according to the so-called 'Donetsk people's republic', there exists forensic evidence of a summary execution.

On 15 October, an HRMMU team visited the three locations of the reported 'mass graves'. The team also interviewed relatives of two people whose bodies were reportedly identified. Their testimonies indicate that these people had previously been detained by Ukrainian forces.

The alleged execution of four people found in the graves near 'Komunarska No 22' mine need to be seriously investigated, and all measures should be taken for the preservation of evidence.

Despite the fact that a number of other graves containing more than one body were reportedly found in the conflict zone, the HRMMU does not have information that these graves may contain bodies of victims of arbitrary or summary executions. Shall these allegations be made, they need to be properly investigated.

Accountability is key to reconciliation. Efforts must also be made to hold accountable members of the armed groups who have perpetrated grave human rights violations, including killings, enforced disappearances and torture. In this context, I welcome that the 12-point Minsk protocol, which includes the passing of a law on non-prosecution of persons in connection with the events that took place in some parts of the Donetsk and Luhansk region, excludes amnesty for crimes, including genocide, terrorism, murder and infliction of serious bodily injuries, sexual crime, hostage-taking and human trafficking. However, the law appears to enable amnesty for acts of torture, which should be clarified in order to bring the law in line with international norms and standards.

A worrying new tendency in Crimea, in addition to the previous human rights violations reported, are the increasing number of cases of enforced disappearance. In particular, I wish to express concern over four abducted Crimean Tatar men in Crimea, during the last month. One has been found dead. It is imperative that the whereabouts of these missing persons is clarified and those responsible are held accountable.

The way forward?

Madam President, ladies and gentlemen,

The implementation of the 5 September ceasefire agreement remains fragile. Human rights violations and violations of international humanitarian law continue to be committed. There is a clear threat that we may be facing yet another protracted low-intensity conflict.

Nonetheless, the 5 September ceasefire agreement, still presents the most significant opportunity for a peaceful solution to the situation in the east. I firmly believe that the 12-point Minsk Protocol has its best chances of holding if it is implemented in line with human rights standards.

Almost half of the provisions in the 12-point Minsk Protocol could in fact have a direct positive bearing on the human rights situation. To contribute to sustainable peace and enable reconciliation, the implementation of the agreement should be based on respect for the rule of law and human rights.

I also welcome the decree signed by President Poroshenko on 15 October 'On drafting of National Strategy in a Field of Human Rights' aimed to create mechanism for comprehensive insurance of human rights. The document obliges the Cabinet of Minister to ensure drafting of National Strategy in a field of human rights with participation of state authorities, local government bodies, civil society and international experts. OHCHR is working hand in hand with the broader UN system, the Council of Europe, the National Human Rights Institution and the Government to ensure a comprehensive approach to UN requirements as part of the EU accession process.

As Ukrainians prepare for Sunday's Parliamentary elections, we call on the authorities to ensure that they are conducted in a free, fair and open manner, and in an atmosphere of tolerance, peace and respect for human rights of all.

I thank you for your attention.

Annex 303

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

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

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

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TO THE GOVERNMENT OF UKRAINE

TO ALL THOSE INVOLVED IN THE HOSTILITIES IN THE EASTERN
REGIONS OF DONETSK AND LUHANSK

TO THE AUTHORITIES IN CRIMEA AND THE DE FACTO GOVERNING
AUTHORITY OF THE RUSSIAN FEDERATION

I. EXECUTIVE SUMMARY

1. This is the eighth report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine based on the work of the Human Rights Monitoring Mission in Ukraine (HRMMU). The report covers the period from 1 to 30 November 2014. It describes the continued deterioration of the human rights situation in the eastern regions of Ukraine and in Crimea. The total breakdown in law and order and the violence and fighting in the eastern regions, fuelled by the cross-border inflow of heavy and sophisticated weaponry as well as foreign fighters, including from the Russian Federation, has for the past eight months had a direct impact on all fundamental human rights – including the security, liberty and well-being – of individuals living there.

2. With the conflict in the east entering its ninth month, the situation is becoming extremely dire for the population, particularly older persons, children and people in institutional care, many of whom are on the brink of survival. Moreover, the impact of the conflict in the east on the rest of Ukraine is increasingly acute.

Situation in the east

3. The HRMMU observed early signs of the rapid deterioration of the security situation as of April 2014. Initially demands from protestors in the east were for a referendum on the federalisation of Ukraine and the recognition of the Russian language as a second State language. Groups of armed men – in a well-organized and coordinated fashion – unlawfully seized public buildings and police and security facilities in cities and towns across the Donetsk and Luhansk regions. As law and order increasingly broke down, so more human rights abuses, such as killings, torture, abduction for ransom and forced labour, started to be committed by members of armed groups, supported by increasing numbers of foreign fighters. On 14 April, the Government launched a security operation¹ to re-establish control over those territories. By the end of April the self-proclaimed ‘Donetsk people’s republic’² and the self-proclaimed ‘Luhansk people’s republic’³ were announced as having been established, which was furthered by the 11 May so-called ‘referendum’ on self-rule, contravening the constitution of Ukraine and international norms and standards.

4. Forced mobilization and threats of the use of the death penalty were additional means to intimidate and harass the population in the territory under the control of the armed groups. Increasingly as people left their homes, their property was seized. Efforts by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to develop their own systems of administration of justice (‘legislation’, ‘police’, ‘prosecutors’ and ‘courts’) did not improve the dire human rights situation on the territories under their control.

5. As the fighting intensified in the east, there have been increased reports of violations of international human rights law and international humanitarian law. This highlighted the need to ensure the protection of civilians. The use of indiscriminate shelling in residential areas has led to the killing of civilians, as well as the damage to property and infrastructure.

6. Over the months, allegations have come to the fore of mass graves, which have yet to be substantiated, as well as reports of the use of cluster munitions.

7. Despite the 5 September Minsk Protocol, which included a ceasefire as part of a 12-point peace plan, shelling and skirmishes have continued. This is largely the result of the non-implementation of key provisions of the Protocol by the armed groups, especially point 4 ‘ensure permanent monitoring of the Ukrainian-Russian border and its verification by the OSCE and a security zone at the frontier areas of Ukraine and Russia’; point 9 ‘early local elections in

¹ Referred to by the Government as an ‘anti-terrorist’ operation.

² Henceforth the ‘Donetsk people’s republic’.

³ Henceforth the ‘Luhansk people’s republic’.

compliance with the law of Ukraine on interim self-governance in certain areas of Donetsk and Luhansk (the law on special status)’; and point 10 ‘withdrawal of illegal armed groups, military equipment as well as militants and mercenaries from the territory of Ukraine’.

8. By 30 November, the total number of casualties in the east had reached at least 4,364 killed and 10,064 wounded⁴. Over 1,000 bodies delivered to morgues in the conflict zone remained unidentified, and many sites where hostilities had taken place not yet been searched to recover all remains.

9. The efforts of the Government to safeguard the territorial integrity of Ukraine and restore law and order in the conflict zone have been accompanied by arbitrary detentions, torture, and enforced disappearances of people suspected of ‘separatism and terrorism’. Most of such human rights violations appear to have been perpetrated by certain voluntary battalions or by the Security Service of Ukraine (SBU). The procedural rights of people have not always been observed, with reports of ill-treatment and reports of reprisals upon release.

10. With the onset of winter and no let-up in the hostilities, the situation of approximately 5.2⁵ million people living in the conflict and post-conflict affected areas is further deteriorating due to significant damage of the infrastructure, the breakdown of economic activities, and the disruption of social and medical services and social welfare benefits.

11. On 2 November, the armed groups organised ‘elections’, in violation of the legislation of Ukraine and the Minsk Protocol, in areas under their control.

12. Subsequently, the Government of Ukraine decided⁶ to temporarily relocate all State institutions and organisations present in areas controlled by the armed groups to Government-controlled areas. This implies the relocation of social, medical and educational institutions, the judiciary, penitentiary facilities, state enterprises and other entities, as well as banking services⁷. As of 1 December, all allocations from the State budget, (including for social payments) to areas not controlled by the Government ceased. To continue receiving social payments, residents of Donetsk and Luhansk regions under the control of the armed groups are required to register by 31 December, in territory under the control of the Government. This was justified by the Government as necessary to prevent national budget funds falling into the hands of the armed groups who had taken control of social institutions, including local branches of the Pension Fund, as well as banks. However, pensions and other social payments will be redirected and may be received by beneficiaries and may be received in territory under the control of the Government⁸. For humanitarian reasons the Government continues to supply gas and electricity

⁴ This is a very conservative estimate by the HRMMU and World Health Organization based on available official data. It includes casualties among the Ukrainian armed forces as reported by the Ukrainian authorities; the 298 people from flight MH-17; and casualties reported by civil medical establishments of the Donetsk and Luhansk regions (civilians and some members of the armed groups). The actual numbers of casualties is likely to be considerably higher, as both military and civilian casualties continued to be underreported.

⁵ As of 28 November according to *Situation Report No.20*, of the UN Office for the Coordination of Humanitarian Affairs.

⁶ The Decision of the National Security and Defence Council of 4 November *On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions*, enacted by the Decree of the President of Ukraine No. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine No.595 as of 7 November 2014, *On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions*.

⁷ The suspension of all financial operations by banking services predates the Presidential Decree. The National Bank of Ukraine Decree No. 466 of 9 August, states that all banks, non-bank institutions and state post services which conduct payment operations should suspend their operations in territory not controlled by Ukrainian government. Their activity should be renewed after Ukrainian forces regain control over such territories.

⁸ These derived from a Presidential Decree signed on 14 November that instructed the Government to establish the order of humanitarian aid supply to the east, to organise reconstruction of the gas, heating and energy in the regions,

to the areas under control of armed groups without receiving any payment for it. The Decree also orders the reconstruction of damaged infrastructure for these utilities. These measures, and their implementation could have considerable consequences for the population in the eastern regions as the consequent institutional vacuum, lack of provision of public services and access to social payments is likely to create a severe protection gap, and to exacerbate economic and social vulnerabilities. Implementation of these measures needs to be considered, particularly their impact on the most vulnerable.

13. Locals who leave the conflict affected area are covered by a state program for IDPs. The capacities, however, of these registration points, which were already overwhelmed, were not prepared for the increased flow of IDPs generated by the Decision. The situation and fate of those who remain, either unable or unwilling to leave, is of serious concern, even if they are still legally under the protection of the State.

14. Many, particularly the most vulnerable, are on the brink of survival, facing continued hardship due to the conflict, and their condition may deteriorate with the onset of winter. This is further aggravated by the degradation of many public services, particularly specialised medical care, which has become more limited due to lack of staff and/or supplies. Treatment and care is at risk, particularly as some staff in public institutions have left their jobs. There are emerging but unconfirmed reports of people, particularly older persons, beginning to face starvation. Hospitals face shortages in staff and supplies, and as a result the standard of healthcare has deteriorated as medical staff are unable to maintain the pre-conflict standards of practice. Pharmacies are facing shortages, and many people are in need of basic medical supplies.

15. With the increasing needs in the conflict affected area, humanitarian assistance has continued to be provided by just a few international NGOs and heavily depends on the work of volunteers.

16. Over one million people have left the conflict affected region, either being displaced within Ukraine, or seeking refuge or other legal status in neighbouring countries. For those in internal displacement, their initial needs were predominantly met by volunteers and local authorities, who stepped in while the Government tried to find its way. Eventually the State Emergency Service took on much of the coordination of services. As of 30 November, there were 498,347 internally displaced persons (IDPs) in Ukraine, of which 450,000 had been registered by the Ministry of Social Policy. The new IDP law entered into force on 22 November.

Accountability

17. One year on since the start of the Maidan protests, there has been little progress regarding accountability for human rights violations committed in that context. In Odesa, the first criminal case on mass disorder in the city centre on 2 May was submitted to the Prymorskyi District Court of Odesa, which held its first session on 27 November while the pre-trial investigation into the killing of 48 people on 2 May is still ongoing.

18. In September, the SBU opened investigations into alleged crimes against ‘peace and security of mankind’, against the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, which reportedly relate to cases of torture and inhuman treatment of civilians and captured servicemen, forced labour and looting of natural resources.

19. Investigations into violations of human rights law and international humanitarian law are critical for ensuring accountability and progress towards a meaningful and genuine resolution of past violent incidents that have led to the loss of life. This will be critical in the east. It is the responsibility of the State to record allegations of violations of both human rights and

to ensure the adoption of training and employment programmes for IDPs, to establish a special order of energy supply and to amnesty all prisoners convicted for minor or average crimes.

humanitarian law committed during the conflict and at a time when it has control of the territory undertake prompt and full investigations.

20. Limited progress has been reported in the investigation initiated by the Ministry of Internal Affairs (MoIA), the Office of the Prosecutor General and the SBU into more than 300 cases of indiscriminate shelling of residential areas since the start of the year. In some cases armed groups started their own ‘investigations’ into indiscriminate shelling of the territories under their control, for instance in the shelling of a Donetsk school playground on 5 November.

Legislative and other legal developments

21. Ukraine is in the process of elaborating a five year human rights strategy, to be submitted by the Cabinet of Ministers by 1 January 2015. This is welcome and follows a consultative process involving civil society and the Ombudsman’s office, supported by the United Nations system, through the HRMMU, and the Council of Europe.

22. Important steps were taken to improve the anti-corruption legal framework, in line with international recommendations. A National Council on Anti-Corruption Policy, involving a majority of civil society representatives, was established to coordinate anti-corruption policy and monitor its implementation, and a specialized national anti-corruption bureau will investigate crimes committed by high level public officials, including judges and prosecutors. The powers of the Prosecution not related to the criminal justice process, which used to be broad under previous legislation, were limited by law, a development which could strengthen fair trial guarantees. At the same time, some newly adopted legislation and its implementation raises human rights concerns. In particular, the dismissal of public officials under the lustration law adopted in October has started, with concerns that it may be applied in a discriminatory and arbitrary manner. The Government of Ukraine is cooperating with the Venice Commission of the Council of Europe regarding this law.

23. In dealing with the unravelling security situation in the east the Government decrees and legislation that have been adopted apply specifically to the conflict area. For example, an amendment to the law ‘on fighting terrorism’ extends the period within which a suspect arrested in the area of the security operation must be presented before a court from 60 hours to 30 days. An amendment to the Criminal Procedure Code⁹ has expanded the authority of the prosecutor in emergency situations or under martial law, allowing him to order searches of property and seizure of documents and other related activities in cases of suspected terrorist activity.

24. In the context of the situation in the east, the authorities adopted and later withdrew support from two laws drafted pursuant to the Minsk Protocol of 5 September. This decision, which applied to an amnesty law for ‘armed formations’ and a law providing for local self-government in parts of the Donetsk and Luhansk regions, followed the conduct of ‘elections’ in areas controlled by the armed groups on 2 November. These ‘elections’ did not follow Ukrainian legislation, a circumstance which the Ukrainian authorities deemed to be in violation of the Minsk Protocol. As a consequence of the ‘elections’ held in the East on 2 November, the Government adopted decisions, including a Presidential Decree on 14 November, instructing the temporary relocation of state institutions and enterprises (from areas controlled by armed groups. Through this Presidential Decree, it was announced that Ukraine would be requesting a derogation from the European Convention for the Protection of Human Rights and Fundamental Freedoms¹⁰ in areas no longer under its control. No derogation has yet been requested from the International Covenant on Civil and Political Rights but is also under consideration.

⁹ 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 area of the anti-terrorist operation.

¹⁰ Derogation in time of emergency, article 15, European Convention on Human Rights and Fundamental Freedoms.

25. It should be noted that during Presidential and Parliamentary elections held in Ukraine, respectively in May and in October, and observed to have taken place in line with international standards, the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ denied those living in territories under their control the right to vote by either preventing or disrupting the electoral process.

26. Following the parliamentary elections held in October, a new Government was completed on 2 December. On 27 November, the two leading parties¹¹ from the elections (and the core of the previous government), led by President Petro Poroshenko and Prime Minister Arsenii Yatseniuk, formed a broad parliamentary coalition ‘European Ukraine’, made up of five of the six largest parties and some non-aligned deputies. Mr. Yatseniuk was reappointed as Prime Minister. The coalition agreement defines future policies aimed at Euro-Atlantic integration, and includes broad spectrum of reforms and anti-corruption measures.

Crimea

27. The situation in the Autonomous Republic of Crimea¹² continued to be characterized by systemic human rights violations affecting mostly people who opposed the March ‘referendum’ and the application of Russian Federation laws, as well as the Crimean Tatar community¹³.

28. Although no new cases of enforced disappearances were reported in November, no progress has been made regarding the investigation of the cases of nine people who went missing since March and the death of three men.

29. Citizenship issues continued to be a concern. Following the March referendum, all Ukrainian citizens residing on the peninsula were automatically deemed by the ‘authorities’ in Crimea to have acquired Russian citizenship, while the Ukrainian authorities continued to consider them as Ukrainian citizens. A new quota applying to foreigners on the peninsula in 2015, giving entitlement to residence permits, risks leading to expulsions to those who do not obtain such permits.

30. All religious communities must seek registration in accordance with Russian legislation by 1 January 2015 in order to acquire legal status and to continue operating. This creates a hostile atmosphere hampering the exercise of freedom of conscience and religion in Crimea.

31. A recent trend has been the increasing violations of property rights. In particular, the illegal expropriation of the apartments of servicemen belonging the Ukrainian Ministry of Defence, which began to take place in November.

II. HUMAN RIGHTS CHALLENGES IN EASTERN UKRAINE

32. A resolution to the conflict in eastern Ukraine, as envisioned in the Minsk Protocol, appeared to recede in November, with violations of the cease-fire and of key provisions of the Minsk Protocol, continued shelling and skirmishes and positions becoming more entrenched.

33. On 2 November, armed groups organised ‘elections’, not in line with the legislation of Ukraine and the Minsk Protocols, for the ‘heads’ and the ‘people’s councils’ of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ in the areas under their control, outside Ukraine’s legal framework. The existing respective so-called ‘heads’, Oleksandr Zakharchenko and Ihor Plotnytskyi, and their political groupings were declared as winners. Both ‘republics’ continued to set up parallel governance systems, forming ‘executive bodies’ of ‘ministers’ and claiming to have enacted laws.

¹¹ The Petro Poroshenko Bloc and the People's Front will be joined in government by the Self Reliance party, the Radical Party and *Batkivshchyna*.

¹² Hereafter referred to as Crimea.

¹³ These developments were not recognized by the United Nations whose position on the status of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine.

34. A Presidential Decree and Government resolutions were adopted in response to this situation, essentially ordering the temporary relocation to Government controlled territory of all State institutions and their personnel present in areas controlled by the armed groups. This applies to the judiciary, penitentiary institutions, social and medical institutions and services, educational institutions, enterprises and banking services. In addition, this involves the cessation of social payments to those who will not have registered by 31 December to receive such benefits in Government controlled territory.

35. There is concern that the implementation of the Presidential Decree and Government resolutions will have a considerable impact on the population that has to date remained in areas controlled by the armed groups

36. An institutional vacuum could be potentially created leading to a serious human rights protection gap, should state services be relocated. The consequent disruption of social services is also likely to exacerbate economic and social vulnerabilities, and further isolate those most in needs. State officials, such as those working in hospitals, the penitentiary facilities, and educational services, could find themselves in a precarious situation for not following orders.

III. RIGHTS TO LIFE, LIBERTY, SECURITY AND PHYSICAL INTEGRITY

37. The ceasefire agreed upon on 5 September in Minsk stopped large-scale offensive activity, but skirmishing and heavy artillery exchanges continued on a daily basis. In November, Donetsk, its airport, the towns of Avdiivka and Horlivka and the front line around the Debaltseve salient remained the major flashpoints in Donetsk region. In Luhansk region the main areas of conflict were around the towns of Stanytsia Luhanska and Shchastia, as well as in various settlements north-west of Luhansk between, the Siverskyi Donets River and the Bakhmutka highway.

38. The indiscriminate shelling of built-up areas continued with over 100 incidents reported in November alone. For example, on 5 November, the shelling of a school football pitch in Donetsk killed two people, including one child, and wounded four children; on 14 November, the shelling of Horlivka (Donetsk region) killed five civilians, including two children, and wounded 12; on 18 November, the village of Toshkivka (Luhansk region) was shelled with three civilians killed and four wounded, including two children; on 25 November, a minibus was hit in Donetsk with two people killed and eight wounded. Of 285 women reported killed in Donetsk region by 25 November, 116 were killed after the 5 September ceasefire. On no occasion have any of the armed groups or the Government taken responsibility for any civilian deaths. The Government claims it only opens fire in response to attacks by armed groups and never targets residential areas. By 30 November, the total number of casualties in eastern Ukraine had reached at least 4,364 killed (including 298 from the MH-17 flight) and 10,064 wounded¹⁴. The actual numbers of casualties is likely to be higher as both military and civilian casualties remain under reported. Over 1,000 bodies delivered to morgues in the conflict zone remain unidentified, and many sites had not been searched to recover all remains due to continued fighting and insecurity.

39. Armed hostilities, wide-scale human rights abuses and violations and economic hardships caused population displacement. Between 3 July and 30 November, the number of

¹⁴ This is a very conservative estimate by the HRMMU and World Health Organization based on available official data. The totals include casualties of the Ukrainian armed forces as reported by the Ukrainian authorities; 298 people from flight MH-17; and casualties reported by civil medical establishments of the Donetsk and Luhansk regions (civilians and some members of the armed groups).

IDPs increased from 59,600 to 498,347¹⁵, and the number of Ukrainians who moved to neighbouring countries reached 545,628¹⁶, including 232,260 seeking asylum.

40. By the beginning of September, at least a thousand Ukrainian servicemen and ‘pro-unity’ civilians were held by the armed groups, while several hundred members of the armed groups and ‘pro-federalism’ supporters were being detained by the Ukrainian authorities. While the Minsk Protocol provided that ‘all hostages and illegally detained people shall be released without delay’, this clause has not been implemented. During the period under review, some people were released within so-called ‘exchanges’ as part of the Minsk agreement as well as under separate arrangements, as before the ceasefire. On 19 November, the SBU reported that out of 2,027 people on an updated list of missing people, about 1,000 had been “found and freed”, while 378 Ukrainian servicemen, two journalists and an unknown number of civilians were believed to remain held by the armed groups. On 20 November, the non-governmental Centre for Release of Captives estimated that the number of people held by the armed groups was over 650. According to the SBU, by 19 November, the Ukrainian law enforcement agencies had released 200 ‘fighters suspected of terrorism or related crimes’ within exchanges foreseen by the Minsk Protocol¹⁷. The HRMMU also knows of instances when some of those released remain on law enforcement lists, and when closed criminal cases against some exchanged people have been re-opened.

41. The break-down of law and order in the conflict zone has resulted in killings, abductions, torture, ill-treatment, sexual violence, forced labour, ransom demands and extortion of money by the armed groups which have been reported during the whole conflict period. Persecution and intimidation of people suspected of supporting Ukrainian forces or merely holding pro-Ukrainian sympathies (or perceived as such) remains widespread and has included deprivation of liberty and property, humiliation in public places and mock executions. Conditions of detention, especially for civilians, were often inhuman and degrading: people were kept in overcrowded basements or other ad hoc detention facilities without separate detention for men and women; supply of food and water was insufficient or irregular; and opportunities to maintain personal hygiene and contacts with the outside world were largely absent. Some detainees were subjected to torture and ill-treatment, which included verbal assaults; physical beatings, including various objects (rifle butts, wooden bats and metal and rubber sticks); cutting with knives and other sharp objects; sexual assaults; threats of death and of persecution of relatives.

42. Parallel bodies established by the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ to develop their own systems of law enforcement and administration of justice (‘legislation’, ‘police’, ‘prosecutors’ and ‘courts’) are contrary to international law.

43. The Government’s efforts to safeguard Ukraine’s territorial integrity and to restore law and order in the conflict zone have been accompanied by arbitrary detentions, enforced disappearances and ill-treatment of people suspected of separatism or terrorism. Most of such human rights violations reported since May appear to have been conducted by certain voluntary battalions or by the SBU. The Government has committed itself to investigating such allegations and criminal investigations for violations of article 146 (Illegal deprivation of liberty) of the Criminal Code, are being conducted.

44. On 3 November, the head of the Luhansk regional administration reported the release of 26 people subjected to either enforced disappearance or arbitrary detention on the territory controlled by the Government. On 17 November, seven people arbitrarily detained on 10-15 November by the 24th Voluntary Territorial Defence Battalion *Aidar* on the territories controlled

¹⁵ This includes 19,585 people from Crimea and 478,762 from Donetsk and Luhansk regions.

¹⁶ As of 28 November according to *Situation Report No.20*, of the United Nations Office for the Coordination of Humanitarian Affairs.

¹⁷ Only the ‘Donetsk people’s republic’ acknowledged that it had received at least 275 people ‘from Ukrainian side’.

by the Government were released after the intervention of the Luhansk regional administration. According to detainees and their relatives interviewed by the HRMMU in pre-trial detention facilities in Kharkiv and Poltava between 8 and 12 November, there were raids carried out by armed masked men in uniforms without insignia on 85 homes in the district of Krasnyi Lyman, leading to a large number of enforced disappearances. Some other detainees interviewed by the HRMMU reported being beaten and intimidated to confess to participation in the armed groups. On 14 November, a Donetsk resident died on the premises of Iziium district police department (Kharkiv region), shortly after being taken out and then returned by masked men and an identified SBU official. Forensic examination found multiple and extensive hematomas on his body and a closed blunt injury of the chest. On 10 November, the HRMMU interviewed a man who was arbitrarily detained by the SBU and kept incommunicado for two months in the SBU building in Kharkiv.

45. No clear evidence of mass summary executions either by the armed groups or by the Ukrainian armed forces have been revealed to the public so far. On 6 and 7 November, two bodies of members of an armed group, who might have been the victims of a summary execution, were exhumed from a grave near the village of Biriukove (Luhansk region). This case, as well as those reported in the seventh OHCHR report, need to be investigated, and all necessary measures must be taken to preserve evidence.

IV. ECONOMIC AND SOCIAL RIGHTS

46. The conflict and its prolongation have had a detrimental impact on the enjoyment of economic and social rights not only in the east, but throughout the country. The situation of the approximately 5.2¹⁸ million people living in the conflict and post conflict affected areas is difficult due to the significant damage of infrastructure, the economic breakdown, and the disruption of social and medical services, which particularly affects the most vulnerable people. The living conditions of people remaining in the territory controlled by the armed groups are more desperate, with the onset of winter, and with a scarcity of food and heating in some areas.

47. Furthermore, the decision¹⁹ of the Government to terminate the activities of all state institutions and organisations in areas controlled by the armed groups, and relocate them (whilst evacuating employees consensually) to Government-controlled areas is likely to exacerbate this situation. The relocation involves the withdrawal of social, medical and educational institutions, the judiciary, detention facilities, banking services, state enterprises and other entities. The relocation of large institutions, such as medical and education facilities, nursing homes and penitentiary institutions which fall within the competence of regional and local authorities, would be particularly challenging, as no mechanisms for this transfer have been developed. It is unclear how this decision will be implemented. On 26 November, the Donetsk Regional State Administration reported that out of 130 medical institutions that were on the territories controlled by armed groups, only 18 had agreed to relocate. In the case of relocation of the schools, children who remain in armed groups controlled areas will have their right to education limited, although the possibility of distance learning has been announced. For those considering relocation, many fear an uncertain future, particularly regarding the possibility to return to their

¹⁸ As of 28 November according to *Situation Report No.20*, of the United Nations Office for the Coordination of Humanitarian Affairs.

¹⁹ The Decision of the National Security and Defence Council of 4 November On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions, enacted by the Decree of the President of Ukraine Nr. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine Nr.595 as of 7 November 2014, On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions.

homes and the potential loss of property. The impact of such relocation may raise a question of the breach of the state's obligation under the International Covenant on Economic, Social and Cultural Rights to respect the enjoyment of economic, social and cultural rights, including the right to health, education, social security and work.

48. As of 1 December, there will be no more transfer of allocations from the state budget to areas controlled by the armed groups, including for social payments. The Government has justified these measures from the perspective that national budget funds would fall into the hands of the armed groups who have taken over control of social institutions, including local branches of the Pension Fund, as well as banks. For humanitarian reasons the Government continues to supply gas and electricity to the areas under control of armed groups.

49. People who leave the area can receive the social benefits to which they are entitled provided they register in Government controlled territory by 31 December 2014.

50. The care for those who remain, either unable or unwilling to leave, remains in question, despite the fact that they remain Ukrainian citizens under the protection of the State. The fate for many in areas under the control of the armed groups may well be life-threatening.

51. The socio-economic situation of those who remained in the areas controlled by armed groups continued to deteriorate. Wage arrears²⁰ in Donetsk region alone, reached UAH 944 million (approximately USD 59 million) in November, as most of those employed had not been paid since July. The HRMMU continued to receive reports about threats of reprisals against police officers, doctors and teachers who did not cooperate with the armed groups. Social payments have not been systematic since August. From 3 to 17 November, local residents, mainly women, of Makiivka, Torez, Horlivka, Yenakieve (Donetsk region) and Sverdlovsk, Chervonpartyzansk and Yuvileine (Luhansk regions) rallied to demand that the armed groups fulfil their promises regarding social protection, particularly payment of pensions and child benefits, humanitarian aid distribution and soup kitchens for the most vulnerable groups. There were also protests about the increase in theft and abductions.

52. Access to medical services, especially specialised care, remained limited due to destroyed or damaged healthcare facilities and a growing lack of staff and medical supplies. Emergency medical services in conflict-affected areas were close to collapse due to the shortage of ambulances, fuel and medication. Conditions in institutional care facilities are particularly difficult. For example, on 23 November, it was reported by the OSCE Special Monitoring Mission to Ukraine²¹ that in a regional psycho-neurological hospital near Slovianskerbsk (Luhansk region) only six of the 180 staff remained, none of whom had a medical degree or training in nursing. According to the medical records, 49 patients had died since August and the remaining 350 patients, including 120 bed-ridden ones, were at risk with lack of heating, electricity, gas, food and medication. Constant shelling in the hospital vicinity exacerbated patients' mental conditions.

53. As of 29 November, 28 settlements of Donetsk region had limited water supply, and 34 settlements remained without electricity. In Luhansk region, the settlements of Yuvileine, Novosvitlivka, Stanytsia Luhanska reportedly did not have electricity for up to six months and sewage, water supply and communications consequently did not function. On 27 November, regional authorities reported about 12,000 destroyed public and private facilities and 11,000 families without gas supply in both regions.

54. Without prejudice to their legal status, armed groups are also obliged to respect the rights of residents who remained in areas under their control. These include protecting a minimum

²⁰ According to the data of the State Statistics Service, released on 25 November. No data is available on Luhansk region.

²¹ <http://www.osce.org/ukraine-smm/127184>

level of the enjoyment of economic and social rights, at the very least by facilitating humanitarian access.

55. Throughout the country, the situation of IDPs has become dire. Notwithstanding adoption of a law on IDPs and despite continued efforts by the Government and NGOs to support IDPs, lack of employment, accommodation and proper financial assistance remain of major concern. Additionally, some IDPs reported that the Ministry of Social Policy had refused to register them as they were trying to flee locations controlled by the Government but close to the fighting. As the deadline for registration by 31 December in line with the recent Presidential Decree is running out, the daily influx of IDPs is increasing – from 2,000 IDPs per day at the beginning of November to 5,000 IDPs per day by the end of the month. The overall number of applications to the pension fund regarding the transfer of payments to other departments of the Fund reached 662,000 as of 28 November.

V. ACCOUNTABILITY

Accountability for human rights violations and abuses in the east

56. No significant progress has been reported in the investigations initiated by the MoIA, the Office of the Prosecutor General and the SBU into more than 300 cases of indiscriminate shelling of residential areas since the beginning of the conflict. In some cases armed groups reported having initiated their own ‘investigations’ into indiscriminate shelling of the territories under their control, for instance the shelling of a school playground in Donetsk on 5 November.

57. The Office of the Military Prosecutor, who is responsible for investigating crimes committed by the Ukrainian forces, has not reported of taking any steps to investigate the considerable number of allegations of human rights violations against civilians and violations of international humanitarian law in the east, including looting, arbitrary detention and ill-treatment by members of certain voluntary battalions such as *Aidar*, *Azov*, *Slobozhanshchina* and *Shakhtarsk*.

58. There has been no progress either in the investigation into alleged ‘crimes against peace and security of mankind’, opened by the SBU against the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ in September. According to the SBU, ‘these investigations are based on established evidence of committed crimes, such as torture and inhuman treatment of civilians and captured servicemen, forced labour and looting of national treasures’.

59. According to the SBU, as of 26 November, it had opened more than 3,000 criminal proceedings into crimes of terrorism and separatism. On this basis, 668 people were reportedly apprehended and 186 put on a wanted list. Out of more than 150 indictments reportedly submitted to courts, judgments of conviction were delivered in 30 cases (see Administration of Justice).

Maidan

60. Accountability for human rights violations committed during the Maidan protests (including the deaths of at least 102 demonstrators²² and 13 law enforcement officers) is far from being fully achieved. The pre-trial investigation into the mass killing of protestors on 18-20 February has not significantly progressed with only two *Berkut* special police unit servicemen in custody awaiting trial under charges of killing 39 protestors on 20 November²³. However

²² While according to Presidential Decree No. 890/2014 of 21 November the number of people who died during the Maidan protests amounts to 102, including 3 foreigners, the Office of the Prosecutor General is conducting investigations into the killing of 77 people who died as a result of use of force against Maidan demonstrators in Kyiv, 67 of whom were killed as a result of the use of firearms. 184 people suffered injuries from the use of firearms, whilst more than 750 were injured in other ways.

²³ On 3 April, according to the Office of the Prosecutor General, two *Berkut* officers and their commander were

investigations into some individual cases have been concluded. These include the killing of journalist Viacheslav Veremii, the attack on Tetiana Chornovil, the kidnapping of Yurii Lutsenko and the killing of Yurii Verbytskyi. The Office of the Prosecutor General who investigated the forceful dispersal of the peaceful demonstration on 30 November found the involvement of approximately 30 *Berkut* servicemen in the incident and expects that the case will be submitted to the court soon.

61. According to the Office of the Prosecutor General and the MoIA, the lack of progress in the investigation into the violations and deaths of other protestors is due to the destruction of all evidence and the difficulty in locating all identified suspects as they have fled Ukraine. According to the MoIA, since February more than 400 requests to extradite individuals suspected of committing crimes at Maidan have been submitted to the Russian Federation, with no response to date²⁴. On 16 November, the MoIA announced that the investigation into the killing of 13 law enforcement officers on 18-20 February was ongoing, but according to the law ‘on the prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies’²⁵, adopted shortly after the events at Maidan with an intention to exempt protesters from criminal liability, proceedings must stop and all materials should be destroyed. Moreover, according to the MoIA, no suspects have yet been identified.

Odesa

62. As a result of the clashes in Odesa on 2 May, 48 people died (two ‘pro-unity’ and 46 ‘pro-federalism’ supporters) and 247 suffered injuries (including 22 policemen).

On 27 November, the trial of 21 ‘pro-federalism’ activists involved in mass disorder in the city centre started in the Primorskyi District Court of Odesa. The MoIA investigation continued into mass disorder at the Trade Union Building. No investigation has been opened into the inaction of the fire brigade during the fire at the Trade Union Building

63. Approximately 40 suspects, all but one from the ‘pro-federalism’ movement – whose six month term of house arrest expired – are currently under no measure of restraint²⁶. The case of the only ‘pro-unity’ activist, suspected in the killing of demonstrators in the city centre, is being investigated separately.

64. On 28 November, the Independent Investigative Commission on 2 May, comprising journalists and civil society representatives, raised grave concerns about the official investigation. In particular, it observed that: evidence was destroyed due to the hasty clean-up of the site by the communal services and the unrestricted access to the Trade Union building until 20 May. It noted that forensic examination was carried out in violation of existing procedures, with re-examination made impossible as some corpses had been buried and others cremated. The Commission deplored that the MoIA ignored the independent expert findings about gunshots that occurred in the Trade Union Building, and stressed the poor professional level of investigators involved. They underlined that the relatives of the deceased had not been granted the status of victim.

officially notified of suspicion and placed in custody. While the first two are to remain in custody until 25 January 2015, their commander was placed under house arrest on 19 September. However his whereabouts are unknown since 4 October, and he has been placed on a wanted list.

²⁴ There is no extradition agreement between Ukraine and the Russian Federation.

²⁵ The Law on the 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.

²⁶ According to Article 181 of the Criminal Procedural Code, house arrest as a measure of restraint can only be imposed for a period of six months.

Kharkiv

65. The clashes of the far-right organisation ‘Patriot of Ukraine’ and the ‘pro-Russian’ organisation *Oplot* on 14 March, in Kharkiv, resulted in the death of two members of the latter and a number of injured people. According to the MoIA, the investigation into the incident has been stalled as all the members of the ‘Patriots of Ukraine’ alleged to have been involved in the incident are inaccessible for the investigation, due to their participation in the security operation in the east as members of the National Guard Regiment *Azov*²⁷.

Mariupol

66. There has been no official information provided on the status of the investigation into the 11 deaths during the recovery by Ukrainian forces of the Mariupol police headquarters from the armed groups on 9 May. Allegations, however, remain that casualties from this incident may have been the result of the excessive use of force.

Emblematic individual cases

67. Pre-trial investigations have not advanced regarding high-profile cases, such as those of several Ukrainian citizens who, according to the Ukrainian authorities, were illegally transferred to the Russian Federation where they remain in detention: Nadiia Savchenko²⁸, Oleh Sentsov and Oleksandr Kolchenko. The Russian Federation authorities have rejected requests from the Government of Ukraine to release them.

68. The former mayor of Sloviansk Nelia Shtepa, remains in custody in Kharkiv pre-trial detention centre awaiting trial under charges of trespassing the territorial integrity of Ukraine, while an investigation into new charges of membership of a terrorist organisation is on-going. On 20 November, following the application of both the prosecutor and lawyer of Ms Shtepa to transfer the trial to the Slovianskyi District Court, the High Specialised Court for Civil and Criminal Cases ruled that the case was to be decided by the Chervonozavodskyi District Court of Kharkiv, which was involved in the pre-trial investigation.

Administration of justice

69. The overall concern with the administration of justice relates to violations of fair trial standards. The HRMMU has evidence of ill-treatment, with allegations at times amounting to torture of people arrested by the SBU and MoIA in trying to secure forced confessions. In reviewing available court decisions, the HRMMU found that in at least 19 of the 30 criminal cases investigated by the SBU, the court based its decision on a plea bargain.

VI. LEGISLATIVE DEVELOPMENTS AND INSTITUTIONAL REFORMS

70. Ukraine is in the process of elaborating a five-year human rights strategy to be completed by 1 January 2015. The preparation of the strategy follows a consultative process led by the Government and involving civil society and the Ombudsman’s office, with the support of the United Nations system, through the HRMMU, and the Council of Europe

71. Different proposals on the decentralization of power have not yet translated into binding commitments. The Parliament has not discussed the draft law on amending the Constitution containing provisions on local self-governance, which President Poroshenko submitted in July. In the meantime, the European Commission for Democracy through Law (Venice Commission)

²⁷ Previously named the Special Police Patrol Battalion *Azov*, the unit was recently moved under the National Guard within the MoIA chain of command.

²⁸ Nadiia Savchenko was elected at the Parliamentary elections. A former member of the 24th Territorial Defence Battalion *Aidar*, who was abducted by the armed groups on 17 June in Ukraine and then illegally transferred to the Russian Federation where she is held in custody awaiting trial charged with killing of two Russian journalists. The lawyers of Nadiia Savchenko have complained about difficulties to have confidential communication with their client during the investigation.

of the Council of Europe has provided a generally positive assessment of this draft. The new coalition agreement of 21 November also outlines various measures towards greater decentralization.

72. A law establishing criminal proceedings *in absentia* entered into force on 31 October, thereby creating the legal conditions to try the former President of Ukraine and other high level officials who left the country after the Maidan protests. While international law states that proceedings in the absence of the defendant may in some circumstances be permissible in the interest of the proper administration of justice, the grounds for prosecution mentioned in the law are wide, making the frequent use of this procedure a possibility. This poses a question of compatibility with international law, which recognizes the right for an accused to be present in person at his/her trial.

73. The dismissal of public officials under the lustration law adopted in October has started. While motivated by the intention to fight corruption and abuses and the significant public support for such a measure, the law could be applied in a discriminatory and arbitrary manner. On 17 November, the Supreme Court filed an application to the Constitutional Court to assess the constitutionality of certain provisions of the Law ‘On Purification of Government’. The authorities adopted and later withdrew support from two laws drafted pursuant to the Minsk Protocol of 5 September. This decision, which applied to an amnesty law for ‘armed formations’ and a law providing for local self-government in parts of the Donetsk and Luhansk regions, followed the conduct of ‘elections’ in areas controlled by the armed groups on 2 November. These ‘elections’ did not follow Ukrainian legislation, a circumstance which the Ukrainian authorities deemed to be in violation of the Minsk Protocol.

74. Following the 2 November ‘elections’ held in parts of Donetsk and Luhansk regions under the control of the armed groups, the National Security and Defence Council drew up measures later enacted by Government decisions in early November and by a Presidential Decree on 14 November, instructing the temporary relocation of state institutions and enterprises) from the areas controlled by the armed groups. This decision, and its implementation, could have considerable consequences for the population in the eastern regions as the institutional vacuum it could create may give rise to a severe protection gap, and to exacerbate economic and social vulnerabilities.

75. Furthermore, the Ministry for Foreign Affairs was instructed to inform the Secretary General of the Council of Europe of Ukraine’s request for derogation from its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms, under article 15 on derogation that should be applied to the eastern Ukraine. No derogation has yet been requested from the International Covenant on Civil and Political Rights, but is also under consideration.

76. For the legal protection of IDPs the law on IDPs²⁹, which entered into force on 22 November. It establishes a unified IDP database, simplifies residence registration, obliges the state to provide free temporary accommodation for six months, introduces guarantees for educational and labour rights and upgrades the provision of humanitarian assistance. While the new law is generally in line with the United Nations Guiding Principles on Internal Displacement, it applies to ‘citizens’ of Ukraine, and may exclude stateless persons and foreigners legally residing in Ukraine who have been displaced.

77. A large vote for pro-European and pro-reform parties has allowed the President and the Prime Minister to form a broad parliamentary coalition. The coalition agreement defines future policies aimed at Euro-Atlantic integration, the return of Crimea, decentralisation, the abolishment of immunity for deputies, the establishment of anti-corruption bodies and of a

²⁹ The law on ensuring rights and freedoms of internally displaced persons, No. 1706-VII, 20 October, 2014.

presidential impeachment procedure among other measures. On 27 November, Ukraine's new parliament was sworn in and then appointed Mr. Yatseniuk as Prime Minister.

78. A European Union roadmap for over 60 legislative and institutional reforms presented by the President on 25 September, and reflected in the post-election coalition agreement of November started being implemented. This includes also the fight against corruption, modernizing the judiciary, reforming the police and decentralization.

VII. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA

79. The situation in the Autonomous Republic of Crimea continued to be characterized by systemic human rights violations affecting, for the most part, the segment of the population which opposed the unlawful March 'referendum' and the arrival of 'authorities' applying Russian Federation laws. These developments were not recognized by the United Nations whose position on the status of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine.

80. Most violations involved the Crimean Tatar minority, the most outspoken in its opposition to the unfolding events. Unlike previous months, there were no reported cases of enforced disappearances in November. Investigations continued into the nine documented cases of enforced disappearances – eight Crimean Tatars and one ethnic Ukrainian – that took place since March. During the same period, three persons were found dead (Reshat Ametov in March, Edem Asanov and Belial Belialov in October). No breakthrough in the investigations has yet been reported. On 21 November, unknown masked men raided the Central Market in Simferopol, arresting 15 people of 'non-Slavic appearance' who were Crimean Tatars. They were taken to the local police 'department for countering extremism', but no charges were brought against them. This followed a similar raid on the Lokomotiv Market on 15 November, by the police, Federal Security Service and the Federal Migration Service, which detained 60 people who were taken to the same police department. They were questioned about their migration status, as well as their suspected membership of religious and other associations and then released after their fingerprints, DNA and photos were taken. The HRMMU is concerned that such raids may be misused as a means of intimidating the Crimean Tartar community.

81. On 14 November, the Crimean Court of Appeal upheld a ruling of the Simferopol court from 24 October over Tair Smedliaiev, the brother of Zair Smedliaiev, head of the election committee of the *Kurultay* (the Crimean Tatar Assembly). The ruling means that Mr Smedliaiev is charged with violation of the article 318 (violence against police officer) of the Criminal Code of the Russian Federation and ordered to serve two months pre-trial detention as a measure of restraint. The violence Mr Smedliaiev is charged with allegedly occurred when he and 2,000 other Crimean Tatars came to the administrative border with mainland Ukraine on 3 May to attempt to greet the banned visit of the Crimean Tatar leader Mustafa Jemilev. The case is regarded by the defendant as a form of political pressure.

82. On 18 November, the Simferopol Court fined the charitable organization Crimea Fund RuR 4.5 million (approximately USD 95,745) and its director RuR 350,000 (approximately USD 7,450). The decision was based on the Fund having leased its building in Simferopol to the Mejlis (representative body) of Crimean Tatar people and the Crimean Tatar newspaper *Avdet*, without the consent of the 'Crimean committee for the protection of cultural heritage' (established post 'referendum'); and because of unauthorised repair work on the building. The director of the Fund believes that the fines are the latest in a chain of measures aimed at the Fund's termination³⁰.

³⁰ On 16 September, the building was surrounded by armed men, while FSB officers carried out an 11-hour-search seizing documents, Islamic literature, computers, etc. The next day bailiffs ordered the Crimea Fund, the Mejlis and

83. Citizenship issues and human rights concerns deriving from them continued to be a central issue. On 20 November, the Russian Federation Government set the quota for the issuance of temporary residence permits for foreigners and persons without citizenship for 2015. For Crimea and Sevastopol the quota is only 1,900 permits (the smallest one for any of the federal regions). This may cause many problems for Crimean residents who refused to previously acquire Russian citizenship and may lead to the expulsion of foreigners and Ukrainian citizens who do not obtain permits.

84. The HRMMU obtained information regarding cases of dozens of representatives of different confessions and religious communities who have been harassed or forced to leave the peninsula since March. This situation adversely affects the ability of Crimean residents to practice their religion in accordance with international standards guaranteeing freedom of conscience and religion. Churches belonging to the Ukrainian Orthodox Church of the Kyiv Patriarchate have been attacked by armed individuals without any investigation into the incidents and four out of twelve had to close. Greek-Catholic priests faced threats and persecution, resulting in four out of six of them leaving Crimea. A Polish citizen and the senior Roman Catholic priest in the Simferopol parish had to leave on 24 October, due to the non-renewal of Ukrainian residence permits. Most of the 23 Turkish Imams and teachers on the peninsula have left for the same reason. All religious communities must seek registration in accordance with Russian legislation by 1 January 2015, in order to acquire legal status and continue operating.

85. A recent trend has been the increasing violations of property rights. Since 18 September, over 20 facilities, including health resorts, pensions and hotels were nationalized. Actions amounting to forcible seizure of private property and equipment from individuals or companies maintaining links to Ukraine took place. In November, illegal expropriations of servicemen's apartments belonging to the Ukrainian Ministry of Defence appear to have begun. Such apartments are normally given to servicemen with an exclusive right to the enjoyment of the property including a right for free privatisation.

VIII. CONCLUSIONS

86. 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 an armed conflict which is fuelled by the continuing presence of foreign fighters, with some identified by the Government of Ukraine as servicemen from the Russian Federation, as well as the influx of heavy and sophisticated weaponry; and the effective control of the State borders between Ukraine and the Russian Federation.

87. The continued fighting, shelling and hostilities in the east must be brought to an end to stop the daily loss of life and injury. Moreover, with the onset of winter, residents of the conflict affected areas, are facing increased hardships and are being pushed to the brink of survival. With the recent issuance of Government decision on the relocation of State institutions to territory controlled by the Government from areas under the control of armed groups, it should be recalled that the Government of Ukraine remains responsible for protecting human rights of residents in all its territory, including those territories in the East of Ukraine which remains held by armed groups. The implementation of the decisions to withdraw public services through the relocation of facilities and to the requirement for people to register in Government controlled

the *Avdet* newspaper to vacate the building within 24 hours. Later the 'prime minister' of Crimea declared that the Mejlis was never properly registered and therefore 'did not exist'. The Director said he would appeal to European Court of Human Rights to challenge the court decision.

areas to receive social payments should be carefully considered in order not to breach the State's obligations under the ICESCR and its commitment to respect economic and social rights, such as the right to health, education, social security and work. The new Parliament constituted on 27 November comprises, for the first time, a pro-European majority. Five of the six largest parties and some non-aligned deputies (302 out of 423 filled seats³¹) have formed a parliamentary coalition 'European Ukraine' and drawn up a coalition agreement of pro-European and pro-reform policies. It is in a unique position to press ahead with reforms to improve human rights, build effective governance and advance in the rule of law, as previously announced by the President in his September speech³². In undertaking its work, the coalition should take into account the protection of rights and the needs of linguistic, ethnic, religious and other minorities, who have no representation in parliament. A key measure of whether such rights are being taken into account will be seen in Parliament's approach to fulfilling Constitutional guarantees as stipulated under article 10, and expressly referred to by the President in his inaugural speech, that provide for the free development of Russian and other languages while maintaining Ukrainian language as the single State language.

88. OHCHR appreciates the good cooperation extended by the Government of Ukraine to the HRMMU (HRMMU) during 2014. A Human Rights Mission in Ukraine will continue to monitor and report on the evolving situation in 2015, with a view to contributing to an unbiased and accurate assessment of the human rights situation. It will also increase its advice and support to the Government, Office of the Ombudsperson, civil society in the implementation of the strategy and plans for human rights aimed at strengthening the national human rights protection system. The UN Human Rights Mission will do so in close cooperation with the international community, including regional human rights organizations, as well as the UN system in Ukraine. In addition, the Human Rights Mission will actively participate in efforts aimed at protection as part of the UN response to the humanitarian challenges in Ukraine, especially in the east.

IX. RECOMMENDATIONS

89. Since its first report on 15 April 2014, OHCHR has issued a series of recommendations on the human rights situation in Ukraine. A clustered thematic compilation of these can be found in Annex I.

³¹ Petro Poroshenko Bloc 132 deputies, People's Front 82, the Self Reliance party 33, the Opposition Bloc 29, the Radical Party 22, *Batkivshchyna* 19 and *Svoboda* (Freedom) 6. Additionally the smaller parties of: Strong Ukraine, *Zastup*, *Volia* (Liberty) and Right Sector received 1 delegate each from voting in single mandate majority districts. Others are self-nominated candidates of undeclared party affiliation were also elected in the single mandate majority districts. The final figure of filled seat is still changing based on final calculations by the CEC for those seats which are still disputed.

³² Thus, two thirds of the new Parliament who share the same views may now take all decisions which require a constitutional majority, rather than a usual (50% + 1) majority, such as Presidential impeachment, a vote of no confidence in the government, constitutional change, etc.

ANNEX I

Compilation of recommendations made by the UN Human Rights Monitoring Mission in Ukraine in eight reports issued from 15 April to 15 December 2014

I. TO THE GOVERNMENT OF UKRAINE

Right to life, liberty and security

1. 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, ensure the protection of those who are not involved in the fighting.
2. Treat all people detained in the context of the security operations in line with international norms and standards and guarantee their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law.
3. 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. 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.
4. Establish a transparent and accessible mechanism for families seeking to find missing persons, including military personnel.
5. Ensure informed consent of detainees who are to be exchanged as a result of the Minsk protocol of 5 September.

Accountability and the rule of law

6. In the cases of the violence at Maidan, Odesa, Mariupol and Rymarska, independent, effective and impartial investigations in full compliance with international norms and standards must be ensured. Perpetrators must be brought to justice in a fair and non-selective manner; remedies and adequate reparations for victims must be ensured.
7. All violations of international law, including those that may constitute war crimes, must be fully investigated and accountability guaranteed, including for command responsibility; perpetrators must be promptly brought to justice and victims provided with remedies and reparations.
8. 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.
9. Ensure that all victims captured by the armed groups are interviewed by the law enforcement immediately upon their release from captivity, in order to collect evidence for future prosecution of perpetrators.

10. Develop a simplified procedure for the victims of crimes committed by armed groups to apply to law-enforcement (for example, without a link to territorial jurisdiction to the place where the crime was committed).
11. All allegations of sexual violence, which under some circumstances constitute international crimes (war crimes, crimes against humanity), must be fully investigated, with regard to the needs of victims and specific methodologies (e.g. the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict).
12. All incidents of illegal seizure of property must be promptly investigated; clear procedures should be developed to return the property to the lawful owners.
13. Adopt effective prosecutorial strategies to bring to justice the perpetrators of violations of human rights and humanitarian law.
14. 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.
15. 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.

Freedom of expression and peaceful assembly

16. 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 shaping the future of their country.
17. 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.
18. Ensure freedom of the media and regulatory monitoring of media professionalism, disinformation, and advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.
19. 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.
20. 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.
21. 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.

Combatting hate speech

22. 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.

23. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.

24. All stakeholders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination. Political leaders should play a role in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech³³ and publicly condemning them.

Inclusivity, equal political participation and rights of minorities

25. 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.

26. 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.

Legislative, policy and institutional reforms

Legislation

27. Adopt a law on freedom of assembly and review legislation and policies applicable to the management of peaceful assemblies 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. 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. 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.

29. The process of developing a new Constitution should foresee inclusive and meaningful consultations with political parties, representatives of civil society, women, minority groups and indigenous peoples in order to embrace all components of society.

30. Refugee law should be fully brought in line with international standards and sufficient funds allocated to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.

Institutional reforms

31. The law enforcement reform package should aim to reinforce the rule of law; to depoliticise, 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.

³³ 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).

32. 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.

33. 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.

34. Call on all the authorities to support the drafting of a national human rights strategy for Ukraine by 1 January 2015.

35. 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.

Economic and social rights

36. 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.

37. Ensure that all those living in Ukraine are provided with basic assistance, services and shelter/heating needs in accordance with international norms and standards and that the necessary legal institutional framework to support this is enacted.

38. Ensure the equal provision of services and utilities, as well as humanitarian and social assistance where needed, for both those who have remained and returnees.

39. Take immediate action to facilitate access to, and the provision of, treatment for HIV/AIDS and Tuberculosis, as well as of essential medicines, particularly in conflict-affected areas, in order to prevent the interruption of treatment.

Internally displaced persons

40. Needs of IDPs, including shall be addressed by the Government in coordination of civil society and in cooperation with international donors, in line with the UN Guiding Principles on Internal Displacement.

41. Collect and make publicly available comprehensive and reliable gender-disaggregated statistics concerning IDPs and other people affected by the conflict (including those killed and wounded).

Women's human rights

42. Conduct national consultations, with the involvement of civil society, to develop a national action plan in accordance with Security Council resolution 1325 to promote women's equal and full participation as active agents in the prevention and resolution of conflicts, peace-building and peacekeeping, as well as incorporate gender perspective in all areas of peace building.

43. Encourage adoption of temporary measures to ensure greater participation of women in public life, including in Parliament.

Engagement with the international human rights system

44. Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.

45. 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.

46. 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.

II. TO ALL THOSE INVOLVED IN THE HOSTILITIES IN THE EASTERN REGIONS OF DONETSK AND LUHANSK

Armed hostilities

1. Urgently put an end to fighting and violence in the eastern regions of Ukraine.

Protection of civilians

2. Comply with the principles of distinction, proportionality and precaution, and in any situation refrain from indiscriminate shelling of populated areas or positioning in areas that put civilians in danger.
3. Targeting civilians and civilian infrastructure are violations of international humanitarian law; those who have committed such crimes must be held accountable.
4. Ensure that all those involved in the situation in Ukraine adhere to norms and principles of international humanitarian law and provide free and safe passage for civilians and humanitarian relief in strict compliance with existing international standards

Detainees

5. Immediately release all persons illegally or arbitrarily deprived of their liberty.
6. Guarantee transparency regarding the release of detainees, and prevention of abductions, enforced disappearances, trafficking in persons and other related human rights violations and abuses.

Treatment of bodies

7. Ensure the treatment with due respect and dignity of the bodies and remains of people killed as a result of hostilities. Provide free and safe access to the areas where such bodies and remains can be found to collect them and ensure their identification and a dignified and decent burial, and return them to their families. Preserve evidence of possible summary executions.

Access for international organisations

8. Guarantee access to areas affected by the hostilities for international organisations and independent investigators.

III. TO THE AUTHORITIES IN CRIMEA AND THE DE FACTO GOVERNING AUTHORITY OF THE RUSSIAN FEDERATION

1. 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.

Legislation

2. 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.

Right to life

3. Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security.

4. 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.

Accountability

5. 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.

6. Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.

7. 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.

8. 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.

9. 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.

10. Investigate the cases of alleged killing and enforced disappearances of Crimean civil activists (Reshat Ametov, Timur Shaimardanov, Seiran Zinedin, Leonid Korzh, Vasyl Chernysh) as well as shooting of the Ukrainian major on 6 April and hold accountable the perpetrators.

11. 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.

Freedoms of expression, peaceful assembly, religion, association and movement

12. 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.
13. Promote and protect freedom of expression, guaranteeing full and non-discriminatory access to information for all.
14. Guarantee all fundamental rights to all persons in the Autonomous Republic of Crimea, including freedoms of peaceful assembly and association, expression, religion and movement, as well as right to education and guarantees of economic and social rights.

Rights of minorities and indigenous peoples

15. 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.
16. Put an end to selective searches of facilities and the confiscation of property belonging mostly to Crimean Tatars.
17. Promote inter-ethnic harmony, and put an end to intimidation and persecution.
18. End pressure and intimidation against the Crimean Tatars linked to the Mejlis, including the multiplication of searches of private property under the pretext of combatting extremism.
19. Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.
20. 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.

Internally displaced persons

21. Ensure that citizens of Ukraine who fled the conflict in the east of the country and go to Crimea are not forcefully resettled in the Russian Federation.

Rule of law

22. 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.
23. 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.
24. Grant access to independent and impartial human rights monitors, including by OHCHR.
25. 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.
26. Strengthen the security of Crimean residents by acting to curb human rights violations committed by the ‘Crimean self-defence’ groups.

27. 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.

Engagement with the international human rights system

28. The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

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

30. Ensure monitoring of the human rights situation in Crimea by the UN HRMMU.

Annex 304

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

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

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

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TO THE GOVERNMENT OF UKRAINE

TO ALL THOSE INVOLVED IN THE HOSTILITIES IN THE EASTERN
REGIONS OF DONETSK AND LUHANSK

TO THE AUTHORITIES IN CRIMEA AND THE DE FACTO GOVERNING
AUTHORITY OF THE RUSSIAN FEDERATION

I. EXECUTIVE SUMMARY

1. This is the eighth report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine based on the work of the Human Rights Monitoring Mission in Ukraine (HRMMU). The report covers the period from 1 to 30 November 2014. It describes the continued deterioration of the human rights situation in the eastern regions of Ukraine and in Crimea. The total breakdown in law and order and the violence and fighting in the eastern regions, fuelled by the cross-border inflow of heavy and sophisticated weaponry as well as foreign fighters, including from the Russian Federation, has for the past eight months had a direct impact on all fundamental human rights – including the security, liberty and well-being – of individuals living there.

2. With the conflict in the east entering its ninth month, the situation is becoming extremely dire for the population, particularly older persons, children and people in institutional care, many of whom are on the brink of survival. Moreover, the impact of the conflict in the east on the rest of Ukraine is increasingly acute.

Situation in the east

3. The HRMMU observed early signs of the rapid deterioration of the security situation as of April 2014. Initially demands from protestors in the east were for a referendum on the federalisation of Ukraine and the recognition of the Russian language as a second State language. Groups of armed men – in a well-organized and coordinated fashion – unlawfully seized public buildings and police and security facilities in cities and towns across the Donetsk and Luhansk regions. As law and order increasingly broke down, so more human rights abuses, such as killings, torture, abduction for ransom and forced labour, started to be committed by members of armed groups, supported by increasing numbers of foreign fighters. On 14 April, the Government launched a security operation¹ to re-establish control over those territories. By the end of April the self-proclaimed ‘Donetsk people’s republic’² and the self-proclaimed ‘Luhansk people’s republic’³ were announced as having been established, which was furthered by the 11 May so-called ‘referendum’ on self-rule, contravening the constitution of Ukraine and international norms and standards.

4. Forced mobilization and threats of the use of the death penalty were additional means to intimidate and harass the population in the territory under the control of the armed groups. Increasingly as people left their homes, their property was seized. Efforts by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to develop their own systems of administration of justice (‘legislation’, ‘police’, ‘prosecutors’ and ‘courts’) did not improve the dire human rights situation on the territories under their control.

5. As the fighting intensified in the east, there have been increased reports of violations of international human rights law and international humanitarian law. This highlighted the need to ensure the protection of civilians. The use of indiscriminate shelling in residential areas has led to the killing of civilians, as well as the damage to property and infrastructure.

6. Over the months, allegations have come to the fore of mass graves, which have yet to be substantiated, as well as reports of the use of cluster munitions.

7. Despite the 5 September Minsk Protocol, which included a ceasefire as part of a 12-point peace plan, shelling and skirmishes have continued. This is largely the result of the non-implementation of key provisions of the Protocol by the armed groups, especially point 4 ‘ensure permanent monitoring of the Ukrainian-Russian border and its verification by the OSCE and a security zone at the frontier areas of Ukraine and Russia’; point 9 ‘early local elections in

¹ Referred to by the Government as an ‘anti-terrorist’ operation.

² Henceforth the ‘Donetsk people’s republic’.

³ Henceforth the ‘Luhansk people’s republic’.

compliance with the law of Ukraine on interim self-governance in certain areas of Donetsk and Luhansk (the law on special status)’; and point 10 ‘withdrawal of illegal armed groups, military equipment as well as militants and mercenaries from the territory of Ukraine’.

8. By 30 November, the total number of casualties in the east had reached at least 4,364 killed and 10,064 wounded⁴. Over 1,000 bodies delivered to morgues in the conflict zone remained unidentified, and many sites where hostilities had taken place not yet been searched to recover all remains.

9. The efforts of the Government to safeguard the territorial integrity of Ukraine and restore law and order in the conflict zone have been accompanied by arbitrary detentions, torture, and enforced disappearances of people suspected of ‘separatism and terrorism’. Most of such human rights violations appear to have been perpetrated by certain voluntary battalions or by the Security Service of Ukraine (SBU). The procedural rights of people have not always been observed, with reports of ill-treatment and reports of reprisals upon release.

10. With the onset of winter and no let-up in the hostilities, the situation of approximately 5.2⁵ million people living in the conflict and post-conflict affected areas is further deteriorating due to significant damage of the infrastructure, the breakdown of economic activities, and the disruption of social and medical services and social welfare benefits.

11. On 2 November, the armed groups organised ‘elections’, in violation of the legislation of Ukraine and the Minsk Protocol, in areas under their control.

12. Subsequently, the Government of Ukraine decided⁶ to temporarily relocate all State institutions and organisations present in areas controlled by the armed groups to Government-controlled areas. This implies the relocation of social, medical and educational institutions, the judiciary, penitentiary facilities, state enterprises and other entities, as well as banking services⁷. As of 1 December, all allocations from the State budget, (including for social payments) to areas not controlled by the Government ceased. To continue receiving social payments, residents of Donetsk and Luhansk regions under the control of the armed groups are required to register by 31 December, in territory under the control of the Government. This was justified by the Government as necessary to prevent national budget funds falling into the hands of the armed groups who had taken control of social institutions, including local branches of the Pension Fund, as well as banks. However, pensions and other social payments will be redirected and may be received by beneficiaries and may be received in territory under the control of the Government⁸. For humanitarian reasons the Government continues to supply gas and electricity

⁴ This is a very conservative estimate by the HRMMU and World Health Organization based on available official data. It includes casualties among the Ukrainian armed forces as reported by the Ukrainian authorities; the 298 people from flight MH-17; and casualties reported by civil medical establishments of the Donetsk and Luhansk regions (civilians and some members of the armed groups). The actual numbers of casualties is likely to be considerably higher, as both military and civilian casualties continued to be underreported.

⁵ As of 28 November according to *Situation Report No.20*, of the UN Office for the Coordination of Humanitarian Affairs.

⁶ The Decision of the National Security and Defence Council of 4 November *On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions*, enacted by the Decree of the President of Ukraine No. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine No.595 as of 7 November 2014, *On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions*.

⁷ The suspension of all financial operations by banking services predates the Presidential Decree. The National Bank of Ukraine Decree No. 466 of 9 August, states that all banks, non-bank institutions and state post services which conduct payment operations should suspend their operations in territory not controlled by Ukrainian government. Their activity should be renewed after Ukrainian forces regain control over such territories.

⁸ These derived from a Presidential Decree signed on 14 November that instructed the Government to establish the order of humanitarian aid supply to the east, to organise reconstruction of the gas, heating and energy in the regions,

to the areas under control of armed groups without receiving any payment for it. The Decree also orders the reconstruction of damaged infrastructure for these utilities. These measures, and their implementation could have considerable consequences for the population in the eastern regions as the consequent institutional vacuum, lack of provision of public services and access to social payments is likely to create a severe protection gap, and to exacerbate economic and social vulnerabilities. Implementation of these measures needs to be considered, particularly their impact on the most vulnerable.

13. Locals who leave the conflict affected area are covered by a state program for IDPs. The capacities, however, of these registration points, which were already overwhelmed, were not prepared for the increased flow of IDPs generated by the Decision. The situation and fate of those who remain, either unable or unwilling to leave, is of serious concern, even if they are still legally under the protection of the State.

14. Many, particularly the most vulnerable, are on the brink of survival, facing continued hardship due to the conflict, and their condition may deteriorate with the onset of winter. This is further aggravated by the degradation of many public services, particularly specialised medical care, which has become more limited due to lack of staff and/or supplies. Treatment and care is at risk, particularly as some staff in public institutions have left their jobs. There are emerging but unconfirmed reports of people, particularly older persons, beginning to face starvation. Hospitals face shortages in staff and supplies, and as a result the standard of healthcare has deteriorated as medical staff are unable to maintain the pre-conflict standards of practice. Pharmacies are facing shortages, and many people are in need of basic medical supplies.

15. With the increasing needs in the conflict affected area, humanitarian assistance has continued to be provided by just a few international NGOs and heavily depends on the work of volunteers.

16. Over one million people have left the conflict affected region, either being displaced within Ukraine, or seeking refuge or other legal status in neighbouring countries. For those in internal displacement, their initial needs were predominantly met by volunteers and local authorities, who stepped in while the Government tried to find its way. Eventually the State Emergency Service took on much of the coordination of services. As of 30 November, there were 498,347 internally displaced persons (IDPs) in Ukraine, of which 450,000 had been registered by the Ministry of Social Policy. The new IDP law entered into force on 22 November.

Accountability

17. One year on since the start of the Maidan protests, there has been little progress regarding accountability for human rights violations committed in that context. In Odesa, the first criminal case on mass disorder in the city centre on 2 May was submitted to the Prymorskyi District Court of Odesa, which held its first session on 27 November while the pre-trial investigation into the killing of 48 people on 2 May is still ongoing.

18. In September, the SBU opened investigations into alleged crimes against ‘peace and security of mankind’, against the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, which reportedly relate to cases of torture and inhuman treatment of civilians and captured servicemen, forced labour and looting of natural resources.

19. Investigations into violations of human rights law and international humanitarian law are critical for ensuring accountability and progress towards a meaningful and genuine resolution of past violent incidents that have led to the loss of life. This will be critical in the east. It is the responsibility of the State to record allegations of violations of both human rights and

to ensure the adoption of training and employment programmes for IDPs, to establish a special order of energy supply and to amnesty all prisoners convicted for minor or average crimes.

humanitarian law committed during the conflict and at a time when it has control of the territory undertake prompt and full investigations.

20. Limited progress has been reported in the investigation initiated by the Ministry of Internal Affairs (MoIA), the Office of the Prosecutor General and the SBU into more than 300 cases of indiscriminate shelling of residential areas since the start of the year. In some cases armed groups started their own ‘investigations’ into indiscriminate shelling of the territories under their control, for instance in the shelling of a Donetsk school playground on 5 November.

Legislative and other legal developments

21. Ukraine is in the process of elaborating a five year human rights strategy, to be submitted by the Cabinet of Ministers by 1 January 2015. This is welcome and follows a consultative process involving civil society and the Ombudsman’s office, supported by the United Nations system, through the HRMMU, and the Council of Europe.

22. Important steps were taken to improve the anti-corruption legal framework, in line with international recommendations. A National Council on Anti-Corruption Policy, involving a majority of civil society representatives, was established to coordinate anti-corruption policy and monitor its implementation, and a specialized national anti-corruption bureau will investigate crimes committed by high level public officials, including judges and prosecutors. The powers of the Prosecution not related to the criminal justice process, which used to be broad under previous legislation, were limited by law, a development which could strengthen fair trial guarantees. At the same time, some newly adopted legislation and its implementation raises human rights concerns. In particular, the dismissal of public officials under the lustration law adopted in October has started, with concerns that it may be applied in a discriminatory and arbitrary manner. The Government of Ukraine is cooperating with the Venice Commission of the Council of Europe regarding this law.

23. In dealing with the unravelling security situation in the east the Government decrees and legislation that have been adopted apply specifically to the conflict area. For example, an amendment to the law ‘on fighting terrorism’ extends the period within which a suspect arrested in the area of the security operation must be presented before a court from 60 hours to 30 days. An amendment to the Criminal Procedure Code⁹ has expanded the authority of the prosecutor in emergency situations or under martial law, allowing him to order searches of property and seizure of documents and other related activities in cases of suspected terrorist activity.

24. In the context of the situation in the east, the authorities adopted and later withdrew support from two laws drafted pursuant to the Minsk Protocol of 5 September. This decision, which applied to an amnesty law for ‘armed formations’ and a law providing for local self-government in parts of the Donetsk and Luhansk regions, followed the conduct of ‘elections’ in areas controlled by the armed groups on 2 November. These ‘elections’ did not follow Ukrainian legislation, a circumstance which the Ukrainian authorities deemed to be in violation of the Minsk Protocol. As a consequence of the ‘elections’ held in the East on 2 November, the Government adopted decisions, including a Presidential Decree on 14 November, instructing the temporary relocation of state institutions and enterprises (from areas controlled by armed groups. Through this Presidential Decree, it was announced that Ukraine would be requesting a derogation from the European Convention for the Protection of Human Rights and Fundamental Freedoms¹⁰ in areas no longer under its control. No derogation has yet been requested from the International Covenant on Civil and Political Rights but is also under consideration.

⁹ 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 area of the anti-terrorist operation.

¹⁰ Derogation in time of emergency, article 15, European Convention on Human Rights and Fundamental Freedoms.

25. It should be noted that during Presidential and Parliamentary elections held in Ukraine, respectively in May and in October, and observed to have taken place in line with international standards, the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ denied those living in territories under their control the right to vote by either preventing or disrupting the electoral process.

26. Following the parliamentary elections held in October, a new Government was completed on 2 December. On 27 November, the two leading parties¹¹ from the elections (and the core of the previous government), led by President Petro Poroshenko and Prime Minister Arsenii Yatseniuk, formed a broad parliamentary coalition ‘European Ukraine’, made up of five of the six largest parties and some non-aligned deputies. Mr. Yatseniuk was reappointed as Prime Minister. The coalition agreement defines future policies aimed at Euro-Atlantic integration, and includes broad spectrum of reforms and anti-corruption measures.

Crimea

27. The situation in the Autonomous Republic of Crimea¹² continued to be characterized by systemic human rights violations affecting mostly people who opposed the March ‘referendum’ and the application of Russian Federation laws, as well as the Crimean Tatar community¹³.

28. Although no new cases of enforced disappearances were reported in November, no progress has been made regarding the investigation of the cases of nine people who went missing since March and the death of three men.

29. Citizenship issues continued to be a concern. Following the March referendum, all Ukrainian citizens residing on the peninsula were automatically deemed by the ‘authorities’ in Crimea to have acquired Russian citizenship, while the Ukrainian authorities continued to consider them as Ukrainian citizens. A new quota applying to foreigners on the peninsula in 2015, giving entitlement to residence permits, risks leading to expulsions to those who do not obtain such permits.

30. All religious communities must seek registration in accordance with Russian legislation by 1 January 2015 in order to acquire legal status and to continue operating. This creates a hostile atmosphere hampering the exercise of freedom of conscience and religion in Crimea.

31. A recent trend has been the increasing violations of property rights. In particular, the illegal expropriation of the apartments of servicemen belonging the Ukrainian Ministry of Defence, which began to take place in November.

II. HUMAN RIGHTS CHALLENGES IN EASTERN UKRAINE

32. A resolution to the conflict in eastern Ukraine, as envisioned in the Minsk Protocol, appeared to recede in November, with violations of the cease-fire and of key provisions of the Minsk Protocol, continued shelling and skirmishes and positions becoming more entrenched.

33. On 2 November, armed groups organised ‘elections’, not in line with the legislation of Ukraine and the Minsk Protocols, for the ‘heads’ and the ‘people’s councils’ of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ in the areas under their control, outside Ukraine’s legal framework. The existing respective so-called ‘heads’, Oleksandr Zakharchenko and Ihor Plotnytskyi, and their political groupings were declared as winners. Both ‘republics’ continued to set up parallel governance systems, forming ‘executive bodies’ of ‘ministers’ and claiming to have enacted laws.

¹¹ The Petro Poroshenko Bloc and the People's Front will be joined in government by the Self Reliance party, the Radical Party and *Batkivshchyna*.

¹² Hereafter referred to as Crimea.

¹³ These developments were not recognized by the United Nations whose position on the status of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine.

34. A Presidential Decree and Government resolutions were adopted in response to this situation, essentially ordering the temporary relocation to Government controlled territory of all State institutions and their personnel present in areas controlled by the armed groups. This applies to the judiciary, penitentiary institutions, social and medical institutions and services, educational institutions, enterprises and banking services. In addition, this involves the cessation of social payments to those who will not have registered by 31 December to receive such benefits in Government controlled territory.

35. There is concern that the implementation of the Presidential Decree and Government resolutions will have a considerable impact on the population that has to date remained in areas controlled by the armed groups

36. An institutional vacuum could be potentially created leading to a serious human rights protection gap, should state services be relocated. The consequent disruption of social services is also likely to exacerbate economic and social vulnerabilities, and further isolate those most in needs. State officials, such as those working in hospitals, the penitentiary facilities, and educational services, could find themselves in a precarious situation for not following orders.

III. RIGHTS TO LIFE, LIBERTY, SECURITY AND PHYSICAL INTEGRITY

37. The ceasefire agreed upon on 5 September in Minsk stopped large-scale offensive activity, but skirmishing and heavy artillery exchanges continued on a daily basis. In November, Donetsk, its airport, the towns of Avdiivka and Horlivka and the front line around the Debaltseve salient remained the major flashpoints in Donetsk region. In Luhansk region the main areas of conflict were around the towns of Stanytsia Luhanska and Shchastia, as well as in various settlements north-west of Luhansk between, the Siverskyi Donets River and the Bakhmutka highway.

38. The indiscriminate shelling of built-up areas continued with over 100 incidents reported in November alone. For example, on 5 November, the shelling of a school football pitch in Donetsk killed two people, including one child, and wounded four children; on 14 November, the shelling of Horlivka (Donetsk region) killed five civilians, including two children, and wounded 12; on 18 November, the village of Toshkivka (Luhansk region) was shelled with three civilians killed and four wounded, including two children; on 25 November, a minibus was hit in Donetsk with two people killed and eight wounded. Of 285 women reported killed in Donetsk region by 25 November, 116 were killed after the 5 September ceasefire. On no occasion have any of the armed groups or the Government taken responsibility for any civilian deaths. The Government claims it only opens fire in response to attacks by armed groups and never targets residential areas. By 30 November, the total number of casualties in eastern Ukraine had reached at least 4,364 killed (including 298 from the MH-17 flight) and 10,064 wounded¹⁴. The actual numbers of casualties is likely to be higher as both military and civilian casualties remain under reported. Over 1,000 bodies delivered to morgues in the conflict zone remain unidentified, and many sites had not been searched to recover all remains due to continued fighting and insecurity.

39. Armed hostilities, wide-scale human rights abuses and violations and economic hardships caused population displacement. Between 3 July and 30 November, the number of

¹⁴ This is a very conservative estimate by the HRMMU and World Health Organization based on available official data. The totals include casualties of the Ukrainian armed forces as reported by the Ukrainian authorities; 298 people from flight MH-17; and casualties reported by civil medical establishments of the Donetsk and Luhansk regions (civilians and some members of the armed groups).

IDPs increased from 59,600 to 498,347¹⁵, and the number of Ukrainians who moved to neighbouring countries reached 545,628¹⁶, including 232,260 seeking asylum.

40. By the beginning of September, at least a thousand Ukrainian servicemen and ‘pro-unity’ civilians were held by the armed groups, while several hundred members of the armed groups and ‘pro-federalism’ supporters were being detained by the Ukrainian authorities. While the Minsk Protocol provided that ‘all hostages and illegally detained people shall be released without delay’, this clause has not been implemented. During the period under review, some people were released within so-called ‘exchanges’ as part of the Minsk agreement as well as under separate arrangements, as before the ceasefire. On 19 November, the SBU reported that out of 2,027 people on an updated list of missing people, about 1,000 had been “found and freed”, while 378 Ukrainian servicemen, two journalists and an unknown number of civilians were believed to remain held by the armed groups. On 20 November, the non-governmental Centre for Release of Captives estimated that the number of people held by the armed groups was over 650. According to the SBU, by 19 November, the Ukrainian law enforcement agencies had released 200 ‘fighters suspected of terrorism or related crimes’ within exchanges foreseen by the Minsk Protocol¹⁷. The HRMMU also knows of instances when some of those released remain on law enforcement lists, and when closed criminal cases against some exchanged people have been re-opened.

41. The break-down of law and order in the conflict zone has resulted in killings, abductions, torture, ill-treatment, sexual violence, forced labour, ransom demands and extortion of money by the armed groups which have been reported during the whole conflict period. Persecution and intimidation of people suspected of supporting Ukrainian forces or merely holding pro-Ukrainian sympathies (or perceived as such) remains widespread and has included deprivation of liberty and property, humiliation in public places and mock executions. Conditions of detention, especially for civilians, were often inhuman and degrading: people were kept in overcrowded basements or other ad hoc detention facilities without separate detention for men and women; supply of food and water was insufficient or irregular; and opportunities to maintain personal hygiene and contacts with the outside world were largely absent. Some detainees were subjected to torture and ill-treatment, which included verbal assaults; physical beatings, including various objects (rifle butts, wooden bats and metal and rubber sticks); cutting with knives and other sharp objects; sexual assaults; threats of death and of persecution of relatives.

42. Parallel bodies established by the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ to develop their own systems of law enforcement and administration of justice (‘legislation’, ‘police’, ‘prosecutors’ and ‘courts’) are contrary to international law.

43. The Government’s efforts to safeguard Ukraine’s territorial integrity and to restore law and order in the conflict zone have been accompanied by arbitrary detentions, enforced disappearances and ill-treatment of people suspected of separatism or terrorism. Most of such human rights violations reported since May appear to have been conducted by certain voluntary battalions or by the SBU. The Government has committed itself to investigating such allegations and criminal investigations for violations of article 146 (Illegal deprivation of liberty) of the Criminal Code, are being conducted.

44. On 3 November, the head of the Luhansk regional administration reported the release of 26 people subjected to either enforced disappearance or arbitrary detention on the territory controlled by the Government. On 17 November, seven people arbitrarily detained on 10-15 November by the 24th Voluntary Territorial Defence Battalion *Aidar* on the territories controlled

¹⁵ This includes 19,585 people from Crimea and 478,762 from Donetsk and Luhansk regions.

¹⁶ As of 28 November according to *Situation Report No.20*, of the United Nations Office for the Coordination of Humanitarian Affairs.

¹⁷ Only the ‘Donetsk people’s republic’ acknowledged that it had received at least 275 people ‘from Ukrainian side’.

by the Government were released after the intervention of the Luhansk regional administration. According to detainees and their relatives interviewed by the HRMMU in pre-trial detention facilities in Kharkiv and Poltava between 8 and 12 November, there were raids carried out by armed masked men in uniforms without insignia on 85 homes in the district of Krasnyi Lyman, leading to a large number of enforced disappearances. Some other detainees interviewed by the HRMMU reported being beaten and intimidated to confess to participation in the armed groups. On 14 November, a Donetsk resident died on the premises of Iziium district police department (Kharkiv region), shortly after being taken out and then returned by masked men and an identified SBU official. Forensic examination found multiple and extensive hematomas on his body and a closed blunt injury of the chest. On 10 November, the HRMMU interviewed a man who was arbitrarily detained by the SBU and kept incommunicado for two months in the SBU building in Kharkiv.

45. No clear evidence of mass summary executions either by the armed groups or by the Ukrainian armed forces have been revealed to the public so far. On 6 and 7 November, two bodies of members of an armed group, who might have been the victims of a summary execution, were exhumed from a grave near the village of Biriukove (Luhansk region). This case, as well as those reported in the seventh OHCHR report, need to be investigated, and all necessary measures must be taken to preserve evidence.

IV. ECONOMIC AND SOCIAL RIGHTS

46. The conflict and its prolongation have had a detrimental impact on the enjoyment of economic and social rights not only in the east, but throughout the country. The situation of the approximately 5.2¹⁸ million people living in the conflict and post conflict affected areas is difficult due to the significant damage of infrastructure, the economic breakdown, and the disruption of social and medical services, which particularly affects the most vulnerable people. The living conditions of people remaining in the territory controlled by the armed groups are more desperate, with the onset of winter, and with a scarcity of food and heating in some areas.

47. Furthermore, the decision¹⁹ of the Government to terminate the activities of all state institutions and organisations in areas controlled by the armed groups, and relocate them (whilst evacuating employees consensually) to Government-controlled areas is likely to exacerbate this situation. The relocation involves the withdrawal of social, medical and educational institutions, the judiciary, detention facilities, banking services, state enterprises and other entities. The relocation of large institutions, such as medical and education facilities, nursing homes and penitentiary institutions which fall within the competence of regional and local authorities, would be particularly challenging, as no mechanisms for this transfer have been developed. It is unclear how this decision will be implemented. On 26 November, the Donetsk Regional State Administration reported that out of 130 medical institutions that were on the territories controlled by armed groups, only 18 had agreed to relocate. In the case of relocation of the schools, children who remain in armed groups controlled areas will have their right to education limited, although the possibility of distance learning has been announced. For those considering relocation, many fear an uncertain future, particularly regarding the possibility to return to their

¹⁸ As of 28 November according to *Situation Report No.20*, of the United Nations Office for the Coordination of Humanitarian Affairs.

¹⁹ The Decision of the National Security and Defence Council of 4 November On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions, enacted by the Decree of the President of Ukraine Nr. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine Nr.595 as of 7 November 2014, On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions.

homes and the potential loss of property. The impact of such relocation may raise a question of the breach of the state's obligation under the International Covenant on Economic, Social and Cultural Rights to respect the enjoyment of economic, social and cultural rights, including the right to health, education, social security and work.

48. As of 1 December, there will be no more transfer of allocations from the state budget to areas controlled by the armed groups, including for social payments. The Government has justified these measures from the perspective that national budget funds would fall into the hands of the armed groups who have taken over control of social institutions, including local branches of the Pension Fund, as well as banks. For humanitarian reasons the Government continues to supply gas and electricity to the areas under control of armed groups.

49. People who leave the area can receive the social benefits to which they are entitled provided they register in Government controlled territory by 31 December 2014.

50. The care for those who remain, either unable or unwilling to leave, remains in question, despite the fact that they remain Ukrainian citizens under the protection of the State. The fate for many in areas under the control of the armed groups may well be life-threatening.

51. The socio-economic situation of those who remained in the areas controlled by armed groups continued to deteriorate. Wage arrears²⁰ in Donetsk region alone, reached UAH 944 million (approximately USD 59 million) in November, as most of those employed had not been paid since July. The HRMMU continued to receive reports about threats of reprisals against police officers, doctors and teachers who did not cooperate with the armed groups. Social payments have not been systematic since August. From 3 to 17 November, local residents, mainly women, of Makiivka, Torez, Horlivka, Yenakieve (Donetsk region) and Sverdlovsk, Chervonpartyzansk and Yuvileine (Luhansk regions) rallied to demand that the armed groups fulfil their promises regarding social protection, particularly payment of pensions and child benefits, humanitarian aid distribution and soup kitchens for the most vulnerable groups. There were also protests about the increase in theft and abductions.

52. Access to medical services, especially specialised care, remained limited due to destroyed or damaged healthcare facilities and a growing lack of staff and medical supplies. Emergency medical services in conflict-affected areas were close to collapse due to the shortage of ambulances, fuel and medication. Conditions in institutional care facilities are particularly difficult. For example, on 23 November, it was reported by the OSCE Special Monitoring Mission to Ukraine²¹ that in a regional psycho-neurological hospital near Slovianskerbsk (Luhansk region) only six of the 180 staff remained, none of whom had a medical degree or training in nursing. According to the medical records, 49 patients had died since August and the remaining 350 patients, including 120 bed-ridden ones, were at risk with lack of heating, electricity, gas, food and medication. Constant shelling in the hospital vicinity exacerbated patients' mental conditions.

53. As of 29 November, 28 settlements of Donetsk region had limited water supply, and 34 settlements remained without electricity. In Luhansk region, the settlements of Yuvileine, Novosvitlivka, Stanytsia Luhanska reportedly did not have electricity for up to six months and sewage, water supply and communications consequently did not function. On 27 November, regional authorities reported about 12,000 destroyed public and private facilities and 11,000 families without gas supply in both regions.

54. Without prejudice to their legal status, armed groups are also obliged to respect the rights of residents who remained in areas under their control. These include protecting a minimum

²⁰ According to the data of the State Statistics Service, released on 25 November. No data is available on Luhansk region.

²¹ <http://www.osce.org/ukraine-smm/127184>

level of the enjoyment of economic and social rights, at the very least by facilitating humanitarian access.

55. Throughout the country, the situation of IDPs has become dire. Notwithstanding adoption of a law on IDPs and despite continued efforts by the Government and NGOs to support IDPs, lack of employment, accommodation and proper financial assistance remain of major concern. Additionally, some IDPs reported that the Ministry of Social Policy had refused to register them as they were trying to flee locations controlled by the Government but close to the fighting. As the deadline for registration by 31 December in line with the recent Presidential Decree is running out, the daily influx of IDPs is increasing – from 2,000 IDPs per day at the beginning of November to 5,000 IDPs per day by the end of the month. The overall number of applications to the pension fund regarding the transfer of payments to other departments of the Fund reached 662,000 as of 28 November.

V. ACCOUNTABILITY

Accountability for human rights violations and abuses in the east

56. No significant progress has been reported in the investigations initiated by the MoIA, the Office of the Prosecutor General and the SBU into more than 300 cases of indiscriminate shelling of residential areas since the beginning of the conflict. In some cases armed groups reported having initiated their own ‘investigations’ into indiscriminate shelling of the territories under their control, for instance the shelling of a school playground in Donetsk on 5 November.

57. The Office of the Military Prosecutor, who is responsible for investigating crimes committed by the Ukrainian forces, has not reported of taking any steps to investigate the considerable number of allegations of human rights violations against civilians and violations of international humanitarian law in the east, including looting, arbitrary detention and ill-treatment by members of certain voluntary battalions such as *Aidar*, *Azov*, *Slobozhanshchina* and *Shakhtarsk*.

58. There has been no progress either in the investigation into alleged ‘crimes against peace and security of mankind’, opened by the SBU against the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ in September. According to the SBU, ‘these investigations are based on established evidence of committed crimes, such as torture and inhuman treatment of civilians and captured servicemen, forced labour and looting of national treasures’.

59. According to the SBU, as of 26 November, it had opened more than 3,000 criminal proceedings into crimes of terrorism and separatism. On this basis, 668 people were reportedly apprehended and 186 put on a wanted list. Out of more than 150 indictments reportedly submitted to courts, judgments of conviction were delivered in 30 cases (see Administration of Justice).

Maidan

60. Accountability for human rights violations committed during the Maidan protests (including the deaths of at least 102 demonstrators²² and 13 law enforcement officers) is far from being fully achieved. The pre-trial investigation into the mass killing of protestors on 18-20 February has not significantly progressed with only two *Berkut* special police unit servicemen in custody awaiting trial under charges of killing 39 protestors on 20 November²³. However

²² While according to Presidential Decree No. 890/2014 of 21 November the number of people who died during the Maidan protests amounts to 102, including 3 foreigners, the Office of the Prosecutor General is conducting investigations into the killing of 77 people who died as a result of use of force against Maidan demonstrators in Kyiv, 67 of whom were killed as a result of the use of firearms. 184 people suffered injuries from the use of firearms, whilst more than 750 were injured in other ways.

²³ On 3 April, according to the Office of the Prosecutor General, two *Berkut* officers and their commander were

investigations into some individual cases have been concluded. These include the killing of journalist Viacheslav Veremii, the attack on Tetiana Chornovil, the kidnapping of Yurii Lutsenko and the killing of Yurii Verbytskyi. The Office of the Prosecutor General who investigated the forceful dispersal of the peaceful demonstration on 30 November found the involvement of approximately 30 *Berkut* servicemen in the incident and expects that the case will be submitted to the court soon.

61. According to the Office of the Prosecutor General and the MoIA, the lack of progress in the investigation into the violations and deaths of other protestors is due to the destruction of all evidence and the difficulty in locating all identified suspects as they have fled Ukraine. According to the MoIA, since February more than 400 requests to extradite individuals suspected of committing crimes at Maidan have been submitted to the Russian Federation, with no response to date²⁴. On 16 November, the MoIA announced that the investigation into the killing of 13 law enforcement officers on 18-20 February was ongoing, but according to the law ‘on the prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies’²⁵, adopted shortly after the events at Maidan with an intention to exempt protesters from criminal liability, proceedings must stop and all materials should be destroyed. Moreover, according to the MoIA, no suspects have yet been identified.

Odesa

62. As a result of the clashes in Odesa on 2 May, 48 people died (two ‘pro-unity’ and 46 ‘pro-federalism’ supporters) and 247 suffered injuries (including 22 policemen).

On 27 November, the trial of 21 ‘pro-federalism’ activists involved in mass disorder in the city centre started in the Primorskyi District Court of Odesa. The MoIA investigation continued into mass disorder at the Trade Union Building. No investigation has been opened into the inaction of the fire brigade during the fire at the Trade Union Building

63. Approximately 40 suspects, all but one from the ‘pro-federalism’ movement – whose six month term of house arrest expired – are currently under no measure of restraint²⁶. The case of the only ‘pro-unity’ activist, suspected in the killing of demonstrators in the city centre, is being investigated separately.

64. On 28 November, the Independent Investigative Commission on 2 May, comprising journalists and civil society representatives, raised grave concerns about the official investigation. In particular, it observed that: evidence was destroyed due to the hasty clean-up of the site by the communal services and the unrestricted access to the Trade Union building until 20 May. It noted that forensic examination was carried out in violation of existing procedures, with re-examination made impossible as some corpses had been buried and others cremated. The Commission deplored that the MoIA ignored the independent expert findings about gunshots that occurred in the Trade Union Building, and stressed the poor professional level of investigators involved. They underlined that the relatives of the deceased had not been granted the status of victim.

officially notified of suspicion and placed in custody. While the first two are to remain in custody until 25 January 2015, their commander was placed under house arrest on 19 September. However his whereabouts are unknown since 4 October, and he has been placed on a wanted list.

²⁴ There is no extradition agreement between Ukraine and the Russian Federation.

²⁵ The Law on the 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.

²⁶ According to Article 181 of the Criminal Procedural Code, house arrest as a measure of restraint can only be imposed for a period of six months.

Kharkiv

65. The clashes of the far-right organisation ‘Patriot of Ukraine’ and the ‘pro-Russian’ organisation *Oplot* on 14 March, in Kharkiv, resulted in the death of two members of the latter and a number of injured people. According to the MoIA, the investigation into the incident has been stalled as all the members of the ‘Patriots of Ukraine’ alleged to have been involved in the incident are inaccessible for the investigation, due to their participation in the security operation in the east as members of the National Guard Regiment *Azov*²⁷.

Mariupol

66. There has been no official information provided on the status of the investigation into the 11 deaths during the recovery by Ukrainian forces of the Mariupol police headquarters from the armed groups on 9 May. Allegations, however, remain that casualties from this incident may have been the result of the excessive use of force.

Emblematic individual cases

67. Pre-trial investigations have not advanced regarding high-profile cases, such as those of several Ukrainian citizens who, according to the Ukrainian authorities, were illegally transferred to the Russian Federation where they remain in detention: Nadiia Savchenko²⁸, Oleh Sentsov and Oleksandr Kolchenko. The Russian Federation authorities have rejected requests from the Government of Ukraine to release them.

68. The former mayor of Sloviansk Nelia Shtepa, remains in custody in Kharkiv pre-trial detention centre awaiting trial under charges of trespassing the territorial integrity of Ukraine, while an investigation into new charges of membership of a terrorist organisation is on-going. On 20 November, following the application of both the prosecutor and lawyer of Ms Shtepa to transfer the trial to the Slovianskyi District Court, the High Specialised Court for Civil and Criminal Cases ruled that the case was to be decided by the Chervonozavodskyi District Court of Kharkiv, which was involved in the pre-trial investigation.

Administration of justice

69. The overall concern with the administration of justice relates to violations of fair trial standards. The HRMMU has evidence of ill-treatment, with allegations at times amounting to torture of people arrested by the SBU and MoIA in trying to secure forced confessions. In reviewing available court decisions, the HRMMU found that in at least 19 of the 30 criminal cases investigated by the SBU, the court based its decision on a plea bargain.

VI. LEGISLATIVE DEVELOPMENTS AND INSTITUTIONAL REFORMS

70. Ukraine is in the process of elaborating a five-year human rights strategy to be completed by 1 January 2015. The preparation of the strategy follows a consultative process led by the Government and involving civil society and the Ombudsman’s office, with the support of the United Nations system, through the HRMMU, and the Council of Europe

71. Different proposals on the decentralization of power have not yet translated into binding commitments. The Parliament has not discussed the draft law on amending the Constitution containing provisions on local self-governance, which President Poroshenko submitted in July. In the meantime, the European Commission for Democracy through Law (Venice Commission)

²⁷ Previously named the Special Police Patrol Battalion *Azov*, the unit was recently moved under the National Guard within the MoIA chain of command.

²⁸ Nadiia Savchenko was elected at the Parliamentary elections. A former member of the 24th Territorial Defence Battalion *Aidar*, who was abducted by the armed groups on 17 June in Ukraine and then illegally transferred to the Russian Federation where she is held in custody awaiting trial charged with killing of two Russian journalists. The lawyers of Nadiia Savchenko have complained about difficulties to have confidential communication with their client during the investigation.

of the Council of Europe has provided a generally positive assessment of this draft. The new coalition agreement of 21 November also outlines various measures towards greater decentralization.

72. A law establishing criminal proceedings *in absentia* entered into force on 31 October, thereby creating the legal conditions to try the former President of Ukraine and other high level officials who left the country after the Maidan protests. While international law states that proceedings in the absence of the defendant may in some circumstances be permissible in the interest of the proper administration of justice, the grounds for prosecution mentioned in the law are wide, making the frequent use of this procedure a possibility. This poses a question of compatibility with international law, which recognizes the right for an accused to be present in person at his/her trial.

73. The dismissal of public officials under the lustration law adopted in October has started. While motivated by the intention to fight corruption and abuses and the significant public support for such a measure, the law could be applied in a discriminatory and arbitrary manner. On 17 November, the Supreme Court filed an application to the Constitutional Court to assess the constitutionality of certain provisions of the Law ‘On Purification of Government’. The authorities adopted and later withdrew support from two laws drafted pursuant to the Minsk Protocol of 5 September. This decision, which applied to an amnesty law for ‘armed formations’ and a law providing for local self-government in parts of the Donetsk and Luhansk regions, followed the conduct of ‘elections’ in areas controlled by the armed groups on 2 November. These ‘elections’ did not follow Ukrainian legislation, a circumstance which the Ukrainian authorities deemed to be in violation of the Minsk Protocol.

74. Following the 2 November ‘elections’ held in parts of Donetsk and Luhansk regions under the control of the armed groups, the National Security and Defence Council drew up measures later enacted by Government decisions in early November and by a Presidential Decree on 14 November, instructing the temporary relocation of state institutions and enterprises) from the areas controlled by the armed groups. This decision, and its implementation, could have considerable consequences for the population in the eastern regions as the institutional vacuum it could create may give rise to a severe protection gap, and to exacerbate economic and social vulnerabilities.

75. Furthermore, the Ministry for Foreign Affairs was instructed to inform the Secretary General of the Council of Europe of Ukraine’s request for derogation from its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms, under article 15 on derogation that should be applied to the eastern Ukraine. No derogation has yet been requested from the International Covenant on Civil and Political Rights, but is also under consideration.

76. For the legal protection of IDPs the law on IDPs²⁹, which entered into force on 22 November. It establishes a unified IDP database, simplifies residence registration, obliges the state to provide free temporary accommodation for six months, introduces guarantees for educational and labour rights and upgrades the provision of humanitarian assistance. While the new law is generally in line with the United Nations Guiding Principles on Internal Displacement, it applies to ‘citizens’ of Ukraine, and may exclude stateless persons and foreigners legally residing in Ukraine who have been displaced.

77. A large vote for pro-European and pro-reform parties has allowed the President and the Prime Minister to form a broad parliamentary coalition. The coalition agreement defines future policies aimed at Euro-Atlantic integration, the return of Crimea, decentralisation, the abolishment of immunity for deputies, the establishment of anti-corruption bodies and of a

²⁹ The law on ensuring rights and freedoms of internally displaced persons, No. 1706-VII, 20 October, 2014.

presidential impeachment procedure among other measures. On 27 November, Ukraine's new parliament was sworn in and then appointed Mr. Yatseniuk as Prime Minister.

78. A European Union roadmap for over 60 legislative and institutional reforms presented by the President on 25 September, and reflected in the post-election coalition agreement of November started being implemented. This includes also the fight against corruption, modernizing the judiciary, reforming the police and decentralization.

VII. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA

79. The situation in the Autonomous Republic of Crimea continued to be characterized by systemic human rights violations affecting, for the most part, the segment of the population which opposed the unlawful March 'referendum' and the arrival of 'authorities' applying Russian Federation laws. These developments were not recognized by the United Nations whose position on the status of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine.

80. Most violations involved the Crimean Tatar minority, the most outspoken in its opposition to the unfolding events. Unlike previous months, there were no reported cases of enforced disappearances in November. Investigations continued into the nine documented cases of enforced disappearances – eight Crimean Tatars and one ethnic Ukrainian – that took place since March. During the same period, three persons were found dead (Reshat Ametov in March, Edem Asanov and Belial Belialov in October). No breakthrough in the investigations has yet been reported. On 21 November, unknown masked men raided the Central Market in Simferopol, arresting 15 people of 'non-Slavic appearance' who were Crimean Tatars. They were taken to the local police 'department for countering extremism', but no charges were brought against them. This followed a similar raid on the Lokomotiv Market on 15 November, by the police, Federal Security Service and the Federal Migration Service, which detained 60 people who were taken to the same police department. They were questioned about their migration status, as well as their suspected membership of religious and other associations and then released after their fingerprints, DNA and photos were taken. The HRMMU is concerned that such raids may be misused as a means of intimidating the Crimean Tartar community.

81. On 14 November, the Crimean Court of Appeal upheld a ruling of the Simferopol court from 24 October over Tair Smedliaiev, the brother of Zair Smedliaiev, head of the election committee of the *Kurultay* (the Crimean Tatar Assembly). The ruling means that Mr Smedliaiev is charged with violation of the article 318 (violence against police officer) of the Criminal Code of the Russian Federation and ordered to serve two months pre-trial detention as a measure of restraint. The violence Mr Smedliaiev is charged with allegedly occurred when he and 2,000 other Crimean Tatars came to the administrative border with mainland Ukraine on 3 May to attempt to greet the banned visit of the Crimean Tatar leader Mustafa Jemilev. The case is regarded by the defendant as a form of political pressure.

82. On 18 November, the Simferopol Court fined the charitable organization Crimea Fund RuR 4.5 million (approximately USD 95,745) and its director RuR 350,000 (approximately USD 7,450). The decision was based on the Fund having leased its building in Simferopol to the Mejlis (representative body) of Crimean Tatar people and the Crimean Tatar newspaper *Avdet*, without the consent of the 'Crimean committee for the protection of cultural heritage' (established post 'referendum'); and because of unauthorised repair work on the building. The director of the Fund believes that the fines are the latest in a chain of measures aimed at the Fund's termination³⁰.

³⁰ On 16 September, the building was surrounded by armed men, while FSB officers carried out an 11-hour-search seizing documents, Islamic literature, computers, etc. The next day bailiffs ordered the Crimea Fund, the Mejlis and

83. Citizenship issues and human rights concerns deriving from them continued to be a central issue. On 20 November, the Russian Federation Government set the quota for the issuance of temporary residence permits for foreigners and persons without citizenship for 2015. For Crimea and Sevastopol the quota is only 1,900 permits (the smallest one for any of the federal regions). This may cause many problems for Crimean residents who refused to previously acquire Russian citizenship and may lead to the expulsion of foreigners and Ukrainian citizens who do not obtain permits.

84. The HRMMU obtained information regarding cases of dozens of representatives of different confessions and religious communities who have been harassed or forced to leave the peninsula since March. This situation adversely affects the ability of Crimean residents to practice their religion in accordance with international standards guaranteeing freedom of conscience and religion. Churches belonging to the Ukrainian Orthodox Church of the Kyiv Patriarchate have been attacked by armed individuals without any investigation into the incidents and four out of twelve had to close. Greek-Catholic priests faced threats and persecution, resulting in four out of six of them leaving Crimea. A Polish citizen and the senior Roman Catholic priest in the Simferopol parish had to leave on 24 October, due to the non-renewal of Ukrainian residence permits. Most of the 23 Turkish Imams and teachers on the peninsula have left for the same reason. All religious communities must seek registration in accordance with Russian legislation by 1 January 2015, in order to acquire legal status and continue operating.

85. A recent trend has been the increasing violations of property rights. Since 18 September, over 20 facilities, including health resorts, pensions and hotels were nationalized. Actions amounting to forcible seizure of private property and equipment from individuals or companies maintaining links to Ukraine took place. In November, illegal expropriations of servicemen's apartments belonging to the Ukrainian Ministry of Defence appear to have begun. Such apartments are normally given to servicemen with an exclusive right to the enjoyment of the property including a right for free privatisation.

VIII. CONCLUSIONS

86. 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 an armed conflict which is fuelled by the continuing presence of foreign fighters, with some identified by the Government of Ukraine as servicemen from the Russian Federation, as well as the influx of heavy and sophisticated weaponry; and the effective control of the State borders between Ukraine and the Russian Federation.

87. The continued fighting, shelling and hostilities in the east must be brought to an end to stop the daily loss of life and injury. Moreover, with the onset of winter, residents of the conflict affected areas, are facing increased hardships and are being pushed to the brink of survival. With the recent issuance of Government decision on the relocation of State institutions to territory controlled by the Government from areas under the control of armed groups, it should be recalled that the Government of Ukraine remains responsible for protecting human rights of residents in all its territory, including those territories in the East of Ukraine which remains held by armed groups. The implementation of the decisions to withdraw public services through the relocation of facilities and to the requirement for people to register in Government controlled

the *Avdet* newspaper to vacate the building within 24 hours. Later the 'prime minister' of Crimea declared that the Mejlis was never properly registered and therefore 'did not exist'. The Director said he would appeal to European Court of Human Rights to challenge the court decision.

areas to receive social payments should be carefully considered in order not to breach the State's obligations under the ICESCR and its commitment to respect economic and social rights, such as the right to health, education, social security and work. The new Parliament constituted on 27 November comprises, for the first time, a pro-European majority. Five of the six largest parties and some non-aligned deputies (302 out of 423 filled seats³¹) have formed a parliamentary coalition 'European Ukraine' and drawn up a coalition agreement of pro-European and pro-reform policies. It is in a unique position to press ahead with reforms to improve human rights, build effective governance and advance in the rule of law, as previously announced by the President in his September speech³². In undertaking its work, the coalition should take into account the protection of rights and the needs of linguistic, ethnic, religious and other minorities, who have no representation in parliament. A key measure of whether such rights are being taken into account will be seen in Parliament's approach to fulfilling Constitutional guarantees as stipulated under article 10, and expressly referred to by the President in his inaugural speech, that provide for the free development of Russian and other languages while maintaining Ukrainian language as the single State language.

88. OHCHR appreciates the good cooperation extended by the Government of Ukraine to the HRMMU (HRMMU) during 2014. A Human Rights Mission in Ukraine will continue to monitor and report on the evolving situation in 2015, with a view to contributing to an unbiased and accurate assessment of the human rights situation. It will also increase its advice and support to the Government, Office of the Ombudsperson, civil society in the implementation of the strategy and plans for human rights aimed at strengthening the national human rights protection system. The UN Human Rights Mission will do so in close cooperation with the international community, including regional human rights organizations, as well as the UN system in Ukraine. In addition, the Human Rights Mission will actively participate in efforts aimed at protection as part of the UN response to the humanitarian challenges in Ukraine, especially in the east.

IX. RECOMMENDATIONS

89. Since its first report on 15 April 2014, OHCHR has issued a series of recommendations on the human rights situation in Ukraine. A clustered thematic compilation of these can be found in Annex I.

³¹ Petro Poroshenko Bloc 132 deputies, People's Front 82, the Self Reliance party 33, the Opposition Bloc 29, the Radical Party 22, *Batkivshchyna* 19 and *Svoboda* (Freedom) 6. Additionally the smaller parties of: Strong Ukraine, *Zastup*, *Volia* (Liberty) and Right Sector received 1 delegate each from voting in single mandate majority districts. Others are self-nominated candidates of undeclared party affiliation were also elected in the single mandate majority districts. The final figure of filled seat is still changing based on final calculations by the CEC for those seats which are still disputed.

³² Thus, two thirds of the new Parliament who share the same views may now take all decisions which require a constitutional majority, rather than a usual (50% + 1) majority, such as Presidential impeachment, a vote of no confidence in the government, constitutional change, etc.

ANNEX I

Compilation of recommendations made by the UN Human Rights Monitoring Mission in Ukraine in eight reports issued from 15 April to 15 December 2014

I. TO THE GOVERNMENT OF UKRAINE

Right to life, liberty and security

1. 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, ensure the protection of those who are not involved in the fighting.
2. Treat all people detained in the context of the security operations in line with international norms and standards and guarantee their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law.
3. 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. 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.
4. Establish a transparent and accessible mechanism for families seeking to find missing persons, including military personnel.
5. Ensure informed consent of detainees who are to be exchanged as a result of the Minsk protocol of 5 September.

Accountability and the rule of law

6. In the cases of the violence at Maidan, Odesa, Mariupol and Rymarska, independent, effective and impartial investigations in full compliance with international norms and standards must be ensured. Perpetrators must be brought to justice in a fair and non-selective manner; remedies and adequate reparations for victims must be ensured.
7. All violations of international law, including those that may constitute war crimes, must be fully investigated and accountability guaranteed, including for command responsibility; perpetrators must be promptly brought to justice and victims provided with remedies and reparations.
8. 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.
9. Ensure that all victims captured by the armed groups are interviewed by the law enforcement immediately upon their release from captivity, in order to collect evidence for future prosecution of perpetrators.

10. Develop a simplified procedure for the victims of crimes committed by armed groups to apply to law-enforcement (for example, without a link to territorial jurisdiction to the place where the crime was committed).
11. All allegations of sexual violence, which under some circumstances constitute international crimes (war crimes, crimes against humanity), must be fully investigated, with regard to the needs of victims and specific methodologies (e.g. the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict).
12. All incidents of illegal seizure of property must be promptly investigated; clear procedures should be developed to return the property to the lawful owners.
13. Adopt effective prosecutorial strategies to bring to justice the perpetrators of violations of human rights and humanitarian law.
14. 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.
15. 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.

Freedom of expression and peaceful assembly

16. 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 shaping the future of their country.
17. 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.
18. Ensure freedom of the media and regulatory monitoring of media professionalism, disinformation, and advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.
19. 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.
20. 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.
21. 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.

Combatting hate speech

22. 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.

23. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.

24. All stakeholders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination. Political leaders should play a role in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech³³ and publicly condemning them.

Inclusivity, equal political participation and rights of minorities

25. 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.

26. 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.

Legislative, policy and institutional reforms

Legislation

27. Adopt a law on freedom of assembly and review legislation and policies applicable to the management of peaceful assemblies 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. 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. 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.

29. The process of developing a new Constitution should foresee inclusive and meaningful consultations with political parties, representatives of civil society, women, minority groups and indigenous peoples in order to embrace all components of society.

30. Refugee law should be fully brought in line with international standards and sufficient funds allocated to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.

Institutional reforms

31. The law enforcement reform package should aim to reinforce the rule of law; to depoliticise, 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.

³³ 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).

32. 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.

33. 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.

34. Call on all the authorities to support the drafting of a national human rights strategy for Ukraine by 1 January 2015.

35. 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.

Economic and social rights

36. 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.

37. Ensure that all those living in Ukraine are provided with basic assistance, services and shelter/heating needs in accordance with international norms and standards and that the necessary legal institutional framework to support this is enacted.

38. Ensure the equal provision of services and utilities, as well as humanitarian and social assistance where needed, for both those who have remained and returnees.

39. Take immediate action to facilitate access to, and the provision of, treatment for HIV/AIDS and Tuberculosis, as well as of essential medicines, particularly in conflict-affected areas, in order to prevent the interruption of treatment.

Internally displaced persons

40. Needs of IDPs, including shall be addressed by the Government in coordination of civil society and in cooperation with international donors, in line with the UN Guiding Principles on Internal Displacement.

41. Collect and make publicly available comprehensive and reliable gender-disaggregated statistics concerning IDPs and other people affected by the conflict (including those killed and wounded).

Women's human rights

42. Conduct national consultations, with the involvement of civil society, to develop a national action plan in accordance with Security Council resolution 1325 to promote women's equal and full participation as active agents in the prevention and resolution of conflicts, peace-building and peacekeeping, as well as incorporate gender perspective in all areas of peace building.

43. Encourage adoption of temporary measures to ensure greater participation of women in public life, including in Parliament.

Engagement with the international human rights system

44. Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.

45. 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.

46. 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.

II. TO ALL THOSE INVOLVED IN THE HOSTILITIES IN THE EASTERN REGIONS OF DONETSK AND LUHANSK

Armed hostilities

1. Urgently put an end to fighting and violence in the eastern regions of Ukraine.

Protection of civilians

2. Comply with the principles of distinction, proportionality and precaution, and in any situation refrain from indiscriminate shelling of populated areas or positioning in areas that put civilians in danger.
3. Targeting civilians and civilian infrastructure are violations of international humanitarian law; those who have committed such crimes must be held accountable.
4. Ensure that all those involved in the situation in Ukraine adhere to norms and principles of international humanitarian law and provide free and safe passage for civilians and humanitarian relief in strict compliance with existing international standards

Detainees

5. Immediately release all persons illegally or arbitrarily deprived of their liberty.
6. Guarantee transparency regarding the release of detainees, and prevention of abductions, enforced disappearances, trafficking in persons and other related human rights violations and abuses.

Treatment of bodies

7. Ensure the treatment with due respect and dignity of the bodies and remains of people killed as a result of hostilities. Provide free and safe access to the areas where such bodies and remains can be found to collect them and ensure their identification and a dignified and decent burial, and return them to their families. Preserve evidence of possible summary executions.

Access for international organisations

8. Guarantee access to areas affected by the hostilities for international organisations and independent investigators.

III. TO THE AUTHORITIES IN CRIMEA AND THE DE FACTO GOVERNING AUTHORITY OF THE RUSSIAN FEDERATION

1. 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.

Legislation

2. 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.

Right to life

3. Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security.

4. 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.

Accountability

5. 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.

6. Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.

7. 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.

8. 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.

9. 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.

10. Investigate the cases of alleged killing and enforced disappearances of Crimean civil activists (Reshat Ametov, Timur Shaimardanov, Seiran Zinedin, Leonid Korzh, Vasyl Chernysh) as well as shooting of the Ukrainian major on 6 April and hold accountable the perpetrators.

11. 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.

Freedoms of expression, peaceful assembly, religion, association and movement

12. 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.
13. Promote and protect freedom of expression, guaranteeing full and non-discriminatory access to information for all.
14. Guarantee all fundamental rights to all persons in the Autonomous Republic of Crimea, including freedoms of peaceful assembly and association, expression, religion and movement, as well as right to education and guarantees of economic and social rights.

Rights of minorities and indigenous peoples

15. 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.
16. Put an end to selective searches of facilities and the confiscation of property belonging mostly to Crimean Tatars.
17. Promote inter-ethnic harmony, and put an end to intimidation and persecution.
18. End pressure and intimidation against the Crimean Tatars linked to the Mejlis, including the multiplication of searches of private property under the pretext of combatting extremism.
19. Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.
20. 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.

Internally displaced persons

21. Ensure that citizens of Ukraine who fled the conflict in the east of the country and go to Crimea are not forcefully resettled in the Russian Federation.

Rule of law

22. 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.
23. 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.
24. Grant access to independent and impartial human rights monitors, including by OHCHR.
25. 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.
26. Strengthen the security of Crimean residents by acting to curb human rights violations committed by the ‘Crimean self-defence’ groups.

27. 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.

Engagement with the international human rights system

28. The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

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

30. Ensure monitoring of the human rights situation in Crimea by the UN HRMMU.

Annex 305

U.N. Security Council, Security Council Press Statement on Killing of Bus Passengers in Donetsk Region, Ukraine (13 January 2015)

Security Council Press Statement on Killing of Bus Passengers in Donetsk Region, Ukraine

 un.org/press/en/2015/sc11733.doc.htm

The following Security Council press statement was issued today by Council President Cristián Barros Melet (Chile):

The members of the Security Council condemned in the strongest terms the killing of 11 and injuring of 17 civilians, among them women and children, as a result of shelling of a passenger bus in Volnovakha, Donetsk region, on 13 January 2015.

The members of the Security Council expressed their deep sympathy and condolences to the families of the victims.

The members of the Security Council underlined the need to conduct an objective investigation and bring perpetrators of this reprehensible act to justice.

The members of the Security Council underlined the need for strict observation of the Minsk protocol of 5 September and its implementing memorandum of 19 September.

Annex 306

U.N. Secretary-General, Statement Attributable to the Spokesman for the Secretary-General on
Ukraine (24 January 2015)



United Nations Secretary-General

New York

24 January 2015

Statement attributable to the Spokesman for the Secretary-General on Ukraine

The Secretary-General strongly condemns today's rocket attack on the city of Mariupol, which reportedly killed dozens of civilians and left over one hundred injured. He notes that rockets appear to have been launched indiscriminately into civilian areas, which would constitute a violation of international humanitarian law.

The Secretary-General further denounces yesterday's unilateral withdrawal from the cease-fire by rebel leadership, and particularly their provocative statements about claiming further territory. This constitutes a violation of their commitments under the Minsk accords.

The Secretary-General urges all concerned to redouble their efforts to revive the Minsk accords. Ukraine's peace, territorial integrity and stability, intrinsically linked to that of the broader region, must be urgently restored.

Annex 307

U.N. Security Council Official Record, 7368th mtg. U.N. Doc. S/PV.7368 (26 January 2015)



Security Council

Seventieth year

Provisional

7368th meeting

Monday, 26 January 2015, 1 p.m.

New York

<i>President:</i>	Mr. Barros Melet	(Chile)
<i>Members:</i>	Angola	Mr. Lucas
	Chad	Mr. Gombo
	China	Mr. Liu Jieyi
	France	Mr. Delattre
	Jordan	Mr. Hmoud
	Lithuania	Ms. Murmokaitė
	Malaysia	Mr. Haniff
	New Zealand	Mr. McLay
	Nigeria	Mr. Laro
	Russian Federation	Mr. Churkin
	Spain	Mr. Oyarzun Marchesi
	United Kingdom of Great Britain and Northern Ireland . . .	Sir Mark Lyall Grant
	United States of America	Ms. Power
	Venezuela (Bolivarian Republic of)	Mr. Ramírez Carreño

Agenda

Letter dated 28 February 2014 from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council (S/2014/136)

This record contains the text of speeches delivered in English and of the translation of speeches delivered in other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-0506 (verbatimrecords@un.org). Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org>).

15-02222 (E)



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The meeting was called to order at 1.40 p.m.

Adoption of the agenda

The agenda was adopted.

Letter dated 28 February 2014 from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council (S/2014/136)

The President (*spoke in Spanish*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Ukraine to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Mr. Jeffrey Feltman, Under-Secretary-General for Political Affairs, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I give the floor to Mr. Feltman.

Mr. Feltman: Throughout the conflict in Ukraine, and repeatedly in recent weeks, the Secretary-General has called for de-escalation, restraint and the protection of civilians. We deeply regret that these calls appear to have fallen on deaf ears.

In just five days since we last met on 21 January (see S/PV.7365), close to 50 civilians have been killed and nearly 150 have been seriously wounded. On 22 January, over a dozen civilians died when rockets hit their trolleybus in Donetsk city. The same day, at least 10 civilians were killed amid heavy fighting in the city of Horlivka. On Saturday, 24 January, a barrage of attacks with multiple rocket launcher systems hit the city of Mariupol, destroying buildings and impacting a market filled with civilians. Dozens of people lost their lives, including women and children, and over 100 were wounded. The Special Monitoring Mission of the Organization for Security and Cooperation in Europe reported, based on crater analysis, that the rockets originated from territory controlled by the so-called "Donetsk People's Republic".

Mariupol lies outside of the immediate conflict zone. The conclusion can thus be drawn that the entity that fired these rockets knowingly targeted a civilian population. This would constitute a violation of international humanitarian law. We must send an

unequivocal message — the perpetrators must be held accountable and brought to justice.

On 23 January, the leader of the so-called Donetsk People's Republic announced a boycott of future consultations with the trilateral contact group, a unilateral withdrawal from the ceasefire and threatened to seize further territory, with a plan that includes pushing the front line all the way to the borders of Donetsk oblast. As the Secretary-General stated on 24 January (SG/SM/16485), this constitutes a violation of their commitments under the Minsk accords. We call directly on the rebels to immediately cease their provocative and violent actions, to abide by international law and to make good on their commitments. We also urge the leadership of the Russian Federation to use its influence to call on the rebels to cease hostilities immediately. This will be a critical step in stopping the bloodshed.

The Ukrainian leadership has been vocal about its commitment to the Minsk accords and has asserted that it remains in a defensive position. However, we note the recent emergency measures adopted by the National Security and Defence Council, particularly those in relation to "strengthening counter-terrorism measures", and appeal for the application of maximum restraint. In light of the just-declared state of emergency in Donbas, it has never been more important to guarantee humanitarian workers and goods full and unhindered access. Bureaucratic hurdles on both sides of the conflict line are impeding humanitarian access and must be eased. We also call on the Government of Ukraine to ensure that humanitarian operations are free from taxation.

We recognize the difficulty of diplomatic discussions aimed at finding a peaceful resolution to this conflict, given entrenched positions. Nonetheless, efforts to find a political solution must urgently be redoubled. President Poroshenko's announcement that an agreement has been reached on the necessity of holding negotiations in the Geneva format, with the participation of the European Union, the United States, Ukraine and Russia, is welcome.

Before I close, let me share our assessment of the way forward, with an emphasis on reviving the Minsk accords. As agreed at Minsk, all sides must immediately cease hostilities, with the onus particularly on the rebels to recommit to the ceasefire and back down from their offensive. We sincerely hope that the trilateral contact

group will reconvene in consultations with rebel leadership, as envisaged this week, to work towards a sustainable ceasefire and the implementation of the broader Minsk accords. Most importantly, all sides must commit to the protection of civilians and letting assistance reach those in need.

Finally, there must be full political recommitment to a peaceful and lasting solution to this conflict at the highest levels. I reiterate our encouragement of a convening of the Geneva format at the earliest opportunity. The United Nations also remains ready to support the consolidation of a sustainable and lasting peace process, as may be required. Over 5,000 lives have already been lost in this conflict. We must find a way to stop it, and we must do so now.

The President (*spoke in Spanish*): I thank Mr. Feltman for his briefing.

I shall now give the floor to the members of the Security Council.

Ms. Murmokaitė (Lithuania): I would like to thank you, Sir, for convening this urgent meeting on the situation in Ukraine. Let me also thank Under-Secretary-General Jeffrey Feltman for his briefing and insights into the current situation.

Lithuania condemns in the strongest terms the attacks on Mariupol and extends its sincere condolences to the families of those who have lost their lives or have been injured during these attacks.

The bloodiest conflict in Europe since the Balkan wars is taking place as we speak. Last Wednesday in this Chamber (see S/PV.7365), the Security Council members once again expressed concern at the situation and urged all parties to the conflict, including Russia, to return to the Minsk agreements and ensure their prompt and full implementation in order to prevent even more destruction and bloodshed. Alas, what we saw over the weekend was more deadly shelling, more destruction, and more human tragedy caused by the Kremlin's unbridled mercenaries, including the deadly attack on Mariupol, which this Council failed to condemn because Russia put protecting the militants above condemning the perpetrators.

After 29 open briefings and no progress on the ground, it is hard not to sound repetitive here. However, we cannot let Ukraine fall through the cracks of international attention. More than 5,000 dead, some

11,000 injured and about 1.5 million displaced — such is the cost of Russia's continued aggression against Ukraine. Almost 50,000 people have fled their homes since 14 January; at least 262 people were killed between 13 and 21 January alone. Last week again, from 75 to 115 shelling attacks on Ukrainian positions took place every day. The Donetsk airport, which the Kremlin-sponsored militants captured last week, has been pounded to rubble by months of attacks, causing destruction seen only in the worst of wars. Some 550 square kilometres of land have been captured by the illegal militants since the beginning of the ceasefire. Such are the realities of what we continue to call a ceasefire.

Just like the breaches of the 1991 Alma Ata Declaration, the 1994 Budapest Memorandum on Security Assurances, the 1997 Black Sea Fleet Agreement Between the Russian Federation and Ukraine and various other documents, including the more recent the Geneva statement and the Berlin joint declaration, the Minsk agreements are just another casualty of Russia's aggression against neighbouring Ukraine.

One does not seek peace by arming illegal fighters in a neighbouring country with advanced artillery systems, multiple rocket launchers, truckloads of arms and ammunition, and tanks. One does not seek peace by sending one's own troops and commandos to fight on the soil of one's neighbour. One does not seek peace by issuing continuous threats and intimidations vis-à-vis one's neighbour, or by annexing parts of the neighbour's territory. One does not seek peace by unleashing a continuous barrage of hate-mongering propaganda and lies aimed at dehumanizing and demonizing one's neighbour. As long as Russia persists on this course, let us be frank, peace in Ukraine has no chance.

Last Saturday, Ukraine suffered the second deadliest single incident on its soil since the downing of flight MH-17 in July 2014. Some 30 people were killed and about 90 wounded during the shelling of the city of Mariupol. The Under-Secretary-General spoke of the militants withdrawing unilaterally from the ceasefire. In the days preceding the attack, Alexander Zakharchenko, the self-proclaimed boss of the so-called Donetsk People's Republic, repeatedly stated his disdain for the ceasefire. "There is no ceasefire. We will fight. I promise," he said.

“There will be no more ceasefires or rotations ... There will be no attempts to talk about ceasefire from our side. Kyiv does not understand that we are now able to attack on three fronts at once.”

And then hours before the tragedy, he said: “Today the offensive against Mariupol begins. In a few days we will swallow the Debaltsevo kettle”. Notably, a day before the deadly attacks, Russia’s Ambassador to the Organization for Security and Cooperation in Europe (OSCE) anticipated Mariupol’s “liberation” in an interview with CNN’s Christiane Amanpour.

And yet, in spite of the obvious, Russia continues to blame Ukraine for ceasefire violations, including the Mariupol attack. Anti-Ukrainian rhetoric is not abating. Last week in this Chamber, we heard the long-debunked myths of “the junta”, “the coup”, “fascist Ukraine”, and “oppression of Russian speakers” being once again resuscitated and put into use. For a year now, aggressive anti-Ukrainian propaganda has been used to brainwash, confuse, distract and obfuscate.

The international community should not and must not give in to these obfuscations. Therefore, let me ask again: How can a bunch of illegal militants expand their offensive, continue capturing territory and threaten to carry out attacks on three fronts against the State of Ukraine? How can a bunch of illegal militants without external trade ties, income or budget amass hundreds of armored combat vehicles, artillery systems and rocket launchers — all those Tochka-U tactical missile launch systems, Grad rockets, Uragan and Buratino rocket launchers? How can they afford modern tanks, each of which costs at least \$4 million? How can they claim their own air fleet? How can hundreds of Russian soldiers be dying on Ukraine’s soil if they are not even there?

How come hundreds of Russian mothers receive the dead bodies of their sons in Cargo 200 boxes from a conflict to which Russia claims it is not a party? How come, in spite of the devastating lawlessness and countless crimes committed by the separatist militants and registered in the reports of the Office of the High Commissioner for Human Rights, Russia has not even once, not even mildly, condemned the perpetrators? All of this, as well as Russia’s persistent protectiveness of the illegal militants, speak to Russia’s direct involvement in and support for the war in Ukraine.

That involvement has been confirmed by certain militant leaders. Back in August last year, the same

Alexander Zakharchenko said that thousands of Russian citizens, including many professional soldiers, were fighting alongside the separatists. And then he suddenly withdrew his statement, just as he retracted his boasting about the attack on Mariupol on Saturday. Another notorious character, the Russian commando Igor Girkin — who is also known as Strelkov and who played a big role in stoking war in eastern Ukraine — recently boasted to the press about having started the war by crossing the border with his squad, saying that if it had not been for them, there would have been no separatism in eastern Ukraine. A few days ago, he also said the Crimea referendum was carried out at gunpoint — something many of us have been repeating since the bogus plebiscite was held.

Life in eastern Ukraine may have been far from perfect due, to long years of neglect by successive Governments, yet the local inhabitants, many of them Russian speakers, had homes to return to after work, had their daily lives and had their daily bread. Thanks to the Kremlin’s decision to “protect” Russian speakers, they now have no homes, no jobs and no income and may have lost dear ones or may be dead themselves. Russia’s war, Russia’s proxies and the abysmal lawlessness they imposed have brought destruction, displacement and death to the region.

In spite of all the ceasefire violations and military attacks, the Ukrainian leadership firmly maintains that the Minsk agreements are the only way forward towards peace. However, the Minsk agreements must be implemented by all the parties to the conflict — Russia included — in full and without arbitrary revisions or manipulation. The onus is on Russia to put an end to this senseless war by ending support to illegal armed groups, accepting international monitoring of the Ukrainian-Russian border, withdrawing its troops and weaponry from eastern Ukraine, ensuring the release by the illegal militants of all illegally detained persons, including Nadiya Savchenko — who is being held illegally on Russian territory — ending the manipulation of humanitarian assistance and reaffirming its respect for Ukraine’s sovereignty, independence, unity and territorial integrity. International observers, including the United Nations and the Organization for Security and Cooperation in Europe monitoring missions, must be provided full and unconditional access to the entire territory of Ukraine, including Crimea. Their reporting is indispensable to get the facts straight.

Mr. Churkin (Russian Federation) (*spoke in Russian*): The Russian Federation is seriously concerned about the escalation of the situation in Ukraine. Cities in south-east Ukraine have been subjected to indiscriminate shelling by heavy weaponry for countless days, resulting in hundreds of civilian casualties. We resolutely condemn such actions against the civilian population. Of course, we sympathize with all those who have suffered, regardless of which city or village the tragedy occurred.

Since the beginning of January, the armed forces of Ukraine have fired virtually non-stop on the largest city in Dombas — Donetsk. Just over the past week, at least 27 civilians have died and 71 people have been injured, and 105 residences and 3 hospitals, as well as 2 kindergartens and 3 schools, have also been destroyed. Overall, 2,367 residential buildings have been destroyed. There has also been intensive shelling against Horlivka — something that the Western media seem not to refer to. That is also something not raised here in the Chamber by either our Western colleagues or by the representatives of the Kyiv authorities. The last week was the most difficult for Horlivka since last summer: 107 people died, including 9 children. Three hundred and seventeen people have been injured. Hospitals, 15 schools and dozens of preschools have been damaged. On 21 January approximately 10 civilians died as a result of the shelling of the city of Stakhanov, Luhansk oblast, using Uragan multiple rocket launcher systems. On 21 January approximately 10 civilians died.

That is far from a comprehensive list of all the cities under the control of self-defence formations in which civilians are dying every day. Yet the news cycles over the past few days have focused on two incidents alone: the shelling of a bus in Volnovakha and that of a residential neighbourhood in Mariupol. It is quite clear why: both cities are controlled by Kyiv's forces. A similar tragedy in Donetsk in which a bus stop was shelled did not lead to mourning in Kyiv or to the convening of emergency meetings of the Security Council. It was not even worthy of a statement by the Secretary-General. Is it that in the areas and cities controlled by the Donetsk and Luhansk People's Republics we have second class citizens?

It is impossible not to look at the fact that Kyiv has used the tragedies of recent days to fan the flames of hysteria. Accusations against self-defence formations are voiced immediately after events occur — almost

as if they have been prepared in advance. Calls immediately emanate from Kyiv to Western capitals for financial and military assistance and for exerting pressure on the Russian Federation. However, as soon as the propaganda value ends, interest falls away very quickly in using the situation further and continuing investigation — all the more so given that, once some time has passed, one finds that the facts sometimes fall quite short of what was said initially. That is why we call for objective investigation of the January tragedies in Volnovakha, Donetsk and Mariupol, as well as earlier tragedies, including in the Maidan, Odesa and Mariupol.

On Saturday, the members of the Security Council were not able to agree on a statement to the press with regard to the tragedy in Mariupol. The need to issue a statement was as evident to us as it was in the cases of Volnovakha and Donetsk, and we were ready to back a similar text. Why has it not been possible this time? The answer is simple: the delegations of the United States, the United Kingdom and Lithuania insisted on including in the text condemnation of one statement by the leader of the self-proclaimed Donetsk People's Republic, taken out of context of recent events and the entire crisis in Ukraine. That is something that has been pushed here at this meeting as well. But what is the full picture of what has taken place?

First, the leaders of the self-defence formations made different statements the day before yesterday. One cannot cite them selectively or take them out of context. Secondly, we have never heard anything from our Western colleagues in condemnation of the leaders of Ukraine, who have no shame when it comes to their statements and actions. There are threats that Dombas is going to be punched in the mouth, that it will be taken back by force and that it will be Ukrainized — and that the population has to prepare for “a major continental war”, to which there is allegedly no alternative. Almost a week ago, no one other than Ukrainian President Poroshenko publicly declared the resumption of military activities. That took place just a few days after the meeting in Berlin of the Ministers for Foreign Affairs of Germany, Russia, Ukraine and France, at which they backed the idea of a speedy beginning to the withdrawal of heavy weapons from the line of contact as set out in the Minsk memorandum of 19 September 2014.

We should also remind our colleagues that Russian Security Council draft documents on very important

issues — putting an end to the blood-letting, the humanitarian situation in Dombas — were repeatedly unsuccessful. Take, for instance, a press statement in support of the Minsk agreements blocked by Lithuania and the United States of America, which was immediately submitted after they were made public, on 22 September. Following the shelling of a public transport stop in Donetsk, which was clearly carried out by Ukrainian forces, for a day we had to swat away unconstructive amendments by a number of delegations. It was by exerting pressure that we were able to agree to a text at the end of the day. In the case of Volnovakha, we agreed with the text that was proposed by the sponsors within one minute.

What is unfortunate is that throughout this entire conflict our Western colleagues have spent all their time accusing the self-defence formations of inhuman crimes, while they fully justify the actions of the Kyiv authorities. We have seen no constructive attempts to discuss the real reasons for the Ukrainian internal conflict and try to find a way out of the current situation. The escalation of the situation in Dombas was the result of the Kyiv authorities consistently rejecting direct dialogue with Donetsk and Luhansk on the issue of the practical implementation of the Minsk agreements. During all of last September, we noticed the steps taken by the Kyiv forces to strengthen their military positions in the south-east. They deployed forces, equipment and heavy weaponry along the line of contact, as well as calling for new mobilizations and putting in new factory orders for defence equipment.

Measures for the economic reconstruction of Dombas were replaced by attempts to suppress the regions beyond their control. First they stopped paying pensions and social benefits, and then imposed a blockade on humanitarian assistance. All the while, Kyiv was preparing for war — something they did not hide in any way. History knows no “if”. But everything could have been quite different if the Minsk ceasefire memorandum had been implemented in a timely manner, including the handing over of heavy weaponry and handing over the Donetsk airport to the self-defence formations. We would have avoided a new cycle of confrontation had the Ukrainian authorities accepted the 15 January proposal of Russian President Vladimir Putin on the immediate withdrawal of heavy weaponry. It is quite clear that peace in Dombas is something that is undesirable to the “war party” in Kyiv.

The Kyiv authorities have been sabotaging the holding of a regular meeting of the contact group in Minsk, unjustifiably conditioning it on high-level representation by the self-defence formations. The main thing now is to hold this meeting and not to quibble over the level of the participants. We are trying, as far as possible, to identify contacts for the meeting over the next few days. We will continue to prompt the parties towards direct dialogue, as we have done during the whole course of the internal Ukrainian crisis.

In that respect, we urge the representatives of States that possess some form of influence with Ukraine’s leadership, especially Washington, D.C., to stop egging on the Ukrainian hawks, covering and justifying their inhumane actions, and pushing them towards a military solution to the conflict. That will only lead to an even greater catastrophe and create another hotbed of tension in Europe.

All responsible members of the international community must strive to attain from Kyiv not words but actions in the interest of launching a full-fledged political settlement process. Until the Kyiv party of war understands that force alone cannot resolve the conflict, and that multiple-launch rocket systems, tactical ballistic missiles, phosphorous and cluster munitions, and renewed mobilizations will not help it, such incidents will occur over and over again. The Kyiv authorities must be forced to sit down at negotiation table with the self-defence formations.

It is important that everyone understand that real results can be achieved only through direct dialogue between Kyiv and Donetsk and Luhansk, which the Ukrainian authorities have shirked thus far, having chosen a course of suppressing south-eastern Ukraine by military means. Without inclusive, direct political dialogue, which should allow us to properly negotiate the parameters for constitutional reform as required by the Geneva communiqué and the Minsk agreements, the national reconciliation of Ukraine and a sustainable settlement in the south-east will not occur.

Sir Mark Lyall Grant (United Kingdom): I would like to thank Mr. Feltman for his briefing this afternoon.

This weekend, we saw the biggest single loss of civilian life in the Ukrainian crisis since the commitments made at Minsk on 5 September last year. Thirty civilians were killed and over 100 wounded following what the Organization for Security and Cooperation in Europe (OSCE) termed “an extremely

heavy barrage” of rockets fired indiscriminately into the crowded streets of Mariupol.

Only three days earlier, the Council had met to raise our serious concerns at the escalation in fighting along the agreed ceasefire line (see S/PV.7365). All of us called for de-escalation and a resumption of dialogue. That attack, many kilometres over the agreed ceasefire line, has taken the scope and threat of the conflict to a substantially new level. The attack was just not another refusal of the separatist leadership to abide by the commitments made at Minsk; it was a provocative and reckless escalation that, as the Secretary-General has made clear, could constitute a violation of international humanitarian law. Those responsible for the attack must be held accountable for their actions. It is deeply regrettable that the Council failed to agree on a press statement that would have condemned the announcement of a separatist offensive against Mariupol and the subsequent attack on Mariupol.

No one in the Council can deny the fact that the attack on Mariupol, like last week’s on a bus near Volnovakha, came from the Russian-backed separatists. The OSCE Special Monitoring Mission analysis of both attacks indicates clearly that in both incidents the rockets were fired from separatist-held territory. The attack would not have been possible without the military support of Russia and its supply of multiple-launch Grad and Uragan rocket systems to the separatists. In the past few weeks, Russia has transferred to the separatists hundreds of additional heavy weapons, not just rocket systems but also heavy artillery, tanks and armoured vehicles. Hundreds of Russian regular forces and special forces continue to operate on Ukrainian territory, in clear violation of Ukraine’s sovereignty and territorial integrity. These soldiers are backed by Russian command-and-control elements, air defence systems, drones and electronic warfare systems.

There is no doubt that the flow of heavy weapons across those borders, in violation of the territorial integrity and sovereignty of Ukraine, has given the separatists the fire power and the confidence to escalate the conflict. Since the Minsk agreement in September, which included an immediate ceasefire, the separatists have taken control of an additional 550 square kilometres of territory. Despite the commitments made at Minsk to securing continuous monitoring of the border with verification from the OSCE, hundreds of kilometres of border remain free for the flow of these deadly weapons, often under the guise of humanitarian

convoys. Russia’s persistent blocking of the proposed expansion of the OSCE border monitoring reveals its true intentions.

Russia arms the separatists, it finances them, it advises them, and it fights covertly alongside them. What it has not managed to do is to get its separatist proxies to stick to Russia’s deceitful narrative. The self-proclaimed leader of the Donetsk People’s Republic, Alexander Zakharchenko, proudly announced on 24 January that “Today an offensive was launched on Mariupol. This will be the best possible monument to all of our dead”. That statement, and others like it, cannot be glibly ignored, as the Russian representative encourages us to do. It is the reality. While Russia professes adherence to the Minsk agreement and the Normandy format meetings, and while it accuses the Ukrainian Government of provocations, the separatist forces that it supports are bent on undermining those agreements, attacking civilians and creating new realities on the ground. That approach, as we have seen in Mariupol this weekend, will only lead us closer to the precipice. It will lead to more deaths, more destruction and more people displaced from their homes.

On each occasion that the Council has met to discuss Ukraine, the vast majority of its members have underlined their commitment to Ukraine’s sovereignty, unity and territorial integrity. We assert quite rightly that these are fundamental principles of the Charter of the United Nations. They provide the foundation for an international system that is based on rules and respect and the preservation of international peace and security. We all defend these principles because we do not want a world where borders are redrawn by force, where States are threatened and destabilized by their neighbours, and where innocent civilian populations live in fear of battle orders issued in far-off capitals.

The Security Council has to make very clear where it stands against the profoundly dangerous path that Russia is pursuing in east Ukraine. That is why I urge all Council members to be clear in their messaging today. Russia must withdraw its equipment and troops. It must cease its support for the separatists, and it must effectively control its borders. It must use its influence over the separatists to stabilize the situation and prevent further dangerous escalation. It must play its full part in ensuring the immediate implementation of the Minsk protocol. Once again today, the representative of the Russian Federation has claimed that his country wants a peaceful resolution to the conflict, but such words

are worthless in themselves. We need to see Russian actions to put a stop to this widening and increasingly deadly conflict.

Ms. Power (United States of America): I thank you, Mr. President, for convening today's urgent meeting. We are grateful for Under-Secretary-General Feltman's thorough briefing on such short notice.

Just five days ago (see S/PV.7365), we met in the Council and denounced the devastating consequences of attacks by Russian-backed separatists on civilians in eastern Ukraine, and we appealed to Russia to stop supporting, training and fighting alongside separatist forces. Members of the Council pressed Russia and the separatists not only to recommit themselves to the agreements they had made at Minsk, but actually to honour those commitments in their actions. Unfortunately, we are back in the Chamber today because Russia and the separatists have once again flouted those commitments. The targets are fresh ones, but Russia's end goal remains the same — to seize more territory and move the line of Russian-controlled territory deeper and deeper into Ukraine.

This time, however, statements by the separatists are complicating Russia's strategy. On Friday 23 January, the de facto leader of the Russian-backed separatists in Donetsk, Alexander Zakharchenko, said "today the offensive on Mariupol begins". He also said "there will be no more ceasefires". He said the separatists would not stop their attacks until they had "reached the borders of the former Donetsk region", bragging that separatist forces were now "able to attack in three directions simultaneously".

The representative of the Russian Federation today said that these are statements we have taken out of context. What context possibly justifies a massive offensive against a civilian-populated town? I would note also that attacking in three directions, as the separatist leader said his forces had the capability to do, takes a lot of weapons and forces. This capability reflects the difference made by the substantial months-long influx of Russian personnel and heavy weapons. We know that Zakharchenko said these things because he was filmed when he said them and quoted by the official Russian news agency, Tass. On Saturday, Zakharchenko told people at a rally in Donetsk "today the attack on Mariupol began". He added that "in a few days we will encircle Debaltsevo", a city that is 12 kilometres outside the ceasefire line established at Minsk.

If only the separatists' words had been empty bravado. Unfortunately, on Saturday the world witnessed the horrors that resulted from the separatist attack on Mariupol, a city 25 kilometres outside of the Minsk line. On Saturday alone, more than 100 people were injured in rocket attacks on the city. Approximately 30 people were killed, including women, elderly and children, one of whom was a four-year old boy. Some 40 rounds of rockets struck the city, hitting a market, homes and a school, among other civilian structures. The impartial Organization for Security and Co-operation in Europe Special Monitoring Mission to Ukraine examined blast craters and concluded that they had been caused by Grad rockets fired from multi-rocket launcher systems in separatist-controlled areas.

Why do these locations matter to the Russians and the separatists? Mariupol is a port city that would provide Russia with another means of supplying separatists. And controlling the city would be another step toward creating a land-bridge to illegally occupied Crimea. Debaltsevo is a strategic rail and road hub and serves as a key link between the Donetsk and Luhansk regions. It is no accident that these strategic cities are in Russia's sights. When on Saturday members of the Council tried to issue a joint statement denouncing the civilian casualties and expressing concern about the separatist statements, Russia blocked it, as we have heard — no wonder, given that less than a day earlier Russia had been perfectly content to disseminate Zakharchenko's statements in its State-run media. It would be strange to be concerned about statements one had encouraged and publicized, but when your State news agency circulates announcements relishing a new offensive and your diplomats refuse to express concern about them, you own not only the statements but also the offensives.

Now sometimes, perhaps given the fog of this bloody war, the separatists are too explicit about their objectives. Indeed, after initially blasting around the separatists' Mariupol ambitions in the news service, Russia began to see the same ghastly images and reports of the carnage that the rest of us saw. At that point, perhaps knowing the source of the weaponry used, Russia tried to deny any tie between the separatists and the attacks. The Russian news service Tass even tried to erase from official news stories all quotes from Zakharchenko speaking about the separatists' attacks.

It is not hard to understand why Russia does not want the world to hear separatist statements. Last Wednesday,

the representative of the Russian Federation told the Council that “the Russian Federation is ensuring full compliance with the Minsk accords” (S/PV.7365, p. 7). On Saturday, however, Zakharchenko openly admitted that his forces were violating those same accords. He appeared not to have gotten the Russian memo, which clearly calls for violating the accords while pretending you are not. Despite Zakharchenko’s statements, Russia continues to try to play the international community for the fool and blame the violence on the Ukrainians. As recently as yesterday, Foreign Minister Lavrov said “the worsening situation in Ukraine was the result of constant attacks conducted by the Ukrainian Government troops, which breached the Minsk agreements”. We heard the same here today from the representative of the Russian Federation.

Zakharchenko’s statements are a problem for Russia because they are too straightforward. As members of the Council know — and as, increasingly, all the world can see — the separatists he claims to lead are trained and equipped by Russia and fight with Russian forces by their side. So when Zakharchenko brags about seizing territory beyond the Minsk ceasefire line; when he announces at rallies that separatists will strike Ukrainian forces without provocation; and when he says that he is not interested in negotiating, he is not only speaking about the separatists’ intentions but also about Russia’s intentions. This offensive is made in Moscow. It is waged by Russian-trained and Russian-funded separatists who use Russian missiles and Russian tanks, who are backed up by Russian troops, and whose operations receive direct Russian assistance.

Since December, Russia has transferred hundreds of pieces of military equipment to pro-Russian separatists in eastern Ukraine, including tanks, armored vehicles, rocket systems, heavy artillery and other military equipment. And in recent weeks, Russia has resupplied the separatists with hundreds of pieces of advanced weaponry, including additional rocket systems, heavy artillery, tanks and armoured vehicles. In mid to late January, notwithstanding the shutdown of flight MH-17, Russia even deployed into eastern Ukraine advanced surface-to-air missile and anti-aircraft systems, marking the highest level of Russian air-defence presence in Eastern Ukraine since September 2014. There is a direct correlation between the movement of heavy weapons and the surge in that movement across the border, and attempts by separatists to take more ground.

The horror wrought by this arsenal has been deadly. According to the United Nations High Commissioner for Human Rights, the period from 13 to 21 January was the deadliest on record since the 5 September agreement was signed in Minsk. During this time, an average of 29 people were killed each day. More than 5,000 people have been killed and almost 11,000 maimed since the conflict began in April 2014. And today, this very day, the attacks continue on the civilian-populated areas over the Minsk ceasefire lines, not only in Mariupol and Debaltsevo, but also in Pisky and Stanichno-Luhansk. To the Russians, Mariupol and Debaltsevo may just be strategic chess pieces in their effort to move the line of territory that they control, but these cities are also home to hundreds of thousands of Ukrainian civilians. Nearly 500,000 people live in Mariupol, the second biggest city in the Donetsk region, and more than 25,000 live in Debaltsevo. Mariupol is home to 92 preschools attended by 13,000 children.

We continue to believe that the only solution to this situation is a political solution, not a military solution. To that end, we continue to support the efforts of the trilateral contact group, as well as the Normandy group of foreign ministers. We welcome the Normandy group’s agreement in Berlin, which recognizes the need for the full, immediate implementation of the Minsk agreement.

If Russia is serious about peace, why does it not condemn the statements by separatists that they will attack Ukrainians first and accept no more ceasefires, instead of trying to erase those statements from its State-run news services? If Russia is serious about peace, why does it not pull its tanks and Grad missiles out of eastern Ukraine instead of sending in more? If Russia is serious about peace, why does it not withdraw its forces at least to the lines agreed upon at Minsk, rather than send in a huge infusion of Russian heavy weapons so as to carve out new lines? Only if Russia takes these steps will there be a chance for the political solution that is so desperately needed.

Mr. Delattre (France) (*spoke in French*): I thank Mr. Feltman for his briefing. We would have all wished to see 2015 begin under better auspices for Ukraine and its stability. The year has barely started, and twice in less than a week the situation on the ground has forced us to meet here.

The spiral of chaos, which started two weeks ago after several months of relative calm, could not be halted

these past few days — quite the contrary. The deaths of 13 civilians in Volnovakha on 13 January, as well as the shelling of a trolleybus in Donetsk last week, which claimed at least eight civilian victims, were already a source of concern, even as the previous day the Russian, Ukrainian, French and German Foreign Ministers had been able to reach an agreement on the withdrawal of heavy weaponry.

On Saturday and Sunday in Mariupol, separatist groups attacked residential neighbourhoods with rockets, killing nearly 30 civilians and instilling terror among the population. All reports from the ground, in particular those of the Organization for Security and Cooperation in Europe observers, confirm this. More than a further violation of the ceasefire, this is also a serious violation of the international humanitarian law that protects civilians. These acts are unacceptable as they indiscriminately target civilians. The offensive against Mariupol, which was provocatively welcomed by Alexander Zakharchenko last Saturday, violated the commitments undertaken by the parties last September in Minsk and is entirely unacceptable.

Let us not mince words. By supporting the Ukrainian separatists and their actions, Russia bears a significant share of responsibility for the violence. We must now turn to dialogue and seriously discuss the future of Ukraine and how to restore peace. We also call on Russia to stop supporting the separatists, who are hell-bent on destabilizing the situation. We call for a long-overdue end to the transfer of weapons and manpower across the Russian-Ukrainian border, which is fuelling the war and violates the territorial integrity of Ukraine and the most fundamental principles of the Charter of the United Nations, and which undermines diplomatic efforts seeking to settle the conflict in accordance with international law and the fundamental rights and freedoms of all Ukrainians, including its minorities. We urge Russia to use all its influence on the separatists in the east of the country so that they fully respect the ceasefire.

The statements made by Mr. Lavrov today, announcing the facilitation of contacts between the warring parties, are a positive sign but they are not enough. We also call on Ukraine to begin the institutional reform as per its commitments. President Poroshenko has spoken publicly of the prospects for national dialogue and institutional reform. That statement was a further step towards the comprehensive implementation of the Minsk accords, which are the

only way to achieve a negotiated solution to this crisis. The international community will judge the good faith of the parties not on mere statements but on concrete and verifiable actions that prove their genuine commitment to de-escalation.

We must also call on all parties to refrain from attacking the civilian population, to respect international humanitarian law and to ensure humanitarian access to the wounded and to civilians in need of assistance. We must underscore that there can be no military solution to this conflict. Only by all parties fully implementing the Minsk accords and resuming serious diplomatic discussions, in the context of the trilateral contact group, can there be a positive outcome to this crisis. Every efforts must be made to that end.

In this difficult context, we cannot afford to let down our guard. France remains and will remain fully mobilized to achieving a peaceful settlement. Our goals are clear and consistent: respect for the ceasefire, the withdrawal of heavy weaponry on each side of the contact line, a resumption of prisoner exchanges, the resolution of humanitarian issues and the implementation by the parties of all measures under the Minsk accords.

France will pursue its efforts, in close contact with our German partners and the Russian and Ukrainian authorities, under the so-called Normandy format. We have no time to waste. This is not the time for prevarication or hypocrisy. Today we must urgently end this conflict, which has already claimed more than 5,000 lives and exacted too high a price from Ukraine, from Russia, from the European Union and from the international system as a whole.

Mr. Oyarzun Marchesi (Spain) (*spoke in Spanish*): I thank you, Sir, for having convened this meeting. I also thank Under-Secretary-General Feltman for his briefing.

Ukraine has a democratic Constitution and is implementing a process of reform. Ukraine made a decisive contribution to nuclear non-proliferation when it decided in 1994 to renounce nuclear weapons. Ukraine is a crucial player in the international order. We unreservedly support its territorial integrity. Given these facts, there should be no violence in Ukraine. However, today we are meeting once again due to an extremely serious deterioration in the situation.

Spain would have liked the Council to adopt a statement. Unfortunately, this was not the case. I

therefore vigorously and unreservedly condemn the bombing of urban areas in the city of Mariupol, which claimed tens of civilian victims and injured more than 100. I express the condolences of my country and my delegation to the families of the victims and to the people and Government of Ukraine. They can count on Spain's solidarity.

According to the information provided yesterday by the Mission of the Organization for Security and Cooperation in Europe (OSCE), as related by Mr. Feltman, the rockets were launched from locations under the control of rebel groups of the self-proclaimed Donetsk People's Republic. The command responsibility for these attacks must be investigated and the perpetrators held responsible and brought to justice. Like other delegations, we deplore the statement made by Alexander Zakharchenko shortly before the attack on Mariupol. The statements constitute a clear violation of the ceasefire and of the Minsk accords. The attacks against civilians are a flagrant violation of international law. International law puts obligations not only on the parties but also on those within whose capacity it is to act to prevent any further violation of international law.

Furthermore, the High Commissioner for Human Rights warned on Friday of the continued presence of foreign fighters in eastern Ukraine. According to reports, in keeping with that of the High Commissioner, they are troops of the Russian Federation. The same source confirmed the presence of sophisticated heavy weaponry in populated areas, under the control of armed rebel groups, and reported repeated violations of the human rights of the civilians trapped there and a lack of the rule of law in those areas.

The Security Council cannot remain silent. It must make itself heard clearly given this situation. We call once again for the full implementation of the Minsk memorandum and protocol, and for the immediate restoration of the ceasefire. We appeal to all those in a position to influence those responsible for their horrendous acts, in particular to Russia, to, in accordance with its status as a signatory to the Minsk accords and to the joint Berlin declaration of 21 January, as well as a member of the OSCE trilateral contact group, and in exercise of its responsibility of the Security Council, contribute to de-escalate the tensions and compel the rebel groups to renounce violence and accept the peaceful and lawful path to pursue their claims.

The violence and horrific acts of this weekend sought to derail dialogue and undermine the negotiated settlement of the crisis provided for in the Minsk accords. We must not allow this to happen.

Mr. Hmoud (Jordan) (*spoke in Arabic*): I would like to sincerely thank the Under-Secretary-General for Political Affairs, Mr. Jeffrey Feltman, for his informative briefing.

Jordan regrets certain parties' disregard of the several calls made for a ceasefire either by the Security Council or the international community as a whole. We also regret the continued escalation of the crisis and the violation of the Minsk peace agreement. Jordan expresses its deep concern at this serious escalation of violence and fighting, which could have grave consequences and lead to the further deterioration of the situation in eastern Ukraine and the region.

Jordan strongly condemns the targeting and intimidation of civilians as well as the shelling of residential areas, regardless of the source, and calls for the conduct of a thorough and transparent investigation into the incident involving the shelling of a bus stop in Donetsk and the appalling incident that took place in Mariupol two years ago, which is considered to be the bloodiest incident since last July's peace agreement. We also call for the bringing to justice of all of the perpetrators of these criminals acts.

This serious setback in the situation in eastern Ukraine and the spread of the fighting to other cities makes it incumbent on all parties to hold an emergency meeting to continue the negotiations based on previous agreements and with a view to speedily reaching a comprehensive ceasefire. A political and peaceful solution will not be possible in the context of resort to military means or unilateral measures that undermine regional and international efforts and bring the negotiations back to square one. Rather, the solution lies in the effective measures that lead to peace and calm.

Jordan calls on all States with influence on the separatists to urge them to refrain from the use of force and to cease all violations, which can lead only to further instability in Ukraine.

We call once again on all parties involved in this conflict to shoulder their responsibilities, to immediately implement a ceasefire and to stop all escalatory measures, including provocative and irresponsible speech by any party. We in the Council

and at the international level as a whole should redouble our efforts and do our utmost to prevent the collapse of all the progress that has been achieved over the past year, so as to achieve a comprehensive agreement that takes into account all of the interests of the different parties.

We would conclude by stressing the importance of preserving the country's unity, territorial integrity and sovereignty, of non-interference in its internal affairs, of the proper control of its borders and of the cessation of flows of separatists and foreign fighters and weapons into Ukrainian territory. We also stress the importance of the full implementation, in letter and in spirit, of the Minsk peace agreement and of the memorandum issued later, as well as of the joint statement by the Ministers for Foreign Affairs of France, Germany, Russia and Ukraine on the establishment of a communication line.

Mr. Liu Jieyi (China) (*spoke in Chinese*): I thank Under-Secretary-General Feltman for his briefing.

In recent days, we have witnessed a drastic deterioration in the situation in eastern Ukraine, with frequent clashes and attacks that have caused heavy casualties among civilians, including women and children. China condemns all violent attacks aimed at civilians and expresses its condolences to the victims and its sympathy to their families.

We support the conduct of an objective investigation of the relevant attacks to determine the truth and bring the perpetrators to justice. Last week, the Security Council held a public meeting on the question of Ukraine (see S/PV.7365). The relevant Member States called on the parties to the conflict to take effective measures to as to avoid any escalation of the conflict or confrontation. However, much to our distress, the situation in eastern Ukraine has not improved but, on the contrary, escalated, resulting in a considerable loss of civilian life and property. China is deeply concerned at the recent developments in the situation.

The deterioration of the situation in eastern Ukraine is not in the interest of any party. What is most urgent now is for all parties to be calm and exercise restraint so as to avoid any further escalation of the conflict or confrontation, to bring about a ceasefire and stop the violence in eastern Ukraine and to implement comprehensively the Minsk agreement reached in September. All of the parties concerned must make effective efforts to achieve the aforementioned objectives.

Current developments in the situation clearly demonstrate that in dealing with the situation in Ukraine, it is necessary to abide by the overall objective of seeking a political settlement; to fully consider the complex historical factors and the reality of the issue relating to Ukraine; to take into full account the legitimate rights, interests and demands of all regions and ethnic communities in Ukraine; and to attach great importance to addressing the legitimate concerns of all parties and ensure that the interests of all sides are accommodated in a balanced manner, so as to arrive at a fundamental and enduring solution to the question of Ukraine.

The international community must make greater diplomatic efforts to promote the quest for a political settlement of the issue. Discussions held by the Security Council must play a constructive role in helping to ease the situation in Ukraine. China has consistently held that the sovereignty and territorial integrity of all countries should be respected. China has adopted an objective and fair position concerning the question of Ukraine. We support the relevant parties of the international community in their efforts to seek a political settlement of the question of Ukraine.

China calls on all parties to make greater efforts and to bring into full play the role of the Normandy and Minsk mediation mechanisms. We hope that through an inclusive political dialogue, and on the basis of accommodating the legitimate interests and concerns of all parties, it will be possible soon to reach a comprehensive balanced and lasting political settlement to achieve peace, security stability and development in Ukraine and the region as a whole. China will continue to play an active and constructive role in the quest for a political settlement of the question of Ukraine.

Mr. Gombo (Chad) (*spoke in French*): I, too, should like to thank Under-Secretary-General for Political Affairs Jeffrey Feltman for his briefing.

Chad is deeply concerned at the deterioration of the security situation in Ukraine, especially in the region of Donetsk and Luhansk. Despite the untiring calls made by the international community for restraint and calm, a violent attack on the port of Mariupol in the Donetsk region took place on Saturday, 24 January, resulting in at least 30 civilians killed and more than 100 injured. On 13 January, we saw the shelling of a bus near Volnovakha that claimed the lives of 12 civilians, the majority of whom were women.

The situation is a serious one. Given the lack of political will when it comes to putting an end to the violence, and the significant increase in the number of civilian victims, Chad is fearful of a resumption of the fighting, whose primary victims will, as always, be civilians.

Developments in terms of the violence in Ukraine very often lead to violations of international humanitarian law, and the international community cannot remain impassively on the sidelines. Those who are responsible must be brought to justice.

With more than 5,000 deaths, 10,300 injured and more than 1 million displaced persons, the Ukrainian tragedy has gone on long enough. In that regard, Chad calls on all the parties to remain calm and show restraint and urges the Government and separatists to engage in a direct and inclusive national dialogue with a view to national reconciliation. Moreover, Chad believes that the solution to the Ukrainian crisis is political, and that it will largely depend upon the willingness of the parties concerned to commit to a true negotiations process to achieve lasting peace. Chad encourages the Organization for Security and Cooperation in Europe to pursue its investigations with a view to assigning responsibility for the Ukrainian crisis, which has lasted far too long and caused many victims.

In line with the Normandy format and Milan meetings and the mediation provided by the trilateral contact group, Chad urges on the countries involved and the Secretary-General, through his good offices, to relaunch the peace process in Ukraine.

To conclude, we urge friendly countries with influence on the parties to bring the necessary pressure to bear with a view to achieving a lasting solution to the crisis on the basis of the Minsk agreements and declaration, with full respect for the territorial integrity and sovereignty of Ukraine.

Mr. Laro (Nigeria): I also thank Under-Secretary-General Feltman for his briefing.

Since the Council's meeting last week on the situation in Ukraine (see S/PV.7365), the conflict in the country has intensified, and civilians continue to suffer the consequences. The rocket attacks on Mariupol, which left 30 people dead and more than 100 injured, including women and children, serve to illustrate this point. Nigeria condemns in the strongest terms indiscriminate attacks on residential areas. They serve

no military purpose, they violate international law and they are unacceptable.

We call on both sides to immediately de-escalate the fighting and respect the terms of the ceasefire agreement reached at the Minsk peace talks. We stress that there can be no military solution to the conflict in Ukraine. The parties should seek a political solution through dialogue. It is important that the concerns of the separatists be addressed within the framework of a negotiated political settlement. That should be done without compromising the sovereignty, independence and territorial integrity of Ukraine.

Mr. Ramírez Carreño (Bolivarian Republic of Venezuela) (*spoke in Spanish*): The delegation of the Bolivarian Republic of Venezuela thanks you, Mr. President, for convening this Security Council briefing on Ukraine. We also welcome Mr. Jeffrey Feltman, Under-Secretary-General for Political Affairs, and we appreciate the information he has provided to us on the political situation in Ukraine.

Our country expresses its grave concern about the recent escalation of armed conflict in eastern Ukraine, which has caused loss of civilian lives and untold numbers of injuries. Venezuela reiterates its call on the parties to promote a peaceful, negotiated, political solution to the crisis. We stress that any violent incident on the ground should be investigated independently, and that the investigation's conclusions should be based on irrefutable evidence. Venezuela rejects any act of violence or terrorism, in particular attacks against civilians, from wherever they originate.

The intensification of the armed conflict in eastern Ukraine makes it imperative that the parties put an end to their hostilities in the area. The ceasefire is therefore a crucial step.

It is necessary to continue on the path of seeking a political and diplomatic solution to the Ukrainian crisis, in which the conflicting parties commit to working on achieving a firm and lasting peace.

The mediation efforts by regional organizations is, in our view, particularly important in the process of finding a negotiated settlement to the conflict. In that regard, we reiterate our support for the efforts of the Organization for Security and Cooperation in Europe, Germany and France to promote dialogue among Ukraine, Russia and the representatives of the Donbas region.

We also welcome the joint communiqué issued on 21 January in Berlin by the Ministers for Foreign Affairs of France, Germany, Russia and Ukraine, and we encourage the parties to work together for its implementation.

The Minsk agreements are the basis on which lasting peace can be achieved in the region. We reiterate that any intervention by outside elements that violate the Minsk agreements and regional efforts to reach an agreement between the parties should be avoided.

Venezuela stresses that the parties must act with a sense of restraint in order to prevent the dialogue from being undermined by unilateral actions that jeopardize the peace process. The cycle of violence must be broken. Building the foundation for peace involves putting an end to hate speech, ethnic persecution and war propaganda. The historic and root causes of the conflict must be addressed and a political agreement between the parties must be sought.

The escalation in hostilities requires strict compliance by the belligerent parties with obligations concerning the protection of civilians in the areas affected by violence, including the need to ensure humanitarian access to internally displaced persons, refugees and others residents in areas affected by the conflict.

Finally, we again call on all parties to redouble their efforts in the search for a just and lasting political solution, which is in their own interests and those of the entire region.

Mr. McLay (New Zealand): We thank you, Mr. President, for convening this debate, and all the more so because of the failure of the Security Council over the weekend to agree to a simple and clear press statement that would have condemned the events in Mariupol. I also thank the Under-Secretary-General for his briefing, which has been very helpful to the Council.

New Zealand condemns the killing of approximately 30 people and the injuring of more than 90 civilians on 24 January in Mariupol. The reports of indiscriminate shelling of civilian populations and residential areas are deeply concerning, as indeed are the other incidents that were outlined by Under-Secretary-General Feltman. We voiced our concerns last week that the violence was escalating at an alarming rate. The Mariupol incident confirms that the situation in eastern Ukraine is now on a disastrous downward spiral. We do not take this incident in isolation. Its occurrence, magnitude and

the claims made about it by the separatist leadership speak for themselves. It was a major assault on a civilian population with the sole purpose of taking and controlling the area as a result.

The most recent civilian casualties from the conflict in eastern Ukraine are completely unacceptable. We call on all sides to respect international humanitarian law and to refrain from any indiscriminate attacks. In that regard, we note that rockets have been launched indiscriminately into civilian areas — a violation of international humanitarian law. There can be no impunity for such reckless acts. Those responsible must be held accountable for their actions.

Russia's provision of troops and materiel to the separatists is irresponsible. The threat of "a major Ukrainian war" is both chilling and wholly inappropriate, and it may now be close to a reality.

Against the mounting body of evidence, Russia is unapologetic for the role it is playing in supporting the separatists. Russia speaks about the facts. What we know for a fact is that Russia is playing a role in this conflict.

We support the promotion of a fully inclusive political dialogue. We call on Russia, instead of blaming others, to use the diplomatic and other tools it has available to ensure that the separatists respect a ceasefire. That ceasefire, as already agreed on in the Minsk accords, must be implemented immediately. The Council must also live up to its responsibilities under the Charter of the United Nations. We must put politics aside, difficult although that may be, and use our collective influence to stop the killing of civilians in eastern Ukraine. That must be the priority. Although this is perhaps not for today's meeting, in future we would like to see the Council seriously consider how it can put pressure on all the belligerents to implement the ceasefire. Words may no longer be enough; more action may still be required.

Mr. Haniff (Malaysia): I would like to thank you, Mr. President, for convening this meeting. We are grateful to Under-Secretary-General Feltman for briefing us at such short notice.

Malaysia is alarmed at the escalating violence in eastern Ukraine since the last Security Council meeting on the subject (see S/PV.7365), less than a week ago. Since then we have seen a repeat of indiscriminate attacks on civilians. On 22 January a public transport stop in the city of Donetsk was shelled, with as many

as 15 people killed and more than 20 civilians injured. Two days later, at least 30 people, including two children, were killed in the city of Mariupol, and more than 100 civilians injured. Malaysia condemns such indiscriminate attacks in the strongest terms. It is most unfortunate that the latest violence in Mariupol did not even merit the Security Council's condemnation, owing to a lack of consensus among Council members on the draft press statement. Malaysia calls for an independent investigation into the incidents. The perpetrators of such heinous crimes against civilians must be held accountable. We would like to remind the parties to the conflict that they should adhere to international human-rights and humanitarian law. Attacks on humanitarian convoys must also cease immediately.

The recent events have seriously undermined the ceasefire agreement reached in September of last year between the conflicting parties. Malaysia strongly urges the relevant parties to comply with their commitments as outlined in the Minsk protocol of 5 September and the memorandum of 9 September. The latest developments in eastern Ukraine prove that a diplomatic and political solution is more urgent than ever. In that regard, Malaysia welcomes all efforts that could facilitate a de-escalation of the crisis and contribute to ending the conflict, including the possibility of resuming Geneva-format negotiations. As Malaysia stated last week (see S/PV.7365), a military solution would be in no one's interests in the long run and would not be suitable.

Seventy years after the establishment of the United Nations, we still see blatant disregard today for the core principles of the Charter of the United Nations, particularly respect for countries' sovereignty and territorial integrity. Malaysia urges the relevant parties to reflect on the consequences of such actions for their long-term interests and international standing. We reiterate our call to the relevant parties to explore all possible avenues for finding a peaceful solution. We are committed to playing a constructive role in the Council in order to de-escalate the crisis and see talks resume so as to restore Ukraine's stability and territorial integrity.

Mr. Lucas (Angola): I am grateful to you for convening this meeting, Mr. President, and would like to thank Under-Secretary-General Feltman for his briefing on the outbreak of hostilities in eastern Ukraine.

In our meeting on Wednesday, 21 January (see S/PV. 7365), the Angolan delegation expressed its

position on the issue in the wake of the attack on a bus in the Donetsk region that resulted in a number of civilian casualties. We would like to take this opportunity to reiterate our position, while condemning the recent attack on Mariupol and the loss of life and extensive destruction of property. I will be brief.

We regret the loss of lives in the recent outbreak of hostilities in eastern Ukraine and emphasize the urgent need to protect civilians. We condemn the violations of the ceasefire and urge all the parties to observe it. We believe that the Minsk accords constitute a framework for a peaceful solution to the conflict, and we urge all parties to abide by them. We stress the importance of respect for the sovereignty and territorial integrity of Ukraine. Finally, we believe it is crucial that humanitarian assistance be provided to the victims of the conflict and that efforts stepped up to help the thousands in need.

The President (spoke in Spanish): I shall now make a statement in my capacity as representative of Chile.

We would like to thank Mr. Jeffrey Feltman for his briefing on the recent events in Ukraine.

We join in the condemnation of the indiscriminate shelling of residential areas in the city of Mariupol, an attack that constitutes a significant and worrying escalation of the level of violence in eastern Ukraine. Those responsible for such deplorable acts against the civilian population must be held accountable, and we emphasize the absolute necessity for an objective investigation of the facts that will see that those responsible are brought to justice.

The violence must end so that Ukrainians can rebuild their lives in a stable and secure country, while maintaining its sovereignty and territorial integrity in accordance with the Charter of the United Nations. We urge the parties to fully implement the Minsk agreements, which, along with the ceasefire memorandum of 19 September, have laid the foundations and established the criteria for a negotiated solution to the crisis.

We furthermore recall that in Minsk all parties agreed to allow the Organization for Security and Cooperation in Europe (OSCE) to monitor and verify the ceasefire. We emphasize our support for the OSCE's Special Monitoring Mission in Ukraine and urge the parties to cooperate with its mandate, particularly through support for the delivery of humanitarian aid.

I now resume my functions as President of the Security Council.

I give the floor to the representative of Ukraine.

Mr. Sergeev (Ukraine): Thank you for convening today's urgent meeting, Mr. President. I would also like to thank Under-Secretary-General Feltman for his briefing, and all those here whose statements supported Ukraine and expressed sympathy with my people.

Unfortunately, since the previous Security Council meeting on Ukraine on 21 January, (see S/PV.7365) the situation there has deteriorated significantly. On 24 January, Russian-backed terrorists committed another heinous crime against humanity. As a result of the shelling of residential areas in Mariupol, in eastern Ukraine, 30 civilians were killed and more than 100 wounded. According to the 24 January spot report of the Special Monitoring Mission in Ukraine of the Organization for Security and Cooperation in Europe, the bombardment was carried out using multiple Grad and Uragan rockets launched from inside terrorist-controlled territory. The shelling of Mariupol began just after statements by one of the terrorist leaders about imminent attacks on Ukrainian cities, as well as a significant increase in inflows of Russian armed forces and weapons into the Donetsk and Luhansk regions. As the President of Ukraine stated,

“The bloody murder of dozens of civilians and injuries to almost 100 people by pro-Russian terrorists in Mariupol not only constitute a terrorist attack, they are a crime against humanity, and thus an issue to be considered by the tribunal in The Hague”.

Yesterday was yet another day of mourning in Ukraine. We express our gratitude to the whole civilized world for its strong solidarity with Ukraine in the wake of this horrible tragedy, for the deepest sympathy and condolences to the families of the victims and for the wishes for a swift recovery of those injured. Ukraine appreciates the Secretary-General's clear and unambiguous statement denouncing the unilateral withdrawal from the ceasefire by the so-called rebel leadership.

In that respect, it is highly regretful that one of the permanent members of the Security Council, bestowed by the Charter of the United Nations with the primary responsibility for the maintenance of international peace and security, has once again showed its utter disrespect, not only of the Charter but of human values,

by blocking the Council's condemnation of the heinous crimes against humanity committed by terrorists in Mariupol.

Today's statement delivered by the Russian delegation made it sound as if it were not Russia that invaded, occupied and annexed a part of the Ukrainian sovereign territory of Crimea last spring. The Russian delegation's statement today made it sound as if regular Russian troops were not in Ukrainian sovereign territory. At the last meeting of the Security Council (see S/PV.7365), I demanded an explanation as to what 16 Russian battalions and a huge number of tanks and artillery were doing in my country without an invitation. The civilized world is waiting for an explanation from the Russian side. One can find additional evidence on my Mission's website, which we will try to send to Council members as well.

If militants and Russia had complied with the Minsk agreements, this tragedy — the most dreadful since the beginning of the Russian aggression — would not have happened. Radio and telephone conversations intercepted by the Security Service of Ukraine irrefutably indicate that the attack was organized by terrorists supported by Russia. Further evidence of that is Russia's blocking of a draft statement by the Security Council condemning this horrible event, as well as its complete silence — not a single word of reproach — about the terrorists' other barbaric acts in the Donetsk and Luhansk regions, such as the attack on Volnovakha, the shameful behaviour with regard to Ukrainian hostages, the tragedy at the trolleybus stop in Donetsk and many other cases. Therefore, the Russian Federation, which continues to support terrorist activities and whose troops are directly involved in hostilities against Ukraine, is solely responsible for the murders in recent weeks of innocent civilians in Volnovakha, Debaltsevo, Donetsk, Mariupol and many other towns and villages in Ukraine.

We seek international support so that Russia is finally compelled to keep its promises, rein in its proxies and stop sending troops and weaponry into Ukraine. We demand that Russia fully implement the Minsk agreements, which it has thus far supported in words only, including the immediate withdrawal of all its armed forces from the territory of Ukraine, the stabilization of the Ukrainian-Russian border and the establishment of international monitoring. It should also free without any further delay Ukrainian pilot Nadiya Savchenko — who is still on a hunger strike

that is endangering her life — as well as Oleg Sentsov, Alexander Kolchenko and the other Ukrainian citizens who are being held in Russia illegally.

We call on the international community to respond resolutely to the crimes of terrorists and to increase all forms of pressure on those who sponsor and support them. Our position remains constant: the so-called Donetsk People's Republic and the Luhansk People's Republic must be recognized as terrorist organizations.

Time and again, we have called on the Security Council to finally exercise its responsibilities under the Charter of the United Nations so as to prevent these terrorist groups from committing their crimes. The only way to do that is to put an end to the Russian aggression against Ukraine. Today, as never before, we need joint decisive actions by the international community against terrorist organizations and those who control them.

Let me summarize my statement with the words of our President:

“We stand for peace, but we accept the enemy's challenge. We will defend our homeland as true patriots. We will do everything to stop the pain and suffering, to return peace to each Ukrainian family — from Lviv to Luhansk, from Chernihiv to Kerch. Having united our efforts, we will defend our freedom.”

In this struggle for Ukraine, for Europe and, ultimately, for the Charter of the United Nations, we count on the Council's solidarity and actions.

The President (*spoke in Spanish*): The representative of the Russian Federation has asked for the floor to make a further statement.

Mr. Churkin (Russian Federation) (*spoke in Russian*): I would like to make a number of substantive comments. However, by way of introduction, I would like to again revisit the topic of what took place in Mariupol and the fact that the Security Council was not in a position to condemn or speak to that tragedy.

A number of my colleagues have referred to this, including my Ukrainian colleague. Even when compared to his usual standards, he has really misstated the position of the Russian Federation. First, we always condemn all attacks on all civilians, and we mourn the deaths of all civilians. This is quite different from the authorities in Kyiv, who say they mourn the deaths of civilians but clearly indicate which civilians and from which regions. The fact that hundreds of individuals

are dying from Ukrainian rockets and snipers does not interest them. They continue to view Donbas as Ukrainian territory. If one does not consider it to be Ukrainian territory anymore, one should just say so clearly. That would simplify things.

Secondly, we always condemn the deaths of innocent people, and we stood ready to do so in the case of Mariupol as well. The fact that we were not able to do so was the result of the sloppy diplomacy conducted by a number of our colleagues using methods they have resorted to in the past with respect to the Ukrainian crisis, when they have come up with wording that is quite clearly unacceptable to one member of the Security Council. Have they ever condemned the inhumane statements that we hear from the authorities in Kyiv? Not once. Why is it that they all fixate on the statements of one leader of the self-defence formations and insist that we have to condemn them? It is quite clear that we are not acting fairly here, because a statement condemning what happened in Mariupol would have been adopted in just a few minutes, just as we adopted a statement condemning what took place in Volnovakha, which we immediately agreed to.

Thirdly, we have always been in favour of objective investigations in such cases. Of course, one does not want to bring to the Security Council the work of the Organization for Security and Cooperation in Europe (OSCE) Special Monitoring Mission. In this case, however, it seems to us that the members of the Monitoring Mission did not act appropriately. The members of the Mission, which included individuals from the United States, took a look the site of the tragedy in a very cursory way and then immediately came up with a statement. That runs counter to the traditional and agreed methods of work of the OSCE. Again, in this situation we see a case in which tragic events have clearly been exploited for political ends.

Allow me to now move on to the more substantive part of our discussion. Regrettably, our meeting here today reminds us of a great many previous meetings, although the focus is perhaps a little different than before. Many colleagues today have focused on the statements made by the self-proclaimed Donetsk People's Republic. I remind Council members that Donbas has been shelled for months by Ukrainian rockets and artillery. Therefore, it is quite clear that we cannot expect conciliatory statements from the leaders of the Donetsk People's Republic. They have been trying for month to push the rockets and artillery of the

Ukrainian forces back far enough so that they could not threaten Donetsk and Luhansk. That, too, is a goal of the Minsk agreements and underscores the importance of implementing them.

We have received much information here today, but we need to look at the roots of the problem. We need to understand what is meant by the thesis that the conflict in eastern Ukraine cannot be resolved by military means. We referred to this in the Security Council during the early phase of the conflict. Ukrainian tanks cannot simply move into Donbas. Unfortunately, that was part of the Poroshenko peace plan, which, in essence, demanded the capitulation of the self-defence formations. That was the first step towards escalating the conflict into a catastrophe. That is unacceptable, but unfortunately we have recently seen it being pushed by certain members of the Security Council. Some Council members today have said that the insurgents and Russia need to do this, that and the other, and then we could begin the political settlement. That is the entirely wrong approach. Serious political efforts need to be undertaken right now. Direct dialogue between Kyiv and the east need to be set up. It is necessary to put an end to the game of hide-and-seek with the Constitution, which needs to be discussed at a all-Ukraine level.

Today, Mr. Feltman said that Mr. Poroshenko had agreed to a return to the Geneva format. Frankly, I am not familiar with the fact that Russia had agreed to a change in the format, but as far as I know Moscow is very flexible when it comes to the format. We stand ready to work in any format that would have a chance of yielding genuine progress in favour of a settlement. I wish to underscore, however, no discussion regarding one format or another should serve as a pretext to move away from direct dialogue between Kyiv and the representatives of the regions, first and foremost the east.

The President (*spoke in Spanish*): The representative of Ukraine has requested the floor for a further statement. I give him the floor.

Mr. Sergeev (Ukraine): My country has been mentioned once again. Ukraine has always presented facts and figures, confirmed not only by other national competent authorities, but also by many independent observers and missions of international organizations on the ground. Today, we also have a list of questions on the 16 battalions and other groups. I urge the Council to compare the figures. At the last Council meeting

(see S/PV.7365), 9,000 Russian troops were mentioned. Today, we have calculated that there are around 12,000 troops, 235 tanks, 720 armoured combat vehicles and 263 artillery systems. It would be much easier for us if we received any explanation from the Russian side about what they are doing in the sovereign territory of Ukraine. It would be much easier for all of us to solve the problem if they immediately withdrew those forces and their presence in Ukraine, pursuant to the Minsk agreement.

What we have heard instead from the Russian representative in the Council today is nothing but the old, arid and constantly repeated magic mantra — fictions about coup d'états, Bandera and Shukhevych fascists, anti-Semites, oppression of the Russian language, ignoring the rights of the Donbas population, and so on. But not even once have Ukraine and the world received even a brief and meaningful message of condolence from Russia for the victims killed by its own mercenaries in Mariupol or Volnovakha. Instead, we see how Russia helps the Russian-speaking population of Donbas: by exterminating it with Grad shelling.

I call again on the Russian Federation not to play with words or to turn Council deliberations into theatre. We have a lot of proof of its direct and indirect aggression in Ukraine. We are still restrained in calling for the Council's full recognition that Russia is the aggressor, but that cannot last long. Russia is a sponsor of terrorism in Ukraine. We advise Russia to stop and to do what was agreed in Minsk.

The President (*spoke in Spanish*): The representative of the Russian Federation has requested the floor to make a further statement.

Mr. Churkin (Russian Federation) (*spoke in Russian*): I am a little surprised at our Ukrainian colleague has begun to argue using concepts that I did not voice during my comments in the Council today. But it is good that he he has remembered them and that he deems it necessary to continue to argue about things that are simply not subject to argument, concerning Stepan Bandera and other related matters.

I am, however, puzzled by something else. I am gratified by the fact that our Ukrainian colleague has assimilated the English language and that he speaks it so well, but I am just stunned by the fact that he has forgotten his Russian, because only a few moments ago I explained the thrust of the problem facing the east. Instead of simply accepting that and building a political

position based on it, we hear the same old propaganda. That is quite regrettable.

The President (*spoke in Spanish*): There are no more names inscribed on the list of speakers. The

Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 3.15 p.m.

Annex 308

U.N. Security Council, Official Record, 7368th mtg., U.N. Doc. S/PV.7368 (26 January 2015)



Security Council

Seventieth year

Provisional

7368th meeting

Monday, 26 January 2015, 1 p.m.

New York

<i>President:</i>	Mr. Barros Melet	(Chile)
<i>Members:</i>	Angola	Mr. Lucas
	Chad	Mr. Gombo
	China	Mr. Liu Jieyi
	France	Mr. Delattre
	Jordan	Mr. Hmoud
	Lithuania	Ms. Murmokaitė
	Malaysia	Mr. Haniff
	New Zealand	Mr. McLay
	Nigeria	Mr. Laro
	Russian Federation	Mr. Churkin
	Spain	Mr. Oyarzun Marchesi
	United Kingdom of Great Britain and Northern Ireland . . .	Sir Mark Lyall Grant
	United States of America	Ms. Power
	Venezuela (Bolivarian Republic of)	Mr. Ramírez Carreño

Agenda

Letter dated 28 February 2014 from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council (S/2014/136)

This record contains the text of speeches delivered in English and of the translation of speeches delivered in other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-0506 (verbatimrecords@un.org). Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org>).

15-02222 (E)



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The meeting was called to order at 1.40 p.m.

Adoption of the agenda

The agenda was adopted.

Letter dated 28 February 2014 from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council (S/2014/136)

The President (*spoke in Spanish*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Ukraine to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Mr. Jeffrey Feltman, Under-Secretary-General for Political Affairs, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I give the floor to Mr. Feltman.

Mr. Feltman: Throughout the conflict in Ukraine, and repeatedly in recent weeks, the Secretary-General has called for de-escalation, restraint and the protection of civilians. We deeply regret that these calls appear to have fallen on deaf ears.

In just five days since we last met on 21 January (see S/PV.7365), close to 50 civilians have been killed and nearly 150 have been seriously wounded. On 22 January, over a dozen civilians died when rockets hit their trolleybus in Donetsk city. The same day, at least 10 civilians were killed amid heavy fighting in the city of Horlivka. On Saturday, 24 January, a barrage of attacks with multiple rocket launcher systems hit the city of Mariupol, destroying buildings and impacting a market filled with civilians. Dozens of people lost their lives, including women and children, and over 100 were wounded. The Special Monitoring Mission of the Organization for Security and Cooperation in Europe reported, based on crater analysis, that the rockets originated from territory controlled by the so-called "Donetsk People's Republic".

Mariupol lies outside of the immediate conflict zone. The conclusion can thus be drawn that the entity that fired these rockets knowingly targeted a civilian population. This would constitute a violation of international humanitarian law. We must send an

unequivocal message — the perpetrators must be held accountable and brought to justice.

On 23 January, the leader of the so-called Donetsk People's Republic announced a boycott of future consultations with the trilateral contact group, a unilateral withdrawal from the ceasefire and threatened to seize further territory, with a plan that includes pushing the front line all the way to the borders of Donetsk oblast. As the Secretary-General stated on 24 January (SG/SM/16485), this constitutes a violation of their commitments under the Minsk accords. We call directly on the rebels to immediately cease their provocative and violent actions, to abide by international law and to make good on their commitments. We also urge the leadership of the Russian Federation to use its influence to call on the rebels to cease hostilities immediately. This will be a critical step in stopping the bloodshed.

The Ukrainian leadership has been vocal about its commitment to the Minsk accords and has asserted that it remains in a defensive position. However, we note the recent emergency measures adopted by the National Security and Defence Council, particularly those in relation to "strengthening counter-terrorism measures", and appeal for the application of maximum restraint. In light of the just-declared state of emergency in Donbas, it has never been more important to guarantee humanitarian workers and goods full and unhindered access. Bureaucratic hurdles on both sides of the conflict line are impeding humanitarian access and must be eased. We also call on the Government of Ukraine to ensure that humanitarian operations are free from taxation.

We recognize the difficulty of diplomatic discussions aimed at finding a peaceful resolution to this conflict, given entrenched positions. Nonetheless, efforts to find a political solution must urgently be redoubled. President Poroshenko's announcement that an agreement has been reached on the necessity of holding negotiations in the Geneva format, with the participation of the European Union, the United States, Ukraine and Russia, is welcome.

Before I close, let me share our assessment of the way forward, with an emphasis on reviving the Minsk accords. As agreed at Minsk, all sides must immediately cease hostilities, with the onus particularly on the rebels to recommit to the ceasefire and back down from their offensive. We sincerely hope that the trilateral contact

group will reconvene in consultations with rebel leadership, as envisaged this week, to work towards a sustainable ceasefire and the implementation of the broader Minsk accords. Most importantly, all sides must commit to the protection of civilians and letting assistance reach those in need.

Finally, there must be full political recommitment to a peaceful and lasting solution to this conflict at the highest levels. I reiterate our encouragement of a convening of the Geneva format at the earliest opportunity. The United Nations also remains ready to support the consolidation of a sustainable and lasting peace process, as may be required. Over 5,000 lives have already been lost in this conflict. We must find a way to stop it, and we must do so now.

The President (*spoke in Spanish*): I thank Mr. Feltman for his briefing.

I shall now give the floor to the members of the Security Council.

Ms. Murmokaitė (Lithuania): I would like to thank you, Sir, for convening this urgent meeting on the situation in Ukraine. Let me also thank Under-Secretary-General Jeffrey Feltman for his briefing and insights into the current situation.

Lithuania condemns in the strongest terms the attacks on Mariupol and extends its sincere condolences to the families of those who have lost their lives or have been injured during these attacks.

The bloodiest conflict in Europe since the Balkan wars is taking place as we speak. Last Wednesday in this Chamber (see S/PV.7365), the Security Council members once again expressed concern at the situation and urged all parties to the conflict, including Russia, to return to the Minsk agreements and ensure their prompt and full implementation in order to prevent even more destruction and bloodshed. Alas, what we saw over the weekend was more deadly shelling, more destruction, and more human tragedy caused by the Kremlin's unbridled mercenaries, including the deadly attack on Mariupol, which this Council failed to condemn because Russia put protecting the militants above condemning the perpetrators.

After 29 open briefings and no progress on the ground, it is hard not to sound repetitive here. However, we cannot let Ukraine fall through the cracks of international attention. More than 5,000 dead, some

11,000 injured and about 1.5 million displaced — such is the cost of Russia's continued aggression against Ukraine. Almost 50,000 people have fled their homes since 14 January; at least 262 people were killed between 13 and 21 January alone. Last week again, from 75 to 115 shelling attacks on Ukrainian positions took place every day. The Donetsk airport, which the Kremlin-sponsored militants captured last week, has been pounded to rubble by months of attacks, causing destruction seen only in the worst of wars. Some 550 square kilometres of land have been captured by the illegal militants since the beginning of the ceasefire. Such are the realities of what we continue to call a ceasefire.

Just like the breaches of the 1991 Alma Ata Declaration, the 1994 Budapest Memorandum on Security Assurances, the 1997 Black Sea Fleet Agreement Between the Russian Federation and Ukraine and various other documents, including the more recent the Geneva statement and the Berlin joint declaration, the Minsk agreements are just another casualty of Russia's aggression against neighbouring Ukraine.

One does not seek peace by arming illegal fighters in a neighbouring country with advanced artillery systems, multiple rocket launchers, truckloads of arms and ammunition, and tanks. One does not seek peace by sending one's own troops and commandos to fight on the soil of one's neighbour. One does not seek peace by issuing continuous threats and intimidations vis-à-vis one's neighbour, or by annexing parts of the neighbour's territory. One does not seek peace by unleashing a continuous barrage of hate-mongering propaganda and lies aimed at dehumanizing and demonizing one's neighbour. As long as Russia persists on this course, let us be frank, peace in Ukraine has no chance.

Last Saturday, Ukraine suffered the second deadliest single incident on its soil since the downing of flight MH-17 in July 2014. Some 30 people were killed and about 90 wounded during the shelling of the city of Mariupol. The Under-Secretary-General spoke of the militants withdrawing unilaterally from the ceasefire. In the days preceding the attack, Alexander Zakharchenko, the self-proclaimed boss of the so-called Donetsk People's Republic, repeatedly stated his disdain for the ceasefire. "There is no ceasefire. We will fight. I promise," he said.

“There will be no more ceasefires or rotations ... There will be no attempts to talk about ceasefire from our side. Kyiv does not understand that we are now able to attack on three fronts at once.”

And then hours before the tragedy, he said: “Today the offensive against Mariupol begins. In a few days we will swallow the Debaltsevo kettle”. Notably, a day before the deadly attacks, Russia’s Ambassador to the Organization for Security and Cooperation in Europe (OSCE) anticipated Mariupol’s “liberation” in an interview with CNN’s Christiane Amanpour.

And yet, in spite of the obvious, Russia continues to blame Ukraine for ceasefire violations, including the Mariupol attack. Anti-Ukrainian rhetoric is not abating. Last week in this Chamber, we heard the long-debunked myths of “the junta”, “the coup”, “fascist Ukraine”, and “oppression of Russian speakers” being once again resuscitated and put into use. For a year now, aggressive anti-Ukrainian propaganda has been used to brainwash, confuse, distract and obfuscate.

The international community should not and must not give in to these obfuscations. Therefore, let me ask again: How can a bunch of illegal militants expand their offensive, continue capturing territory and threaten to carry out attacks on three fronts against the State of Ukraine? How can a bunch of illegal militants without external trade ties, income or budget amass hundreds of armored combat vehicles, artillery systems and rocket launchers — all those Tochka-U tactical missile launch systems, Grad rockets, Uragan and Buratino rocket launchers? How can they afford modern tanks, each of which costs at least \$4 million? How can they claim their own air fleet? How can hundreds of Russian soldiers be dying on Ukraine’s soil if they are not even there?

How come hundreds of Russian mothers receive the dead bodies of their sons in Cargo 200 boxes from a conflict to which Russia claims it is not a party? How come, in spite of the devastating lawlessness and countless crimes committed by the separatist militants and registered in the reports of the Office of the High Commissioner for Human Rights, Russia has not even once, not even mildly, condemned the perpetrators? All of this, as well as Russia’s persistent protectiveness of the illegal militants, speak to Russia’s direct involvement in and support for the war in Ukraine.

That involvement has been confirmed by certain militant leaders. Back in August last year, the same

Alexander Zakharchenko said that thousands of Russian citizens, including many professional soldiers, were fighting alongside the separatists. And then he suddenly withdrew his statement, just as he retracted his boasting about the attack on Mariupol on Saturday. Another notorious character, the Russian commando Igor Girkin — who is also known as Strelkov and who played a big role in stoking war in eastern Ukraine — recently boasted to the press about having started the war by crossing the border with his squad, saying that if it had not been for them, there would have been no separatism in eastern Ukraine. A few days ago, he also said the Crimea referendum was carried out at gunpoint — something many of us have been repeating since the bogus plebiscite was held.

Life in eastern Ukraine may have been far from perfect due, to long years of neglect by successive Governments, yet the local inhabitants, many of them Russian speakers, had homes to return to after work, had their daily lives and had their daily bread. Thanks to the Kremlin’s decision to “protect” Russian speakers, they now have no homes, no jobs and no income and may have lost dear ones or may be dead themselves. Russia’s war, Russia’s proxies and the abysmal lawlessness they imposed have brought destruction, displacement and death to the region.

In spite of all the ceasefire violations and military attacks, the Ukrainian leadership firmly maintains that the Minsk agreements are the only way forward towards peace. However, the Minsk agreements must be implemented by all the parties to the conflict — Russia included — in full and without arbitrary revisions or manipulation. The onus is on Russia to put an end to this senseless war by ending support to illegal armed groups, accepting international monitoring of the Ukrainian-Russian border, withdrawing its troops and weaponry from eastern Ukraine, ensuring the release by the illegal militants of all illegally detained persons, including Nadiya Savchenko — who is being held illegally on Russian territory — ending the manipulation of humanitarian assistance and reaffirming its respect for Ukraine’s sovereignty, independence, unity and territorial integrity. International observers, including the United Nations and the Organization for Security and Cooperation in Europe monitoring missions, must be provided full and unconditional access to the entire territory of Ukraine, including Crimea. Their reporting is indispensable to get the facts straight.

Mr. Churkin (Russian Federation) (*spoke in Russian*): The Russian Federation is seriously concerned about the escalation of the situation in Ukraine. Cities in south-east Ukraine have been subjected to indiscriminate shelling by heavy weaponry for countless days, resulting in hundreds of civilian casualties. We resolutely condemn such actions against the civilian population. Of course, we sympathize with all those who have suffered, regardless of which city or village the tragedy occurred.

Since the beginning of January, the armed forces of Ukraine have fired virtually non-stop on the largest city in Dombas — Donetsk. Just over the past week, at least 27 civilians have died and 71 people have been injured, and 105 residences and 3 hospitals, as well as 2 kindergartens and 3 schools, have also been destroyed. Overall, 2,367 residential buildings have been destroyed. There has also been intensive shelling against Horlivka — something that the Western media seem not to refer to. That is also something not raised here in the Chamber by either our Western colleagues or by the representatives of the Kyiv authorities. The last week was the most difficult for Horlivka since last summer: 107 people died, including 9 children. Three hundred and seventeen people have been injured. Hospitals, 15 schools and dozens of preschools have been damaged. On 21 January approximately 10 civilians died as a result of the shelling of the city of Stakhanov, Luhansk oblast, using Uragan multiple rocket launcher systems. On 21 January approximately 10 civilians died.

That is far from a comprehensive list of all the cities under the control of self-defence formations in which civilians are dying every day. Yet the news cycles over the past few days have focused on two incidents alone: the shelling of a bus in Volnovakha and that of a residential neighbourhood in Mariupol. It is quite clear why: both cities are controlled by Kyiv's forces. A similar tragedy in Donetsk in which a bus stop was shelled did not lead to mourning in Kyiv or to the convening of emergency meetings of the Security Council. It was not even worthy of a statement by the Secretary-General. Is it that in the areas and cities controlled by the Donetsk and Luhansk People's Republics we have second class citizens?

It is impossible not to look at the fact that Kyiv has used the tragedies of recent days to fan the flames of hysteria. Accusations against self-defence formations are voiced immediately after events occur — almost

as if they have been prepared in advance. Calls immediately emanate from Kyiv to Western capitals for financial and military assistance and for exerting pressure on the Russian Federation. However, as soon as the propaganda value ends, interest falls away very quickly in using the situation further and continuing investigation — all the more so given that, once some time has passed, one finds that the facts sometimes fall quite short of what was said initially. That is why we call for objective investigation of the January tragedies in Volnovakha, Donetsk and Mariupol, as well as earlier tragedies, including in the Maidan, Odesa and Mariupol.

On Saturday, the members of the Security Council were not able to agree on a statement to the press with regard to the tragedy in Mariupol. The need to issue a statement was as evident to us as it was in the cases of Volnovakha and Donetsk, and we were ready to back a similar text. Why has it not been possible this time? The answer is simple: the delegations of the United States, the United Kingdom and Lithuania insisted on including in the text condemnation of one statement by the leader of the self-proclaimed Donetsk People's Republic, taken out of context of recent events and the entire crisis in Ukraine. That is something that has been pushed here at this meeting as well. But what is the full picture of what has taken place?

First, the leaders of the self-defence formations made different statements the day before yesterday. One cannot cite them selectively or take them out of context. Secondly, we have never heard anything from our Western colleagues in condemnation of the leaders of Ukraine, who have no shame when it comes to their statements and actions. There are threats that Dombas is going to be punched in the mouth, that it will be taken back by force and that it will be Ukrainized — and that the population has to prepare for “a major continental war”, to which there is allegedly no alternative. Almost a week ago, no one other than Ukrainian President Poroshenko publicly declared the resumption of military activities. That took place just a few days after the meeting in Berlin of the Ministers for Foreign Affairs of Germany, Russia, Ukraine and France, at which they backed the idea of a speedy beginning to the withdrawal of heavy weapons from the line of contact as set out in the Minsk memorandum of 19 September 2014.

We should also remind our colleagues that Russian Security Council draft documents on very important

issues — putting an end to the blood-letting, the humanitarian situation in Dombas — were repeatedly unsuccessful. Take, for instance, a press statement in support of the Minsk agreements blocked by Lithuania and the United States of America, which was immediately submitted after they were made public, on 22 September. Following the shelling of a public transport stop in Donetsk, which was clearly carried out by Ukrainian forces, for a day we had to swat away unconstructive amendments by a number of delegations. It was by exerting pressure that we were able to agree to a text at the end of the day. In the case of Volnovakha, we agreed with the text that was proposed by the sponsors within one minute.

What is unfortunate is that throughout this entire conflict our Western colleagues have spent all their time accusing the self-defence formations of inhuman crimes, while they fully justify the actions of the Kyiv authorities. We have seen no constructive attempts to discuss the real reasons for the Ukrainian internal conflict and try to find a way out of the current situation. The escalation of the situation in Dombas was the result of the Kyiv authorities consistently rejecting direct dialogue with Donetsk and Luhansk on the issue of the practical implementation of the Minsk agreements. During all of last September, we noticed the steps taken by the Kyiv forces to strengthen their military positions in the south-east. They deployed forces, equipment and heavy weaponry along the line of contact, as well as calling for new mobilizations and putting in new factory orders for defence equipment.

Measures for the economic reconstruction of Dombas were replaced by attempts to suppress the regions beyond their control. First they stopped paying pensions and social benefits, and then imposed a blockade on humanitarian assistance. All the while, Kyiv was preparing for war — something they did not hide in any way. History knows no “if”. But everything could have been quite different if the Minsk ceasefire memorandum had been implemented in a timely manner, including the handing over of heavy weaponry and handing over the Donetsk airport to the self-defence formations. We would have avoided a new cycle of confrontation had the Ukrainian authorities accepted the 15 January proposal of Russian President Vladimir Putin on the immediate withdrawal of heavy weaponry. It is quite clear that peace in Dombas is something that is undesirable to the “war party” in Kyiv.

The Kyiv authorities have been sabotaging the holding of a regular meeting of the contact group in Minsk, unjustifiably conditioning it on high-level representation by the self-defence formations. The main thing now is to hold this meeting and not to quibble over the level of the participants. We are trying, as far as possible, to identify contacts for the meeting over the next few days. We will continue to prompt the parties towards direct dialogue, as we have done during the whole course of the internal Ukrainian crisis.

In that respect, we urge the representatives of States that possess some form of influence with Ukraine’s leadership, especially Washington, D.C., to stop egging on the Ukrainian hawks, covering and justifying their inhumane actions, and pushing them towards a military solution to the conflict. That will only lead to an even greater catastrophe and create another hotbed of tension in Europe.

All responsible members of the international community must strive to attain from Kyiv not words but actions in the interest of launching a full-fledged political settlement process. Until the Kyiv party of war understands that force alone cannot resolve the conflict, and that multiple-launch rocket systems, tactical ballistic missiles, phosphorous and cluster munitions, and renewed mobilizations will not help it, such incidents will occur over and over again. The Kyiv authorities must be forced to sit down at negotiation table with the self-defence formations.

It is important that everyone understand that real results can be achieved only through direct dialogue between Kyiv and Donetsk and Luhansk, which the Ukrainian authorities have shirked thus far, having chosen a course of suppressing south-eastern Ukraine by military means. Without inclusive, direct political dialogue, which should allow us to properly negotiate the parameters for constitutional reform as required by the Geneva communiqué and the Minsk agreements, the national reconciliation of Ukraine and a sustainable settlement in the south-east will not occur.

Sir Mark Lyall Grant (United Kingdom): I would like to thank Mr. Feltman for his briefing this afternoon.

This weekend, we saw the biggest single loss of civilian life in the Ukrainian crisis since the commitments made at Minsk on 5 September last year. Thirty civilians were killed and over 100 wounded following what the Organization for Security and Cooperation in Europe (OSCE) termed “an extremely

heavy barrage” of rockets fired indiscriminately into the crowded streets of Mariupol.

Only three days earlier, the Council had met to raise our serious concerns at the escalation in fighting along the agreed ceasefire line (see S/PV.7365). All of us called for de-escalation and a resumption of dialogue. That attack, many kilometres over the agreed ceasefire line, has taken the scope and threat of the conflict to a substantially new level. The attack was just not another refusal of the separatist leadership to abide by the commitments made at Minsk; it was a provocative and reckless escalation that, as the Secretary-General has made clear, could constitute a violation of international humanitarian law. Those responsible for the attack must be held accountable for their actions. It is deeply regrettable that the Council failed to agree on a press statement that would have condemned the announcement of a separatist offensive against Mariupol and the subsequent attack on Mariupol.

No one in the Council can deny the fact that the attack on Mariupol, like last week’s on a bus near Volnovakha, came from the Russian-backed separatists. The OSCE Special Monitoring Mission analysis of both attacks indicates clearly that in both incidents the rockets were fired from separatist-held territory. The attack would not have been possible without the military support of Russia and its supply of multiple-launch Grad and Uragan rocket systems to the separatists. In the past few weeks, Russia has transferred to the separatists hundreds of additional heavy weapons, not just rocket systems but also heavy artillery, tanks and armoured vehicles. Hundreds of Russian regular forces and special forces continue to operate on Ukrainian territory, in clear violation of Ukraine’s sovereignty and territorial integrity. These soldiers are backed by Russian command-and-control elements, air defence systems, drones and electronic warfare systems.

There is no doubt that the flow of heavy weapons across those borders, in violation of the territorial integrity and sovereignty of Ukraine, has given the separatists the fire power and the confidence to escalate the conflict. Since the Minsk agreement in September, which included an immediate ceasefire, the separatists have taken control of an additional 550 square kilometres of territory. Despite the commitments made at Minsk to securing continuous monitoring of the border with verification from the OSCE, hundreds of kilometres of border remain free for the flow of these deadly weapons, often under the guise of humanitarian

convoys. Russia’s persistent blocking of the proposed expansion of the OSCE border monitoring reveals its true intentions.

Russia arms the separatists, it finances them, it advises them, and it fights covertly alongside them. What it has not managed to do is to get its separatist proxies to stick to Russia’s deceitful narrative. The self-proclaimed leader of the Donetsk People’s Republic, Alexander Zakharchenko, proudly announced on 24 January that “Today an offensive was launched on Mariupol. This will be the best possible monument to all of our dead”. That statement, and others like it, cannot be glibly ignored, as the Russian representative encourages us to do. It is the reality. While Russia professes adherence to the Minsk agreement and the Normandy format meetings, and while it accuses the Ukrainian Government of provocations, the separatist forces that it supports are bent on undermining those agreements, attacking civilians and creating new realities on the ground. That approach, as we have seen in Mariupol this weekend, will only lead us closer to the precipice. It will lead to more deaths, more destruction and more people displaced from their homes.

On each occasion that the Council has met to discuss Ukraine, the vast majority of its members have underlined their commitment to Ukraine’s sovereignty, unity and territorial integrity. We assert quite rightly that these are fundamental principles of the Charter of the United Nations. They provide the foundation for an international system that is based on rules and respect and the preservation of international peace and security. We all defend these principles because we do not want a world where borders are redrawn by force, where States are threatened and destabilized by their neighbours, and where innocent civilian populations live in fear of battle orders issued in far-off capitals.

The Security Council has to make very clear where it stands against the profoundly dangerous path that Russia is pursuing in east Ukraine. That is why I urge all Council members to be clear in their messaging today. Russia must withdraw its equipment and troops. It must cease its support for the separatists, and it must effectively control its borders. It must use its influence over the separatists to stabilize the situation and prevent further dangerous escalation. It must play its full part in ensuring the immediate implementation of the Minsk protocol. Once again today, the representative of the Russian Federation has claimed that his country wants a peaceful resolution to the conflict, but such words

are worthless in themselves. We need to see Russian actions to put a stop to this widening and increasingly deadly conflict.

Ms. Power (United States of America): I thank you, Mr. President, for convening today's urgent meeting. We are grateful for Under-Secretary-General Feltman's thorough briefing on such short notice.

Just five days ago (see S/PV.7365), we met in the Council and denounced the devastating consequences of attacks by Russian-backed separatists on civilians in eastern Ukraine, and we appealed to Russia to stop supporting, training and fighting alongside separatist forces. Members of the Council pressed Russia and the separatists not only to recommit themselves to the agreements they had made at Minsk, but actually to honour those commitments in their actions. Unfortunately, we are back in the Chamber today because Russia and the separatists have once again flouted those commitments. The targets are fresh ones, but Russia's end goal remains the same — to seize more territory and move the line of Russian-controlled territory deeper and deeper into Ukraine.

This time, however, statements by the separatists are complicating Russia's strategy. On Friday 23 January, the de facto leader of the Russian-backed separatists in Donetsk, Alexander Zakharchenko, said "today the offensive on Mariupol begins". He also said "there will be no more ceasefires". He said the separatists would not stop their attacks until they had "reached the borders of the former Donetsk region", bragging that separatist forces were now "able to attack in three directions simultaneously".

The representative of the Russian Federation today said that these are statements we have taken out of context. What context possibly justifies a massive offensive against a civilian-populated town? I would note also that attacking in three directions, as the separatist leader said his forces had the capability to do, takes a lot of weapons and forces. This capability reflects the difference made by the substantial months-long influx of Russian personnel and heavy weapons. We know that Zakharchenko said these things because he was filmed when he said them and quoted by the official Russian news agency, Tass. On Saturday, Zakharchenko told people at a rally in Donetsk "today the attack on Mariupol began". He added that "in a few days we will encircle Debaltsevo", a city that is 12 kilometres outside the ceasefire line established at Minsk.

If only the separatists' words had been empty bravado. Unfortunately, on Saturday the world witnessed the horrors that resulted from the separatist attack on Mariupol, a city 25 kilometres outside of the Minsk line. On Saturday alone, more than 100 people were injured in rocket attacks on the city. Approximately 30 people were killed, including women, elderly and children, one of whom was a four-year old boy. Some 40 rounds of rockets struck the city, hitting a market, homes and a school, among other civilian structures. The impartial Organization for Security and Co-operation in Europe Special Monitoring Mission to Ukraine examined blast craters and concluded that they had been caused by Grad rockets fired from multi-rocket launcher systems in separatist-controlled areas.

Why do these locations matter to the Russians and the separatists? Mariupol is a port city that would provide Russia with another means of supplying separatists. And controlling the city would be another step toward creating a land-bridge to illegally occupied Crimea. Debaltsevo is a strategic rail and road hub and serves as a key link between the Donetsk and Luhansk regions. It is no accident that these strategic cities are in Russia's sights. When on Saturday members of the Council tried to issue a joint statement denouncing the civilian casualties and expressing concern about the separatist statements, Russia blocked it, as we have heard — no wonder, given that less than a day earlier Russia had been perfectly content to disseminate Zakharchenko's statements in its State-run media. It would be strange to be concerned about statements one had encouraged and publicized, but when your State news agency circulates announcements relishing a new offensive and your diplomats refuse to express concern about them, you own not only the statements but also the offensives.

Now sometimes, perhaps given the fog of this bloody war, the separatists are too explicit about their objectives. Indeed, after initially blasting around the separatists' Mariupol ambitions in the news service, Russia began to see the same ghastly images and reports of the carnage that the rest of us saw. At that point, perhaps knowing the source of the weaponry used, Russia tried to deny any tie between the separatists and the attacks. The Russian news service Tass even tried to erase from official news stories all quotes from Zakharchenko speaking about the separatists' attacks.

It is not hard to understand why Russia does not want the world to hear separatist statements. Last Wednesday,

the representative of the Russian Federation told the Council that “the Russian Federation is ensuring full compliance with the Minsk accords” (S/PV.7365, p. 7). On Saturday, however, Zakharchenko openly admitted that his forces were violating those same accords. He appeared not to have gotten the Russian memo, which clearly calls for violating the accords while pretending you are not. Despite Zakharchenko’s statements, Russia continues to try to play the international community for the fool and blame the violence on the Ukrainians. As recently as yesterday, Foreign Minister Lavrov said “the worsening situation in Ukraine was the result of constant attacks conducted by the Ukrainian Government troops, which breached the Minsk agreements”. We heard the same here today from the representative of the Russian Federation.

Zakharchenko’s statements are a problem for Russia because they are too straightforward. As members of the Council know — and as, increasingly, all the world can see — the separatists he claims to lead are trained and equipped by Russia and fight with Russian forces by their side. So when Zakharchenko brags about seizing territory beyond the Minsk ceasefire line; when he announces at rallies that separatists will strike Ukrainian forces without provocation; and when he says that he is not interested in negotiating, he is not only speaking about the separatists’ intentions but also about Russia’s intentions. This offensive is made in Moscow. It is waged by Russian-trained and Russian-funded separatists who use Russian missiles and Russian tanks, who are backed up by Russian troops, and whose operations receive direct Russian assistance.

Since December, Russia has transferred hundreds of pieces of military equipment to pro-Russian separatists in eastern Ukraine, including tanks, armored vehicles, rocket systems, heavy artillery and other military equipment. And in recent weeks, Russia has resupplied the separatists with hundreds of pieces of advanced weaponry, including additional rocket systems, heavy artillery, tanks and armoured vehicles. In mid to late January, notwithstanding the shutdown of flight MH-17, Russia even deployed into eastern Ukraine advanced surface-to-air missile and anti-aircraft systems, marking the highest level of Russian air-defence presence in Eastern Ukraine since September 2014. There is a direct correlation between the movement of heavy weapons and the surge in that movement across the border, and attempts by separatists to take more ground.

The horror wrought by this arsenal has been deadly. According to the United Nations High Commissioner for Human Rights, the period from 13 to 21 January was the deadliest on record since the 5 September agreement was signed in Minsk. During this time, an average of 29 people were killed each day. More than 5,000 people have been killed and almost 11,000 maimed since the conflict began in April 2014. And today, this very day, the attacks continue on the civilian-populated areas over the Minsk ceasefire lines, not only in Mariupol and Debaltsevo, but also in Pisky and Stanichno-Luhansk. To the Russians, Mariupol and Debaltsevo may just be strategic chess pieces in their effort to move the line of territory that they control, but these cities are also home to hundreds of thousands of Ukrainian civilians. Nearly 500,000 people live in Mariupol, the second biggest city in the Donetsk region, and more than 25,000 live in Debaltsevo. Mariupol is home to 92 preschools attended by 13,000 children.

We continue to believe that the only solution to this situation is a political solution, not a military solution. To that end, we continue to support the efforts of the trilateral contact group, as well as the Normandy group of foreign ministers. We welcome the Normandy group’s agreement in Berlin, which recognizes the need for the full, immediate implementation of the Minsk agreement.

If Russia is serious about peace, why does it not condemn the statements by separatists that they will attack Ukrainians first and accept no more ceasefires, instead of trying to erase those statements from its State-run news services? If Russia is serious about peace, why does it not pull its tanks and Grad missiles out of eastern Ukraine instead of sending in more? If Russia is serious about peace, why does it not withdraw its forces at least to the lines agreed upon at Minsk, rather than send in a huge infusion of Russian heavy weapons so as to carve out new lines? Only if Russia takes these steps will there be a chance for the political solution that is so desperately needed.

Mr. Delattre (France) (*spoke in French*): I thank Mr. Feltman for his briefing. We would have all wished to see 2015 begin under better auspices for Ukraine and its stability. The year has barely started, and twice in less than a week the situation on the ground has forced us to meet here.

The spiral of chaos, which started two weeks ago after several months of relative calm, could not be halted

these past few days — quite the contrary. The deaths of 13 civilians in Volnovakha on 13 January, as well as the shelling of a trolleybus in Donetsk last week, which claimed at least eight civilian victims, were already a source of concern, even as the previous day the Russian, Ukrainian, French and German Foreign Ministers had been able to reach an agreement on the withdrawal of heavy weaponry.

On Saturday and Sunday in Mariupol, separatist groups attacked residential neighbourhoods with rockets, killing nearly 30 civilians and instilling terror among the population. All reports from the ground, in particular those of the Organization for Security and Cooperation in Europe observers, confirm this. More than a further violation of the ceasefire, this is also a serious violation of the international humanitarian law that protects civilians. These acts are unacceptable as they indiscriminately target civilians. The offensive against Mariupol, which was provocatively welcomed by Alexander Zakharchenko last Saturday, violated the commitments undertaken by the parties last September in Minsk and is entirely unacceptable.

Let us not mince words. By supporting the Ukrainian separatists and their actions, Russia bears a significant share of responsibility for the violence. We must now turn to dialogue and seriously discuss the future of Ukraine and how to restore peace. We also call on Russia to stop supporting the separatists, who are hell-bent on destabilizing the situation. We call for a long-overdue end to the transfer of weapons and manpower across the Russian-Ukrainian border, which is fuelling the war and violates the territorial integrity of Ukraine and the most fundamental principles of the Charter of the United Nations, and which undermines diplomatic efforts seeking to settle the conflict in accordance with international law and the fundamental rights and freedoms of all Ukrainians, including its minorities. We urge Russia to use all its influence on the separatists in the east of the country so that they fully respect the ceasefire.

The statements made by Mr. Lavrov today, announcing the facilitation of contacts between the warring parties, are a positive sign but they are not enough. We also call on Ukraine to begin the institutional reform as per its commitments. President Poroshenko has spoken publicly of the prospects for national dialogue and institutional reform. That statement was a further step towards the comprehensive implementation of the Minsk accords, which are the

only way to achieve a negotiated solution to this crisis. The international community will judge the good faith of the parties not on mere statements but on concrete and verifiable actions that prove their genuine commitment to de-escalation.

We must also call on all parties to refrain from attacking the civilian population, to respect international humanitarian law and to ensure humanitarian access to the wounded and to civilians in need of assistance. We must underscore that there can be no military solution to this conflict. Only by all parties fully implementing the Minsk accords and resuming serious diplomatic discussions, in the context of the trilateral contact group, can there be a positive outcome to this crisis. Every efforts must be made to that end.

In this difficult context, we cannot afford to let down our guard. France remains and will remain fully mobilized to achieving a peaceful settlement. Our goals are clear and consistent: respect for the ceasefire, the withdrawal of heavy weaponry on each side of the contact line, a resumption of prisoner exchanges, the resolution of humanitarian issues and the implementation by the parties of all measures under the Minsk accords.

France will pursue its efforts, in close contact with our German partners and the Russian and Ukrainian authorities, under the so-called Normandy format. We have no time to waste. This is not the time for prevarication or hypocrisy. Today we must urgently end this conflict, which has already claimed more than 5,000 lives and exacted too high a price from Ukraine, from Russia, from the European Union and from the international system as a whole.

Mr. Oyarzun Marchesi (Spain) (*spoke in Spanish*): I thank you, Sir, for having convened this meeting. I also thank Under-Secretary-General Feltman for his briefing.

Ukraine has a democratic Constitution and is implementing a process of reform. Ukraine made a decisive contribution to nuclear non-proliferation when it decided in 1994 to renounce nuclear weapons. Ukraine is a crucial player in the international order. We unreservedly support its territorial integrity. Given these facts, there should be no violence in Ukraine. However, today we are meeting once again due to an extremely serious deterioration in the situation.

Spain would have liked the Council to adopt a statement. Unfortunately, this was not the case. I

therefore vigorously and unreservedly condemn the bombing of urban areas in the city of Mariupol, which claimed tens of civilian victims and injured more than 100. I express the condolences of my country and my delegation to the families of the victims and to the people and Government of Ukraine. They can count on Spain's solidarity.

According to the information provided yesterday by the Mission of the Organization for Security and Cooperation in Europe (OSCE), as related by Mr. Feltman, the rockets were launched from locations under the control of rebel groups of the self-proclaimed Donetsk People's Republic. The command responsibility for these attacks must be investigated and the perpetrators held responsible and brought to justice. Like other delegations, we deplore the statement made by Alexander Zakharchenko shortly before the attack on Mariupol. The statements constitute a clear violation of the ceasefire and of the Minsk accords. The attacks against civilians are a flagrant violation of international law. International law puts obligations not only on the parties but also on those within whose capacity it is to act to prevent any further violation of international law.

Furthermore, the High Commissioner for Human Rights warned on Friday of the continued presence of foreign fighters in eastern Ukraine. According to reports, in keeping with that of the High Commissioner, they are troops of the Russian Federation. The same source confirmed the presence of sophisticated heavy weaponry in populated areas, under the control of armed rebel groups, and reported repeated violations of the human rights of the civilians trapped there and a lack of the rule of law in those areas.

The Security Council cannot remain silent. It must make itself heard clearly given this situation. We call once again for the full implementation of the Minsk memorandum and protocol, and for the immediate restoration of the ceasefire. We appeal to all those in a position to influence those responsible for their horrendous acts, in particular to Russia, to, in accordance with its status as a signatory to the Minsk accords and to the joint Berlin declaration of 21 January, as well as a member of the OSCE trilateral contact group, and in exercise of its responsibility of the Security Council, contribute to de-escalate the tensions and compel the rebel groups to renounce violence and accept the peaceful and lawful path to pursue their claims.

The violence and horrific acts of this weekend sought to derail dialogue and undermine the negotiated settlement of the crisis provided for in the Minsk accords. We must not allow this to happen.

Mr. Hmoud (Jordan) (*spoke in Arabic*): I would like to sincerely thank the Under-Secretary-General for Political Affairs, Mr. Jeffrey Feltman, for his informative briefing.

Jordan regrets certain parties' disregard of the several calls made for a ceasefire either by the Security Council or the international community as a whole. We also regret the continued escalation of the crisis and the violation of the Minsk peace agreement. Jordan expresses its deep concern at this serious escalation of violence and fighting, which could have grave consequences and lead to the further deterioration of the situation in eastern Ukraine and the region.

Jordan strongly condemns the targeting and intimidation of civilians as well as the shelling of residential areas, regardless of the source, and calls for the conduct of a thorough and transparent investigation into the incident involving the shelling of a bus stop in Donetsk and the appalling incident that took place in Mariupol two years ago, which is considered to be the bloodiest incident since last July's peace agreement. We also call for the bringing to justice of all of the perpetrators of these criminals acts.

This serious setback in the situation in eastern Ukraine and the spread of the fighting to other cities makes it incumbent on all parties to hold an emergency meeting to continue the negotiations based on previous agreements and with a view to speedily reaching a comprehensive ceasefire. A political and peaceful solution will not be possible in the context of resort to military means or unilateral measures that undermine regional and international efforts and bring the negotiations back to square one. Rather, the solution lies in the effective measures that lead to peace and calm.

Jordan calls on all States with influence on the separatists to urge them to refrain from the use of force and to cease all violations, which can lead only to further instability in Ukraine.

We call once again on all parties involved in this conflict to shoulder their responsibilities, to immediately implement a ceasefire and to stop all escalatory measures, including provocative and irresponsible speech by any party. We in the Council

and at the international level as a whole should redouble our efforts and do our utmost to prevent the collapse of all the progress that has been achieved over the past year, so as to achieve a comprehensive agreement that takes into account all of the interests of the different parties.

We would conclude by stressing the importance of preserving the country's unity, territorial integrity and sovereignty, of non-interference in its internal affairs, of the proper control of its borders and of the cessation of flows of separatists and foreign fighters and weapons into Ukrainian territory. We also stress the importance of the full implementation, in letter and in spirit, of the Minsk peace agreement and of the memorandum issued later, as well as of the joint statement by the Ministers for Foreign Affairs of France, Germany, Russia and Ukraine on the establishment of a communication line.

Mr. Liu Jieyi (China) (*spoke in Chinese*): I thank Under-Secretary-General Feltman for his briefing.

In recent days, we have witnessed a drastic deterioration in the situation in eastern Ukraine, with frequent clashes and attacks that have caused heavy casualties among civilians, including women and children. China condemns all violent attacks aimed at civilians and expresses its condolences to the victims and its sympathy to their families.

We support the conduct of an objective investigation of the relevant attacks to determine the truth and bring the perpetrators to justice. Last week, the Security Council held a public meeting on the question of Ukraine (see S/PV.7365). The relevant Member States called on the parties to the conflict to take effective measures to as to avoid any escalation of the conflict or confrontation. However, much to our distress, the situation in eastern Ukraine has not improved but, on the contrary, escalated, resulting in a considerable loss of civilian life and property. China is deeply concerned at the recent developments in the situation.

The deterioration of the situation in eastern Ukraine is not in the interest of any party. What is most urgent now is for all parties to be calm and exercise restraint so as to avoid any further escalation of the conflict or confrontation, to bring about a ceasefire and stop the violence in eastern Ukraine and to implement comprehensively the Minsk agreement reached in September. All of the parties concerned must make effective efforts to achieve the aforementioned objectives.

Current developments in the situation clearly demonstrate that in dealing with the situation in Ukraine, it is necessary to abide by the overall objective of seeking a political settlement; to fully consider the complex historical factors and the reality of the issue relating to Ukraine; to take into full account the legitimate rights, interests and demands of all regions and ethnic communities in Ukraine; and to attach great importance to addressing the legitimate concerns of all parties and ensure that the interests of all sides are accommodated in a balanced manner, so as to arrive at a fundamental and enduring solution to the question of Ukraine.

The international community must make greater diplomatic efforts to promote the quest for a political settlement of the issue. Discussions held by the Security Council must play a constructive role in helping to ease the situation in Ukraine. China has consistently held that the sovereignty and territorial integrity of all countries should be respected. China has adopted an objective and fair position concerning the question of Ukraine. We support the relevant parties of the international community in their efforts to seek a political settlement of the question of Ukraine.

China calls on all parties to make greater efforts and to bring into full play the role of the Normandy and Minsk mediation mechanisms. We hope that through an inclusive political dialogue, and on the basis of accommodating the legitimate interests and concerns of all parties, it will be possible soon to reach a comprehensive balanced and lasting political settlement to achieve peace, security stability and development in Ukraine and the region as a whole. China will continue to play an active and constructive role in the quest for a political settlement of the question of Ukraine.

Mr. Gombo (Chad) (*spoke in French*): I, too, should like to thank Under-Secretary-General for Political Affairs Jeffrey Feltman for his briefing.

Chad is deeply concerned at the deterioration of the security situation in Ukraine, especially in the region of Donetsk and Luhansk. Despite the untiring calls made by the international community for restraint and calm, a violent attack on the port of Mariupol in the Donetsk region took place on Saturday, 24 January, resulting in at least 30 civilians killed and more than 100 injured. On 13 January, we saw the shelling of a bus near Volnovakha that claimed the lives of 12 civilians, the majority of whom were women.

The situation is a serious one. Given the lack of political will when it comes to putting an end to the violence, and the significant increase in the number of civilian victims, Chad is fearful of a resumption of the fighting, whose primary victims will, as always, be civilians.

Developments in terms of the violence in Ukraine very often lead to violations of international humanitarian law, and the international community cannot remain impassively on the sidelines. Those who are responsible must be brought to justice.

With more than 5,000 deaths, 10,300 injured and more than 1 million displaced persons, the Ukrainian tragedy has gone on long enough. In that regard, Chad calls on all the parties to remain calm and show restraint and urges the Government and separatists to engage in a direct and inclusive national dialogue with a view to national reconciliation. Moreover, Chad believes that the solution to the Ukrainian crisis is political, and that it will largely depend upon the willingness of the parties concerned to commit to a true negotiations process to achieve lasting peace. Chad encourages the Organization for Security and Cooperation in Europe to pursue its investigations with a view to assigning responsibility for the Ukrainian crisis, which has lasted far too long and caused many victims.

In line with the Normandy format and Milan meetings and the mediation provided by the trilateral contact group, Chad urges on the countries involved and the Secretary-General, through his good offices, to relaunch the peace process in Ukraine.

To conclude, we urge friendly countries with influence on the parties to bring the necessary pressure to bear with a view to achieving a lasting solution to the crisis on the basis of the Minsk agreements and declaration, with full respect for the territorial integrity and sovereignty of Ukraine.

Mr. Laro (Nigeria): I also thank Under-Secretary-General Feltman for his briefing.

Since the Council's meeting last week on the situation in Ukraine (see S/PV.7365), the conflict in the country has intensified, and civilians continue to suffer the consequences. The rocket attacks on Mariupol, which left 30 people dead and more than 100 injured, including women and children, serve to illustrate this point. Nigeria condemns in the strongest terms indiscriminate attacks on residential areas. They serve

no military purpose, they violate international law and they are unacceptable.

We call on both sides to immediately de-escalate the fighting and respect the terms of the ceasefire agreement reached at the Minsk peace talks. We stress that there can be no military solution to the conflict in Ukraine. The parties should seek a political solution through dialogue. It is important that the concerns of the separatists be addressed within the framework of a negotiated political settlement. That should be done without compromising the sovereignty, independence and territorial integrity of Ukraine.

Mr. Ramírez Carreño (Bolivarian Republic of Venezuela) (*spoke in Spanish*): The delegation of the Bolivarian Republic of Venezuela thanks you, Mr. President, for convening this Security Council briefing on Ukraine. We also welcome Mr. Jeffrey Feltman, Under-Secretary-General for Political Affairs, and we appreciate the information he has provided to us on the political situation in Ukraine.

Our country expresses its grave concern about the recent escalation of armed conflict in eastern Ukraine, which has caused loss of civilian lives and untold numbers of injuries. Venezuela reiterates its call on the parties to promote a peaceful, negotiated, political solution to the crisis. We stress that any violent incident on the ground should be investigated independently, and that the investigation's conclusions should be based on irrefutable evidence. Venezuela rejects any act of violence or terrorism, in particular attacks against civilians, from wherever they originate.

The intensification of the armed conflict in eastern Ukraine makes it imperative that the parties put an end to their hostilities in the area. The ceasefire is therefore a crucial step.

It is necessary to continue on the path of seeking a political and diplomatic solution to the Ukrainian crisis, in which the conflicting parties commit to working on achieving a firm and lasting peace.

The mediation efforts by regional organizations is, in our view, particularly important in the process of finding a negotiated settlement to the conflict. In that regard, we reiterate our support for the efforts of the Organization for Security and Cooperation in Europe, Germany and France to promote dialogue among Ukraine, Russia and the representatives of the Donbas region.

We also welcome the joint communiqué issued on 21 January in Berlin by the Ministers for Foreign Affairs of France, Germany, Russia and Ukraine, and we encourage the parties to work together for its implementation.

The Minsk agreements are the basis on which lasting peace can be achieved in the region. We reiterate that any intervention by outside elements that violate the Minsk agreements and regional efforts to reach an agreement between the parties should be avoided.

Venezuela stresses that the parties must act with a sense of restraint in order to prevent the dialogue from being undermined by unilateral actions that jeopardize the peace process. The cycle of violence must be broken. Building the foundation for peace involves putting an end to hate speech, ethnic persecution and war propaganda. The historic and root causes of the conflict must be addressed and a political agreement between the parties must be sought.

The escalation in hostilities requires strict compliance by the belligerent parties with obligations concerning the protection of civilians in the areas affected by violence, including the need to ensure humanitarian access to internally displaced persons, refugees and others residents in areas affected by the conflict.

Finally, we again call on all parties to redouble their efforts in the search for a just and lasting political solution, which is in their own interests and those of the entire region.

Mr. McLay (New Zealand): We thank you, Mr. President, for convening this debate, and all the more so because of the failure of the Security Council over the weekend to agree to a simple and clear press statement that would have condemned the events in Mariupol. I also thank the Under-Secretary-General for his briefing, which has been very helpful to the Council.

New Zealand condemns the killing of approximately 30 people and the injuring of more than 90 civilians on 24 January in Mariupol. The reports of indiscriminate shelling of civilian populations and residential areas are deeply concerning, as indeed are the other incidents that were outlined by Under-Secretary-General Feltman. We voiced our concerns last week that the violence was escalating at an alarming rate. The Mariupol incident confirms that the situation in eastern Ukraine is now on a disastrous downward spiral. We do not take this incident in isolation. Its occurrence, magnitude and

the claims made about it by the separatist leadership speak for themselves. It was a major assault on a civilian population with the sole purpose of taking and controlling the area as a result.

The most recent civilian casualties from the conflict in eastern Ukraine are completely unacceptable. We call on all sides to respect international humanitarian law and to refrain from any indiscriminate attacks. In that regard, we note that rockets have been launched indiscriminately into civilian areas — a violation of international humanitarian law. There can be no impunity for such reckless acts. Those responsible must be held accountable for their actions.

Russia's provision of troops and materiel to the separatists is irresponsible. The threat of "a major Ukrainian war" is both chilling and wholly inappropriate, and it may now be close to a reality.

Against the mounting body of evidence, Russia is unapologetic for the role it is playing in supporting the separatists. Russia speaks about the facts. What we know for a fact is that Russia is playing a role in this conflict.

We support the promotion of a fully inclusive political dialogue. We call on Russia, instead of blaming others, to use the diplomatic and other tools it has available to ensure that the separatists respect a ceasefire. That ceasefire, as already agreed on in the Minsk accords, must be implemented immediately. The Council must also live up to its responsibilities under the Charter of the United Nations. We must put politics aside, difficult although that may be, and use our collective influence to stop the killing of civilians in eastern Ukraine. That must be the priority. Although this is perhaps not for today's meeting, in future we would like to see the Council seriously consider how it can put pressure on all the belligerents to implement the ceasefire. Words may no longer be enough; more action may still be required.

Mr. Haniff (Malaysia): I would like to thank you, Mr. President, for convening this meeting. We are grateful to Under-Secretary-General Feltman for briefing us at such short notice.

Malaysia is alarmed at the escalating violence in eastern Ukraine since the last Security Council meeting on the subject (see S/PV.7365), less than a week ago. Since then we have seen a repeat of indiscriminate attacks on civilians. On 22 January a public transport stop in the city of Donetsk was shelled, with as many

as 15 people killed and more than 20 civilians injured. Two days later, at least 30 people, including two children, were killed in the city of Mariupol, and more than 100 civilians injured. Malaysia condemns such indiscriminate attacks in the strongest terms. It is most unfortunate that the latest violence in Mariupol did not even merit the Security Council's condemnation, owing to a lack of consensus among Council members on the draft press statement. Malaysia calls for an independent investigation into the incidents. The perpetrators of such heinous crimes against civilians must be held accountable. We would like to remind the parties to the conflict that they should adhere to international human-rights and humanitarian law. Attacks on humanitarian convoys must also cease immediately.

The recent events have seriously undermined the ceasefire agreement reached in September of last year between the conflicting parties. Malaysia strongly urges the relevant parties to comply with their commitments as outlined in the Minsk protocol of 5 September and the memorandum of 9 September. The latest developments in eastern Ukraine prove that a diplomatic and political solution is more urgent than ever. In that regard, Malaysia welcomes all efforts that could facilitate a de-escalation of the crisis and contribute to ending the conflict, including the possibility of resuming Geneva-format negotiations. As Malaysia stated last week (see S/PV.7365), a military solution would be in no one's interests in the long run and would not be suitable.

Seventy years after the establishment of the United Nations, we still see blatant disregard today for the core principles of the Charter of the United Nations, particularly respect for countries' sovereignty and territorial integrity. Malaysia urges the relevant parties to reflect on the consequences of such actions for their long-term interests and international standing. We reiterate our call to the relevant parties to explore all possible avenues for finding a peaceful solution. We are committed to playing a constructive role in the Council in order to de-escalate the crisis and see talks resume so as to restore Ukraine's stability and territorial integrity.

Mr. Lucas (Angola): I am grateful to you for convening this meeting, Mr. President, and would like to thank Under-Secretary-General Feltman for his briefing on the outbreak of hostilities in eastern Ukraine.

In our meeting on Wednesday, 21 January (see S/PV. 7365), the Angolan delegation expressed its

position on the issue in the wake of the attack on a bus in the Donetsk region that resulted in a number of civilian casualties. We would like to take this opportunity to reiterate our position, while condemning the recent attack on Mariupol and the loss of life and extensive destruction of property. I will be brief.

We regret the loss of lives in the recent outbreak of hostilities in eastern Ukraine and emphasize the urgent need to protect civilians. We condemn the violations of the ceasefire and urge all the parties to observe it. We believe that the Minsk accords constitute a framework for a peaceful solution to the conflict, and we urge all parties to abide by them. We stress the importance of respect for the sovereignty and territorial integrity of Ukraine. Finally, we believe it is crucial that humanitarian assistance be provided to the victims of the conflict and that efforts stepped up to help the thousands in need.

The President (spoke in Spanish): I shall now make a statement in my capacity as representative of Chile.

We would like to thank Mr. Jeffrey Feltman for his briefing on the recent events in Ukraine.

We join in the condemnation of the indiscriminate shelling of residential areas in the city of Mariupol, an attack that constitutes a significant and worrying escalation of the level of violence in eastern Ukraine. Those responsible for such deplorable acts against the civilian population must be held accountable, and we emphasize the absolute necessity for an objective investigation of the facts that will see that those responsible are brought to justice.

The violence must end so that Ukrainians can rebuild their lives in a stable and secure country, while maintaining its sovereignty and territorial integrity in accordance with the Charter of the United Nations. We urge the parties to fully implement the Minsk agreements, which, along with the ceasefire memorandum of 19 September, have laid the foundations and established the criteria for a negotiated solution to the crisis.

We furthermore recall that in Minsk all parties agreed to allow the Organization for Security and Cooperation in Europe (OSCE) to monitor and verify the ceasefire. We emphasize our support for the OSCE's Special Monitoring Mission in Ukraine and urge the parties to cooperate with its mandate, particularly through support for the delivery of humanitarian aid.

I now resume my functions as President of the Security Council.

I give the floor to the representative of Ukraine.

Mr. Sergeev (Ukraine): Thank you for convening today's urgent meeting, Mr. President. I would also like to thank Under-Secretary-General Feltman for his briefing, and all those here whose statements supported Ukraine and expressed sympathy with my people.

Unfortunately, since the previous Security Council meeting on Ukraine on 21 January, (see S/PV.7365) the situation there has deteriorated significantly. On 24 January, Russian-backed terrorists committed another heinous crime against humanity. As a result of the shelling of residential areas in Mariupol, in eastern Ukraine, 30 civilians were killed and more than 100 wounded. According to the 24 January spot report of the Special Monitoring Mission in Ukraine of the Organization for Security and Cooperation in Europe, the bombardment was carried out using multiple Grad and Uragan rockets launched from inside terrorist-controlled territory. The shelling of Mariupol began just after statements by one of the terrorist leaders about imminent attacks on Ukrainian cities, as well as a significant increase in inflows of Russian armed forces and weapons into the Donetsk and Luhansk regions. As the President of Ukraine stated,

“The bloody murder of dozens of civilians and injuries to almost 100 people by pro-Russian terrorists in Mariupol not only constitute a terrorist attack, they are a crime against humanity, and thus an issue to be considered by the tribunal in The Hague”.

Yesterday was yet another day of mourning in Ukraine. We express our gratitude to the whole civilized world for its strong solidarity with Ukraine in the wake of this horrible tragedy, for the deepest sympathy and condolences to the families of the victims and for the wishes for a swift recovery of those injured. Ukraine appreciates the Secretary-General's clear and unambiguous statement denouncing the unilateral withdrawal from the ceasefire by the so-called rebel leadership.

In that respect, it is highly regretful that one of the permanent members of the Security Council, bestowed by the Charter of the United Nations with the primary responsibility for the maintenance of international peace and security, has once again showed its utter disrespect, not only of the Charter but of human values,

by blocking the Council's condemnation of the heinous crimes against humanity committed by terrorists in Mariupol.

Today's statement delivered by the Russian delegation made it sound as if it were not Russia that invaded, occupied and annexed a part of the Ukrainian sovereign territory of Crimea last spring. The Russian delegation's statement today made it sound as if regular Russian troops were not in Ukrainian sovereign territory. At the last meeting of the Security Council (see S/PV.7365), I demanded an explanation as to what 16 Russian battalions and a huge number of tanks and artillery were doing in my country without an invitation. The civilized world is waiting for an explanation from the Russian side. One can find additional evidence on my Mission's website, which we will try to send to Council members as well.

If militants and Russia had complied with the Minsk agreements, this tragedy — the most dreadful since the beginning of the Russian aggression — would not have happened. Radio and telephone conversations intercepted by the Security Service of Ukraine irrefutably indicate that the attack was organized by terrorists supported by Russia. Further evidence of that is Russia's blocking of a draft statement by the Security Council condemning this horrible event, as well as its complete silence — not a single word of reproach — about the terrorists' other barbaric acts in the Donetsk and Luhansk regions, such as the attack on Volnovakha, the shameful behaviour with regard to Ukrainian hostages, the tragedy at the trolleybus stop in Donetsk and many other cases. Therefore, the Russian Federation, which continues to support terrorist activities and whose troops are directly involved in hostilities against Ukraine, is solely responsible for the murders in recent weeks of innocent civilians in Volnovakha, Debaltsevo, Donetsk, Mariupol and many other towns and villages in Ukraine.

We seek international support so that Russia is finally compelled to keep its promises, rein in its proxies and stop sending troops and weaponry into Ukraine. We demand that Russia fully implement the Minsk agreements, which it has thus far supported in words only, including the immediate withdrawal of all its armed forces from the territory of Ukraine, the stabilization of the Ukrainian-Russian border and the establishment of international monitoring. It should also free without any further delay Ukrainian pilot Nadiya Savchenko — who is still on a hunger strike

that is endangering her life — as well as Oleg Sentsov, Alexander Kolchenko and the other Ukrainian citizens who are being held in Russia illegally.

We call on the international community to respond resolutely to the crimes of terrorists and to increase all forms of pressure on those who sponsor and support them. Our position remains constant: the so-called Donetsk People's Republic and the Luhansk People's Republic must be recognized as terrorist organizations.

Time and again, we have called on the Security Council to finally exercise its responsibilities under the Charter of the United Nations so as to prevent these terrorist groups from committing their crimes. The only way to do that is to put an end to the Russian aggression against Ukraine. Today, as never before, we need joint decisive actions by the international community against terrorist organizations and those who control them.

Let me summarize my statement with the words of our President:

“We stand for peace, but we accept the enemy's challenge. We will defend our homeland as true patriots. We will do everything to stop the pain and suffering, to return peace to each Ukrainian family — from Lviv to Luhansk, from Chernihiv to Kerch. Having united our efforts, we will defend our freedom.”

In this struggle for Ukraine, for Europe and, ultimately, for the Charter of the United Nations, we count on the Council's solidarity and actions.

The President (*spoke in Spanish*): The representative of the Russian Federation has asked for the floor to make a further statement.

Mr. Churkin (Russian Federation) (*spoke in Russian*): I would like to make a number of substantive comments. However, by way of introduction, I would like to again revisit the topic of what took place in Mariupol and the fact that the Security Council was not in a position to condemn or speak to that tragedy.

A number of my colleagues have referred to this, including my Ukrainian colleague. Even when compared to his usual standards, he has really misstated the position of the Russian Federation. First, we always condemn all attacks on all civilians, and we mourn the deaths of all civilians. This is quite different from the authorities in Kyiv, who say they mourn the deaths of civilians but clearly indicate which civilians and from which regions. The fact that hundreds of individuals

are dying from Ukrainian rockets and snipers does not interest them. They continue to view Donbas as Ukrainian territory. If one does not consider it to be Ukrainian territory anymore, one should just say so clearly. That would simplify things.

Secondly, we always condemn the deaths of innocent people, and we stood ready to do so in the case of Mariupol as well. The fact that we were not able to do so was the result of the sloppy diplomacy conducted by a number of our colleagues using methods they have resorted to in the past with respect to the Ukrainian crisis, when they have come up with wording that is quite clearly unacceptable to one member of the Security Council. Have they ever condemned the inhumane statements that we hear from the authorities in Kyiv? Not once. Why is it that they all fixate on the statements of one leader of the self-defence formations and insist that we have to condemn them? It is quite clear that we are not acting fairly here, because a statement condemning what happened in Mariupol would have been adopted in just a few minutes, just as we adopted a statement condemning what took place in Volnovakha, which we immediately agreed to.

Thirdly, we have always been in favour of objective investigations in such cases. Of course, one does not want to bring to the Security Council the work of the Organization for Security and Cooperation in Europe (OSCE) Special Monitoring Mission. In this case, however, it seems to us that the members of the Monitoring Mission did not act appropriately. The members of the Mission, which included individuals from the United States, took a look the site of the tragedy in a very cursory way and then immediately came up with a statement. That runs counter to the traditional and agreed methods of work of the OSCE. Again, in this situation we see a case in which tragic events have clearly been exploited for political ends.

Allow me to now move on to the more substantive part of our discussion. Regrettably, our meeting here today reminds us of a great many previous meetings, although the focus is perhaps a little different than before. Many colleagues today have focused on the statements made by the self-proclaimed Donetsk People's Republic. I remind Council members that Donbas has been shelled for months by Ukrainian rockets and artillery. Therefore, it is quite clear that we cannot expect conciliatory statements from the leaders of the Donetsk People's Republic. They have been trying for month to push the rockets and artillery of the

Ukrainian forces back far enough so that they could not threaten Donetsk and Luhansk. That, too, is a goal of the Minsk agreements and underscores the importance of implementing them.

We have received much information here today, but we need to look at the roots of the problem. We need to understand what is meant by the thesis that the conflict in eastern Ukraine cannot be resolved by military means. We referred to this in the Security Council during the early phase of the conflict. Ukrainian tanks cannot simply move into Donbas. Unfortunately, that was part of the Poroshenko peace plan, which, in essence, demanded the capitulation of the self-defence formations. That was the first step towards escalating the conflict into a catastrophe. That is unacceptable, but unfortunately we have recently seen it being pushed by certain members of the Security Council. Some Council members today have said that the insurgents and Russia need to do this, that and the other, and then we could begin the political settlement. That is the entirely wrong approach. Serious political efforts need to be undertaken right now. Direct dialogue between Kyiv and the east need to be set up. It is necessary to put an end to the game of hide-and-seek with the Constitution, which needs to be discussed at a all-Ukraine level.

Today, Mr. Feltman said that Mr. Poroshenko had agreed to a return to the Geneva format. Frankly, I am not familiar with the fact that Russia had agreed to a change in the format, but as far as I know Moscow is very flexible when it comes to the format. We stand ready to work in any format that would have a chance of yielding genuine progress in favour of a settlement. I wish to underscore, however, no discussion regarding one format or another should serve as a pretext to move away from direct dialogue between Kyiv and the representatives of the regions, first and foremost the east.

The President (*spoke in Spanish*): The representative of Ukraine has requested the floor for a further statement. I give him the floor.

Mr. Sergeev (Ukraine): My country has been mentioned once again. Ukraine has always presented facts and figures, confirmed not only by other national competent authorities, but also by many independent observers and missions of international organizations on the ground. Today, we also have a list of questions on the 16 battalions and other groups. I urge the Council to compare the figures. At the last Council meeting

(see S/PV.7365), 9,000 Russian troops were mentioned. Today, we have calculated that there are around 12,000 troops, 235 tanks, 720 armoured combat vehicles and 263 artillery systems. It would be much easier for us if we received any explanation from the Russian side about what they are doing in the sovereign territory of Ukraine. It would be much easier for all of us to solve the problem if they immediately withdrew those forces and their presence in Ukraine, pursuant to the Minsk agreement.

What we have heard instead from the Russian representative in the Council today is nothing but the old, arid and constantly repeated magic mantra — fictions about coup d'états, Bandera and Shukhevych fascists, anti-Semites, oppression of the Russian language, ignoring the rights of the Donbas population, and so on. But not even once have Ukraine and the world received even a brief and meaningful message of condolence from Russia for the victims killed by its own mercenaries in Mariupol or Volnovakha. Instead, we see how Russia helps the Russian-speaking population of Donbas: by exterminating it with Grad shelling.

I call again on the Russian Federation not to play with words or to turn Council deliberations into theatre. We have a lot of proof of its direct and indirect aggression in Ukraine. We are still restrained in calling for the Council's full recognition that Russia is the aggressor, but that cannot last long. Russia is a sponsor of terrorism in Ukraine. We advise Russia to stop and to do what was agreed in Minsk.

The President (*spoke in Spanish*): The representative of the Russian Federation has requested the floor to make a further statement.

Mr. Churkin (Russian Federation) (*spoke in Russian*): I am a little surprised at our Ukrainian colleague has begun to argue using concepts that I did not voice during my comments in the Council today. But it is good that he he has remembered them and that he deems it necessary to continue to argue about things that are simply not subject to argument, concerning Stepan Bandera and other related matters.

I am, however, puzzled by something else. I am gratified by the fact that our Ukrainian colleague has assimilated the English language and that he speaks it so well, but I am just stunned by the fact that he has forgotten his Russian, because only a few moments ago I explained the thrust of the problem facing the east. Instead of simply accepting that and building a political

position based on it, we hear the same old propaganda. That is quite regrettable.

The President (*spoke in Spanish*): There are no more names inscribed on the list of speakers. The

Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 3.15 p.m.

Annex 309

OHCHR, Report on the Human Rights Situation in Ukraine (1 December 2014 to 15 February 2015).

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

Report on the human rights situation in Ukraine

1 December 2014 to 15 February 2015

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I. EXECUTIVE SUMMARY

1. This is the ninth report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine based on the work of the Human Rights Mission in Ukraine (HRMU)¹. The report covers the period from 1 December 2014 to 15 February 2015. The report presents the outstanding and emerging human rights challenges in the eastern regions of Ukraine and in the Autonomous Republic of Crimea² (hereafter Crimea) as well as other parts of the country. It considers the human rights situation of all population groups affected by the ongoing current conflict and political developments, including internally displaced persons and other vulnerable groups.

2. The impact of the conflict on the human rights of those living in areas affected by the fighting in the eastern regions is dramatic and frequently life threatening in areas where fighting and indiscriminate shelling take place. OHCHR calls for intensified efforts by all parties to the conflict to achieve a peaceful solution and to comply fully with the Minsk agreement, and allow civilians remaining in areas affected by fighting to be evacuated on a voluntary basis. Statements by representatives of armed groups rejecting any ceasefire agreement and to scale-up offensives have been deeply worrying³. It is imperative that indiscriminate shelling of civilian areas and targeting of civilians and civilian property and infrastructure must cease immediately.

3. Non-implementation of all the provisions of the Minsk agreement concluded in September 2014 has had a serious impact on the human rights situation, especially the number of civilians killed and wounded and persons displaced. The situation in numerous localities affected by fighting has been characterized by the increasing use of heavy and sophisticated weaponry, including multiple launch rocket systems (MLRS), new offensives in several areas and indiscriminate shelling. Credible reports indicate a continuing flow of heavy weaponry and foreign fighters throughout the reporting period, including from the Russian Federation, into areas of the Donetsk and Luhansk regions controlled by armed groups. This has sustained and enhanced the capacity of armed groups of the self-proclaimed 'Donetsk people's republic' and 'Luhansk people's republic'⁴ to resist Government armed forces and to launch new offensives in some areas, including around the Donetsk airport, Mariupol and Debaltseve.

4. The peace talks on 11-12 February 2015 in Minsk resulted in agreement, *inter alia*, to a new ceasefire starting from 15 February; the withdrawal of heavy weaponry from the contact line; the establishment of 50-140 km security zone; and the withdrawal of foreign armed formations, mercenaries and weapons from the territory of Ukraine. OHCHR welcomes the provision regarding an 'all for all' release of hostages and unlawfully detained persons. OHCHR has advocated for this at the highest levels with representatives of the armed groups, Government and the facilitators. Regarding the provision on amnesty for those involved in the conflict, OHCHR reiterates the long-standing position of the United Nations that amnesty must not be granted for international crimes, including gross violations of international human rights and humanitarian law.

5. Following a relative lull in the hostilities in December under the 'silence regime', the security and human rights situation in the east dramatically deteriorated in January and early February 2015. **In areas of hostilities, there is continuing and indiscriminate shelling of highly**

¹ The Human Rights Monitoring Mission in Ukraine has evolved into the Human Rights Mission in Ukraine due to its enhanced work, which includes technical cooperation.

² The United Nations' position on the status of the Autonomous Republic of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine.

³ The 'prime minister' of the self-proclaimed 'Donetsk people's republic', Aleksandr Zakharchenko, stated in January that they would continue to push back government forces to the limits of the eastern Donetsk region. "Attempts to talk about a ceasefire will no longer be undertaken by our side," he said.

⁴ Hereafter 'Donetsk people's republic' and 'Luhansk people's republic'.

populated civilian areas by all parties and an escalating toll of civilian casualties killed and injured on a daily basis, including women, children and elderly people. From mid-April 2014 until 15 February 2015, at least 5,665 people were killed (including 298 from MH-17 flight) and 13,961 were wounded in the east of Ukraine⁵.

6. Heavy civilian tolls of dead and wounded have resulted from indiscriminate shelling of residential areas in both Government-controlled areas, such as in Avdiivka, Debaltseve, Popasna, Shchastia and Stanychno Luhanske, as well as cities controlled by the armed groups, including Donetsk, Luhansk and Horlivka. On 13 January, 13 civilians were killed and 18 wounded, when a bus was hit by an MLRS GRAD rocket at a Ukrainian checkpoint near the Government controlled town of Volnovakha. At least 31 people were killed, including 2 children, and 112 wounded in the Government controlled city of Mariupol, following deadly attacks on 24 January by multiple launch rocket systems. An intensification of hostilities was evident immediately prior to the February peace talks. On 10 February seven civilians were killed and 26 injured in attacks on Kramatorsk, the headquarters of Ukraine's 'anti-terrorism operation'.

7. The fighting and indiscriminate shelling have caused heavy damage to civilian property and vital infrastructure, leaving civilians in highly precarious situations and often without electricity, gas, heating, water or food. Hospitals, schools and kindergartens were hit by shelling of residential areas, including in Avdiivka, Donetsk city, Horlivka, Luhansk, Mariupol and other settlements, raising suspicion that civilian objects have been targeted or at the minimum indiscriminate shelling of such areas had been conducted in the knowledge of and with stark disregard for international humanitarian law and civilian lives.

8. Despite welcome steps by the Government of Ukraine to continue to supply gas and electricity to some of the areas held by the armed groups, the impact of the destruction in these areas is severe in freezing winter temperatures, particularly affecting older persons, persons with disabilities and others with limited mobility. Many civilians have remained trapped in conflict zones. Locally agreed ceasefires and evacuation efforts have been inconsistent and reports suggest inadequate evacuation modalities, including provision of transport and other assistance, have been made available by the Government or by armed groups in areas under their control. Civil society volunteers continued to play a vital role in the evacuation of civilians. Many persons remaining in areas controlled by armed groups lack the capacity, resources or assistance to leave such areas voluntarily.

9. Evacuees interviewed by the HRMU highlighted the lack of information on evacuation opportunities and further steps. Some said that they had to arrange their own travel out of the conflict zone, although there was an organized evacuation from some towns. As of 12 February, the Ministry of Social Policy reported that since 24 January, 1,898 children had been evacuated from the immediate vicinity of fighting in Donetsk and Luhansk regions. Many of these children were unaccompanied and the HRMU emphasizes the importance of keeping families together wherever possible.

10. Guaranteeing the protection of those who live within the conflict-affected area must be the highest priority. Thousands of civilians remain trapped in locations including Debaltseve, sheltering in basements and lacking drinking water, food, heating, electricity and basic medical supplies. Evacuations have been hampered by lack of information and consistent shelling. A ceasefire agreement on 6 and 7 February allowed many hundreds to leave Debaltseve and adjacent villages. However, according to some of the evacuees, approximately

⁵ This is a very conservative estimate by the HRMU and the World Health Organization based on available data. These totals include casualties within the Ukrainian armed forces as reported by the Ukrainian authorities and casualties reported by civil medical establishments of Donetsk and Luhansk regions: civilians and some members of the armed groups (without distinguishing them). The actual number of casualties is likely to be far higher since military and civilian casualties remain under-reported.

20 per cent of the original 26,000 residents have remained in the area, mostly older persons, but also some families with children. Electricity, water and telephone connections are disrupted and people have little food. Some underground shelters are reportedly now flooded and unusable.

11. On 11 January 2015, the State Security Service of Ukraine (SBU) announced the introduction of a temporary order to regulate travel in and out of the conflict area, which became effective on 21 January⁶. This requires that movement into and out of the areas controlled by armed groups must be through seven government-designated transport corridors. Furthermore, special passes are required based on the necessity to travel and may be refused, including on grounds related to national security or public order. IDPs reported inconsistent practice and corruption in securing the vitally needed passes to leave the area of armed conflict. This temporary order is particularly concerning in light of the Government decision in November 2014 to discontinue providing State services in the territories controlled by armed groups, which has had a severe effect on the most vulnerable groups, such as older people, mothers with young children and persons with disabilities, who depend heavily on social benefits. For humanitarian reasons the Government continues to supply gas and electricity to the areas under the control of armed groups. On 26 January, the Government introduced an ‘emergency situation’ regime in Donetsk and Luhansk and a state of ‘high alert’ throughout the rest of Ukraine. OHCHR notes that this does not diminish the human rights obligations of the State.

12. Ensuring the safety and security of persons, as well as access to humanitarian aid for vulnerable persons, and non-discriminatory delivery of humanitarian aid are therefore critical concerns. The United Nations and other humanitarian organizations continue to seek assurances of free and unimpeded access to all areas to perform their essential humanitarian functions.

13. In many locations, reception centres for internally displaced persons (IDPs) are overwhelmed, under-resourced and unprepared for potentially high levels of expected new arrivals. Since the beginning of hostilities in April 2014 there has been massive displacement. On 13 February, the Ministry of Social Policy reported that the number of registered IDPs had exceeded one million people. According to UNHCR, 60 per cent of IDPs are pensioners⁷. Those internally displaced by recent fighting commonly flee their homes with very few possessions, inadequate warm clothing and with few financial resources. They are consequently entirely reliant on assistance provided by the Government, the self-proclaimed ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, the United Nations, international and national humanitarian actors and volunteers.

14. Allegations of violations of international human rights law and international humanitarian law have persisted over the reporting period. Credible reports of arbitrary detentions of civilians, torture and enforced disappearance have been alleged against the armed groups and the Government. The HRMU interviewed victims and verified numerous accounts of acts that may amount to torture or other cruel, inhuman or degrading treatment or punishment. The arbitrary detention of civilians regrettably remains a feature of the hostilities, including for the purpose of prisoner exchanges. In areas controlled by the armed groups, ‘parallel structures’ have been established and the break down in law and order in these areas

⁶ Temporary Order on the control of movement of people, transport vehicles and cargoes along the contact line in the Donetsk and Luhansk regions.

⁷ Many reportedly continue to live on the territories controlled by the armed groups and register as IDPs in Government-controlled areas for the sole purpose of receiving social payments. The Cabinet of Ministers issued an unofficial instruction to regional offices of social protection to check actual places of residence, but the local authorities informed the HRMU that they lack capacity to conduct such checks.

accommodates persistent violations of the rights of civilians, including abductions, arbitrary detention, beatings and alleged torture.

15. Following a Presidential decree on the fourth wave of mobilization on 19 January 2015, there were public appeals against mobilization. Local groups organized rallies and tried to block conscription offices in several towns. Subsequently a wave of anti-mobilization protests took place in numerous Government controlled areas, particular in Severodonetsk, Kramatorsk, Mariupol, several villages in Zaporizhzhia, Odesa, Volyn and Ivano-Frankivsk regions. In some cases people were prevented from protesting, facing opposition from other groups and rival activists. In most cases no violence was reported. Criminal charges have been brought against some individuals who openly oppose mobilization. Conscientious objection to military service should be respected by the authorities, with opportunities provided for non-armed service.

16. Little progress has been made in achieving accountability for violations of human rights committed in the context of the continuing conflict in the eastern regions of Ukraine. While recognizing challenges due to the ongoing conflict, the HRMU urges that all possible steps be taken to pursue investigations and prosecutions as appropriate, including into possible international crimes and gross violations of international human rights and humanitarian law.

17. Measures to achieve accountability for grave human rights violations committed during the Maidan protests, in which at least 104 demonstrators and 13 law enforcement officers were killed, and in 2 May violence in Odesa when 48 persons were killed, remain inadequate with poor progress over the reporting period. According to the Prosecutor General, the main obstacle impeding investigations into the Maidan violence remains the impossibility to locate suspects who fled Ukraine and the lack of expertise in investigating this type of cases. Regarding the 2 May violence in Odesa similar obstacles prevail and there is no measurable result into the investigation of police and fire brigade negligence.

18. During the reporting period the Government continued to develop the human rights strategy for Ukraine; a working group was established to amend the law on lustration of public officials; and a national anti-corruption bureau was established. On 29 January, Parliament registered a draft law establishing criminal responsibility for public calls to avoid mobilization, which, if adopted, may contravene the rights to freedom of opinion and expression and freedom of peaceful association.

19. The United Nations' position on the status of the Autonomous Republic of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine. The situation in the Autonomous Republic of Crimea⁸ continues to be characterized by systematic human rights violations affecting mostly Crimean Tatars and those who opposed the March 'referendum'. The application of Russian Federation laws, which contravene resolution 68/262, also has human rights implications. Arrests and detention of Crimean Tatar activists on charges related to demonstrations and disruption of the activities of their civil society organizations and media outlets on the grounds of prevention of 'extremist activities' have been evident. Arrests, prosecution and deportation of Crimean Tatar leaders, including leaders of the Crimean Tatar Mejlis and the Committee on the Protection of the Rights of the Crimean Tatars, have been criticized by Crimean Tatar leaders and those affected as politically motivated.

20. The exercise of the rights to freedom of opinion and expression and of peaceful assembly continued to be curtailed, particularly for Crimean Tatars. Limitations are imposed on the freedom of religion or belief in Crimea due to restrictive registration requirements. This situation, and instances of police raids on places of worship, has created anxiety among

⁸ Hereafter referred to as Crimea.

the religious groups and questioned the commitment of the *de facto* authorities in Crimea to the protection of religious freedoms. In addition, on 26 December 2014 the Government of Ukraine stopped train and bus connections from mainland Ukraine into Crimea, which particularly affects older persons and persons with disabilities, on the grounds of ensuring the safety of passengers and to prevent the penetration of ‘subversive groups’ from the peninsula.

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

Armed hostilities

21. The ‘silence regime’ between Ukrainian armed forces and armed groups declared on 9 December 2014, resulted in several weeks of relative calm. In January 2015, usage of tanks, heavy artillery and multiple launch rocket systems (MLRS) resumed and spread to populated areas along or near the line of contact. From mid-January, armed hostilities escalated to a degree unseen since the 5 September Minsk agreement. Major flashpoints were the Donetsk airport, the nearby village of Pisky and the town of Avdiivka; areas around the town of Debaltseve and cities of Horlivka and Mariupol (Donetsk region); and the town of Shchastia and the village of Stanychno Luhanske (Luhansk region). On 10 February, the Ukrainian forces launched an offensive east of Mariupol, seizing control of several settlements. By 15 February, a number of Ukrainian units in Debaltseve ‘pocket’ (including the town and surrounding areas) were cut-off from the main Government-controlled territories.

22. The peace talks held on 11 and 12 February in Minsk resulted in agreement, *inter alia*, to a ceasefire to enter into force from 15 February; the withdrawal of heavy weaponry from the contact line; the establishment of a 50-140km security zone; and withdrawal of foreign armed formations, mercenaries and weapons from the territory of Ukraine. OHCHR welcomes the provision regarding an ‘all for all’ release of hostages and unlawfully detained persons. OHCHR has advocated for this at the highest levels. Regarding the provision on amnesty for those involved in the conflict, OHCHR reiterates the long-standing position of the United Nations that amnesty must not be granted for international crimes, including gross violations of international human rights and humanitarian law.

23. Indiscriminate shelling of populated areas, both Government-controlled and those controlled by the armed groups continued to be widespread. Although, in some cases, imprecise targeting of military positions occurred in the immediate vicinity of built-up areas (especially in Debaltseve area), there were also numerous cases of shelling of residential areas not located near military positions.

24. On 13 January, 13 civilians were killed and 18 wounded, when a bus was hit at a checkpoint near the Government-controlled town of Volnovakha (Donetsk region). The bus was hit by a MLRS ‘Grad’ rocket launched from territory controlled by the ‘Donetsk people’s republic’. On 24 January, at least 31 people were killed and 112 wounded following MLRS attacks on the city of Mariupol (Donetsk region). The rockets were allegedly fired from the territory controlled by the ‘Donetsk people’s republic’. On 4 February, a hospital in the city of Donetsk held by the armed groups, was hit with six people killed and wounding 25. The MLRS rockets reportedly came from areas controlled by the armed groups.

25. On 22 January, at least 13 civilians were killed and 12 wounded in Donetsk, most of them after a trolleybus and public transport stop were hit by mortars. On 29 January, eight civilians were killed and 19 wounded amidst heavy shelling in city of Horlivka held by the armed groups. The armed groups attributed responsibility for these and other cases of shelling of residential areas to the Ukrainian armed forces. In January and February 2015, several cases of usage of cluster munitions were reported. It is imperative that reports of shelling of residential areas (either by conventional or prohibited weapons) be investigated promptly. In

all cases, verification of the origin of the attacks remains required. All possible measures must be undertaken to prevent civilian casualties and the targeting of civilians.

A. Casualties

26. Between 1 December 2014 and 15 February 2015, at least 1,012 people were killed and at least 3,793 were wounded in the conflict area of eastern Ukraine. Due to the dramatic escalation of hostilities (13 January – 15 February), at least 842 deaths were reported, including at least 359 civilians. Of at least 3,410 reported wounded during this period, at least 916 were civilians. From mid-April 2014 to 15 February 2015, at least 5,665 people (including at least 375 women⁹ and 63 children) were killed and at least 13,961 (including at least 630 women¹⁰ and 159 children) were wounded. These totals include Ukrainian armed forces (at least 1,756 killed and 5,505 wounded); 298 from flight MH-17; and casualties reported by medical establishments: at least 2,420 killed and 4,919 wounded in the Donetsk region, and at least 1,185 killed and 3,573 wounded in the Luhansk region. Casualties reported by medical establishments include civilians and some members of the armed groups¹¹.

27. Many of those killed (especially members of armed groups) have been buried without being taken to morgues, and insecurity prevented many wounded people from accessing medical establishments. Hundreds are considered missing with numerous bodies pending recovery and identification. Through interviews conducted in the Lviv region, HRMU noted the lack of an effective system to inform relatives of deceased Ukrainian servicemen about their rights and entitlements prescribed by the law. Moreover, family members of the missing and captured servicemen also report lack of information from and contact with the relevant authorities.

B. Evacuation of civilians

28. Since the upsurge in hostilities in late January, the State Emergency Service of Ukraine has reported evacuations of civilians from residential areas in the vicinity of the armed conflict, including Avdiivka, Debaltseve and Svitlodarsk in Donetsk region and Chornukhyne, Popasna and Shchastia in the Luhansk region. According to Government figures, the overall number of evacuated civilians from 28 January until 13 February was 8,429 people, including 1,923 children and 265 persons with disabilities. The armed groups have also reported evacuations, including of some 1,100 civilians, mainly older persons and children, from Vuhlehirsk (Donetsk region) and 272 people from the village of Chornukhyne and nearby areas (Luhansk region) to safe locations in territories under their control.

29. Evacuations were hampered by constant shelling of Government controlled territories and evacuation routes. Reports suggest that some incidents of shelling coincided with the evacuation of civilians and may have been targeted to prevent it. In view of the temporary order regulating transit across the line of contact and the requirement for individuals to have an official pass, the State Emergency Service indicated to the HRMU that evacuations were conducted with a simplified procedure that did not require passes. Individuals making their own way out of territories controlled by armed groups continue to require the official passes,

⁹ Breakdown of casualties by sex is not available for the Luhansk region and is not reported by medical establishments.

¹⁰ As in footnote 9.

¹¹ As in previous reports, these are conservative estimates by the HRMU and the World Health Organization (WHO) based on the available official data. Actual fatalities are probably much higher. Military casualties remain under reported by the Ukrainian Government and by the armed groups and there is evidence that some killed and wounded members of the armed groups have been taken to the Russian Federation.

although some people described inconsistent enforcement of requirements and incidents of the payment of bribes at border crossings.

30. The HRMU monitored reception and transit points for evacuees in Kharkiv, Dnipropetrovsk and Kyiv. Evacuees informed about problems they had encountered, including a lack of information about evacuation opportunities, especially for those living in the suburbs of towns where organized evacuations were conducted. Due to the constant shelling, people were frequently hiding in basements with no electricity or communication with the outside world. Some were not aware of organized evacuations and had to find ways to leave by their own means. The HRMU is aware of some cases when civilians had to walk to adjacent villages and cities in order to be evacuated, because neither volunteers nor authorities could reach their settlements due to intensive fighting. Civil society volunteers continued to play a vital role in the evacuation of civilians and many have relied heavily on their assistance provided at great personal risk to themselves.

31. Evacuation from social care institutions is particularly difficult as many patients, mostly older persons, have not consented to evacuation. High numbers of bedridden persons who require special assistance or transportation also remain in conflict-affected areas. Members of armed groups have on several occasions stated that they will not allow the evacuation of people from such institutions to Government controlled areas. They have also demanded the return to Donetsk of 260 orphans who were evacuated in the summer of 2014. In addition, no steps have been taken for the evacuation of inmates of the penitentiary system.

C. Alleged summary, extrajudicial or arbitrary executions

32. A number of media reports and social media postings of videos have raised concern over possible incidents of summary, extrajudicial or arbitrary executions. On 24 January, armed groups claimed control over the settlement of Krasnyi Partyzan (30 km north of Donetsk), which had been previously controlled by the Ukrainian armed forces. The video footage made by the armed groups soon after the fight for the settlement and disseminated through social media gives grounds to allege the execution of up to three Ukrainian servicemen taken captive in Krasnyi Partyzan. Following fighting for Donetsk airport in January and the subsequent taking of the airport by armed groups of the ‘Donetsk people’s republic’, media reports suggested that the bodies of Ukrainian military personnel were found in the airport with “their hands tied with white electrical cable.”¹² OHCHR underlines that all evidence of summary, extrajudicial or arbitrary executions must be fully investigated and perpetrators prosecuted without the possibility of amnesty.

D. Illegal and arbitrary detention, enforced disappearance, and torture and ill-treatment

By the armed groups

33. Estimates of the number of people held by armed groups vary continuously and reflect the constantly evolving pattern of detentions and releases. Several hundred were thought to be detained at any given time between December 2014 and mid-February 2015. On 9 December, the Head of the Security Service of Ukraine (SBU) Main Investigative Department stated that 684 people were held by armed groups. On 11 December, the non-governmental organization, The Centre for Release of Captives estimated the number of people held by the armed groups to be 632. In addition to Ukrainian servicemen (as of 25 January, the Ukrainian Government estimated the number still held as 184), people held by the armed groups include those suspected of ‘subversive’ activities. On 22 January, the ‘head’ of the ‘Donetsk people’s republic’ declared that up to five Ukrainian ‘subversives’ aged between 18 and 35 were

¹² See <http://blogs.channel4.com/alex-thomsons-view/bodies-shells-snow-ruins-donetsk-airport/8993>

detained every day. On 22 January, a dozen Ukrainian servicemen captured at Donetsk airport were forced to march through the streets of Donetsk. Several were physically assaulted by an armed group commander and by onlookers.

34. As of 4 February, civilians held by armed groups are estimated by the Government of Ukraine to number over 400. Some are held for minor offences and substance abuse. However, civil society activists, journalists and staff of international NGOs continue to be illegally detained. A Donetsk-based journalist was abducted on 8 January while observing a 'humanitarian convoy' from the Russian Federation and released on 7 February. On 31 January, a freelance journalist was abducted in Donetsk. His whereabouts were unknown as of 15 February.

35. On 30 December, according to the 'prosecutor general's office' of the 'Luhansk people's republic', a 'criminal case' was initiated against armed group commander Aleksandr Biednov (call sign 'Batman') and his subordinates for illegal detention and torture resulting in the death of a detainee. On 2 January, videos were released showing members of Biednov's group who confessed to running a facility in the basement of a university library in Luhansk and taking part in the ill-treatment of captives. The 'head' of the facility (call sign 'Maniac') allegedly used a hammer to torture prisoners and surgery kit to scare and extract confessions from prisoners.

36. The Ukrainian female pilot, Nadiia Savchenko, Member of the Parliament of Ukraine (since November 2014) and Ukrainian delegate to Parliamentary Assembly of the Council of Europe (since December 2014), has been in detention in the Russian Federation since July 2014 after being reportedly captured by armed groups in June. She is awaiting trial on charges of involvement in the deaths of two Russian journalists killed during the conflict in eastern Ukraine. On 10 February 2015, the Basmany court in Moscow extended her pretrial detention until 13 May. A motion to have her released on bail was rejected. She has now been on hunger strike since 13 December and reportedly is being kept in solitary confinement in the Matrosskaya Tishina detention centre in Moscow. On 9 February, EU foreign ministers launched a plea for the Russian Federation to release her.

By the Ukrainian Government

37. Ukrainian law enforcement agencies continued to report on the detention of people suspected of separatism and terrorism. On 10 December, the SBU announced that since March 2014, it was carrying out over 3,000 criminal proceedings related to crimes against national and public security. In the context of these proceedings, 1,043 people had reportedly been notified of being officially suspected; of them, 703 people had been arrested and 198 indictments (in relation to 254 people) had been submitted to the courts¹³. Information received by the HRMU from the detainees, their relatives and lawyers reveals a pattern of enforced disappearances, secret detention and ill-treatment by Ukrainian law enforcement agencies in the security operation area and adjacent territories.

38. In December 2014, the HRMU interviewed a man who was unofficially detained by unidentified Ukrainian servicemen and allegedly severely beaten for several days. Another detainee claimed to have been beaten by SBU officers and kept in incommunicado detention where he met detainees who had been beaten and subjected to mock executions. A freelance journalist claimed that during his detention and SBU interrogation, masked men forcefully raised his handcuffed arms behind his back and hung him in that position urging him to confess to working for the Russian secret services. Several other detainees interviewed by the HRMU alleged incommunicado detention and ill-treatment that may amount to torture.

39. As of 15 January, a joint database of the civil society initiatives included 37 cases of people who had disappeared on the territory controlled by the Ukrainian armed forces. These

¹³ It shall be noted that exactly the same figures were released by the SBU on 22 January 2015.

cases had been filed by relatives, some of whom reportedly saw missing persons being detained by people in military uniform.

40. On 17 December, the pro-federalism activist Ignat ‘Topaz’ Kromskoi was reported by the SBU to have been detained at the Ukrainian/Russian Federation border. He had previously been detained and formally released from custody by a Kharkiv court on 12 September, however he was taken away from the court room by the same guards who brought him there and no one saw him free afterwards. His location was officially unknown and he was put on a wanted list¹⁴. On 18 December 2014, during a court hearing to decide on his measure of restraint (he was detained for two months), Mr Kromskoi stated that from 12 September until 17 December he had been held incommunicado in cell No. 5 of an SBU building in Kharkiv (the SBU denies the existence of this facility). He claimed that he had taken a hidden video of the cell, and had left notes on the walls, as well as hair and other traces to confirm his presence there. According to him, on 17 December, the SBU took him from his cell, put him on a bus and, as it approached the border, he was officially arrested. On 22 January, he informed the HRMU of his alleged secret detention. He said he saw up to 90 other people kept there. The HRMU also received other testimonies alleging the existence of this illegal detention facility in Kharkiv. Regarding this issue, the SBU has denied the allegations of a secret detention facility in Kharkiv.

Exchanges of detainees and captives

41. Exchanges of detainees and captives have continued over the reporting period. On 26 December, an exchange took place of 222 persons released by the Ukrainian Government in exchange for 145 persons (members of voluntary battalions, National Guard, civilian volunteers and civilians; all men) released by the armed groups. The exchange included persons whose cases were followed by the HRMU and who allege secret and incommunicado detention and ill-treatment while in custody. On 27 December and 2 and 5 January, at least ten people were released by the Ukrainian Government and 16 captives were released by the armed groups. On 6 January, there was reportedly the exchange of new lists of people for a future exchange in the coming weeks. According to ‘the ombudsperson’ of the ‘Donetsk people’s republic’, the armed groups requested to release 168 members of the armed groups and 380 ‘political prisoners’. Detention of persons not associated with the conflict for the purpose of exchanges has been reported. In February, representatives of the armed groups reiterated their intention to conduct exchanges based on ‘serviceman to serviceman’. The HRMU received information that some exchanged detainees were not given back their ID documents. On 11-12 February, it was agreed in Minsk to “ensure the release and exchange of all hostages and illegally detained persons based on ‘all for all’ principle”.

E. Measures limiting movement in and out of the conflict area

42. On 21 January 2015, a temporary order regulating travel into and out of the conflict area came into effect¹⁵. With reference to national security concerns, it limited the movement of civilians, passenger and cargo vehicles to seven corridors in the Donetsk and Luhansk regions. The order also introduced special passes issued at ‘coordination centres’ located in four district police departments. Those wishing to travel are required to provide their itinerary and duration of stay in the area – whether it be in Government-controlled territory or territory under the control of armed groups; a valid passport; and a copy of a document justifying the necessity to travel (e.g. proof of residence; proof of illness of a relative; certificate of

¹⁴ Mr Kromskoi is suspected of committing crimes under articles 28 and 294 (participation in mass disorders accompanied by pogroms, arson and destruction of property), article 110 (encroachment on the territorial integrity of Ukraine) and articles 28 and 289 (illegal seizure of the vehicle) of the Criminal Code of Ukraine.

¹⁵ Temporary order on control of the movement of people, transport vehicles and cargos along the contact line in Donetsk and Luhansk regions.

employment, etc.). The HRMU was informed of various problems in implementing the order: hotlines providing information on the procedures could not be reached or did not work; passes were not provided to offices authorized to issue them; coordination centres were overwhelmed with up to 3,000 applications in each in the first days of their operation. Lack of a specific provision for civilians wishing to move solely due to security concerns largely left such crossing at the discretion of local security officers, frequently leading to the payment of bribes. No legal procedure has been established to appeal against the refusal to issue a pass.

43. Civilians living in and wishing to leave territories controlled by armed groups have to travel to the checkpoints at least twice: to submit documents and to receive a pass. They have faced constant danger as shelling and attacks on Ukrainian checkpoints intensified. On 26 January, at a checkpoint near Mariinka, an explosive device in a car went off killing the driver and one Ukrainian soldier. Mortar shelling began simultaneously. The discontinuation of State services¹⁶, including postal service, in areas controlled by armed groups added to the difficulty of providing required documents. No alternative provisions were envisaged for people whose identification documents were lost or taken away, which is a widespread problem. Interviews conducted indicate that some people who experienced problems obtaining passes to leave via the line of contact are leaving the conflict zones through the Russian Federation territories and then having to bribe Ukrainian border officials to re-enter Ukraine (some paying 10 times the official fine of UAH 170). On 27 January, the Commissioner of the President of Ukraine for Children's Rights announced that families with children may leave the territories without a special pass and reports received by the HRMU indicate that this has been the case.

III. ECONOMIC AND SOCIAL RIGHTS

44. The impact of the conflict on the enjoyment of economic and social rights has been devastating for those living in conflict-affected areas and internally displaced persons, in particular women, children, older persons and persons with disabilities. An escalation in the hostilities since January 2015, including heavy and indiscriminate shelling, has caused, in addition to the increased numbers of casualties, significant additional displacement, destruction of infrastructure and housing, leading to the almost total economic and infrastructure breakdown in some of the worst affected localities. Since 10 January, at least 27 schools, kindergartens and hospitals have been damaged, in some cases leading to casualties, both in towns controlled by both the Government and armed groups. In the towns regularly shelled, at least 50 residential buildings are damaged on a weekly basis. As of 15 February, 77 settlements in the conflict affected area with approximately 202,000 residents remained completely without electric power supply and heating. Due to the shelling of water facilities, 461,350 people in Donetsk region and 86,862 people in Luhansk region do not have access to safe drinking water.

A. Social welfare, food, health, education

45. The payment of salaries, pensions and social benefits for those living in territories controlled by the armed groups stopped in November 2014, making it difficult for local residents to purchase essential goods. At the very least, 600,000 pensioners¹⁷ in Luhansk and

¹⁶ Pursuant to the Presidential Decree 'On Immediate Measures aimed at the Stabilization of the Socio-Economic Situation in Donetsk and Luhansk Regions' as of 14 November 2014 enacting an earlier decision of the National Security and Defence Council of Ukraine.

¹⁷ The estimates are very conservative and the actual number affected is likely to be higher. In Ukraine 'pensioners' include not only the elderly but also other categories, for example persons with disabilities.

Donetsk regions have been left without regular income due to the cessation of the allocations from the State budget. Often the only income, its termination makes these persons extremely vulnerable. As described below, many pensioners had to register as IDPs in order to receive pensions while still living in areas controlled by the armed groups.

46. Access to food is increasingly challenging in conflict-affected areas and humanitarian actors have expressed their concern about their impeded access to the conflict area. Humanitarian actors reported that they have supplies in warehouses, while access to areas of need is hampered by roads being closed, due to shelling and restrictions imposed on the Government side of the line of contact. In December 2014, some battalions of the Ukrainian armed forces - 'Dnipro-1', 'Donbas' and 'Kryvbas' - blocked access of a humanitarian organization to the areas controlled by armed groups, demanding the release of prisoners held by armed groups. On 29 January, the volunteer initiative, 'Humanitarian Mission of Aid to the Civilians from Conflict Area', noted that due to the new rules, it has become more difficult for Ukrainian volunteers to deliver aid. It is reportedly difficult to provide the package of documents required by customs services. In Artemivsk, a control point for cargo transport, trucks are reportedly held up for several days. It is also difficult to pass through other control points: Stanychno Luhanske, Shchastia, Avdiivka; the latter has been regularly shelled.

47. On 30 January, the Cabinet of Ministers issued Decree No. 21¹⁸, regulating the provision of humanitarian aid to residents of Donetsk and Luhansk regions. However, it does not provide clear guidance on how to deliver aid to conflict affected areas and does not facilitate the efforts of humanitarian actors, as was its intention. Child and infant nutrition is a constant need in all conflict-affected areas as well as in IDP centres. The November 2014 Presidential Decree ending Government financing of State institutions, such as hospitals, in territories controlled by armed groups has potentially serious implications for a wide range of economic and social rights. It is recalled that Ukraine has continuing obligations to the realization of such rights as a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

48. In January, most hospitals in conflict affected territory remained open but reported severe shortages of various drugs, particularly painkillers, antibiotics and other essential medical supplies. Patients suffering from chronic conditions, including HIV/AIDS, TB and drug dependency are likely to run out of essential medicines upon which their lives depend.

49. Penitentiary institutions, nursing homes, psycho-neurological and other facilities continue to function albeit without State financing and depend entirely on humanitarian aid. Humanitarian actors report a constant shortage of medicine and hygiene kits. The situation is particularly dire in the psycho-neurological facilities due to a severe shortage of drugs crucial for its patients. On 30 January, the HRMU learned that 2,332 persons remain in the institutional care of such facilities in territories controlled by the self-proclaimed 'Luhansk people's republic'. According to Ukrainian ministries, 577 children remain in orphanages and some 5,000 children in family foster care in territories controlled by armed groups.

50. Access to education in conflict-affected areas has been severely curtailed. School buildings have been damaged and heating and power cut-off, forcing schools in many towns to close. As of 15 February, all schools in Donetsk city were closed. In Horlivka 16 schools and four kindergartens were reported to have been damaged by shelling. Numerous education sector workers have left the eastern regions. As of 13 February, in 'Luhansk people's republic' all schools and kindergartens were reported to be closed. Evacuees interviewed by the HRMU reported that schools have not been functioning for over three weeks in towns controlled by the Ukrainian Government in the conflict area due to shelling.

¹⁸ This resolution was adopted according to the Presidential decree as of 14 November (on urgent measures for the east and relocation of state institutions) by which the President instructed the Cabinet of Ministers to adopt the procedure on provision of the humanitarian aid and its marking with state symbols.

51. The Ministry of Education and Science of Ukraine made provisions to facilitate access to education for students living in the areas controlled by armed groups. The enrollment of IDP children into schools is done based on the written application from their parents with no other documentation required. As of 15 February, 71,632 IDP children were registered in schools of Donetsk (territories under Government control), Kharkiv, Dnipropetrovsk regions and Kyiv city. To enable children who remain in territories controlled by the armed groups as well as Crimea to continue their education and sit exams, the registration deadline for the independent assessment (exams required to enter universities) has been prolonged to 20 April for school graduates from these areas.

B. The situation of internally displaced persons

52. As of 13 February the Ministry of Social Policy reported that the number of registered IDPs in Ukraine had exceeded one million people, more than a twofold increase in their number since the beginning of December 2014. Approximately 60 per cent of the IDPs are reported to be pensioners. At the same time, the State Emergency Service, responsible for accommodation of IDPs reported that the number of people displaced from the east had reached 731,422 people as of 15 February (711,209 from Donetsk and Luhansk regions and 20,213 from Crimea), This figure includes 133,178 children and 328,770 persons with disabilities. The discrepancy in the IDP numbers provided by the different Government bodies may be partly explained by so called ‘pension tourism’. Government Resolution No. 637 states that pensions are to be paid only to those who are registered IDPs residing in the Government controlled territory. Some pensioners who still live in territories controlled by the armed groups register with the Ministry of Social Policy to continue receiving their pensions.

53. The accommodation capacities in regions neighbouring the conflict area are almost exhausted. New IDPs from conflict-affected regions who arrive at locations such as Sloviansk or Kharkiv have been encouraged by the State Emergency Service to travel to western and southern regions of Ukraine. Authorities provide IDPs with free onward train tickets. New arrivals have little choice but to accept them. The HRMU recalls that under international standards, all authorities should ensure the voluntariness of the displacement process, including respecting decisions of IDPs to travel to locations of their choice. In view of new and potential future displacement flows, new winterized accommodation options may be required in eastern regions and information should be provided to IDPs to assist their decisions and ensure, to the extent possible, their right to freely decide upon the location of their temporary resettlement.

54. In October 2014, Parliament adopted the law on IDPs, however many concerns remain regarding their rights and welfare. While many desire an early return to their homes when conditions allow it, recognition of the likely protracted nature of the displacement for many IDPs is essential. The elaboration of a programme to ensure durable solutions for IDPs is essential. IDPs unable to return to their homes must be properly integrated into other regions of Ukraine on a voluntary basis and in full consultation with them. Article 2 of the law on IDPs guarantees the right of a displaced person to return and to reintegration, however, it sets no guarantees for integration in other parts of Ukraine as required by international standards, including the Guiding Principles on Internally Displaced Persons.

55. Despite the efforts of regional authorities, IDP reception centres in many locations are overwhelmed, under-resourced and under-prepared for possible high levels of expected new arrivals following the upsurge in fighting in some areas and essential evacuations. IDPs and those supporting them continue to stress their urgent needs, which include winter clothes, hygiene kits, diapers, food and non-food items, and medicines (including for chronic conditions). There is a lack of disease monitoring and control at IDP reception and transit

points for contagious diseases such as tuberculosis. Reports indicate that there is a lack of shelter to accommodate people, particularly those with special needs or limited mobility, who cannot be sent to other regions.

IV. OTHER HUMAN RIGHTS ISSUES

A. *Right to peaceful assembly*

56. During the reporting period, the right to peaceful assembly was generally exercised in most of the country, with the exception of territories controlled by the armed groups and Crimea. Nevertheless a number of prohibitions of protests by courts in Kharkiv and Odesa regions in the name of public order and safety were reported. Public appeals for peace and protests against mobilization gained momentum throughout Ukraine in the reporting period.

57. After the fourth wave of mobilization was announced on 14 January, there were attempts to oppose mobilization and initiate a dialogue with State authorities in some cities, which were then followed by anti-mobilization protests in cities including Ivano-Frankivsk, Kyiv, Kherson, Mariupol, Odesa, Zaporizhzhia, and parts of Donetsk controlled by the Government. In some cases protestors were opposed by rival activists, as noted in Kramatorsk, Mariupol and in Zaporizhzhia region. A recent initiative, ‘People of Peace’, calling for the reconciliation of two sides to the conflict, received criticism in social media and its public events were prevented from being held on several occasions. It has also been noted that those who oppose mobilization and the conflict report increasing antagonism towards them. In January, the HRMU followed the cases of prosecutions of people who publically opposed mobilization. On 29 January, Parliament registered a draft law establishing criminal responsibility for public calls to avoid mobilization¹⁹. On 8 February, a man who recorded a public video appeal to the President of Ukraine ‘I refuse mobilization’ and published it on ‘Youtube’ was sentenced to a 60-day detention as a preventive measure. Criminal proceedings have been initiated against him under article 111 (high treason) and 114 (espionage) of the Criminal Code. The video was widely disseminated by several Russian TV channels, which also invited him to participate in programmes on the situation in Ukraine, classified by the prosecution as ‘propaganda’. The HRMU is concerned about these measures, which can be considered as criminalization of dissenting political views.

B. *Freedom of expression*

58. The HRMU is concerned about continuing attacks on journalists in Ukraine, particularly in eastern areas controlled by armed groups and in Crimea (see below). On 11 February, the State Committee on TV and Radio Broadcasting addressed the issue of freedom of expression and protection of the rights of Ukrainian and foreign journalists in Donetsk and Luhansk regions, as well as the Autonomous Republic of Crimea. It was stated that since March 2014, at least 78 journalists have been held by armed groups and at least 60 attacks on media offices have been documented. Many journalists were forced to leave Crimea, and the Donetsk and Luhansk regions due to constant threats. In addition the State Committee stated that “there is also a large-scale and aggressive Russian propaganda campaign.”

59. In other regions of Ukraine some journalists or media offices were attacked due to their alleged ‘separatist’ views. On 10 January, the editorial office of *Slavianka* newspaper in Kharkiv, was attacked by unknown masked men who broke windows and threw Molotov cocktails into the office. On 22 January, a journalist of a local ‘pro-federalism’ website,

¹⁹ Draft law ‘On Introduction of Amendments to the Criminal Code of Ukraine (regarding liability for public appeals to avoid mobilisation)’ No. 1886 as of 29 January.

covering the preparatory trial hearing on the 2 May violence in Odesa, was beaten outside the Malynovskiy city court in Odesa.

60. In other cases, journalists were attacked for criticizing local authorities or law enforcement officials. On 26 January, a journalist of the Internet outlet *Traffic Control* from Chernihiv reported an attempt on his life, which he assumed, was related to his work on the lustration of police serving under the Yanukovych government. On 11 February a Ukrainian journalist from Dnipropetrovsk region working for the Russian Federal news agency and St. Petersburg-based news agency *Nevskiiie Novosti* was detained in Mykolaiv region for allegedly gathering data about the defence industry of Ukraine. On 12 February, the central district court of Mykolaiv ordered his detention for pre-trial investigation until 11 April under article 111 (high treason) of the Criminal Code.

C. *Women's rights and gender issues*

61. With the prolongation of the conflict and displacement, women are increasingly vulnerable to various human rights violations and abuses both in Government and armed group controlled areas. The economic consequences of the conflict also acutely affect women. Those trapped in areas of fighting are at a heightened threat of sexual violence. Information from NGOs and IDPs that young women and men are being taken off buses leaving the conflict zone require further investigation. The HRMU is concerned that cases of violence against women may go unreported. The NGO La Strada, which operates a national hotline, reported only few calls related to sexual violence. Yet cases continue to emerge: one IDP woman reported sexual violence against her by members of the armed groups and members of an unidentified Ukrainian battalion, and remains severely traumatized.

62. Women may be at increased risk of domestic violence, as servicemen return from the conflict area without receiving proper social and psychological services. La Strada registered an increase in calls relating to domestic violence over the reporting period (72.2 per cent of total calls). It reported that incidents of psychological violence are increasing in families of IDPs, as well as within those remaining in the conflict area.

63. Women, including those internally displaced, may be at heightened risk of being exposed to trafficking, sexual violence and resorting to prostitution as a means of survival. In the reporting period, the HRMU became aware of cases of trafficking involving IDPs. On 19 January a man in Lviv was arrested on suspicion of allegedly recruiting four women, one Lviv resident and three IDPs, for sex work in Israel. One of the IDPs stated that she was desperate for any income, as it was impossible to find employment and she had to provide for her two children. The case highlights the need for all actors working with IDPs to be alert to the threat of trafficking facing displaced women. The International Organization for Migration was providing services for two IDP women from Luhansk region who were allegedly in the process of being trafficked to Turkey for sex work.

64. Some incidents of discrimination continued against the LGBTI community, especially in the territories under the control of the armed groups. On 19 December, the HRMU succeeded in evacuating a transgender man from the areas controlled by armed groups who was in fear of persecution and isolated at home without access to either food or medicine. As a transgender man, he was believed to be at risk of detention and violence if attempting to leave the area himself, as his identification documents did not reflect his gender identity. The HRMU negotiated with officials from the 'Donetsk people's republic' and the Ukrainian Ministry of Internal Affairs and Ukrainian military to escort him to safety.

D. Rights of minorities and groups facing discrimination

65. The HRMU continues to monitor the human rights situation of minority groups and incidents of discrimination throughout Ukraine and to identify trends in this regard. As noted by the Special Rapporteur on minority issues following her visit in April 2014, Ukraine has a legislative, policy and social environment that is generally conducive to the protection of minority rights, including linguistic and cultural rights²⁰. Nevertheless the Special Rapporteur recommended the further strengthening of Ukraine's legislative and institutional frameworks for minority rights protection. The HRMU continued receiving reports of alleged **discrimination against Roma** who frequently face additional challenges including lack of documents. On 11 December in Sverdlovsk (under control of the 'Luhansk people's republic'), a group of armed men reportedly broke into Roma homes, robbed them and took their passports. On 15 December, a Roma NGO reported that two police officers, in civilian clothes, came to the collective centre and harassed and threatened Roma IDPs and demanded money from them.

66. The HRMU received reports of targeting of religious minorities in the areas controlled by armed groups. **On 10 January, in Horlivka, five Jehovah's Witnesses ministers were taken to the office of a 'Donetsk people's republic' commander and accused of betraying the Orthodox religion.** They were allegedly punched and kicked and subjected to mock execution. After several hours, they were released while threatened with being shot if they continued their religious activities. On 22 January, in Donetsk city, a Jehovah's Witnesses minister was abducted at his workplace by members of the Oplot battalion, a military unit of 'Donetsk people's republic'. He was blindfolded and interrogated several times before being released on 23 January. On 5, 11 and 20 December 2014, Kingdom Halls (prayer houses of Jehovah's Witnesses) were seized by armed groups in Krasnyi Luch, Telmanove and Zuhres.

67. **On 15 January a synagogue was vandalised in Ivano-Frankivsk with offensive inscriptions.** The HRMU spoke with the local Jewish community representatives, who informed them that similar incidents had occurred previously, but never received appropriate attention by the law enforcement officials, and that such cases have always been categorized by police as hooliganism and the persons responsible have never been found. The written complaints and applications of representatives of the community concerning similar incidents were left without response. At the same time, the community does not perceive such instances as posing any threat or having some wider anti-Semitic context.

68. On 15 January, residents of Mykolaiv originally from Azerbaijan and Armenia filed a complaint to the Office of the Prosecutor General for racial discrimination, as they were refused to be served in a local restaurant and were told that "Caucasians were not welcome". A criminal investigation was launched under article 161 of the Criminal Code (violation of equality of citizens based on their race, national origin and religion).

V. ACCOUNTABILITY

Accountability for human rights violations in the east

69. **The Ministry of Internal Affairs as well as the SBU conducted investigations into cases of indiscriminate shelling of residential areas in Donetsk and Luhansk regions. The Ministry collected all available evidence relating to major incidents, but emphasized that a core obstacle barring the investigation remained the lack of access to the territories shelled. The HRMU also noted that a further obstacle to accountability is that many witnesses/victims**

²⁰ A/HRC/28/64/Add.1 available online in English and Russian and all UN languages at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx>

are reluctant to file complaints to the police for fear of reprisals and in the absence of trustworthy protection schemes.

70. While a significant percentage of criminal proceedings in regard to human rights violations in the east were opened under charges of terrorist acts, the Government reported only one case where a person was convicted of such act. On 13 January the district court of Sloviansk delivered the first judgment against a member of the armed groups of the self-proclaimed 'Donetsk people's republic', recognising the latter as a 'terrorist organization' and sentencing him to eight years imprisonment for membership of such a group under article 258-3 of the Criminal Code (membership of a terrorist organisation) and related charges. This judgment may set a precedent for subsequent judgements against those suspected of affiliation with the 'Donetsk people's republic' identifying them as terrorists.

71. The HRMU has been following the case of the former mayor of Sloviansk, Nelia Shtepa, who remains in custody charged under articles 110 (trespassing the territorial integrity of Ukraine) and 258 (creation of a terrorist organization) of the Criminal Code²¹. In a concerning development, Ms Shtepa's deputy, who was one of the main witnesses for the defence, was abducted on 30 January and subsequently found dead along with his driver. The HRMU learnt from the lawyers that other defence witnesses - around 40 persons - have since become reluctant to appear as witness in the proceedings.

72. As of 4 February, offices of the military prosecution conducted 49 criminal proceedings against servicemen of the National Guard and Armed Forces of Ukraine and 26 criminal proceedings into human rights violations, including arbitrary detentions and illegal deprivation of liberty committed by the 'Aidar' and 'Donbas' battalions in the conflict area. On 11 February, the Office of the Military Prosecutor reported the completion of pre-trial investigations against four servicemen of the 'Aidar' battalion accused of killing a civilian who refused to stop his car at a checkpoint on 19 November. The HRMU repeatedly come across instances where the military prosecutor's office investigators refused to pursue a case, arguing that civil prosecutor's office investigators had to prove first that servicemen had been involved in these crimes. Since not all combatants are provided with chevrons or other identification marks, investigations can be significantly impeded.

73. The 'ombudsperson' of the self-proclaimed 'Donetsk people's republic' reported on 3 February (having collected evidence in the 'White Book' project) of military crimes committed by Ukrainian armed forces. The 'White Book' reportedly includes almost 3,000 documents, victim and witness reports and video footage. According to the 'ombudsperson' almost 2,000 individual applications have been received which will be submitted to the European Court of Human Rights in a case against Ukraine.

74. The Office of the Prosecutor General, which is responsible for observation of compliance with the law by law enforcement bodies, reported that its investigations into allegations that the Kharkiv Regional Office of the SBU was used as a place of illegal detention, had not led to the identification of cases of illegal detention at that location, despite witness testimonies received by the HRMU.

Accountability for human rights violations committed in the context of Maidan protests

75. Progress in accountability for serious human rights violations committed during the Maidan protests in which at least 104 demonstrators and 13 law enforcement officers were

²¹ In addition to this case, the law enforcement agencies of Ukraine have reported prosecution of at least six high level national and local politicians. These include former Head of Kharkiv Regional State Administration, Mykhailo Dobkin, Kharkiv City Mayor, Hennadii Kernes, Mayors of Stakhanov – Yuri Borysov, of Debaltseve – Volodymyr Protsenko, and of Kurakhove – Serhii Sazhko, and former head of the faction of the Party of Regions in the Parliament – Oleksandr Yefriemov. All of them were suspected of trespass on the territorial integrity of Ukraine under Article 110 of the Criminal Code, however, no case has yet been brought to court.

killed and 1,200 people were injured (including 1000 who sustained gunshot wounds), remains inadequate with poor progress over the reporting period. According to the Prosecutor General of Ukraine, the main obstacle to investigations remained the difficulty in locating suspects who fled Ukraine as well as the lack of expertise in investigating this type of cases. An investigation into the forceful dispersal of Maidan protestors on the night of 30 November 2013, when 84 people were injured, has established that the former head of the Kyiv City State Administration, Oleksandr Popov, was responsible for the violent actions of the police. He is charged under the Criminal Code with illegal impediment of public meetings and collusion with the purpose of abuse of power. Four 'Berkut' officers were suspended and placed under house arrest for their alleged role in the 30 November events.

76. On 6 February, the Prosecutor General reported that approximately 1,000 criminal proceedings were ongoing into human rights violations and abuses committed during Maidan protests. Eight indictments in cases related to killing of protestors were submitted to the court. On 20 January, the Prosecutor-General informed the HRMU of submission of the indictment on the case of killing of 39 protestors by a group of law enforcement officials (including three Berkut servicemen) on 20 February 2014. On 23 January two servicemen remanded in custody had their detention extended until 23 March 2015. The Berkut commander was released from custody and placed under house arrest by the court in September 2014, however he subsequently escaped, raising serious questions regarding the appropriateness of his house arrest for such serious charges. The suspects are charged under the Criminal Code articles 115 (murder), 262 (theft of firearms) and 365 (abuse of power by the law enforcement). On 2 February the Ministry of Internal Affairs reported that its investigations into the killing of protestors in February 2014, had established that firearms used by the *tytushky*²² against protestors in Kyiv were obtained from the Ministry.

77. On 20 January, the Kharkiv Regional Prosecutor's Office informed the HRMU of the completion of pre-trial investigations in relation to a former senior official of the Kharkiv Regional Department of Internal Affairs who allegedly ordered the dispersal of pro-Maidan protestors in Kharkiv on 19 February 2014, in which protestors were injured as a result of violent police action.

Accountability for the 2 May violence in Odesa

78. No essential progress has been reported in investigations into the killing of 48 persons and inflicting bodily harm to 247 people (including 22 police officers) during the clashes and burning of the Trade Union Building in Odesa on 2 May 2014. During preliminary court hearings by the Malynovskyi District Court of Odesa from 16 January, lawyers for the defendants (mostly 'pro-federalism' activists) drew attention to human rights violations and procedural omissions contained in the indictment: failure to provide Russian Federation citizens with Russian translation of indictment; failure to specify the action of each accused during mass disorder; failure to indicate information on conducted investigative actions, and incorrect personal data of participants of the trial. On 2 February 2015, the panel of judges ruled that the indictment regarding organising mass disorder in the city centre violated the right to fair trial and did not comply with the Criminal Procedure Code, and should be returned to the Office of the Prosecutor General for revision and correction. The preparatory trial hearings were held in a tense atmosphere with threats by 'pro-unity' supporters. There is no measurable result into the investigation of police and fire brigade negligence on 2 May, which is chaired by the Office of the Prosecutor General and the Ministry of Internal Affairs.

²² Organized groups of young men used to attack peaceful rallies or stage provocations.

VI. LEGISLATIVE DEVELOPMENTS AND INSTITUTIONAL REFORMS

Legislative developments related to the situation in the east

79. Confronted with a surge in hostilities from January 2015 the authorities introduced measures designed to prevent the further destabilization of the security situation, including the temporary order regulating travel in and out of the security operation area,²³ which became effective on 21 January 2015. The temporary order may contravene elements of international standards for freedom of movement, restrictions to which must be based on clear legal grounds and meet the test of strict necessity and proportionality. Whereas it is acceptable to restrict access into the security operation area, making it hard or impossible for civilians to leave the area of conflict is not in compliance with article 12 of the International Covenant on Civil and Political Rights²⁴. The Guiding Principles on Internally Displaced Persons (articles 14 and 15) also establish that IDPs are free to move anywhere within a country. As the shelling and fighting has intensified, impeding movement of civilians out of the conflict areas contravenes the international humanitarian law customary norm regarding removal of civilians from the vicinity of military objectives. The temporary order has also created difficulties for the delivery of humanitarian aid, contrary to international humanitarian law, which obliges the parties to a conflict to allow rapid and unimpeded passage of humanitarian relief for civilians²⁵.

80. Another legislative development related to the situation in the east is the elaboration of a draft law that would empower the High Administrative Court of Ukraine to decide whether an organization should be considered as ‘terrorist’²⁶. Requests for recognition can be submitted by the Office of the Prosecutor General or prosecution offices in the regions based on documentary evidence. The decision of the High Administrative Court cannot be appealed and would enter into force immediately. The draft law provides that in a crisis situation the decision to recognize an organization as terrorist may be taken by the National Security and Defence Council of Ukraine (NSDC). This draft law raises serious questions as it enables a non-judiciary body with links to the executive branch to make a legally binding determination of an organization as terrorist and lacks internationally recognized fair trial guarantees, including due process and the right to appeal. The draft should be significantly amended in order to comply with international standards.

81. On 26 January, the Government introduced an ‘emergency situation’ regime in the regions of Donetsk and Luhansk under Government control, and a state of ‘high alert’ throughout the rest of Ukraine²⁷. The purpose of this measure was reportedly to ensure proper identification of the needs of the population in the conflict affected areas and efficient coordination of State assistance, and to strengthen the protection of civilians. On the basis of this regime, local authorities in government-controlled areas will have enhanced powers to use State funds, notably to rebuild infrastructure destroyed during the fighting. The emergency situation regime is regulated by the Code of Civil Protection of Ukraine, which deals with the tasks, role and responsibilities of the State in connection with the protection of the population in emergency situations. OHCHR reiterates that this ‘emergency situation’ regime must neither diminish the human rights obligations of the State nor must it affect the enjoyment of fundamental rights and freedoms.

²³ Temporary Order on the control of movement of people, transport vehicles and cargos along the contact line in the Donetsk and Luhansk regions.

²⁴ General Comment 27 of the Human Rights Committee (paragraph 16).

²⁵ See Rule 55 on Access for Humanitarian Relief to Civilians in Need.

²⁶ Draft Law No. 1840 ‘On Introducing Amendments to Certain Legislative Acts of Ukraine on the Recognition of Organizations as Terrorist ones’, registered in parliament on 26 January 2015.

²⁷ Order No. 47-r ‘On the establishment of regimes of high alert and emergency’.

82. A State commission was created to streamline civilian protection efforts,²⁸ including to draw up an inventory of State facilities that can be used for the protection of civilians and a registry for the delivery of equipment as well as humanitarian and other supplies. Regional emergency commissions will support and complement the civilian protection measures that already form part of the legal obligations of the State,²⁹ namely activities necessary for evacuation, safety and health. In a resolution of 30 January, a procedure for rendering humanitarian assistance to the population was elaborated which provides for assistance to be distributed through the State administrations of the Donetsk and Luhansk regions in areas controlled by the Government and in areas controlled by armed groups'. While the intention to provide and ensure access to humanitarian assistance without discrimination is a positive signal, no procedures for coordination and delivery to areas controlled by armed groups are elaborated.

83. On 3 February, Parliament adopted a law 'On military-civilian administrations' aimed at ensuring the functioning of local administrations in the conflict area. The law allows the State-appointed regional administrations in Donetsk and Luhansk to nominate civilian and military personnel to run local self-government bodies. This measure applies to territories under the control of the Ukrainian armed forces. It appears to be aimed at making up for the absence of local people to fill local government positions as a result of the ongoing conflict.

Other legislative and institutional developments

84. On 9 February, the Kyiv District Court of appeal partially cancelled the Government decision adopted in November 2014 that discontinued pension and social security payments for residents in the areas controlled by armed groups. The court declared illegal the provisions of paragraph 2 which state that "in cities of Donetsk and Luhansk regions where State authorities temporarily cannot exercise or cannot exercise at all their functions, payments from the State budget, budget of the Pension Fund of Ukraine and other budgets of funds of social insurance will be conducted only after the Government regains control over these territories". If after 10 days no appeal is received, the Government will become liable to resume payments and retroactively pay pensions and other social payments suspended since November 2014 when the decision entered into force.

85. On 12 January, President Poroshenko signed a decree 'On the Strategy of sustainable development – Ukraine 2020'. The strategy foresees 62 reforms including on the fight against corruption, decentralization, energy independence, and modernising the judiciary, the public administration and the defence system. A national council on reforms, involving civil society representatives, was established and tasked to submit strategies and other draft documents concerning the administration of justice and legal institutions. Several anti-corruption laws were adopted³⁰ and the powers of the prosecution were reduced.

86. Under the leadership of the Ministry of Justice, the Government continued working on the development of the national human rights strategy. Upon the request of civil society, the deadline of 1 January 2015 for its adoption was extended until 31 March 2015 to provide additional time for consultations. The elaboration of the strategy has been based on a consultative process involving representatives of the Government, civil society, the Ombudsman's Office, UN agencies and regional organizations. Over a dozen meetings in plenary sessions and sub-working groups were held in December, January and February.

²⁸ Resolution No. 18 'On the State Commission on technogenic and environmental security and emergencies'.

²⁹ See Resolution No. 11 of the Cabinet of Ministers of Ukraine 'On approval of the Regulation on the unified state system of civil protection' (9 January 2014).

³⁰ See the HRMMU report of 31 October 2014.

Lustration law and anti-corruption measures

87. A government-led working group was established on 12 January 2015 to prepare amendments to the law ‘On the purification of Government’ (lustration law) adopted on 16 September 2014³¹. The ‘lustration’ of public officials was demanded during the Maidan protests to address corruption and human rights violations by officials under the Yanukovych government. Assessment of the law by the Venice Commission revealed several shortcomings, including: an overly broad timeframe for its application; collective guilt by virtue of belonging to a category of public officials; and a lack of fair trial guarantees. By 12 February 2015, 395 high-ranking State officials had been dismissed, including heads and deputies of ministries, government agencies and State bodies at central, regional and local levels. More than 200 decisions have been appealed in court. Eight decisions were confirmed, while three were overturned, leading to reinstatements. The remaining cases are on hold pending a Constitutional Court ruling on the constitutionality of the law³².

88. A law ‘On fair trial’ adopted on 12 February aims to improve the impartiality and professionalism of judges. It provides for a complete re-attestation of judges; elaborates in detail procedures for membership of the bodies in charge of appointing, dismissing and initiating disciplinary proceedings against judges; enhances the powers of the Supreme Court as the ultimate cassation authority; and widens the scope of disciplinary proceedings that can be initiated against judges. The provisions are conducive to improving the functioning and independence of the judiciary, however, constitutional changes have been recommended³³ to ensure that judges are elected by their peers rather than by parliament; and to make the lifting of judicial immunity the prerogative of an independent authority rather than parliament.

89. On 31 January, amendments to the lustration law³⁴ came into force enabling the selective exemption of high ranking military and security officers from the lustration procedure due to the ongoing conflict. At least one case resulted in the reinstatement of a general previously dismissed under the lustration law. The amendment may be abused and carries the risk of exemptions being obtained through corruption or other illicit means.

90. The law establishing a National Anti-Corruption Bureau (NACB) entered into force on 25 January 2015 while legal acts are being adopted for its functioning. The NACB is a specialized law enforcement agency to fight corruption among senior officials, including ministers, judges and heads of public administrations. It can conduct investigations and open criminal proceedings for corruption cases involving more than UAH 600,000. Its creation constitutes a positive development but should be combined with other necessary reforms, including of the courts, which have lacked independence and integrity. The police and the prosecutor’s office remain responsible for investigating corruption cases involving non-senior officials and smaller amounts, despite very limited success in the past.

Law on criminal proceedings in absentia

91. Amendments to the law on criminal proceedings *in absentia*³⁵ became effective on 31 January. Trials in the absence of the defendant will be possible when a suspect has left the country and for individuals known to be in the area of the security operation or in Crimea. Amendments widen the scope of the law to include parts of Ukraine which the authorities neither have access to nor control. The HRMU notes that the grounds for prosecution in the absence of the accused, as provided for in the law on criminal proceedings *in absentia*, are

³¹ For a description and analysis of the law, see the HRMMU report of 31 October 2014.

³² Requests to assess the constitutionality of the law was made by the External Intelligence Service of Ukraine (18 October 2014), the Supreme Court of Ukraine (20 November 2014) and 47 deputies (20 January 2015).

³³ See Opinion No. 639/2011 of the Venice Commission of 18 October 2011.

³⁴ Law No. 132-VIII ‘On Introducing Amendments to the Law of Ukraine on the Purification of Government’ Regarding Additional Measures to Secure the Defense Capabilities of the State’.

³⁵ The law was analysed in the HRMMU report of 31 October 2014.

very wide³⁶, making possible a frequent resort to this procedure. International law recognizes the right of the accused to be present in person at trial³⁷.

VII. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA

92. Political pressure and intimidation continued against Crimean residents opposing the *de facto* authorities in Crimea and in particular Crimean Tatars and human rights activists. In addition, for the first time, the *de facto* authorities in Crimea have opened legal proceedings in relation to incidents that occurred prior to the March ‘referendum’ in application of Russian laws in the Autonomous Republic of Crimea, contrary to General Assembly resolution 68/262 on the territorial integrity of Ukraine. The exercise of the rights to freedom of opinion and expression and of peaceful assembly continued to be curtailed while registration requirements imposed limitations on the exercise of freedom of religion or belief.

93. The *de facto* authorities in Crimea started legal actions in relation to the events of 26 February 2014 when supporters of Ukraine’s territorial integrity, mostly Crimean Tatars, and pro-Russia demonstrators, clashed in front of Crimea’s parliament building. Two individuals died in the scuffles and about 30 were injured. On the following day, armed men took over Crimea’s parliament. On 29 January 2015, the Crimean police arrested the Deputy Chairman of the Crimean Tatar Mejlis, Akhtem Chiigoz, who took part in the demonstrations. A Simferopol court ordered his detention until 19 February and later extended it until 19 May. Mr Chiigoz is accused under article 212 of the Criminal Code of the Russian Federation (Organization and participation in mass disturbances), which carries a maximum prison sentence of 10 years. On 7 February another Crimean Tatar, Eskender Kantemirov, was detained and accused under the same charges. On 8 February, a court placed him in pre-trial detention for two months.

94. On 26 January 2015, armed masked men raided the premises of the Crimean Tatar TV channel ATR. Equipment was confiscated and some staff members were detained for several hours. According to Crimea’s prosecution office, the channel had been warned against violating the Russian Federation law on extremist activities. Sources within ATR stated that the searches involved video materials related to the events of 26 February 2014.

95. The *de facto* authorities in Crimea started legal proceedings in relation to Crimean participants of the Maidan events. On 8 February, Oleksandr Kostenko was remanded in custody for two months accused under article 115 of the Criminal Code of the Russian Federation³⁸ of having injured a Berkut special police officer during demonstrations in Kyiv. In this case, as well as the case involving the deputy chairman of the Mejlis, legal proceedings relate to events preceding the March ‘referendum’ and the *de facto* application of Russian legislation in Crimea. This seems to be against article 15(1) of the ICCPR, which states that “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.”

96. A Crimean Tatar activist, Edem Osmanov, was arrested by the Crimean police on 19 January 2015 in connection with the events of 3 May 2014 when thousands of Crimean Tatars

³⁶ The law allows trial *in absentia* for: overthrow of the constitutional order; violation of territorial integrity or its financing; high treason; attempt against the life of a statesman; sabotage; espionage; murder and corruption.

³⁷ Proceedings *in absentia* are in some circumstances (for instance, when the accused person, although informed of the proceedings sufficiently in advance, declines to exercise their right to be present) permissible in the interest of the proper administration of justice (See Daniel Monguya Mbenge v. Zaire, Communication No. 16/1977, U.N. Doc. CCPR/C/OP/2 at 76 (1990))

³⁸ Article 115 concerns “deliberate infliction of mild damage to health for motives of political, ideological, racial, ethnic or religious hatred or enmity, or hatred or enmity in relation to a social group”.

came to the administrative border with Ukraine to greet the former head of the Crimean Tatar Mejlis, Mustafa Jemilev, who had been banned from entering Crimea by the *de facto* authorities on 22 April 2014. A tense standoff with the Crimean police ensued, with the Crimean Tatars briefly blocking a few roads. A court placed Mr Osmanov in pre-trial detention for two months. He is the fifth Crimean Tatar activist detained in relation to these events since October 2014 on charges of using force against a police officer³⁹ despite eyewitness reports that the action was largely peaceful.

97. On 25 December 2014, Gennady Afanasiev was sentenced to seven years imprisonment by a Moscow city court. Together with Ukrainian film director Oleh Sentsov and pro-Ukrainian activists Oleksandr Kolchenko and Oleksii Chorny, he was arrested in May 2014 in Simferopol, accused of a ‘terrorist plot’, and later transferred to a pre-trial detention centre in Moscow. Mr Afanasiev had confessed to the charges while in police custody in Simferopol without access to family or a lawyer. On 28 January, a court in Simferopol refused Oleksandr Kolchenko’s request to keep his Ukrainian citizenship. It stated that he had applied for Russian citizenship, a claim denied by his lawyer. On 3 February, in addition to the accusation that he organized a ‘terrorist plot’, Oleh Sentsov was also charged with illegal possession of weapons under article 222-3 of the Criminal Code of the Russian Federation (unlawfully obtaining, selling, possessing weapons, explosive substances and devices).

98. Intimidation of civil society activists has continued over the reporting period. On 23 January 2015, Sinaver Kadyrov, Eskender Bariiev and Abmedzhit Suleimanov, three coordinators of the Committee on the Protection of the Rights of the Crimean Tatar people, a Crimea-based NGO, were stopped by Russian border guards as they were crossing the administrative boundary line with mainland Ukraine. After being interrogated by FSB officials, two were released but Mr Kadyrov was detained and taken to a court, which fined him and ordered his deportation from Crimea for “violating migration legislation and the passport regime”. On 17 January 2015, the three had organized a conference in Simferopol that adopted a resolution calling on the Ukrainian authorities and the international community to protect the Crimean Tatar people. In December 2014, they had tried unsuccessfully to hold a public event on Human Rights Day.

99. On 23 January, officials of the Federal Security Service (FSB) arrested three Crimean Tatars near Simferopol on suspicion of belonging to Hizb ut-Tahrir, a religious organization banned in the Russian Federation for extremism. Their arrest followed searches of their houses. They were placed in pre-trial detention for two months in accordance with article 205-5 of the Criminal Code of the Russian Federation (planning and participation in the activities of a terrorist organization). These are the first cases known to the HRMU of charges for belonging to a banned religious organization since the March ‘referendum’.

100. On 30 January, the Crimean ‘head’ adopted a decree enacting a ‘Comprehensive Plan to counter the terrorist ideology in the Republic of Crimea for the period 2015 to 2018’ developed on the basis of an analogous document of the Russian Federation. The plan aims to ‘effectively decrease the threat of terrorism’ through measures designed to prevent the radicalization of various population groups, ‘in particular the youth’. The measures include identifying people who participated in the armed conflicts in the northern Caucasus of the Russian Federation and other states, including Syria and Ukraine; disseminated terrorist and extremist ideology and information discrediting the Russian Federation; or are members of non-traditional religious organizations and sects. Other measures include terrorism prevention programmes in the media and educational spheres, and activities to promote tolerance, inter-ethnic and religious harmony.

³⁹ The other four were remanded in custody for two months in October 2014 and released in December but are still facing charges of using force against a police officer.

101. Freedom of peaceful assembly continued to be restricted by actions of the *de facto* authorities in Crimea. The Committee on the Protection of the Rights of the Crimean Tatars, a Crimean NGO, was prohibited by the *de facto* authorities of the city of Simferopol from holding an event to mark Human Rights Day (10 December) on the grounds that it could block public transportation and access to public buildings as well as “constitute a real threat to the life and health of the population”. An appeal against the ban was rejected and the organizers notified the Simferopol city administration about a planned protest rally instead, also on 10 December. This notification was also rejected and the protest could not go ahead due to a strong police presence. At a press conference later that day, members of the Committee were doused in green paint by a group of young men. The police did not investigate the incident.

102. The Ukrainian authorities restricted the movement of people to and from Crimea. On 26 December 2014 train and bus connections from mainland Ukraine into Crimea were stopped. The decisions of the Railway Transport of Ukraine (‘Ukrzaliznytsia’) and the State Inspection on Safety of Overland Transport mentioned the need ‘to ensure the safety of passengers’ and to prevent the penetration of ‘subversive groups’ from the peninsula. Passenger cars and trucks are still allowed to move in and out of Crimea. However, this situation has created very long lines of vehicles. There are reports of people needing to walk through the two custom services and border guard check-points, which are separated by a five kilometre-long ‘security area’, by foot. Suspension of bus and train connections particularly affects older persons and those with disabilities, who used to travel by train to the mainland.

103. Religious communities in Crimea currently operate based on Ukrainian registration, which the *de facto* authorities in Crimea have neither recognized nor formally denounced. Russian Federation law requires religious communities and civil society organizations to register by 1 March 2015. Registration is essential to open a bank account or rent premises and is a pre-condition for inviting foreign citizens. Non-registration of the Roman Catholic Church in Crimea has led to the departure of a Polish priest and nuns of the Roman Catholic parish in Simferopol after their Ukrainian resident permits expired in late 2014. Similarly, 23 Turkish imams residing in Crimea under a 20-year-old programme with the Crimean Tatar Mejlis had to leave due to non-registration of the Mejlis under Russian law. This situation, and instances of police raids on places of worship, has created anxiety among religious communities and questions the commitment of the *de facto* authorities in Crimea to the protection of the right to freedom of religion or belief.

VIII. CONCLUSIONS AND RECOMMENDATIONS

104. In view of the serious escalation of the conflict in eastern Ukraine since January and its devastating impact on civilians caught in indiscriminate shelling and other hostilities, it is essential that the fighting be brought to an end without further delay. Credible reports indicate a continuing influx of heavy and sophisticated weaponry to armed groups in the Donetsk and Luhansk regions, as well as foreign fighters, including from the Russian Federation. This has fuelled the escalation of the conflict and new offensives by armed groups, undermining the potential for peace as armed groups extend their areas of control. This has resulted in further and significant increases in civilian and military casualties. All parties to the conflict must implement fully the provisions established under the Minsk agreement including: a new ceasefire to have entered into force from 15 February; the withdrawal of heavy weaponry by both sides to create a 50-140km security zone; the withdrawal of foreign armed formations, mercenaries and weapons from the territory of Ukraine; and the reinstatement of full control of the state border by the Government of Ukraine throughout the conflict area.

105. Travel restrictions imposed by the Government of Ukraine on movement across the line of contact have created new threats to civilians in affected areas already in extremely precarious situations, adding to their vulnerability. Assumptions that those who remain on territory controlled by armed groups have made their choice to remain, are worrying and misguided. Many of those who remain do so in fear for their lives due to indiscriminate shelling of homes and evacuation routes, to protect children or other family members, or lack the physical means to leave, including elderly persons, those with disabilities and others. All of those who remain have a right to protection according to international human rights and humanitarian law, which must be respected for all, by all relevant authorities, everywhere.

106. Despite previous warnings that continuing conflict in eastern Ukraine could potentially result in new waves of internally displaced persons, national responses to new displacement over the reporting period remained inadequate, unprepared and largely in the hands of volunteers and humanitarian organizations. The Government must do more to meet the needs of internally displaced persons, in conformity with their rights under international standards, including to ensure winterized accommodation in locations preferred by IDPs, provision of social benefits, and ensuring all their basic needs are met. It is essential to recognize that for many, displacement is likely to be protracted and that durable solutions with regard to housing, employment and integration must be promptly put in place.

107. The impact of the conflict on the economic and social rights of civilians is massive and long-term. All parties to the conflict should strive to guarantee economic and social rights as required by international human rights law and to minimize the restriction of access to basic social services, including health, education, social security as well as access to housing. Interruption of access to such services could have life-threatening or life-long impact on a large portion of the population and would hinder post-conflict recovery of the society. In times of resource constraint, it is essential to mobilize maximum available resources and avoid retrogressive measures.

108. OHCHR continues to appreciate the cooperation extended by the Government of Ukraine to the HRMU during the reporting period. The HRMU 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 throughout Ukraine. It will work closely with the Government and other national, regional and international actors, including the United Nations system, and will endeavour to assist all actors to fulfil their commitments with respect to international human rights and humanitarian law.

109. While all previous recommendations contained in OHCHR reports issued since 15 April 2014 remain valid, OHCHR calls upon all those involved in the conflict in Ukraine to implement the following recommendations:

- a) Guarantee efforts to abide by and implement the Minsk agreement to end the conflict in the Donbas region and urgently bring an end to the fighting and violence in all localities.
- b) Ensure the protection of civilians in conflict affected regions in full conformity with international human rights and humanitarian law, including an immediate end to indiscriminate shelling of populated areas that puts civilians at risk.
- c) Ensure free and unimpeded access for humanitarian actors to all necessary areas as well as the rapid and non-discriminatory delivery of humanitarian assistance, while adhering to international norms and ensuring the protection of humanitarian actors.
- d) Lift restrictions on free movement across the line of contact on the grounds of security to ensure that civilians wishing to leave conflict affected areas can do so promptly and safely without undue restrictions or delays that may put them at risk due to indiscriminate shelling and attacks at checkpoints.

- e) Enhance evacuation measures, including for those in institutional facilities, to ensure that all individuals wishing to leave conflict affected areas have access to information, transport and essential needs. Respect ceasefire agreements to ensure the safe and voluntary evacuation of civilians.
- f) Provide all necessary assistance to internally displaced persons according to international standards such as the Guiding Principles on Internally Displaced Persons, including with regard to their freedom of movement and the need for durable solutions.
- g) Release all those unlawfully or arbitrarily detained without delay and in conditions of safety. Treat all detainees, civilian or military humanely and according to international human rights and humanitarian law and standards, including those regarding women in detention.
- h) Investigate and prosecute according to law any person found to be responsible for serious human rights violations, including torture and other cruel, degrading or inhumane treatment or punishment of detainees, summary or arbitrary execution, or enforced or involuntary disappearance, including those with command responsibility.
- i) Mechanism for the reporting of violence against women should be established and referral and support systems put in place to ensure the protection of women and girls who may be highly vulnerable to sexually-based or other forms of violence, trafficking and prostitution as a means of survival and ensure prompt investigation of all cases.
- j) Ensure the protection of family unity and that wherever possible children are not separated from their parents, including in the context of evacuation of civilians.
- k) Implement measures in the field of education to ensure to the fullest extent possible that students, including those living in areas controlled by armed groups, who wish to do so, may continue their education, sit exams and obtain Ukrainian diplomas and certificates.
- l) Ensure freedom of the media and the liberty, security and rights of journalists to freely conduct their legitimate professional activities.
- m) Guarantee the rights to freedom of peaceful assembly, freedom of opinion and expression and freedom of association for those legitimately protesting, including for those who object to military mobilization.
- n) Law-enforcement agencies should ensure prompt and effective investigation of crimes motivated by ethnic or religious hatred, including desecration of property and places of worship and acts of violence.

110. With regard to the situation in the Autonomous Republic of Crimea, OHCHR notes a continuing deterioration of the human rights situation for some persons belonging to the Crimean Tatar indigenous group, in particular political and human rights activists and community leaders. Measures have been implemented that undermine the legitimate rights of this and other communities, including freedom of religion or belief and freedom of association and peaceful assembly, and the rights of minorities. To the *de facto* authorities in Crimea and to the Russian Federation, OHCHR makes the following recommendations:

- o) Review of the judicial legitimacy of criminal cases brought against Crimean Tatar leaders and activists and deportations of some leaders should be conducted to answer challenges that cases are politically motivated.
- p) Freedom of religion or belief should be fully respected and protected, including the right of religious communities to freely function without undue administrative or legislative hindrance, harassment or other restrictions, including by law enforcement bodies.

- q) The right to freedom of peaceful assembly and association should be fully restored and measures should be taken to protect that right in practice and to ensure that organizations may hold events including commemorations and demonstrations freely and without hindrance.

Annex 310

OHCHR, Report on the Human Rights Situation in Ukraine (16 February–15 May 2015)

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

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

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I. EXECUTIVE SUMMARY

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

2. The reporting period covers the time span that marked one year since the events which had dramatic impact on the human rights situation in Ukraine and which have triggered its subsequent deterioration: February 2014 events at Maidan; the so-called ‘referendum’ in the Autonomous Republic of Crimea of 16 March; the start of the Government’s security operation in the eastern regions of Donetsk and Luhansk on 14 April to re-gain control of territory and buildings seized by the armed groups in March and April 2014, which was met with resistance and reportedly bolstered by the influx of foreign fighters and weapons from the Russian Federation; the violence on 2 May in Odesa; and the so-called ‘referendums’ on self-rule in Donetsk and Luhansk regions on 11 May, which contravened the Constitution of Ukraine and international norms and standards.²

3. For more than a year, the lack of protection and justice for victims and the impunity of perpetrators have prevailed in Ukraine. Accountability for gross human rights violations committed during the Maidan protests, in which at least 104 demonstrators and 13 law enforcement officers were killed, and in the 2 May violence in Odesa, when 48 persons died, is pending. No perpetrators have been brought to justice, and the investigation into these cases remains slow. Though the Office of the Prosecutor General claimed that it had identified all senior Government officials involved in decision making during Maidan events, no one is informed that they are a suspect in the case. Only seven people suspected of killing protestors on 18-20 February 2014 have been detained so far with two of them being tried. Investigations in Odesa by the Ministry of Internal Affairs and the Office of the Prosecutor General are widely believed to be unreliable, particularly because of the inability or unwillingness of law enforcement bodies to bring to justice those responsible for the violence. The prosecution of perpetrators is also reportedly hampered by the fact that some of them have fled Ukraine.

4. Collapse of law and order on the territories controlled by the self-proclaimed ‘Donetsk people’s republic’³ and the self-proclaimed ‘Luhansk people’s republic’⁴ continued to be aggravated by on-going armed hostilities between the Ukrainian armed forces and armed groups. The hostilities continue to be accompanied by violations of international humanitarian law and have had a devastating impact on the overall enjoyment of human rights by an estimated five million people living in the area. In places directly affected by the fighting, such as Debaltseve, Donetsk and Horlivka, people pleaded to the HRMMU: “*we just want peace*”.

5. The current ceasefire in eastern Ukraine is not fully respected. Agreed upon on 12 February 2015 as part of a Package of Measures for the Implementation of the Minsk Agreements with participation of representatives of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, it entered into force on 15 February. The Package also foresees the withdrawal of heavy weaponry from the contact line; the establishment of a 50-140 km security zone; the withdrawal of illegal and foreign armed formations from the territory of

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

² For more details on these events, see paragraphs 3-6 and 9-10 of the abovementioned report.

³ Henceforth referred to as the ‘Donetsk people’s republic’.

⁴ Henceforth referred to as the ‘Luhansk people’s republic’.

Ukraine; and an ‘all for all’ release of “hostages and unlawfully detained persons”. On 17 February, by resolution 2202 (2015), the Security Council called on all parties to the conflict to fully implement the Package. On 17 March, the Parliament of Ukraine adopted a resolution approving the application to the Security Council and the Council of the European Union about deployment of the international peacekeeping and security operation in Ukraine.

6. In the days following the abovementioned agreement on a ceasefire, attacks by the armed groups against Ukrainian troops continued around the town of Debaltseve (Donetsk region) until 19 February causing new casualties among the remaining civilian population which had already spent several weeks in basements. Between 19 February and 10 April, the ceasefire was generally upheld, though isolated skirmishes and clashes were reported daily. While some areas in the conflict zone have remained calm, such as the city of Luhansk, others have become the scenes of escalating hostilities since 11 April⁵. The vicinity of Donetsk airport and the contested village of Shyrokyne (Donetsk region) remained the major flashpoints where heavy weapons were intensively used. Reports of sophisticated heavy weaponry and fighters being supplied from the Russian Federation persisted.

7. The overall decrease in indiscriminate shelling of populated areas after 15 February resulted in a decrease in civilian casualties. Casualties of Ukrainian armed forces and armed groups continued to grow. In total, since the beginning of the hostilities in mid-April 2014 until 15 May 2015, at least 6,362 people (including at least 625 women and girls) were documented as killed and 15,775 as wounded in the conflict area of eastern Ukraine⁶. Many people remain missing; bodies continue to be recovered.

8. Serious human rights abuses, intimidation and harassment of the local population perpetrated by the armed groups continued to be reported. The HRMMU received new allegations of killings, torture and ill-treatment, as well as cases of illegal deprivation of liberty, forced labour, looting, ransom demands and extortion of money on the territories controlled by the armed groups. Persecution and intimidation of people suspected of supporting the Ukrainian armed forces or being pro-Ukrainian remained widespread. At times, the armed groups did not permit the HRMMU to access areas where violations of human rights have reportedly been taking place, or it was not possible for security reasons.

9. The armed groups and the so-called ‘governance structures’ of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ are accountable for human rights abuses committed on territories under their control. Steps taken by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to establish their own ‘legislative’ frameworks and systems of ‘administration of justice’ (‘police’, ‘prosecutors’ and ‘courts’) are contrary to the Constitution of Ukraine and international law, and jeopardize the Minsk Agreements.

10. Residents of the territories controlled by the armed groups continued to be increasingly isolated from the rest of Ukraine since the so-called 2 November ‘elections’ held by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ at variance with provisions of the Minsk Agreements and the Constitution of Ukraine due to the subsequent decisions of the Government of Ukraine to temporarily relocate all State institutions and organisations from these territories and to stop allocations and disbursements (including social payments) to the institutions and individuals located there⁷. On 17 April, the

⁵ Such as Avdiivka, Dokuchaivsk, Donetsk, Horlivka, Hranitne, Krasnohorivka, Krymske, Luhanske, Olenivka, Opytne, Pisky, Popasna, Shchastia, Shyrokyne, Slovianoserbsk, Spartak, Stanychno Luhanske, Svitlodarsk, Vesele, Vodiane, Volnovakha, Yasynuvata and Zolote.

⁶ This is a conservative estimate by the HRMMU and WHO, based on available official data. It is believed that casualties have been under reported and that the actual number is higher.

⁷ For more details, see paragraph 12 of 8th HRMMU report.

Parliament of Ukraine recognized these territories as “temporarily occupied”. The situation of the most vulnerable, particularly older persons, persons with disabilities, families with children and people in institutional care, remains dire with many of them having no source of income or being deprived of access to basic social services. In early April, reports emerged of some pensions and salaries being paid in Russian roubles by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’.

11. The permit system introduced through a Temporary Order on 21 January by the Security Service of Ukraine continued to significantly limit the freedom of movement across the contact line. It was even the case during the height of hostilities in February as many tried to leave the conflict zone. Those seeking to obtain permits face corrupt practices and delays of up to three months. International and national organizations have advocated for the revision of the permit system with no avail to date.

12. The safety and security of journalists remained precarious in the conflict zone with several of them killed during the reporting period. The armed groups continued to limit freedom of expression and impede the work of media professionals on the territories they control. The Government of Ukraine identified over 100 media outlets (including TV channels, information agencies, newspapers and Internet resources) from the Russian Federation that are not allowed anymore to attend press events of the state bodies until the end of the security operation.

13. The HRMMU is concerned that the efforts of the Government to safeguard territorial integrity of Ukraine and to restore law and order in the conflict zone continue to be accompanied by persistent allegations of arbitrary and secret detentions and enforced disappearances of people suspected of separatism or terrorism. The HRMMU continued to receive allegations of ill-treatment and torture of people detained by the Ukrainian armed forces and law enforcement agencies. It is also concerned that investigations into allegations of gross human rights violations by the Ukrainian military and law enforcement personnel have yet to be carried out.

14. More than 1.2 million people internally displaced since the beginning of the conflict suffer from impeded access to healthcare, housing and employment. The proliferation of arms, the lack of job opportunities, limited access to medical care and psycho-social services for demobilised soldiers and a deep anxiety that the ceasefire may not hold have a serious impact on the population and the prospects for reconciliation. Further deterioration of the overall economic and financial situation is affecting the whole population of Ukraine.

15. On 3 March, the President established a Constitutional Commission to elaborate amendments to the Constitution of Ukraine on the basis of broad public consultations. Three working groups started their work in April to outline proposals related to the functioning of the State and its institutions, decentralization, self-government, fundamental freedoms and human rights. On 26 April, amendments to the laws on the judiciary were adopted, *inter alia*, to strengthen the role of the Supreme Court as the guarantor of the unity of the jurisprudence.

16. On 15 May, the President of Ukraine signed a package of four laws which denounce Communist and Nazi regimes as “criminal under the law”, ban propaganda in their favour and all public display of their symbols. They also require replacing communist-inspired names for cities, streets, squares and other places and providing for public recognition to all those who “fought for Ukrainian independence in the twentieth century”. The HRMMU notes that there is a serious risk that some provisions of the package could limit the freedom of expression and deepen divisions in society.

17. Despite the many challenges that the Government of Ukraine faces, there has been some progress in reforms concerning business deregulation, state procurement, education and anti-corruption. On 18 March, a National Agency on the Prevention of Corruption was

created to conduct the mandatory e-declaration of incomes and expenditures of all public officials. On 16 April, the Director of the National Anti-Corruption Bureau, a body which will conduct investigation into crimes committed by high level public officials, including judges and prosecutors, was appointed by the President.

18. The situation in the Autonomous Republic of Crimea⁸, the status of which is prescribed by General Assembly resolution 68/262, continued to be characterized by human rights violations committed by the *de facto* authorities applying the laws of the Russian Federation. The HRMMU was informed about the ill-treatment and torture of a detained former Maidan activist by or with the acquiescence of Crimean ‘law enforcement’. Harassment and arrests of Crimean Tatars and other ‘pro-unity’ supporters continued. A ‘court’ ordered corrective labour for three Crimean activists after they unfurled a Ukrainian flag with the inscription “Crimea is Ukraine” during an authorized rally to commemorate the anniversary of the national poet Taras Shevchenko.

19. Control of the media in Crimea was tightened. At least seven media outlets using Crimean Tatar language, including a TV station and a newspaper, which are most popular among the Crimean Tatar community, were denied re-registration under the law of the Russian Federation and have ceased operating. Freedom of religion has been jeopardized by limitations resulting from re-registration requirements. Only 51 religious communities currently have a legal status under the law of the Russian Federation compared to over 1,400 under the law of Ukraine before the March 2014 ‘referendum’. The situation of some vulnerable groups, such as people with drug addiction, is dramatic. About 800 of them are currently without life-saving opioid-substitution therapy and up to 30 have died since March 2014. Treatment provided is inadequate as it involves simple detoxification and, occasionally, a follow-up rehabilitation.

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

A. Armed hostilities

20. The entry into force of a ceasefire as of 15 February 2015 which was part of the Package of Measures for the Implementation of Minsk Agreements of 12 February led to a considerable decrease in the intensity and geographic scope of hostilities in eastern Ukraine, except for the vicinity of the town of Debaltseve (Donetsk region), where several thousand Ukrainian armed forces remained under sustained attack by the armed groups. On 18 February, Ukrainian units were ordered to withdraw from the Debaltseve area. On 17 March, the Parliament of Ukraine adopted a resolution on the approval of an application to the United Nations Security Council and the Council of the European Union about deployment of the international peacekeeping and security operation to Ukraine.

21. Between 19 February and 10 April, the ceasefire was generally upheld, although isolated clashes were reported, mainly through the use of small arms, grenade launchers and mortars⁹. This was to a considerable extent due to the withdrawal of heavy weapons from the contact line, which the Government of Ukraine and the armed groups claimed to have completed by beginning of March, but which the OSCE Special Monitoring Mission (SMM)

⁸ Henceforth referred to as Crimea.

⁹ The locations where ceasefire violations were reported most frequently: Avdiivka, Dokuchaivsk, Donetsk, Horlivka, Hranitne, Krasnohorivka, Krymske, Luhanske, Olenivka, Opytne, Pisky, Popasna, Shchastia, Shyrokyne, Stanychno Luhanske, Slovianoserbsk, Spartak, Svitlodarsk, Vesele, Vodiane, Volnovakha, Yasynuvata, Zolote and the area of Donetsk airport.

was unable to fully verify due to the lack of access to certain locations. Reports of sophisticated heavy weaponry and fighters being supplied from the Russian Federation persisted.

22. Between 11 and 15 April, fighting considerably escalated in the vicinity of the Donetsk airport and near the contested village of Shyrokyne (Donetsk region), where the use of heavy weapons, including mortars, artillery and tanks, resumed. On 13 April alone, the Ukrainian armed forces reported six soldiers killed and 12 wounded, while the armed groups of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ claimed four of their members killed and 17 wounded. Further escalation occurred from 3 to 8 May. On 3 May, two Ukrainian soldiers were reported killed and three wounded, while the armed groups claimed three of their members killed and six wounded.

23. On 25 March, the Head of the Security Service of Ukraine (SBU) said that members of armed formations “which do not want to join the Armed Forces, Ministry of Internal Affairs, National Guard or SBU shall forfeit arms and choose another mode of operation – to leave the security operation zone and, moreover, not create or participate in any illegal military or paramilitary formations”. On 30 March, the ‘heads’ of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ issued ‘decrees’, which obliged all persons not belonging to ‘official’ military or law enforcement units to forfeit all their weaponry by 4 April, announcing that those who would not comply would be considered as “members of illegal gangs”, “forcefully disarmed” and “brought to criminal responsibility”.

24. In other areas of Ukraine, security continued to be challenged by explosions. On 22 February, an explosive device killed three people and wounded 15 in the city Kharkiv during a rally. The SBU reported the arrest of possible perpetrators. On the night of 12 March, an explosion near the office of the political party *Samopomich* occurred in Odesa. No casualties were reported. The Ministry of Internal Affairs qualified both incidents as terrorist acts. On 30 and 31 March, two explosions occurred at railway stations near the city of Kharkiv (with no casualties), bringing the total number of such incidents in the region to more than 45 since July 2014.

B. Casualties

25. Since the beginning of the hostilities in mid-April 2014 until 15 May 2015, at least 6,362 people (including at least 625 women and girls) were documented as killed and at least 15,775 as wounded in the conflict area of eastern Ukraine¹⁰.

26. Even with the decrease in hostilities, civilians continued to be killed and wounded. On 22 February, an artillery shell killed three civilians in the Government-controlled town of Avdiivka (Donetsk region). On 4 March, a woman was killed when her apartment was hit by a shell during a mortar attack on Avdiivka. During the night from 28 to 29 April, a man was reported killed and a woman wounded by shelling of the city of Horlivka controlled by the armed groups (Donetsk region). On 22 February, three civil volunteers were reportedly killed by a mine blast on the route between the town of Debaltseve controlled by the armed groups (Donetsk region) and the Government-controlled town of Artemivsk (Donetsk region). On 29 April, a civilian was wounded after stepping on a booby trap near the Government-controlled village of Zolote (Luhansk region). On 31 March, the Ministry of Health stated that “starting from March 2014, at least 109 children were heavily wounded and 42 killed as a result of

¹⁰ As in previous reports, these are conservative estimates by the HRMMU and the World Health Organization based on the available official data. The number includes casualties among the Ukrainian armed forces as reported by the Ukrainian authorities; casualties reported by civil medical establishments of the Donetsk and Luhansk regions (civilians and some members of the armed groups, without distinguishing among them), and the 298 casualties from flight MH-17. The actual number of fatalities is probably higher.

tripping landmines and explosive objects, which remained from the armed hostilities in Donetsk and Luhansk regions” (referring to Government-controlled territories¹¹).

27. On 8 May, President Poroshenko stated that 1,675 Ukrainian soldiers had been killed since the beginning of the conflict; meanwhile according to *Knyga Pamyati* (Book of Memory), a civil initiative, which cooperates with the Ministry of Defence, 1,926 soldiers had been killed prior to 12 February 2015. As of 18 April, 222 unidentified bodies (presumed to be mainly those of soldiers) were reported to be held in morgues of Dnipropetrovsk region. Also, 170 bodies of Ukrainian soldiers had been buried, of which only 47 were identified.

28. Recovery of the bodies of those killed (both military and civilian) continued on the conflict-affected territories. Between January and March 2015, the NGO *Soyuz 'Narodnaya Pamiat'* (People's Memory Union) reported recovering 340 bodies, mainly of Ukrainian soldiers, from the conflict area. By 7 May, the total number of bodies recovered by the Union since 5 September 2014 had reached 560, mainly from those areas of the Donetsk region, which are controlled by the armed groups. The search for bodies in former areas of hostilities in the Luhansk region, which are currently under the control of the 'Luhansk people's republic', is still pending.

Missing persons

29. The absence of a unified database of missing persons in the east of Ukraine since mid-April 2014 makes it difficult to estimate their number. By 10 May, the open database of the Ministry of Internal Affairs contained the names of 1,331 people (1,218 men and 113 women) who went missing on the “territory of the anti-terrorist operation”¹². On 6 May, the representative of Ukraine in the Trilateral Contact Group stated that 1,460 people were considered to be missing. As of 8 May, the database of the NGO *Mirnyi Bereg* included data on 378 missing Ukrainian soldiers and 216 missing civilians. The HRMMU notes that Governmental bodies do not effectively coordinate their activities related to the search of missing persons, both among themselves and with various civil initiatives.

C. Alleged summary, extrajudicial or arbitrary executions

By the armed groups

30. During the reporting period, the HRMMU became aware of new allegations of summary executions of people in the captivity of the armed groups. Some of these allegations have been supported by testimonies of witnesses and by forensic examinations and photographic materials.

31. The HRMMU interviewed a number of witnesses and relatives in the case of Ukrainian soldier Ihor Branovytskyi, who was allegedly summarily executed on 21 January while in captivity of the armed groups of the 'Donetsk people's republic'. According to them, when the Ukrainian military retreated from the Donetsk airport, a group of 12 soldiers, including Mr. Branovytskyi, was captured by the armed groups of the 'Donetsk people's republic'. En route to the former SBU premises in Donetsk, members of the armed groups took the captives to the former military base currently used by the so-called 'Sparta battalion'. They were reportedly beaten and subjected to interrogation under torture and ill-treatment. All captives were allegedly lined up along a wall and beaten one after the other for a few hours by some 20 people with metal pipes, wooden batons and butts of rifles. Perpetrators were reportedly looking for a machine gunner and when Mr. Branovytskyi said that he was the one they were looking for, he was separated from the other captives, beaten with a blunt

¹¹ There is no available numbers of civilians killed or wounded by mines and unexploded ordnance on the territories controlled by the armed groups.

¹² Whereabouts of some of these people have been already established, but their names have not been removed from the list.

hard object and sustained shot wounds with a traumatic gun, according to a forensic examination received by the HRMMU¹³. After Mr. Branovytskyi collapsed and fainted, the commander of ‘Sparta battalion’¹⁴ reportedly refused to call an ambulance and fired two shots in the head of the victim. In addition to physical torture and ill-treatment, the other captives were also subjected to mock executions with members of the ‘Sparta battalion’ firing shots above their heads.

32. On 8 May, the HRMMU interviewed a Ukrainian soldier, who was released by the armed groups of ‘Donetsk people’s republic’ the previous day. He was one from the group of seven captured soldiers, two of whom were wounded. Five of them, including the interlocutor, were kept in one dug-out shelter, while one wounded soldier was in the other dug-out shelter and the other wounded – in a trench. The interlocutor heard a number of shots fired by the members of the armed groups. When passing by those places, he saw these two soldiers 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 interlocutor heard a shot accompanied with scream and a second shot shortly thereafter. When four captives were leaving the hole, the interlocutor saw the soldier lying on the ground with blood on his back. The HRMMU is examining this case.

33. In February and March, nine Ukrainian soldiers captured by the armed groups in the village of Krasnyi Partyzan (Donetsk region) on 22 January were released. Some of them confirmed earlier allegations of the summary execution of four of their fellow soldiers¹⁵. In April, the HRMMU was provided with photographs of a Ukrainian soldier whose body was delivered to Dnipropetrovsk morgue on either 20 or 21 February. The body had visible signs of torture and execution (two bullet marks on the face shot from a very close range and a cut throat). The HRMMU is examining these cases.

By the Government forces

34. In April, the HRMMU received information about bodies of two members of the armed groups exhumed in autumn 2014 near the former checkpoint of Ukrainian armed forces (on the territory then controlled by the armed groups) with their hands tied behind their back and gunshots to the heads. Another case confidentially reported to the HRMMU was that of a member of the armed groups who was beaten to death while detained at a Ukrainian army checkpoint in autumn 2014. The HRMMU works to verify these allegations.

D. Illegal and arbitrary detention, and torture and ill-treatment

By the armed groups

35. Estimates of the number of people held by armed groups vary continuously, notably due to the evolving pattern of continued abductions and releases. People held by armed groups are mostly Ukrainian soldiers, civilians suspected of ‘espionage’ or ‘pro-unity’ sympathies, civilians suspected of criminal activities¹⁶ and members of the armed groups

¹³ According to the forensic examination, he had multiple bone fractures and bruises all over his body.

¹⁴ Arsenii Pavlov (call sign Motorola).

¹⁵ As previously reported by the HRMMU (paragraph 3 of the 9th report), on 24 January 2015, the armed groups claimed control over the settlement of Krasnyi Partyzan (30 km north of Donetsk). The video footage made by the armed groups soon after the fight for the settlement was disseminated through social media and gave grounds to allege the execution of several Ukrainian soldiers taken captive in the village.

¹⁶ According to the ‘head of investigation department of the ministry of internal affairs’ of the ‘Luhansk people’s republic’ (interviewed by the HRMMU on 1 May), in February and March, 325 people were “arrested” in the city of Luhansk on criminal charges: 249 were reportedly sanctioned by a ‘prosecutor’ to be placed in ‘custody’, and 64 were placed under ‘house arrest’.

themselves (for various disciplinary and criminal misdeeds). On 8 May, the Ukrainian representative on humanitarian issues in the Trilateral Contact Group claimed that 399 people (both civilian and military) were in captivity of the armed groups and in the Russian Federation. As of 8 May, database of the NGO *Mirnyi Bereg* contained data on 260 soldiers and 71 civilians allegedly in captivity of the armed groups. All figures mentioned above concern people whose identity the Government of Ukraine and/or civil initiatives have managed to determine. On 5 May, a Ukrainian civil volunteer, who is engaged in the process, estimated the total number of people held by the armed groups at up to 1,000.

36. On 23 April, the HRMMU interviewed a Ukrainian soldier who was taken captive near the contested town of Vuhlehirsk (Donetsk region) and held by the armed groups from 29 January until 6 April. On 30 January, he was reportedly transferred to the city of Horlivka and placed in the basement of the so-called ‘ministry of state security’ of the ‘Donetsk people’s republic’, in a cell two by three metres, together with three other Ukrainian soldiers. While being there, the man had a bandage on his eyes because of burns. He heard a detainee being taken out of the cell where he was, and brought back approximately two hours later that evening. He could hear him breathing heavily, and the next morning he was reportedly dead. He claims he was heavily beaten, including with rifle butts. Within two weeks, he was transferred to Donetsk to the former premises of SBU regional department, where he was hospitalized and reportedly “treated properly”.

37. On 5 May, the HRMMU interviewed a woman, who had been abducted on 22 May 2014 and illegally 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. She reported having been blindfolded and beaten every two hours on the head and the legs, including with a blunt object which she could not identify. During her interrogation, she was reportedly tied to a chair, with her arms twisted behind the back of the chair. She claims that her captors beat another detainee to death in her presence. They also reportedly subjected her to a mock execution twice: once she was shot with a blank cartridge; another time, shots were fired above her head while she stood against a wall; and she was forced to play ‘Russian roulette’. She also reported an attempted rape by a group of men.

38. On 6 May, the HRMMU interviewed a man who had been illegally deprived of liberty in a “base” of a “Cossack” armed group in Donetsk from 1 to 28 February. He reportedly witnessed other captives being beaten, including with rifle butts. His cellmate told him he had been tortured with electric current and had his ears cut. Some captives reportedly told him that another detainee (with whom he shared the cell) was taken for interrogation and was probably tortured to death. The victim also spent 10 days in an isolated cell with a temperature of approximately 5 C°. The HRMMU is examining the case.

39. On 8 May, the ‘head’ of the ‘Donetsk people’s republic’ stated that 200 “looters, rapists and kidnappers” had been “arrested” through a massive “law enforcement campaign against crime and corruption”, which reportedly resulted in “finding 13 civilian hostages and eight Ukrainian servicemen”. The HRMMU was informed that up to 300 people may have been captured. There are allegations that these people have been subjected to torture and ill-treatment.

By the Ukrainian law enforcement agencies

40. Between 17 February and 18 April, the number of people under SBU whose arrest was sanctioned by courts since the beginning of the conflict increased from 720 to 753, and the number of people officially in SBU custody rose from 118 to 134.

41. On 14 March, the SBU Head reported that during the whole conflict, the Government had released 1,553 “detained traitors, spies and subversives” so as to secure the release of people held by the armed groups. As a court decision is required by law to detain a person

beyond 72 hours, and since the Office of the Prosecutor General claims that the so-called ‘preventive detention’ of 30 days without a court order (introduced in August 2014) has never been applied, these figures suggest that a considerable number of people apprehended by SBU have been kept in arbitrary (and often secret, as former detainees testify) detention prior to being released in the context of ‘simultaneous release’ arrangements with the armed groups.

42. In March 2015, a resident of the Government-controlled town of Sloviansk (Donetsk region) approached the Ombudsperson’s Office in relation to the abduction of her husband on 28 February by a group of unidentified people. On the same day, she filed a complaint with the police. A criminal investigation was opened under Article 146 (illegal confinement or abduction of a person) of the Criminal Code of Ukraine. On 26 March, she received a response from the SBU, saying that her husband was detained by Dnipropetrovsk Regional Department of the SBU. The detainee informed the Ombudsperson’s Office that after abduction, he was taken to a bomb shelter in Sloviansk, and kept in a room of approximately 1.2x1.5 metres for 26 days. During this period he was held incommunicado and systematically tortured to confess to illegal activities in support of the ‘Donetsk people’s republic’. This case reflects a continued pattern of cases of enforced disappearance. The man remains in pre-trial detention.

43. On 10 March, the ‘Donetsk people’s republic’ reportedly transmitted three lists of “prisoners of war” to the Ukrainian authorities of people they believe are held by the Ukrainian law enforcement bodies. The lists include 220 members of the armed groups, 800 “political prisoners” and 900 “civilians”. On 6 April, the ‘Donetsk people’s republic’ claimed that 1,378 of its ‘supporters’ remained in detention under the Government of Ukraine.

44. During the reporting period, the HRMMU continued to receive allegations concerning violations of the rights of people in custody or detention of the Government of Ukraine. The HRMMU is verifying them.

45. From 10 to 16 April, the HRMMU interviewed lawyers and relatives of ‘pro-federalism’ activists detained by SBU in Odesa in April. In April and May, the HRMMU visited the Odesa pre-trial detention centre (SIZO) and privately interviewed detainees arrested on suspicion of terrorism. They informed the HRMMU that searches of their homes were carried out without warrants and with excessive use of force; they were not informed of their rights and access to legal aid was provided with delays of up to 70 hours; SBU was bringing their own witnesses and did not record all seized belongings. They were officially notified about their detention only the next day after the apprehension or even later with no possibility to inform relatives and without access to legal aid. In addition, the HRMMU received allegations that during interrogation, some detainees were subjected to ill-treatment and torture (beatings, suffocation with bag on the head, electric shocks and deprivation of sleep, food and water for more than 24 hours). The people arrested were not provided with a defense lawyer and were mocked at when requesting one. The Government of Ukraine claimed that all allegations of torture and ill-treatment would be duly investigated.

46. On 9 April, the HRMMU interviewed a resident of a Government-controlled town in Donetsk region who claimed to have been kidnapped in October 2014 by a man in civilian clothes who put a bag over his head, handcuffed him and placed him in a vehicle. Then he was held in detention in a basement. For three days, he was reportedly beaten and electrocuted by masked assailants. He was forced under torture to sign a confession stating he had been “transferring intelligence information” to the ‘Donetsk people’s republic’. Then the man was taken to another basement, which he later discovered as located in Poltava. There, an SBU investigator, in the presence of witnesses, compiled a protocol about his detention “as a person who was caught while committing the crime”. Two days after, a Poltava court

decided to place him under house arrest. In February, the investigator tried to force him to enter a plea bargain, which he refused to do. In the beginning of April, while meeting with the investigator, he was given a mobile phone and recognized the voice of one of the individuals who had tortured him in October. The man said that if he would not sign a plea bargain, they would meet again. Later, the interlocutor informed the HRMMU that he had signed the plea agreement.

47. On 10 April, the HRMMU was informed by the Kharkiv Military Prosecutor that it had investigated allegations on the existence of a secret detention facility in the premises of Kharkiv SBU Department. The Prosecutor, having visited the premises in March, announced he had found the cells empty. As reported earlier, the HRMMU interviewed a number of people who claim to have been kept in this facility, and who described how, prior to the visit of the Military Prosecutor, they had been removed by SBU officers from their cells and placed in the basement or other places within the building.

48. On 24 March, the HRMMU interviewed a ‘pro-unity’ activist from Donetsk region who referred to human rights violations committed by elements of the Ukrainian armed forces (especially former volunteer battalions, such as Dnipro-1) on the Government-controlled territories, such as abductions for ransom and arbitrary detentions, particularly in the towns of Krasnyi Liman and Selidove (both in Donetsk region). On 24 March, the Head of Luhansk Regional State Administration accused soldiers of Aidar battalion of abducting and torturing the deputy head of Novoaidar district state administration. He was reportedly abducted on 25 November 2014, held in captivity (together with some other people) for five days. He was threatened and accused of separatism, and then delivered to the district hospital, where his numerous injuries, including a firearm wound, were documented.

49. In mid-March, the NGOs Foundation for the Study of Democracy, the Russian Public Council for International Cooperation and Public Diplomacy and the Russian Peace Foundation issued a report entitled “*War Crimes of the Armed Forces and Security Forces of Ukraine: Torture and Inhumane Treatment: Second Report*”. The report is claimed to be based on “interviews with over 200 prisoners released by the Ukrainian side”, reportedly conducted between 25 August 2014 and 20 January 2015. In April, Chief Military Prosecutor of Ukraine initiated eight criminal proceedings to investigate allegations contained in the report. The HRMMU is also verifying the allegations contained in this report.

Releases of detainees and captives

50. During the reporting period, a piecemeal approach in the release of “hostages and unlawfully detained persons” was continued under the auspices of the implementation of the ‘all for all’ scheme foreseen in the Minsk Agreements.

51. On 21 February, the armed groups released 139 Ukrainian soldiers while the Government of Ukraine released 52 people. On 24 February, four Ukrainian soldiers were released. On 28 February, the Ministry of Defence of Ukraine announced the release of two Ukrainian soldiers and eight civilian volunteers. On 7 March, five Ukrainian soldiers were reportedly released from the captivity of the armed groups.

52. On 14 March, the SBU Head reported that since mid-April 2014, the release of 2,483 people from the captivity of the armed groups had been secured. By 23 April, the SBU was reporting that 2,586 people had been released. On 5 May, the Head of the United Centre for the Release of Captives at the Ministry of Defence of Ukraine reported the total of 2,667 people being released. The claim of an additional 184 people being released between 14 March and 5 May does not correspond to the public announcements during the same timeframe on releases of detainees and captives. This suggests either discrepancies in the official data, or the non-transparent character of ‘simultaneous releases’ in which many actors are involved.

53. On 26 March, the HRMMU met with the ‘deputy head’ of the ‘commission on prisoner’s exchange’ and with the ‘ombudsperson’ of the ‘Donetsk people’s republic’. According to them, people released by the Government of Ukraine were often in poor health and bearing signs of ill-treatment. Approximately 70 per cent of all people proposed by the Government of Ukraine for ‘simultaneous releases’ were “civilians”, while only 30 per cent are “military” or “political activists”. Interlocutors claimed that the Government of Ukraine continues to detain and then release random civilians to inflate the number of releases. A person from the Government-controlled town of Sloviansk (Donetsk region) was reported to have been ‘exchanged’ three times. According to interlocutors, many people released by the Government had not been given back their passports, and the criminal cases against them reportedly have not been closed or have been re-opened. A group of at least 22 individuals released by the Government in January 2015 continued to be trapped in the city of Donetsk during the reporting period, with their passports reportedly held by the SBU. The HRMMU interviewed several of them.

54. The Ukrainian pilot, Nadiia Savchenko, member of the Parliament of Ukraine (since November 2014) and Ukrainian delegate to the Parliamentary Assembly of the Council of Europe (since December 2014) has remained in detention in the Russian Federation since July 2014 after being captured by armed groups in June. She is awaiting trial on charges of involvement in the deaths of two Russian journalists killed during the conflict in eastern Ukraine. On 24 April, Ms. Savchenko was additionally charged with the illegal crossing of the border. Having been on hunger strike (with a few suspensions) since 13 December 2014, she was transferred from the Moscow pre-trial detention facility to a civilian hospital on 28 April. On 6 May, Basmani court of Moscow extended her pre-trial detention until 30 June.

55. On 2 May, the Head of the United Centre for the Release of Captives at the Ministry of Defence of Ukraine stated that “several dozens” of Ukrainian soldiers continued to be kept in captivity on the territory of the Russian Federation since August 2014.

E. Trafficking in persons

56. In the difficult economic conditions there is an increased risk of trafficking in persons. In 2015, the hotline of NGO *La Strada* registered an increased number of calls related to trafficking. Compared to 2014, more people, predominantly women, sought consultation regarding employment, studies, and going abroad to marry. An Odesa-based women’s NGO informed the HRMMU that it had documented nearly 60 cases of trafficking in 2014. Meanwhile in 2015, the International Organisation for Migration (IOM) has already identified 230 victims of trafficking.

57. The main destinations are the Russian Federation and Poland. Victims are most often from rural areas and low income groups, either young women crimped for sexual exploitation or older persons, mostly women, forced to become street beggars. In some IDP collective centres and in settlements in the conflict affected areas, recruiters have been known to offer to adult men and women services for asylum claims and ‘employment’ abroad, predominantly in the Russian Federation, without any guarantees, which may lead to labour exploitation. Cases are poorly investigated as victims rarely report for various reasons, including lack of legal knowledge, stigma and fear, perpetuated by harmful gender stereotypes. In 2015, 75 have been registered by the police.

III. FUNDAMENTAL FREEDOMS

A. Freedom of movement

58. Although criticized by international and national organizations, the system of permits, introduced on 21 January 2015 by the Temporary Order¹⁷, remained operational and continued to limit the freedom of movement of civilians across the contact line, isolate residents of the areas controlled by the armed groups, generate corruption and impede humanitarian aid. On 6 April, the Kyiv Circuit Administrative Court rejected a lawsuit that was brought by two individuals from Luhansk region, ruling that the Temporary Order was adopted legally. According to the ICCPR and the Constitution of Ukraine, however, freedom of movement may be limited only by law.

59. According to the SBU, from 21 January to 6 May, 349,496 people applied for permits and 274,755 received them. Despite the fact that the President and the Ombudsperson of Ukraine¹⁸ declared the need to simplify the procedure for civilians to obtain permits, the process remained arduous and inconsistent. On 20 March, the SBU allowed the electronic submission of documents to apply for permits and receive them electronically. The majority of people, however, continued to apply in person, due to lack of information on the electronic system (especially in the areas controlled by the armed groups), low computer literacy, interrupted Internet access, and a distrust towards online applications. Also, the coordination centres issuing permits have been overwhelmed with applications due to limited capacity: lack of computer equipment, problems with connectivity, and of trained staff. Some applicants reportedly had to stay in the street near to a coordination centre for up to four days before being able to submit their documents. During this time some people approached them with offers to issue a permit faster for a price varying from UAH 600 to 1,500 (US\$ 29 to 71).

60. The HRMMU interviewed people, mostly older persons, who had applied for permits at the end of January and still had not received them by mid-May. Prisoners in penitentiary institutions in the cities of Horlivka and Yenakieve controlled by the armed groups and older persons from two geriatric facilities in Luhansk (visited by the HRMMU in March and April) reported that their relatives could not visit them any longer as they could not obtain permits.

61. Irregular application of rules at check-points has caused confusion and frustration among residents. To cross the contact line, vehicles and passenger buses have, at times, to spend up to 11 hours at check points, without access to water and sanitation facilities. Reports suggest that exceptions are made more often for women with children than for a man. On 25 April, the HRMMU learned from a bus driver who regularly drives across the contact line that at some Ukrainian checkpoints people with Donetsk license plates were not allowed to pass although they had permits. Consequently, people often circumvent the checkpoints, which may be dangerous, as shown in the case of a bus travelling from the Government-controlled town of Artemivsk to the city of Horlivka controlled by the armed groups, which hit a land mine, resulting in the death of three passengers. On 28 April, the head of the Luhansk Regional Military-Civil Administration stated that since 1 May, only passenger vehicles and pedestrians were allowed to pass through the check point in Luhansk region.

¹⁷ The Order was developed and approved by the joint entity ‘the Operational Headquarters of Management of the Anti-Terrorist Operation’ composed of various structures, including the SBU, Ministry of Defence, Ministry of Internal Affairs, the National Guard, Migration, Emergency and Fiscal Services of Ukraine. For more information, please see previous HRMMU report on the human rights situation in Ukraine covering the period from 1 December 2014 to 15 February 2015, paragraphs 42-43.

¹⁸ On 4 March, during the meeting of the National Security and Defence Council, the President of Ukraine stressed the need to simplify the procedure of obtaining passes for civilians. On 3 April, the Ombudsperson of Ukraine stated that the current system of special passes “inhumane”, and urged the SBU to simplify the system.

The movement of buses and cargo was stopped until the Government of Ukraine fully regulates the permit system. The exceptions were made for humanitarian aid and specialised transport, including medical and that of companies restoring infrastructure and utilities (gas, water, electricity).

62. On 12 May, the head of the Luhansk Regional Military-Civil Administration, issued an order further limiting the movement of civilians from the territories controlled by armed groups. It instructed that only people holding a Ukrainian passport would be allowed to pass across the contact line; no provisions were made for people who have lost their documents.

63. On 5 May, the SBU established a working group that included NGOs to improve the permit system and prevent human rights violations.

64. The HRMMU is concerned that no arrangements have been made so far to allow civilians to flee the conflict area in accordance with international law. Those seeking safety and security must be allowed to do so without having to apply for a permit in advance, and without going through pre-designated check-points, which exposes them to risks and arbitrary decisions. The permit system severely limits civilians' access to safe areas and life-saving assistance.

B. Freedom of expression

Safety of journalists

65. Safety of media professionals remains a serious issue in the conflict area due to fighting. On 28 February, a photographer of the Ukrainian newspaper *Segodnia* (Today) was killed during the mortar shelling attack by armed groups near the village of Pisky (Donetsk region). He was the eighth journalist killed in the east of Ukraine since the beginning of the conflict. On 12 April, two local media professionals were wounded near Donetsk airport when their car was hit by a shell. On 14 April, a local Donetsk journalist working for the Russian TV channel *Zvezda* was seriously wounded when he tripped a mine trap in the contested village of Shyrokyne (Donetsk region).

66. The HRMMU continued to receive reports of media professionals held by armed groups. On 11 March, a journalist from the city of Makiivka (Donetsk region), controlled by the armed groups, was reportedly abducted by armed groups. After his 80-year-old mother filed a complaint to 'local police', the armed groups conducted a search of her house and intimidated her. The journalist was released on 10 May.

67. On 16 April, Oles Buzyna, a Ukrainian journalist, writer and former editor of the newspaper *Segodnia*, was killed close to his home in Kyiv by two unknown masked men. He was known for his criticism of the Government, in particular in relation to the Maidan events and the conflict in the east. The President of Ukraine called the murder of Mr. Buzyna "a provocation", aimed at destabilization of the situation in Ukraine. He also called for prompt investigation into two killings and regular reporting on its progress. The police initiated investigation into the incident under Article 115 (intentional homicide) of the Criminal Code of Ukraine.

68. On 14 May, the Parliament passed a law¹⁹ amending the Criminal Code of Ukraine, strengthening accountability for the threats to or violence against journalists. In addition to existing provision of Article 171 (preclusion of legal professional activities of journalists), which was rarely applied in practice, due to its ambiguity, four additional articles were added. They envisage criminal liability for threats and infliction of injuries to journalists or their

¹⁹ The Law On Amending Some Legislative Acts of Ukraine to Increase Guarantees of Legal Professional Activity of Journalists.

families, intentional damage of property of a journalist, trespass against life and hostage taking of a journalist. The HRMMU notes that the law may positively contribute to the protection of media workers and promote freedom of expression in Ukraine.

Access to information / media regulation

69. The armed groups continued to limit freedom of expression and impede the work of media professionals on the territories they control. On 10 March, the so-called ‘council of ministers’ of the ‘Luhansk people’s republic’ issued an order demanding telecommunications operators to remove 23 Ukrainian TV channels and the Russian TV channel *Dozhd* from the broadcasting network on the grounds that they “pose threat to ‘state’ security”. The ‘ministry of infrastructure, transport and communication’ was assigned to control the implementation of the decision.

70. Residents in the territories controlled by the armed groups often reported to the HRMMU that available media outlets presented only biased information. As many people did not have access to the Internet for technical reasons, access to any alternative sources of information was difficult. Journalists informed the HRMMU that during interviews with the so-called local ‘authorities’ only pre-cleared questions are allowed. Reportedly, journalists are sometimes demanded not to include parts of the interviews in their reports. On 1 May, two journalists from the Russian Federation were reportedly abducted by the armed groups in Donetsk and forced to delete some photos from a public rally. They were then released.

71. The Government of Ukraine also attempted to impose restrictions on some media outlets. Following the resolution by the Parliament, adopted on 19 February²⁰, the SBU identified over 100 media outlets (including TV channels, information agencies, newspapers and Internet resources) from the Russian Federation that are not allowed anymore to attend press events of the State bodies until the end of the security operation. The resolution instructed the State bodies to implement the decision by 21 February. While no suspension has reportedly occurred, a number of reporters from the Russian Federation have not been allowed to enter Ukraine and banned from entry for the next five years²¹. Also, the resolution ordered the Government to develop the procedure of accreditation of all foreign media professionals in Ukraine; however as of 15 May this has not yet been done.

Criminal proceedings against journalists

72. The HRMMU continued to follow the case of the journalist, Ruslan Kotsaba²² charged with high treason for publishing an anti-mobilisation video on 17 January. On 6 April, the Ivano-Frankivsk city court extended his detention for another 60 days (until 6 June). Hearings on the merits started on 16 April. During the last hearing on 29 April, seven

²⁰ Parliamentary Resolution No. 1853 of 12 February 2015 ordered the temporary suspension of the accreditation of journalists and representatives of some media outlets of the Russian Federation until the end of the security operation.

²¹ For example, on 25 February, the SBU confirmed that three Russian media professionals (a journalist from the NTV Channel and a journalist and a cameraperson from the *Lifenews* Channel) have not been allowed to enter the territory of Ukraine and banned from entry for the next five years, On 3 May, a journalist of the Russian media agency RBC was taken off the train Moscow-Odesa by the State Border Service of Ukraine and sent back to the Russian Federation.

²² On 29 January, the Chief Military Prosecutor’s Office announced the opening of criminal investigations into obstruction of the lawful activity of the Armed Forces of Ukraine and other military formations. The investigations are based on the results of media monitoring and identification of public appeals to avoid mobilisation. On 5 February, Ivano-Frankivsk SBU Regional Department arrested Mr. Kotsaba for charges under Article 111-1 (high treason) and 114-1 (preclusion of lawful activity of the Armed Forces of Ukraine) of the Criminal Code of Ukraine for his public statements against mobilisation. The Ombudsperson of Ukraine expressed her concerns regarding the case of Mr. Kotsaba.

of the 30 witnesses in the case were questioned, but none could provide specific facts to support the prosecution. The court hearing was also attended by the members of some of the Ukrainian battalions, which may have created pressure on judges.

73. On 14 May, the SBU Department of Odesa region conducted searches in apartments of six journalists of the website *Timer*, known for its ‘pro-federalism’ views, and seized several of their computers and documents²³. The journalists were then taken to the SBU, questioned there and released in the evening. The *Timer* website faced connection problems on 1–3 May and on 8–10 May, and since 14 May has stopped functioning.

Incitement to hatred and violence

74. The HRMMU is concerned about the recurring increase of hate speech and incitement to violence on social media and the Internet. On 6 March, supporters of armed groups in the city of Horlivka controlled by the armed groups announced on their social networks the “beginning of cleansing of ‘ukrops’ [an offensive word used for Ukrainians]”, including those who allegedly acted as artillery fire spotters during hostilities. The call, initially published by the social media group with 88,000 subscribers, was widely disseminated, calling supporters to make lists of all those sympathetic to Ukraine and Ukrainians, and asking residents “to report on their neighbours, friends, and strangers”. A website *Tribunal* lists over 1,300 individuals – allegedly Ukrainian soldiers, police staff and civilian volunteers – who are labelled as “punishers” and “accomplices”.

75. Similarly, the HRMMU is concerned about the activities of the website *Myrotvorets* (Peacemaker), on which various contributors created a list of people (with their personal data) who are allegedly related to the armed groups and labelled as “terrorists”. Such a list violates the presumption of innocence, right to privacy and personal data protection.

C. Freedom of peaceful assembly

76. During the reporting period, in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, an atmosphere of intimidation imposed by the armed groups continued to prevent people from demonstrating publicly. On 6 April, the rally of miners of the Kirov mine in the city of Makiivka controlled by the armed groups (Donetsk region), who protested against the increase of the working hours from six to eight, was reportedly dispersed.

77. On the territory controlled by the Government, freedom of peaceful assembly was generally respected although the authorities imposed some restrictions in some instances, invoking security concerns. In some cases, law enforcement officials did not prevent ‘pro-unity’ supporters from disturbing gatherings of people supporting other political views, and in a few instances, police even took part in such disruptions.

78. On 16 April, the NGO *Police of Odesa*, which officially notified the authorities of a rally in advance, was prevented by the police and ‘pro-unity’ supporters from gathering in front of the Odesa City Council to protest against the increase in utility payments. The HRMMU observed the detention of 50 protestors, including 17 minors; some were handed to the police by ‘pro-unity’ activists. Adult activists (all male)²⁴, minors and their parents²⁵ were later charged for administrative offences.

²³ On 3 January, the SBU initiated criminal investigation under Article 110 (trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code of Ukraine. A court decision on the search stated that the media outlet has had “negative informational influence... In particular, in 2014, the media outlet has posted informational materials, which substantiated the historical roots of the term ‘Novorossia’, its right to existence and the historic need to implement the ‘Russian World’ project”.

²⁴ Under Article 185-1 (breach of order on the organization and conduct of assembly, meetings, street campaigns and demonstrations) of the Code of Administrative Offences of Ukraine

79. On 16 April, a group of approximately 20 people who identified themselves as activists of *Narodna Rada Besarabii* (National Council of Bessarabia) rallied in Odesa. Soon after the beginning of the rally, police appeared at the scene and arrested about 20 activists. According to the police, the activists had not notified the authorities in advance about the rally, and they stopped the event. These twenty people were charged under Article 185-1 (breach of the order of the organization and conduct of assembly, meetings, street campaigns and demonstrations) of the Code of Administrative Offences of Ukraine. The procedure of notification concerning upcoming rallies foresees the submission of an application prior to a rally but their prohibition can only be declared by a court. Yet the police had not presented the activists with a court decision when stopping the rally.

80. On 6 May, Kharkiv Administrative Court decided to ban a traditional procession in Kharkiv, which was scheduled to be held on 9 May by the NGO *Soyuz Sovetskikh Ofitserov* (Union of Soviet Officers). A lawsuit was filed by the Kharkiv City Council because of the “security situation and terrorist threats”.

IV. ECONOMIC AND SOCIAL RIGHTS

81. The impact of the conflict on the enjoyment of economic and social rights continued to be devastating for about five million people living in the conflict-affected area and for more than 1.2 million internally displaced persons (IDPs). Older persons, persons with disabilities, families with children and people in institutional care have faced particular difficulties. Discrimination against IDPs, especially Roma, has often impeded their access to healthcare, housing and employment. More than 25,000 demobilised soldiers experience difficulties in accessing medical care and psycho-social services.

82. The overall deterioration in the economic situation affects a large proportion of the population of Ukraine. Compared to December 2014, the real income of the population has dropped by 8.4 per cent, prices have grown by 20.3 per cent, wage arrears have increased by 2.7 per cent, and the unemployment rate reached 9.7 per cent²⁶.

A. Right to an adequate standard of living

83. Heavy, indiscriminate shelling of populated areas in January and February led to significant destructions in the affected localities. In some towns, like Debaltseve and Vuhlehirsk (Donetsk region) controlled by the armed groups, visited by the HRMMU on 20 March, up to 80 per cent of residential buildings and public facilities were destroyed. A compensation mechanism for civilians whose property has been destroyed has yet to be developed.

84. Despite the ceasefire, the humanitarian situation remains grim. Lack of food, clean water, hygiene items, and children’s clothes is reported in most settlements controlled by armed groups. Residents remaining in towns and villages divided by the contact line (such as Dzerzhynsk, Mykolaivka, Novohnativka, Pisky and Shyrokyne) are in the most precarious position, as they are rarely reached by humanitarian actors due to the security situation.

85. On the territories controlled by the armed groups, the so-called ‘authorities’ and many national humanitarian NGOs distribute aid based on ‘social cards’²⁷ for people below 18 and

²⁵ Under Article 184 (for default by parents or persons who substitute them, of duties regarding child guidance) of the Code of Administrative Offences

²⁶ According to the information of the Statistical Service of Ukraine released on 30 April.

²⁷ The ‘Luhansk people’s republic’ and ‘Donetsk people’s republic’ began to issue so-called ‘social cards’ in November 2014, which reportedly entitle people to humanitarian aid, social benefits and access to free medical care.

over 60 years, and for those who do not receive salaries, but work voluntarily. Adults who have lost their jobs and have grown-up children, are not entitled to aid, and are becoming increasingly vulnerable. The conflict has had a detrimental impact on isolated bed-ridden older persons in small towns and villages; with the collapse of social services, many have not been identified and thus have not or may not have had access to any kind of assistance for long periods. For instance, in mid-March, the HRMMU was informed of at least 30 older persons found dead in their homes a month after the ceasefire in Debaltseve, Donetsk city, Krasnyi Luch, Luhansk and some other populated areas.

86. The situation of approximately 10,000 people in institutional care facilities remains of concern. On 29 and 30 April, the HRMMU visited two geriatric facilities in Luhansk: one with 242 residents and the second with 174 (in both there were more women than men). The management of the institutions stated that the Government of Ukraine had not facilitated the evacuation of the centres during the shelling, although it was requested. The staff also reported an increasing death rate attributed to stress and malnutrition.

87. Civilians continued to suffer from the lawlessness and impunity of the armed groups. For example, on 18 and 26 March, the HRMMU interviewed residents of Kuibyshevskiyi district of Donetsk city, who reported that an armed group (allegedly part of the so-called ‘Vostok battalion’) occupied a local kindergarten and a chemical factory on 17 January. On 18 March, members of this armed group prevented the HRMMU from visiting this part of the district. They also reportedly prevented people from returning to their own homes even to take their own belongings. A local resident reported that on 22 March, a couple went to the home of their 82-year-old grandmother to collect some belongings. Although they had all documents proving their ownership of the property, they were detained by members of the armed group for looting and taken to the basement of the seized chemical factory, where they were kept for several hours. Afterwards, they visited the building and found that most of the apartments were looted.

88. Reportedly, the armed groups, regularly detained civilians, particularly young men and women spotted with alcohol. Allegations of sexual violence, which were also reported to the HRMMU, have to be verified.

89. Reports of looting of abandoned property are commonplace in many other towns located in the conflict area, both those controlled by the armed groups and by the Ukrainian armed forces (such as Azov regiment). As of 1 May, the HRMMU learned that the so-called ‘ministry of internal affairs’ of the ‘Luhansk people’s republic’ has been investigating 700 cases of looting on the territory it controls.

90. The HRMMU also received reports²⁸ of armed groups seizing property of religious communities. On 3 March, in the town of Yenakieve controlled by the armed groups (Donetsk region), three armed men ordered the community of Jehovah’s Witnesses to hand over the keys to the Kingdom Hall (place of worship) so that they could use them as barracks. On 26 March, armed men broke in to the Kingdom Hall in the town of Brianka controlled by the armed groups (Luhansk region) and took away all the furniture from the building. They reportedly removed the sign ‘Kingdom Hall of Jehovah’s Witnesses’ and put up a new one – “The All-Great Don Army”.

B. Right to social protection

91. Following the so-called ‘elections’ held on 2 November 2014 in the areas controlled by armed groups, which violated the Minsk Agreements and the Constitution of Ukraine, the

²⁸ For more cases, please see paragraph 66 in the OHCHR report on the human rights situation in Ukraine covering the period from 1 December 2014 to 15 February 2015.

Government of Ukraine adopted two resolutions²⁹ suspending allocations and disbursements from the State budget (including social payments) to the territories controlled by armed groups³⁰. This has seriously affected at least 400,000 pensioners (predominantly women), depriving them of vital resources – sometimes the only financial means of existence.

92. On 2 April, the Kyiv Administrative Court of Appeal upheld the decision³¹ of the first instance court, which acknowledged that resolution No. 595 of the Cabinet of Ministers (which stopped payment of pensions) was illegal and had thus to be cancelled. It also obliged the Cabinet to resume the payments. Nevertheless, the court decision has not been implemented yet³². Many pensioners, while continuing to live in the territories controlled by the armed groups, travelled to the Government-controlled areas to collect their pensions, but this has been made difficult due to the system of permits. On 24 April, the HRMMU interviewed an employee of a ‘pension fund’ of the ‘Donetsk people’s republic’ who alleged an increase in mortality rates among pensioners (due to shelling, stress and malnutrition).

93. Since early April, the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ started paying pensions from unknown resources. In April, 200,000 people living in the areas controlled by armed groups reportedly received some pensions in Russian roubles. Reportedly, postal workers delivered payments home for pensioners over 70 years old; all others could collect their pensions at ‘local banks’ and ‘postal service departments’. Many local residents indicated having to queue for seven days and not managing to receive their pensions, because of a lack of cash. Reportedly, on 16 April in the town of Stakhanov, pensioners started protesting near the post office, demanding the so-called ‘authorities’ pay their pensions. The demonstration was dispersed by the so-called ‘people’s police’. On 30 April, the HRMMU learned that older persons in the institutional care facility of Luhansk had received only 25 per cent of their pensions. Earlier, there were also reports that the armed groups had paid salaries on an irregular basis to medical staff, teachers, employees of social care institutions and penitentiary services. None had received salaries from the Government of Ukraine since July 2014.

94. As of 13 May, the Ministry of Social Policy of Ukraine registered 1,283,735 internally displaced persons (IDPs) from the conflict-affected areas of Donetsk and Luhansk regions and from Crimea. Out of 361,895 IDP families who applied for financial assistance to cover accommodation and utilities, 302, 581 families have already started receiving it. The precondition for obtaining financial assistance is registration with the Ministry; available reports suggest that some IDPs still face problems with obtaining registration. In particular, this relates to people moving within the Government-controlled areas of Donetsk and Luhansk regions to safer location away from the contact line. In such cases, the Ministry applies the geographical criteria to accept or deny IDP registration based on Government Resolution No. 1085 of 7 November 2014, which contains a list of settlements that are fully or partially not controlled by the Government. Therefore, IDPs fleeing settlements not included in the list have faced problems with obtaining registration.

95. Another category of IDPs deprived of access to social security is unaccompanied or separated children, who travel to the territory controlled by the Government. According to

²⁹ Presidential Decree No. 875 and Resolution No. 595 of the Cabinet of Ministers.

³⁰ The Government reports of allocating 100 percent of pensions to the residents living in the territories controlled by armed groups, with should be paid after the Government regains control over these territories.

³¹ On 9 February, the Kyiv Circuit Administrative Court found in favour of a lawsuit of 16 pensioners from the city of Donetsk against the Cabinet of Ministers of Ukraine, who had demanded the cancellation of governmental resolution No. 595 of 7 November 2014.

³² According to the Government the decision of the court may not be implemented due to the security situation in the areas controlled by armed groups.

Government Resolution No. 509 on registration of IDPs, children can only be registered with a legal guardian or a parent. Legal guardianship can only be established with a special document certified by a notary. This is nearly impossible to obtain on behalf of a child travelling from the territories controlled by the armed groups, as notaries on these territories have been suspended by the Government.

96. On 18 February, the Parliamentary Committee for Human Rights, National Minorities and Interethnic Relations registered a draft law³³ amending the current legislation on IDPs. The draft broadens the list of authorities responsible for registration of IDPs and simplifies the procedure. Particularly, it allows using other documents, including employment record book, educational or medical certificates, to prove that an IDP resided in conflict area, in case a passport is unavailable or does not have registration stamp. It also obliges the state to create conditions for voluntary integration into host communities as well as voluntary return. The HRMMU notes that the draft law would positively contribute to the protection of IDPs.

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

97. As reported by local health and penitentiary institutions, humanitarian actors and local residents, the lack of medication remained the major constraint to healthcare in the areas controlled by armed groups. Medication for patients with diabetes, cancer, genetic diseases, and those in need of haemodialysis, were purchased by the Ministry of Health of Ukraine on 24 November 2014. However, as of 15 May, it was still stocked in the Government-controlled town of Sieverodonetsk (Luhansk region) and not transported to the areas controlled by armed groups. To date, there are no systematic and sustainable mechanisms to deliver psychotropic drugs for psychiatric institutions, as well as to guarantee consistent treatment of HIV/AIDS and tuberculosis in the areas controlled by armed groups.

98. Lack of vaccines continued to be a major problem, leading to the risk of an outbreak of measles, diphtheria or polio. Given the low quality of water there is a constant danger of outbreak of infectious diseases, including hepatitis A and rabies due to the high number of stray animals. Luhansk, which even before the conflict had been one of the regions with the highest spread of tuberculosis, lacks BCG vaccine for children. It has also been impossible to diagnose tuberculosis in penitentiary institutions for more than six months.

99. As of 15 May, there were more than 25,000 demobilised Ukrainian soldiers. They return traumatized, display signs of depression, anxiety and post-traumatic stress disorder, resorting to alcohol, drug abuse and the use of violence as coping mechanism. In interviews with the HRMMU, many of them reported experiencing difficulties in obtaining an official status as a 'participant of security operation' and thus accessing psycho-social assistance, medical and rehabilitation services free of charge.

100. The rehabilitation of former soldiers is important, including for the prevention of domestic violence. The NGO *La Strada* notes that as demobilisation is ongoing, cases of domestic violence have been increasingly reported. More instances of physical and sexual domestic violence have been reported compared to 2014, including from the territories controlled by the armed groups.

V. ACCOUNTABILITY AND ADMINISTRATION OF JUSTICE

101. The reporting period covers the anniversaries of three events which most negatively impacted the human rights situation in Ukraine: Maidan killings of 18–20 February 2014, the

³³ The draft law No. 2166 On Amending Certain Laws of Ukraine in Relation to Strengthening Guarantee of Compliance with the Rights and Freedoms of the Internally Displaced Persons of 18 February 2015.

beginning of the security operation in the east on 14 April 2014 and the violence in Odesa on 2 May 2014. Although some results in the investigations into Maidan events and the 2 May violence have been reported by the law enforcement agencies of Ukraine, only a few of the alleged perpetrators have been brought to account³⁴. Also, investigations into human rights violations committed in the conflict zone have also not produced tangible results.

A. Accountability for human rights violations committed in the east

102. The Ministry of Internal Affairs of Ukraine has opened a number of criminal proceedings into the killings of servicemen of Ukrainian armed forces and civilians in the security operation area under Article 115 (intentional homicide) of the Criminal Code of Ukraine. Investigations into deaths that were caused by the hostilities are hampered by the difficulty to identify perpetrators and weapons. The Ministry also explains the lack of progress in these investigations by the lack of access to the crime scenes and to victims. The HRMMU believes that releases of members of the armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ (within implementation of Minsk Agreements) by the Ukrainian Government have complicated the investigations further. So far, the HRMMU is unaware of any investigations that have been completed.

103. The SBU is carrying out investigations into the alleged extrajudicial killing of a Ukrainian soldier, Ihor Branovytskyi, on 21 January, and into other alleged aggravated human rights violations by the members of the armed groups.

104. On 30 April, following the adoption of the resolution of the Parliament on admission of jurisdiction of the International Criminal Court³⁵, the Office of the Prosecutor General of Ukraine reported that the analytical summary of the crimes which fall under Articles 7 and 8 of the Rome Statute has been completed and sent to the Cabinet of Ministers of Ukraine for review and deciding of whether it should be submitted to the ICC.

Investigations into human rights violations allegedly committed by Ukrainian armed forces and law enforcement personnel

105. On 17 April, the Chief Military Prosecutor of Ukraine, who is responsible for investigating crimes committed by the Ukrainian armed forces, has reported opening 7,560 criminal investigations into crimes committed by the Ukrainian soldiers since the beginning of the year. These include 1,964 criminal proceedings under Article 407 (absence without leave from a military unit or place of service), 948 – under Article 408 (desertion), 107 – under Article 409 (evasion from military service) of the Criminal Code of Ukraine. However, the HRMMU is unaware of any criminal investigations conducted by the Office of the Military Prosecutor into human rights violations against civilians and violations of international humanitarian law in the east.

³⁴ These include five police officers who were found guilty in ill-treatment of Maidan protestor Mykhailo Havryliuk on 22 January 2014 in Kyiv, and a number people found guilty by the courts under Articles 110 (trespass against territorial integrity and inviolability of Ukraine), 258-3 (creation of a terrorist group or terrorist organization), 260 (creation of unlawful paramilitary or armed formations) and 263 (unlawful handling of weapons, ammunition or explosives) of the Criminal Code of Ukraine for membership in the armed groups of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. The HRMMU is unaware of the exact number of convictions under the above charges to date.

³⁵ Resolution of the Parliament No. 145-VIII of 4 February 2015, on the admission of the jurisdiction of the International Criminal Court over crimes against humanity and military crimes committed by senior officials of the Russian Federation and heads of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, which resulted in grave consequences and mass killing of Ukrainian citizens.

106. An illustrative case of impunity of perpetrators is the death of Oleksandr Agafonov on 14 November³⁶. On 10 April, the Kharkiv Regional Military Prosecutor informed the HRMMU that there had been suspects in the case, but that no one has been prosecuted yet. The only person whose identity was established (an SBU officer) is not a suspect in the allegations of torture of Mr. Agafonov.

107. The ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ have claimed that their members and people suspected of being affiliated with them have been subjected to torture and ill-treatment by the Ukrainian armed forces and law enforcement agencies (especially SBU) while in custody (some of these cases have been described in the report mentioned in paragraph 50 above). The HRMMU is verifying these allegations. As of 15 May, the HRMMU is unaware of investigations into such allegations by the Ukrainian authorities. Alleged victims are unlikely to seek justice under the Ukrainian legal framework³⁷ for fear of possible detention³⁸ or reprisals and lack of trust in it.

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

108. Over a year after Maidan protests, during which at least 117 people died and more than 2,295³⁹ were wounded, no significant progress has been achieved to bring perpetrators to account.

Lack of progress in investigation

109. On 1 April, the Prosecutor General of Ukraine stated that all senior Government officials involved in decision making during the Maidan events had been identified. However, the HRMMU is concerned about the lack of cooperation between the SBU, Ministry of Internal Affairs and the Office of the Prosecutor General, which are involved in the investigation, as well as about loss of evidence and the impossibility to locate some of the suspects who have fled Ukraine.

110. On 29 April, the Prosecutor General of Ukraine reported the initiation of criminal proceeding under Article 365 (abuse of powers or official misconduct) of the Criminal Code of Ukraine in relation to interference of the law enforcement agencies into investigation of crimes committed against Maidan protestors. According to the Prosecutor General, certain

³⁶ In the morning of 14 November, Oleksandr Agafonov was stopped at the Izium check-point in Kharkiv region while going by car with his wife and an infant to Donetsk. They were asked to go to the police station for an interview. Mr Agafonov was not formally detained, but from that time was under control of the police. At 5 pm, a so-called ‘filtering group’ composed of two uniformed masked men and an SBU officer entered the police station and took Mr. Agafonov away. At 9 pm masked people and the SBU officer brought him back. Mr. Agafonov was still alive, even able to sit on a bench, but complained about feeling bad. An hour later the ambulance called by the policemen declared his death of shock and a closed blunt injury of the chest. On 2 December, the Kharkiv Military Prosecutor confirmed to the HRMMU that the identity of the SBU agent had been determined, but that it was established that he had not taken part in torture. The other suspects in the investigation were not yet identified “because the men who committed the crime wore masks”. As not a suspect, the SBU officer was not suspended.

³⁷ According to Ukrainian legislation and internal regulations of the law enforcement agencies, formal complaints can only be filed: (i) personally; (ii) through a trustee empowered with a power of attorney certified by the notary; and (iii) via postal mail. Residents of the territories controlled by the armed groups cannot resort to the latter two means as notaries’ powers as well postal communications have been suspended by the Government.

³⁸ Prior to ‘simultaneous releases’ the law enforcement agencies change a measure of restraint for the suspects, but do not terminate cases and keep them on wanted lists, so that they will be detained should they come to the territory controlled by the Government. ID documents of the released remain with the investigation as the cases are not closed.

³⁹ According to the Office of the Prosecutor General, 185 protestors sustained gunshot wounds and more than 1,000 had other types of injuries, 210 policemen and servicemen of internal troops sustained gunshot wounds, and more than 900 suffered other types of injuries.

officials of the Office of the Prosecutor General, Ministry of Internal Affairs and the SBU had intentionally interfered with the investigations and destroyed evidence.

111. On 31 March, the International Advisory Panel on Ukraine, constituted by the Secretary General of the Council of Europe, issued the report on its review of the Maidan investigations. The Panel stated that no substantial progress had been made and described the same impediments barring the investigation, in violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law of the European Court of Human Rights. The Panel also found that information delivered by the authorities to the public on the investigations was insufficient, as were the steps taken to involve victims and next-of-kin in criminal investigations. In February 2015, a coalition of civic organisations and initiatives published a report entitled *Price of Freedom* ‘on crimes against humanity’ committed during Maidan protests based on materials the coalition submitted for examination to the Office of the Prosecutor of the International Criminal Court.

112. Similarly, no progress in the investigation into the killing of 13 police officers and servicemen of internal troops during the Maidan protests has been reported.

On-going trial of two Berkut servicemen

113. On 24 February, the Kyiv City Court of Appeals issued a ruling to refer the case of two Berkut servicemen charged with the killing 39 protestors at Instytutska Street on 20 February 2014 for trial to the Sviatoshynskyi District Court of Kyiv. The accused have been in custody since 5 April 2014 and will remain there until 26 June. The next court hearing has only been scheduled for 3 June due to the inability to form the panel with two people’s assessors⁴⁰ as requested by the accused. Media reporting on the case has not been always compliant with the presumption of innocence, and the HRMMU is concerned that it may impact on the objectivity and impartiality of the people’s assessors participating in the trial.

114. The HRMMU obtained a copy of the indictment in the case of one of the accused. According to the document, the pre-trial investigation established that both of the accused were firing shots towards the crowd of protestors going up Instytutska Street, as a result of which 39 protestors were killed. The HRMMU is concerned that the prosecution has not yet established individual responsibility and is leaning towards an approach that would aim at establishing collective responsibility. The HRMMU will continue monitoring the trial and report on this issue.

115. The whereabouts of the third suspect, a Berkut commander, who was detained on 5 April 2014 and escaped from house arrest on 3 October 2014, has not yet been established. The Office of the Prosecutor General claimed on 29 April that it had enough evidence that he had fled to the Russian Federation, but his extradition cannot be invoked as he is not on an international wanted list⁴¹.

Detention and charges to five Berkut officers and servicemen

116. As the Maidan investigations are on-going during the reporting period, the Office of the Prosecutor General reported the detention of five Berkut servicemen under the charges of killing and injuring of protestors in February 2014. On 23 February, the Office of the

⁴⁰ Form of participation of society in the administration of justice inherited by some countries of the former USSR in a limited number of cases, including criminal cases where accused may face lifetime sentence. The panel consists of three judges and two people’s assessors.

⁴¹ On 29 April, the Head of the Special Investigation Department with the Office of the Prosecutor General Serhii Horbatiuk reported that Interpol had refused to put the suspect on a wanted list, although there was enough evidence that he fled Ukraine.

Prosecutor General reported that all 23 Berkut servicemen (including those mentioned in paragraphs 110-112 above), involved in killing of 39 protestors at Instytutska Street on 20 February 2014, have been identified. The same day two former Berkut servicemen were detained, and following a ruling of Pecherskyi District Court of Kyiv of 24 February, they were placed in custodial detention, where they currently remain. The other 19 servicemen were put on a wanted list as they have been hiding from justice.

117. On 23 April, Pecherskyi District Court of Kyiv detained three other former Berkut servicemen on charges under Articles 365 (abuse of powers) and 115 (intentional homicide) of the Criminal Code of Ukraine. As it was alleged by the pre-trial investigation, the detained servicemen were involved in the killing of five protestors, the infliction of gunshot wounds to 62 protestors as well as other types of injuries to more than 400 people on 18 February 2014 at Hrushevskoho Street in Kyiv.

C. Accountability for the 2 May violence in Odesa

118. Two official investigations have been initiated to look into the 2 May violence in Odesa, when 48 persons died (six killed in the city centre and 42 – from the effects of the fire at the Trade Union Building), one by the Ministry of Internal Affairs and the other by the Office of the Prosecutor General. However, these investigations are widely believed to be unreliable, particularly because of the inability or unwillingness of law enforcement bodies to bring to justice those responsible for the violence. The HRMMU believes that with no obstacles in the investigation of the 2 May violence, the prosecution of perpetrators is only hampered by the fact that some suspects have reportedly fled Ukraine, including the former Deputy Head of Odesa Regional Department of the Ministry of Internal Affairs⁴².

Investigation led by Prosecutor General Office on police and fire brigade negligence

119. On 30 April 2015, the Office of the Prosecutor General notified the former Head of the Odesa Regional Department of the Ministry of Internal Affairs about suspicions of official negligence, by failing to ensure public security which resulted in clashes between ‘pro-federalism’ and ‘pro-unity’ supporters during the march ‘*For United Ukraine*’. On 13 May, the Pecherskyi District Court of Kyiv placed the former Head of the Odesa Regional Department of the Ministry of Internal Affairs under house arrest.

120. No progress has been achieved in a criminal investigation into the negligence of the fire department, which having received numerous phone calls about the fire, took 40 minutes to arrive at the scene – the Trade Unions Building, where 42 people died of suffocation, burns and as a result of jumping out of the windows – despite being located in its immediate vicinity.

Investigation led by the Ministry of Internal Affairs

121. The investigation headed by the Investigation Unit of the Ministry of Internal Affairs on mass disorder in the city centre and at the Trade Union Building continues to raise grave concerns. In September 2014, the investigation was split into several criminal proceedings, including three major ones: on the mass disorder at the Trade Union Building (Kulykove Pole Square), on mass disorder in the city centre and against a ‘pro-unity’ activist charged with murder.

Investigation regarding the mass disorder at the Trade Union building

122. The investigation led by the Ministry of Internal Affairs into mass disorder at the Trade Union Building is still on-going. By 15 May, no substantive progress has been observed in the investigation into the death of 42 people, and no suspect had been identified.

⁴² He is charged under Articles 365 (excess of authority or official powers) and 367 (neglect of official duty) of the Criminal Code of Ukraine for unlawful release of 63 perpetrators on 4 May detained the day before.

At the same time, on 9 February, the Office of the Prosecutor General closed the criminal investigation for lack of evidence against a ‘pro-unity’ activist, accused of beating ‘pro-federalism’ supporters, jumping out of the burning Trade Union Building. On 19 August, he was arrested and transferred to the SIZO in Kherson. On 26 August, the District Court of Kherson ruled on placing him in custodial detention. However, on 30 August, due to the pressure from ‘pro-unity’ activists, the Court of Appeal of Kherson Region changed the measure of restraint to an obligation not to leave Odesa without the investigator’s permission. On 17 February, victims appealed this decision as being groundless and politically motivated with no result to date as the trial on the matter is on-going.

Investigation into mass disorder in the city centre

123. On 25 March, the Office of the Prosecutor General submitted a revised indictment against 20 ‘pro-federalism’ supporters charged under Article 294 (mass disorder) of the Criminal Code of Ukraine (one of whom had reportedly fled to Crimea) to the Malynovskyi District Court of Odesa. The defence lawyers maintain that in addition to previously mentioned numerous omissions, including violation of the principle of fair trial, the revised indictment contained new procedural mistakes and referred rather to the political views of the accused, than to evidence of their participation in the mass disorder. The court ruled to return the indictment to the Office of the Prosecutor General for the second time.

124. Consideration of the motion of the ‘pro-federalism’ suspects regarding the returned indictment was carried out in the absence of some of defence lawyers (due to failure of the court to properly notify the parties of the hearing in advance). The Court of Appeals of Odesa region also disregarded a request from defendants for legal aid which was hampered by the absence of their lawyers. On 26 March, a judge of the Malynovskyi District Court of Odesa extended the detention of 10 ‘pro-federalism’ detainees without a full panel of judges as prescribed by law when considering grave crimes. Furthermore, the court session was not public and transparent since none of the defenders and their lawyers were notified of the court date and, they were thus unable to participate.

125. On 27 April, the Malynovskyi District Court of Odesa ruled once again to return the indictment to the Office of the Prosecutor General due to numerous omissions and procedural mistakes. On 15 May, the Court of Appeals of Odesa Region considered the appeal of the prosecution against the decision of the Malynovskyi District Court. The HRMMU observed numerous procedural violations during the hearing which was held in the absence of several defence lawyers. Appeals for legal aid of the defendants, including minor, were ignored by the court. The panel of judges seemed prejudiced against the defence and decided to submit the indictment to the Malynovskyi District Court of Odesa for a new consideration.

Investigation regarding the ‘pro-unity’ activist charged with murder

126. On 22 April, almost one year after the opening of the criminal investigation, the indictment against the single ‘pro-unity’ activist, charged with participation in mass disorder, murder and injuring a law enforcement officer in the city centre, was submitted to the Pymorskyi District Court of Odesa.

D. Investigation into the Rymarska case

127. The investigation into the shooting at Rymarska street in Kharkiv on 14 March 2014 due to a conflict between activists of the ‘pro-federalism’ group *Oplot* and activists of the ‘pro-unity’ group *Patriots of Ukraine* which resulted in two people killed and several wounded including a police officer, has shown little progress. More than a year after the event, no perpetrators have been identified.

128. In 2014, the SBU informed the HRMMU that there would be no indictments in the case, as according to the pre-trial investigation, the shooting was a case of self-defence. At

the same time, the HRMMU is not aware that the case has been officially closed. Information from the SBU, Ministry of Internal Affairs, and Kharkiv Regional Prosecutor's Office suggests that the majority of the members of the Patriots of Ukraine, allegedly involved in shooting, are now serving with the Azov Regiment in the conflict zone, and therefore cannot be reached.

E. Administration of justice

Parallel 'administration of justice' systems on the territories controlled by the armed groups

129. The armed groups and the so-called 'governance structures' of the 'Donetsk people's republic' and 'Luhansk people's republic' are accountable for human rights violations committed on territories under their control. Steps taken by the 'Donetsk people's republic' and 'Luhansk people's republic' to establish their own 'legislative' frameworks⁴³ and systems of 'administration of justice' ('police', 'prosecutors'⁴⁴ and 'courts'⁴⁵) are contrary to the Constitution of Ukraine and international law, and jeopardize the Minsk Agreements.

130. Although there is no legal framework for the activity of 'lawyers' in the 'Donetsk people's republic', on 19 March, the 'supreme court' and the 'prosecutor general' issued a joint instruction to ensure the right to a public defender in criminal 'proceedings' initiated since December 2014. Meanwhile, the Law On Advocacy of Ukraine is still in force in the 'Luhansk people's republic', but is still not applied due to lack of established 'judiciary'.

131. A 'court system' started functioning in the 'Donetsk people's republic' as of 9 January with the appointment of 42 'judges', including 12 assigned to the 'supreme court' and its 'head', and two 'arbitrators'. Majority of cases are those which remained pending from Ukrainian courts⁴⁶ and cases filed by the 'penitentiary service' for revision of the term of detention of those remaining there since 2005. The 'supreme court' has already made 'decisions' in 20 'criminal cases'. 'Courts of general jurisdiction' are 'hearing' 61 civil cases; and issued 'decisions' in eight cases.

132. The 'court system' of the 'Luhansk people's republic' has not started functioning yet⁴⁷. There have been, however, 'cases' awaiting 'trial'. They include the 'case' of Maria Varfolomieieva who was captured in January for allegedly taking pictures of the buildings that were allegedly subsequently shelled, accused of 'espionage' and is expected to be 'tried' in a 'court' as soon as the 'court system' starts functioning. The HRMMU is concerned that a 'trial' over Ms. Varfolomieieva would 'legitimize' her unlawful deprivation of liberty and urged the 'Luhansk people's republic' to release her – as well as other captives.

⁴³ 'Donetsk people's republic' and 'Luhansk people's republic' apply a Criminal Procedural Code of the Ukrainian Soviet Socialist Republic of 1960.

⁴⁴ 'Prosecutor's offices' in the 'Donetsk people's republic' have been vested with broad powers, including the right to decide on a measure of restraint (including 'detention' of up to two months which can be extended to 20 months).

⁴⁵ While the 'court system' has not yet started functioning in the 'Luhansk people's republic', the same has been introduced in the 'Donetsk people's republic' based on the Soviet Union model. The 'supreme court' started functioning on 23 September 2014 with the primary aim of development of a 'legislation framework' for 'administration of justice'. 'Courts of first instance' started working on 9 January, with the appointment of 42 'judges' based on the interview; this includes 12 'judges' of the 'supreme court' and its 'head', 2 'arbitrators'.

⁴⁶ Currently the archive of 'supreme court' (previously Court of Appeal of Donetsk region) has 498 unconsidered criminal 'cases' and 1,837 civil 'cases'. 'Courts of the first instance' have 1,602 unconsidered criminal 'cases' and more than 1,000 civil 'cases'. Some of the 'cases' have already been heard.

⁴⁷ Member of 'people's council' of the 'Luhansk people's republic' informed the HRMMU that on 30 April, several 'laws' on the 'judiciary' had been 'adopted' in the 'second reading'. These included 'laws' 'on the court system', 'on the creation of courts', which set up 'courts' at the 'republican' level: 'supreme court', 'court of appeals', 'martial court', four 'district courts' in Luhansk, eight 'city courts', two 'city/county courts', and three 'district (county) courts'.

Law enforcement tolerating illegal action by 'pro-unity' supporters

133. The HRMMU is concerned that illegal activities of 'pro-unity' activists have been tolerated by Ukrainian law enforcement agencies. On 26 March, the HRMMU witnessed the abduction by 'pro-unity' activists of two lawyers representing 'pro-federalism' activists. This occurred during a protest organised by the lawyers as they attempted to enter the Odesa SIZO, where their clients were held⁴⁸. The police at the scene made no attempt to intervene. Moreover, as observed by the HRMMU, while the perpetrators were clearly identified on the spot, no investigation was open. The abduction appeared to have been stopped due to the intervention of the HRMMU which immediately reported on the incident to a police officer prompting him to eventually take action.

134. Several 'rubbish container lustration' incidents took place during the reporting period. On 11 April, members of the Right Sector, Self-Defence and other local civil activists who claim poor implementation of the Lustration Law forcefully put the head of Ivano-Frankivsk Regional Department of Justice into a rubbish container. The police initiated criminal investigation under Article 296 (hooliganism) of the Criminal Code of Ukraine. On 24 April, Right Sector activists took the deputy of the city council of Dniprodzerzhynsk from his office and pushed him in a rubbish container. He was also hit, including with a five litre bottle filled with water.

Alleged intimidation of judges

135. The HRMMU is highly concerned about the lack of independence of the judiciary. Due to direct intimidation and threats against judges, the judiciary fails to ensure impartial and fair trial. On 27 February, the Odesa Court of Appeal held a general meeting with all judges of Odesa region to discuss the increased pressure on the judiciary system by 'pro-unity' activists. The pressure reportedly includes death threats, physical attacks and forcefully putting judges into trash containers. In addition to the pressure from 'pro-unity' activists, the judges referred to pressure from the SBU to take 'right' decisions during hearings involving 'pro-federalism' activists suspected of terrorism and committing crimes against national security.

High profile cases

136. The HRMMU continued to follow up on the prosecutions of former senior and Government officials, with no progress to date. These include the cases of Yurii Borisov, Nelia Shtepa and Oleksandr Yefremov. On 3 March, the Chervonozavodskyi Court of Kharkiv started hearings on the case of Ms. Shtepa and has since held several sessions where witnesses were questioned. While Ms. Shtepa insisted that many possible defence witnesses refused to testify after the abduction and killing of her deputy in January 2015, the prosecutor's witnesses stated that she was not abducted and forcefully detained by the armed groups as she had claimed, but that she collaborated with them. The HRMMU reiterates the necessity to ensure impartiality and objectivity of the process against current and former officials.

137. The HRMMU is concerned with the deaths over the reporting period of several politicians at various levels connected to the previous regime. These include the former Mayor of Melitopol Serhii Valter, who committed suicide on 25 February, former deputies of the Parliament Mykhailo Chechetov⁴⁹ and Stanislav Melnyk, who committed suicide on 28

⁴⁸ On 26 March, Malynovskyi District Court of Odesa extended detention for 10 'pro-federalism' detainees, accused in the mass disorder on 2 May 2014 in the city centre whose term of detention expired at 5 am that day. A single judge instead of a panel of three judges considered the issue on detention without holding a court hearing and without notifying the defence team.

⁴⁹ On 20 February, the Office of the Prosecutor General notified Mykhailo Chechetov of suspicion in committing a crime under Article 364 (abuse of power) of the Criminal Code of Ukraine during voting for the laws aimed at limitation of civil rights and freedoms on 16 January 2014. On 21 February, Pecherskyi District

February and 9 March respectively, the former Head of Zaporizhzhia Regional State Administration Oleksandr Peklushenko, who committed suicide on 12 March, and the killing of former deputy of the Parliament Oleh Kalashnikov on 15 April.

VI. LEGISLATIVE DEVELOPMENTS AND INSTITUTIONAL REFORMS

Constitutional reform

138. On 3 March, the President of Ukraine established a Constitutional Commission to prepare a draft law on constitutional reform that would result from wide public consultations. The Commission is chaired by the Chairperson of the Parliament and made up of 73 members, both women and men, including the Minister of Justice, former presidents of Ukraine, parliamentarians, academics, judges and other members of the legal profession, representatives of the civil society, and 13 foreign legal experts and representatives of international organizations, including the Council of Europe, European Union, OSCE and the HRMMU representing the United Nations.

139. The first meeting of the Commission was held on 6 April and several meetings were held in May. Three working groups have been set up to review issues related to: human rights and freedoms; the judiciary, legal institutions and law enforcement; and constitutional principles of state governance, local self-government, administrative and territorial organization and decentralization.

140. While no deadline for the work of the Commission is mentioned in the decree establishing it, this process would need to be completed before the country-wide local elections of October 2015 as amendments regarding decentralization and local self-governance bodies would be required. In addition, the Package of Measures for the Implementation of the Minsk Agreements of 12 February 2015 states that a new constitution must enter into force “by the end of 2015” and that it should provide for “decentralization as a key element”.

Reform of the judiciary

141. On 26 February, the Law on Ensuring the Right to a Fair Trial, which amends the laws on the Judicial System and the Status of Judges, on the High Council of Justice, the Code on Administrative Offences and different procedure codes, entered into force.

142. The HRMMU considers that this law brings some positive elements. In particular, it strengthens the role of the Supreme Court as the guarantor of the unity of the jurisprudence. At the same time, the HRMMU notes that the legislator was limited in the nature and scope of amendments it could introduce due to constitutional provisions preventing fundamental changes in the judicial system. Therefore, as highlighted by the Venice Commission⁵⁰, the HRMMU recommends that the Constitution of Ukraine should be amended to achieve effective judicial reform. The HRMMU is of the view that amendments should eliminate or at least limit the influence of non-judiciary institutions on judicial matters. This applies to the powers of the Parliament to appoint judges to permanent posts, dismiss them and lift their immunities. It also includes the exclusive power of the President to establish and liquidate courts. Furthermore, the composition of the High Council of Justice should be modified to ensure that a substantial part or a majority of its members are judges elected by their peers, which is currently not the case.

Court of Kyiv ruled on a measure of restraint in the form of custodial detention with a right to bail. On 23 February, upon settling the bail, he was released.

⁵⁰ See Opinion No 801/2015 of 23 March 2015.

Reform of the law enforcement

143. On 13 May, the Government submitted to the Parliament a draft Law On the National Police after the deputies had withdrawn an earlier draft prepared with the civil society. The HRMMU notes that the new text has not been discussed and that it contains some questionable provisions presented as measures of a preventive character. In particular, it gives wide discretion to the police to enter private premises without a court decision. This can be done “in urgent cases” to track suspects, neutralize a threat to the life of occupants and verify the presence of a person under home arrest. Another provision would authorize the police in the area of the security operation to shoot at a person without a warning. The HRMMU also recalls that the UN Basic Principles on the use of force and firearms by law enforcement officials stipulate that intentional use of firearms may 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.

International human rights commitments

144. On 30 April, the Parliament of Ukraine registered a draft resolution⁵¹ requesting the Ministry of Foreign Affairs and the Ministry of Justice to notify the Secretary-General of the United Nations and the Secretary-General of the Council of Europe about the derogation by Ukraine from certain obligations enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the Convention for the Protection of Human Rights and Fundamental Freedoms. The derogation is proposed in response to the “military aggression of the Russian Federation” and will be in place until the “complete termination” of the “aggression”. The proposed derogation from State obligations is envisaged in relation to the right to liberty and security, fair trial, effective remedy, respect for private and family life and freedom of movement, including the right to choose one’s residence. It is proposed to be applied to certain districts of the Donetsk and Luhansk regions determined by the Anti-Terrorist Centre of the Security Service of Ukraine. In accordance with Article 4 of the ICCPR, a State may take measures to derogate from their obligations under the Covenant in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed. The State then shall notify the UN Secretary-General. The HRMMU is concerned that such a derogation could further complicate the protection of human rights for those living in the conflict area.

Package of Measures for the Implementation of the Minsk Agreements of 12 February

145. On 17 March, the Parliament adopted amendments to the Law On the Temporary Procedure of Local Self-Government in Certain Parts of the Donetsk and Lugansk Regions, which was passed on 16 September 2014 pursuant to the Minsk Protocol of 5 September 2014. The March amendments provide that temporary self-rule provisions under the September law would be enacted only after local elections are held in certain parts of the Donetsk and Luhansk regions in accordance with the Ukrainian Constitution and legislation. The amendments also mention the need for free, fair and internationally supervised elections meeting OSCE standards; enabling IDPs to vote; equal access to the media, including a resumption of the work of the Ukrainian media; and withdrawal of foreign weapons, military and mercenaries from the territory of Ukraine. The representatives of the self-proclaimed ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ condemned the amendments, insisting that self-rule provisions should be implemented without pre-conditions.

⁵¹ The Resolution On the Approval of the Notification of Ukraine about the Derogation from Certain Obligations Determined by the Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights was adopted by the Parliament on 21 May.

146. On 17 March, the Parliament adopted two resolutions. One resolution (No. 252) identifies the area of the Donetsk and Luhansk regions to be provided with temporary special status. The other resolution (No. 254) recognizes that the districts, cities, settlements and villages located inside the area enjoying temporary special status are considered to be “temporarily occupied”⁵².

147. It should be noted that, during the reporting period, no significant progress has been made in implementing the provisions of the Package directly affecting human rights. They include: releasing all “hostages and unlawfully detained persons”, based on the ‘all for all’ principle; ensuring pardon and amnesty by enacting the law prohibiting the prosecution and punishment of persons in connections with the events that took place in the east; ensuring safe access, delivery, storage and distribution of humanitarian assistance to those in need; and defining modalities for a full resumption of socio-economic ties, including banking services, payment of pensions and various social allocations.

Humanitarian aid

148. As of 15 May, the working group of a parliamentary Committee on Issues of Veterans, Participants of Combat Operations, Participants of the Anti-Terrorist Operation and Persons with Disabilities was finalising a concept for a law on humanitarian aid. The concept proceeds from the recognition that the existing legal framework is inadequate and needs to be brought in compliance with international standards. The concept envisages delivery of and access to humanitarian supplies to all civilians affected by conflict, including but not limited to IDPs, no matter where they are geographically. The concept also stipulates the creation of an inter-ministerial Agency for the Coordination of Humanitarian Aid and measures to facilitate the provision of humanitarian aid, notably through tax exemptions and simplification of administrative procedures.

Martial law

149. On 12 May, the Parliament adopted amendments to the Law On the Legal Regime of Martial Law articulating in greater detail the legal mechanisms to introduce and cancel martial law and the organs in charge of enacting it. They also increase the number of restrictive measures that may be taken under martial law. One new measure includes “interning (forcibly expelling) nationals of a foreign state which threatens to attack or carries out aggression against Ukraine”. In light of the resolution of the Parliament of 27 January 2015 recognizing the Russian Federation as an “aggressor state”, the HRMMU is of view that this provision could apply in particular to nationals of the Russian Federation in Ukraine. It also appears to provide a legal basis to detain and expel foreign citizens legally staying in Ukraine who have not committed any crime.

Law on Civil-Military Administrations

150. One regional and five local military-civil administrations have been established in the Donetsk region and one regional and seven local ones in the region of Luhansk during the reporting period. These administrations are temporary State bodies functioning within the Anti-Terrorist Centre of the SBU. They can be established in localities where self-government bodies are unable or fail to carry out their functions pursuant to the Law On Civil-Military Administrations, which entered into force on 28 February.

151. Civil-military administrations cumulate the executive and legislative powers of local self-government organs. They are vested with powers to limit freedom of movement; prohibit

⁵² According to the document, the qualification will remain valid “until the withdrawal of all illegal armed formations, military hardware, militants and mercenaries from the territory of Ukraine and the restoration of full control over the state border of Ukraine”.

the activities of political parties and public organizations; control the work of enterprises and media outlets; terminate the functions of local bodies and cancel their decisions.

152. The HRMMU notes that some safeguards have been introduced to counter-balance these wide powers and the risks of abuse they carry. The decisions of civil-military administrations must be published and can be appealed in court. In addition, communal property cannot be disposed of (privatized), which implies that property transactions frequently giving rise to corruption schemes at the local level are prohibited. On the other hand, the establishment of such administrations is left at the discretion of the President and does not seem to result from a clear set of criteria. Furthermore, the head of a military-civil administration in a locality is appointed and dismissed by a central body, the National Security and Defence Council of Ukraine. This means that in addition to being unelected, this official is not accountable to the local community where her or his functions are exercised.

De-communization laws

153. On 15 May, the President of Ukraine signed a package of four laws⁵³ relating to Ukraine's history. They denounce the Communist and Nazi regimes as "criminal under the law", ban propaganda in their favour and all public display of their symbols. They also require replacing communist-inspired names for cities, streets, squares and other places. The package of laws include provisions for opening all archives of Soviet-era security organs and provides public recognition to all those who fought for Ukrainian independence. Thus, in addition to Soviet war veterans, the State and local governments are to provide social benefits to members of very diverse groups enumerated in the law, ranging from human rights activists to members of ultra-nationalist movements which committed mass atrocities during World War II, such as the Organization of Ukrainian Nationalists (OUN) and the Ukrainian Insurgent Army (UPA).

154. The HRMMU notes that there is serious risk that some legal provisions could discourage debate about Ukraine's past and limit the freedom of expression in a way that could deepen divisions. For example, the Law On the Legal Status and Honouring of Fighters for Ukraine's Independence in the Twentieth Century' states that "publicly expressing disrespect" for any mentioned group that fought for Ukraine's independence and the legitimacy of this struggle is "illegal" and will result in "liability" under Ukrainian legislation. The Law On Condemning Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibiting Propaganda of their Symbols is even more explicit in imposing sentences in the form of restriction of liberty or imprisonment for up to five years for the preparation, circulation and public use of Communist or Nazi symbols. It should be noted that similar provisions adopted in other countries were found by the European Court of Human Rights⁵⁴ to violate the right to freedom of expression. According to Article 20 of the ICCPR, States parties are only required to prohibit by law "propaganda for war" and "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence".

Anti-corruption

155. On 18 March, the Cabinet of Ministers created a National Agency on Prevention of Corruption, as foreseen under the legal anti-corruption package adopted in October 2014. The Agency is to conduct mandatory e-declaration of incomes and expenditures of all public

⁵³ See the laws On Condemning Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibiting Propaganda of their Symbols; On the Legal Status and Honouring of Fighters for Ukraine's Independence in the Twentieth Century; On Perpetuating the Victory over Nazism in World War II 1939 – 1945; On Access to the Archives of the Repressive Bodies of the Totalitarian Communist Regime 1917-1991.

⁵⁴ See, for example, *Vajnai v. Hungary* (2008), where the Court found that fining a demonstrator for wearing a red star was in breach of his right to freedom of expression.

officials. A public council was created within the agency to monitor its work. On 16 April, President Poroshenko appointed Artem Sytnyk, a former prosecutor, as Director of the National Anti-Corruption Bureau (NACB), a body which will conduct investigation into crimes committed by high level public officials, including judges and prosecutors. 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 Bureau Director.

VII. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA

156. The situation in the Autonomous Republic of Crimea continued to be characterized by human rights violations targeting mostly those who opposed the unlawful ‘referendum’ in March 2014 and the arrival of ‘authorities’ applying the laws of the Russian Federation.

157. During the reporting period, the HRMMU was informed about ill-treatment and torture perpetrated by or with the acquiescence of the Crimean ‘law enforcement’. Harassment and arrests of Mejlis members or supporters and civic activists continued. Control of the media was tightened after a number of media outlets, particular Crimean Tatar ones, were forced to cease operating. The freedom to practice one’s religion has been jeopardized by limitations resulting from re-registration requirements.

Torture and ill-treatment

158. During the reporting period, the HRMMU obtained new information, including medical and court records, concerning the case of Oleksandr Kostenko. As previously reported⁵⁵, Mr. Kostenko was arrested by the ‘police’ on 8 February 2015 on suspicion of wounding a Berkut police officer on 18 February 2014 during the Maidan protests in Kyiv. New information suggests that on 5 February 2015 he was abducted by two men, possibly affiliated to the Federal Security Service (FSB) of the Russian Federation, blindfolded, hit and tortured, including through electric shocks, to extort a confession of guilt he made after being delivered to the ‘police’ on 8 February. The HRMMU has a copy of Mr Kostenko’s medical examination revealing multiple fractures, a dislocated shoulder and a broken elbow.

159. On 9 February 2015, Mr. Kostenko was provided with a lawyer and placed by a ‘court’ in pre-trial detention⁵⁶ for two months. This term has later been prolonged until 3 June. According to his lawyer, he was beaten up by other detainees. His lawyer requested the ‘court’ to exempt from the case file all the evidence obtained under duress. On 3 April, the ‘court’ rejected the request as unfounded, stating that the evidence obtained and the allegations made, including torture claims, should be examined together in future court proceedings, in order not to compromise the establishment of facts and responsibility. On 15 May, Mr. Kostenko was found guilty of inflicting deliberate injury and possession of firearms by a ‘court’ in Simferopol and sentenced to four years and two months of imprisonment. His lawyer said he would appeal the decision. The HRMMU considers that in addition to evidence of confessions obtained under torture, the case points to an absence of conditions for a fair trial and legal safeguards for the accused.

⁵⁵ See paragraph 95 of the 9th HRMMU report on the human rights situation in Ukraine.

⁵⁶ He is charged under Article 115 (deliberate infliction of mild damage to health for motives of political, ideological, racial, ethnic or religious hatred or enmity, or hatred or enmity in relation to a social group) of the Criminal Code of the Russian Federation.

160. On 20 April, FSB officers detained Emir-Usein Kuku, a member of the ‘human rights contact group’⁵⁷, and informed him that he was suspected under Article 282 (incitement of hatred or enmity) of the Criminal Code of the Russian Federation. He claims that he was repeatedly hit while being convoyed to the FSB department in Yalta. His house was also searched. On 21 April, a medical examination found that Mr. Kuku suffered injuries to the head and one kidney.

Persecution of Crimean Tatars and ‘pro-Ukraine’ supporters

161. Pressure and intimidation against all those who oppose the *de facto* authorities or officially sanctioned views about events in Crimea continued. They usually take the form of arbitrary arrests, house searches, abusive questioning as suspects or witnesses, the imposition of fines and job dismissals. They also frequently involve the vague and unsubstantiated accusation of promoting extremism and intolerance.

162. During the reporting period, another four Crimean Tatars⁵⁸ were arrested and placed in pre-trial detention in connection with the events of 26 February 2014⁵⁹. All four Crimean Tatars were charged with participation in mass riots and risk prison terms of three to eight years. On 23 March, several other Crimean Tatars, including two senior Mejlis officials⁶⁰ and a businessperson were also summoned for questioning as witnesses in relation to the February 2014 events, and the ‘police’ searched their houses. These actions followed the arrest of the deputy head of the Mejlis, Ahtem Chygoz, on 29 January 2015, who was placed in detention until 19 May on suspicion of organising mass riots, a charge which carries a prison sentence of four to 10 years.

163. On 11 March, a ‘court’ in Simferopol ordered 40 hours of corrective labour for three Crimean activists and 20 hours for another one after they unfurled a Ukrainian flag with the inscription “Crimea is Ukraine” during a rally, which had been authorized by the Simferopol ‘city administration’, to commemorate the 201st anniversary of the national poet of Ukraine Taras Shevchenko on 9 March. The ‘court’ found that, by failing to mention the use of Ukrainian symbols in the request form for the event, the activists had violated “legal provisions regulating the conduct of mass events”. On 11 March, the organizer of the event, Leonid Kuzmin, was dismissed from his job as teacher of history for behaviour “inconsistent with his position”. On 17 April, he was attacked by a group of young men, including one of his former students, who allegedly accused him of being a *Right Sector* member and hit him with a bottle. Mr. Kuzmin reported the case to the Crimean ‘police’.

164. On 21 April, Oleksii Chorny, one of four Ukrainian citizens arrested in Crimea and transferred to the Russian Federation in May 2014, was found guilty of planning terrorist acts and smuggling weapons by a Russian court and sentenced to seven years imprisonment. Mr. Chorny, who risked up to 12 years of imprisonment, entered a plea agreement. In December 2014, another co-accused, Hennadii Afanasiev, did the same and received an identical prison sentence. The two other people arrested include a ‘pro-Ukrainian’ activist, Oleksandr Kolchenko and film-maker Oleh Sentsov, who are currently awaiting trials on charges under Article 222-3 (unlawfully obtaining, selling, possessing weapons, explosive substances and devices) of the Criminal Code of the Russian Federation.

⁵⁷ The group is a coordination body established in October 2014 by *de facto* authorities of Crimea to contribute to the search for several Crimean Tatars who went missing in 2014. It is composed of ‘police officers’, officials of the Investigative Committee of the Russian Federation and relatives of those who went missing.

⁵⁸ Eskender Emirgaliyev was arrested on 18 February, Talyat Yunusov on 11 March, Ali Asanov on 15 April and Eskender Nebiev on 22 April.

⁵⁹ For more details see paragraph 93 of the HRMMU report of 1 December 2014 -15 February 2015.

⁶⁰ Nariman Dzhelal and Ilmy Umerov.

Freedom of expression

165. On 1 April, the deadline for re-registration of all Crimean media outlets under the law of the Russian Federation expired. *Roskomnadzor*, the Russian Federation media registration agency, registered 232 media. The HRMMU has analysed the situation of the Crimean Tatar media and identified at least seven media outlets which were denied registration. They include the television channels *ATR* and *Lale*, radio stations *Meydan* and *Lider*, news agency *QHA*, the newspaper *Avdet* and the Internet site *15minut*. *Roskomnadzor* cited procedural violations as the main reasons for rejection. Some media were unsuccessful despite submitting several requests. On 30 and 31 March, dozens of people gathered outside the *ATR* studio and several were briefly detained for trying to make a video clip in support of the channel. A Simferopol ‘court’ imposed a fine on one of the protesters for “infringing the rules for holding mass protests” and “resisting arrest”. On 14 May, *Roskomnadzor* published a list of 30 media outlets using Crimean Tatar language, which were registered. They include nine newspapers, eight journals, five TV and eight radio stations where Crimean Tatar is used as the sole language or one of the languages of communication.

166. The HRMMU notes that although some media outlets arguably continue operating in Crimean Tatar language, the TV channel mostly watched by the Crimean Tatar community (*ATR*) and the mostly read newspaper (*Avdet*) were denied licenses to continue their work. The HRMMU recalls that undue restrictions on the right to seek, receive and impart information and ideas of all kinds gravely undermine media pluralism and violate freedom of expression, which is protected under Article 19 of the Universal Declaration of Human Rights and Article 19 of the ICCPR.

167. The Crimean ‘law enforcement’ also acted to discourage critical reporting on Crimea from media that left the peninsula for mainland Ukraine. On 2 April, the HRMMU interviewed Anna Andrievska, a journalist from the Crimean Centre for Investigative Journalism who now lives in Kyiv. She informed that on 13 March, the Crimean ‘police’ opened a criminal case against her for an article she wrote in December 2014 on a Crimea volunteer battalion of the Ukrainian armed forces. They also searched the house of her parents in Crimea, seized some personal notes and questioned former colleagues of hers. Ms. Andrievska is accused under Article 280-1 (public calls for the infringement of the territorial integrity of the Russian Federation) of the Criminal Code of the Russian Federation, which carries a prison sentence of up to five years.

Freedom of religion

168. Public organizations, including religious communities also had to re-register under Russian Federation law to obtain legal status. The deadline for re-registration was extended twice⁶¹ and is now 1 January 2016. Religious communities requesting re-registration need to submit the statutes of the organization, two records of community meetings, a list of all the community members, and information on the “basis of the religious belief”.

169. Almost 200 religious communities applied for re-registration so far and many requests are still being processed. As of 8 May, 51 communities have been re-registered, including two with the largest number of Christian Orthodox and Muslim believers on the peninsula, the Russian Orthodox Diocese for Simferopol and Crimea and the Spiritual Administration of Muslims of the Republic of Crimea and the City of Sevastopol (i.e. the *Mufiyat*). Other registered organizations include Protestant and Jewish communities. The Ukrainian Orthodox Church of the Kyiv Patriarchate did not lodge an application for registration, while the

⁶¹ The first deadline was 1 January 2015 and the second one – 1 March 2015.

Roman Catholic Church had to re-submit applications after the initial ones were rejected due to some documents being in Ukrainian.

170. The HRMMU notes with concern that the obligation of religious communities to re-register under Russian Federation law, the strict requirements of the procedure, and the lengthy verifications it entails, have adversely affected the right to freedom of thought, conscience and religion of hundreds of thousands of Crimean residents. Without registration, religious communities can congregate but cannot enter into contracts to rent state owned property, employ people or invite foreigners⁶².

Vulnerable groups

171. The situation of some vulnerable groups, such as people with drug addiction, is dramatic. About 800 of them are currently without life-saving opioid-substitution therapy in Crimea. Under Ukrainian legislation, Crimean doctors provide intravenous drug users with methadone, an opioid substitute, and buprenorphine, a drug used to ease dependence. According to Russian legislation substitution therapy is not a legal option for treatment of drug dependence and needle-exchange programs are not supported. The HRMMU has information that patients who have stayed in Crimea have been offered treatment in Russian hospitals, but that usually includes simple detoxification and, occasionally, a follow-up rehabilitation. By May 2015, up to 30 people have died in Crimea due to complications related to drug overdose or chronic illness since March 2014. Dozens have fled to mainland Ukraine mostly with the help of the International HIV/AIDS Alliance, an NGO network.

VIII. CONCLUSIONS AND RECOMMENDATIONS

172. All measures need to be taken to end the fighting and violence in the eastern regions of Ukraine to save lives and to prevent further hardship for those people living in the conflict affected area. With the tenuous respect for the 15 February ceasefire, people continue to be killed, and violations of international human rights law and international humanitarian law persist. The situation in the conflict-affected areas is becoming increasingly entrenched, with the local population more and more isolated, without any rule of law, meaningful protection for dissenting views or access by vulnerable groups to effective remedies. OHCHR believes that the full implementation of the Package of Measures for the Implementation of the Minsk Agreements of 12 February is the only viable strategy for achieving a peaceful solution in Donbas, which would pave the way for fuller respect of the rights of people both in the conflict area and elsewhere in Ukraine. As noted in previous reports, the control of the borders between Ukraine and the Russian Federation, the withdrawal of foreign fighters and the cessation of the flow of weapons from the Russian Federation would have a significant impact on law and order and the implementation of other provisions of the Minsk Agreements.

173. The impact of the conflict on the economic and social rights of civilians continues to be dramatic. Guarantees of economic and social rights have progressively weakened, especially on the territories controlled by the armed groups. The interruption of access to

⁶² See the thematic report of the Independent Expert on minority issues, Rita Izsák, concerning the protection and promotion of the rights of religious minorities (A/68/268, paragraph 61: “It is essential to ensure that all procedures for registration are accessible, inclusive, non-discriminatory and not unduly burdensome. Registration procedures designed to limit beneficiaries due to political or social intolerance run afoul of human rights standards”). See also the thematic report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt (A/HRC/22/51, paragraph 42: “failure to register, or re-register periodically, could lead to legal vulnerability that also exposes the religious minorities to political, economic and social insecurity”).

basic services is life-threatening and can have a life-long impact on a large portion of the population, hindering the post-conflict recovery of the society.

174. The situation of human rights in the Autonomous Republic of Crimea remains very concerning. Arrests, ill-treatment, torture and intimidation continue being perpetrated against political opponents, primarily in the Crimean Tatar community, with the knowledge or participation of the 'law enforcement' or affiliated groups. Legal safeguards for detained persons are all but inexistent. The exercise of the rights to freedom of expression, assembly and religion is mostly limited to groups or individuals being loyal to the *de facto* authorities. Administrative measures, including registration requirements, are used as control mechanisms and tools to prevent the spread of dissenting views.

175. Accountability and an end to impunity are at the core of ensuring peace, reconciliation and long term recovery in Ukraine. Violations of human rights must be investigated and, where there is evidence of crimes, the perpetrators brought to justice.

176. OHCHR appreciates the good cooperation extended by the Government of Ukraine to the HRMMU. The HRMMU 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.

177. OHCHR notes the progress made by the Government of Ukraine in the implementation of some recommendations contained in previous HRMMU reports, in particular, the adoption of the legislation on Judiciary and the Office of the Prosecutor General, some progress on the law-enforcement reform, anti-corruption and development of the National Human Rights Strategy. OHCHR also welcomes the development, under the leadership of the Ministry of Social Policy, of the National Action Plan on implementation of the UN Security Council Resolution 1325, which promotes role of women in conflict resolution and peace-building.

178. Recommendations made in the HRMMU 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) Seek common ground, through a sustained dialogue, in order to fully implement the Package of Measures for the Implementation of Minsk Agreements of 12 February. In particular, work in good faith towards the implementation of the provisions of the Package directly affecting human rights.
- b) Prioritise demining activities, in particular, in places of expected returns of IDPs and conduct mine risk awareness outreach to children and communities.
- c) Allow full and unhindered access, delivery, storage and distribution of humanitarian agencies in the conflict area.
- d) Provide additional security guarantees for humanitarians accessing settlements divided by the contact line.

To the Government of Ukraine

- e) Investigate all violations of human rights and international humanitarian law committed in the east, including by the Government forces.
- f) Guarantee independence and impartiality of judges within their mandate, especially with regard to Maidan events and the 2 May violence in Odesa.
- g) Conduct impartial and objective investigations into the recent killings of the former members of parliament and a journalist and regularly report on its progress.
- h) Revoke the Temporary Order of 21 January. Limitations on freedom of movement must be based on clear legal grounds and meet the tests of necessity and proportionality.

Those seeking safety and security must be allowed to do so without having to apply for a permit in advance or go through only pre-designated check-points.

- i) Develop mechanisms to ensure that people on the territories controlled by armed groups have access to justice.
- j) Develop compensation mechanisms for people whose property has been damaged in the conflict.
- k) Take measures for securing assemblies rather than prohibiting them; facilitating assemblies, including spontaneous assemblies, as long as these are peaceful in nature.
- l) Ensure that the process of development of a new constitution of Ukraine is transparent, open and inclusive, with the full participation of the civil society including women, minorities and indigenous peoples.
- m) Speed up the process of the adoption of the National Human Rights Strategy and start the development of the National Human Rights Action Plan.
- n) Re-engage in a dialogue with the civil society in order to ensure wide grass-root support for the reform of the law enforcement.
- o) Amend the provisions of the de-communicization laws so that they fully comply with international standards related to freedom of expression.
- p) Develop special procedures for early identification, registration and documentation of unaccompanied or separated internally displaced children and ensure their access to assistance and services.
- q) Develop state programme to support social adaptation of IDPs and envisage durable solutions for them, as prescribed by the paragraph 3 of Article 10 of the law on IDPs.

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

- r) Put an end to arbitrary arrests and detentions of political opponents in Crimea and investigate all claims of human rights violations by the ‘law enforcement’, particularly ill-treatment and torture.
- s) Cancel, in particular, the decision to deny licenses to Crimean Tatars media outlets, which disproportionately affects this community and may additionally amount to discrimination on the basis of ethnicity.
- t) End the practice of imposing cumbersome re-registration requirements in Crimea, which have been applied mainly to the media and religious organizations and limited the exercise of the right to freedom of expression, thought, conscience and religion.

Annex 311

UN News Centre, Security Council Fails to Adopt Proposal to Create Tribunal on Crash of
Malaysian Airlines Flight MH17 (29 July 2015)

Security Council fails to adopt proposal to create tribunal on crash of Malaysian Airlines flight MH17



OSCE/Evgeniy Maloletka

Members of the Organization for Security and Cooperation in Europe (OSCE) Special Monitoring Mission to Ukraine examine the MH17 crash site in July 2014.

29 July 2015

The United Nations Security Council was unable to adopt a new resolution today following Russia's negative vote on a measure that would have established an international tribunal to prosecute persons responsible for the downing of Malaysia Airlines flight MH17, which crashed on 17 July 2014 in Donetsk Oblast, Ukraine.

Malaysia's Minister of Transport, Liow Tiong Lai, who introduced the draft resolution, expressed "disappointment" after the text was vetoed by Russia, while Angola, China and Venezuela abstained and the remaining 11 members of the Council voted in favour. If one of the Council's five permanent members casts a negative vote on a resolution, the text cannot be adopted.

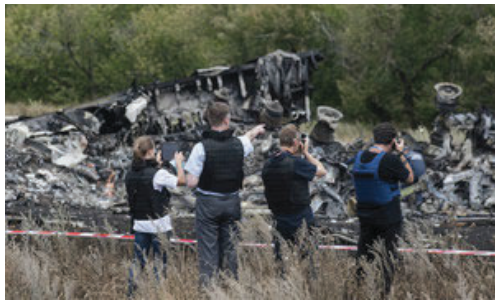
The resolution would have urged the earliest possible finalization of the ongoing international technical investigation into the cause of the crash, in which 298 people died, and the criminal investigation. It would have requested Member States to work together in the Joint Investigation Team to continue to keep the Council fully and regularly informed of the progress of its.

The statute of the proposed “International Criminal Tribunal for Malaysia Airlines Flight MH17” was annexed to the draft.

On the first anniversary of that tragedy, UN Secretary General Ban Ki-moon issued a [statement](#) in which he said “the victims must be honoured by a collective effort to ascertain the truth about the incident and ensure that any persons determined responsible will be held to account.”

[Ukraine](#)

News Tracker: Past Stories on This Issue



One year after tragedy, Ban pays tribute to victims of Malaysia Airlines flight MH17

17 July 2015 United Nations Secretary-General Ban Ki-moon paid today tribute to the victims who lost their lives a year ago aboard the "tragic" Malaysia Airlines flight MH17, which crashed in eastern Ukraine.

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Annex 312

OHCHR, Report on the Human Rights Situation in Ukraine: 16 August to 15 November 2015

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

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

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I. EXECUTIVE SUMMARY

1. This is the twelfth report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU)¹. It covers the period from 16 August to 15 November 2015².

2. During the reporting period, despite a reduction in hostilities, the armed conflict in eastern Ukraine continued to significantly affect people residing in the conflict zone and all their human rights. The absence of effective control³ of the Government of Ukraine over considerable parts of the border with the Russian Federation (in certain areas of Donetsk and Luhansk regions) continued to facilitate an inflow of ammunition, weaponry and fighters from the Russian Federation to the territories controlled by the armed groups, which carries latent risks of a resurgence of hostilities.

3. The ‘ceasefire within the ceasefire’⁴ agreed upon in Minsk on 26 August 2015 led to a considerable decrease in the hostilities, especially in September and October. The withdrawal of certain heavy weapons by the Ukrainian military and the armed groups contributed to a significant reduction of civilian casualties. In the first half of November, however, increasing skirmishes occurred along the contact line, including with the use of artillery systems. Alarming reports of the gradual re-escalation of hostilities in some particular flashpoints, especially around the city of Donetsk, have raised fears that there could be a resumption of indiscriminate shelling of populated areas, which previously plagued the conflict zone.

4. The number of civilian casualties recorded by HRMMU between 16 August and 15 November was 178 (47 deaths and 131 injured). This is a 232 per cent decrease compared to the previous reporting period (16 May – 15 August) when 413 civilian casualties (105 killed and 308 injured) were recorded. Explosive remnants of war and improvised explosive devices caused 52 per cent of all civilian casualties during the reporting period, underscoring the urgent need for extensive mine clearance and mine awareness actions on both sides of the contact line. In total, from mid-April 2014 to 15 November 2015, HRMMU recorded at least 29,830 casualties (Ukrainian armed forces, civilians and members of the armed groups) in the armed conflict area of eastern Ukraine, including at least 9,098 killed and at least 20,732 injured⁵.

5. Serious human rights abuses against the population residing in the territories controlled by the self-proclaimed ‘Donetsk people’s republic’⁶ and the self-proclaimed ‘Luhansk people’s republic’⁷ continued to be reported, with new allegations of killings, torture and ill-treatment, illegal detention and forced labour received by HRMMU. Local residents continued to remain without any effective protection of their rights. Places of detention maintained by the armed groups remained virtually inaccessible for independent oversight, and international organizations, including HRMMU, did not have access to detainees.

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

² The report also provides an update of recent developments on cases that occurred during previous reporting periods.

³ The Russian Federation has continued to send white-truck convoys without the full consent or inspection of Ukraine, and their exact destination and content could not be verified.

⁴ For the first time, the ceasefire was agreed upon on 5 September 2014; in December 2014, because of continued hostilities, the agreement on a ‘silence regime’ was reached; and after the new escalation of hostilities in January-February 2015, a new ceasefire was agreed upon on 12 February 2015. The agreement of 29 August was also preceded by the escalating hostilities in June – August 2015.

⁵ An HRMMU conservative estimate based on available data. For more details, see footnote 32.

⁶ Henceforth referred to as the ‘Donetsk people’s republic’.

⁷ Henceforth referred to as the ‘Luhansk people’s republic’.

At times, it was not possible for HRMMU to access areas, where violations or abuses of human rights have reportedly been taking place, for security reasons.

6. HRMMU observed the further strengthening of parallel ‘governance structures’ of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, with their own legislative frameworks, including parallel systems of law enforcement and administration of justice (‘police’, ‘prosecutors’ and ‘courts’), in violation of the Constitution of Ukraine and in contravention of the spirit of the Minsk Agreements. HRMMU reiterates that the ‘officials’ of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ are responsible and shall be held accountable for human rights abuses committed on territories under their control. This particularly applies to people bearing direct command responsibility for the actions of perpetrators.

7. Efforts of the Government of Ukraine to safeguard the territorial integrity of Ukraine and restore law and order in the conflict zone continued to be accompanied by allegations of enforced disappearances, arbitrary and *incommunicado* detention as well as torture and ill-treatment of people suspected of trespassing against territorial integrity or terrorism or believed to be supporters of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. Elements of the Security Service of Ukraine appear to enjoy a high degree of impunity, with rare investigations into allegations involving them.

8. HRMMU reiterates that a proper and prompt investigation of every single reported case of a violation of international human rights law and international humanitarian law by Ukrainian military and law enforcement elements should be carried out, perpetrators brought to justice, and victims receive compensation. Without this, impunity will remain widespread. The independence of the judiciary in the face of such cases is often challenged by pressures and threats of political activists who consider those indicted as patriots.

9. Imposed in January 2015, restrictions on movement across the contact line remained one of the major challenges for people living in the conflict area, leading to their isolation, impeding their access to medical care and social benefits, and disrupting family links, with no clear benefits in terms of security. With only four transport corridors being operational in the Donetsk region, and just one recently opened corridor for pedestrians in Luhansk region, movement back and forth and around the contact line has been very limited, congested and time-consuming. People often spend hours and even nights waiting in queues to pass checkpoints, with limited access to water and sanitation facilities. The presence of mines alongside the official transport corridors is a security risk, and constitutes a particular threat along other roads crossing the contact line. Approaching winter poses additional hardship to people waiting to cross the contact line.

10. An estimated 2.9 million people living in the conflict area⁸ continued to face difficulties in exercising their economic and social rights, in particular access to quality medical care, accommodation, social services and benefits, as well as compensatory mechanisms for damaged, seized or looted property. Many people continued to rely on humanitarian assistance, which has been further restricted. An earlier prohibition of cargo travelling from Government-controlled territory to the territories controlled by the armed groups initially affected the flow of goods. The more recent registration requirement introduced by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ for organizations delivering humanitarian assistance has resulted in a decrease in the number of humanitarian organisations operating in the territories under the control of the armed groups. The hardship already faced by many residents, including those in state institutions, is further aggravated

⁸ 2.7 million living in the territories controlled by the armed groups, including 600,000 along the contact line, and 200,000 residents of the Government-controlled territories along the contact line (Humanitarian Country Team).

with the onset of winter and a shrinking humanitarian space. The situation for an estimated 800,000 people living along both sides of the contact line has been particularly difficult.

11. Media professionals working in the territories controlled by the armed groups have reported that self-censorship for personal security reasons was widespread among local journalists. The procedure for accreditation of foreign journalists by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ has become more complicated, with some being refused accreditation on the grounds that they were “propagandists”. At the same time, the list of foreigners, including media professionals, banned by the Government from entering Ukraine for alleged promotion of terrorist activities or undermining territorial integrity, continued to expand.

12. Rallies to challenge the policies of the ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’ have been extremely rare because people are afraid to assemble and speak out. In the Government-controlled territories, the conduct of police during ‘pro-unity’ counter-demonstrations has been of concern, as illustrated on 2 November 2015 in Odesa, when no action was taken to prevent ‘pro-unity’ activists from attacking ‘pro-federalism’ supporters commemorating victims of the 2 May 2014 violence.

13. Accountability has yet to be achieved for the killing of protestors and other human rights violations committed during the Maidan events in Kyiv, from November 2013 to February 2014. Although the involvement of senior officials in the killing of protestors has been confirmed, no one has been brought to justice so far. Similarly, there has been no progress in ensuring accountability for the death of 48 people (six women and 42 men) during the violence of 2 May 2014 in Odesa.

14. A decision by the Supreme Administrative Court of Ukraine, in October, ordering the Government of Ukraine to resume the payment of pensions and benefits for people living in the areas controlled by the armed groups, has remained unimplemented.

15. In the Autonomous Republic of Crimea,⁹ the status of which is determined by General Assembly resolution 68/262¹⁰, residents of the peninsula continued to be affected by broad curtailment of their rights due to the application of a restrictive legal framework imposed upon them by the Russian Federation. Their right to citizenship has been violated. Although they may keep their Ukrainian passports and will not be sanctioned for not disclosing this fact, Crimean residents were granted Russian Federation citizenship by default and given no choice but to take up Russian Federation passports or lose their employment and social entitlements. HRMMU documented new cases reflecting the lack of fair trial guarantees, effective investigations into human rights violations and human rights protection for persons in detention. These cases concern mostly Crimean Tatars and people supporting Crimea as an integral part of Ukrainian State.

16. On 20 September, upon the initiative of the Crimean Tatar leadership, a trade blockade of Crimea from mainland Ukraine started, to call international attention to human rights violations in Crimea and to request an international monitoring presence in the peninsula. From its observations at the three checkpoints on the administrative boundary line in mid-November, HRMMU noted actions to enforce the blockade by Ukrainian activists in uniforms illegally performing law enforcement functions. The activists reportedly have an unofficial list of “traitors”, which serve as a basis to illegally arrest and detain people. The law enforcement officers present at the checkpoints were often or generally passive, merely observing the situation.

⁹ Henceforth referred to as Crimea.

¹⁰ <http://www.un.org/ru/documents/ods.asp?m=A/RES/68/262>.

17. On 25 August, the President of Ukraine adopted the first National Human Rights Strategy of Ukraine. In order to move ahead with its implementation, work has been underway to develop a Human Rights Action Plan. Since November 2014, the Government, civil society groups, the Ombudsperson and international organizations have been cooperating to design a five-year roadmap to address systemic human rights challenges and conflict-related issues.

18. On 8 September, Ukraine accepted the jurisdiction of the International Criminal Court with respect to alleged crimes committed on its territory after 20 February 2014. This was the second declaration lodged by Ukraine following its acceptance, in April 2014, of the Court's jurisdiction over alleged crimes committed on its territory from 21 November 2013 to 22 February 2014, during the Maidan events.

19. The Parliament adopted several laws required under the European Union visa liberalization action plan, including anti-corruption laws and the explicit prohibition of discrimination on the grounds of sexual orientation and gender identity in employment relations. It also adopted a law establishing a State Bureau of Investigations tasked to investigate serious crimes and human rights violations committed by law enforcement, military and Government officials. There was also some progress in reforming the Constitution after the adoption by Parliament on the first reading of the constitutional amendments on decentralization.

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

A. Alleged violations of international humanitarian law

20. The reporting period was marked by a sharp de-escalation of hostilities in the conflict zone of eastern Ukraine, following the revamped agreement on the ceasefire agreed upon in Minsk, which started to be implemented on 1 September¹¹. While frequent in August, exchanges of fire from artillery and light weapons almost ceased in September and October.

21. The withdrawal of heavy weapons by the Ukrainian military and armed groups from the contact line, which took place before the reporting period, as well as the removal of weapons with calibre below 100mm, which began in September under the oversight by the Organization for Security and Cooperation in Europe (OSCE), contributed to a considerable decrease in civilian casualties. Indeed, during the previous reporting periods, most casualties were caused by shelling.

22. The absence of effective control of the Government of Ukraine over considerable parts of the border with the Russian Federation (in certain areas of Donetsk and Luhansk regions) continued to facilitate an inflow of ammunition, weaponry and fighters to the territories controlled by the armed groups. Robust military presence on both sides of the contact line carried persistent risks of resurgence of hostilities. Despite the general observance of the ceasefire, the presence of military equipment near civilian facilities continued to threaten the security of the local population.

23. During the first half of November, increasing skirmishes occurred along the contact line, including with the use of artillery systems. Alarming reports about the gradual re-escalation of hostilities, especially around the city of Donetsk, raised fears of a resumption of large-scale indiscriminate shelling of populated areas.

24. There is an urgent need to raise people's awareness to the dangers posed by explosive remnants of war (ERW) and improvised explosive devices (IEDs) in the conflict zone. Mapping of the minefields is so far incomplete and inaccurate, and signs posting is urgently required to warn the population about their presence. Rapid interventions are also required as the snow will

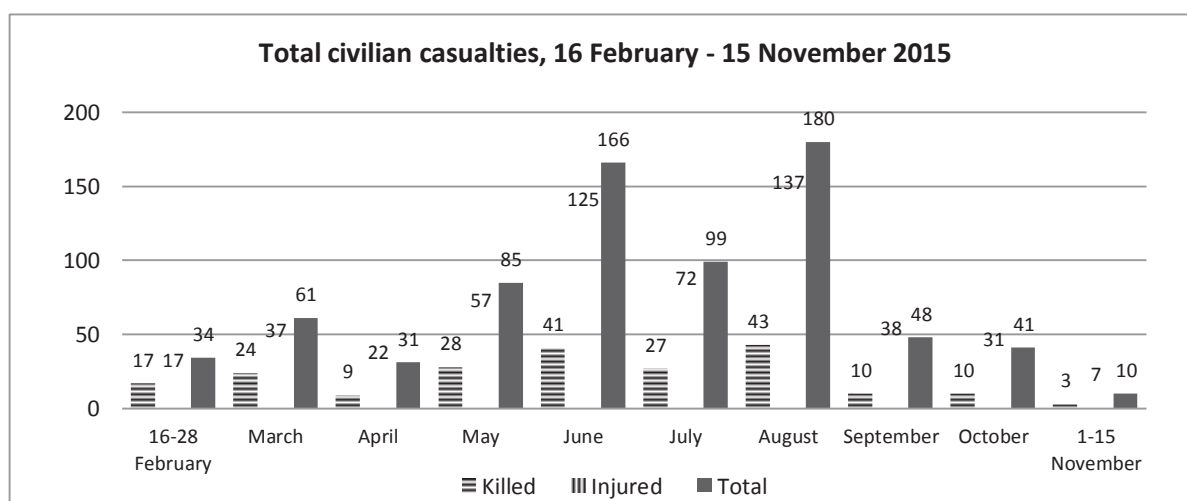
¹¹ For the first time, the ceasefire was agreed upon on 5 September 2014; in December 2014, because of continued hostilities, the agreement on a 'silence regime' was reached; and after the new escalation of hostilities in January-February 2015, a new ceasefire was agreed upon on 12 February 2015. The agreement of 26 August was also preceded by the escalating hostilities in June – August 2015.

cover and displace booby-traps. There is a lack of equipment for mine clearance on both sides of the contact line, as well as insufficient safety trainings for the staff of emergency services.

25. Ukraine is party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, which categorically prohibits the use of anti-personnel mines “under any circumstances”. It is therefore important that the Government fulfils its obligations under the Convention.

*Civilian casualties*¹²

26. Between 16 August and 15 November 2015, HRMMU recorded at least 178 civilian casualties in the armed conflict zone of eastern Ukraine: 47 killed¹³ and 131 injured¹⁴. This represents a 232 per cent decrease in the total number of casualties (223 per cent decrease in killed and 235 per cent decrease in injured), compared to the previous reporting period of 16 May – 15 August 2015 with 413 civilian casualties recorded (105 killed and 308 injured).



27. On the Government-controlled territories, 87 civilian casualties (24 deaths and 63 injured) were recorded. The 24 fatalities included 22 adults¹⁵ and two children¹⁶. Of 63 injured: 57 were adults¹⁷ and six were children¹⁸.

28. In the territories controlled by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, 91 civilian casualties (23 deaths and 68 injured) were recorded. Of 23 killed: 22 were adults¹⁹ and one was a child²⁰. Of 68 injured: 64 were adults²¹ and four were children²².

¹² For this report, HRMMU investigated reports of civilian casualties by consulting a broad range of sources and types of information that are evaluated for their credibility and reliability. In undertaking documentation and analysis of each incident, HRMMU exercises due diligence to corroborate information on casualties from as wide range of sources as possible, including OSCE public reports, accounts of witnesses, victims and other directly affected persons, military actors, community leaders, medical professionals, and other interlocutors. In some instances, investigations may take weeks or months before conclusions can be drawn. This may mean that conclusions on civilian casualties may be revised as more information becomes available. HRMMU does not claim that the statistics presented in this report are complete. It may be under-reporting civilian casualties given limitations inherent in the operating environment, including gaps in coverage of certain geographic areas and time periods. HRMMU is not in a position at this time to attribute specific civilian casualties recorded to the armed groups, Ukrainian armed forces or other parties.

¹³ 44 adults (14 women, 27 men and three adults whose gender is unknown) and three children (two girls and a boy).

¹⁴ 121 adults (25 women, 60 men and 36 adults whose gender is unknown) and ten children (a girl, eight boys and a child whose gender is unknown).

¹⁵ Seven women, 14 men and an adult whose gender is unknown.

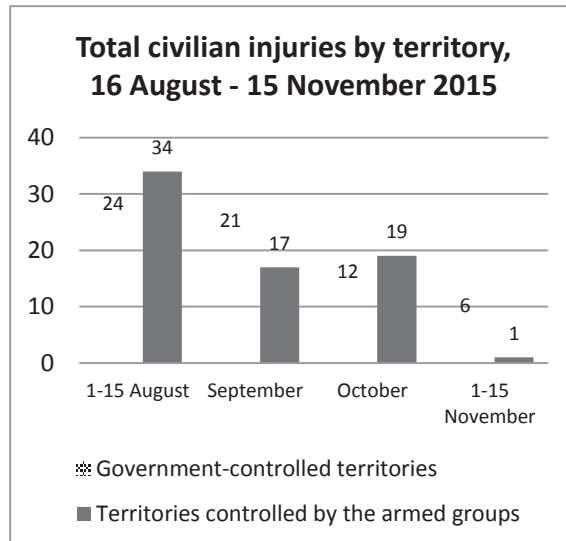
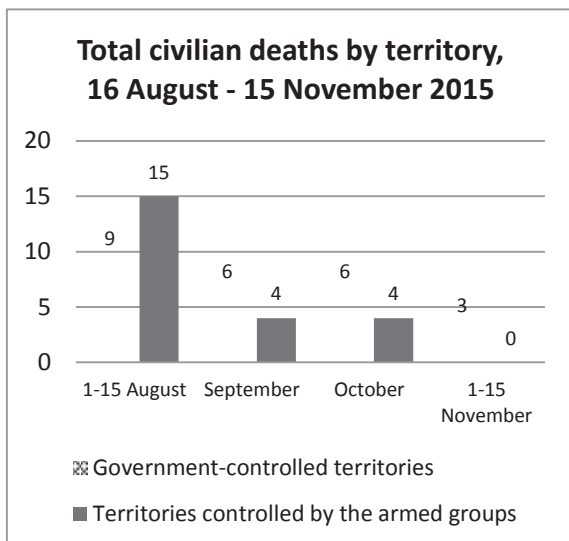
¹⁶ A girl and a boy.

¹⁷ 15 women, 38 men and four adults whose gender is unknown.

¹⁸ A girl, four boys and a child whose gender is unknown.

¹⁹ Seven women, 13 men and two adults whose gender is unknown.

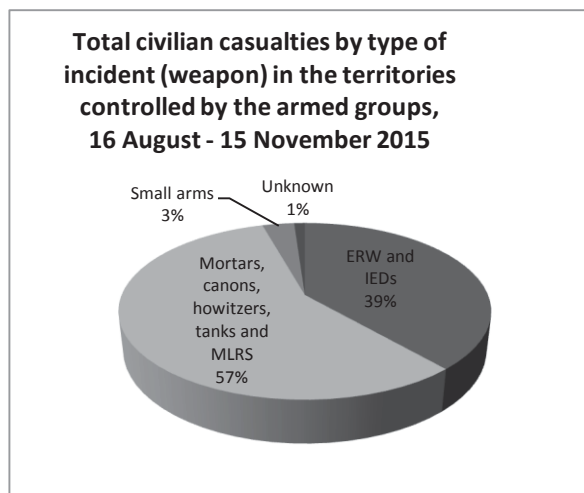
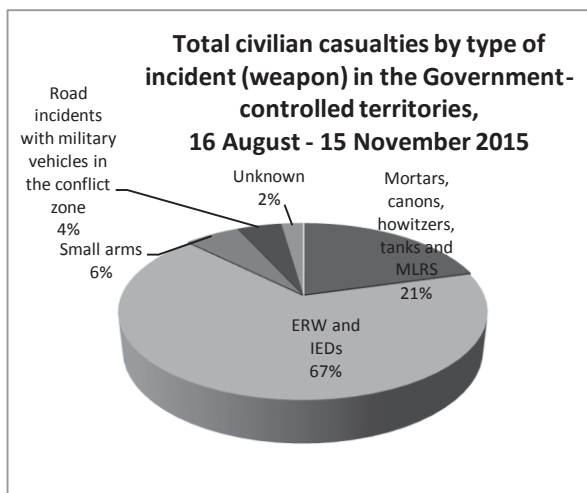
²⁰ A girl.



29. The majority of civilian casualties on 16 August – 15 November were caused by ERW and IEDs: 93 (17 deaths and 76 injuries). Of 17 killed: 15 were adults²³ and two were children²⁴. Of 76 injured: 68 were adults²⁵ and eight were children²⁶.

30. During the reporting period, 70 casualties (22 killed and 48 injured) resulted from shelling²⁷. Of 22 killed: 21 were adults²⁸ and one was a child²⁹. Of 48 injured: 47 were adults³⁰ and one was a child³¹.

31. Besides, six people were killed and two were injured from small arms in the conflict zone. Other conflict-related casualties included two people killed and two injured in road incidents with military vehicles in the conflict zone; and the exact causes of conflict-related injuries of three people are unknown.



²¹ Ten women, 22 men and 32 adults whose gender is unknown.

²² All boys.

²³ Six women and nine men.

²⁴ A girl and a boy.

²⁵ 19 women, 40 men and nine adults whose gender is unknown.

²⁶ All boys.

²⁷ From mortars, canons, howitzers, tanks and multiple launch rocket systems.

²⁸ Six women, 12 men and three adults whose gender is not known.

²⁹ A girl.

³⁰ Four were women, 16 were men and 27 adults whose gender is unknown.

³¹ A girl.

32. During his visit to Ukraine from 20 to 25 September, the United Nations Assistant Secretary-General for Human Rights urged the Government and the armed groups to investigate incidents, which have led to civilian casualties, in particular those from an exchange of fire. He also encouraged the Government and the armed groups to establish civilian casualty mitigation cells within their competent bodies to prevent violations of international humanitarian law leading to civilian casualties.

Total casualties

33. In total, from mid-April 2014 to 15 November 2015, HRMMU recorded at least 29,830 casualties (Ukrainian armed forces, civilians and members of the armed groups) that include at least 9,098 people killed and at least 20,732 injured in the conflict area of eastern Ukraine³². HRMMU estimated the total number of civilians killed during the conflict period to be up to 2,000³³, with an additional 298 passengers killed as a result of the MH-17 plane crash.

B. Summary executions, enforced disappearances, unlawful and arbitrary detention, and torture and ill-treatment³⁴

By the armed groups

34. During reporting period, HRMMU received new allegations of killings, torture and ill-treatment, illegal detention and forced labour perpetrated by members of the armed groups.

35. HRMMU received information concerning the alleged killings or attempted killings of captured Ukrainian soldiers. In one case dating back to the beginning of the conflict (May 2014), an injured Ukrainian soldier was stabbed to death after surrendering, despite a pledge that his safety would be guaranteed³⁵. In another case, in May 2015, a Ukrainian soldier was stabbed after being captured and survived thanks to the medical personnel of a hospital, having been taken to its morgue³⁶. On 20 October, HRMMU received additional details concerning the alleged summary execution of three members of Ukrainian volunteer battalions in the yard of the former premises of the Security Service of Ukraine (SBU) in Donetsk, in mid-September 2014³⁷.

36. Some allegations received by HRMMU concern beatings to death or the execution of armed group members by other armed group members. A former detainee at the SBU premises in Donetsk alleged that in mid-September 2014, a detained member of the armed groups was beaten to death by guards for not fulfilling their orders³⁸. Another allegation

³² This is a conservative estimate of HRMMU based on available data. These totals include: casualties among the Ukrainian forces, as reported by the Ukrainian authorities; 298 people from flight MH-17; civilian casualties on the territories controlled by the Government of Ukraine, as reported by local authorities and the regional departments of internal affairs of Donetsk and Luhansk regions; and casualties among civilians and members of the armed groups on the territories controlled by the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, as reported by the armed groups, the so-called ‘local authorities’ and local medical establishments. This data is incomplete due to gaps in coverage of certain geographic areas and time periods, and due to overall under reporting, especially of military casualties. The increase in the number of casualties between the different reporting dates does not necessarily mean that these casualties happened between these dates: they could have happened earlier, but were recorded by a certain reporting date.

³³ This estimate is based on the number of civilian casualties recorded by HRMMU during the period of 16 February – 15 November 2015, and on the estimated share of civilian casualties among the casualties reported by medical establishments of Donetsk and Luhansk regions between mid-April 2014 and 15 February 2015 (their reports did not distinguish between military and civilian casualties). HRMMU continues to work to produce a more exact estimate of civilian casualties caused by the conflict in eastern Ukraine.

³⁴ During the reporting period, a number of victims and witnesses reported allegations of human rights violations and abuses that had taken place in 2014 and during the first half of 2015. These highlight how the human rights situation deteriorated in Ukraine, particularly in the eastern territories.

³⁵ HRMMU interview, 23 October 2015.

³⁶ HRMMU interview, 12 November 2015.

³⁷ HRMMU interview, 20 October 2015.

³⁸ HRMMU interview, 15 October 2015.

received by HRMMU concerns the execution of members of Cossack units who were kept in the premises of the former ‘Izolyatsia’ art centre in Donetsk, in April and May 2014³⁹.

37. HRMMU also received allegations of enforced disappearances on the territories controlled by the armed groups. One case concerns a former member of the ‘Vostok’ battalion who disappeared in May 2015, allegedly after witnessing the killing of three Ukrainian soldiers in January 2015. Threatened by his commander that he would be accused of the killings if he spoke, he deserted in January 2015 and went into hiding in Donetsk. After his disappearance, his mother learnt he was detained by the ‘Vostok’ battalion, but she was never formally informed of his whereabouts⁴⁰. Another case concerns the disappearance of a member of an armed group who was last seen on 5 December 2014 being taken away from a party by an armed group commander from Horlivka (Donetsk region). In spring 2015, his mother was informed that the commander had been detained by the ‘general prosecutor’s office’ of the ‘Donetsk people’s republic’ and charged with enforced disappearances, kidnapping and killings, and that her son’s disappearance was included in charges against him⁴¹. One more case concerns two men who travelled from Donetsk to the Government-controlled territories and went missing on 8 September 2015. According to relatives, they have not crossed the contact line, and their last known whereabouts were in the Telmanivskiy district (Donetsk region, controlled by the armed groups)⁴².

38. Places of detention maintained by the armed groups remained virtually inaccessible for independent oversight, and international organizations, including HRMMU, did not have access to detainees. During the reporting period, HRMMU was only able to visit the Donetsk pre-trial detention centre (SIZO) but did not have access to detainees. Given the considerable number of cases of torture and ill-treatment of detainees documented by HRMMU since the beginning of the conflict, including in 2015, and poor detention conditions, there is an urgent need for independent monitoring of detention facilities in the territories controlled by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’.

39. A man, who spent a year in the armed groups’ captivity, described in detail the conditions in the former SBU premises in Donetsk – namely overcrowding, insufficient nutrition and lack of adequate medical treatment – as well as ill-treatment, torture and forced labour. He described the conditions as particularly bad in 2014 and noted some improvement in 2015. He also reported numerous incidents when he and other detainees, including women, were tortured: mock executions, beatings and electrocution⁴³. Another former detainee reported poor nutrition and lack of medical aid in a detention facility of one of the ‘military units’ in Donetsk in the summer of 2015⁴⁴. A man released from penal colony No 97 in Makiivka (Donetsk region) reported about a room called by inmates the “tram” because it looks like a very small and narrow metal tram carriage, with a metal tube in it. When an inmate was considered to have misbehaved, he would be hung to the tube, wrapped in a sticky tape, sometimes for three to five hours, but often for a whole night. The witness also described cases of repeated negligence in providing medical assistance to inmates, and reported that in January 2015, one inmate died as a result of not receiving timely medical assistance⁴⁵.

40. On 25 September, HRMMU interviewed the mother of a man with mental disability who had been in detention since 26 February 2015. Before being placed in the Donetsk SIZO, he had spent some time in a temporary detention centre where he was reportedly beaten for

³⁹ HRMMU interview, 16 October 2015.

⁴⁰ HRMMU interview, 30 September 2015.

⁴¹ HRMMU interview, 5 October 2015.

⁴² HRMMU interview, 26 September 2015.

⁴³ HRMMU interview, 15 October 2015,

⁴⁴ HRMMU interview, 6 October 2015.

⁴⁵ HRMMU interview, 18 September 2015.

three days. He was allegedly forced to sign a paper stating he had hit himself against the wall. His parents reported that in SIZO, while his health deteriorated, he did not receive any adequate medical treatment⁴⁶.

41. On 19 October, HRMMU interviewed the mother of a man who was abducted on 12 July 2014 near his home, in the city of Donetsk. On 16 July 2014, he was found in another district of the city, handcuffed, with gunshot wounds and blunt force trauma wounds on his head. His mother first saw him at the hospital on 16 July. The victim stated that armed men in camouflage had stopped him on the road, forced him into their car and then held him in a dark space where he was beaten and accused of being a spy due to his skin colour (he is half-Congolese). After three days, during the night, he was taken outside to a cornfield where he was fired at. In July 2014, police refused to record his statement and closed the investigation into the earlier case that had been opened on his disappearance. On 16 April 2015, his mother received a notice from the Leninskyi district 'police department' of the city of Donetsk which stated that the investigation was focusing on perpetrators from a "Ukrainian subversive armed group"⁴⁷.

By Ukrainian law enforcement and security entities

42. HRMMU remains concerned that the Government's efforts to safeguard the territorial integrity of Ukraine and restore law and order in the conflict zone continued to be undermined by allegations of enforced disappearances, arbitrary and *incommunicado* detention and torture and ill-treatment of people suspected of trespassing against territorial integrity or terrorism or believed to be supporters of the 'Donetsk people's republic' and 'Luhansk people's republic'.

43. HRMMU consistently documents reports throughout the country of recurrent allegations of ill-treatment during arrest and the first hour interrogations that are led by SBU. A man, detained by SBU on suspicion of preparing a terrorist act in Zaporizhzhia, claimed to have been repeatedly and heavily beaten, including in the SBU building⁴⁸. A woman who was detained by SBU on suspicion of preparing a terrorist act claims that during her interrogation, she was hung by her hands handcuffed in the back until her elbow joints were torn apart. About 20 times, a gas mask was reportedly put on her head, with the inhaler closed⁴⁹.

44. A man who, as of 15 November was tried under articles 113 (sabotage), 258-3 (creation of a terrorist group) and 263 (illegal possession of weapons) of the Criminal Code, claimed that after his apprehension on 9 July 2014, he was delivered to the Zaporizhzhia SBU Regional Department. There, he was reportedly beaten with sticks on his heels, subjected to waterboarding and tortured with electric shocks by two electric wires connected to his genitals and to his mouth. As a result, one of his teeth was knocked out, and his ribs and a little finger were broken. He was coerced into confessing to committing the crimes for which he was charged. He was constantly threatened by the SBU officers that if he did not plead guilty in court, he would be killed. He was so frightened by these threats, that for one year he feared complaining of the torture and ill-treatment he had been subjected to, including to his lawyer. It was only on 1 July 2015 that he reported to a judge about the torture and ill-treatment he was subjected to⁵⁰.

45. HRMMU notes that SBU officers appear to enjoy a high degree of impunity, systematically escaping from investigations into alleged violations. In one case, dating from September 2014, a man was apprehended by armed men in the city of Mariupol in the

⁴⁶ HRMMU interview, 25 September 2015.

⁴⁷ HRMMU interview, 19 October 2015.

⁴⁸ HRMMU interview, 3 September 2015.

⁴⁹ HRMMU interview, 3 September 2015.

⁵⁰ HRMMU interview, 11 November 2015.

presence of witnesses. The following day, his body, bearing signs of violence, was found dead on the outskirts of the city. According to witnesses, one of the armed men had introduced himself to the victim as an SBU officer, showing his ID. During the investigation into this case the police requested SBU whether they had a staff member with such a name or a similar one serving in Donetsk region, and whether SBU had detained the victim. SBU responded that they had neither detained the victim nor initiated any investigation regarding the victim, and refused to answer any questions concerning the name of the alleged perpetrator. The investigation was reportedly transferred to the Military Prosecutor of the Southern region, with no progress as of November 2015.

46. The conduct of those elements of Ukrainian law enforcement which are under the Ministry of Internal Affairs is also of concern. Three men detained by police in Donetsk region claimed that for more than eight hours after their detention they were subjected to beatings, death threats, and mock executions during which they were forced to dig their own graves. In a city police department they were tortured with a gas mask (so-called ‘elephant torture’) and forced to sign a confession to incriminate themselves. Two of them claimed that they had been electrocuted with an electric wire connected to their genitals⁵¹. A man detained by Azov regiment (then battalion) of the National Guard, claimed that his legs were pierced with a bayonet knife, he was hit in the face and his ribs were broken. He also reported being threatened with rape and subjected to a mock execution⁵².

47. During his visit to Ukraine in September 2015, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions recommended that a system of independent overview of the conduct of all those who perform law enforcement functions be established. He added that it should have a particular focus on allegations of ill-treatment by SBU, and that it should be “empowered to conduct investigations into suspected informal detention facilities, including comprehensive power of search within military or SBU facilities”⁵³.

48. Continued reports of detainees being held in unofficial places of detention remain of high concern, with more acute risks of torture and ill-treatment, and no indication that this practice has been decreasing. These places are clearly not accessible to Ukraine’s National Preventive Mechanism and international organizations. HRMMU received reports that in November 2015, 27 detainees were being kept in the SBU premises in Kharkiv, with allegations that some were subjected to torture and ill-treatment⁵⁴. One of the detainees was allegedly repeatedly detained after having been sentenced to a conditional sentence⁵⁵ by a court in Pavlohrad. HRMMU interviewed a member of an armed group who, as he was seeking to leave Mariupol in June 2014, was arrested at a checkpoint operated by the Azov battalion. He reported having been taken to the Mariupol airport, where he was allegedly tortured and ill-treated for a month and a half⁵⁶. In September, the United Nations Special Rapporteur on summary executions was denied access to the military base in Mariupol airport where, according to reports received by HRMMU, detainees have been kept and ill-treated since summer 2014.

49. HRMMU continued to receive reports of *incommunicado* detention. For instance, in Lysychansk (Luhansk region), on 19 July 2014, the Ukrainian army detained a man. On 20 July 2014, photographs of his identification documents (passport and military documents) were published on non-governmental websites supporting the security operation, with a

⁵¹ HRMMU interview, 25 September 2015.

⁵² HRMMU interview, 28 August 2015.

⁵³ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16460&LangID=E#sthash.OIrAXYnl.dpuf>

⁵⁴ HRMMU interview, 2 November 2015.

⁵⁵ Conditional sentence implies the release from custody.

⁵⁶ HRMMU interview, 22 October 2015.

caption stating that he had been captured and was being detained as a terrorist. Inquiries by his family as to his whereabouts with various law enforcement bodies produced no results⁵⁷.

50. A former member of a Ukrainian volunteer battalion was detained by police in Dnipropetrovsk and transferred to Mariupol. According to his former spouse, the victim witnessed a deal involving illegal property confiscations in the Government-controlled territories of Donetsk region, after which he was subjected to persecution for refusing to be involved. He was reportedly beaten, forced to lie and was not granted access to a lawyer for two weeks. Although he suffers from an ulcer and other health problems, he was allegedly denied medical assistance. Defense witnesses in his case have reportedly received anonymous threats and have therefore been afraid to testify⁵⁸.

51. HRMMU also continued to receive alarming reports of poor detention conditions and ill-treatment of pre-trial detainees. For instance, on 5 October 2015, a man died in the Mariupol SIZO. He had been detained since February 2015 on suspicion of spying for the armed groups. During his nine months in custody, he was allegedly sent several times to an isolation cell and was repeatedly beaten. His health condition dramatically deteriorated several days before his death, and he was transferred to the hospital. According to the official report, he died of pancreatic cancer. His daughter was not allowed into the morgue to see his body; when the body was returned to the family for burial, his relatives saw his ears bruised and stitches on his head⁵⁹.

III. FUNDAMENTAL FREEDOMS

A. Freedom of movement

52. Although revised, the Temporary Order of 21 January 2015⁶⁰ continued to limit the freedom of movement of civilians across the contact line. Originally introduced with reference to national security concerns, the Temporary Order and its implementation through a permit system to cross the contact line and pass through the Government controlled check points, has been one of the major challenges for people living in the conflict-affected areas of Donetsk and Luhansk regions, leading to an increased sense of isolation for many people, impeding their access to medical care and social benefits, as well as disrupting family and communal links. The International Covenant on Civil and Political Rights recognises that in exceptional circumstances, the necessity to protect national security and public order may justify some restrictions of freedom of movement. However, as stated by the United Nations Human Rights Committee, such restrictions may be authorized only by law using precise criteria, be limited in time, consistent with other human rights and fundamental principles of equality and non-discrimination, meet the test of necessity and the requirements of proportionality⁶¹.

53. With the ceasefire and approaching winter, the movement of civilians across the contact line increased as people travelled to areas controlled by armed groups to visit relatives, check on their property or collect warm clothes. Those living in the areas controlled

⁵⁷ HRMMU interview, 23 October 2015.

⁵⁸ HRMMU interviews, 25 August and 10 September 2015.

⁵⁹ HRMMU interview, 15 October 2015.

⁶⁰ The Temporary Order on the control of movement of people, transport vehicles and cargoes along the contact line in the Donetsk and Luhansk regions was developed and approved by the joint entity 'the Operational Headquarters of Management of the Anti-Terrorist Operation'. For more information, see OHCHR reports on the human rights situation in Ukraine covering periods from 1 December 2014 to 15 February 2015 (paragraphs 42-43), from 16 February to 15 May 2015 (paragraphs 58-64), and from 16 May to 15 August 2015 (paragraphs 61-68). For more information, see OHCHR reports on the human rights situation in Ukraine covering periods from 1 December 2014 to 15 February 2015 (paragraphs 42-43), from 16 February to 15 May 2015 (paragraphs 58-64), and from 16 May to 15 August 2015 (paragraphs 61-68).

⁶¹ United Nations Human Rights Committee, General Comment No 27, CCPR/C/21/Rev.1/Add.9 (1999).

by armed groups regularly travelled to the Government-controlled territories to purchase food, medicine, withdraw cash, obtain documents or renew lost ones, access social benefits, and receive medical care.

54. Compared to the previous reporting period, in addition to three operational transport corridors in Donetsk region, two more were reopened; including one in Luhansk region (Stanychno Luhanske), allowing only pedestrians and no private or public vehicles. Nevertheless, with increased movement, the capacity of the checkpoints remained insufficient especially as working hours were reduced due to the shortened daylight period. Long queues of up to three kilometres at the contact line, in both directions, were registered at all checkpoints. In October, reports of people having to spend nights in cars became more frequent. With the temperature below zero at night, lack of water and sanitation facilities in between the checkpoints and the absence of medical services, the waiting time was particularly difficult for people with disabilities, the elderly, pregnant women and children.

55. Upon the President's instruction⁶², authorities of Donetsk and Luhansk regions opened three "logistic centres" near the contact line where civilians living in the areas controlled by armed groups can buy food, medicine and withdraw cash. However, civilians still could not reach them easily, as the requirement to have a permit to reach the centres was not waived. Furthermore, the centres are located between the contact line and the first Government-controlled checkpoint, in the area where shelling used to be the heaviest, and where the risk for exposure to ERW and IED is the highest. While visiting two logistical centres in Donetsk region, HRMMU noted lack of appropriate protection for civilians in case of shelling.

56. The situation of people residing in the area between the contact line and the first checkpoints in the area controlled by the Government remains unduly complicated. They have to apply for permits required to cross the contact line, or prove that their village belongs to the areas controlled by the Government. Entry/exit through checkpoints often depends on the familiarity of the soldiers with the area; for example, whether they know which side of the contact line a particular village belongs to, sometimes even whether the street of the official registration belongs to the area controlled by the Government⁶³. Rotation of personnel at checkpoints has often resulted in increased delays. Due to the lack of infrastructure in these localities, such as stores, pharmacies or health facilities, people have to cross Ukrainian checkpoints on a regular basis and spend long periods in queues. This was further aggravated by the absence of public transport in these areas.

B. Freedom of expression

Territories controlled by the armed groups

57. Media professionals interviewed by HRMMU continued to report restrictions on their work. A Donetsk-based media professional stated to HRMMU that there was no freedom of speech in the 'Donetsk people's republic', as "no one from local media would even think to express a critical opinion"⁶⁴. To ensure their safety, journalists working in the areas controlled by armed groups reportedly have increasingly resorted to self-censorship.

58. Foreign journalists must be accredited at the 'Donetsk people's republic' press centre. According to them, the procedure became more complicated over the summer of 2015 with the creation of the 'special analytical department', responsible for monitoring all the reporting of journalists working in the 'Donetsk people's republic'. For example, in September, two foreign journalists were refused accreditation and invited for an 'interview' at the analytical department. One of the reporters was accused of being 'a propagandist' and

⁶² The decision was announced on 6 August.

⁶³ Some settlements are spilt by the contact line.

⁶⁴ HRMMU interview, 21 October 2015.

ordered to leave Donetsk city. Other nine media outlets informed HRMMU of having difficulties with ‘accreditation’.

59. Ukrainian freelance journalist Maria Varfolomieieva has been held by armed groups of the ‘Luhansk people’s republic’ since 9 January 2015, accused of ‘espionage’ for taking pictures of the administrative buildings in Luhansk city, which were allegedly subsequently shelled.

60. Overall, reports indicate that people trying to express alternative views are facing a non-conducive environment. Preclusion of professional activities of independent media professionals was followed by the suspension of the operations of most international humanitarian organizations.

Territories controlled by the Government

61. On 16 September, the President of Ukraine signed an order enacting a decision of the National Security and Defence Council (NSDC) of 2 September 2015, which added 41 foreign journalists and bloggers (mainly Russian) to a list⁶⁵ of 388 other persons (media professionals, artists, politicians) banned from entering Ukraine for one year. The authorities claimed that “their activity or public statements promoted terrorist manifestations on the territory of Ukraine and misinformed the international community about the situation at the occupied territory, or who illegally crossed the Ukrainian border to access the occupied territory”. On 17 September, NSDC removed six foreign journalists from BBC and European media outlets from the list, following statements made by the media outlets and public opinion.

62. While recognizing the Government’s right to protect national security, HRMMU is concerned that such unjustified broad restrictions are applied without clear procedures and criteria.

63. HRMMU continued to follow the case of blogger Ruslan Kotsaba, charged by SBU with high treason for publishing an anti-mobilisation video on 17 January⁶⁶. On 1 October, Ivano-Frankivsk City Court prolonged the term of his custodial detention, which was to end on 16 October, until 29 November. The defence lawyers noted an unreasonable protraction of the court hearings. For example, on 27 October, the Court adjourned the planned hearing to 13 November, stating that law enforcement officials could not transport the defendant to the court, as all of them were busy ensuring public order during the local elections.

C. Freedom of peaceful assembly

Territories controlled by the armed groups

64. Freedom of peaceful assembly continued to be significantly infringed in the territories controlled by the armed groups. Rallies to challenge the policies of the ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’ were extremely rare because people have been reportedly afraid to assemble for fear of reprisals. On 5 September, approximately 70 people (including media representatives) gathered in Donetsk to protest against the dismissal of the ‘speaker of the parliament’ of the ‘Donetsk people’s republic’. When the protestors tried to block the road, the rally was dispersed by men in camouflage.

Territories controlled by the Government

65. HRMMU continued to follow up the case related to the prohibition of the LGBT Equality March in Odesa, in August. As of 15 November, the LGBT Community Centre was still waiting for the decision of the Supreme Administrative Court of Ukraine on the complaint challenging the legality of the prohibition. The Odesa Regional Prosecutor’s

⁶⁵ See paragraph 50 of the 6th OHCHR report on the human rights situation covering the period from 18 August to 16 September 2014.

⁶⁶ See paragraph 71 of the 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015.

Office informed HRMMU that eight ‘Svoboda’ activists were fined for attacking the Centre on 15 August 2015.

66. On 31 August, while the Parliament was voting on the draft constitutional amendments related to decentralization, a crowd of an estimated 3,000 people gathered outside the Parliament. They objected to a constitutional provision foreseeing that “special order of self-governance for certain areas of Donetsk and Luhansk regions” would be determined by law, arguing this would provide “special status” to the areas controlled by the armed groups and constitute a betrayal of national interests. After the amendments were adopted, protestors started to burn tires and wood in front of the main entrance of the Parliament and to confront the police cordons. One of the protestors launched a combat grenade which killed four police officers. In total, 187 people (mostly policemen) were injured during the clashes. Police forces failed to adequately protect demonstrators and themselves. The incident illustrates the challenges in securing the physical security and right to life or participants of mass gatherings, which is of particular concern given the unregulated outflow of small arms and explosive weapons from the conflict area.

67. HRMMU also witnessed cases of police failure to ensure public order and safety during counter-demonstrations. For instance, on 2 November, in Odesa, ‘pro-unity’ activists conducted a non-notified counter-demonstration at the same time and place as the 2 May notified commemoration organized by ‘pro-federalism’ supporters and victims’ families. Despite previous provocations from ‘pro-unity’ supporters, police intervened and formed a cordon between the two groups only after ‘pro-unity’ activists attacked their opponents and burned a banner with the names and photos of victims of the 2 May violence. No one was arrested during or following the incident.

D. Freedom of association

Conflict-affected area

68. In the areas controlled by armed groups, key civil society actors, especially human rights organizations, had been targeted at the onset of the conflict and forced to leave. Those few local NGOs which remained have been carrying out predominantly humanitarian activities as human rights protection and promotion may put them at risk.

69. In addition to restrictions imposed by armed groups, local staff and activists of the NGOs operating in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ also faced persecution from Ukrainian authorities and groups affiliated with them. During the reporting period, HRMMU learnt that the names and personal data of at least 34 civil society activists operating in the areas controlled by armed groups were publicized on the ‘Myrotvorets’ (‘Peace-maker’) website, allegedly due to the fact that they have been collaborating and communicating with the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. Some of these NGOs had been founded before the conflict to provide services to HIV positive people, orphans and other vulnerable groups. Officially, the website is presented as a centre to track signs of crimes against the national security of Ukraine, peace, humanity, and the international law. However, the website is known in the public as a database of alleged ‘separatists’ and ‘terrorists’⁶⁷. In the absence of a court decision, such labels have a defamatory character, violate the presumption of innocence, and expose people listed to threats. In addition, people included into the list cannot cross the contact line, and are detained under charges of terrorism.

E. Freedom of religion or belief

70. During the reporting period, HRMMU documented a number of violations of freedom of religion or belief. In territories controlled by armed groups, minority Christian denominations

⁶⁷ In April 2015, the Ombudsperson of Ukraine demanded to close the website. However, no reaction followed.

continued to be targeted. In other parts of Ukraine, a series of violations against the Jewish community were committed, with a failure of police to investigate the majority of cases.

Territories controlled by the armed groups

71. HRMMU continued to receive reports about the persecution of Jehovah Witnesses in the territories controlled by armed groups. On 25 August, in the city of Luhansk, four local members of the community (all men) were interrogated for six hours at the office of the “ministry of state security”, and forced to state that they were connected to foreign intelligence services. The interrogators forbade them to distribute religious literature and to publicly practice their religion. On 21 September, in the town of Vuhlehirsk (Donetsk region), two representatives of the local ‘military police’ ordered the community of Jehovah’s Witnesses in the region to stop religious services and distribution of religious literature until a law on religion was passed, threatening that members would otherwise be sanctioned by arrests or high fines. On 29 September, in the town of Shakhtarsk (Donetsk region) a group of people came to the Kingdom Hall to protest against the activity of the religious community and put up signs on the facade that read: “Away with the Sect!” and “No place for sects!” The local ‘police chief’ was present during the protest, but did not intervene.

Territories controlled by the Government

72. HRMMU is concerned about the incidents across Ukraine which targeted the Jewish community. On 5 September, approximately 30 men attacked a camp of Hassidic Jews in Uman (Cherkasy region), a few days before the beginning of the Rosh Hashannah pilgrimage. The attack took place on Shabbat, when the Jewish community could not defend themselves. The police reportedly observed the attackers dismantling the fence around the camp but did not intervene. On 6 September, investigation into the incident was initiated under article 356 (unauthorized action) of the Criminal Code with no progress achieved as of 15 November 2015.

73. Also, the HRMMU became aware of five other attacks on Jewish cemeteries or Holocaust memorials, occurring across Ukraine in the period from 27 August to 19 September 2015. In all of the incidents the criminal investigation was launched; however with no progress as of 15 November.

IV. ECONOMIC AND SOCIAL RIGHTS

74. The situation of estimated 2.9 million people living in the conflict area⁶⁸ remained particularly difficult. Absence of the rule of law and legitimate civil authorities, coupled with intense military presence, continued to create tension and uncertainty for the population. Despite the ceasefire, civilians still largely relied on humanitarian assistance while their needs remain very high. Housing, land and property issues, including damaged and looted houses, were one of the most often reported problems.

75. Humanitarian assistance for those people who have been directly affected by the armed conflict in territories under the control of the armed groups remains limited. The prohibition of cargo travelling from the Government-controlled territory to the territories controlled by the armed groups impedes the general movement flow. The registration requirement introduced in June by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ for organizations delivering humanitarian assistance on the territories controlled by the armed groups has limited the number of humanitarian organizations providing assistance – medicine, food, shelter and other items. The impact of such restrictive access to healthcare and daily needs for many living in both the urban and rural areas should not be under

⁶⁸ 2.7 million living in the territories controlled by the armed groups, including 600,000 along the contact line, and 200,000 residents of the Government-controlled territories along the contact line (Humanitarian Country Team).

estimated, particularly with the onset of winter. HRMMU considers that both the Government and the armed groups need to ensure the critical needs of the most affected population are met to prevent any decline in their health and welfare⁶⁹.

76. As of 15 November, the Ministry of Social Policy of Ukraine had registered 1,578,925 internally displaced persons (IDPs) throughout Ukraine. A number of registered IDPs permanently live in the Government-controlled areas, others regularly move across the contact line; however many of them continue to face precarious economic and social conditions, with particularly limited access to quality medical care, social services and benefits and long-term accommodation.

77. Demobilized soldiers still faced difficulties in obtaining official status as security operating participants allowed to access social aid, medical and psychological services free of charge. This particularly affects those requiring expensive treatment and rehabilitation. For example, on 13 November, HRMMU interviewed the mother of a mobilized soldier who had been in hospital in critical condition for five months after sustaining multiple injuries, including while being in captivity of armed groups. Although all necessary documents had been submitted in August, they had not yet been processed as of 15 November. Thus, the family had so far received no State social support and required medications have been purchased by volunteers.

78. HRMMU is concerned that no attention and support have been given so far to the needs of victims of torture, especially civilians, due to the absence of relevant legislative provisions, and lack of knowledge and skills in dealing with the survivors. HRMMU interviewed victims of torture who could not undergo proper forensic examination, receive medical care, rehabilitation, psychological and social services in State institutions. While soldiers may receive treatment and some rehabilitation services at military hospitals, civilian victims rely on the help from NGOs and private donors.

A. Right to an adequate standard of living

79. On the Government-controlled side, as of 15 November, an estimated 200,000 people were living along the contact line⁷⁰, mostly in rural settlements. In many of these areas, local authorities have not returned and public services remained unavailable. Local residents had to manage on their own to restore the supply of water, gas and electricity.

80. In addition, access to these areas remained a major challenge, including due to the presence of IEDs and ERWs, and continued limitations of freedom of movement imposed by the Temporary Order. Public transport was also limited or unavailable, complicating access to medical, social and educational services. For example, before the conflict, residents of Lopaskyne settlement were receiving such services in Slovianoserbsk (now controlled by armed groups), which was only two kilometres away, while they now have to travel for at least 15 kilometres to access basic services.

81. Compared to previous months, the choice and quality of available basic commodities and food improved in the areas controlled by armed groups. However, the prices on average were 40 per cent higher than at the national level, and unaffordable to many. Furthermore, the suspension of the operations of organizations delivering humanitarian aid in the areas controlled by armed groups for more than four months significantly affected the estimated 2.7 million people residing in these territories, including 600,000 living along the contact line. Residents of Donetsk city whose houses were damaged or destroyed, as well as IDPs from other towns and villages, suffer from poverty, lack of warm clothes and heating, and from limited access to humanitarian aid.

⁶⁹ Rule 55 of the Customary International Humanitarian Law invokes the obligations to the parties to the conflict to allow and facilitate the rapid and unimpeded humanitarian access, subject to their right of control.

Rights to housing, land and property

82. Damaged, seized or looted property and lack of any justice and compensation mechanisms remained one of the major concerns for civilians living in the conflict area and for IDPs wishing to return.

83. On 12 October, HRMMU interviewed three residents of the Pisky village, whose property had been allegedly looted and used for military purposes. Although the owners reported their case to the Ministry of Defence of Ukraine, the Military Prosecutor's office and the Prime Minister of Ukraine, there has been no follow-up. In addition, the Ukrainian armed forces did not allow people to go to Pisky to visit their property and take their belongings, presumably because the settlement was still on the contact line.

84. The absence of housing programmes and job opportunities necessary for the sustainable integration of IDPs in the host communities remained a major concern in the Government-controlled territories.

85. HRMMU also noted a general absence of accessibility for persons with disability in collective centres. For example, in the Sergiivka and Kuyalnik sanatoria of the Odesa region, living conditions were not suitable due to the lack of access ramps for people in wheelchairs, and no access to toilets and bathrooms. In addition, the Odesa Regional Administration has not secured budget funds to cover accommodation fees, and IDPs could consequently be evicted in January 2016.

B. Right to social security and protection

For people from the territories controlled by armed groups

86. Payment of pensions to people living in the areas controlled by armed groups remained suspended despite a decision of the Supreme Administrative Court of Ukraine, on 16 October, repealing Resolution No 595 of the Cabinet of Ministers, and obliging the Government to resume the payments⁷¹. The International Covenant on Economic, Social and Cultural Rights requires States to ensure progressive realization of all envisaged rights. Retrogressive measures cannot be justified solely on the basis of the existence of an armed conflict or other emergency⁷². The States must ensure that their policies and actions are not discriminatory⁷³ and do not reduce access to social security benefits⁷⁴, including based on the place of residence or origin of its citizens.

87. In order to receive their social benefits, people still had to be registered and reside in the Government-controlled areas, which has been especially difficult for the elderly and people with disabilities. Furthermore, the Migration Service of Ukraine continued conducting unannounced checks to verify IDPs' places of residence. Those not found at their registration addresses were notified of the need to confirm residence to the State Migration Service within 10 days. The names of those who did not meet the requirement were submitted to a social security department for discontinuation of social payments, which was the sole source of income for some. During the reporting period, HRMMU learnt that such checks had led to suspension of financial assistance to 3,247 registered IDPs in Dnipropetrovsk region.

⁷¹ The Court heard the cassation appeal filed by the Cabinet of Ministers of Ukraine to the April 2015 court decision, which acknowledged the suspension of pensions illegal and ordered the Cabinet of Ministers to resume the payments. See paragraph 100 of the 11th OHCHR report on the human rights situation in Ukraine covering period of 16 May to 15 August 2015.

⁷² See paragraph 26 of the Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, E/2015/59.

⁷³ Committee on Economic, Social and Cultural Rights, General Comment No 20, 2 July 2009.

⁷⁴ See paragraph 41 of the United Nations High Commissioner for Human Rights to the Economic and Social Council, E/2013/82.

Previously, HRMMU reported of more than the pensions of 230,000 people had been suspended on the same grounds⁷⁵.

88. Civil registration documents issued on the territories controlled by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ – birth, death, marriage, divorce and medical certificates – are considered invalid by Ukrainian authorities. This precludes people from accessing basic social and medical services. For example, on 3 November, HRMMU interviewed a woman who was refused to be paid for maternity leave, because she had given birth in a hospital in the town of Sverdlovsk (Luhansk region, controlled by armed groups) – although she worked for a company registered on Government-controlled territory.

89. IDPs continued to face difficulties in proving their work experience, affecting their possibility to receive special pension or unemployment benefits and to find new employment. An official electronic database of employment records has been functioning in Ukraine only since 2002, and any prior employment records exist only in hard copy. Many IDPs did not take such documents with them while fleeing the conflict area. Documents bearing the ‘stamps’ of the ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’ are considered invalid.

90. The Presidential Decree of 14 November 2014 ordering State institutions and enterprises to relocate to the Government-controlled area continued to affect economic and social rights. Due to the impossibility of implementing the Decree, enterprises re-registered in the Government-controlled territories, but continued to function in the areas controlled by armed groups, hindering their employees’ rights to social guarantees and favourable conditions of work, especially in case of work-related injury.

91. For example, 16 injured coalminers and the relatives of 34 coalminers who died during an explosion which occurred on 4 March 2015 in Zasiadko mine, Donetsk, reported to HRMMU that they could not receive any social benefits or compensation. They were informed that no payments will be made by the ‘Donetsk people’s republic’, as the company was not ‘registered’ there and did not pay ‘taxes’ or contribute to the ‘republican social security fund’. The Ukrainian Fund of Social Insurance covering accidents at work informed the Zasiadko mine management that the conclusions about the accident made by the commission of the ‘Donetsk people’s republic’ would not be recognized by Ukraine and that compensation would therefore not be made. They also stated that, the injured coalminers were not eligible for the status of persons with disabilities and would not receive benefits linked to this status.

Situation in social care institutions

92. HRMMU visits to social care institutions in Donetsk and Luhansk regions controlled by armed groups revealed that a number of their patients had not been able to receive their social entitlements since June 2014. Due to their physical condition, some of the elderly patients or persons with disabilities simply could not travel to the Government-controlled territories to re-register and receive their benefits. Guardians or custodians of legally incapacitated patients or minors could not perform actions on their behalf and obtain social benefits as the notarial services have been discontinued in the areas controlled by armed groups.

93. It was also brought to the attention of HRMMU that under the Ukrainian social welfare system, 25 per cent of financial allocations spent by the Government to support an individual in a social care institution was transferred to their individual bank accounts and could be used for personal needs. In addition to the fact that social care institutions in the areas controlled by armed groups have not received any financial support from the Government of Ukraine since November 2014, its patients also have had no access to their personal savings.

⁷⁵ See paragraph 100 of the 11th OHCHR report on the human rights situation in Ukraine covering the period from 16 May to 15 August 2015.

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

Territories controlled by the armed groups

94. The suspension of the operation of organizations delivering humanitarian aid in the areas controlled by the armed groups, as well as continuous restrictions of the Temporary Order to move cargo across the contact line, has had a negative impact on access to medicines, consumables, expert medical services, including psycho-social support.

95. On 25 September and 12 October, *Médecins Sans Frontières* (MSF) was ordered to stop all its activities in the territories controlled by the ‘Luhansk people’s republic’ and ‘Donetsk people’s republic’ respectively. These decisions threaten the lives of many residents who face chronic and serious health problems. In the territory controlled by the ‘Donetsk people’s republic’, MSF was providing 77 per cent of the insulin needed for adult living with diabetes and 90 per cent of supplies required for haemodialysis treatment vital for patients suffering from kidney failure. 146 patients with drug-resistant tuberculosis in penitentiary institutions will no longer receive treatment provided to these institutions since 2011. Coupled with the lack of food and poor detention conditions, this could lead to an eventual deterioration of their health. Interruption of TB treatment is particularly worrying in Donetsk region, which had one of the highest rates of TB prevalence countrywide before the conflict, and raises a broader public health concern. The physician of one of the detention facilities stated to HRMMU that local NGOs had less experience and could not make up for the capacities of international relief agencies. Finally, since the termination of MSF activities, more than a hundred medical facilities no longer receive supplies from MSF for treating emergencies resulting from the conflict, chronic conditions, and mental illnesses.

96. In the areas controlled by armed groups, 7,665 people living with HIV, including 209 children, were on anti-retroviral therapy. As of 15 November, required medicines were included in humanitarian deliveries, coordinated by the World Health Organisation, but the supplies are low and given the difficulties to operate, the risk of interrupted treatment is high.

97. The situation in social care and specialized medical institutions remained critical, especially in the areas controlled by the ‘Luhansk people’s republic’. HRMMU visited several institutions, including one in Rovenky (Luhansk region; controlled by the armed groups) hosting 192 persons with disabilities, including 23 children. The institution was in urgent need of psychotropic medicine, particularly for 39 patients suffering from epilepsy. HRMMU has referred the needs to international organizations whose operations were then stopped for an undetermined period of time.

98. HRMMU interlocutors in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ claimed hospitals and medical staff faced frequent harassment and threats by fighters, who openly carry weapons in medical facilities. Although reportedly ‘the ministry of defence’ took some steps to address this situation, during one of its recent visits to a hospital, HRMMU witnessed a car with four armed group members at the hospital entrance, heavily armed, harassing female medical staff. Such a conduct endangers medical personnel and patients.

Territories controlled by the Government

99. Lack of financial allocations from the State budget to cover healthcare expenses for IDPs remained one of the biggest challenges in ensuring their access to healthcare. Regions with a high influx of IDPs could not meet the existing needs, especially for vaccination or specialised medical care.

100. There are still few possibilities for IDPs, especially persons with disabilities, to receive psychological support, and they are at high risk of psychological distress due to poor living conditions, disability, destroyed family links, and lack of funds to cover basic needs. One NGO reported that alcohol addiction among IDPs was high, especially those staying in

collective centres. There was also reportedly a high rate of domestic violence among IDPs, as well as families of demobilised soldiers due to psychological stress and lack of social support.

101. In addition, IDPs with mental impairments who require special care in psychiatric or social care institutions, are sometimes placed in sanatoria, where staff was not capable or addressing their special needs. Reportedly, funds for their treatment are often insufficient, which leads to a deterioration of their condition.

V. ACCOUNTABILITY AND ADMINISTRATION OF JUSTICE

102. The lack of protection and justice for victims and the impunity of perpetrators continued to prevail. Accountability for human rights violations committed during the Maidan protests of November 2013 – February 2014 and during the violence of 2 May 2014 in Odesa was pending at the end of November 2015. No perpetrators had been brought to justice, and investigations remained slow. Accountability for human rights violations and abuses in the conflict zone has been progressing with a number of perpetrators being tried or sentenced. However, impunity overall remains widespread, as mentioned in various sections of the present report.

A. Accountability for human rights violations and abuses in the east

Investigations into human rights abuses committed by the armed groups

103. As previously articulated by the Ukrainian law enforcement⁷⁶, the lack of access to the territories controlled by the armed groups remained the major impediment to investigate human rights abuses committed there. It has been challenging for the Ukrainian authorities to identify and locate perpetrators and weapons given lack of access to the crime scene, and limited opportunity to question witnesses and victims in the course of an investigation.

104. Members of the armed groups who have been detained by Ukrainian law enforcement (SBU or the national police) are usually charged under articles 258-3 (participation in a terrorist group or terrorist organization)⁷⁷ or 260 (creation of or participation in unlawful paramilitary or armed formations) of the Criminal Code of Ukraine. It is largely at the discretion of prosecution to decide which of these two categories of charges applies. Recent court decisions suggest that those who resorted to plea bargain were charged under article 260 and sentenced to deprivation of liberty with a probation period⁷⁸, while those who did not⁷⁹ were sentenced to imprisonment under article 258-3 of the Criminal Code. The court decisions in such matters so far are largely based on confessions of the accused. HRMMU is not aware of any progress in cases of killings, torture, ill-treatment or other crimes against liberty and physical integrity of a person committed by the armed groups.

105. Many detained members of the armed groups are charged under article 263 (unlawful handling of weapons, ammunition or explosives) of the Criminal Code. In one case, a person was accused of illegal storage of up to 30 cartridges for Kalashnikov assault rifle⁸⁰. In the other

⁷⁶ See paragraphs 115 and 116 of the 11th OHCHR report on human rights situation in Ukraine covering period from 15 May to 15 August 2015.

⁷⁷ The ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ are publicly referred to by Ukrainian law enforcement as terrorist organizations, despite the fact that no court or administrative decision has formally recognized them as such, as there is no clear procedure for doing so. The security situation in the east has been officially called “anti-terrorist operation”.

⁷⁸ See the decision of Dzerzhynskiy District Court of Donetsk region of 21 October 2015 and decision of Slovianskyi District Court of Donetsk region of 21 October 2015.

⁷⁹ See the decision of the Kramatorsk City Court of Donetsk region of 12 October 2015 and decision of Volnovaskiy District Court of Donetsk region of 13 October.

⁸⁰ See the decision of Slovianskyi District Court of Donetsk region dated 30 October 2015 and decision of Druzhkivskiy District Court of Donetsk region of 15 October 2015.

two cases, the suspects' bags were seized and only after found containing a hand grenade and an IED. HRMMU is concerned that cartridges or hand grenades can easily be planted and used as a tool to secure 'confessions' of persons on their affiliation with the armed groups.

106. HRMMU also notes limited efforts of investigative bodies to establish command responsibility for crimes committed by the armed groups. 'Senior officials' of the 'Donetsk people's republic' and 'Luhansk people's republic' have rarely been mentioned in the investigations into grave human rights abuses, although in some cases there appeared to be enough evidence to initiate an investigation⁸¹. On 11 November, MoIA reported putting on a wanted list a former commander of an armed group which controlled the city of Horlivka (Donetsk region) in 2014. On suspicion of killing a serviceman of 'Artemivsk' special police patrol battalion on 14 July 2014, he has been charged under article 115 (intentional homicide in collusion by a group of people) in addition to previous charges under article 258 (act of terrorism) of the Criminal Code. The victim's father collected testimonies of witnesses as MoIA had appeared reluctant to open an investigation into the incident. Along with the case of Ihor Branovytskyi⁸², this is one of few cases in which the alleged perpetrator has been identified.

107. Investigations into human rights abuses committed by the armed groups have particular significance in the context of renewed discussions of the Trilateral Contact Group on the 'all for all' mutual release of detainees. The armed groups insist that this issue will be discussed only after the Government of Ukraine honours its obligation to "provide pardon and amnesty by way of enacting a law that forbids prosecution and punishment of persons in relation to events that took place in certain areas of Donetsk and Luhansk regions of Ukraine"⁸³. HRMMU reiterates that amnesty cannot be provided for individuals responsible for war crimes, crimes against humanity and grave human rights violations, including summary executions, torture or similar cruel inhuman or degrading treatment, and enforced disappearances.

Investigations into human rights violations by the Ukrainian military and law enforcement

108. According to MoIA, 1,448 claims for violations of rights, including 298 for bodily injuries due to excessive use of force and ill-treatment of detained individuals, were submitted to the MoIA departments of internal security between early January and late August 2015. MoIA reported that 80 criminal investigations had been opened into these allegations. In general, as of 28 September, MoIA had opened 141 criminal proceedings into human rights violations by police officers, including 98 for infliction of bodily injuries, 13 concerning arbitrary detention and seizure of property, and six for torture. 29 police officers were notified of being suspected of involvement in human rights violations.

109. On 22 October, the Military Prosecutor for the Southern region (covering, *inter alia*, Donetsk and Luhansk regions) reported to HRMMU that 460 criminal proceedings had been opened since early 2015 into crimes committed by the Ukrainian military. 300 cases concerned desertion and 63 cases relate to crimes against civilians. Only 14 of these cases have been completed and submitted to courts.

⁸¹ For instance, according to a witness, in January 2015, a high level 'official' of the 'Donetsk people's republic' "pointed out to three Ukrainian captives – ..., ... and Ihor Branovytskyi, and said, to put it mildly, that he will make them 'girls'. Then he ordered to take them to the cemetery to dig graves for themselves". According to other witness, "three of us (Branovytskyi, myself and ...) were pointed out by [the name of the high level 'official' of the 'Donetsk people's republic'] and ordered to take us on a long circuit. We three were taken in a bus with our faces down on the floor to the cemetery to be shot, to dig graves for ourselves. At the cemetery we were lined up and fired shots by or above our heads".

⁸² See paragraph 31 of the 11th OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2015.

⁸³ Paragraph 5 of the Package of Measures for the Implementation of the Minsk Agreements of 12 February 2015.

110. HRMMU is concerned that despite the concluding observations of the Committee against Torture (Ukraine, December 2014)⁸⁴, many cases of alleged ill-treatment or torture continue to be qualified as mere “abuse of power”.

111. HRMMU takes note of the establishment of two units within the structure of the Office of the Prosecutor General in mid-August: the Office of the Military Prosecutor for the ATO Forces and the Department on investigation of crimes against, peace, security and humanity. With the focus of investigation of crimes committed in the security operation area committed by the Ukrainian military and of the “military invasion of the Russian Federation on the territory of Ukraine and facilitation of activities of the armed groups”, it is expected that more efforts will be dedicated to documenting grave human rights violations abuses on both sides of the contact line. HRMMU also believes that re-enabling of the Office of the Military Prosecutor to exercise general oversight over the military and law enforcement would further strengthen accountability mechanisms⁸⁵.

112. On 30 September, the Office of the Military Prosecutor reported the completion of pre-trial investigation into crimes committed by members of the special police patrol battalion “Tornado”. Eight of them are accused of creating a criminal gang, abuse of power, abduction and illegal confinement of a person, torture, violent unnatural gratification of sexual desire, resistance to law enforcement officers and unlawful appropriation of a vehicle⁸⁶. The case is to be submitted to court once all suspects have reviewed the case files.

113. HRMMU is concerned over the approach taken by the prosecution in some cases of killings allegedly committed by the Ukrainian military, with investigations appearing to focus on more minor offences. The case of Volodymyr Kulmatytskyi, former deputy mayor of Sloviansk, illustrates this pattern. He and his driver were abducted by armed men in the Government-controlled town of Sloviansk (Donetsk region) on 28 January 2015. On 31 January, they were found dead in Kharkiv region with gunshot wounds on their heads. On 21 September, after a one-day court hearing, three out of the four alleged participants in the murder (all servicemen of Dnipro-1 battalion) were sentenced for kidnapping and illegal handling of weapons to four years of imprisonment, with a three-year probation period, and were released from custody. The fourth suspect – the only suspect in the murder – was killed (or killed himself) during the attempt of the police to apprehend him.

114. Very limited progress was achieved in the investigation into death of Oleksandr Agafonov who was beaten to death in November 2014⁸⁷. The lawyer of the victim’s family’s informed HRMMU that two officers of the Central SBU Office in Kyiv had been notified of suspicion under articles 146 (kidnapping) and 365 (abuse of authority) of the Criminal Code. On 28 October, Dzerzhynskyi District court of Kharkiv released both of them on a bail of UAH 91,000 (approximately USD 3,800) for each. Allegedly, the suspects have not been suspended from their work. HRMMU notes that it took almost a year for the investigation to establish the identity of the suspects. An additional concern is that the suspects face charges that may not lead to the accountability for the death of the victim.

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

115. While most of the human rights violations committed during the Maidan protests have been investigated and alleged perpetrators identified, accountability continued to be sought

⁸⁴ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=5.

⁸⁵ See paragraphs 117 and 118 of 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015.

⁸⁶ See paragraph 123 of 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015.

⁸⁷ See paragraph 121 of 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015.

for the killing of protestors on 18-20 February 2014. Indeed, only few perpetrators located and are being prosecuted as the majority have fled Ukraine. None of the former senior officials found responsible have been brought to account for organizing the killing of protestors in January-February 2014.

General overview of Maidan investigations

116. On 17 October, the Prosecutor General of Ukraine reported that his office had established the chronology of all events that had taken place during the Maidan protests, and identified all individuals involved in the organization of unlawful counteraction to protests that resulted in the death of protestors⁸⁸. However, none of these individuals has been brought to account as they all allegedly fled Ukraine on 20 February 2014 or shortly afterwards. Moreover, most of the material evidence has been destroyed, especially in central Kyiv.

117. On 10 November, the Chief Military Prosecutor reported that 20 Berkut servicemen had fled Ukraine immediately before the launch of a special operation to arrest them at the beginning of August 2014, assuming that they had either received an order or were warned. No progress has been observed to locate Berkut commander Dmytro Sadovnyk who fled Ukraine after the authorities changed the measure of restraint against him from custodial detention to house arrest on 6 October 2014. It would be important to investigate the destruction of evidence of killings around the Maidan events, as well as the escape of people involved in these incidents.

118. The Office of the Prosecutor General investigated 14 different episodes of the crimes committed during the Maidan protests⁸⁹. HRMMU is concerned that the dispersal of investigative efforts among various criminal proceedings may undermine the investigation as all the incidents and individuals involved were closely linked.

Ongoing trial of Berkut servicemen (killing of protestors)

119. The investigation into the killing of 39 protestors (all men) on 20 February 2014, at Instytutska Street, Kyiv, has not progressed since the previous HRMMU report⁹⁰. Zinchenko and Abroskin remained the only two Berkut servicemen whose case had been submitted to court. Two other servicemen have remained in detention since 23 February 2015, when they were detained under the same charges (killing of 39 protestors). 18 other Berkut servicemen have been put on a wanted list for killing the 39 protestors. Investigations were ongoing into the alleged involvement of three Berkut servicemen in killing three protestors and injuring 69 on 18 February, in Kyiv⁹¹. Two former SBU officials have been detained in February and

⁸⁸ The following individuals were reportedly notified by the office of the Prosecutor General of Ukraine: the former President of Ukraine Viktor Yanukovich, former Prosecutor General Viktor Pshonka, former Prime Minister Mykola Azarov, former Minister of Internal Affairs Vitalii Zakharchenko, former SBU Head Oleksandr Yakymenko, former Deputy Minister of Internal Affairs Viktor Ratushniak, former Commander of the Internal Troops of the Ministry of Internal Affairs Stanislav Shuliak, former First Deputy Head of the SBU Volodymyr Totskyi, former Head of Public Security Militia in Kyiv Petro Fedchuk and former commander of special police unit 'Berkut' Serhii Kusiuk. The Prosecutor General deemed them suspects for organizing unlawful counteraction to the protest actions.

⁸⁹ Dispersal of Maidan protest on 30 November 2013; confrontation on 1 December 2013 at Bankova street; dispersal of Maidan protest into the night of 11 December 2013; mass killings of protestors in January-February 2014; counteraction to protest actions of 'tityshky'; adoption of 'dictatorship' laws on 16 January 2014; supplies and enhanced use of riot control weapons; persecution for participation in the protests; travesty of justice; upholding unjust court decisions; non-enforcement of court decisions; prosecution of members of the 'AutoMaidan' movement; killings and infliction of bodily injuries to law enforcement during the protests; illegal resistance to the investigation of crimes committed during the Maidan protests.

⁹⁰ See paragraph 127 of 11th OHCHR report on human rights situation in Ukraine covering period from 15 May to 15 August 2015.

⁹¹ See paragraph 129 of 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015.

April 2015 under suspicion of running an anti-terrorist operation on 18 February in Kyiv, which led to the death of protestors.

120. The legality of the composition of the jury panel hearing the case of Zinchenko and Abroskin has been challenged before court. Claiming that Zinchenko and Abroskin have not committed the crimes they are accused of, their lawyers stated to HRMMU that in the course of the investigation, the Office of the Prosecutor General had not examined the legality of the use of force by the Berkut servicemen should it be established that they had killed any of the 39 victims. The lawyers maintained that as three law enforcement were shot dead or injured in the morning of 20 February 2014, the use of force by Berkut' may have been justified.

121. HRMMU also reiterates earlier concerns⁹² about the lack of progress in the investigations into the killing of 13 law enforcement officers on 18-20 February 2014, with no alleged perpetrators identified thus far.

C. Accountability for the violence of 2 May 2014 in Odesa

122. More than 18 months after the violence of 2 May 2014 in Odesa, which resulted in the death of 48 people (including six women who died during the fire at the House of Trade Unions) due to clashes between supporters of federalisation of Ukraine ('pro-federalism') and supporters of unitary Ukraine ('pro-unity'), no progress has been observed in the investigations. Only 'pro-federalism' supporters were accused of mass disorder, and one 'pro-unity' activist was accused of a murder in the city centre (in total, six people were killed there). The investigation into the gravest episode – the fire at the House of Trade Unions which claimed lives of 42 people – is ongoing.

123. On 4 November, the Council of Europe International Advisory Panel on Ukraine⁹³ presented its report on the investigations of the events of 2 May 2014 in Odesa. The Panel noted a worrying decrease in the staffing of the investigating teams, underlining the detrimental effect on the progress, quality and effectiveness of investigations. It also expressed serious concern about the decisions to terminate the proceedings against two suspects for lack of evidence. The Panel concluded that "[t]he challenges confronting those responsible for the investigations into the events in Odesa on 2 May 2014 have been significant and their impact on the investigations cannot be under-estimated. However, these challenges cannot excuse any failings which did not inevitably flow from them"⁹⁴. HRMMU fully shares these concerns.

124. The investigation into the 2 May violence has been dispersed between the Office of the Prosecutor General and MoIA, raising concerns of protracted investigation due to lack of communication among these entities. The MoIA Investigation Unit on the 2 May events, created on 6 May 2014, and comprising a dozen high-ranking investigators from Kyiv and other cities, has practically stopped functioning.

Investigations by the Office of the Prosecutor General

125. No progress has been reported concerning the investigation into the case of the former head of Odesa Regional Department of Internal Affairs⁹⁵ charged with neglect of official duty for failure to ensure public order in the city.

⁹² See paragraphs 83-85 of 6th OHCHR report on human rights situation in Ukraine covering period from 18 August to 16 September 2014, and paragraph 162 of 7th OHCHR report on human rights situation in Ukraine covering period from 17 September to 31 October 2014.

⁹³ The Panel was established in April 2014, to oversee that the investigations of the violent incidents which had taken place in Ukraine from 30 November 2013 onwards met all the requirements of the European Convention on Human Rights and the case-law of the European Court of Human Rights.

⁹⁴ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048851>

⁹⁵ On 13 May 2015, the Pecherskyi district Court of Kyiv placed the former head of the Odesa Regional Department of MoIA under house arrest for 60 days. On 28 August, the investigative judge of the Pecherskyi district Court of Kyiv refused to extend the duration of the house arrest. Currently, the former head of the Odesa Regional Department of MoIA is under no measure of restraint.

Investigations by the Ministry of Internal Affairs

126. No suspects have been identified in the criminal case opened by MoIA into the slow response and inaction of the fire brigade, which contributed to cause the death of 42 people. Allegedly, the former head of the Odesa Region Fire Brigade Department left Ukraine in February 2015.

127. 23 ‘pro-federalism’ supporters have been accused for mass disorder in the city centre in a trial that has been ongoing for 11 months. Numerous procedural violations observed in this case, non-attendance of lawyers, poor quality of case files, failure to provide interpreter, have significantly delayed the process. While consideration on the merits started on 2 July 2015, as of 15 November, the court continued announcing the indictment.

128. The only ‘pro-unity’ activist accused of killing of a protestor and injuring a police officer and a journalist has not been subjected to any sanction since his indictment in November 2014. HRMMU notes essential pressure that ‘pro-unity’ supporters exert on the court. Due to their obstructive behaviour, the court hearings in this case, which started on 23 June 2015, were several times disrupted. This resulted in the transfer of the case to another court in Odesa, in August 2015, but hearings have not yet started. Following threats by ‘pro-unity’ activists and a member of Parliament⁹⁶, a judge (relocated from Donetsk to Odesa in 2014) decided to return to Donetsk, fearing for his life.

D. Administration of justice

Parallel ‘administration of justice’ systems in the territories controlled by the armed groups

129. During the reporting period, HRMMU observed the further strengthening of parallel ‘governance structures’ of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, with their own legislative frameworks, including parallel systems of law enforcement and administration of justice (‘police’, ‘prosecutors’ and ‘courts’), in violation of the Constitution of Ukraine, and in contravention with the spirit of the Minsk Agreements. HRMMU reiterates that the ‘officials’ of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ are responsible and shall be held accountable for human rights abuses committed on territories under their control. This particularly applies to people bearing direct command responsibility for the actions of perpetrators.

Pre-trial detainees in the territories controlled by the armed groups

130. Pre-trial detainees who find themselves trapped in the territories controlled by the armed groups since the outbreak of the armed conflict in April 2014 remain in legal limbo, without recourse to justice and with their right to a trial within a reasonable time or release being violated, resulting in their arbitrary detention.

Deprivation of documents of detainees released by the Government

131. HRMMU is concerned about the situation of 22 former detainees from Dnipropetrovsk who were handed over to the ‘Donetsk people’s republic’ in the context of ‘simultaneous releases’ in December 2014, and whose passports remain with SBU. In October 2015, HRMMU received an official reply from SBU stating that their passports were held by SBU investigators (except for one individual whose mother applied to obtain the passport) pending investigations.

Investigation into 31 August violence near the Parliament

132. MoIA identified 27 people suspected of being involved in violent actions on 31 August 2015, in front of the Parliament, in Kyiv, including one person suspected of throwing a combat grenade at the police. All suspects are charged under articles 258 (act of terrorism), 263 (unlawful handling of weapons, ammunitions or explosives), 293 (group violation of

⁹⁶ See paragraph 140 of 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015

public order), 294 (riots) and 345 (violence against a law enforcement officer) of the Criminal Code. Lawyers representing 10 of the suspects informed HRMMU that their clients were still held in the temporary holding facility of MoIA, while they should have been relocated to the SIZO under the Penitentiary Service. They also claimed lack of access of their clients to legal and medical aid and ill-treatment. The Ombudsperson's Office visited the suspects and sent an official letter to MoIA concerning the alleged violations of their rights.

Case of Nelia Shtepa

133. HRMMU continued to follow the case of former mayor of Sloviansk (Donetsk region) Nelia Shtepa, who has remained in detention since 9 July 2014, charged under articles 110 (trespass against territorial integrity) and 258-3 (creation of a terrorist group or terrorist organisation) of the Criminal Code⁹⁷. As of 15 November, the court was cross-examining witnesses in the case.

134. HRMMU is concerned that following the killing of Shtepa's former deputy Kulmatytskyi – who was the main defence witness – and the release of three men involved in his and his driver's murder, witnesses would be reluctant to testify. On 22 September, the victim's lawyer informed HRMMU that Kulmatytskyi had been questioned by the prosecutors, who told them at length about Shtepa's attempts to draw the attention of the then head of Donetsk Regional State Administration about the need to prevent capture of the city by the armed groups, as well as about her abduction.

135. On 6 October, the High Council of Justice (HCJ) of Ukraine found that the presiding judge in the case of Shtepa had violated the oath when he ruled on the arrest of Maidan activists in Kharkiv in February 2014. HCJ approved a petition for the dismissal of the judge. Should the President of Ukraine dismiss the judge, trial in the case will start from the beginning.

Case of Hennadii Korban

136. On 31 October, the leader of 'UKROP' party, and former candidate for mayor of Kyiv Hennadii Korban was apprehended by SBU at his home in Dnipropetrovsk, and taken to the Office of the Prosecutor General in Kyiv for interrogation, facing charges of misappropriation of property, creation of a criminal organization, unlawful appropriation of a vehicle and hostage taking of a representative of public authorities. On 3 November, upon elapse of the maximum term of detention (72 hours), he was released and immediately taken by SBU to the Office of the Prosecutor General for interrogation under new charge of preclusion of the right to vote. HRMMU notes that the practice of "repeated arrest"⁹⁸ constitutes a violation of article 5(4) of the European Convention for the Protection of Human Rights and Fundamental Freedoms⁹⁹. Korban's lawyers allege violations of "the right to lawful arrest"¹⁰⁰, failure to inform the relatives about his arrest, absence of timely information on charges, delayed access to a lawyer. On 3 November, after visiting Korban at the SBU pre-trial detention centre, the Ombudsperson stated that the violations alleged in the case reflected systemic violations of human rights in criminal proceedings in Ukraine.

Prosecution of Ukrainian citizens in the Russian Federation

137. HRMMU continued to follow the cases of 11 Ukrainian citizens¹⁰¹ who are held in detention and prosecuted in the Russian Federation, including the case of Nadiia Savchenko,

⁹⁷ See paragraph 149 of 11th OHCHR report on the human rights situation in Ukraine covering period from 1 May to 15 August 2015.

⁹⁸ Particularly, when a person has been detained immediately after the court ruled on his release.

⁹⁹ See *Feldman v. Ukraine* (application 42921/09) judgment 14 April 2012.

¹⁰⁰ According to his lawyers, Korban was arrested without any court order, which is only permissible for individuals arrested at the crime scene immediately after committing a crime or in the course of a hot pursuit.

¹⁰¹ Nadiia Savchenko, Oleh Sientsov, Oleksandr Kolchenko, Oleksii Chyryni, Hennadii Afanasiev, Yurii Yatsenko, Serhii Lytvynov, Mykola Karpiuk, Stanislav Klykh, Yurii Soloshenko and Valentyn Vyhovskyi.

who has been in detention in the Russian Federation since July 2014, facing charges of killing two Russian journalists¹⁰². On 22 September, the Donetsk District Court of Rostov region (the Russian Federation) commenced hearing the case on the merits and extended Savchenko's pre-trial detention until January 2016.

VI. RIGHTS TO VOTE AND TO BE ELECTED

138. On 25 October, local elections were held in most of the territory of Ukraine. Over 350,000 candidates competed for 168,450 positions of mayors of cities, villages and settlements and for councillors of villages, settlements, cities, city districts, districts (*rayon*) and regional councils. According to the Central Election Commission of Ukraine (CEC), the turnout was 46.62 per cent. A second round took place on 15 November to elect the mayors of cities of more than 90,000 voters where no candidate obtained more than 50 per cent of the votes in the first round.

139. The election law established three electoral systems and introduced a requirement of at least 30 per cent representation of each gender on a party list, without providing for any sanction for failure to comply. According to CEC, women comprised about 35 per cent of all registered candidates for the proportional races and 13 per cent in mayoral races. Based on these figures, and while the final election results were not yet known when this report was being finalized, they are likely to confirm a significant under-representation of women.

140. The electoral process was monitored by local and international observation missions, including the International Election Observation Mission (IEOM), which assessed the elections as competitive, well organized and respectful of the democratic process. However, it noted the influence of powerful economic groups over the electoral process, the fact that the legal framework fell short of international commitments and standards, and some problems with the printing and distribution of ballots which prevented or led to the cancelling of elections in several Government-controlled districts of eastern Ukraine¹⁰³.

141. HRMMU is also concerned that millions of Ukrainian citizens could not exercise their right to vote. Indeed, local elections were not conducted in the Autonomous Republic of Crimea, the city of Sevastopol and in certain areas of the Luhansk and Donetsk regions controlled by the armed groups. CEC declared that for security reasons, holding elections was not possible in some territories of the Donetsk and Luhansk regions controlled by the Government¹⁰⁴. In addition, the law on local elections of 14 July 2015 did not foresee the possibility for IDPs¹⁰⁵ to vote¹⁰⁶.

142. The '*Opposition Bloc*' branch in Kharkiv was prevented from registering for the local elections. HRMMU learned from the leadership of the party and their lawyer that the Regional Department of the Ministry of Justice had actively obstructed and prevented the members of the party to hand over registration documents. The Regional Department of Ministry of Justice also refused to implement a decision of the Regional Administrative Court

¹⁰² For more information, see paragraph 60 of 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015, and paragraph 54 of the 10th OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2015.

¹⁰³ See Statement of Preliminary Findings and Conclusions of the International Election Observation Mission (IEOM), Ukraine – Local Elections, 25 October 2015.

¹⁰⁴ CEC resolutions 207 and 208 declared that it was not possible to organize elections in 91 local councils in the Donetsk region and 31 local councils in the Luhansk region. These decisions were based on the information provided by the military/civil administrations and affected 525,588 voters.

¹⁰⁵ UN Guiding Principles on Internal Displacement¹⁰⁵ and Recommendation Rec(2006)6 of the Committee of Ministers of the Council of Europe to Member states on internally displaced persons

¹⁰⁶ See paragraph 167 of the 11th HRMMU report on the human rights situation in Ukraine covering the period from 16 May to 15 August 2015.

in Kyiv. The ‘Opposition Bloc’ was prevented from conducting its electoral campaign and its candidates were only partially able to take part in the local elections.

VII. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA¹⁰⁷

143. A trade blockade of Crimea, initiated by the Crimean Tatar leadership and enforced by ‘pro-unity’ activists, including Crimean Tatars and former member of voluntary battalions, has been in place since 20 September. HRMMU is concerned about the legality of this action and human rights abuses that have accompanied it, including illegal identity checks, vehicle searches, confiscation of goods, and arrests. Other important developments related to Crimea have included the sentencing of Ukrainian film-maker Oleh Sientsov by a Russian Federation military court, the issuing of the first verdict by a court in Crimea in relation to the violent protests on 26 February 2014 involving pro-Ukrainian and pro-Russian groups, and the Ukrainian parliament resolution of 12 November recognizing the 1944 deportation of the Crimean Tatars as an act of genocide.

A. The blockade of Crimea

144. Since 20 September, hundreds of Ukrainian activists, including Crimean Tatars and members of nationalist battalions, have been blocking the flow of goods between mainland Ukraine and Crimea in both directions. The trade blockade was initiated by the former and current heads of the Crimean Tatar Mejlis, Mustafa Dzhemiliev and Refat Chubarov, and has been conducted simultaneously at all three crossing points on the Ukrainian-controlled side of the administrative boundary line (ABL): in Chaplynka, Chongar and Kalanchak. The objective of this action was to call international attention to human rights violations in Crimea – including the alleged persecution of Crimean Tatars – and to request an international monitoring presence in the peninsula. The organizers also demand that the Ukrainian authorities repeal an August 2014 law¹⁰⁸ which regulates trade between Ukraine and the peninsula, and demanded that the next step should be to halt energy supplies to Crimea.

145. HRMMU travelled to the area of the blockade on 12-13 November. It noted that the blockade was designed to prevent the movement of commercial cargo transported by trucks without hindering the movement of people and private vehicles. However, the volunteers enforcing the blockade – uniformed men sometimes wearing masks and balaclavas – have been systematically stopping private vehicles. They reportedly have lists of people considered to be ‘traitors’ due to their alleged support to the *de facto* authorities in Crimea or to the armed groups in the east. In one case, two people were arrested for allegedly carrying drugs and explosives and kept in illegal detention for hours before being handed over to the police. In another incident, a Crimean resident with a Russian passport issued in Crimea was beaten up. The activists have also established improvised roadblocks at the crossing points. Their behavior has in some cases been threatening when drivers refuse to show their identification documents or allow their vehicles to be searched. HRMMU is aware of the case of a driver who had his windows smashed for refusing to unload vegetables.

¹⁰⁷ HRMMU has not been granted access to Crimea and has no *in situ* presence. However, it has been able to monitor the human rights situation by establishing and maintaining contacts with Crimean residents on the peninsula and mainland Ukraine and relying on a variety of interlocutors of different ages and genders including representatives of political, religious, civil society organizations, victims, relatives and witnesses of alleged human rights violations, members of the legal profession, journalists, entrepreneurs, teachers, doctors, social workers, human rights activists and other categories, including individuals with no specific affiliations. HRMMU continues to seek access to Crimea.

¹⁰⁸ The law “On the Establishment of the Free Economic Zone ‘Crimea’ and Peculiarities of Providing Economic Activity on the Temporary Occupied Territory of Ukraine” (12 August 2014).

146. The activists have been enforcing the blockade in the presence of the police and border guards who observed the situation without intervening. HRMMU is concerned about instances of human rights abuses near the ABL. It is also worried that activists enforcing the blockade have been illegally performing law enforcement functions, such as identity checks and vehicle searches, with the apparent acquiescence of the Ukrainian authorities.

B. Citizenship

147. On 30 October, the Federal Migration Service (FMS) of the Russian Federation issued a statement indicating that the legal requirement to inform FMS about a second citizenship, in addition to Russian citizenship, did not apply to Crimean residents. This requirement derived from amendments to the law “On citizenship of the Russian Federation”¹⁰⁹, which obliged Crimean residents to disclose a second citizenship before 1 January 2016.

148. HRMMU notes that FMS did not refer to any legal act or official policy supporting its statement. This development would be welcome as it would mean that Crimean residents who chose not to disclose their Ukrainian citizenship will not be sanctioned.¹¹⁰ However, HRMMU also recalls that Russian citizenship has been imposed upon all Crimean residents following the unrecognized ‘referendum’ of March 2014, and that such automatic attribution has led to human rights violations, including claims that people were dismissed or threatened to be dismissed from their posts for refusing to take up Russian Federation passports¹¹¹.

C. Rights to life, liberty, security and physical integrity

149. Another case, involving a Crimean Tatar disappearing in circumstances reminiscent of abduction, has been reported. On 27 August, a witness claimed he saw two men in uniform forcing Muhtar Arislanov into a minivan, after which he went missing. On 3 September, the Investigative Committee of the Russian Federation in Crimea opened a criminal case under the qualification of murder. HRMMU notes that other Crimean Tatars, including Islyam Dzhepparov and Dzhevdet Islyamov¹¹², were also seen by witnesses to be kidnapped by uniformed men and that none of them has been found to this day.

D. Due process and fair trial rights

150. Crimean residents continued to be subjected to Russian Federation laws and in some cases they were transferred to the Russian Federation to undergo trial. This was the case with Ukrainian film-maker Oleh Sientsov who on 25 August, was sentenced by a Russian Federation military court in the city of Rostov-on-Don to 20 years of prison for setting up a terrorist group and involvement in two attempted arson attacks in Crimea. HRMMU notes that the process was marred by violations of fair trial standards and of the presumption of innocence. The court dismissed allegations of torture and ill-treatment which Sientsov experienced during pre-trial detention, and delivered a guilty verdict despite the fact that the main prosecution witness recanted in the courtroom, stating his testimony had been extorted under torture. Oleksandr Kolchenko, who was being tried with Sientsov and also denied the charges against him, received a 10-year prison sentence for participation in the ‘terrorist plot’ organized by Sientsov. Both verdicts were appealed and will be examined by the Supreme Court of the Russian Federation on 24 November 2015.

¹⁰⁹ See Federal Law of the Russian Federation No 142-FZ “On Amendments to Articles 6 and 30 of the Federal Law ‘On Citizenship of the Russian Federation’ and certain legislative acts of the Russian Federation” (4 June 2014, entered into force 4 August 2014).

¹¹⁰ In all other cases, concealing a second citizenship will expose to a fine of up to RUB 200,000 (USD 5,700) or compulsory community service of up to 400 hours.

¹¹¹ For more information, see paragraph 295 of the 3rd OHCHR report on the human rights situation in Ukraine covering period from 7 May to 7 June 2014.

¹¹² For more information, see paragraph 216 of the 7th OHCHR report on the human rights situation in Ukraine covering period from 17 September to 31 October 2014.

151. On 12 October, a ‘court’ in Simferopol sentenced Eskender Nebiyev, a cameraman of the Crimean Tatar TV channel ‘ATR,’ to two years and six months of prison for “participation in mass riots” The sentence was immediately commuted by court to a suspended sentence as Nebiyev had allegedly cooperated with the investigation and admitted his guilt. Nebiyev was arrested by the Crimean “police” on 22 April 2015, and accused of participating in a violent demonstration organized by the Crimean Tatar Mejlis in front of the Crimean parliament building, on 26 February 2014. This was the first verdict issued in relation to these events, during which two ethnic Russians died and over 40 people were injured. Five other Crimean Tatars, including the deputy head of the Mejlis, Akhtem Chiigoz, were arrested in 2015¹¹³ for organizing or participating in the February 2014 clashes between supporters and opponents of Ukraine’s territorial integrity and await trial. HRMMU notes that the arrests have only concerned ethnic Crimean Tatars, which raises questions about the impartiality of the criminal proceedings under way.

E. Freedom of expression

152. Crimean residents continued to be pressured, intimidated and sanctioned for expressing views challenging Crimea’s status as a part of the Russian Federation or expressing attachment to Ukraine publicly or via social media networks.

153. On 23 September, a ‘court’ in Crimea prolonged for two months the pre-trial detention of a pro-Ukrainian activist, Yurii Ilchenko, for having published on a social network an article condemning the “annexation” of Crimea and calling for an “end to the war allegedly waged by the Russian Federation against Ukraine”. Ilchenko was arrested on 2 July 2015 in Sevastopol, and accused of “inciting national, racial or religious enmity”.

154. On 14 October, the ‘police’ in Crimea prevented the head of the unregistered Ukrainian cultural centre in Simferopol and two other residents from paying tribute to Bogdan Khmelnytsky, a 17th century ruler of Ukraine. Before the men could lay flowers at the monument in Simferopol, they were approached by ‘police officers’ and men in civilian clothes who asked to check their documents and took them to the ‘police centre for countering extremism’. They were questioned for two hours, allegedly for holding an unauthorized rally, told that the Ukrainian cultural centre was considered to be an extremist organization, and released without being charged with any offense. HRMMU observes that the actions of the ‘police’ seemed to be designed to intimidate and discourage what amounted to a peaceful public display of attachment to a national identity.

155. On 29 October, the head of the Mejlis and Ukrainian deputy Refat Chubarov, received a notification from a court in Simferopol informing him that the court had granted a request of the ‘prosecutor’ of Crimea to remand him in custody. The notification mentions that Chubarov was charged for “public calls for action aimed at violating the territorial integrity of the Russian Federation”, and applies to any statements made on the Internet. The ‘prosecutor’ of Crimea stated that Chubarov had been placed on a wanted list and could be immediately arrested should he appear on the territory of Crimea. He also declared that a five-year entry ban that applied to Chubarov since 5 July 2014 had been lifted, without providing further information.

F. Right to education in native language

156. 1 September marked the beginning of the new school year in Crimea where the education curriculum of the Russian Federation has continued to be applied. Information from the Crimean ‘ministry of education’ concerning the language of education confirms the

¹¹³ Akhtem Chiigoz was arrested on 29 January 2015, Eskender Kantemirov on 7 February 2015, Eskender Emirgaliyev on 18 February 2015, Talyat Yunusov on 11 March 2015, and Ali Asanov – on 15 April 2015.

trend already noticed last year that the overwhelming majority of children (96.4 per cent) use Russian language in their school curriculum.

157. Education in Ukrainian language dropped significantly in the past two years. In 2013, when the curriculum of Ukraine was last used, the number of children educated in Ukrainian was 12,694; in 2014, it was 2,154; and in 2015, it is 949. Twenty-two schools across the peninsula are currently providing teaching in Ukrainian but only two schools – in Alushta and Feodosiya – offer full primary and secondary education (grades 1 to 9) in that language. The number of children educated in Crimean Tatar language has remained relatively stable. In 2015, Crimean Tatar is the language of education of 5,334 children. In 2014 the figure was 5,146, and in 2013, it was 5,551. Currently, teaching is done exclusively in Crimean Tatar language in 15 Crimean schools.

158. Some Ukrainian and Crimean Tatar parents told HRMMU that the *de facto* authorities were discouraging the use of minority languages, notably by preventing the grouping of children by language preference and placing them in classes with Russian language education. This claim is disputed by the *de facto* authorities. The ‘minister of education, science and youth’ of Crimea stated in September that separate classes were opened for minority language education if at least seven parents would request it.

G. Access to services

159. On 1 September, the Kyiv administrative court of appeal revoked Item 1 of Resolution No 699 adopted by the National Bank of Ukraine (NBU) on 3 November 2014, which identified Crimeans as “non-residents” from the point of view of Ukrainian law. A practical implication of the non-resident status was that Crimeans could not open foreign currency accounts and purchase foreign currency.

160. On 18 December 2014, following criticism by civil society, NBU issued another Resolution (No 810) allowing Crimeans registered as IDPs to retain resident status. However, this resolution did not change the situation of Crimeans not registered as IDPs. A September 2015 decision of the Kyiv administrative court of appeal remedied this by recognizing the right of all Crimean residents, without distinction, to equal treatment in accessing banking services. Despite this decision, many banks continued in September and October to deny Crimean residents not having the IDP status the right to purchase foreign currency and open foreign currency accounts. On 30 October, NBU sent an official note to all banks informing them that all prior restrictions applying to Crimean residents were lifted. HRMMU will monitor whether access to banking services is afforded to Crimean residents without discrimination.

VIII. LEGAL DEVELOPMENTS AND INSTITUTIONAL REFORMS

A. Constitutional reform

161. Constitutional amendments on decentralization were adopted on first reading by the Parliament on 31 August 2015. They enshrine the principle of subsidiarity, simplify the territorial structure of the State and separate the functions of the State and those of local self-governments, which are all positive aspects. They also refer to a law, which was adopted in 2014 but never implemented, providing for the transfer of some competencies to the territories of the Donetsk and Luhansk regions controlled by the armed groups. This specific aspect triggered a violent reaction from supporters of far right groups who clashed with the police outside the parliament building, leading to the death of four members of the National Guards and over 100 people being injured. The final adoption of the law requires a constitutional majority of deputies (at least 300).

162. As of 15 November, constitutional amendments related to the judiciary had not been registered at the Parliament of Ukraine. The current version of the amendments removes some constitutional obstacles to an independent judiciary, notably by requiring that the institution in charge of appointing and removing judges be made up of a majority of representatives of the judicial branch. The amendments also remove the broad powers of the public prosecutor, which have often been abused, to oversee the implementation of the law.

163. In November 2015, the amendments to the human rights chapter of the Constitution were still under development by a working group of the constitutional commission in charge of constitutional reform. One of the major novelties envisaged in the current draft is to enable citizens to initiate a constitutional review of laws.

B. Adoption of a National Human Rights Strategy

164. On 25 August, President Poroshenko approved the first National Human Rights Strategy of Ukraine. This document was developed through collaborative efforts that have involved, since November 2014, the Government, civil society groups, the institution of the Ombudsperson and international organizations, including HRMMU. The document describes 24 priority areas¹¹⁴ and provides a five-year roadmap to address systemic human rights challenges and more recent issues related to the conflict. The Government was tasked by the President to elaborate an Action Plan to implement it. HRMMU supports the development of the Action Plan.

C. Cooperation with the International Criminal Court

165. On 8 September 2015, the Registrar of the International Criminal Court received a declaration lodged by Ukraine accepting the Court's jurisdiction with respect to alleged crimes committed in its territory since 20 February 2014. The declaration was lodged 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. This is Ukraine's second declaration under article 12(3) of the Statute. On 17 April 2014, it accepted the Court's jurisdiction over alleged crimes committed on its territory from 21 November 2013 to 22 February 2014. Based on the latest declaration, the Court may exercise jurisdiction over crimes that were committed after the Maidan events, on the entire territory of Ukraine. HRMMU views this development as a significant contribution towards the establishment of accountability for human rights violations and justice for victims and their relatives.

D. Visa liberalization package

166. From 10 to 12 November, the parliament of Ukraine adopted several laws and measures bringing positive changes, and which were requested under the European Union visa-liberalization Action Plan. They include anti-corruption measures, such as the establishment of a national Asset Recovery Office and guarantees against corruption risks when property is seized or confiscated. Legislative amendments were passed to limit the pre-trial investigative functions of SBU to crimes against national security. In the area of migration management, amendments adopted on first reading provide for an immediate judicial review of decisions to expel or detain foreigners and stateless persons. The issue of the reintegration of migrant workers was regulated by a law on external labour migration.

167. The most divisive topic was the requirement under the visa liberalization action plan to explicitly prohibit discrimination on the grounds of gender identity and sexual orientation in labour relations. It took several rounds of votes for deputies to adopt this amendment to the labour legislation.

¹¹⁴ The 24 priority areas include, among other issues, torture and ill-treatment, impunity, fair trial rights, fighting discrimination, national minority rights, gender equality, fundamental freedoms, the right to health, IDP rights and those of the population living in the territories not controlled by Ukraine.

E. Labour Code

168. Amendments to the Labour Code were passed on first reading on 5 November. Guarantees were introduced to strengthen the protection of workers, such as the obligation to conclude an employment contract in writing, the prohibition to change working conditions unilaterally, a higher salary for night work, a two-month notice and a higher compensation package in case of dismissal.

169. Nonetheless, some provisions seem to contravene the principle of equality before the law. For example, the transitional provisions foresee the right for legal entities in the area of the security operation to regulate employment issues pertaining to working hours, resting time and salaries, without taking into consideration the provisions of the Labour Code. HRMMU recalls that, pursuant to article 7 of the International Covenant on Economic, Social and Cultural Rights, State Parties must “recognize the right of everyone to the enjoyment of just and favorable conditions of work”. HRMMU also notes that the adoption, on 12 November, of labour legislation prohibiting discrimination on the grounds of sexual orientation needs to be reflected in the Labour Code.

F. Criminal justice reform

170. On 12 November, the Parliament adopted a law¹¹⁵ creating a State Bureau of Investigation (SBI) defined as a central executive body with special status and law enforcement functions. SBI is mentioned in the Criminal Procedure Code of Ukraine as an instrument to improve the independence and effectiveness of pre-trial criminal investigations. It is mandated to investigate organized crime, excess of authority, torture, inhuman, degrading or other cruel treatment or punishment committed by members of the law enforcement and the military; crimes which may give rise to a life imprisonment sentence; war crimes; crimes committed by high-ranking officials, prosecutors and judges¹¹⁶, members of the National Anti-Corruption Bureau and the Special Anti-Corruption Office of the General Prosecution¹¹⁷. The law stipulates that SBI will have seven regional offices¹¹⁸. SBI will issue annual activity reports which will be subjected to review by a public oversight council consisting of 15 members of the public. HRMMU views the adoption of the law as an important step in the creation of an independent criminal justice system. However, it notes with concern that the law gives the executive authority the main prerogative in the selection of the Bureau director and the two deputies¹¹⁹.

G. Protection of internally displaced persons

171. Two Government resolutions (Nos 615 and 636) adopted in August 2015 could affect IDPs’ rights and limit their ability to obtain IDP status. A new rule obliges people seeking to be recognized as IDPs to sign a declaration of non-participation in the commission of criminal activity. Another one provides that IDP registration may be denied if the circumstances that led to the displacement “are absent” or have significantly changed. HRMMU is of the view that the unclear meaning and consequences of such provisions increase the risk of arbitrary decisions regarding the attribution or removal of IDP status. Another provision, subject to different interpretations, specifies that unaccompanied children may be registered as IDPs in case of non-performance of parental obligations. In addition to creating legal uncertainty, this may lead to the deprivation of parental rights.

¹¹⁵ Draft Law No 2114 ‘On the State Bureau of Investigation’.

¹¹⁶ Except for cases falling under the jurisdiction of the National Anti-Corruption Bureau.

¹¹⁷ Except for cases falling under the jurisdiction of an internal oversight mechanism of the National Anti-Corruption Bureau.

¹¹⁸ In Lviv, Khmelnytskyi, Mykolaiv, Poltava, Melitopol, Kramatorsk and Kyiv.

¹¹⁹ The law provides that the Government appoints the Director of the Bureau and its two Deputies upon a submission of the Prime Minister based on the proposal of a Selection Commission consisting of nine persons: three persons chosen by the government, three by the president and three by the parliament.

172. Progress was made to ensure the legal protection of IDPs. HRMMU observes that the amendments to the law on IDPs¹²⁰, adopted on 3 November, reflect key provisions of the United Nations Guiding Principles on Internal Displacement. Accordingly, the amendments extend the scope of the law to heretofore excluded categories, such as internally displaced foreign nationals and stateless persons who legally reside on the territory of Ukraine and are eligible for permanent residence in Ukraine. The amendments also stipulate that the Government should support the integration of IDPs in new communities, as well as their voluntary return to their previous place of residence. They also recognize the rights of IDPs to family reunification and to information about the fate and whereabouts of missing relatives. Furthermore, the amendments simplify the procedures for IDP registration and revocation of labour relations prior to displacement.

H. Civil documents

173. On 5 November, the Parliament adopted on first reading Draft Law No 3171¹²¹, which is to regulate the recognition by Ukraine of facts of birth and death occurring on the territories controlled by the armed groups in the east, as well as in Crimea, by amending the Civil Procedure Code. Indeed, under the current legislation, all acts issued by *de facto* authorities are considered to be invalid by Ukrainian authorities¹²². This situation has prevented people from the territories concerned from enjoying the same rights as other citizens of Ukraine.

174. The draft law creates a simplified procedure of court review pertaining to the registration of civil acts. In particular, it waives the principle of territorial jurisdiction by allowing any Ukrainian court to examine a request for recognition. Birth and death certificates will be issued by the civil registration body upon receipt of a copy of the judgment authorizing it.

175. HRMMU notes that the draft law covers some but not all civil documents. Furthermore, in the absence of postal services between the territories controlled by the armed groups (and Crimea) and the rest of Ukraine, a claimant would need to be physically present on Government-controlled territory to file for recognition or to empower a representative to do so.

176. The International Court of Justice (ICJ) in its Namibia Advisory Opinion¹²³ provided that while official acts performed by *de facto* authorities “are illegal and invalid, this invalidity cannot be extended to those acts, such as, for instance, the registration of births, deaths and marriages, the effects of which can be ignored only to the detriment of the inhabitants of the [t]erritory”. This exception was upheld by the European Court of Human Rights in its case law regarding the “TRNC”¹²⁴ and “MRT”¹²⁵. Thus, it would appear that the solution proposed by the draft law falls short of the standards supported by international

¹²⁰ Law of Ukraine ‘On Ensuring the Rights and Freedoms of Internally Displaced Persons’, No 1706-VII of 20 October 2014.

¹²¹ Law of Ukraine ‘On amendments to the Civil Procedural Code of Ukraine concerning the establishment of the fact of birth or death on the temporary occupied territory’, No. 3171 of 22 September 2015.

¹²² On 16 October 2015, Ukraine informed the United Nations Secretary-General as the depository of international treaties that “documents or requests made or issued by the occupying authorities of the Russian Federation, its officials at any level in the Autonomous Republic of Crimea and the city of Sevastopol and by the illegal authorities in certain districts of the Donetsk and Luhansk oblasts of Ukraine, which are temporarily not under control of Ukraine, are null and void and have no legal effect regardless of whether they are presented directly or indirectly through the authorities of the Russian Federation”. See note of the Ministry of Foreign Affairs of Ukraine №72/22-612-2486 of 12 October 2015).

¹²³ ICJ Advisory Opinion of 21 June 1971 – *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, paragraph 125.

¹²⁴ *Loizidou v. Turkey* (Merits), Judgment of 18 December 1996, ECHR (1996), para. 45; *Cyprus v. Turkey* (Merits), Judgment of 10 May 2001, ECHR (2001), para. 90.

¹²⁵ *Ilascu and Others v. Moldova and Russian Federation*, Application n. 48787/59, Judgment of 8 July 2004, para. 458-461.

jurisprudence, which imply direct recognition by Ukraine's institutions of the registration of births, deaths and marriages performed by *de facto* authorities.

I. Freedom of movement

177. On 16 September, the Government of Ukraine amended¹²⁶ decree No 367 of 4 June 2015 concerning the procedure of entry into and exit from Crimea for foreigners and stateless persons. The amended decree widens the category of people who can move across the ABL if they are in possession of special permits. In addition to the categories mentioned under the previous decree¹²⁷, the new one includes journalists, human rights defenders, representatives of international NGOs, religious officials and persons taking part in the activities of the Mejlis.

178. The procedure, however, to obtain a permit remains cumbersome and requires the approval of a relevant Ukrainian Ministry. In addition, the request for a permit cannot be filed from abroad but only on the Ukrainian territory. It should be noted that the amended decree maintains provisions regarding restrictions of freedom of movement for Ukrainian children below 16, who are required to travel with an international passport and to obtain the notarized authorization of the second parent when traveling with only one.

XI. CONCLUSIONS AND RECOMMENDATIONS

179. All measures need to be taken to prevent the resumption of hostilities in the eastern regions of Ukraine, to save lives and to prevent further hardship for those people living in the conflict-affected area. With the tenuous respect for the ceasefire agreed upon on 29 August, people still continue to be killed and injured.

180. OHCHR reiterates that the full implementation of the Minsk Agreements remains the only viable strategy for achieving a peaceful solution in Donbas, which would pave the way for fuller respect of the rights of people, both in the conflict area and elsewhere in Ukraine. Continuing presence of foreign fighters, with some having been established by a Ukrainian court or identified by the Government of Ukraine as servicemen from the Russian Federation, as well as the reported influx of heavy and sophisticated weaponry from the Russian Federation and the lack of effective control by the Government of Ukraine of the state border with the Russian Federation remain the major impediments to this solution¹²⁸.

181. The impact of the conflict on economic and social rights for people residing in the conflict areas of Donetsk and Luhansk regions remains significant. The interruption of access to basic services is life-threatening and can have a life-long impact on the affected population, hindering the post-conflict recovery. It is especially worrying with the onset of winter. In this regard, unimpeded access to humanitarian assistance for those people who have been directly affected by the armed conflict in territories controlled by the armed groups remains vital. HRMMU considers that both the Government and the armed groups have the obligation to ensure the critical needs of the affected population are met to prevent the decline

¹²⁶ Decree No 722.

¹²⁷ People who could obtain a permit included those with relatives living or buried in Crimea, having property on the peninsula, participating "in the defence of national interests of Ukraine", performing diplomatic or consular functions and railway system employees.

¹²⁸ On 25 September, Dzerzhynskiy District Court of Donetsk region sentenced a citizen of the Russian Federation, who confessed to being an acting officer of the Armed Forces of the Russian Federation, to 14 years of imprisonment, under article 437 (planning, preparation and waging of an aggressive war) of the Criminal Code. The man was apprehended by the State Border Guard Service of Ukraine on 25 July 2015, as the truck he was driving approached the check-point of 'Berezove' (Donetsk region) carrying boxes with grenades, cartridges and rocket-propelled grenades. For more information on his case and on the case of two other citizens of the Russian Federation alleged to be acting servicemen of the Armed Forces of the Russian Federation, see paragraphs 58-59 and 188 of the 11th HRMMU report on the human rights situation in Ukraine covering the period from 16 May to 15 August 2015.

in their health and welfare, including through the provision of humanitarian assistance, in line with obligations under international humanitarian law.

182. Accountability and an end to impunity should remain at the core of efforts to ensuring peace, reconciliation and long-term recovery throughout Ukraine. All violations and abuses of human rights must be investigated and the perpetrators, whoever they are, should be brought to justice. This concerns events dating back to 2014 and the first half of 2015, and the new cases. Investigations into allegations of killings, summary executions, torture and ill-treatment, and enforced disappearance and illegal detention shall become a priority.

183. The human rights situation in Crimea continues to be of great concern due to persistent allegations of violations of the rights to life, liberty, security and physical integrity, and non-respect of due process, fair trial rights and the rights to freedoms of expression and peaceful assembly. The trade blockade of Crimea has human rights implications and affects more acutely some vulnerable groups. The lack of HRMMU access to Crimea continues to be an impediment for OHCHR to effectively fulfil its mandate in Ukraine. OHCHR also reiterates that 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.

184. OHCHR has noted progress made by the Government of Ukraine in the implementation of some recommendations contained in previous HRMMU reports, including their declaration to extend the jurisdiction of the International Criminal Court beyond the Maidan events, the adoption of the country's first human rights strategy, and of various laws, including legislation mentioning gender identity and sexual orientation as prohibited grounds of discrimination in employment relations.

185. Recommendations made in OHCHR previous reports on the human rights situation in Ukraine published since April 2014, that have not yet been acted upon or implemented, remain valid. OHCHR calls upon all parties to implement the following recommendations:

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

- a) Guarantee efforts to abide by and implement the Minsk Agreements to end the conflict in the Donbas region and bring an end to the fighting in all localities.
- b) Ensure the protection of civilians in conflict affected areas in full conformity with international human rights and humanitarian law, including complete avoidance of indiscriminate shelling of populated areas.
- c) Report on, and investigate all cases and incidents of civilian casualties caused by military action.
- d) Establish civilian casualty mitigation cells within their competent bodies to prevent violations of international humanitarian law leading to civilian casualties.
- e) Prioritize demining activities and conduct mine risk awareness outreach to children and communities.
- f) Release all those unlawfully or arbitrarily detained without delay and in conditions of safety.
- g) Treat all detainees, civilian or military, humanely and according to international human rights and humanitarian law standards.
- h) Investigate and prosecute any person found to be responsible for serious human rights violations or abuses, including torture and other cruel, degrading or inhumane treatment or punishment, summary or arbitrary executions, or enforced or involuntary disappearances, including those with command responsibility.
- i) Ensure freedom of the media and the liberty, security and rights of journalists to freely conduct their legitimate professional activities.

- j) Facilitate the work of humanitarian actors, both individuals and institutions, to ensure that the population has access to relief aid, particularly those delivering medication, providing medical care and basic services.
- k) Provide additional security guarantees for humanitarians, both individuals and institutions, accessing settlements divided by the contact line.

To the Government of Ukraine

- a) Enable the Office of the Military Prosecutor to exercise general oversight over the military and law enforcement.
- b) Ensure prompt and effective investigations of all crimes motivated by ethnic or religious hatred.
- c) Reconsider restrictions of freedom of movement imposed by the Temporary Order vis-à-vis ICCPR provisions, particularly legality and proportionality of the restrictions. Meanwhile, facilitate the movement of civilians across the contact line by increasing the number of transport corridors, especially in Luhansk region, restore public transportation between the checkpoints and nearest towns, equip all checkpoints with medical services, water, sanitation and heating facilities to create favorable conditions for crossing, including during winter.
- d) Facilitate and ensure access of the victims of torture, especially civilians, to medical, rehabilitation, social and employment services.
- e) Develop legal mechanism for civilians whose property has been damaged, looted or seized for military purposes to seek and receive compensation.
- f) Seek ways to ensure progressive realization of economic and social rights, especially right to social security and protection for the people living in the conflict areas, including by ensuring continuity in public social services.
- g) Exclude from the draft Labour Code discriminatory provisions allowing waiving in the security operation area the application of certain rules regulating employment relations.
- h) In line with the jurisprudence of the International Court of Justice and the European Court of Human Rights, recognize civil registration documents (birth, death and marriage certificates) issued in territories controlled by the armed groups.
- i) Ensure the rule of law on the territory of the Kherson region adjacent to the three crossing points between mainland Ukraine and the Crimean peninsula.
- j) Take steps to remove the illegal roadblocks, guarantee the safety of passengers and pedestrians, and prevent unauthorized people from carrying out law enforcement functions in the areas adjacent to the crossing points between mainland Ukraine and the Crimean peninsula.

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

- k) Permit HRMMU to access Crimea in order to ensure effective fulfilment of its mandate;
- l) Stop using law enforcement bodies and the justice system as instruments of political pressure, blackmail and intimidation of opponents.
- m) Guarantee impartial investigations and fair trial conditions for Crimean Tatars undergoing criminal proceedings in relation to the protests of 26 February 2014.
- n) Investigate the killing of Crimean Tatar Reshat Ametov and enforced disappearances of Crimean civil society and human rights activists Timur Shaimardanov and Seiran Zinedinov¹²⁹ and Vasyl Chernysh¹³⁰, and bring perpetrators to justice.

¹²⁹ See paragraph 214 of the 7th OHCHR report on the human rights situation in Ukraine covering period from 17 September to 31 October 2014.

¹³⁰ See paragraph 80 of the 8th OHCHR report on the human rights situation in Ukraine covering period from 1 to 30 November 2014.

- o) Release Ukrainian citizens Oleh Sientsov and Oleksandr Kolchenko who were sentenced by a Russian Federation court in denial of due process and fair trial proceedings.
- p) Allow unimpeded exercise of the freedoms of peaceful assembly, expression and religion by all Crimean residents and to accept and protect all non-violent forms of expression.
- q) Ensure the continued availability of education in the Ukrainian language.


Annex 313

OHCHR, Accountability for Killing in Ukraine from January 2014 to May 2016 (2016)

**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 2014¹, 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 individuals² 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’³ or the self-proclaimed ‘Luhansk people’s republic’⁴, 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

¹ 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.

² 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).

³ Hereinafter referred to as ‘Donetsk people’s republic’.

⁴ 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'), 25th 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 Sevastopol⁵, 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.⁶ The right to life is non-derogable, and cannot be suspended even at times of public emergency, such as political instability.⁷ Respect for the right to life is also a rule of customary international law⁸ 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

⁵ Hereinafter referred to as Crimea.

⁶ 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.

⁷ International Covenant on Civil and Political Rights, Article 4.

⁸ 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.⁹

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 resolution¹⁰ 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)¹¹, 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.¹² 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.¹³

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.¹⁴

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.

⁹ Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/26/36, para 46.

¹⁰ 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.

¹¹ Ratified by Ukraine on 12 November 1973.

¹² 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".

¹³ 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".

¹⁴ 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 instruments¹⁵, 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.¹⁶

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.¹⁷

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”.¹⁸

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

¹⁵ 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”.

¹⁶ 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.

¹⁷ See 10th OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2015, paragraphs 9 and 129; and 12th OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015, paragraphs 6 and 129.

¹⁸ Sassòli, M., Bouvier, A., Quintin A. (eds), *How Does Law Protect in War?* (3rd edn., Geneva: ICRC, 2011), Vol. I, at 1.

the Constitution.¹⁹ 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.²⁰ 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.²¹ 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).²² In public order situations, lethal force may only be used if it is "strictly unavoidable in order to protect life".²³ 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.

¹⁹ 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.

²⁰ See International Criminal Court. Report on Preliminary Examination Activities (2015), para 97, 98 and 101.

²¹ 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).

²² 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.

²³ 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 individuals²⁴ and 13 law enforcement officers.²⁵ 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”.²⁶

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’²⁷, a Maidan protestor and five other persons.²⁸

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 2014²⁹, 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

²⁴ See Annex I, Table 1.

²⁵ See Annex I, Table 2.

²⁶ International Criminal Court. Report on Preliminary Examination Activities (2015), para 93.

²⁷ Armed civilians, sometimes wearing camouflage and masks, often having criminal record, engaged by the law enforcement to attack the protestors.

²⁸ 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.

²⁹ 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 charged³⁰, 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 died³¹ 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.³²

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.³³

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

³⁰ By the time the law was adopted, no individuals were charged for killing a law enforcement official during the Maidan events.

³¹ See Annex I, table 3.

³² See 14th OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016, paragraphs 76-80; 13th OHCHR report on the human rights situation in Ukraine covering the period from 16 November 2015 to 15 February 2016, paragraphs 97-101; and 12th OHCHR report on the human rights situation in Ukraine covering the period from 16 August to 15 November 2015, paragraphs 122-128.

³³ 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 ICC³⁴ and the International Criminal Tribunal for the former Yugoslavia (ICTY)³⁵ 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 attacks³⁶, proportionality³⁷ and precautionary measures.³⁸

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.³⁹ Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities is a war crime.⁴⁰ 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.⁴¹

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 2014.⁴² 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”.⁴³

³⁴ International Court of Justice, Nuclear Weapons case, Advisory Opinion, para 179.

³⁵ ICTY, Kupreškić case, Judgment, para 180, and Kordić and Čerkez case, Decision on the Joint Defence Motion and Judgment, para 182.

³⁶ ICRC, *Database on customary international humanitarian law*, rules 11ff.

³⁷ ICRC, *Database on customary international humanitarian law*, rule 14.

³⁸ ICRC, *Database on customary international humanitarian law*, rules 15ff.

³⁹ Rome Statute, Article 7(1)(a).

⁴⁰ Rome Statute, Article 8(2)(b)(ia).

⁴¹ Rome Statute, Article 8(2)(c)(i).

⁴² 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”.

⁴³ 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 report⁴⁴ 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.⁴⁵ 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.⁴⁶

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 motives⁴⁷, or were seen by the alleged perpetrators as retaliation for killings or other atrocities

⁴⁴ See Annex I, paragraphs 6-14.

⁴⁵ Additional Protocol II, Article 4(2)(a) and Common Article 3 to the Geneva Conventions.

⁴⁶ ICRC, Customary International Humanitarian Law: Volume 1: Rules, rule 158.

⁴⁷ 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 side⁴⁸, or by an unwillingness to extend medical aid to, and/or evacuate, those heavily injured.⁴⁹

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.⁵⁰ 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.⁵¹

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.⁵²

43. The armed groups started resorting to summary executions and killings as early as in April 2014.⁵³ 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.⁵⁴ Some of the executions were allegedly carried out upon the imposition

⁴⁸ See Chepiha case (Annex I, paragraphs 15-16); Kudriavtsev case (Annex I, paragraphs 17-19); and Kapatsii case (Annex I, paragraphs 30-31).

⁴⁹ See Havryliuk case (Annex I, paragraphs 22-24), Vuhlehirsk case (Annex I, paragraph 29).

⁵⁰ Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Principle 2.

⁵¹ ICRC, Customary International Humanitarian Law: Volume 1: Rules, rule 158.

⁵² See Annex I, paragraphs 33-92.

⁵³ See Diakovskiy, Popravko and Rybak case (Annex I, paragraphs 33-36).

⁵⁴ 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.⁵⁵ In at least one case, the victims may have been executed out of racial hatred.⁵⁶

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 them⁵⁷, or by the “separatist” or “pro-Russian” views of a victim.⁵⁸

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.⁵⁹ 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 investigation⁶⁰, or being tried in courts⁶¹, or already sentenced.⁶² In some cases, however, the progress in the investigation is slow and no suspects have been identified so far⁶³, 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.⁶⁴ In some cases, it appears that an investigation is protracted deliberately so that alleged perpetrators are provided with opportunities to escape justice.⁶⁵ Armed groups appear to ‘investigate’ some cases⁶⁶ 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”.⁶⁷

⁵⁵ See Klymchuk case (Annex I, paragraphs 43-45); and Pichko case (Annex I, paragraph 46).

⁵⁶ See Lyana Vidak, Margarita Vidak and Marina Fedorenko case (Annex I, paragraphs 56-57).

⁵⁷ 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).

⁵⁸ See Kulmatytskyi and Holota case (Annex I, paragraphs 75-77); and Buzyna case (Annex I, paragraphs 79-84).

⁵⁹ See, for example, Brianka case (Annex I, paragraphs 58-60).

⁶⁰ See Piven case (Annex I, paragraphs 63-65); and Buzyna case (Annex I, paragraphs 79-84).

⁶¹ See Agafonov case (Annex I, paragraphs 71-72); and Bakulin, Plotnykov and Ustinov case (Annex I, paragraphs 83-84).

⁶² See Verenich and Verenich case (Annex I, paragraphs 61-62); and Kulmatytskyi and Holota case (Annex I, paragraphs 79-84).

⁶³ 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).

⁶⁴ See Kazantsev case (Annex I, paragraphs 102-103); and Nazdrychkin case (Annex I, paragraphs 85-86).

⁶⁵ See Buzyna case (Annex I, paragraphs 79-84).

⁶⁶ 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).

⁶⁷ 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.⁶⁸

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 (SIZOs⁶⁹, ITTs⁷⁰ 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.⁷¹ Dozens of them were executed or died in custody, as witnessed by people who were released.⁷² 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.⁷³

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 groups⁷⁴ or were suspected of affiliation with them.⁷⁵ 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 disappearance⁷⁶, 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

⁶⁸ Communication No. 120/1998, *Elmi v. Australia*, Views adopted by the Committee against Torture, 14 May 1999, para 6-7.

⁶⁹ Pre-trial detention facilities.

⁷⁰ Temporary detention facilities.

⁷¹ See 14th OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2016, paragraph 12.

⁷² See Donetsk case (Annex I, paragraph 93); Snizhne case (Annex I, paragraphs 96-97) and Slisenko case (Annex I, paragraphs 98-100). See also 12th OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015, paragraphs 35-36; 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015, paragraph 43; and 8th OHCHR report on the human rights situation in Ukraine covering period from 1 to 30 November 2014, paragraph 41.

⁷³ See *Asieiev and Pikalov* case (Annex I, paragraph 94) and *Yevtushenko* case (Annex I, paragraph 95).

⁷⁴ See *Niiesh Papa* case (Annex I, paragraph 101).

⁷⁵ See *Kazantsev* case (Annex I, paragraphs 102-103).

⁷⁶ 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.⁷⁷

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 unidentified⁷⁸ 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).⁷⁹ In one case, a person was disappeared because of his political views.⁸⁰

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.⁸¹

55. Armed groups have resorted to execution and killings as a punishment of their elements for the crimes of disciplinary misdeeds they committed.⁸²

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.⁸³

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’

⁷⁷ Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Principle 2.

⁷⁸ As of 1 June 2016, identification of up to 1,000 bodies in the Government-controlled territories (both in morgues and buried) was pending.

⁷⁹ See Popov case (Annex I, paragraphs 106-108); Minchonok case (Annex I, paragraphs 109-110); and Kutsenko case (Annex I, paragraphs 111-112).

⁸⁰ See Dolhov case (Annex I, paragraphs 104-105).

⁸¹ See Kostakov case (Annex I, paragraphs 115-116); and Shabratskyi case (Annex I, paragraphs 117-118).

⁸² See Annex I, paragraphs 113-114.

⁸³ 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.⁸⁴ The alleged victims were either ‘pro-unity’ supporters⁸⁵, or Crimean Tatar activists.⁸⁶ 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 actors⁸⁷—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.

⁸⁴ See Ametov case (Annex I, paragraphs 119-121).

⁸⁵ See Bondarets and Vashchuk case (Annex I, paragraph 123); and Chernysh case (Annex I, paragraph 124).

⁸⁶ See Shaimardanov and Zinedinov case (Annex I, paragraph 125); Dzhapparov 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).

⁸⁷ 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 Strategy⁸⁸ 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;

⁸⁸ See 11th 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 Crimea⁸⁹ 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.

⁸⁹ 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 actors⁹⁰, 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 ⁹¹ , 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.

⁹⁰ 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’.

⁹¹ 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 ⁹²	As of 1 June 2016, no perpetrators have been identified. Pre-trial investigation is ongoing
18-19 February 2014	
10 protestors (nine men ⁹³ and a woman ⁹⁴) 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.⁹⁵</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 protestor⁹⁶, was exempted from criminal responsibility by Pecherskyi District Court of Kyiv.⁹⁷ 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>

⁹² 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.

⁹³ 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).

⁹⁴ Ms Antonina Dvorianets (died of cardiac failure at Instytutska Street, on 18 February).

⁹⁵ Mr Serhii Shapoval, Mr Ihor Serdiuk and Mr Volodymyr Kishchuk.

⁹⁶ Mr Serhii Didych.

⁹⁷ 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)⁹⁸ 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 man⁹⁹ was found dead at the crossing of Velyka Zhytomyrska and Volodymyrska Streets, another man¹⁰⁰ – at Triokhsvyatytelska Street, and four other protestors (all men)¹⁰¹ 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’¹⁰²</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)¹⁰³ 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 individuals¹⁰⁴, 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>

⁹⁸ 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 Sydorhchuk (died on 28 June 2014).

⁹⁹ Vitalii Vasiltsov.

¹⁰⁰ Volodymyr Kulchytskyi.

¹⁰¹ 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).

¹⁰² Armed civilians, sometimes wearing camouflage and masks, often having criminal record, engaged by the law enforcement to attack the protestors.

¹⁰³ 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 Zherebnyi, Vladyslav Zubenko, Bohdan Ilkiv, Serhii Kemsnyi, 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.

¹⁰⁴ 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 country¹⁰⁵</p>
22 December 2013 – 3 June 2015 ¹⁰⁶	
Five protesters ¹⁰⁷ 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) ¹⁰⁸ has not been established; death of	

¹⁰⁵ See paragraph 117 of the 12th OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015.

¹⁰⁶ 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.

¹⁰⁷ 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).

¹⁰⁸ 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 person¹⁰⁹ is not investigated either by the Prosecutor's Office, or by police; and exact circumstances of the death of seven persons¹¹⁰ 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) ¹¹¹ 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 ¹¹² 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 ¹¹³	As of 1 June 2016, no perpetrators were identified. The pre-trial investigation is ongoing
20 February 2014	
Four Berkut servicemen ¹¹⁴ 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 ¹¹⁵ died on the spot and two ¹¹⁶ 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 Losynskyi, 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).

¹⁰⁹ Mr Maksym Horoshyshyn died of an acute type of pneumonia, on 20 February.

¹¹⁰ 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).

¹¹¹ Vasyl Bulitko, Dmytro Vlasenko, Vitalii Honcharov, Oleksii Ivanenko, Ivan Tepliuk, Maksym Tretiak and Andrii Fediukin.

¹¹² Serhii Tsvyhun.

¹¹³ Vitalii Zakharchenko.

¹¹⁴ Volodymyr Zubok, Serhii Mykhailovych, Mykola Symysiuk and Serhii Spichak.

¹¹⁵ Oleksandr Biriukov, Oleksandr Zhulkov, Hennadii Petrov and Mykola Yavorskyi.

¹¹⁶ 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.¹¹⁷ On 31 May 2016, Kyivskyi District Court of Odesa returned the indictment to prosecution to fix the inaccuracies.</p> <p>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 2016¹¹⁸</p>
<p>42 people (34 men¹¹⁹, seven women¹²⁰ and a 17-year-old boy¹²¹) 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.</p> <p>The fire brigade and senior police officers¹²² are under investigation for negligence in not taking appropriate actions to prevent or minimize the damage.</p> <p>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.¹²³ 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.</p> <p>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.</p> <p>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

¹¹⁷ See paragraph 77 of the 14th OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016.

¹¹⁸ He is accused of negligence in ensuring public safety in the city centre and at Kulykove Pole square.

¹¹⁹ 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.

¹²⁰ Khrystyna Bezhanyska, Hanna Varenkyyna, Nina Lomakyna, Svitlana Pikalova, Hanna Poluliakh, Iryna Yakovenko and Liubov Halahanova.

¹²¹ Vadym Papura.

¹²² 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.

¹²³ 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.¹²⁴

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' members¹²⁵ 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 participants¹²⁶ and one law enforcement officer¹²⁷ 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 four¹²⁸ 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

¹²⁴ See 14th OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016, para 182; and 13th OHCHR report on the human rights situation in Ukraine covering the period from 16 November 2015 to 15 February 2016, para 187.

¹²⁵ Mr Oleksii Sharov and Mr Artem Zhudov.

¹²⁶ Mr Danyla Didyk, Mr Mykola Melnychuk and Mr Ihor Tolmachov,

¹²⁷ Mr Vadym Rybalchenko.

¹²⁸ 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’.¹²⁹

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.¹³⁰ HRMMU learned that the convoy included more than 200 ‘Azov’ members who reportedly proceeded to the conflict zone.¹³¹ The local police conducting the investigation had not identified any suspects as of 1 June 2016.

Serhii Skrypnyk 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 Skrypnyk, 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.

¹²⁹ http://vlada.io/vlada_news/v-snezhnom-boeviki-dnr-ubili-na-trasse-dvuh-devushek-v-den-pobedy/

¹³⁰ HRMMU interview of 10 November 2014.

¹³¹ 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.¹³² 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.¹³³

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.¹³⁴

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 24th 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.¹³⁵ 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.¹³⁶

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.¹³⁷ 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,

¹³² Ibidem.

¹³³ HRMMU interview of 4 March 2015.

¹³⁴ Ibidem.

¹³⁵ See paragraph 101 below.

¹³⁶ <https://meduza.io/feature/2016/03/21/ya-ee-vzyal-i-lichno-peredal-plotnitskomu>

¹³⁷ 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.¹³⁸

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 Kalynovskyi, 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 Kalynovskyi, 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 Kalynovskyi 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.¹³⁹

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 Kalynovskyi, Malashniak, Norenko and Vlasenko.¹⁴⁰

¹³⁸ HRMMU interview of 23 July 2015.

¹³⁹ HRMMU interview of 30 October 2015.

¹⁴⁰ *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.¹⁴¹ 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.¹⁴²

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.¹⁴³ 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.¹⁴⁴ 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

¹⁴¹ HRMMU interview of 16 December 2015.

¹⁴² HRMMU interview of 21 December 2015.

¹⁴³ Ibidem.

¹⁴⁴ 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.¹⁴⁵

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.¹⁴⁶

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.¹⁴⁷

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.¹⁴⁸

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).¹⁴⁹ 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.

¹⁴⁵ HRMMU interviews of 1 October 2015, 1 October 2015 and 7 October 2015.

¹⁴⁶ Ibidem.

¹⁴⁷ Ibid.

¹⁴⁸ HRMMU interview of 8 May 2015.

¹⁴⁹ 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.¹⁵⁰

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.¹⁵¹ 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 2016.¹⁵²

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 25th 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.¹⁵³

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

¹⁵⁰ HRMMU interview of 5 April 2016.

¹⁵¹ HRMMU interview of 12 November 2015.

¹⁵² HRMMU interview of 5 April 2016.

¹⁵³ 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.¹⁵⁴ 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.

¹⁵⁴ 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 Radio¹⁵⁵, 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*”¹⁵⁶. OHCHR obtained copies of the ‘judgements’ delivered by the ‘martial court’¹⁵⁷ which sentenced four individuals to death (cases of two of them are presented below).¹⁵⁸

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.¹⁵⁹ 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.¹⁶⁰ 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.

¹⁵⁵ The audio file can be found at: <http://www.kp.ru/radio/stenography/142906/>

¹⁵⁶ A derogatory term referring to members of the Pravyi [Right] Sector.

¹⁵⁷ The ‘martial court’ comprised of ‘chair’ and ‘judges’, ‘prosecutor’, ‘defender’ and ‘secretary’.

¹⁵⁸ See two other cases in paragraphs 113-114 below.

¹⁵⁹ Protocol of the witness interrogation of 10 November 2014.

¹⁶⁰ 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 (Lutuhynskiy 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.¹⁶¹

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 Bochnyevychs 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 Bochnyevych – 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 Bochnyevychs’ house on 22 August 2014, reportedly coming from the nearby village of Pershozvanika.¹⁶²

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 Bochnyevych 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.¹⁶³

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”.¹⁶⁴

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.¹⁶⁵ In November

¹⁶¹ HRMMU interview of 18 August 2015.

¹⁶² HRMMU interview of 4 April 2016.

¹⁶³ *Ibidem*.

¹⁶⁴ HRMMU interview of 8 April 2016.

¹⁶⁵ 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.¹⁶⁶

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 Pershotravnevyyi 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,

¹⁶⁶ 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 25th Paratrooper Brigade from Dnipropetrovsk”.¹⁶⁷

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.¹⁶⁸

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.¹⁶⁹

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

¹⁶⁷ Amnesty International. Summary Killings during the Conflict in Eastern Ukraine, p. 13.

¹⁶⁸ HRMMU interview of 15 October 2014.

¹⁶⁹ 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 Dzerzhynskiy 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.¹⁷⁰

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.¹⁷¹ The Dzerzhynsk Department of Internal Affairs opened a criminal

¹⁷⁰ HRMMU interview of 2 March 2016.

¹⁷¹ *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.¹⁷²

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.¹⁷³

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.¹⁷⁴ 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.

¹⁷² 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.

¹⁷³ HRMMU interview of 14 September 2015.

¹⁷⁴ 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 24th 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.¹⁷⁵ 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

¹⁷⁵ Ruling of the Leninskyi District Court of Kharkiv of 18 March 2016 (available at: <http://reestr.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.¹⁷⁶ 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.¹⁷⁷

Denys Fomenko case

87. On 18 June 2015, Mr Denys Fomenko disappeared near the Government-controlled checkpoint in Yasnuvata 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.¹⁷⁸ Reportedly, on that day, the checkpoint was operated by the 53rd 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.¹⁷⁹ 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)

¹⁷⁶ HRMMU interview of 12 April 2016.

¹⁷⁷ "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.

¹⁷⁸ The distance between the two check points is approximately 15 kilometres.

¹⁷⁹ 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.¹⁸⁰

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.¹⁸¹

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.

¹⁸⁰ HRMMU interview of 24 February 2016.

¹⁸¹ 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.¹⁸² 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.¹⁸³

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 way. Members of the armed groups put his body into a black plastic bag and took him away.¹⁸⁴

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.¹⁸⁵ 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

¹⁸² Video footage is available at: <http://inforesist.org/zverstva-dnr-v-avdeevke-shokiruyushhie-kadry-18/>

¹⁸³ HRMMU interview of 21 April 2016

¹⁸⁴ *Ibidem*.

¹⁸⁵ 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.¹⁸⁶

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”.¹⁸⁷

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 ‘9th 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.¹⁸⁸ 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

¹⁸⁶ HRMMU interview of 2 October 2015.

¹⁸⁷ Ibidem.

¹⁸⁸ 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 62nd 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.¹⁸⁹

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 killed¹⁹⁰; his body has not been recovered.

¹⁸⁹ Can be accessed at: https://www.youtube.com/watch?v=Ppb0_-tHU90.

¹⁹⁰ 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’.¹⁹¹ 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.¹⁹²

2. Within Governmental forces

Serhii Kostakov case

115. On 22 November 2014, Mr Serhii Kostakov, a serviceman of the 72nd 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.¹⁹³ Only half a year later, on 2 June 2015, his body was found near the village of

¹⁹¹ http://lb.ua/news/2014/05/26/267846_seti_poyavilsya_prikaz_strelka.html

¹⁹² HRMMU interview of 8 April 2014.

¹⁹³ 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.¹⁹⁴

Dmytro Shabratskyi case

117. On 26 March 2015, Mr Dmytro Shabratskyi, a commander of the 3rd 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.¹⁹⁵

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

¹⁹⁴ Ibidem.

¹⁹⁵ Ibid.

conducted into this case.¹⁹⁶ 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.

¹⁹⁶ 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.

Annex 314

OHCHR, Report on the Human Rights Situation in Ukraine: 16 November 2015 to 15 February
2016

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

**Report on the human rights situation in Ukraine
16 November 2015 to 15 February 2016**

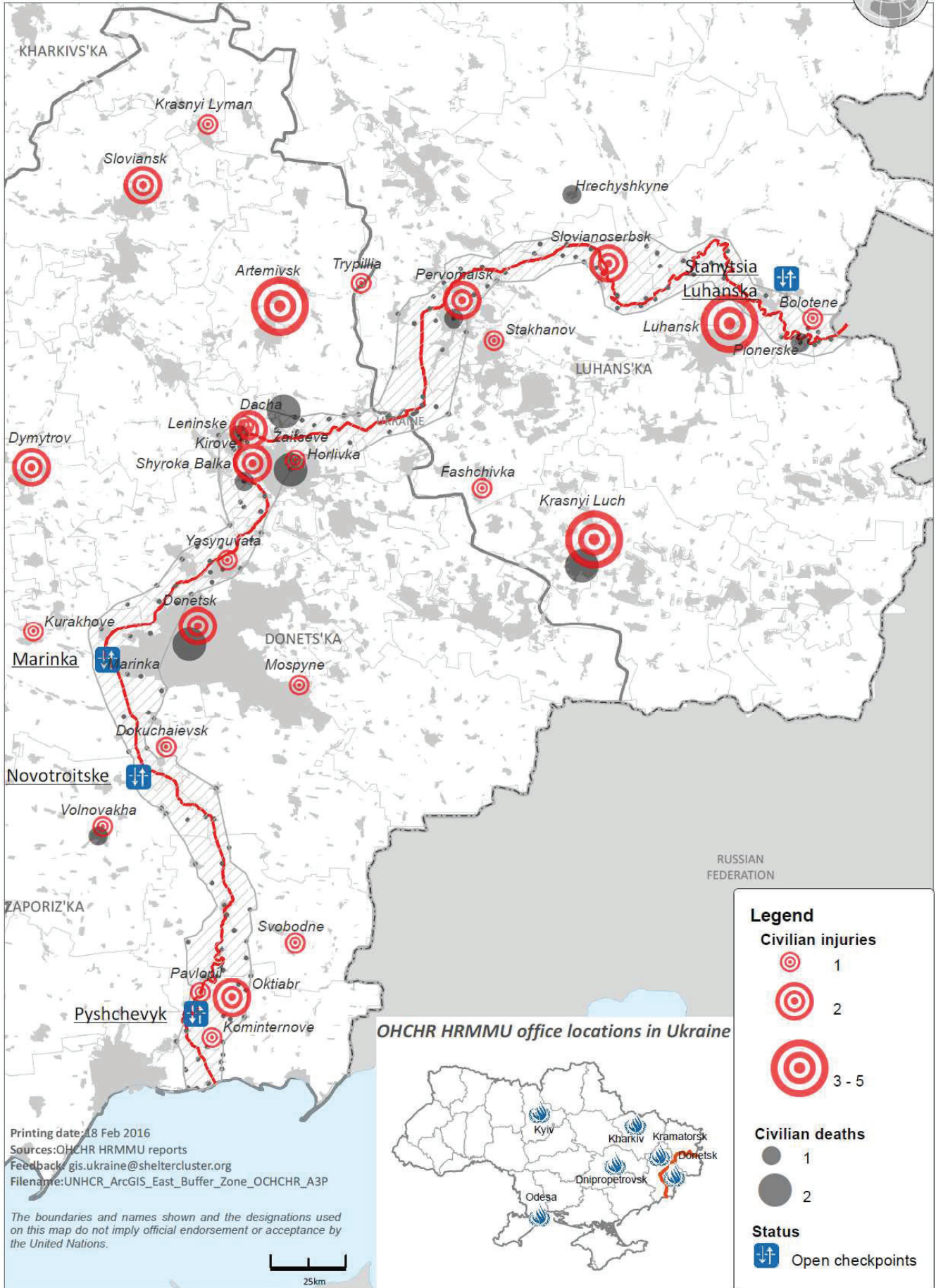
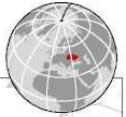


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I. Executive Summary

1. This is the thirteenth report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU)¹. It covers the period from 16 November 2015 to 15 February 2016².

2. During the reporting period, despite a reduction in hostilities, the armed conflict in eastern Ukraine continued to significantly affect people residing in the conflict zone and all their human rights. The Government of Ukraine continued to not have effective control over considerable parts of the border with the Russian Federation (in certain districts of Donetsk and Luhansk regions). Reportedly, this facilitated an inflow of ammunition, weaponry and fighters from the Russian Federation to the territories controlled by the armed groups.

3. The ceasefire in certain districts of Donetsk and Luhansk regions in eastern Ukraine agreed upon during the previous reporting period was further strengthened by the “regime of complete silence” introduced on 23 December 2015. However, in January and February, the Special Monitoring Mission of the Organization for Security and Cooperation in Europe (OSCE) observed systematic violations of the ceasefire. During the same period, clashes and exchanges of fire have escalated in several flashpoints, predominantly near the cities of Donetsk and Horlivka (both controlled by the armed groups), and in small villages and towns located on the contact line, such as Kominternove (controlled by armed groups) and Shyrokyne and Zaitseve (divided between Ukrainian armed forces and armed groups).

4. While small arms and light weapons were most frequently employed during these incidents, the OSCE Special Monitoring Mission continued to report the presence of heavy weapons, tanks and artillery systems under 100mm calibre on either side of the contact line. Even if sporadic, the continued occurrences of indiscriminate shelling and the presence of anti-personnel mines and remnants of war exposed civilians to a constant threat of death or injury. During the reporting period, explosive remnants of war (ERW) and improvised explosive devices (IED) remained the main cause of civilian casualties in the conflict zone.

5. In addition, Ukrainian armed forces continue to position themselves near towns and villages while armed groups have embedded deeper into residential areas, further endangering the local population. The risk of re-escalation of hostilities therefore remained high.

6. The conflict continued to cause civilian casualties. Between 16 November 2015 and 15 February 2016, OHCHR recorded 78 conflict-related civilian casualties in eastern Ukraine: 21 killed (13 men and eight women), and 57 injured (41 men, eight women, six boys and two girls) – compared with 178 civilian casualties recorded (47 killed and 131 injured) during the previous reporting period of 16 August – 15 November 2015. Overall, the average monthly number of civilian casualties during the reporting period was among the lowest since the beginning of the conflict. In total, from the beginning of the conflict in mid-April 2014 to 15 February 2016, OHCHR recorded 30,211 casualties in eastern

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

² The report also provides an update of recent developments on cases that occurred during previous reporting periods.

Ukraine, among civilians, Ukrainian armed forces, and members of armed groups – including 9,167 people killed and 21,044 injured.³

7. In the absence of massive artillery shelling of populated areas, ERW and IEDs remained the main cause of civilian casualties in the conflict zone during the reporting period. Given the threat that is presented by such weapons, there is an urgent need for extensive mine action activities, including the establishment of appropriate coordination mechanisms, mapping, mine risk education and awareness, on either side of the contact line.

8. People living in the conflict-affected area shared with OHCHR that they feel abandoned, particularly in villages located in the ‘grey’ or ‘buffer’ zone (See Map of Ukraine: Civilian casualties along the contact line, 16 November 2015 – 15 February 2016)⁴. Often trapped between Government and armed group checkpoints, some of these areas, such as Kominternove, have been deprived of any effective administration for prolonged periods of time. Others are divided by opposing armed forces (such as Shyrokyne and Zaitseve), while some towns are located near frontline hotspots (such as Debaltseve and Horlivka). The contact line has physically, politically, socially and economically isolated civilians, impacting all of their human rights and complicating the prospect for peace and reconciliation. Over three million people live in the areas directly affected by the conflict⁵ and urgent attention must be paid to protect and support them. Their incremental isolation emboldens those who promote enmity and violence, and undermines the prospect for peace.

9. Some assistance to territories under armed group control is being provided by local humanitarian partners, bilateral donors, and reportedly the Russian Federation, which delivers convoys, without the full consent or inspection of Ukraine. However, this aid is insufficient to respond to all the needs of 2.7 million civilians living in territories under the control of armed groups, and particularly those 800,000 living close to the contact line, who are particularly vulnerable.

10. The Government has registered 1.6 million internally displaced persons (IDPs), who have fled their homes as a result of the conflict. Between 800,000 and 1 million IDPs are living in territories controlled by the Government, where some continue to face discrimination in accessing public services. OHCHR has observed that some IDPs are returning to their homes, while others are unable to do so due to the destruction or military use of their property. According to government sources in neighbouring and European Union countries, over 1 million Ukrainians are seeking asylum or protection abroad, with the majority going to the Russian Federation and Belarus⁶.

11. According to the State Border Service, some 8,000 to 15,000 civilians cross the contact line on a daily basis, passing through six checkpoints in each transport corridor: three checkpoints operated by the Government, and three by the self-proclaimed ‘Donetsk people’s republic’⁷, with a stretch of no-man’s land in between. OHCHR has regularly observed up to 300-400 vehicles – cars, minivans and buses – waiting in rows on either side of the road. Passengers spend the night in freezing temperatures and without access to water

³ This is a conservative estimate of OHCHR based on available data.

⁴ The 2016 UN Humanitarian Response Plan for Ukraine identifies the 0.8 million people living in areas along the contact line (200,000 in areas under Government control and 600,000 in areas under the control of the armed groups) as being in particular need of humanitarian assistance and protection.

⁵ This comprises 2.7 million in areas under the control of the armed groups and 200,000 near the contact line in areas under government control.

⁶ UNHCR, Ukraine Operational Update, 20 January – 9 February 2016.

⁷ Hereinafter ‘Donetsk people’s republic’.

and sanitation. As a result of recent passport checks introduced by the self-proclaimed 'Donetsk people's republic', freedom of movement has been further restricted, aggravating the isolation of those living in the conflict-affected areas. Policy decisions by the Government of Ukraine have further reinforced the existing contact line barrier. Moreover, there remains an almost total absence of information regarding procedures at checkpoints, subjecting civilians to uncertainty and arbitrariness.

12. Residents of territories under the armed groups' control are particularly vulnerable to human rights abuses, which are exacerbated by the absence of the rule of law and any real protection. OHCHR continued to receive and verify allegations of killings, arbitrary and incommunicado detention, torture and ill-treatment in the 'Donetsk people's republic' and 'Luhansk people's republic'⁸. In these territories, armed groups have established parallel 'administrative structures' and have imposed a growing framework of 'legislation' which violate international law, as well as the Minsk Agreements.

13. The 'Donetsk people's republic' and 'Luhansk people's republic' continued to deny OHCHR access to places of detention. OHCHR is concerned about the situation of individuals deprived of their liberty in the territories controlled by armed groups, due to the complete absence of due process and redress mechanisms. Of particular concern are those currently held in the former Security Service building in Donetsk and in the buildings currently occupied by the 'ministries of state security' of the 'Donetsk people's republic' and 'Luhansk people's republic'.

14. OHCHR is also increasingly concerned about the lack of space for civil society actors to operate and for people to exercise their rights to freedoms of expression, religion, peaceful assembly and association in the territories controlled by armed groups. In January 2016, the 'ministry of state security' carried out a wave of arrests and detention of civil society actors in the 'Donetsk people's republic'.

15. OHCHR documented allegations of enforced disappearances, arbitrary and incommunicado detention, and torture and ill-treatment, perpetrated with impunity by Ukrainian law enforcement officials, mainly by elements of the Security Service of Ukraine (SBU). OHCHR urges the Ukrainian authorities to ensure prompt and impartial investigation into each reported case of human rights violations, as well as the prosecution of perpetrators. Accountability is critical to bring justice for victims, curtail impunity, and foster long-lasting peace.

16. OHCHR was granted access to official pre-trial detention facilities throughout areas under Government control⁹ and, following some of its interventions, noted some improvements in conditions of detention and access to medical care for some detainees in pre-trial detention in Odesa, Kharkiv, Mariupol, Artemivsk and Zaporizhzhia. In some cases, OHCHR intervention also led to due attention being afforded to allegations of ill-treatment and to law enforcement investigations into violations of other human rights in custody. These improvements confirm the importance for OHCHR to enjoy unfettered access to all places of detention.

17. OHCHR is concerned about the lack of action toward clarifying the fate of missing persons and preventing persons from going missing as a result of the armed conflict in eastern Ukraine. There should be a clear commitment at the highest levels of the

⁸ Hereinafter 'Luhansk people's republic'.

⁹ In particular, in December 2015 and January 2016, HRMMU was granted unimpeded access to Mariupol SIZO and Artemivsk Penal Institution No. 6 of the State Penitentiary Service of Ukraine, where it could conduct confidential interviews with detainees. The administration and personnel of SIZO and the Penal Institution were transparent and constructive during these visits. The heads and medical personnel expressed commitment to improve medical care for detainees.

Government of Ukraine and by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to fully cooperate on missing persons cases. Mechanisms to clarify the fate of missing persons need to be effective, impartial and transparent, and the victims and their families should always be at the centre of any action.

18. OHCHR continued to monitor the investigations and proceedings into the killings that occurred during the 2014 Maidan events, the 2 May 2014 Odesa violence, the 9 May 2014 Mariupol incidents and the 31 August 2015 Kyiv violence. The lack of progress in these cases undermines public confidence in the criminal justice system. It is essential that they be promptly addressed with absolute impartiality as their mishandling can jeopardize the peaceful resolution of disputes and fuel instability.

19. During the reporting period, the Government of Ukraine took steps towards ensuring greater independence of the judiciary, adopted a plan of action for the implementation of the National Human Rights Strategy, and improved its legislation on internally displaced persons (IDPs). However, some critical measures remain to be adopted, including the much-awaited parliamentary vote on decentralization, which has been postponed and should take place by 22 July 2016. Envisioned as part of the Minsk Process, this vote is to be the precursor to a series of steps toward peace. Decentralization was conceived as part of a package of confidence-building measures. These measures included the immediate and full ceasefire; pull-out of all heavy weaponry by either side of the contact line; dialogue on the modalities of conducting local elections in accordance with Ukrainian legislation; pardon and amnesty through law; release and exchange of all hostages and illegally-held persons; safe access and delivery of humanitarian aid; modalities for the full restoration of social and economic connections; restoration of control of the state border by the Ukrainian government in the whole conflict zone; pull-out of all foreign armed formations, military equipment, and mercenaries; constitutional reform containing the element of decentralization and approval of the special status of particular districts of Donetsk and Luhansk regions¹⁰.

20. The Government of Ukraine extended the territorial scope of its intended derogation from certain provisions of the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) to territories it does not effectively control, as well as to areas it partially or fully controls in Donetsk and Luhansk regions. This may further undermine human rights protection for those affected.

21. Despite being denied access to the peninsula, OHCHR continued to closely follow the situation in the Autonomous Republic of Crimea (“Crimea”)¹¹, primarily relying on first-hand accounts. OHCHR, guided by the United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine remains concerned about violations taking place in Crimea, which is under the effective control of the Russian Federation. The imposition of the citizenship and the legislative framework of the Russian Federation, including penal laws, and the resulting administration of justice, has affected human rights in Crimea, especially for ethnic Ukrainians, minority groups, and indigenous peoples, such as Crimean Tatars. During the reporting period, OHCHR documented a continuing trend of criminal prosecution of Crimean Tatar demonstrators as well as arrests of Crimean Tatars for their alleged membership in ‘terrorist’ organizations. In a significant and worrying development, on 15 February, the prosecutor of Crimea filed a request with the supreme

¹⁰ Package of Measures for the Implementation of the Minsk Agreements, Organization for Security and Co-operation in Europe, 12 February 2015.

¹¹ The Autonomous Republic of Crimea technically known as the Autonomous Republic of Crimea and the City of Sevastopol.

court of Crimea to recognize the Mejlis, the self-governing body of the Crimean Tatars, as an extremist organization and to ban its activities. Some decisions by the Government of Ukraine also affected the human rights of Crimeans, including those limiting their access to banking services in mainland Ukraine. The ‘civil blockade’ which Crimean Tatar and Ukrainian activists imposed as of 20 September 2015 – and which led to some human rights abuses – was lifted on 17 January 2016.

II. Rights to life, liberty, security and physical integrity

“The scariest moments of this war were when mortars were flying above our heads, whistling. The shooting is starting and we have to hide my sick mother in the basement. We are dragging her, she is screaming and urinates on herself”.

- A woman living in Donetsk city

A. Alleged violations of international humanitarian law

22. Despite the background of the overall de-escalation of hostilities as a result of the ceasefire in eastern Ukraine, which has generally held for over a year¹² – isolated clashes, localized exchanges of fire, and minor shifts in the contact line have continued. The 1 September 2015 ceasefire was strengthened by an agreement reached by the Trilateral Contact Group in Minsk to introduce the “regime of complete silence”, which entered into force on 23 December 2015. The implementation of these agreements have led to an improvement in security on either side of the contact line.

23. Nevertheless, the armed conflict in eastern Ukraine has continued. The armed groups exercise control over certain districts of Donetsk and Luhansk regions and carry out sustained and concerted military operations against Ukrainian armed forces. In recent months, most clashes occurred in hotspots along the ‘contact line’ in or close to populated civilian areas. Furthermore, civilians perceived to be affiliated with the armed groups or supporting Ukrainian armed forces were arrested, detained, and subjected to ill-treatment, in violation of the basic and binding protections of common article 3 of the Geneva Conventions. In both Government and armed-group controlled areas of Donetsk and Luhansk regions, OHCHR continued to observe a disregard for the principle of distinction between civilians and those taking active part in hostilities.

24. According to the OSCE, men and women in military-style clothing have continued to daily cross the border between Donetsk and the Russian Federation¹³. The Government of Ukraine did not have effective control over considerable parts of the border with the Russian Federation (in certain districts of Donetsk and Luhansk regions). Reportedly, this allowed for transfers of arms and ammunition. The continued occurrences of indiscriminate shelling and presence of anti-personnel mines that cause civilian casualties in the conflict-affected area raise concerns about the inflow of weapons. OHCHR recalls that arms should not be transferred in situations where there is a substantial risk that they will be used in serious violations or abuses of international human rights or humanitarian law.

¹² For the first time, the ceasefire was agreed upon on 5 September 2014; in December 2014, because of continued hostilities, the agreement on a ‘silence regime’ was reached; and after the new escalation of hostilities in January-February 2015, a new ceasefire was agreed upon on 12 February 2015. The agreement of 29 August was also preceded by the escalating hostilities in June – August 2015.

¹³ Weekly Update from the OSCE Observer Mission at Russian Checkpoints Gukovo and Donetsk based on information as of 2 February 2016, available at <http://www.osce.org/om/220211>.

25. Ukrainian armed forces and armed groups maintained their positions and further embedded their weapons and forces in populated areas, in violation of their obligations under international humanitarian law¹⁴. In Shyrokyne, a key location in the ‘grey zone’ between the Government-controlled city of Mariupol and the town of Novoazovsk controlled by the armed groups, OHCHR documented extensive use of civilian buildings and locations by the Ukrainian military and the Azov regiment, and looting of civilian property, leading to displacement¹⁵. *Prima facie* civilian buildings in Donetsk city, such as residential buildings, a shelter for homeless people¹⁶, and a former art gallery¹⁷, continued to be used by armed groups, thereby endangering civilians. In the village of Kominternove, Donetsk region, residents reported that members of the armed groups of the ‘Donetsk people’s republic’ took over abandoned houses¹⁸. In January and February 2016, hostilities between the armed groups stationed in Kominternove and Ukrainian armed forces stationed in the nearby village of Vodiane¹⁹ have endangered the local population²⁰.

26. Armed groups and Ukrainian armed forces also continued to position military forces in or near hospitals. In Telmanove, armed members of the ‘Donetsk people’s republic’ have occupied part of the general hospital building²¹, which is adjacent to a maternity hospital and sustained damage from shelling. In Volnovakha, Ukrainian armed forces were stationed in close proximity to a local hospital. OHCHR recalls that hospitals are specifically protected under article 11 of Additional Protocol II to the Geneva Conventions, which are binding on the warring parties.

27. Clashes along the contact line were particularly frequent around disputed villages such as Kominternove in the south of Donetsk region, around Donetsk Airport, and Zaitseve in the north. Civilian movement out of Kominternove, Oktiabr, Pavlopil, Zhovanka and Zaitseve, across Government and ‘Donetsk people’s republic’ checkpoints, has been severely constrained, raising concerns that remaining civilians have been trapped and exposed to the effects of hostilities. Following the closure of the Zaitseve crossing, residents of Zhovanka, a village divided by the contact line, had no access to food and other basic goods. The damage caused to nearby power lines in the course of hostilities deprived local residents of electricity and water²².

28. OHCHR was able to access several locations that had been shelled in Donetsk region. In January 2016, it visited the area around Donetsk Airport and Kyivskiy district, observing extensive destruction and weapons contamination. In Debaltseve, Horlivka, and Shakhtarsk, OHCHR assessed the damage caused by attacks on residential neighbourhoods. Between 8 and 10 June 2015, several high-rise residential apartment buildings in Horlivka were shelled. Residents who still live in their heavily damaged apartments described how they ran down

¹⁴ Article 13(1) of Additional Protocol II of the Geneva Conventions stipulates that “the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations”. This includes the obligation for each party to the conflict to avoid, to the extent feasible, locating military objectives within or near densely populated areas. Locating military objectives in civilian areas runs counter to this obligation. Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 23.

¹⁵ Interview with a representative of an NGO uniting IDPs from Shyrokyne, December 2015.

¹⁶ A shelter for homeless people in Petrovskiy district of Donetsk is occupied by armed groups of the ‘Donetsk people’s republic’. There is a school and church adjacent to the shelter.

¹⁷ The former territory of ‘Izolyatsia’ Platform for Cultural Initiatives, verified on 18 December 2015 by HRMMU that armed groups of the ‘Donetsk people’s republic’ continue to be based in the facility and surrounding territory

¹⁸ Daily Report, Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 6 January 2016.

¹⁹ *Ibid.*, 3 February 2016.

²⁰ *Ibid.*, 18 January 2016.

²¹ *Ibid.*, 17 January 2016.

²² As reported by OSCE SMM monitors on 1-3 February 2016.

collapsing staircases as their neighbours were being killed and injured by rubble²³. A water canal that serves all of Horlivka and many of the densely populated urban areas of Donetsk region was hit repeatedly in December 2014 and January 2015, and a water filtration station was damaged in July 2014, depriving people of potable water for period of time. OHCHR notes that the cumulative effects of a protracted conflict in urban areas can be devastating as essential civilian infrastructure is damaged, depriving people of their right to water, sanitation, food, and adequate housing.

29. OHCHR has interviewed numerous victims of the hostilities in 2014 and 2015 that continue to suffer the effects of indiscriminate and disproportionate attacks. A woman living in Kyivskiy district of Donetsk city described how her neighbourhood was frequently and heavily shelled in 2014. On 2 October 2014, her husband was wounded by shrapnel near their home, paralyzing him. Over one year and a half later, her family continues to suffer the daily effects of his shrapnel injury²⁴. Many of those injured have difficulty gaining access to adequate medical assistance and physical rehabilitation in armed group-controlled areas.

30. During the reporting period, clashes continued and in February 2016 intensified around the vicinity of Donetsk and Horlivka, both controlled by the armed groups. Exchanges of fire from artillery systems were rare while small arms and light weapons were employed frequently. Due to the limited range of such weapons, soldiers of the Ukrainian armed forces and members of the armed groups comprised the majority of casualties recorded by OHCHR during the reporting period. The OSCE Special Monitoring Mission continued to note the presence of heavy weapons, tanks and artillery systems under 100mm calibre, in violation of the Minsk Agreements.

31. Furthermore, ERW and IEDs pose imminent threats to the population, as demonstrated by the high number of casualties caused by such devices. There is an urgent need for extensive mine action activities, including the establishment of appropriate coordination mechanisms, mapping, and mine risk education and awareness on either side of the contact line.

B. Casualties

*Civilian casualties*²⁵

32. The number of civilian casualties caused by armed conflict continued to decrease. Between 16 November 2015 and 15 February 2016, OHCHR recorded 78 conflict-related civilian casualties in the conflict-affected areas of eastern Ukraine: 21 killed (13 men and eight women), and 57 injured (41 men, eight women, six boys and two girls) - compared to 178 civilian casualties recorded (47 killed and 131 injured) during the previous reporting period of 16 August – 15 November 2015. Overall, the average number of monthly civilian casualties during the reporting period was among the lowest since the beginning of the conflict.

²³ HRMMU Interview, 10 December 2015.

²⁴ HRMMU Interview, 21 January 2016.

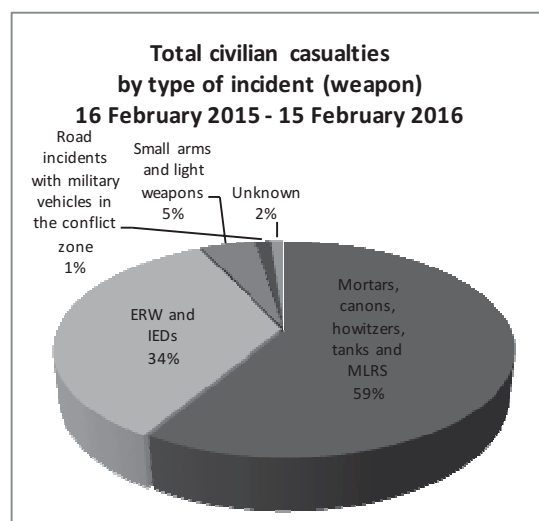
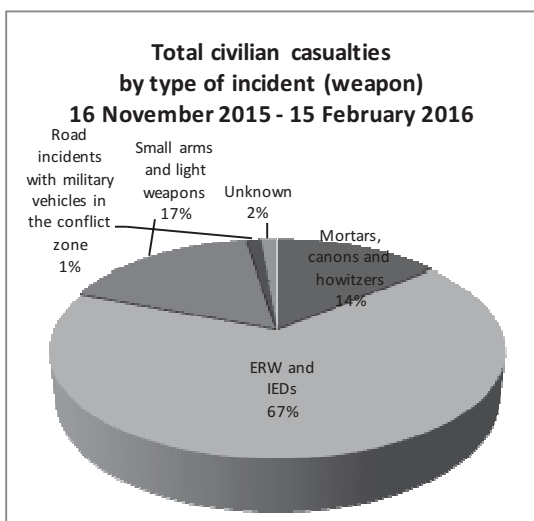
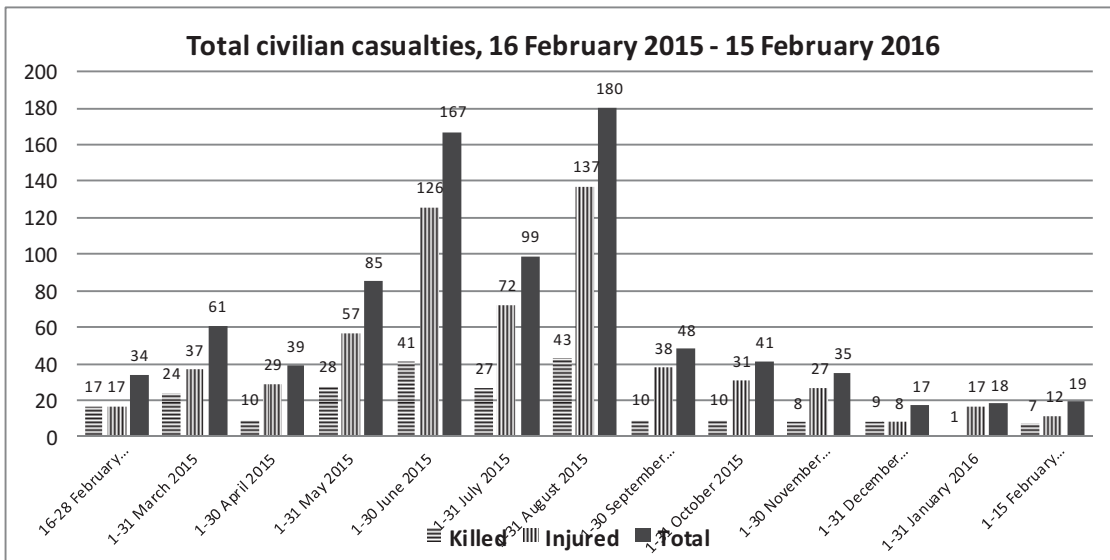
²⁵ For this report, OHCHR investigated reports of civilian casualties by consulting a broad range of sources and types of information that are evaluated for their credibility and reliability. In undertaking documentation and analysis of each incident, OHCHR exercises due diligence to corroborate information on casualties from as wide range of sources as possible, including OSCE public reports, accounts of witnesses, victims and other directly affected persons, military actors, community leaders, medical professionals, and other interlocutors. In some instances, investigations may take weeks or months before conclusions can be drawn. This may mean that conclusions on civilian casualties may be revised as more information becomes available. OHCHR does not claim that the statistics presented in this report are complete. It may be under-reporting civilian casualties given limitations inherent in the operating environment, including gaps in coverage of certain geographic areas and time periods. OHCHR is not in a position at this time to attribute specific civilian casualties recorded to the armed groups, Ukrainian armed forces or other parties.

33. The number of civilian casualties recorded by OHCHR since the Minsk ceasefire agreement entered into force on 15 February 2015 reached 843: 235 killed (125 men, 61 women, 10 boys and six girls, and 30 adults and three children whose sex is unknown) and 608 injured (299 men, 164 women, 31 boys, 12 girls, and 101 adults and one child whose sex is unknown).

34. The majority of civilian casualties (during the reporting period – 52 - were caused by ERW and IEDs: 11 deaths (eight men and three women) and 41 injuries (31 men, six boys and four women).

35. Eleven civilian casualties resulted from shelling: five killed (three men and two women) and six injured (four men, a woman and a girl). Small arms and light weapons accounted for 13 casualties: three killed (all women) and 10 injured (six men, three women and a girl). In addition, one man was killed in a road incident with a military vehicle, and the cause of death of one man is unknown.

36. This pattern of civilian casualties results from the continued relative lull in shelling of densely populated areas, the February increase in clashes with small arms and light weapons in smaller settlements (such as Kominternove and Zaitsevo), and the prevalence of ERWs and IEDs.



Total casualties since the beginning of the conflict

37. In total, from mid-April 2014 to 15 February 2016, OHCHR recorded 30,211 casualties in the conflict area in eastern Ukraine, among Ukrainian armed forces, civilians and members of the armed groups. This includes 9,167 people killed and 21,044 injured²⁶. There was a total of 381 casualties during the reporting period: 69 killed, including 21 civilians, and 312 injured, including 57 civilians²⁷.

C. Missing persons

38. The problem of missing persons in the conflict zone remains acute. Relatives and friends of those missing suffer the anguish and stress caused by the continuing uncertainty concerning the fate and whereabouts of their loved ones. The United Nations Human Rights Committee considers such anguish and stress to amount to ill-treatment²⁸. Under international humanitarian law, which is binding on Government forces and armed groups, all feasible measures must be taken to account for persons reported missing as a result of armed conflict, and to provide their family members with any information on their fate²⁹.

39. The National Police and SBU have respectively reported 741 and 774 persons missing in connection with the conflict³⁰. In December 2015, Ukraine's representative to the humanitarian working group of the Trilateral Contact Group stated that a list of 762 missing persons had been handed over to the International Committee of the Red Cross (ICRC), which led to the determination of the whereabouts of 63 people. This variation in numbers indicates that there may be duplication or that certain entities may not have up-to-date lists. The actual number of missing persons is difficult to ascertain. The 'ombudsperson' of the 'Donetsk people's republic' claimed to have registered 420 missing persons as of 12 February 2016. Further, it is not clear whether the data held by the Government has been cross-referenced with that of the armed groups.

40. Some of those considered missing could be dead, their remains unidentified, for instance taking into account the fact that the identification of up to 1,000 bodies held in morgues in Government-controlled territory is pending. Other unidentified bodies have been stored in morgues in the territories controlled by the armed groups. Furthermore, recovering mortal remains in areas where hostilities took place, especially in Luhansk region, continued to be difficult.

²⁶ This is a conservative estimate of OHCHR based on available data. These totals include: casualties among the Ukrainian forces, as reported by the Ukrainian authorities; 298 people from flight MH-17; civilian casualties on the territories controlled by the Government of Ukraine, as reported by local authorities and the regional departments of internal affairs of Donetsk and Luhansk regions; and casualties among civilians and members of the armed groups on the territories controlled by the 'Donetsk people's republic' and the 'Luhansk people's republic', as reported by the armed groups, the so-called 'local authorities' and local medical establishments. This data is incomplete due to gaps in coverage of certain geographic areas and time periods, and due to overall under reporting, especially of military casualties. The increase in the number of casualties between the different reporting dates does not necessarily mean that these casualties happened between these dates: they could have happened earlier, but were recorded by a certain reporting date.

²⁷ OHCHR notes that casualties among Ukrainian forces and armed groups continued to be under reported; therefore their real share in total casualties is bigger.

²⁸ See, for instance, Human Rights Committee, *Quinteros v. Uruguay*, para. 14.

²⁹ Article 8, Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 115.

³⁰ The list of missing persons posted to the website of the National Police of Ukraine contains 741 names (as of 13 January 2016). The Security Service of Ukraine reported about 774 missing persons (information released during the round table "Lost victims of the armed conflict: creation of the nation-wide system for the search and identification of missing military and civilians in the east of Ukraine" organized by the Centre for Civil Liberties in Kyiv on 17 November 2015).

41. OHCHR believes that some people recorded as missing may be alive, either on the territories controlled by the armed groups, where they may be held in ‘official’ or in unrecognized places of detention; or in territory under the Government’s control, held in secret or incommunicado detention (See D. Summary executions, enforced disappearances, unlawful and arbitrary detention, and torture and ill-treatment at p. 15).

42. OHCHR has observed a high degree of inaction by law enforcement agencies in investigating cases of individuals alleged to be missing in the conflict-affected area. The search for missing persons requires strong coordination among relevant governmental bodies, particularly the Ministry of Internal Affairs, SBU, and the Ministry of Defence, as well as a dedicated mechanism to receive allegations from relatives of missing persons, and to facilitate communication between the Government and armed groups.

43. It is also important for the Government to engage civil society initiatives in such work. Coordination with relevant actors, including independent organizations such as ICRC on the territories controlled by the armed groups is essential, especially in relation to the recovery and identification of mortal remains, and exchange of DNA and other identifying data.

44. The lack of transparent information about the fate and whereabouts of missing or disappeared persons, and the failure to systematically address the issue compromises reconciliation efforts. The clarification of the fate of the missing should be at the centre of any peace negotiations.

D. Summary executions, enforced disappearances, unlawful and arbitrary detention, and torture and ill-treatment

Ukrainian law enforcement and security forces

45. Throughout the country, OHCHR continued to receive allegations of enforced disappearances, arbitrary and incommunicado detention, and torture and ill-treatment of people accused by the Ukrainian authorities of ‘trespassing territorial integrity’, ‘terrorism’ or related offenses, or of individuals suspected of being members of, or affiliated with, the armed groups.

46. A former member of an armed group informed OHCHR about his ill-treatment by Ukrainian forces (allegedly SBU) in September 2014, in the town of Sloviansk, Donetsk region. After his arrest, he was reportedly kept in the basement of the local college and regularly beaten. He was later transferred to the town of Iziium, where he was kept in a basement, together with 12 other detainees. He claimed having witnessed a summary execution while there³¹.

47. OHCHR documented the case of a man who was reportedly arrested on 12 August 2014, at a military checkpoint in Novoazovsk, while on the way to his brother’s funeral. Following inquiries by his family, the deputy commander of Shakhtarsk battalion confirmed that his soldiers had arrested the man on 12 August and offered to release him for a large amount of money on the condition that his relatives would not tell anyone about the incident. Other soldiers stationed near the checkpoint confirmed seeing the man prior to his disappearance. On 17 August 2014, the same deputy commander threatened the victim’s relatives and told them that the man had escaped. Since then, the family has had no information regarding the victim’s whereabouts. While a criminal case was launched into the presumed homicide, and the deputy commander was detained in May 2015 on different

³¹ HRMMU Interview, 15 December 2015.

charges, no investigative steps have apparently been taken by law enforcement agencies regarding this disappearance³².

48. OHCHR remains highly concerned about consistent allegations of detainees being held in unofficial places of detention by SBU. These places are not accessible to the National Preventive Mechanism and international organizations. Reliable accounts from victims and their relatives indicate a widespread pattern of conduct across several SBU departments. Since the outbreak of the conflict, a network of unofficial places of detention, often located in the basement of regional SBU buildings, have been identified from a large number of reliable accounts from victims and their relatives. OHCHR recalls that the prohibition of unacknowledged detention is not subject to derogation³³.

49. For instance, OHCHR has received alarming allegations that in Odesa, detainees are held for up to five days incommunicado at the SBU building following their arrest, without any contact with their family or access to a lawyer³⁴. Information recorded by OHCHR indicates that, as of February 2016, 20 to 30 people were detained illegally and incommunicado at the Kharkiv regional SBU building³⁵. When asked about their fate and whereabouts, SBU officials have systematically denied any involvement. According to information gathered by OHCHR, the vast majority of those held in the Kharkiv SBU were not arrested in accordance with legal procedures and have not been charged, despite being held because of their presumed affiliation with the armed groups. These detainees are held in such circumstances until surrendered to armed groups in simultaneous releases of detainees (See Releases of detainees and captives at p. 20).

50. During the reporting period, OHCHR documented a pattern of cases of SBU detaining and allegedly torturing the female relatives of men suspected of membership or affiliation with the armed groups. In addition to being a violation of the prohibition of torture, these cases raise concerns of arbitrary deprivation of liberty and gender-based violence. On 8 December 2015, in Shchurove village, Donetsk region, SBU officers arrested a 74-year-old woman at her house while they were looking for her son. She was detained at the SBU building in Mariupol, charged with ‘terrorism’, and beaten. OHCHR visited her in the Mariupol pre-trial detention facility (SIZO)³⁶. After OHCHR communicated this case to the Office of the Military Prosecutor, a criminal investigation was initiated into her allegations of ill-treatment. On 27 January 2016, the woman was relocated to the SBU SIZO in Kyiv. OHCHR believes she is at risk of further abuse. The SBU informed OHCHR that she and her son are suspected of being informants for the ‘ministry of state security’ for the ‘Donetsk people’s republic’. OHCHR also documented the case of three women, who were detained in May 2015, in a town under Government control in Donetsk region. The victims included the wife of an armed group commander and her daughter. The latter was allegedly severely tortured, and both were allegedly threatened with sexual violence³⁷.

51. In another case, a ‘pro-federalism’ activist from Odesa, charged of acts of terrorism was pressured to sign a confession after being tortured at the Odesa SBU. During his interrogation, he was reportedly suffocated with a plastic bag covering his head and was beaten on the face, head and body. The SBU officers then allegedly took him to the lobby

³² HRMMU Interview, 13 January 2016.

³³ United Nations Human Rights Committee, CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11, para. 13(b).

³⁴ HRMMU Interview, 22 January 2016.

³⁵ HRMMU has recorded the names of 25 individuals detained incommunicado at the Kharkiv SBU as of 15 February 2016. The SBU denies any knowledge of their fate or whereabouts.

³⁶ HRMMU Interview, 24-25 December 2015.

³⁷ HRMMU Interview, 23 December 2015.

of the SBU building where he was shown his son whom they had also arrested. His son was taken to a separate room and the father could hear his harrowing screams³⁸. Also at the Odesa SBU, a pregnant woman who had been apprehended with her husband at a checkpoint while crossing the contact line in Donetsk region, in October 2015, was threatened. She subsequently lost her baby which, she claims, was the result of the ill-treatment she suffered in detention³⁹.

52. OHCHR received alarming reports on poor detention conditions and ill-treatment of pre-trial detainees throughout Ukraine. On 11 November 2015, during a routine inspection of cells in Dnipropetrovsk SIZO, guards allegedly started insulting detainees and damaged their personal belongings. As the detainees fought back, they were beaten with sticks and sprayed with gas. 25 detainees sustained bodily harm and were provided with medical treatment following the incident. The police initiated a criminal investigation into the disturbance caused by the detainees⁴⁰, and the Prosecutor's Office into the alleged abuse of power by SIZO officials. Repeated beatings of detainees at SIZO have been reportedly been taking place since October 2015. Some detainees also complained of malnutrition and lack of medical assistance, which leads to chronic diseases and other illnesses⁴¹. According to the State Penitentiary Service, 103 deaths in custody were reported in the Government-controlled territories in 2015.

53. OHCHR remains concerned about the lack of systematic investigations into allegations of torture committed by Ukrainian security forces and law enforcement. During its visits to Artemivsk and Mariupol SIZOs, OHCHR came across several detainees who had filed complaints of torture, with no notable progress in investigations into their allegations⁴². In 2015, the Office of the Prosecutor General launched 1,925 criminal investigations into allegations of torture and ill-treatment by police and penitentiary officials. In 1,450 cases, the investigation found that the requisite elements of crime had not been met. Courts subsequently overturned the prosecution's findings in 119 cases, compelling investigations to proceed. In total, 49 police and penitentiary officials were indicted for alleged acts of torture and ill-treatment. OHCHR is also deeply concerned that despite its repeated interventions, it continues to receive allegations of SBU violating basic procedural guarantees, denying detainees the right to counsel, and subjecting them to torture and ill-treatment.

54. The failure to investigate allegations of torture is of particular concern. OHCHR has observed that the authorities are unwilling to investigate allegations of torture particularly when the victims are persons detained on grounds related to national security or are viewed as being 'pro-federalist'. Torture can only be prevented if detainees are brought before a judge promptly. Complaints and investigations into allegations are more likely to be effective if they are initiated promptly, and remedies need to be timely for victims to rebuild their lives. In the vast majority of cases documented by OHCHR, police and prosecutors close investigations citing lack of evidence. For instance, at the end of 2015, the Odesa Regional Prosecutor's Office closed two criminal investigations into allegations of torture due to "lack of evidence"⁴³. While monitoring trials, OHCHR observed that prosecutors and judges rarely record or act upon defendant's allegations of torture. This contravenes Ukrainian legislation, which penalises torture and obliges public prosecutors to

³⁸ HRMMU Interview, 25 November 2015.

³⁹ HRMMU Interview, 8 December 2015.

⁴⁰ The investigation was initiated under Article 392 (actions disorganizing the work of a penitentiary institution) of the Criminal Code.

⁴¹ HRMMU interviews, 12 and 19 November 2015, 4 February 2016.

⁴² HRMMU Interviews, 23 December 2015 and 15 January 2016.

⁴³ HRMMU Interviews, 20 January 2016 and 1 February 2016.

launch criminal investigations within 24 hours of receiving such allegations⁴⁴. It also violates Ukraine's obligation as a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to its Optional Protocol to take all possible measures to prevent torture⁴⁵. Delays in collecting evidence of torture often lead to the loss of crucial evidence. Systemic inaction or delays also inhibit justice and perpetuate impunity.

55. OHCHR is also very concerned about the use of statements extracted through torture as evidence in court proceedings. On 26 January 2016, three men were convicted of 'terrorism', allegedly on the basis of confessions they were forced to sign after being subjected to severe torture in the Regional SBU in Zaporizhzhia in 2014⁴⁶. The SBU informed OHCHR that officers resorted to 'proportionate' and 'justified' force when detaining the men, but did not address allegations of their torture while in SBU detention⁴⁷. OHCHR recalls that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings⁴⁸. A man who is currently on trial in Zaporizhzhia for 'terrorism' was told by SBU interrogators that his wife and children would be at risk if he were to complain about the torture and ill-treatment he was subjected to by SBU. As a result, he has refrained from challenging the admissibility of incriminating statements that were extracted through torture⁴⁹. The SBU has challenged this account, stating that a medical examination found no injuries or marks that could have been caused by torture, and confirmed to OHCHR that the man has not filed any complaints about his treatment while in SBU custody⁵⁰. OHCHR urges the Ukrainian authorities to take steps to ensure that complainants and their relatives are protected from reprisals as a consequence of complaints of torture and ill-treatment⁵¹.

Armed groups

56. OHCHR recorded new allegations of killings, abductions, illegal detention, torture and ill-treatment perpetrated by members of the armed groups. The accounts most often referred to incidents that took place outside the reporting period, as some victims delayed reporting until they left the areas under the control of the armed groups, while the relatives of those in detention requested that their cases remain confidential for fear of retribution. The armed groups use State detention facilities that existed before the conflict (SIZOs and penal colonies) as well as *ad hoc* places.

57. During the reporting period, OHCHR documented several cases of summary executions committed by members of the armed groups in 2014 and 2015. In August 2014, a member of the "special committee" of the Vostok battalion of the 'Donetsk people's republic' disappeared after being detained by his battalion at the "Izolyatsia" Platform for Cultural Initiatives in Donetsk. In May 2015, his body was found decapitated in a reservoir in Donetsk⁵². In another case, between 1 and 15 April 2015, in the town of Dokuchaiivsk, Donetsk region, members of the 'Donetsk people's republic' allegedly summarily executed

⁴⁴ Article 214 of the Criminal Procedure Code of Ukraine.

⁴⁵ The Optional Protocol to the Conventional against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was ratified by Ukraine on 19 September 2006.

⁴⁶ HRMMU Interview, 26 January 2016.

⁴⁷ Letter from the Security Service of Ukraine to the UN Human Rights Monitoring Mission in Ukraine, 5 February 2016.

⁴⁸ Article 15, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁴⁹ HRMMU Interview, 11 December 2015.

⁵⁰ Letter from the Security Service of Ukraine to the UN Human Rights Monitoring Mission in Ukraine, 5 February 2016

⁵¹ Article 13, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁵² HRMMU Interview, 18 December 2015.

a man whom they accused of attacking one of their checkpoints. The victim's wife identified his body and noted signs of torture⁵³.

58. OHCHR is also concerned about conditions of detention and cases of ill-treatment in 'penitentiary institutions' in the territories controlled by the armed groups. In January 2016, OHCHR separately and confidentially interviewed two men who had been convicted prior to the conflict but had served time in penal colonies under the control of armed groups. Both complained about the poor living and medical conditions in detention. The prison was reportedly deprived of hot water and, in January and February 2015, of electricity. Prisoners were reportedly allowed to have a cold shower once a month and had to pay for food, or would get a piece of bread and porridge. Access to medical assistance was reportedly denied, and inmates with tuberculosis were kept with others. One prisoner complained about the frequent use of physical abuse as a disciplinary measure. The prison facility was shelled twice in August 2014, killing one prisoner⁵⁴.

59. In territory controlled by the armed groups, a family was subjected to harassment, threats and a mock execution because their son was a soldier in the Ukrainian army. On 2 February 2015, some 20 armed people surrounded their house, burst in and put a gun to the forehead of the father. The family was forced outdoors and told they would be shot dead. An armed man loaded the gun several times, shouting at the family and insulting them with derogatory names. The adults were taken to a commandant's base but released soon afterwards. The victims informed OHCHR that another family was forced to leave the village for openly expressing views supporting Ukrainian unity and rejecting the authority of the armed groups⁵⁵.

60. In April 2015, armed groups captured a citizen of the Russian Federation who had come to Luhansk upon invitation by the 'Luhansk people's republic' as a volunteer with the Ministry of Defense of Ukraine working on issues related to detainees' release and humanitarian assistance. He was captured on the street in front of the former Luhansk regional state administration building. He believes that he was taken to the 'ministry of state security' building basement, where he was blindfolded and forced to sit handcuffed with his legs tightened around a pipe. He was beaten in the head and groin and subjected to three mock executions. He was poorly fed and allowed to go to the toilet only once a day. After one month, he was taken out and left on the street, blindfolded, handcuffed, and with his legs tied tight. Shortly thereafter, he was abducted by other armed group members and taken to the Lenin factory. There, over a period of a month, he was subjected to psychological pressure and subjected to mock executions. After a month, he was taken to the 'ministry of state security', where he was accused of being a Maidan protestor who came to the 'Luhansk people's republic' to overthrow the armed groups. During the last five months of his illegal detention, he was malnourished and allowed to use the toilet only once every few days. He was provided medical care on one occasion. He was released at the end of December 2015⁵⁶.

61. Ukrainian servicemen captured by the 'Donetsk people's republic' continued to be detained in poor conditions and subjected to ill-treatment. One soldier, who was visited by a relative, had dark spots on his skin, possibly due to beatings and burning. Another soldier, a member of the Azov regiment who was captured in Shyrokyne in February 2015 was subjected to electric shock and his teeth were pulled out⁵⁷. OHCHR is concerned about

⁵³ HRMMU Interview, 28 December 2015.

⁵⁴ HRMMU Interview, 15 January 2016.

⁵⁵ HRMMU Interview, 22 November 2015.

⁵⁶ HRMMU Interview, 9 February 2016.

⁵⁷ HRMMU Interview, 15 February 2016.

allegations that captured soldiers have been detained in crowded cells with up to 22 people and subjected to physical violence in the former SBU building on Shchorsa Street, as well as in the building currently used by the ‘ministry of state security’ at 26 Shevchenko Boulevard in Donetsk city⁵⁸. During the reporting period OHCHR has been denied access to detention facilities in Donetsk.

Releases of detainees

62. During the reporting period, there has been no progress regarding the release of “all hostages and illegally-held persons” under the ‘all for all’ principle foreseen by the Minsk Agreements, although a number of simultaneous releases took place, such as a ‘one for one exchange’ of two people on 1 December 2015. OHCHR continues to advocate for the ‘all for all’ release of detainees at the highest levels with representatives of the armed groups, Government and facilitators.

63. The criteria and scope for the release of detainees under the Minsk framework continues to be discussed within the humanitarian working group of the Trilateral Contact Group. According to the ‘ombudsperson’s office’ of the ‘Donetsk people’s republic’, as of 12 February some 1,110 persons were detained by the Government of Ukraine, including 363 members of the armed groups. This includes 577 people arrested for “their political views” and 170 civilians “who have nothing to do with the conflict”. On 8 February 2016, the SBU provided OHCHR with a list of 136 people who may be in the custody of the armed groups, although no information was available about many of their exact whereabouts.

64. Detainees identified for simultaneous release by Government authorities and armed groups are left outside the protection of the law. In the lead-up to simultaneous releases, and upon direct instructions from SBU, courts grant individuals charged with ‘terrorism’ or ‘separatism’ conditional interim release from pre-trial detention. These individuals are then systematically re-arrested and detained in incommunicado detention, usually in SBU premises. According to cases documented by OHCHR, this period of secret, unacknowledged detention can last from a few days up to one year, pending negotiations. When the negotiation is finalized, detainees are generally brought to the contact line by ‘negotiators’ and released to the armed groups, who simultaneously release detainees to Ukrainian authorities.

65. This process has serious consequences. Once detainees are in SBU custody or released into armed group-controlled territory, they are prevented from appearing before court and thereby violate the terms of their conditional interim release. When negotiations fail, detainees are held in incommunicado detention for long periods of time, while SBU systematically denies their whereabouts. The Ukrainian authorities often do not return their identity documents to those they release. For instance, in December 2014, a group of 22 detainees were released from Dnepropetrovsk to the ‘Donetsk people’s republic’. OHCHR learned that their passports have remained with the SBU. OHCHR has observed that this places former detainees in a precarious situation once they are transferred to areas controlled by the armed groups. Without any proof of identity, livelihood or support network, they are vulnerable to exploitation by the armed groups.

66. Documented cases suggest that some individuals are arbitrarily arrested and detained by the Ukrainian authorities as bargaining chips to negotiate simultaneous releases. OHCHR is concerned that the manner in which such simultaneous releases unfold may amount to arbitrary detention and hostage-taking.

⁵⁸ HRMMU Interview, 2 February 2016.

III. Accountability and the administration of justice

“It is so very difficult to forget this person who pressed the trigger; a mortar was launched and turned my husband into a bed-ridden puppet”.

- A woman living in Donetsk city

A. Accountability for human rights violations and abuses in the east

67. Civilians living directly on either side of the contact line are deprived of access to justice. Both Ukrainian authorities and the ‘parallel structures’ in the territories controlled by the armed groups systematically fail to investigate grave human rights abuses committed in the areas under their control.

68. OHCHR is concerned that in Government-controlled territories of Donetsk and Luhansk regions, the Ukrainian authorities prioritizes national security over human rights, as evidenced by the derogation from provisions of ICCPR, particularly regarding fair trial (See Legal developments and institutional reforms at p. 40).

69. OHCHR is also concerned about the ‘parallel structures’ established under the auspices of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, as they violate Ukraine’s legislative framework and the Minsk Agreements.

Ukrainian law enforcement and security forces

70. As mentioned above, OHCHR continued to document consistent and credible allegations of torture, ill-treatment, incommunicado detention and enforced disappearances by SBU elements in Kharkiv, Mariupol, and Zaporizhzhia.

71. OHCHR is concerned about SBU officials’ systematic denial of these allegations, which suggests their resistance to any investigations. The SBU leadership continues to fail to take all necessary and reasonable measures within their authority to prevent or sanction the commission of human rights violations by their subordinates. The case of Oleksandr Agafonov⁵⁹ is emblematic in this regard. Agafonov was severely tortured in Izium, Kharkiv district and died of related injuries in November 2014. OHCHR has reasonable grounds to believe that the superior commanders of the perpetrators were ‘hiding’ those responsible. Two SBU officers from Kyiv have only been charged with exceeding authority in connection with Agafonov’s death but remained in their positions, pending investigation. On 15 December 2015, OHCHR was informed that the case was being transferred from Kharkiv to Kramatorsk. Despite the official justification provided, OHCHR is concerned that this transfer may lead to pressure on the due process of law and prevent a fair trial, due to the significant presence of Ukrainian military and SBU officers in Kramatorsk, which hosts the headquarters of the SBU Anti-Terrorist Centre. The trial is set to begin in March 2016.

72. During 2015, the Office of the Military Prosecutor for anti-terrorist operation forces launched 34 criminal investigations into allegations of ill-treatment, torture, and unofficial detention. Investigations into 19 cases remain pending, while 15 cases have been dismissed in the course of the preliminary investigation for lack of evidence. OHCHR is concerned that the Office of the Military Prosecutor, which has exclusive jurisdiction to investigate and prosecute military and security forces personnel, has not taken all possible steps to

⁵⁹ See 12th OHCHR public report on the human rights situation in Ukraine, covering 16 August to 15 November 2015 (paragraph 114).

investigate and prosecute serious human rights and international humanitarian law violations allegedly perpetrated by such forces in the course of hostilities. The Military Prosecutor denies the possibility of indiscriminate shelling of residential areas by the Ukrainian military. Such a posture precludes efforts to verify and investigate allegations. In one case documented by OHCHR, the Military Prosecutor attempted to dismiss an investigation into the ill-treatment of a woman who was detained on for allegedly planning a ‘terrorist’ act in Kyiv⁶⁰.

73. OHCHR has followed cases of residents of Government-controlled Donetsk and Luhansk regions who have been charged and tried for their alleged membership in and support of the armed groups, simply for being in contact with people (usually their relatives) living in territories controlled by these groups⁶¹ or for working for a civilian water supply company operating in the ‘Luhansk people’s republic’⁶².

74. In December 2015, SBU carried out two operations in Donetsk region that resulted in mass arrests, raising serious concerns about the protection of human rights under counter-terrorism legislation. On 14 December, some 600 Ukrainian military, National Guards and SBU servicemen conducted a raid in the Government-controlled town of Krasnohorivka, where they arrested 85 residents for their alleged affiliation with the armed groups. On 20 December, a similar raid was undertaken in the Government-controlled town of Avdiivka, where up to 100 residents were arrested on the same grounds. In both instances during house raids, hundreds of people were forced to surrender their phones for examination, and were detained for several hours for questioning. Most were subsequently released.

75. The raids were conducted under the Law on Combating Terrorism, which applies to the entire territory of Donetsk and Luhansk regions where the ‘anti-terrorist operation’ was declared on 14 April 2014 and grants powers to SBU, the National Guard and Armed Forces to undertake such operations with no guarantees regarding human rights.⁶³ The overbroad formulation of certain provisions of this law and a lower standard of proof than in the Criminal Procedural Code can lead to violations, including arbitrary arrests and detention. In the abovementioned case and in several other instances, OHCHR has noted that basic human rights principles and procedural guarantees are often neglected during such operations.

76. OHCHR reminds the Government of Ukraine that despite its notification of derogation from certain provisions of ICCPR, including article 14 on fair trial rights, certain elements of the right to a fair trial are explicitly guaranteed under article 6 of Additional Protocol II to the Geneva Conventions during armed conflict and that the principles of legality and the rule of law that fundamental requirements of fair trial must be respected at all times (See Legal developments and institutional reforms at p. 40)⁶⁴.

77. OHCHR has observed a worrying trend in criminal proceedings of people charged with “trespassing against the territorial integrity or inviolability of Ukraine.” Courts regularly and repeatedly extend the initial period of detention for individuals held on national security grounds for 60 days without providing sufficient and relevant reasons to

⁶⁰ HRMMU Interview, 27 January 2016.

⁶¹ HRMMU Interview, 8 February 2016.

⁶² HRMMU Interview, 4 January 2016.

⁶³ Article 15(6) of Law on Combating Terrorism authorizes relevant forces to “enter residential and other premises, land plots belonging to citizens, intercepting an act of terrorism and in pursuit of people suspected to have committed such acts, on the territory and on the premises of enterprises, institutions and organizations, to check transport vehicles, that pose a substantiated threat to the life or health of persons.”

⁶⁴ United Nations Human Rights Committee, CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11, para. 16.

justify detention⁶⁵. Grounds for continued detention are almost never provided, and conditional or interim release is rarely – if ever – granted. Many defendants are detained for long periods of time, up to 20 months, and eventually charged with minor offenses, such as “hooliganism”. This has been noted as a serious trend in Kharkiv and Odesa.

78. This trend extends to high-profile cases, such as that of Spartak Holovachov. For instance, one of the leaders of the anti-Maidan movement in Kharkiv Mr. Holovachov was accused of participating in riots. After the conclusion of his trial, on 19 November 2015, the prosecution requested the introduction of additional evidence and new witnesses. As of February 2016, none of the summoned witnesses had appeared before court. Mr. Holovachov has been in solitary confinement in the 100th Penal Colony, a high security detention facility, since 1 May 2014. The General Prosecutor attests that Mr. Holovachov is held separately because he is the only detainee in his category. OHCHR recalls that the separation of detainees cannot be used as a disciplinary sanction, prolonged investigations or trials cannot justify indefinite solitary confinement, and that the use of prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment⁶⁶.

Armed groups

79. Parallel structures continued being developed in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. OHCHR is concerned that these parallel structures are established as a vehicle to impose the authority of armed groups over the population living on the territories under their control. These structures are also used to formalize the conduct of the armed groups that violates human rights, such as the deprivation of liberty without adequate protection or judicial guarantees. OHCHR notes that members of the armed groups seem to enjoy a high level of impunity for a wide range of human rights violations targeting local residents and Ukrainian servicemen, including illegal detention, torture and ill-treatment⁶⁷.

80. In the ‘Donetsk people’s republic’, a parallel ‘judicial system’ has been operational since 2014, largely composed of people with no relevant competence. Most professional judges left the territories controlled by the armed groups after the Government relocated all courts, prosecution offices and notary services to territory under its control in November 2014⁶⁸.

81. In addition, a parallel ‘legislative framework’ has been developed, mixing Ukrainian legislation and decrees issued by the ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’. In December 2015, the OSCE Special Monitoring Mission to Ukraine issued a report on “Access to Justice and the Conflict in Ukraine” describing the parallel structures as relying on an uncertain, *ad hoc* and non-transparent legal framework, subject to constant change, shortages of professional staff, and in certain instances, lack of operational capacity. OSCE found that the removal of Government services, combined with the

⁶⁵ These cases concern individuals charged with offenses linked to their participation in pro-Russian demonstrations, posting pro-Russian or pro-armed group statements on social networks, associating with or supporting the ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’.

⁶⁶ Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment interim report to the General Assembly of 5 August 2011 (A/66/268).

⁶⁷ Brianka SSSR battalion.

⁶⁸ The Decision of the National Security and Defence Council of 4 November On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions, enacted by the Decree of the President of Ukraine No. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine No. 595 as of 7 November 2014, On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions.

deficiencies in the parallel ‘systems’, directly impacts people throughout territories under the armed groups’ control⁶⁹.

82. In early February 2016, a ‘court’ of the ‘Donetsk people’s republic’ ‘sentenced’ Ukrainian serviceman Yevhen Chudnetsov to 30 years of deprivation of liberty for “attempting to violently change the constitutional order”. OHCHR calls for his release and that of other captives ‘sentenced’ by parallel, illegal bodies or all other captives of the armed groups.

83. OHCHR reiterates that parallel ‘justice’ structures of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ are illegal, and violate the Constitution of Ukraine and the Minsk Agreements. As a result, OHCHR considers that armed groups lack the legitimacy to sentence or deprive anyone of liberty. People suspected of crimes involving gross international human rights or humanitarian law abuses or violations must be handed over to the Ukrainian judicial authorities.

84. Individuals who were detained prior to the conflict and remain in custody in institutions located on the territories controlled by the armed groups continue to be a priority for the Ukrainian authorities. While some case files have been transferred from the territories controlled by the armed groups, the vast majority of individuals held in penitentiary institutions have not been evacuated.

85. There are also cases of individuals detained in Government-controlled territories whose cases cannot be addressed by the Ukrainian judicial authorities because their files remained in the territories controlled by the armed groups, or were lost or destroyed in the conflict. In order to protect people against continued arbitrary detention and facilitate their access to justice, case materials must be transferred to the Ukrainian authorities. There have been efforts by the Ombudsperson of Ukraine and ‘Donetsk people’s republic’ toward facilitating handovers of case materials from the territories controlled by the armed groups to relevant Ukrainian authorities, which OHCHR welcomes.

B. Individual cases

86. During the reporting period, the trial of Kharkiv mayor Hennadii Kernes⁷⁰ continued in the Kyivskyi District Court of Poltava but has been protracted. As of February 2016, the court was still hearing the testimonies of two alleged victims of the mayor. OHCHR is concerned that this trial has not been conducted in line with the principles of fair trial. Some political leaders as well as members of the Government issued strong comments on the process, including the Minister of Internal Affairs, who wrote on social media that the court “demonstrates its impotence,” “is directed by the defendant”, and referred to allegations of “Kernes’ collusion with judges.” A large group of activists and politicians continued to attend all court hearings, pressuring the judge to convict Mr. Kernes. On 4 September, the Poltava District Prosecutor’s Office opened a criminal investigation into their conduct following complaints received from the judges and Mr. Kernes’s lawyers⁷¹.

87. No progress has been observed in the case of Nelia Shtepa, former mayor of Sloviansk, Donetsk region, who remains in detention for alleged facilitation of seizure of

⁶⁹ “Access to Justice and the Conflict in Ukraine,” p. 4-5, Organization for Security and Co-operation in Europe Special Monitoring Mission to Ukraine, December 2015.

⁷⁰ See paragraph 150 of the 11th OHCHR public report on the human rights situation in Ukraine, covering 16 May to 15 August 2015.

⁷¹ Article 376 (interference with activities of judicial authorities) of the Criminal Code of Ukraine and under article 296 (hooliganism) of the Criminal Code of Ukraine.

Sloviansk by armed groups⁷². As of February 2016, the testimony of defense witnesses was being heard and hearings were to resume in late February. OHCHR remains concerned about continued breaches of due process and fair trial rights in this case. At the time of writing, the court and the prosecutors continued to disregard exonerating evidence. OHCHR is concerned about the deteriorating conditions of Ms. Shtepa's detention in the Kharkiv SIZO, where she has been held for over 19 months. She alleged that for one month in December 2015, she was held in a cell with 13 other people, with an average temperature of 3 degrees centigrade in the cell. She complained about a heart pain but has been denied medical assistance. The General Prosecutor has stressed that while Ms. Shtepa was moved between cells, her conditions of detention did not vary. OHCHR finds that such conditions of detention could amount to ill-treatment. When OHCHR visited and interviewed Ms. Shtepa on 20 January 2016, she had been returned to her previous cell.

88. HRMMU continued to follow the case of Nadiia Savchenko, who has been in detention in the Russian Federation since July 2014, after being allegedly apprehended and transferred from Ukraine by armed groups. She is accused of killing two Russian journalists⁷³. Without access to the territory of the Russian Federation, OHCHR relies on the official statements of the prosecution and Ms. Savchenko's defense lawyers. On 17 December 2015, Ms. Savchenko announced that she would go on hunger strike to protest her continued detention. After six weeks, her defense lawyers stated that her health had significantly deteriorated. According to her lawyers, the verdict in her case may be expected in early March 2016. OHCHR remains concerned about reported breaches of due process and fair trial rights in this case. OHCHR is also monitoring the case of two citizens of the Russian Federation, detained by the Ukrainian military in clashes near the town of Shchastia, Luhansk region, in which a Ukrainian serviceman was killed⁷⁴. They are accused of being acting servicemen of the Armed Forces of the Russian Federation, transporting arms and ammunition to the territories controlled by the armed groups and have been charged with 'terrorism'-related offenses. The accused have claimed in court that their confession of being acting servicemen of the Russian Federation was extracted through torture. The defense will begin its case shortly.

89. OHCHR is highly concerned about the continued detention and trial of Ukrainians transferred from Crimea to the Russian Federation. On 24 November 2015, the Supreme Court of the Russian Federation rejected the appeal of Oleh Sentsov and Oleksandr Kolchenko, against their conviction by a Russian Federation military court on 25 August. OHCHR recalls that Sentsov was arrested by the Security Service of the Russian Federation (FSB) in Simferopol on 11 May 2014 on suspicion of "plotting terrorist acts." On 23 May 2014, he was transferred to the Russian Federation and detained in Moscow at Lefortovo prison. Later, he was taken to Rostov-on-Don and placed in remand detention. His trial began on 21 July 2015, after over a year in pre-trial detention. Just over a month later, on 25 August 2015, he was sentenced to 20 years in a high security penal colony. According to a statement made by his lawyer on 8 February 2016, Sentsov was transferred to the Siberian region of Yakutia to serve his sentence after losing his appeal. Kolchenko was accused of collaborating with Sentsov and received a 10-year prison sentence. OHCHR recalls its

⁷² See 12th OHCHR public report on the human rights situation in Ukraine, covering 16 August to 15 November 2015 (paragraph 113).

⁷³ For more information, see paragraph 137 of the 12th OHCHR report on the human rights situation in Ukraine covering period from 16 September to 15 November 2015, paragraph 60 of 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015, and paragraph 54 of the 10th OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2015.

⁷⁴ For more information, see paragraph 58 of the 11th OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015.

position⁷⁵ that the process was marred by violations of fair trial guarantees and of the presumption of innocence, which should have led to the release of the accused.

90. On 15 December 2015, the Moscow Regional Court sentenced a Ukrainian citizen, Valentyn Vyhovskyi, to 11 years in a maximum security prison on spying charges. The trial was held behind closed doors, with a State-appointed lawyer defending Vyhovskyi. Vyhovskyi was arrested at the railway station in Simferopol, on 18 September 2014, and transferred to Moscow, where he was held in the Lefortovo remand prison (SIZO) for more than a year.

C. High-profile cases of violence related to riots and public disturbances

91. OHCHR continued to follow emblematic cases, including in relation to the grave human right violations that occurred during the Maidan protests, the 2 May 2014 violence in Odesa, the seizure of the police department in Mariupol on 9 May 2014, and the violence at the Parliament in Kyiv on 31 August 2015. In all these cases, there has been a lack of progress in ensuring accountability, raising questions as to both the willingness and ability of the authorities to investigate and prosecute those most responsible for these incidents of violence.

Maidan

92. At the time of writing, only five Berkut special police unit servicemen had been brought to trial for the violent crackdown on the Maidan protests. The Office of the Prosecutor General indicted two servicemen on 16 January 2015 for the killing of 39 protesters and, on 9 February 2016, it filed an indictment against the deputy commander of the Berkut regiment and two other servicemen for the killing of 48 protesters and injury of 80 others on 20 February 2014. So far, arrest warrants have been issued for 20 out of the 25 Berkut servicemen whose involvement in the killing of protesters was established by investigators⁷⁶. Although the involvement of commanders was established in the course of the pre-trial investigation, no senior officials have been indicted. The Office of the Prosecutor General has identified 134 suspects: 32 senior officials (including the former President, Prime Minister, and head of the SBU), 72 police servicemen, 23 civilians, five prosecutors and two judges. The investigation to establish their responsibility is ongoing but has been hindered by the destruction and loss of material evidence and suspects fleeing to the Russian Federation.

93. OHCHR notes progress in the case against the former head of the SBU Department for the city of Kyiv and Kyiv region. He is charged with the murder of two or more people in collusion with an organized group and abuse of power for running an “anti-terrorist operation” aimed at dispersing the protests in Kyiv on 18 and 19 February 2014, leading to the deaths of 16 people. According to the Office of the Prosecutor General, his trial was to begin by the end of February 2016.

94. In a significant development in the investigation into the killings of protesters in Maidan, the SBU announced that it had collected the fragments of 23 Kalashnikov assault rifles and a hunting rifle that were allegedly used to kill protesters. The weapons had been “intentionally damaged” with “all serial numbers... destroyed”. The serial numbers were restored and reportedly, 12 weapons were entered into evidence in February 2016.

⁷⁵ See 12th HRMMU Report of 16 August - 15 November 2015, p. 30.

⁷⁶ Commander of Berkut company who escaped from house arrest in October 2014 (see paragraphs 159-160 of the 7th OHCHR public report on the Human Rights situation in Ukraine), commander and deputy commander of Berkut regiment.

95. The Maidan events were also marked by mass arrests and prosecutions of protesters. Since the change in Government, these arrests and prosecutions have been found “unlawful” by the Office of the Prosecutor General. As of 17 November 2015, investigations into violations of the Criminal Procedural Code when bringing individuals to criminal responsibility for participating in Maidan protests were pending against 200 police officers, 80 prosecutors and 100 judges. Seven prosecutors, four judges and nine police officers were indicted. The investigation has also been verifying the lawfulness of detaining approximately 500 members of the AutoMaidan movement administratively liable for their participation in the Maidan protests. 38 police officers and two judges have been indicted for acts which, according to the Head of Department for Special Investigators of the Office of the Prosecutor General, were part of “systematic and coordinated conduct of the former leadership of the State”⁷⁷. However, judicial immunity, which under Ukrainian law protects judges from liability resulting from their judicial actions has hindered investigations into the mass arrests and convictions of protesters. The failure of the authorities to secure and preserve material evidence, and to prevent key actors in the events from fleeing Ukraine after the escape of former President Yanukovich, on 22 February 2014, raises serious concerns about the ability of the Government of Ukraine to bring to justice those responsible for the killing of protesters and law enforcement elements.

96. OHCHR welcomes the first conviction of the so-called ‘titushky’, hired civilians who coordinated with and provided support to law enforcement in the crackdown on protesters at Maidan⁷⁸. On 7 December 2015, Obolonskyi District Court of Kyiv sentenced two Kharkiv residents to four years of imprisonment and three years of probation for attacking protesters and the abduction of a person on 21 January 2014, in Kyiv. According to the investigation, former senior officials of the Ministry of Internal Affairs, including the former Minister, arranged the distribution of 408 automatic firearms and almost 90,000 ammunitions to ‘titushky’ from the Ministry’s storage warehouses on 20 February 2014⁷⁹.

2 May 2014 violence in Odesa

97. No progress has been observed in ensuring accountability for the 2 May 2014 violence in Odesa, which resulted in the death of 48 people. State actors have failed to take appropriate measures to ensure effective investigations of the events and to protect the independence of the judiciary. The investigations into the events have been, at various stages, characterized by general institutional deficiencies, procedural irregularities indicating a lack of willingness to genuinely investigate or prosecute those responsible, and both direct and indirect political interference suggesting deliberate obstruction and delay of judicial proceedings.

98. OHCHR is deeply concerned that the process of police reform interrupted the investigations into the 2 May 2014 clashes in Odesa, the burning of the Trade Union Building, and the negligence of the Fire Brigade in responding to the fire. Investigations have been suspended since 7 November 2015, when the investigation team dedicated to the 2 May 2014 violence was disbanded due to the restructuring of the police into the new ‘national police’. In January 2016, a new investigation team was constituted under the

⁷⁷ Office of the Prosecutor General, MoIA and SBU about results of investigation into counteraction to peaceful protest actions: dispersal of students’ Maidan and other protest actions in December 2013; criminal and administrative prosecution of activists, 17 November 2015 (available at: http://www.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=165591).

⁷⁸ See paragraph 76 of the 9th OHCHR public report on the human rights situation in Ukraine covering the period of 1 December 2014 – 15 February 2015.

⁷⁹ Office of the Prosecutor General, MoIA and SBU about results of investigation into counteraction to peaceful protest actions: adoption of the ‘dictatorship laws’; use of ‘titushky’; abduction and torture of activists, 18 November 2015, (available at: http://www.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=165654).

Odesa regional department of national police and investigations reportedly resumed. OHCHR notes that continuing delays in investigating the 2 May 2014 events appear unjustified and inconsistent with an intent to bring those responsible to justice.

99. On 25 December 2015, the Office of General Prosecutor reported that the pre-trial investigation into the role of the former Head of the Odesa regional police department in the 2 May violence had been completed. The materials were given to the accused and his lawyer for examination.

100. OHCHR is concerned about the ongoing trial of ‘pro-federalism’ individuals involved in mass disorder in the city centre on 2 May 2014, which has been characterized by partiality, procedural violations and pressure on the judiciary by ‘pro-unity’ activists. On 27 November, the Malynovskyi District Court of Odesa granted conditional interim release on bail to five ‘pro-federalism’ detainees. ‘Pro-unity’ activists then pressured the prosecution to appeal this decision, in violation of the Criminal Procedural Code. Approximately 50 ‘pro-unity’ activists then blocked the judge of the Court of Appeals of Odesa Region in his office, urging him to grant the appeal. The same day, after the activists met with a panel of judges of the Malynovskyi District Court, the latter signed letters of resignation. Subsequently, the ‘pro-unity’ activists went to the pre-trial detention facility and blocked the main entrance, searching all vehicles in order to block the possible release of the ‘pro-federalism’ detainees on bail. On 4 December 2015, as a result of this aggressive pressure on the judiciary, the Malynovskyi District Court of Odesa reconsidered its previous ruling and cancelled the conditional interim release on bail for all five detainees, in violation of procedural law. The judges also sent letters to the Judicial Council asking to accept their resignation. The prosecutor’s office of Odesa has opened an investigation into this instance of judicial interference.

101. The failure of State actors to uphold or protect judicial independence has also led to delays in prosecuting the only ‘pro-unity’ activist charged in relation to the 2 May 2014 events, for killing a person and injuring a police officer. Since August 2015, the Malynovskyi District Court of Odesa has sent three petitions to the Court of Appeal, requesting a change of venue for the trial due to continued political pressure from ‘pro-unity’ activists. On 27 January 2016, the case was eventually transferred to the Suvorovskiy District Court of Odesa, but as at February 2016, the trial had not commenced, in violation of national legislation⁸⁰.

9 May 2014 violence in Mariupol

102. OHCHR continued to follow the case related to clashes between Ukrainian military elements and armed groups on 9 May 2014, in Mariupol, during which the latter seized the building of the city police department. According to the findings of the ‘Temporary Parliamentary Investigative Commission on Issues related to the Investigation of Deaths of Residents in Odesa, Mariupol and other cities in Donetsk and Luhansk regions of Ukraine’, the clashes claimed the lives of 25 people (including six law enforcement officers, five attackers, five civilians who allegedly attempted to attack the military, seven police officers and two fire-fighters who died of asphyxiation), and wounded 46 people (including five Ukrainian military officers).

103. On 23 December, OHCHR met with four detainees held in Mariupol SIZO for their alleged involvement in the 9 May events. They complained that they had been ill-treated by SBU officials and members of the Azov regiment in Mariupol, detained incommunicado for some time in September 2014, and that evidence extracted through torture was being used in their trial. They added that they had been denied medical assistance for the injuries

⁸⁰ Such delays violate Article 314 of the Criminal Procedure Code.

sustained through torture, and had ineffective legal representation. Of grave concern is the allegation that the accused suffered reprisals in the form of threats, intimidation and ill-treatment by the SBU after they challenged the admissibility of evidence in court.

104. On 10 February, the Office of the Prosecutor for Donetsk region informed OHCHR that they had visited the accused in SIZO and, based on their complaints and other information received, had opened a criminal investigation into the role of SBU officials in the torture and ill-treatment of the four detainees. OHCHR remains concerned that, at the time of writing, the accused had not been provided medical assistance.

105. OHCHR is concerned that the cases related to the Odesa and Mariupol events have been characterized by serious violations of fair trial and due process rights, resulting in unreasonably prolonged criminal trials and detention, and hampering the rights of the victims' families to seek justice. More broadly, this situation further erodes public confidence in the justice system.

31 August 2015 violence

106. OHCHR continued to follow the developments of the case of violence near the Parliament that occurred on 31 August 2015 when four police officers were killed and around 187 people injured due to the explosion of a hand grenade and subsequent clashes. The legal proceedings that followed have been marred by irregularities, including the holding of suspects in a temporary detention facility under the Ministry of Internal Affairs, in violation of Ukrainian legislation⁸¹.

107. This case is emblematic of the systemic resort to pre-trial detention and widespread disregard for non-custodial measures, resulting in excessive and at times arbitrary detention. Neither the prosecution nor the judges have addressed the grounds for continued detention⁸². According to the lawyer of the accused, his client was subjected to psychological pressure and threats of physical violence from other detainees. OHCHR was informed about excessive use of force during the arrest and detention of one of the accused, whose hand was reportedly broken by police officers, and who was handcuffed for up to nine hours with a swollen hand, and remained for approximately 11 hours without medical care. Later on, he was held overnight in a prisoner truck, deprived of food, water and proper clothing. As a result, he has lost full function of his wrist. Another lawyer presented photos of three other accused allegedly depicting grazes and bruises following detention. The General Prosecutor is investigating the allegations and has identified the law enforcement officials suspected of bearing responsibility. OHCHR has been repeatedly denied access to the detainees by the Ministry of Internal Affairs.

⁸¹ Article 2, Internal Rules of Conduct in Temporary Detention Facilities of the Ministry of Internal Affairs

⁸² *Kharchenko v. Ukraine*, p. 80

IV. Fundamental freedoms

“With the ‘passport control’ established by ‘Donetsk people’s republic’, traveling has become even more complicated. Now we are stuck in this grey area for several hours, without toilets, water or food. It is not possible to leave the paved road even if you really need to, because everything around you is mined.”

- A woman travelling from Mariupol to Donetsk

A. Violations of the right to freedom of movement

108. According to the State Border Service of Ukraine, 8,000 to 15,000 civilians cross the contact line each day. They are forced to wait for long periods of time – often overnight – in their cars, as they pass controls at three Ukrainian and three ‘Donetsk people’s republic’ checkpoints separated by a stretch of heavily mined no-man’s land. OHCHR has frequently observed 200 to 300 vehicles per day, idling in rows on either side of the road, waiting to cross the contact line.

109. Over the winter period, passengers often spend the night in freezing temperatures. Water, sanitation facilities and medical care are not available in the vicinity of the checkpoints. During the reporting period, two elderly people (a man and a woman) died while queuing at the checkpoints due to lack of timely medical care⁸³. In addition, checkpoints remain unsafe due to the significant military presence, exposing civilians to potential shelling, or explosion of ERW and mines.

110. The Temporary Order⁸⁴ – demanding that civilians apply for special permits to cross the contact line and use only designated transport corridors – has consistently been identified as a core grievance of people residing the conflict-affected area and IDPs, as it severely impedes their freedom of movement. The Temporary Order has resulted in the isolation of areas under the control of armed groups. Freedom of movement was further constrained on 3 February 2016 when the Government closed the Zaitseve transport corridor due to the resumption of shelling invoking increased security risks.

111. In addition to extending waiting at other checkpoints, this closure negatively impacted civilians living adjacent to the contact line, trapping those in villages under Government control in the ‘grey zone’ area near Zaitseve. People have reportedly been trying to find alternative routes, often through fields contaminated with ERW and IEDs. On 10 February 2016, a minibus hit a mine on the side of the road near Mariinka checkpoint southwest of Donetsk city, one of the busiest crossings. One passenger and two bystanders were killed in this incident.

112. The freedom of movement of civilians in Luhansk is particularly restricted. As of 15 February, only four transport corridors between the areas controlled by the Government and those controlled by the armed groups remained operational. The three crossings that allow vehicles are located in Donetsk region. Residents of Luhansk region can only access

⁸³ On 20 November, a 64-year-old man died of a heart attack while spending the night at the Mayorsk/Zaitseve checkpoint, after one day waiting to cross. He was travelling with his wife from Donetsk to Kramarosk. When he started feeling unwell at the checkpoint, there was no possibility to access medical aid. On 17 December 2015, a 74-year-old woman died at the Hnutovo checkpoint, on her way to the territory of the ‘Donetsk people’s republic’.

⁸⁴ The Temporary Order on the control of movement of people, transport vehicles and cargoes along the contact line in the Donetsk and Luhansk regions was developed and approved by ‘the Operational Headquarters of Management of the Anti-Terrorist Operation’, and entered into force as of 21 January 2015. For more information, see 12th OHCHR report on the human rights situation in Ukraine, covering 16 August to 16 November 2015 (paragraphs 52-56).

Government-controlled territory through Stanytsia Luhanska, a pedestrian crossing, via a broken bridge with steep stairs, thereby also limiting what civilians can carry. Consequently residents of Luhansk region wishing to cross the line with goods or using transport have to travel through Donetsk region or the Russian Federation along routes which are also subject to restrictions and various challenges.

113. Since August 2015, entry-exit checkpoints to areas under Government control have been increasingly operated by Ukraine's State Border Service, with the imposition of the rules and procedures that apply for crossing the State border. Information about the procedures and regulations are not widely or easily available to civilians crossing the contact line. Reportedly, civilians are allowed to enter the Government-controlled areas without documents while more restrictive regulations are applied for those wishing to return to the areas controlled by armed groups. For example, a father or mother travelling with children should have a notarized letter of consent from the child's other parent. If one parent is the sole custodian, a copy of the relevant court document is required. This is not always possible if, for instance, the custodian cannot reach the other parent. On 23 December 2015, OHCHR interviewed a single woman with two children who wanted to return to the areas controlled by the armed groups, but was not let through as she did not have the required documentation.

114. As of 19 January, movement across the contact line was further restricted, following the imposition of "passport control checkpoints" by the self-proclaimed 'Donetsk people's republic'. The procedure entails the registration of passport data into a 'database' for all people exiting and entering the five corridors controlled by the armed groups⁸⁵. International humanitarian law requires that civilians – individually and collectively – shall enjoy general protection against the dangers arising from military operations⁸⁶. This includes the possibility to voluntarily and rapidly leave areas affected by violence in order to protect their lives and to access basic assistance.

115. OHCHR is concerned about the situation of people residing in the territory controlled by the armed groups whose national passports are missing or expired as they cannot cross the contact line, nor travel abroad. In the absence of any consular or administrative services in these areas, these individuals are trapped, with no prospect of proper assistance.

116. Corruption around the contact line continues to be reported as an enduring problem. Bribes by Government personnel and armed groups are often demanded for expediting passage or allowing cargo (according to the Temporary Order civilians are allowed to transport only 50 kilograms of food). On 17 January 2016, the Chief Military Prosecutor of Ukraine announced that eight members of the 28th Brigade⁸⁷ of the Armed Forces of Ukraine had been tried and found guilty under article 368 of the Criminal Code for taking bribes to allow the movement of cargo across the contact line. Three additional cases are at trial. Civilians frequently complain about the rude attitude and derogatory language used by personnel administering the checkpoints. Women in particular are often subjected to degrading and abusive behaviour when crossing. Existing mechanisms, such as hotlines, designed to address violations are ineffective and people are not aware of their existence or are afraid that complaints will be met with retaliation.

117. Limitations of freedom of movement imposed by the Government of Ukraine and the armed groups disproportionately affected people living in the vicinity of the

⁸⁵ HRMMU Interview, 12 February 2016.

⁸⁶ Article 13(1), Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 22.

⁸⁷ The commander of the brigade was arrested on 21 September 2015.

checkpoints. Even civilians who live in areas under Government control but behind Ukrainian checkpoints (i.e. in the ‘grey zone’) are required to apply for permits and/or queue for prolonged periods of time to cross short distances to and from their settlements.

118. Many of these settlements are in rural areas with few basic services, and limitations of freedom of movement therefore severely restrict local residents’ access to medical and social services. For example, OHCHR was informed about several cases of women in labour who could not quickly reach maternity hospitals due to the checkpoints on the way. The Temporary Order therefore has a significant impact on the right to health, and violates the obligations, binding on all parties under article 7 of Additional Protocol II to the Geneva Conventions as well as customary international humanitarian law to ensure medical assistance.⁸⁸ The “logistic centres”⁸⁹ established by the Government with the aim of simplifying access of civilians to food, medicine and cash have not led to any improvement.

B. Violations of the right to freedom of religion or belief

Territory controlled by the Government of Ukraine

119. OHCHR followed the tensions between local communities, identifying themselves with the Ukrainian Orthodox Church (UOC)⁹⁰ and the Ukrainian Orthodox Church of Kyiv Patriarchate (UOC KP). From 28 January to 1 February 2016, OHCHR visited the western regions of Ternopil and Rivne, where such tensions occurred. In rural areas, where some people want to join UOC KP, others wish to remain with UOC, which triggers tensions, especially in villages, where there is usually only one church. Some parishioners and members of the clergy of both denominations reported to OHCHR their concerns about discrimination and use of derogatory and inflammatory language directed toward them on the basis of their affiliation to either UOC or UOC KP. Threats of physical violence, or coercion to force them to change their allegiance have also been reported. The latter constitutes a violation of the unconditionally protected *forum internum* of freedom of religion or belief.

120. According to local residents, police and authorities have focused on preventing or intervening in physical clashes while not addressing other forms of altercation, intimidation and discrimination⁹¹. It is of concern that in several villages, residents and external actors have precluded communities of both denominations from accessing their preferred place of worship and from holding religious services, including baptisms and weddings, for several weeks. In general, investigations into such incidents are either not initiated or not effective.

121. In line with its international human rights obligations⁹², the Government of Ukraine should not only ensure the right, either individually or in community with others, to manifest one’s religion or belief in worship, observance, practice and teaching, but must also take effective measures to ensure that no one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or belief.

Territory controlled by armed groups

122. During the reporting period, the situation of persons belonging to minority Christian denominations remained difficult. In particular, the persecution of Jehovah Witnesses – accused of ‘extremism’ by armed groups – persisted.

⁸⁸ Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 22.

⁸⁹ See 12th OHCHR report on the human rights situation in Ukraine, covering 16 August to 15 November 2015, paragraph 55.

⁹⁰ Often referred to as the Ukrainian Orthodox Church – Moscow Patriarchate.

⁹¹ HRMMU Interviews, 28 January – 1 February 2016.

⁹² Article 18 of the International Covenant on Civil and Political Rights

123. On 6 January 2016, a group of armed men headed by a Cossack known as “Ivanych”, detained two male Jehovah Witnesses at the Maiorsk checkpoint (controlled by the self-proclaimed ‘Donetsk people’s republic’). Before being released, the two men were threatened that next time they would have their legs “shot-through”⁹³. On 17 January 2016, three unidentified armed men in camouflage and balaclavas entered the Jehovah Witness house of worship in Horlivka, and abducted three parishioners. After reporting the abduction to local ‘police’, the parents of the victims were informed that all three were taken to the building of the ‘counter organized crime unit’ in Donetsk. On 18 January, the unit informed the families that the three men were “detained” for “participating in an extremist organization, “banned” by a decree of the ‘head of the republic’⁹⁴.

124. On 29 January, in Donetsk, OHCHR monitored a demonstration, near a Greek Catholic Church, by activists of the “Young Republic”, an organization associated with the ‘Donetsk people’s republic’. Demonstrators held posters with the following message: “No to sects in the ‘DPR!’” and “Greek-Catholic church conducts ‘anti-republican’ activities!” Protesters told OHCHR that they were speaking out against the Greek Catholic Church because it “promotes the idea of a united Ukraine.” OHCHR observed that protesters left the site in an organized manner in buses provided beforehand.

125. OHCHR reiterates its concerns about statements issued by representatives of the ‘Donetsk people’s republic’ declaring their intention to “combat the sects”, as indicative of a policy of religious persecution of persons belonging to denominations other than Orthodox Christianity, Catholicism, Islam and Judaism.

126. Under international customary law and article 4 of Additional Protocol II to the Geneva Conventions⁹⁵, the right to freedom of religion or belief and the right not to be subjected to discrimination on any grounds, including religious affiliation, and should be respected by all parties to a conflict, including armed groups.

C. Violations of the right to freedom of peaceful assembly

127. The Constitution of Ukraine guarantees the right to freedom of peaceful assembly in general terms, with no specific protection. The absence of any specific law on peaceful assembly has allowed local councils to arbitrarily limit freedom of assembly, while some local courts have invoked outdated legislation from the former USSR to justify restrictions. On 7 December 2015, the Parliament of Ukraine registered a draft law ‘On Guarantees for Peaceful Assemblies’. While it generally complies with international standards, it requires notification two days prior to assembly. Furthermore, the draft foresees judicial discretion in prohibiting rallies that threaten “public order and safety”⁹⁶. These two requirements can lead to arbitrary prohibition or limitation of peaceful assemblies by discouraging legitimate protest activity and allowing for broad judicial authority to restrict lawful protests⁹⁷.

128. During the reporting period, people were largely able to exercise their right to assemble peacefully and articulate their concerns and demands regarding different issues

⁹³ HRMMU interview, 18 January 2016.

⁹⁴ HRMMU interview, 18 January 2016.

⁹⁵ See reports of the Special Rapporteur on Freedom of Religion or Belief on the missions to Cyprus (A/HRC/22/51/Add.1(2012, paragraphs 81-87); the Republic of Moldova (A/HRC/19/60/Add.2(2012, paragraphs 87); and Sri Lanka (E/CN.4/2006/5/Add.3(2006), paragraph 93); and allegation letter on the situation of Jehovah’s Witnesses in Nagorno-Karabakh (A/HRC/16/53/Add.1(2011), paragraphs 6-24 and A/HRC/22/51(2012), paragraph 43, footnote 16); Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 88.

⁹⁶ OSCE Guidelines on Freedom of Peaceful Assembly; Stankov and the United Macedonian Organisation Ilinden v. Bulgaria (2001), para. 97.

⁹⁷ UN Human Rights Committee: Concluding Observations: Morocco, 1999; CCPR/C/79/Add.113; para 24.

throughout Ukraine. Most large assemblies were held in Kyiv, such as the December 2015 rallies demanding the Prime Minister's resignation, or protests against the adoption of the tax amendments.

129. OHCHR observed some restrictions in Odesa, in the territories controlled by the armed groups, and Crimea (See Human Rights in the Autonomous Republic of Crimea at p. 44).

130. For instance, following the municipal election run-off in Kryvyi Rih, on 15 November, there were large demonstrations alleging voter fraud, which were marked by skirmishes with the police, bomb threats to the local Electoral Commission, and physical confrontations among public officials. OHCHR notes that law enforcement must facilitate and protect public assemblies and de-escalate violent situations.

131. In Odesa, OHCHR monitored most of the rallies organized every Sunday to commemorate the 2 May 2014 violence. It was thus able to observe the inconsistent engagement of law enforcement in ensuring peaceful assemblies initiated by the 'pro-federalism' movement or its supporters. Generally, 'pro-unity' activists prevented 'pro-federalism' activists from exercising their right to freely and peacefully assemble, regardless of the motivation for the rally. For instance, on 22 January 2016, 'pro-unity' activists harassed and chased 20 'pro-federalists', mostly older women protesting against high utility prices. Although 'pro-unity' activists had announced their plans to disturb the event in advance, the police did not prevent them from doing so.

132. OHCHR continued to observe and receive information about the absence of assemblies in territories controlled by armed groups, which further demonstrates the lack of space for the population to showcase diverse views, articulate critical perspectives or exchange on socioeconomic issues.

D. Violations of the right to freedom of association

Territory controlled by the Government of Ukraine

133. On 16 December, the Administrative District Court in Kyiv issued a decision prohibiting the Communist Party, in the second such suit brought by the Ministry of Justice. OHCHR learned that the lawyer representing the Communist Party was prevented from participating in the hearings of the Commission established by the Ministry of Justice on violations of the "de-communization" law. Subsequent court proceedings were characterized by procedural irregularities. According to witnesses, the court proceedings were truncated and only written submissions were heard.

134. In its opinion issued on 21 December 2015, the Council of Europe's advisory body on constitutional law, the Venice Commission, concluded that the "de-communization" law should be amended because it violates freedom of expression, speech, association and electoral rights⁹⁸.

135. OHCHR continued to monitor the case of the leader of 'UKROP' party and former candidate for mayor of Kyiv, Hennadii Korban, who has been in custody since 28 December 2015 and whose health has seriously deteriorated. Although he underwent heart surgery, between 24 and 27 December, he was forced to undergo several procedural checks and was eventually forcefully transferred to court for a trial that lasted for more than 24

⁹⁸ On 24 July the Minister of Justice adopted a resolution that precluded the Communist Party of Ukraine, the Communist Party of Ukraine (renewed) and the Communist party of Workers and Peasants to stand in the 2015 local elections, based on the decision of the special commission.

hours and was marked by numerous violations of due process rights. OHCHR is concerned about the treatment of Mr. Korban and the role of the judiciary in sanctioning such treatment.

Territory controlled by armed groups

136. OHCHR remains concerned about the lack of space for civil society actors to operate in the territories controlled by armed groups, including to conduct vital humanitarian assistance.

137. In January 2016, several public figures were detained in the ‘Donetsk people’s republic’. On 29 January 2016, the female co-founder of the humanitarian organization “Responsible Citizens” was taken from her home by individuals believed to be members of the ‘ministry of state security.’ Her whereabouts are unknown. Four members of the NGO were called to visit the ‘ministry of state security’, where they were held for several hours. Three of them were told that they were to be “deported”. They were then taken under armed escort to the contact line and informed they would not be able to return. The organization has had to halt all humanitarian activities.

138. The detention and expulsion of “Responsible Citizens” members followed the illegal deprivation of liberty and incommunicado detention of a blogger on 4 January, three Jehovah Witnesses on 17 January, and a religious scholar on 27 January 2016⁹⁹. OHCHR has reason to believe that these individuals are being held by the ‘ministry of state security’ and urge the ‘Donetsk people’s republic’ to allow OHCHR access to these and other individuals deprived of their liberty. The targeting of civil society is of grave concern.

139. During the period under review, humanitarian organizations, including United Nations entities, and international and locally-based NGOs, were still not permitted to carry out protection-related activities in the ‘Donetsk people’s republic’ or in the ‘Luhansk people’s republic’. OHCHR received reports that, in addition to international organizations, several local NGOs have been requested by the authorities of ‘Donetsk people’s republic’ to obtain accreditation in order to be able to continue their humanitarian activities. OHCHR recalls the obligation by all parties to a conflict, under international humanitarian law, to allow and facilitate rapid and unimpeded passage of humanitarian assistance to civilians in need¹⁰⁰.

E. Violations of the right to freedom of opinion and expression

Territory controlled by the Government of Ukraine

140. OHCHR has noted that the political climate in Ukraine, especially with regard to the conflict in the east, continues to affect adversely the freedom of opinion and expression.

141. The Ivano-Frankivsk City Court prolonged the detention of journalist Ruslan Kotsaba (from 17 January to 22 February 2016), who was charged with high treason for publishing an anti-mobilisation video. OHCHR noted two similar cases of Ukrainian journalists who were arrested by SBU on 24 November 2015, accused of creating a ‘terrorist’ organization.

142. A draft law providing for the criminalization of public denials of the temporary occupation of Ukraine’s territories has been submitted to the Parliament of Ukraine. The foreseen offenses are not clearly defined, increasing the risk of arbitrary application.

⁹⁹ HRMMU Interviews, 4 and 10 February 2016.

¹⁰⁰ Article 18(2), Additional Protocol II to the Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 55.

Territory controlled by armed groups

143. Freedom of expression and the work of media professionals in the territories controlled by the armed groups continued to be arbitrarily hindered and subjected to strict control.

144. In order to receive permission to enter and work in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, foreign journalists have to apply for ‘accreditation’, a process that involves close scrutiny of their prior reporting and publications. Certain foreign journalists who had been working in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ following the outbreak of hostilities were recently refused ‘accreditation’ or were required to apply for re-registration.

145. In Luhansk, on 11 November 2015, the ‘ministry of information, press and mass communication’ issued a ‘decree’ requiring the registration of international media and journalists and cancelled the ‘accreditation’ of one foreign journalist as he allegedly violated accreditation rules and applicable media ‘legislation’. Another foreign journalist, who applied for accreditation under procedures imposed by the ‘ministry of foreign affairs’ of the ‘Donetsk people’s republic’, was denied “accreditation” without any explanation. OHCHR understands that journalists, who do receive accreditation and work in areas under the control of armed groups, are cautious in what they report and may self-censor.

146. On 4 January 2016, a blogger and civil society activist residing in Kyiv was illegally detained in Makiivka by the ‘ministry of state security’ of the ‘Donetsk people’s republic’ while visiting his parents. His colleagues assume that this is linked to his civil and journalistic activities. OHCHR understands that Ukrainian and European Union flags were confiscated from his parent’s apartment when the activist was taken away¹⁰¹.

147. Freelance journalist Maria Varfolomicieva – who was abducted by armed groups of the ‘Luhansk people’s republic’ on 9 January 2015 – remains illegally detained, incommunicado in the ‘ministry of state security’ in the ‘Luhansk people’s republic’. OHCHR interviewed a person who spent almost five months in a cell adjacent to Ms. Varfolomicieva’s. According to this witness, she had been subjected to prolonged malnourishment, unhygienic conditions of detention and permanent psychological pressure, including verbal abuses. He noted that Ms. Varfolomicieva was subjected to particularly harsh treatment relative to other detainees¹⁰².

V. Economic and social rights

“We lost everything. I spent my whole life building this house for my family. One day we heard shooting and explosions. We ran, taking only our documents. When we returned a few weeks later, all of our belongings were gone. The windows were shattered. There were muddy footprints all over the house. They took everything we had.”

- A man from Shyrokyne

148. Civilians living in the territories controlled by armed groups continued to suffer violations of their economic and social rights, including their right to the highest attainable standard of physical and mental health and housing, land and property rights. Civilians living under Government control in conflict-affected areas, IDPs and demobilized soldiers faced particular obstacles to the exercise of their economic and social rights. OHCHR is

¹⁰¹ HRMMU Interview, 14 January 2016.

¹⁰² HRMMU Interview, 9 February 2016.

concerned about continuing reports of discrimination preventing these groups from accessing quality healthcare, social services, employment and housing. Government programmes or initiatives to assist the integration of IDPs who fled from the conflict-affected area remain scarce. This is of concern, as some IDPs seem to be losing hope to return home, as OHCHR observed in Kharkiv. The Government has registered 1.6 million IDPs, with 800,000 to 1 million living in territories controlled by the Government.

149. IDPs from conflict-affected areas residing in Government-controlled territories continued to face discrimination on the basis of their status, although the full extent of the problem could not be ascertained. For example, OHCHR received reports that some employers in Zaporizhzhia are biased against IDPs and frequently refuse to give them jobs because of their place of origin. Difficulties in finding employment force IDPs to accept low-paid jobs or precarious contracts, with limited or no labour rights. Similarly, there have been reports of discrimination against demobilized soldiers, who often face negative attitudes for taking part in the war, or because some employers consider them as “psychologically and emotionally unstable”.

150. The Government of Ukraine does not recognize birth and death certificates issued by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. As a result, children born in areas controlled by the armed groups do not have documents that are recognized in Ukraine. This causes legal and practical hardships, notably to access social, medical or employment services in Government-controlled territory. On 4 February, Parliament adopted the Law No. 3171¹⁰³ concerning the establishment of the facts of birth or death occurring on the temporary occupied territory of Ukraine – the Autonomous Republic of Crimea and certain districts of Donetsk and Luhansk regions. The Law, if signed by the President, will simplify the existing general procedure of judicial establishment of legal facts¹⁰⁴ for cases concerning birth and/or death that took place in the areas controlled by armed groups; however people will still need to obtain a court decision validating such documents. In line with the jurisprudence of the International Court of Justice and the European Court of Human Rights¹⁰⁵, civil registration documents issued in territories controlled by armed groups should be recognized through administrative procedure rather than court review. The current procedure results in discrimination on the basis of origin.

151. The Government of Ukraine retains significant residual obligations toward people living in areas controlled by the armed groups and the conflict-affected areas. While it may not always be able to ensure the progressive realisation of economic and social rights for its citizens living outside their control, it cannot impede or impose obstacles to their exercise. In particular, Government policy must correct any forms of discrimination against people living in areas controlled by the armed groups.

¹⁰³ ‘On amendments to the Civil Procedure Code of Ukraine concerning the establishment of the fact of birth or death in the temporary occupied territory’, No. 3171, of 22 September 2015.

¹⁰⁴ Such procedure is normally resorted to in absence of any valid official documents certifying a certain fact or status. A judicial establishment of this fact further entitles a person to obtain the necessary documents.

¹⁰⁵ ICJ Advisory Opinion of 21 June 1971 – *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, paragraph 125.

Loizidou v. Turkey (Merits), Judgment of 18 December 1996, ECHR (1996), para. 45; *Cyprus v. Turkey* (Merits), Judgment of 10 May 2001, ECHR (2001), para. 90. *Ilascu and Others v. Moldova and Russian Federation*, Application n. 48787/59, Judgment of 8 July 2004, para. 458-461.

A. Right to the highest attainable standard of physical and mental health

Territory controlled by the Government of Ukraine

152. IDPs have often faced obstacles to access needed medical care and basic services, often as a result of discriminatory grounds related to their status. On 6 and 21 January, OHCHR interviewed female IDPs from Donetsk region who were denied medical assistance in Zaporizhzhia city hospital and in Dnipropetrovsk on the grounds that they did not have an IDP registration certificate, which is required to access any public services.

153. Demobilized and injured Ukrainian soldiers have faced difficulties accessing physical and psychological rehabilitation services due to bureaucratic delays in recognizing their veteran status, as well as a lack of allocated resources. OHCHR recalls that rehabilitation is an integral element of any ‘Disarmament, Demobilization, and Reintegration’ effort of ex-combatants¹⁰⁶.

154. Across Ukraine, OHCHR has collected worrying information about increasing domestic violence by demobilized soldiers. Their families struggle with a lack of support services. The Government has due diligence obligations to effectively respond to domestic violence, ensure accountability for perpetrators, provide meaningful reparations and protect victims.

155. Despite the growing need for medical services caused by the conflict and its consequences, healthcare system expenditures were cut by 10.8 per cent (almost six billion UAH) in the State Budget for 2016, which is likely to further constrict the availability, affordability and accessibility of quality healthcare for the population at large.

Territory controlled by armed groups

156. Access to the highest attainable standard of physical health remains severely impeded in the territories controlled by the armed groups due to continued shortages of necessary medical equipment and specialized and affordable medication. Medication prices are high and unaffordable for many, while medical services are of poor quality. The situation is most dire in rural areas. There is a lack of medical professionals as many have left due to the conflict. People often have no choice but to travel to the Government-controlled areas to purchase required medicines, something that is made increasingly difficult due to the restrictions imposed on movement across the contact line.

157. In the summer of 2015, both self-proclaimed republics restricted access to international organizations to the territories under their control. In the territories controlled by the ‘Luhansk people’s republic’, United Nations entities have been granted permission to operate, which, for example enabled them to deliver anti-retroviral treatment for HIV-positive individuals. Over the reporting period, Russian Federation authorities reportedly delivered over 3,200 tonnes of humanitarian assistance to the areas controlled by the armed groups in three convoys of 39 to 45 vehicles each, without the full consent or inspection of Ukraine¹⁰⁷. Their exact destination and contents could not be verified. There are reports of ongoing shortages, particularly in the ‘Donetsk people’s republic’, where specialized treatment (such as chemotherapy, anti-retroviral and anti-tuberculosis therapy) used to be supplied by international actors. The depletion of stocks is extremely worrisome given the grave consequences for those experiencing interruptions in their treatment.

¹⁰⁶ Integrated Disarmament, Demobilization and Reintegration Standards, UN DDR Resource Centre, 1 August 2006, <http://unddr.org/uploads/documents/IDDRS%202.10%20The%20UN%20Approach%20to%20DDR.pdf>.

¹⁰⁷ The 45th convoy arrived on 26 November, consisting of 45 vehicles; the 46th on 17 December, consisting of 39 vehicles; and the 47th on 24 December 2015 of 44 vehicles, as reported by OSCE monitors.

158. The situation of people in prisons and institutional care remained precarious. In January 2016, OHCHR was informed that a man suffering from an acute bleeding stomach ulcer was denied medical assistance at the Donetsk SIZO. On 1-2 February 2016, OHCHR was contacted by the families of pre-conflict inmates detained in penal colony No. 72 in Yenakiieve, requesting the transfer of their relatives to the Government-controlled area. They invoked the rapidly deteriorating conditions at the penal colony, particularly regarding access to healthcare. Two prisoners are HIV-positive and, according to their parents, do not receive proper treatment. One person suffering from diabetes has allegedly not received insulin for months. OHCHR is concerned that the situation is worsening in the 'Donetsk people's republic', where armed groups continued to block or excessively control access to the territories under their control to humanitarian assistance, preventing proper monitoring of places of detention, and impeding the delivery of assistance that can relieve people from illness or even death, hunger and suffering.

B. Housing, land and property rights

159. In a trend observed since September 2015, IDPs have gradually continued returning to their homes in areas controlled by the armed groups. While no comprehensive data is available on the number of returnees to date, OHCHR has observed a notable increase in the number of residents in urban areas in Donetsk and Luhansk regions.

160. However, housing, land and property issues, particularly the damage, seizure or looting of property, and lack of justice and compensation mechanisms, remained one of the major concerns for civilians living in the conflict zones and for IDPs from these areas. Continued fighting and the destruction of or damage to property are obviously major impediments to return.

161. Another major concern is the ongoing presence of military forces in civilian areas and indiscriminate shelling continue to be the main factors endangering civilians, and affects their ability to access housing, land and property. During the reporting period, OHCHR collected detailed information about the conduct of hostilities by Ukrainian armed forces and the Azov regiment in and around Shyrokyne (31km east of Mariupol), from the summer of 2014 to date. Mass looting of civilian homes was documented, as well as targeting of civilian areas between September 2014 and February 2015. Residents displaced to Mariupol have received little assistance and information about the status of their homes. Unable to return but for short periods of time to examine the damage, IDPs from Shyrokyne exchange video footage and photographs to try to track the condition of their homes.

162. In areas controlled by the armed groups, OHCHR has documented military use of unoccupied houses. For instance, in Donetsk, between December 2015 and January 2016, armed groups twice occupied and burglarized an empty private house. Military vehicles and equipment were brought to the courtyard, damaging the property and endangering the residential area. Armed group members eventually left the house upon persistent requests by a guard hired by the owner of the house. On 27 January, the guard reported the occupation of property to the 'military police' of the 'Donetsk people's republic.' At the time of writing, in Kominternove, 'Donetsk people's republic', armed group members were occupying several abandoned houses.

163. The information received by OHCHR reveals a systemic problem due to a lack of effective remedy for the destruction, looting or occupation of property in areas affected by the conflict. In practice a Ukrainian citizen on either side of the contact line who discovers that her or his property has been damaged from hostilities, looted or occupied, cannot

pursue redress. While recognizing efforts to address this gap,¹⁰⁸ OHCHR urges the Ukrainian authorities to work effectively to ensure that the displaced population can be compensated for property destroyed during the conflict.

164. The housing rights of IDPs living in Government-controlled areas are also at risk. For instance, in Odesa, OHCHR received information that the situation of IDPs with disabilities may further deteriorate due to planned budget cuts for accommodation. Local authorities have assured OHCHR that they will find ways to ensure that all IDPs receive adequate support and housing. IDPs in Odesa region are frequently housed in unoccupied or abandoned homes, putting them under constant threat of eviction. According to UNHCR, many IDPs continue to live in poor quality housing, with the most vulnerable often living in collective centres, which, as at February 2016, were sheltering approximately 14,000 people.

165. The high risk of eviction for IDPs and their families living in rental accommodation, Government-funded housing, or squatting in abandoned homes and buildings, added to serious barriers to return, including looting, damage and military occupation of homes that have been abandoned by IDPs, call for urgent measures to ensure that IDPs are able to access their homes or are compensated for property damaged or destroyed in the course of the conflict.

VI. Legal developments and institutional reforms

A. Notification on derogation from the International Covenant on Civil and Political Rights

166. On 27 November 2015, in a notification addressed to the United Nations Secretary-General, the Government of Ukraine clarified the geographic scope of its intended derogation from certain provisions of ICCPR¹⁰⁹, which raises serious concerns¹¹⁰. It specified that the derogation applied to localities under its total or partial control, including large towns and cities under its effective control – such as Kramatorsk, Krasny Lyman, Sloviansk and Mariupol (Donetsk region) and Lysychansk, Rubizhne, and Severodonetsk (Luhansk region).

167. OHCHR notes that the validity of a derogation under article 4 of ICCPR depends on the fulfilment by the State concerned of a number of conditions, as further outlined in General Comment No. 29 of the United Nations Human Rights Committee¹¹¹. It requires the official proclamation of the existence of a public emergency threatening the life of the nation, and that derogation measures be proportionate and non-discriminatory. It also

¹⁰⁸ Draft Law ‘On amendments to the Law of Ukraine ‘On ensuring the rights and freedoms of internally displaced persons’ concerning compensation for damaged property’, No. 2167, of 18 February 2015; and Draft Law ‘On amendments to the Law of Ukraine ‘On combating terrorism’ concerning compensation for damage to property inflicted in the course of ATO’, No. 3434, of 9 November 2015.

¹⁰⁹ In June 2015, the Government of Ukraine wrote to the United Nations Secretary-General that the Russian Federation had committed an armed aggression against Ukraine and was “fully responsible” for ensuring respect of human rights and humanitarian law in Crimea and the areas of eastern Ukraine under the control of the armed groups.

¹¹⁰ In June 2015, the Government of Ukraine submitted a communication to the United Nations Secretary-General, notifying him of its derogation from the following rights under ICCPR: Effective remedy (paragraph 3, Article 2); freedom from arbitrary arrest and detention and related procedural rights (article 9); liberty of movement and freedom to choose one’s residence (article 12); fair trial (article 14); privacy of personal life (article 17). See HRMMU report of 16 May - 15 August 2015, para. 159-161.

¹¹¹ United Nations Human Rights Committee, CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11.

provides that their duration, geographic and material scope must be limited to the extent strictly required by the exigencies of the situation. The derogation must not be inconsistent with other obligations under international law, including applicable rules of international humanitarian law¹¹².

B. Notification in relation to 16 United Nations treaties

168. On 20 October, the Government of Ukraine addressed notifications to the United Nations Secretary-General on “the specifics of the territorial application and implementation” of 16 United Nations treaties¹¹³, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The notifications state that the application and implementation by Ukraine of its obligations under the 16 treaties “*is limited and is not guaranteed*” on territories deemed to be occupied and uncontrolled, and that this situation will continue to apply until the complete restoration of Ukraine’s sovereignty over its territory. The notification refers to treaty provisions concerning “direct communication or interaction”. It is not clear which treaty provisions are affected, but this raises concerns that either judicial cooperation or treaty individual complaints procedures may not be considered as applicable to Crimea and the areas controlled by the armed groups in the east. In addition, the notification invokes some treaty provisions, such as those prohibiting torture, which remain binding on States as part of customary international law.

169. OHCHR urges the Government of Ukraine to take all possible measures to enhance protection for the population of Donetsk and Luhansk regions, including in areas under the control of the armed groups as well as for those people living in Crimea. OHCHR notes that the Government’s claim that Ukraine’s obligations are “limited” and “non-guaranteed” creates legal uncertainty and may undermine human rights protection. According to the interpretation of the United Nations treaty bodies and the European Court of Human Rights¹¹⁴, despite lacking effective control over certain part of its territory, Ukraine, as a State party to ICCPR and ECHR, maintains residual obligations toward people living in areas controlled by armed group¹¹⁵. Accordingly, Ukraine must use all legal means available to it to guarantee the rights of all people on the territory of concern. In particular, the Committee against Torture has drawn the Government’s attention to its obligation to

¹¹² See Rules of international humanitarian law (1949 Geneva Conventions and Additional Protocol II) ; Convention on the Rights of the Child; Convention on the Status of Refugees ; and ILO basic human rights conventions on forced labour, freedom of association, equality in employment, and trade union and workers’ rights.

¹¹³ International Convention for the Suppression of Acts of Nuclear Terrorism, 2005; International Convention Against the Recruitment, Use, Financing and Training of Mercenaries, 1989; International Convention Against the Taking of Hostages, 1979; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984; Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950; International Convention for the Suppression of Terrorist Bombings, 1997; International Convention for the Suppression of the Financing of Terrorism, 1999; Agreement of the Privileges and Immunities of the International Criminal Court, 2002; Convention on the Recovery Abroad of Maintenance, 1956; United Nations Convention against Corruption, 2003; United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988; Convention for the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, 1973; Convention Against Transnational Organized Crime, 2000; Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime, 2000; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, 2000; Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958.

¹¹⁴ CAT/C/UKR/CO/6, para. 11; See also CCPR/C/21/Rev.1/Add.8/Rev.1, para. 4; CCPR/C/MDA/CO/2, para. 5; and *Ilaşcu and others v. Moldova and Russia*, Judgment of 8 July 2004, ECHR (2004), pp. 331-333, and *Catan and others v. Moldova and Russia*, Judgment of 19 October 2012, ECHR (2012), pp. 109-110.

¹¹⁵ CCPR/C/21/Rev.1/Add.8/Rev.1(1997), para. 4.

document and investigate allegations of torture, ensure that perpetrators are duly prosecuted, and provide redress to victims.

C. Constitutional reform

170. On 28 January 2016, the Ukrainian parliament amended its internal regulations so as to postpone the final vote on the constitutional amendments on decentralization, which was supposed to take place by early February. Observers believe the second and final vote was postponed because the Government would not have been able to obtain the required qualified majority to pass the amendments.¹¹⁶ According to the revised parliamentary regulations, a vote will be required by 22 July 2016. OHCHR views the decentralization issue as a key component of a peaceful resolution of the conflict in eastern Ukraine.

171. On 2 February 2016, the Parliament adopted on first reading a revised draft law (No. 3524) amending the Constitution in relation to the justice system. In OHCHR's view, the amendments in their current form would remove long-standing constitutional obstacles to the independence of the judiciary such as removing the role of the executive branch in judicial appointments.

D. Implementation of the Human Rights Action Plan

172. On 23 November 2015, the Government adopted the Human Rights Action Plan of Ukraine identifying actions to implement the 26 priority areas outlined in the Human Rights Strategy of 25 August 2015. The Action Plan was elaborated in close cooperation with civil society, the Ombudsperson's Office and international and regional organizations (the United Nations, the Council of Europe, OSCE, and the European Union), and foresees activities aimed at addressing systemic issues as well as conflict-related challenges.

173. OHCHR intends to provide technical support for the implementation of selected parts of the Action Plan, specifically around the issue of accountability for human rights violations. OHCHR advocates for the Action Plan to be used as a platform to channel support to the Government's efforts to meet its human rights obligations.

E. Adoption of the law on internally displaced persons

174. On 24 December 2015, the Parliament adopted amendments¹¹⁷ to the law on IDPs¹¹⁸ which came into effect on 13 January 2016. In OHCHR view, they largely comply with the United Nations Guiding Principles on Internal Displacement. They simplify registration procedures and enable foreigners legally residing in Ukraine and stateless persons to be recognized as IDPs.

175. In addition, on 16 December 2015, the Cabinet of Ministers adopted the "Comprehensive State Programme for Support, Social Adaptation and Reintegration of citizens of Ukraine, who moved from temporarily occupied territories of Ukraine and ATO regions to other regions of Ukraine for the period till 2017". The programme invites civil society actors to take part in the implementation of the plan and addresses certain human rights protection issues.

¹¹⁶ On 31 August 2015, the decentralization amendments had been adopted on first reading, leading to street violence and casualties.

¹¹⁷ Draft Law 'On amendments to certain legal acts concerning enhancement of human rights guarantees for internally displaced persons', No. 2166, of 18 February 2015.

¹¹⁸ Law of Ukraine 'On Ensuring the Rights and Freedoms of Internally Displaced Persons', No 1706-VII, of 20 October 2014.

F. Draft law on temporarily occupied territory

176. On 8 December, Draft Law No. 3593¹¹⁹ “On the Temporarily Occupied Territory of Ukraine” was registered in Parliament. If adopted, it would create a single regulatory framework for all areas considered as “temporarily occupied”, covering Crimea and the areas controlled by the armed groups. The draft relinquishes all responsibility for protecting human rights in these territories to the Russian Federation as the “occupant State.”

177. Although the draft may still be revised, at this stage OHCHR is particularly concerned by provisions of the draft law that would prohibit the supply of water and electricity to these areas, leading to the de facto deprivation of these areas of basic and indispensable necessities in violation of social and economic rights, article 14 of Additional Protocol II of the Geneva Conventions, and customary international humanitarian law¹²⁰. If adopted, this could have devastating consequences for people living in areas controlled by the armed groups.

178. Despite the protracted conflict and the consequent increasing isolation of the territories under the control of armed groups, the populations residing in Donetsk and Luhansk regions remain entirely dependent on Ukraine’s essential infrastructure for water and electricity supply. Consequently, Ukraine retains control and therefore residual obligations to the populations living in these areas. Water and electricity supply – which are essential for sustenance, basic hygiene, health, and the operation of core public services – should not be used as a tool of political pressure.

G. Amendments to the criminal law

179. On 26 November, Parliament passed amendments¹²¹ to provisions in the Criminal Code, allowing for the conditional release of prisoners sentenced to life after 20 years of imprisonment and for the commutation of life sentences to 25 years of imprisonment. However, the amendments were vetoed by the President of Ukraine on the grounds that they “violate the principle of the proportionality of the punishment to the gravity of a crime”¹²². This reasoning appears to interpret the principle of proportionality of penalty and crime to the detriment of individual rights. As recognized by the Council of Europe’s Committee on the Prevention of Torture (CPT)¹²³ and the European Court of Human Rights’ jurisprudence¹²⁴, the prohibition of torture and inhuman or degrading treatment or punishment, requires a mechanism or the possibility for review life sentences on a periodic basis.

H. Reform of the civil service

180. On 10 December 2015, Parliament adopted a law 'On the Civil Service' (No. 2490) aimed at reforming the civil service system. OHCHR is concerned that the law affects the Ombudsperson’s Office by authorizing a special commission to nominate the Chief of Staff

¹¹⁹ Draft Law 'On Temporary Occupied Territory of Ukraine', No. 3593, of 8 December 2015.

¹²⁰ Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 54.

¹²¹ Draft Law ‘On amendments to certain legal acts concerning replacement of life sentence with a milder punishment’ No. 2292, of 3 March 2015.

¹²² Suggestions of the President to the Law of Ukraine ‘On amendments to certain legal acts concerning replacement of life sentence with a milder punishment’, of 17 December 2015.

¹²³ Memorandum ‘Actual/real life sentences’, CPT (2007) 55.

¹²⁴ *Vinter v. the UK* (no. 66069/09, 130/10 ra 3896/10); *Kafkaris v. Cyprus* (Grand Chamber, no. 21906/04); *Léger v. France* (19324/02).

of the Office of the Ombudsperson and entitling that person to appoint other staff members of the institution This is inconsistent with the provisions of the Paris Principles relating to the autonomy and independence of national human rights institutions¹²⁵.

I. Civil registration

181. On 4 February 2016, parliament adopted Draft Law No. 3171, which regulates the recognition by Ukraine of facts of birth and death occurring on the territories controlled by the armed groups in the east, as well as in Crimea, by amending the Civil Procedure Code. As previously mentioned, under current legislation, all acts issued by *de facto* authorities are considered to be invalid.

182. The Draft Law, which is yet to be signed by the President, does not provide for recognition of birth and death certificates issued by *de facto* authorities or the armed groups. Instead, it creates a simplified procedure of court review waiving the principle of territorial jurisdiction by allowing courts to examine a request for recognition. It also mentions that cases pertaining to the registration of civil acts must be heard “without delay”. As previously mentioned¹²⁶, this falls short of the standards supported by international jurisprudence, which imply direct recognition by State institutions of the registration of births, deaths and marriages performed by *de facto* authorities or armed groups.

VII. Human rights in the Autonomous Republic of Crimea¹²⁷

183. OHCHR monitoring of the human rights situation in Crimea continued to be hindered by a lack of access. In line with standard practices of human rights fact-finding relying primarily on first-hand accounts, OHCHR documented a continuing trend of criminal prosecution of Crimean Tatar demonstrators for their participation in the February 2014 events. Other incidents of serious concern were also recorded, including four Crimean Tatars going missing, and a raid appearing intended to intimidate local Crimean Tatars with pro-Ukrainian sympathies. On 15 February, the prosecutor of Crimea filed a request with the supreme court of Crimea to recognize the Mejlis, the self-governing body of the Crimean Tatars, to be an extremist organization and to ban its activities on the territory of the Russian Federation.

184. As noted in previous reports, OHCHR guided by United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine, is concerned that the imposition of the citizenship and legislative framework of the Russian Federation, including penal laws, and the resulting administration of justice in accordance with this framework, has affected human rights in Crimea.

¹²⁵ “Composition and guarantees of independence and pluralism,” Principles relating to the status of national institutions (the Paris Principles), approved by the General Assembly in 1993, annexed to General Assembly resolution. 48/134.

¹²⁶ See HRMMU report of 16 August - 15 November 2015, paras. 173-176.

¹²⁷ The Autonomous Republic of Crimea technically known as the Autonomous Republic of Crimea and the City of Sevastopol. HRMMU has not been granted access to Crimea and has no *in situ* presence. However, it has been able to monitor the human rights situation by establishing and maintaining contacts with Crimean residents on the peninsula and mainland Ukraine and relying on a variety of interlocutors of different ages and genders including representatives of political, religious, civil society organizations, victims, relatives and witnesses of alleged human rights violations, members of the legal profession, journalists, entrepreneurs, teachers, doctors, social workers, human rights activists and other categories, including individuals with no specific affiliations. HRMMU continues to seek access to Crimea.

185. The human rights of Crimeans also continued to be adversely impacted by some decisions of the Government of Ukraine, including with regard to their access to banking services in mainland Ukraine. Actions by pro-Ukrainian activists in mainland Ukraine, such as attacks on electricity supply, affected vulnerable segments of the population in Crimea.

A. Due process and fair trial rights

186. During the reporting period, two court cases took place in the Russian Federation in relation to Ukrainian citizens arrested in Crimea (See: III. Accountability and administration of justice, B. Individual cases at p. 24). According to the Government, eight individuals have been apprehended in Crimea and transferred to Russia for trial. OHCHR recalls that the arrest of Ukrainian citizens in Crimea by representatives of the Russian Federation authorities and their transfer to the Russian Federation breach United Nations General Assembly Resolution 68/262 on the territorial integrity of Ukraine.

187. On 28 December, a Crimean Tatar was convicted by a Crimean Court¹²⁸ in relation to a demonstration that had led to clashes in front of the Crimean Parliament building on 26 February 2014. The Simferopol City Court handed down a verdict of three and a half years of suspended sentence against Talat Yusunov for his alleged participation in the violence. During the riots between pro-Russian and pro-Ukrainian supporters, two ethnic Russians were killed and 79 demonstrators from both camps were injured. OHCHR notes that this is the second suspended sentence applied to a Crimean Tatar demonstrator having participated in the February 2014 events. Several interlocutors claimed that those arrested were promised lenient sentences should they cooperate with the prosecution in establishing the criminal responsibility of the Deputy Head of the Mejlis, Akhtem Chiihoz, who was also arrested in 2015 for his alleged role in organizing the protests¹²⁹.

188. OHCHR has followed the legal proceedings in relation to four followers of the Hizb ut-Tahrir religious organization, who have been detained since February 2015, accused under ‘terrorism’ charges¹³⁰. On 14 and 15 January 2016, a Crimean Court extended their detention until 22 March 2016. The Supreme Court of the Russian Federation listed Hizb ut-Tahrir as a ‘terrorist organization’, while it is legal in Ukraine.

189. On 11 and 12 February 2016, three Crimean Tatar men – including a human rights activist – and one ethnic Ukrainian man were arrested for their involvement in the Hizb ut-Tahrir religious organization and charged with ‘terrorism’. They were arrested by FSB officers during house raids in Yalta, Alushta and Bakhchisaray districts. The raids took place in the presence of women and children, as armed masked officers stormed the houses, breaking windows and doors. All four men were placed in ‘pre-trial detention’ until 8 April 2016.

190. On 21 January, a court in Simferopol issued an arrest warrant for Mustafa Dzhemilev, the leader of the Crimean Tatars, and placed him on a list of wanted individuals. The court stated that three investigations had been launched into his activities but did not specify the charges. In April 2014, Russian Federation authorities barred Dzhemilev from entering the territory of the Russian Federation for five years.

¹²⁸ Eskender Nebiyev received a suspended sentence of two years and six months of imprisonment on 12 October 2015.

¹²⁹ Eskender Emervaliyev, Eskender Kantemirov, Ali Asanov and Mustafa Degermendzhy.

¹³⁰ See 9th HRMMU public report, covering 1 December 2014 to 15 February 2015, p.24.

B. Rights to life, liberty, security and physical integrity

191. Two Crimean Tatar men went missing on 15 December, near Kerch. The ‘police’ started an investigation and stated that they may have gone to the Middle East. OHCHR received information from relatives that they may have been abducted. A third Crimean Tatar man went missing in Simferopol, in January 2016.

C. Violations of the right to freedom of opinion and expression

192. OHCHR recorded serious allegations of discrimination and harassment against members of minorities and indigenous people, in particular Crimean Tatars, violating their freedom of expression. On 28 December, FSB officers and about 25 Crimean Cossacks entered the village of Dolynka after it was found that a Ukrainian flag had been painted at a nearby bus station. Although the village has an ethnically mixed population, only Crimean Tatar residents were interrogated about the incident. All houses with Crimean Tatar flags were photographed. Residents who had taken part in the May 2015 commemoration of the deportation of Crimean Tatars were systematically sought out for interrogation. The leader of the Cossack group told local journalists he had come to the village to “protect” Russians, Ukrainians and Crimean Tatars from “manifestations of extremism.” While no houses were raided nor any arrests made, the intervention, triggered by the alleged display of a national symbol by an anonymous person, appeared to be illegitimate and unnecessary. The raid of Dolynka appears to have been intended to intimidate local Crimean Tatars who take pride in their national identity and are keen to publicly demonstrate it.

D. Violations of the right to freedom of religion or belief

193. 1 January 2016 marked the deadline for all religious communities to re-register under Russian Federation law. Based on information from the Ministry of Justice of the Russian Federation, 365 religious communities operating in Crimea were re-registered on that date while over 1,000 religious communities that were recognized under Ukrainian law have not been re-registered, and therefore do not have a legal status. OHCHR considers that stringent legal requirements¹³¹ under Russian legislation have either prevented or discouraged re-registration of many religious communities. OHCHR recalls that it is essential to ensure that all procedures for registration are accessible, inclusive, non-discriminatory and not unduly burdensome, as freedom of religion or belief has a status prior to and independent from any administrative recognition procedures. Religious minorities should be respected in their freedom of religion or belief even without registration¹³².

194. The Ukraine Orthodox Church of the Kyiv Patriarchate (UOC-KP) features among the unregistered religious communities. The church chose not to follow registration procedures deriving from Russian Federation law and therefore has no legal status. UOC-KP has been under pressure to cooperate with the *de facto* authorities and its refusal to do so has led to the seizure and closure of at least five churches¹³³ throughout the peninsula

¹³¹ Religious communities requesting re-registration need to submit the statutes of the organization, two records of community meetings, a list of all the community members, and information on the “basis of the religious belief”. See HRMMU report of 16 February – 15 May 2015, para. 168.

¹³² Thematic report of the Independent Expert on Minority Issues, A/68/268, para. 61

¹³³ On 1 June 2014 the church in Perevalnoe was seized by so-called “cossacks”. Originally the church was closed to visitors but later priests of the Moscow patriarchate started conducting services there. The church of the apostles Peter and Paul and holy prelate

since March 2014. The Cathedral of St. Vladimir and Olga in Simferopol, the only place of worship of UOC-KP in this city, may be forced to close after the Crimean ‘ministry of land and property relations’ informed the Crimean Diocese of the UOC-KP in May 2015 that the rental agreement for the church premises had been cancelled. On 16 January 2016, a Crimean arbitration court ruled in favour of the Ministry, ordering UOC-KP to leave the Cathedral within 10 days and sentencing it to a fine of almost 600,000 RUB (about 7,900 USD) for unpaid rent arrears.

E. Right to the highest attainable standard of physical and mental health

195. OHCHR has received information about some people living in Crimea facing difficulties in accessing health services and social protection because they do not have Russian citizenship. Indeed, since March 2014, residents can automatically get Russian Federation citizenship which, in turn, is a pre-condition to obtain certain rights, including access to free State health insurance. For instance, a woman who had been living in Alushta, Crimea, for the last 10 years, but was registered in Kharkiv, died in December 2015 after the public hospital refused to treat her because she did not have any health insurance. She was eventually evacuated with the help of relatives to mainland Ukraine where she died in hospital after a few days. The refusal to hospitalize anyone with a serious health condition – including due to his or her origin or status, such as citizenship - constitutes a grave violation of the internationally protected right to the highest attainable level of physical and mental health.

F. Discrimination in access to services

196. On 25 December 2015, the High Administrative Court of Ukraine reversed a decision of a Kyiv court that recognized the right of all Crimean residents, without distinction, to equal treatment in accessing bank services. This decision followed a challenge by a group of Ukrainian NGOs to the National Bank of Ukraine Resolution No. 699 that declared all Crimean residents to be “non-residents” of Ukraine. The denial of the status of residents bars people from opening foreign currency bank accounts and purchasing foreign currency. OHCHR views this decision as discriminatory and as violating IDPs rights.

G. The ‘civil blockade’ of Crimea

197. On 17 January, the organizers of the ‘civil blockade’ of Crimea¹³⁴, initiated on 20 September, announced that they had stopped enforcing their embargo on trade to and from the peninsula, which was intended to draw international attention to the situation in Crimea. The ‘civil blockade’ was operated by activists who illegally performed law enforcement functions, and was marked by some human rights abuses¹³⁵. The decision to lift the ‘civil blockade’ followed the entry into force of a Government Decree of 18 December 2015, imposing strict restrictions on the delivery of goods, services, food and personal belongings to and from Crimea. As witnessed by OHCHR, which visited Kherson region on 1-4 February 2016, the participants in the ‘civil blockade’ were still present at improvised

Nicholas, which is located on the territory formerly belonging to the naval training center of the armed forces of Ukraine in Sevastopol was seized. UOC-KP parishes in Krasnoperekopsk, Kerch and Saki were also closed.

¹³⁴ See 12th HRMMU report, covering 16 August to 15 December 2015, pp.29-30.

¹³⁵ Ibid.

roadblocks but were not interfering in the traffic of vehicles. This new form of civic action now seems to be limited to observation, and appears to be complying with the law.

198. In February 2016, OHCHR observed persistent tensions between local residents and blockade supporters. Local residents have set up ‘self-defense’ groups in response to numerous attacks against physical persons and property allegedly committed by blockade activists¹³⁶ and inaction of law enforcement. On 1 February 2016, the Crimean ‘police’ raided the Simferopol headquarters of a company owned by the father of Lenur Islyamov, who coordinate the actions of blockade activists. On 7 February 2016, a grenade was thrown at the Kherson office of the Mejlis of the Crimean Tatar People, perceived to be linked to the blockade activists, causing material damage but no casualties.

199. Prior to the lifting of the ‘civil blockade, on 21-22 November 2015, unknown perpetrators damaged four transmission towers located in the region of Kherson, which supply electricity to Crimea. It is widely believed that pro-Ukrainian activists and Crimean Tatars who had been enforcing the ‘civil blockade’ were behind this act of sabotage. To date, no perpetrators have been identified or apprehended. Electricity supplies to Crimea partly resumed by mid-December after the first two legs of an energy bridge linking mainland Russia to the peninsula were completed and one of the four destroyed power lines in the Kherson region was repaired. Yet, as of February 2016, there was no energy supply from Ukraine as the contract between Ukraine’s energy company and the Crimean *de facto* authorities, which expired on 1 January 2016, was not renewed.

200. Although overall limited, the impact of the trade embargo and the halt of electricity supplies on the population of Crimea have had harsh consequences for some people. For about three weeks, the interruption of energy deliveries to Crimea caused widespread disruptions, affecting daily life on the peninsula, notably food conservation, public transportation and economic activity. The Crimean *de facto* authorities redirected available energy resources to the most critical social infrastructure, such as hospitals and schools. The human rights impact of the power outage has been the most acute for people with limited mobility and low income.

VIII. Conclusions and recommendations

201. A number of steps were taken by the Government of Ukraine to advance and strengthen human rights promotion and protection through policy documents and legal acts. For example, legislative amendments have broadened the category of displaced people benefiting from rights under the IDP law to include stateless persons and foreigners legally residing in Ukraine. Some other legal acts adopted either fall short of international standards or seek to restrict human rights guarantees. A law on civil registration fails to provide for direct recognition of civil acts issued by non-state authorities, as required by international jurisprudence. A law on civil service compromises the independence of the institution of the Ombudsperson. The Government of Ukraine adopted a national human rights action plan to support realization of a human rights strategy approved in August 2015. The Government of Ukraine, however, has restricted, without any justification, its obligations under the ICCPR toward the population of several localities of the regions of Donetsk and Luhansk under its control.

202. The situation in Crimea continued to be characterized by human rights violations, including intimidation and persecution of people holding dissenting views. OHCHR recorded serious allegations of discrimination and harassment of members of minorities and

¹³⁶ HRMMU has information that 301 incident reports were submitted to the police in Kherson since 20 September 2015.

indigenous people, in particular Crimean Tatars, violating their human rights, including freedom of expression. Ukrainian citizens were sentenced by Russian Federation Courts after being arrested in Crimea and transferred to the Russian Federation. The selective prosecution of Crimean Tatars having taken part in a pro-Ukraine rally on 26 February 2014 continued. The only Ukrainian Orthodox Church of the Kyiv Patriarchate in Simferopol could be closed. Crimean residents refusing to accept imposed Russian Federation citizenship continued facing discrimination. Their rights were also affected by restrictive Russian Federation legislation. OHCHR reiterates that an environment conducive to the promotion and protection of human rights in Ukraine depends on the respect for the General Assembly resolution 68/262 on the territorial integrity of Ukraine.

203. In the east, the 1 September 2015 ceasefire and 23 December 2015 introduction of a “regime of complete silence” ushered in a sense of optimism around the possibility of ending the conflict in eastern Ukraine. For civilians on the ground, however, there are many reasons to remain cautious. Local residents of Donetsk and Luhansk regions need a guarantee on civilian protection and their human rights. There is increased concern about the diminishing space for civil society, and the limitations for those wishing to raise their voice and exercise their fundamental freedoms.

204. For civilians on the ground, an end to the war would mean an end to the nightly sound of shelling and an end to standing in queues for prolonged periods of time waiting to cross the ‘contact line’. A guarantee on civilian protection is critical to ending the conflict. Continued indiscriminate shelling and restrictions on freedom of movement will only imperil the political process. There are various steps that the Government of Ukraine and the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ can take toward civilian protection. The recommendations below draw from OHCHR’s interviews with civilians living on either side of the contact line - in Government controlled areas and territory under the control of armed groups, who are reporting allegations of violations and abuses of international human rights and humanitarian law. Individuals include IDPs, family members of missing, disappeared or deceased soldiers, detainees and their relatives. This cross-section of Ukrainian society has core demands, common on either side of the contact line.

205. Guaranteeing the free and safe movement of civilians across the contact line is critical. The closure of checkpoints, even if temporary has an immediate impact on civilians, directly increasing hardship and negatively affecting their access to fundamental human rights. If hostilities continue, civilians may be trapped in unsafe areas, vulnerable to violence, mines and unexploded munitions. Prior and upon the closure of certain transport corridors, all alternative options must be explored, including the establishment of new safe corridors or the negotiation of ‘windows of silence’ to ensure safe passage of civilians. The obligation to ensure that civilians can move freely, especially from the area of heightened hostilities, holds even when there are security concerns. Any limitation to freedom of movement must be proportionate.

206. Ensuring that Ukrainians living on either side of the contact line have access to their full range of human rights and exercise their right to equal protection under the law is crucial. The socio economic situation for the population of Ukraine in conflict affected areas and elsewhere in the country continued to further deteriorate. Ukrainians, regardless of their place of residence, must be able to benefit from their social and economic rights and have access to remedies for abuses of their civil and political rights. This will alleviate their isolation, remove a core driver of grievances against the Government, and counter the narrative of those who promote violence.

207. Bringing a meaningful end to hostilities in the eastern regions of Ukraine and fully complying with the provisions of the Minsk Agreements will save lives and prevent further hardship. OHCHR reiterates that the full implementation of the Minsk Agreements (as

detailed in paragraph 19) remains the only viable strategy for achieving a peaceful solution. Crucially, the restoration of the full effective control by the Government of Ukraine over parts of the border with the Russian Federation (in certain districts of Donetsk and Luhansk regions) would be the key to ending any possible inflow of ammunition, weaponry and fighters from the Russian Federation. Combined with all other aspects of the Minsk Agreements, this will also pave the way for respect for the rights of people both in the conflict area and elsewhere in Ukraine.

208. Implementing civilian casualty mitigation mechanisms will demonstrate a commitment to protecting civilians. Removing military objects from populated residential areas will eliminate unnecessary and serious threats to civilian lives and property. There is an urgent need for extensive mine action activities, including the establishment of appropriate coordination mechanisms, mapping and mine risk education and awareness on either side of the contact line.

209. Under international humanitarian law binding on the parties to the conflict in Ukraine, all feasible measures must be taken to account for persons reported missing as a result of the armed conflict and provide their family members with any information on their fate. OHCHR has observed that the denial of access to information about the fate and whereabouts of missing or disappeared persons and the failure to systematically address the issue of the missing may compromise future reconciliation efforts. The documentation of missing persons, free access to all places of detention, identification of mortal remains, and communication between the Government and armed groups on the matter is critical. The clarification of the fate of the missing should be at the centre of any peace negotiations ending the conflict.

210. Information collected since 2014 indicates that human rights violations have been systematically perpetrated against persons detained in connection with the conflict. Torture can only be prevented if oversight mechanisms and international organizations, such as the ICRC, are granted unfettered access to all places of detention and detainees are brought before a judge promptly. Strengthening the independence of the judiciary from interference by the security services and political pressure is paramount in order to end impunity for torture. Complaints and investigations into allegations are more likely to be effective if they are commenced without delay and when perpetrators are punished. Remedies are only effective in rebuilding the lives of victims if they are timely.

211. Civilian protection and accountability for violations and abuses of human rights and international humanitarian law need to be meaningfully discussed during the Minsk Talks. There is clear and compelling evidence of serious violations of international humanitarian law committed during the course of the conflict in eastern Ukraine. Indiscriminate shelling, summary executions, systematic ill-treatment and torture have been documented by OHCHR, international and Ukrainian human rights organizations. As a first step toward ensuring genuine accountability, the Minsk process must guarantee justice for the victims of these serious violations. While the broadest possible amnesty must be granted to persons who participated in the armed conflict or those deprived of their liberty to reasons related to the armed conflict, no amnesty can be given to those persons suspected of, accused of, or sentenced to war crimes, crimes against humanity or gross violations of human rights, including gender-specific violations¹³⁷. Further, amnesties are impermissible if they interfere with victims' right to an effective remedy, including reparation, or restrict victims' and societies' right to know the truth about violations of human rights and humanitarian law. The inclusion of persons responsible for serious violations in any positions of authority

¹³⁷ Article 6(5), Additional Protocol II of the Geneva Conventions, 1977.

will only serve to undermine the credibility of all the parties to the conflict and the legitimate needs of Ukrainians.

212. Most recommendations made in the previous OHCHR reports on the human rights situation in Ukraine have not been implemented, and remain valid. OHCHR calls upon all parties to implement the following recommendations:

213. **To the Government of Ukraine:**

- a) **Bring an end to the practice of secret and incommunicado detention;**
- b) **Ensure immediate access of a lawyer to individuals detained in relation to the conflict in the east or for their affiliation or suspected affiliation with the armed groups;**
- c) **Interview all individuals released from the captivity by the armed groups in order to document all the details necessary for the eventual prosecution of perpetrators;**
- d) **Amend all relevant legislation regulating the authority to conduct searches, recovery and exhumation activities on the territories which are not controlled by the Government to reflect the role of civil society organizations; and amend rules regulating the delivery and registration of mortal remains, including the collection of identifying information to empower state authorities to accept relevant information from the civil society organizations and groups carrying out such activities;**
- e) **The Office of the Military Prosecutor to investigate all allegations of arbitrary detention and enforced disappearances by Ukrainian military and security forces and in the course of investigations, undertake visits to alleged illegal places of detention on the Government-controlled territories;**
- f) **The Office of the Military Prosecutor to take more pro-active attitude towards investigation of allegations of human rights violations, such as arbitrary detention, torture and ill-treatment;**
- g) **Ensure no amnesty is granted to those suspected of, accused of, or sentenced for war crimes, crimes against humanity or gross violations of human rights;**
- h) **Develop an administrative procedure allowing for direct recognition of civil registration documents (birth, death and marriage certificates) issued by *de facto* authorities in Crimea and the armed groups in the east of Ukraine, as an exception to the general rule of non-recognition of acts taken by non-state actors, in line with the jurisprudence of International Court of Justice and the European Court of Human Rights;**
- i) **Develop a comprehensive and effective legal mechanism for civilians whose property has been damaged, looted or seized for military purposes to seek and receive restitution and compensation;**
- j) **Establish a mechanism for periodic independent review by the Parliament of the necessity of derogation measures and lift the derogation as soon as it is no longer strictly required.; ensure full compliance of Ukrainian legislation with ICCPR provisions, particularly articles 2(3), 9, 12, 14 and 17;**
- k) **Following the adoption of the National Human Rights Action Plan in December 2015, allocate adequate resources to ensure its meaningful implementation;**
- l) **Prevent the provision of water or electricity from being used to impose economic or political pressure on the territory controlled by armed groups.**

Humanitarian assistance should be provided in accordance with internationally recognized humanitarian and human rights principles, including the principle of non-discrimination;

- m) Amend the law 'On the Civil Service' (No. 2490) to prevent any interference in the independence of the Institution of the Ombudsperson, in accordance with the 'Paris Principles';
- n) Investigate all claims of human rights abuses committed during the 'civil blockade' on the administrative boundary line between mainland Ukraine and Crimea, and arrest perpetrators. Ensure public safety and the rule of law in the southern districts of the Kherson region.

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

- a) Exercise all possible efforts 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 of 12 February 2015, and by fully observing the regime of "complete silence" along the contact line;
- b) Respect international humanitarian law, particularly the principles of distinction, proportionality and precaution; in any situation, refraining from indiscriminate shelling of populated areas, and from locating military objectives within or near densely populated areas; also refrain from damaging objects indispensable to the survival of civilians (i.e. water facilities), and medical facilities, personnel and ambulances;
- c) Investigate, prosecute or hand over to a competent authority any person found to be responsible for serious violations or abuses of international human rights and humanitarian law, including torture and other cruel, inhumane or degrading treatment or punishment, summary or arbitrary executions, or enforced or involuntary disappearances, including those with command responsibility;
- d) Release all those unlawfully or arbitrarily detained without delay and in conditions of safety;
- e) Ensure unimpeded access of OHCHR and other international monitors to the places of detention in the conflict zone, including unofficial ones;
- f) Exchange information and otherwise cooperate to establish the whereabouts of people who went missing in the conflict zone, and provide unimpeded access of relatives of missing persons to the information related to the whereabouts and condition of their relatives;
- g) Ensure treatment with due respect and dignity of the bodies and remains of individuals killed as a result of hostilities; provide free and safe access to the areas where bodies and remains can be found; facilitate their identification, and a dignified and decent return to their family;
- h) Ensure that civilians enjoy general protection from the dangers arising from military operations, including the possibility to voluntarily and rapidly leave areas affected by violence; to this end, facilitate movement across the contact line and remove any obstacles to the free and safe passage of civilians and humanitarian assistance;
- i) Implement demining activities along major transport routes to checkpoints to remove explosive remnants of war and improvised explosive devices from

roadsides; clearly and properly mark territories which have not been demined; cease the practice of planting booby traps;

- j) Ensure safe and unhindered passage of civilians across the contact line, especially from areas of heightened hostilities. Refrain from imposing undue obstacles to free passage, such as additional checks and restrictions. If certain transport corridors are closed for security reasons, all alternative options must be explored and new safe corridors established;
- k) Commit to not pass ‘sentences’ or carry out executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees recognized as indispensable, recalling that such acts violate the binding provisions of Common Article 3 of the Geneva Conventions, and incur individual criminal responsibility under international criminal law;
- l) Commit to an ‘all for all’ release of detainees and persons deprived of their liberty, with full regard for their human rights and safety.

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

- a) Permit OHCHR and other international organizations to access Crimea in order to ensure the effective fulfilment of its mandate;
- b) Reject the request to ban the Mejlis and stop persecution of its members;
- c) End the practice of transferring Ukrainian citizens arrested in Crimea to the territory of the Russian Federation, as this violates General Assembly resolution 68/262;
- d) Put an end to police actions targeting members of the Crimean Tatar community in a discriminatory manner;
- e) Ensure due process and fair trial rights for Crimean Tatars detained in relation to the February 2014 demonstration;
- f) Ensure credible investigations into the disappearance of Crimean Tatars;
- g) Ensure respect for freedom of religion or belief and ensure that all procedures for registration are accessible, inclusive, non-discriminatory and not unduly burdensome.