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Report on the human rights situation in Ukraine 16 August to 15 November 2017

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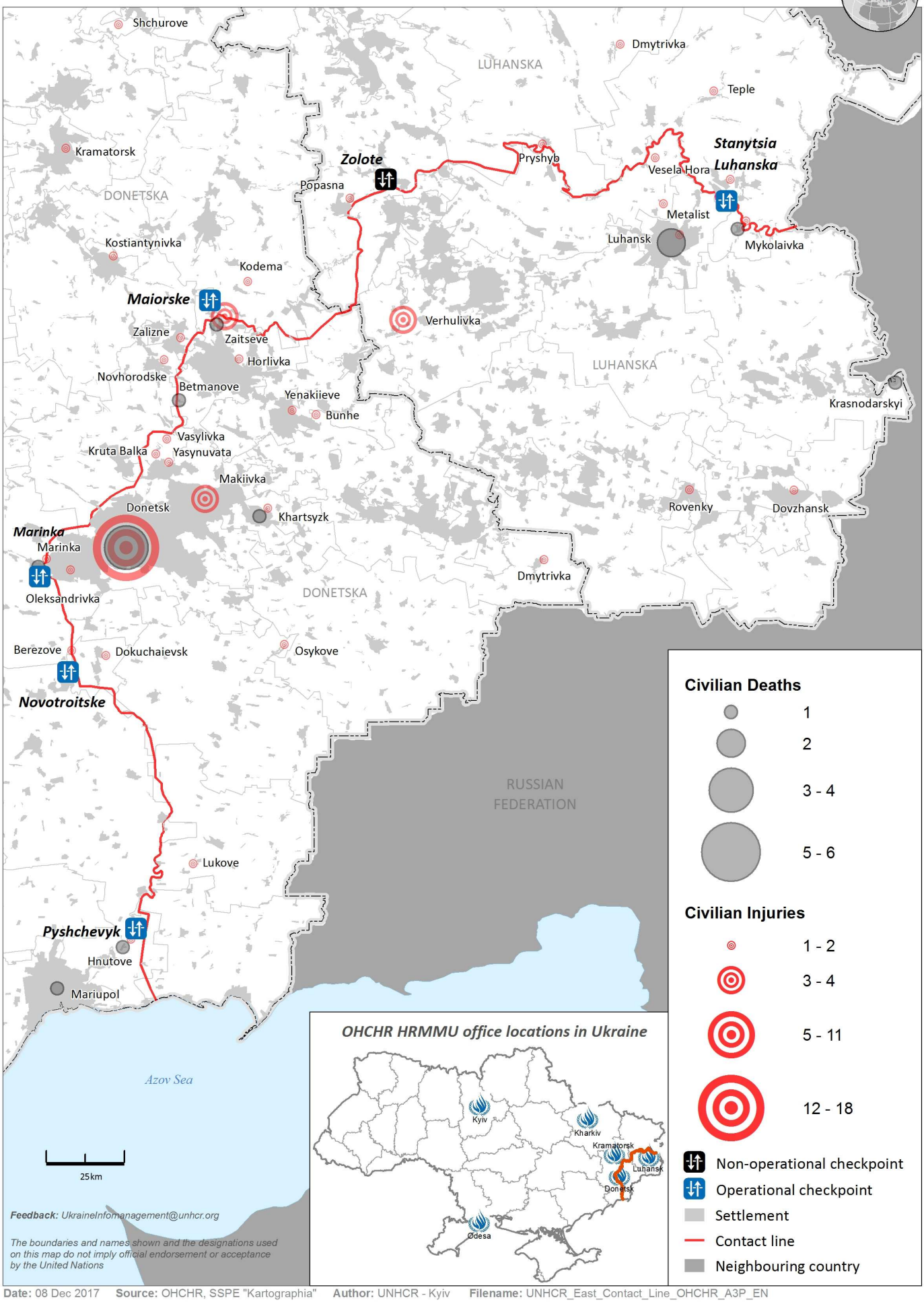
Map of Ukraine

Date: 22 Aug 2017 **Sources:** SSPE "Kartographia" **Author:** UNHCR - Kyiv **Feedback:** InformationManagement@unhcr.org **Filename:** Ukraine_general_Eng

Ukraine: Civilian casualties along the contact line, 16 August - 15 November 2017



Date: 08 Dec 2017 **Source:** OHCHR, SSPE "Kartographia" **Author:** UNHCR - Kyiv **Filename:** UNHCR_East_Contact_Line_OHCHR_A3P_EN

Locations in eastern Ukraine mentioned in this report

I. Executive summary

> *"It is now worse than in 2014 because we cannot continue to bear it any longer."*
>
> - Resident of a village near the contact line.

1. This twentieth report on the situation of human rights in Ukraine by the Office of the United Nations High Commissioner for Human Rights (OHCHR) is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU)[1], and covers the period from 16 August to 15 November 2017.

2. The findings presented in this report are grounded on data collected by HRMMU through 290 in-depth interviews with witnesses and victims of human rights violations and abuses, as well as site visits in both government-controlled and armed group-controlled territory. HRMMU also carried out 423 specific follow-up activities to facilitate the protection of human rights connected with the cases documented, including trial monitoring, detention visits, referrals to State institutions, humanitarian organizations and non-governmental organizations (NGOs), and cooperation with United Nations human rights mechanisms.[2]

3. While May through September saw a steady decline in hostilities, which levelled off in October, November commenced with a sudden surge in keeping with the unpredictable dynamics of the armed conflict in eastern Ukraine. Much of the character of the conflict, however, remained the same as previously reported – with daily ceasefire violations and frequent use of heavy weapons, some with indiscriminate effects, threatening the lives and well-being of the civilian population while damaging property and critical infrastructure. As the fourth winter of the conflict approaches, fluctuations in the armed hostilities maintained a tense environment of general insecurity. The situation has been exacerbated since the beginning of the conflict by the presence of foreign fighters and the supply of ammunition and heavy weaponry reportedly from the Russian Federation.[3]

4. OHCHR recorded 87 conflict-related civilian casualties in eastern Ukraine (15 deaths and 72 injuries) between 16 August and 15 November 2017, a 48 per cent decrease compared to the previous reporting period of 16 May to 15 August. The leading causes of casualties were mines, explosive remnants of war (ERW), booby traps and improvised explosive devices (IEDs) which accounted for 59.8 per cent of all civilian casualties recorded, while shelling was responsible for 23 per cent, and fire from small arms and light weapons for 17.2 per cent. Recalling, however, that the conflict is still in an active phase, after three months of lower civilian fatalities and injuries, as of 15 November, hostilities appear to be on the rise, which could lead to a corresponding increase in civilian casualties.

5. Shelling of critical civilian water infrastructure continued to endanger not only the staff but all persons in the vicinity of such facilities, in addition to disrupting public supply of water and posing serious risk to the environment. Repeated shelling of the Donetsk Filtration Station[4]

[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 paras. 7–8 of the report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine of 19 September 2014 (A/HRC/27/75).

[2] United Nations Human Rights Council Special Procedures mandate holders and Human Rights Treaty Bodies.

[3] OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2015, paras. 2 and 6; OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2015, paras. 2, 58-59; OHCHR Report on the human rights situation in Ukraine, 16 August to 15 November 2015, paras. 2 and 22 (see also fn. 128); OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2016, para. 2.

[4] The Donetsk Filtration Station, located in "no man's land" approximately 15 km north of Donetsk city, between government-controlled Avdiivka and armed-group-controlled Yasynuvata, processes water for approximately 345,000 people on both sides of the contact line.

between 3 and 4 November damaged a backup chlorine pipeline, which could have led to an environmental disaster if toxic chlorine gas had leaked. A direct hit to the main pipeline or any of the 900-kg bottles storing chlorine at the facility could have resulted in the deaths of any person within a 200-metre radius.[5] The following day, the Verkhnokalmiuska Filtration Station,[6] which stores 100 tons of chlorine gas, was shelled and sustained multiple hits.

6. OHCHR repeats its call for all parties to the conflict to immediately adhere to the ceasefire and to implement all other obligations committed to in the Minsk agreements, including the withdrawal of heavy weapons and disengagement of forces and hardware.[7] OHCHR recalls that during the last reporting period, a renewed ceasefire commitment (the "harvest ceasefire") resulted in a decrease in ceasefire violations, and a notable decrease in civilian casualties.[8]

7. OHCHR continued to document cases of summary executions, enforced disappearances, arbitrary detention, torture and ill-treatment, and conflict-related sexual violence. While many cases recorded date back to prior years of the conflict, new incidents also occurred within the reporting period.

8. In government-controlled territory, OHCHR – in general – continue to enjoy unimpeded access to conflict-related detainees, with the exception of several individuals in Kharkiv, Kyiv and Dnipro who are under investigation of the Security Service of Ukraine. In territory controlled by armed groups, OHCHR was denied access places where people are deprived of their liberty and to hold confidential interviews. As enforced disappearances, torture and conflict-related sexual violence often take place in the context of detention, this denial of access raises serious concerns that human rights abuses may be occurring.

9. Accountability for grave human rights violations in conflict-related cases remained elusive. Legal proceedings were plagued by ineffective investigations, politicization of cases with the involvement of high level officials and infringements on the independence of the judiciary. OHCHR documented substantial pressure exerted on judges in numerous cases.

10. No significant progress was achieved in criminal proceedings related to the killing of protestors in Maidan in 2014. Due to the length of proceedings, defendants have remained in detention for several years.[9] With regard to the 2 May 2014 violence in Odesa, the trial of 19 persons accused of organizing and participating in the mass disturbances which led to six deaths concluded in an acquittal. To date, no one has been held responsible for the violence that day, or for any of the resulting 48 deaths.

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[5] Press release, Ukraine: UN experts warn of chemical disaster and water safety risk as conflict escalates in East, United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and Special Rapporteur on the human rights to safe drinking water and sanitation, 10 November 2017.

[6] The Verkhnokalmiuska Filtration Station, located in armed-group-controlled territory approximately 17 km northeast of Donetsk, supplies water to 800,000 people.

[7] The Package of Measures for the Implementation of the Minsk Agreements calls for: an immediate and comprehensive ceasefire; withdrawal of all heavy weapons from the contact line by both sides; commencement of a dialogue on modalities of local elections; legislation establishing pardon and amnesty in connection with events in certain areas of Donetsk and Luhansk regions; release and exchange of all hostages and unlawfully detained persons; safe access, delivery, storage, and distribution of humanitarian assistance on the basis of an international mechanism; defining of modalities for full resumption of socioeconomic ties; reinstatement of full control of the state border by the Government of Ukraine throughout the conflict area; withdrawal of all foreign armed groups, military equipment, and mercenaries from Ukraine; constitutional reforms providing for decentralization as a key element; and local elections in certain areas of Donetsk and Luhansk regions. United Nations Security Council Resolution 2202 (2015), available at http://www.un.org/press/en/2015/sc11785.doc.htm. *See also* Protocol on the Results of the Consultations of the Trilateral Contact Group regarding Joint Measures Aimed at the Implementation of the Peace Plan of the President of Ukraine P. Poroshenko and Initiatives of the President of the Russian Federation V Putin, available at http://www.osce.org/home/123257; Memorandum on the Implementation of the Protocol on the Results of the Consultations of the Trilateral Contact Group regarding Joint Measures Aimed at the Implementation of the Peace Plan of the President of Ukraine P. Poroshenko and Initiatives of the President of the Russian Federation V. Putin, available at http://www.osce.org/home/123806.

[8] The "harvest ceasefire" ran from 24 June to the end of August, and while it never fully took hold, it contributed to an overall reduction in the number of daily ceasefire violations, and consequently, the number of civilian casualties. See OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2017, paras. 22-23, 32-33.

[9] Two defendants have remained in detention for over three years while three have been detained for over two years.

11. Within structures in territory controlled by armed groups, arbitrary detentions and 'prosecutions' were compounded by the lack of recourse to effective remedy. This is of particular concern given the 'pronouncement' of a second 'death penalty' by the 'supreme court' of the 'Donetsk people's republic' in November. The practice of *incommunicado* detentions, which often amounted to enforced disappearance, also persisted.

12. As in previous reporting periods, infringements on freedom of movement continued to isolate residents in villages located close to the contact line, cut off access to basic goods, services and humanitarian aid, and intensified general hardship for the population. The shortening of entry-exit checkpoint operational hours after summer, together with high numbers of persons traveling resulted in longer queues to cross the contact line. A total of 1.2 million crossings were recorded at the five crossing routes in the month of August, and 1.1 million each in September and October.

13. Freedom of opinion and expression continued to face mounting challenges. OHCHR noted with concern the broad interpretation and application of terrorism-related provisions of the Criminal Code in cases where SBU initiated criminal investigations against Ukrainian media professionals, journalists and bloggers. In territory controlled by armed groups, freedom of expression remained severely curtailed, with no room for critical publications or elements of dissent.

14. Many of the human rights violations and abuses and infringements on fundamental freedoms described above persisted at similar or slightly heightened degrees as reported by OHCHR in previous quarters. However, members of the conflict-affected population expressed to HRMMU that the cumulative effect of the resulting harms and hardship they have endured as the conflict continues in its fourth year is reaching an unbearable level. This was exacerbated by the worsening socio-economic situation, policies which deprive citizens of their pensions, and the lack of access to restitution of or compensation for property damaged or destroyed by the conflict. These conditions deepen the divide, jeopardize social cohesion and complicate prospects and efforts for future reconciliation.

15. Along with an increasing sentiment of despair of people directly affected by the armed conflict in the east, OHCHR noted increasing manifestations of intolerance, including threats of violence, by extreme right-wing groups, which served to stifle public expressions and events by individuals holding alternative, minority social or political opinions. Violent acts which occurred remained largely unsanctioned.

16. Having no access to Crimea, HRMMU continued to analyse the human rights situation on the peninsula from mainland Ukraine on the basis of United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine and resolution 71/205 referring to Crimea as under occupation by the Russian Federation. The Russian Federation continued to apply its laws, in violation of international humanitarian law applicable to an Occupying Power. Practices by the authorities which resulted in serious human rights violations, and which disproportionately affected Crimean Tatars, persisted this reporting period. Further, the exercise of freedoms of opinion and expression, religion or belief and peaceful assembly also continued to be curtailed through verdicts criminalizing criticism and dissent.

17. Two developments during the Parliament's session within the reporting period are of particular importance. Parliament began consideration and adoption of a new legal framework concerning territory not under the control of the Government, with the aim of restoring state sovereignty over certain areas of Donetsk and Luhansk regions. It is viewed to be implemented in the context of an armed aggression and temporary occupation by the Russian Federation. OHCHR cautions that, at this stage, the draft law lacks clarity as to the framework for the protection of rights and freedoms, thus failing to satisfy the legal certainty requirement.

18. Parliament also adopted a new Law on Education which instates the Ukrainian language as the main language of instruction in secondary and higher education. OHCHR cautions that strengthening of the Ukrainian language should not come at the expense of minority languages,

and calls on the Government to ensure that the rights of minorities are respected without discrimination among different minority groups.

19. OHCHR continued to engage in technical cooperation and capacity-building activities with the Government of Ukraine and civil society in order to strengthen the protection and promotion of human rights. OHCHR provided targeted trainings and advocacy to support implementation of the Istanbul Protocol,[10] and continued to raise awareness of conflict-related sexual violence. OHCHR also supported the preparations for Ukraine's third Universal Periodic Review (UPR) which took place on 15 November 2017. Furthermore, the United Nations Partnership Framework with Ukraine defining the support of the United Nations to national development priorities has been signed. OHCHR will contribute to specifically support those relating to democratic governance, rule of law, civic participation, human security and social cohesion.

II. Rights to life, liberty, security, and physical integrity

A. International humanitarian law in the conduct of hostilities

> *"If the shelling does not start at 22:00, I cannot fall asleep."*
>
> - Resident of a village near the contact line.

20. During the reporting period, daily exchanges of fire across the contact line by all parties to the conflict continued. Some improvement in the security situation was observed since the beginning of the reporting period in mid-August until the end of October, which may be partially attributable to renewed ceasefire commitments. Following the end of the "harvest ceasefire" (agreed to allow local communities to bring in their crops safely), another renewed ceasefire commitment commenced on 25 August to allow children to start the new school year safely. However, such recommitments to ceasefire by the sides to the conflict can only be a temporarily solution. The escalation that took place by the end of the reporting period, in the first two weeks of November, indicates that achieving a sustainable peace requires full compliance with the Minsk agreements. Meanwhile, sporadic and unpredictable spikes in the armed hostilities further exacerbated the situation of general insecurity for civilians living in conflict-affected areas, and in particular, those close to the contact line.

21. OHCHR remains concerned about the continued presence of heavy weapons near the contact line,[11] in disregard of pledges made under the Minsk agreements to withdraw such weapons. The Special Monitoring Mission (SMM) of the Organization for Security and Co-operation in Europe (OSCE) documented the repeated use of weapons with a wide impact area (such as artillery and mortars) or the capacity to deliver multiple munitions over a wide area (such as multiple launch rocket systems).[12] The use of such weapons in densely populated areas can be considered incompatible with the principle of distinction and may amount to a violation of

[10] United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf.
[11] For example, the OSCE SMM observed four multiple launch rocket systems being transported between Shchastia and Voitove (government-controlled territory) on 15 September, four multiple launch rocket systems near Novoamvrosiivske and ten tanks near Novoselivka (armed-group-controlled territory) on 12 October. *See* OSCE SMM daily reports, available at http://www.osce.org/ukraine-smm/reports.
[12] For example, on 22 August, the OSCE SMM camera in (government-controlled) Shyrokyne recorded *inter alia* 8 rocket-assisted projectiles in flight and 20 explosions assessed as impacts. OSCE SMM daily report available at http://www.osce.org/special-monitoring-mission-to-ukraine/336636. On 10 October, the OSCE SMM heard 35-40 explosions assessed as impacts of multiple launch rocket system near (government-controlled) Lebedynske. OSCE SMM daily report, available at http://www.osce.org/special-monitoring-mission-to-ukraine/349206.

international humanitarian law due to the likelihood of indiscriminate effects. During the reporting period, HRMMU documented civilian casualties and damage to civilian property caused by heavy weapons.[13]

22. The risk to civilian lives has been further heightened by the contamination of highly-frequented areas with mines and IEDs, as well as the presence of ERW.[14] The parties to the conflict continued the practice of placement of IEDs and anti-personnel mines in populated areas and near objects of civilian infrastructure.[15] OHCHR notes that placement of such victim-activated explosive devices, which, by their nature, cannot differentiate between civilians and combatants, in densely populated areas and areas frequently attended by civilians may amount to an indiscriminate attack in violation of the principle of distinction enshrined in international humanitarian law.[16] Further, OHCHR recalls that parties to a conflict must take all precautionary measures to avoid or minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.[17]

23. OHCHR continued to observe military presence in densely populated areas and military use of civilian property on both sides of the contact line, increasing the risk to civilian lives, property and critical infrastructure.[18] Locating military positions and equipment within or near residential areas and objects indispensable for the survival of the civilian population falls short of taking all feasible steps to separate military objectives from the civilian population, in contravention to international humanitarian law.[19] OHCHR notes that where such presence is justified due to military necessity, the parties must protect the resident civilian population, including by providing alternative accommodation.[20] Some residents of (government-controlled) Opytne and in the "no man's land" part of Pivdenne informed HRMMU they wished to relocate

[13] *See* "Civilian casualties" *below*. In addition, HRMMU documented damage to civilian houses in (armed-group-controlled) Pervomaisk caused by shelling on 23-24 August, and damages to civilian houses and infrastructure in (armed-group-controlled) Kyivskyi district of Donetsk city during an escalation in hostilities on 5-6 November 2017. *See also* OSCE SMM documentation of civilian property damaged by shelling in (government-controlled) Marinka on 27 September and (armed-group-controlled) Yasynuvata on 29 September, available at http://www.osce.org/ukraine-smm/reports/.

[14] "Ukraine has the largest number of anti-vehicle mine-related incidents globally, and ranks fifth worldwide for civilian casualties as a result of landmines and unexploded ordnance (UXO)." 2018 Humanitarian Needs Overview, Ukraine, November 2017, available at https://reliefweb.int/report/ukraine/ukraine-humanitarian-needs-overview-2018-enuk. On 6 September, a man in Dmytrivka was injured by ERW. On 4 October, an employee of the local power company was killed after tripping an anti-personnel mine near a powerline on the outskirts of Betmanove (formerly Krasnyi Partizan). On 5 November, one child was killed and two injured by ERW near a school in (armed-group-controlled) Petrovskyi district of Donetsk city. OHCHR civilian casualties records.

[15] HRMMU documented a case of a man in Zolote 4 (located in "no man's land") who went deaf in one ear as result of an explosion of a sound grenade placed near his house. HRMMU interview, 29 September 2017. On 8 October, a tractor driver was injured by the explosion of a mine near Metalist in an area which had been previously de-mined. http://www.osce.org/special-monitoring-mission-to-ukraine/349421. On 31 October, HRMMU documented the case of a woman who was injured in April 2017 by a trip-wired explosive device planted in her neighbour's house.

[16] ICRC, Customary International Humanitarian Law Database, Rules 1, 11 and 12.

[17] ICRC, Customary International Humanitarian Law Database, Rule 7.

[18] Presence of military or armed groups and their use or occupation of civilian property was documented by HRMMU in government-controlled territory in Dacha (1 November), Krymske (29 August), Luhanske (4 October), Malynove (5 October), Novhorodske (5 September), Novoluhanske (4 October), Novotoshkivske (6 October), Opytne (10 October), Shchastia (5 October), Tonenke (10 October), Troitske (31 October), and Zolote 4 (30 August), in armed-group-controlled territory in Adminploshadka (26 September), Donetskyi (16 August and 3 November), Donetsk city Kyivskyi district (9 November), Lukove (8 September), Molodizhne (25 August), Pikuzy (formerly Kominternove) (26 October), and Zolote 5 (4 October), and in "no man's land" in the Chihari area of Pivdenne (9 November), as well as in both the government-controlled and armed-group-controlled parts of Zaitseve (1 November).

[19] *See* ICRC, Customary International Humanitarian Law Database, Rules 22 and 23.

[20] Customary international humanitarian law sets out the following elements of protection of civilians in such situation: (1) prohibition on use of human shields (Rule 97), (2) requirement to warn the civilian population of upcoming attacks (Rule 20), and (3) requirement to remove the civilian population and objects under control of the belligerent party from the vicinity of military objectives (Rule 24; Guiding Principles on Internal Displacement, Principle 7(3)(b), Principle 15(a)). In the case that the security of the civilian population or military imperative demand evacuation, humane conditions must be ensured and affected civilians must be provided with adequate alternative accommodation (Rule 131; Guiding Principles on Internal Displacement, Principle 7(2)). In addition, civilian properties should be protected and compensation paid for any use or damage of property (Rule 52, Rule 133).

to a safer place, however adequate alternative accommodation was never offered by the authorities.[21]

24. During the reporting period, 10 incidents affecting water facilities were documented in conflict-affected areas.[22] The First Lift Pumping Station[23] of the South Donbas water pipeline was shelled on three occasions, causing damage to the facility and vehicles, and came under small-arms fire on three occasions. The Donetsk Filtration Station[24] was shelled repeatedly between 3 and 5 November 2017, causing damage to a backup chlorine pipeline. If the main pipeline in use or any of the 900-kg bottles storing chlorine in these facilities were to sustain a direct hit, it would endanger the lives of not only staff, but any person within a 200-metre radius, disrupt the water supply to approximately 350,000 people on both sides of the contact line, and have devastating consequences for the environment.[25] On 5 November, the Verkhnokalmiuska Filtration Station, which supplies clean water to 800,000 people and stores 100 tons of chlorine gas, was hit by multiple shells. If toxic chlorine gas were to be released, it could have "devastating consequences" for the population in Donetsk city, Makiivka and Avdiivka.[26] This is not the first time that shelling of such infrastructure has threatened lives and the environment.[27] OHCHR notes that critical civilian infrastructure such as water facilities require special protection and calls on all parties involved in the hostilities to adhere to the agreement reached in Minsk on 19 July 2017 in which they expressed commitment to create "safety zones" around the Donetsk Filtration Station and the First Lift Pumping Station.

25. Armed hostilities also continued to threaten industrial facilities containing hazardous materials which, if released, may have severe consequences for the environment and civilians living in close proximity. For example, the sludge collector of the phenol plant in (government-controlled) Novhorodske requires regular bi-weekly maintenance. For the last year, however, no such maintenance or repair work could be done due to the lack of security guarantees for a "window of silence".[28] It should be noted that if the dam around the collector is damaged, it risks releasing liquid toxic waste into the Kryvyi Torets and Siverskyi Donets rivers which serve as the main water sources for the Donbas region.[29] On 9 November an agreement to provide security guaranties for a "window of silence" was reached by the Joint Centre for Control and Coordination and repair works started. OHCHR recalls that particular care must be taken to avoid attacks and damages of installations containing dangerous forces and substances and also to protect the natural environment against widespread, long-term and severe damage. OHCHR calls on the parties involved in hostilities to negotiate adequate security arrangements which would allow regular maintenance as well as repairs to be conducted on the phenol plant.

B. Civilian casualties

26. Between 16 August and 15 November 2017, OHCHR recorded 87 conflict-related civilian casualties in 44 locations of Ukraine: 15 deaths (14 men and 1 boy) and 72 injuries (42 men, 19

[21] HRMMU interviews.
[22] *See* WASH Cluster Incident Reports nos. 81-93, available at https://www.humanitarianresponse.info/en/operations/ukraine/documents/bundles/46705.
[23] The First Lift Pumping Station is located between the armed group-controlled villages of Vasylivka and Kruta Balka, in immediate proximity to the contact line.
[24] The Donetsk Filtration Station is located in "no man's land", approximately 15 kilometres north of Donetsk city, between government-controlled Avdiivka and armed group-controlled Yasynuvata.
[25] *See* "Ukraine: UN experts warn of chemical disaster and water safety risk as conflict escalates in East", United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and Special Rapporteur on the human rights to safe drinking water and sanitation, 10 November 2017.
[26] *See* "Ukraine: UN experts warn of chemical disaster and water safety risk as conflict escalates in East", available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22382&LangID=E.
[27] *See*, *e.g.*, OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2017, paras. 29-30; OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para. 18.
[28] A "window of silence" is a localized agreement to adhere to the ceasefire for a designated time period.
[29] HRMMU interview.

women, 10 boys and 1 girl).[30] This is a 48 per cent decrease compared with the previous reporting period of 16 May to 15 August 2017, during which 168 civilian casualties (26 deaths and 142 injuries) were recorded.

27. This reduction is mainly in the number of civilian casualties caused by shelling and SALW[31] fire, which has been steadily decreasing since May 2017. Between August and October, it decreased four-fold as compared to May through July (11 and 42 on average per month, accordingly). OHCHR also observed an increasing disparity in regard to civilian casualties caused by shelling and SALW fire occurring on territory controlled by armed groups and those occurring on territory controlled by the Government. From May through July 2017, the ratio was 2 to 1, while from August through October, the ratio was 10 to 1 (29 in territory controlled by armed groups versus 3 in government-controlled territory).[32] With regard to the 52 civilian casualties caused by mines, ERW, booby traps and IEDs, 20 occurred in mine-related incidents (38.5 per cent), while 32 (61.5 per cent) resulted from imprudent handling or dismantling of ERW or the detonation of hand grenades in interpersonal conflicts.

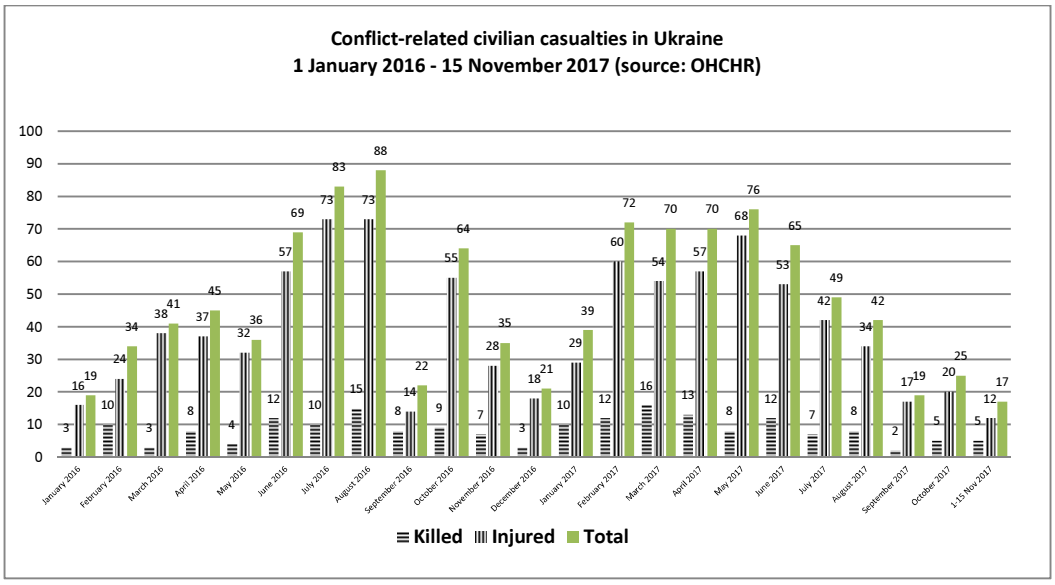
Civilian casualties from 16 August to 15 November 2017									
	Shelling (mortars, guns, howitzers, tanks, MLRS)			Small arms and light weapons			Mines, ERW, booby traps and IEDs		
	Killed	Injured	Total	Killed	Injured	Total	Killed	Injured	Total
Donetsk region (total)	1	17	18	2	11	13	6	22	28
Government-controlled		2	2		4	4	2	10	12
Controlled by armed groups	1	15	16	2	7	9	3	12	15
"No man's land"							1		1
Luhansk region (total)		2	2	2		2	3	13	16
Government-controlled				1		1		4	4
Controlled by armed groups		2	2	1		1	2	9	11
"No man's land"							1		1
Cherkasy region							1	2	3
Dnipropetrovsk region								5	5
Grand total	**1**	**19**	**20**	**4**	**11**	**15**	**10**	**42**	**52**
Per cent			23.0			17.2			59.8

28. Overall levels of civilian casualties in 2017 were comparable to 2016 levels. From 1 January to 15 November 2017, OHCHR recorded 544 conflict-related civilian casualties: 98 killed and 446 injured. This is a 3.6 per cent increase compared to the same period in 2016, when 525 civilian casualties (87 killed and 438 injured) were recorded.

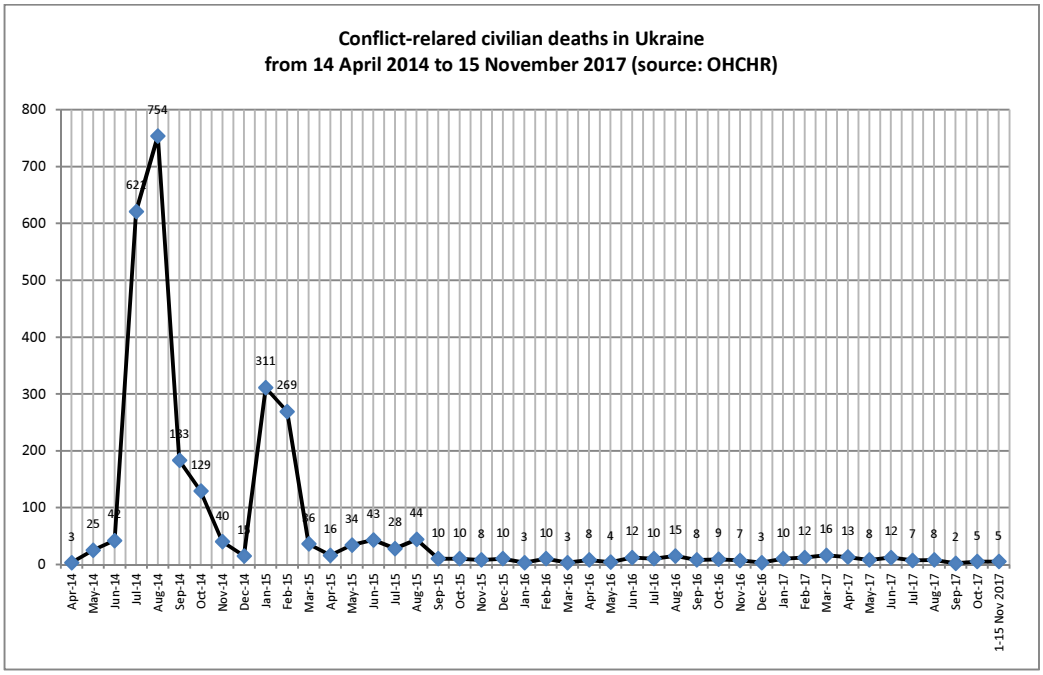
[30] OHCHR investigated reports of civilian casualties by consulting a broad range of sources and types of information which were evaluated for credibility and reliability. In undertaking documentation and analysis of each incident, OHCHR exercises due diligence to corroborate information on casualties from as wide a 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, meaning 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. Civilian casualties may be underreported given limitations inherent in the operating environment, including gaps in coverage of certain geographic areas and time periods.

[31] Small arms and light weapons.

[32] OHCHR is not in a position to establish with certainty which party to the conflict is responsible for specific civilian casualties caused by shelling and SALW fire; it is only able to make their attribution per territory of control.



29. During the entire conflict period, from 14 April 2014 to 15 November 2017, at least 2,523 civilians were killed: 1,399 men, 837 women, 91 boys, 47 girls and 149 adults whose sex is unknown. An additional 298 civilians, including 80 children, were killed as a result of the MH17 plane crash on 17 July 2014. The number of conflict-related civilian injuries is estimated between 7,000 and 9,000.



30. In total, from 14 April 2014 to 15 November 2017, OHCHR recorded 35,081 conflict-related casualties in Ukraine among Ukrainian armed forces, civilians and members of the armed groups. This includes 10,303 people killed and 24,778 injured.[33]

C. Missing persons and recovery of human remains

31. With the outbreak of the armed conflict in April 2014, documentation of missing persons was considerably disrupted in eastern Ukraine. Although efforts have subsequently resumed in both territory controlled by the Government and territory controlled by armed groups, there has been no effective exchange of forensic information (such as DNA samples and anthropometrical data) across the contact line for over three years. As of 15 November 2017, draft legislation "On the legal status of missing persons" foreseeing the establishment of a commission for missing persons, which is crucial for fulfilment of Ukraine's obligations under international humanitarian law,[34] was still pending before Parliament.[35]

32. There is therefore no effective possibility to match figures on the missing reported by the Government (865[36] to 1,476[37]) and those reported by armed groups (509 as of 10 November 2017 according to the 'ombudsperson's office' of the 'Donetsk people's republic').[38] As of 22 August 2017, the ICRC estimated the number of conflict-related missing persons to be from 1,000 to 1,500.[39]

33. OHCHR believes that many of those reported as missing persons may be dead, with their bodies either not yet found or identified. Further, OHCHR cannot exclude that some individuals reported missing may currently be held *incommunicado* either by the Government or by armed groups. Full and unimpeded access of independent international monitors to all places of detention, especially those in territory controlled by armed groups, is crucial for establishing the whereabouts of some of the missing.

D. Summary executions, killings, deprivation of liberty, enforced disappearances, torture and ill-treatment, and conflict-related sexual violence

1. Summary executions and killings

34. OHCHR continued to receive and verify allegations of summary executions and wilful killings of civilians, Ukrainian servicemen, and individuals associated with armed groups. These allegations mostly concern 2014, but also 2015 through 2017, indicating the prevailing impunity for grave violations and abuses of international human rights law and violations of international humanitarian law in the conflict zone. Victims' relatives and witnesses interviewed by HRMMU often do not give consent for public reporting on such cases out of fear of retaliation or persecution.

[33] This is a conservative estimate based on available data. These totals include: casualties among Ukrainian forces as reported by Ukrainian authorities; 298 people from flight MH-17; civilian casualties on the territory controlled by the Government as reported by local authorities and regional departments of internal affairs; and casualties among civilians and members of armed groups on territory controlled by 'Donetsk people's republic' and 'Luhansk people's republic', as reported by 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 underreporting, especially of military casualties. Injuries have been particularly underreported. 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.

[34] ICRC, Customary International Humanitarian Law Database, Rule 117.

[35] There have been no developments on the two draft laws since 7 June 2017, when the Parliamentary Committee on human rights issued its conclusion regarding the texts.

[36] As of 15 November, according to the Main Department of the National Police in Donetsk region.

[37] As of 15 November, according to the National Police of Ukraine.

[38] No figures have been reported by the 'Luhansk people's republic'.

[39] https://www.ukrinform.ru/rubric-society/2290807-krasnyj-krest-razyskivaet-640-propavsih-bez-vesti-na-donbasse.html.

35. For example, a civilian who participated in the May 2014 "referendum on the status of the Donetsk peoples' republic" went missing after Ukrainian military, including the Aidar volunteer battalion, retook control of the area. His body was found in November 2014 with traces of gunshot wounds to the head. His family is not aware of any investigation conducted into his death.[40] In another case, in July 2016, a man was found shot dead near his house in a village of Luhansk region controlled by armed groups. Neighbours had heard three shots in the preceding evening. There was an armed groups' checkpoint nearby, manned by the 'Brianka-USSR' battalion. The victim's family was notified that a suspect was 'arrested' by 'police' at the beginning of November.[41]

2. Unlawful/arbitrary deprivation of liberty, enforced disappearances and abductions

> *"When you do not understand anything and just sit there in the basement, every night you expect that someone may come, take you out, kill you and bury you in some forest, and then no one will ever find out where you are. That's the only thing you can think about."*
>
> - Victim describing *incommunicado* detention.

36. OHCHR continued documenting cases of unregistered detention, when a person is held *incommunicado* prior to being delivered to an official place of detention, a practice which increases the likelihood of torture and ill-treatment with a view to extracting a confession. Although these cases occurred earlier, they were documented during the reporting period.

37. For example, on 16 April 2015, a former member of an armed group was detained in his home by armed men in balaclavas. Without introducing themselves or presenting a search warrant, they beat him, threatened him, and searched his house. They took the victim to a basement, which he believes was on the outskirts of Pokrovsk (formerly Krasnoarmiisk), where he was detained *incommunicado*, handcuffed to a metal safe which forced his body into a difficult position. He was interrogated and tortured by having water poured over his face, electrocutions, and beatings on his back and kidneys. The perpetrators made him sign documents and filmed a video confession. He was taken to the Kramatorsk SBU on 21 April 2015, where he was given more documents to sign. In November 2015, he was convicted of terrorism.[42]

38. On 10 January 2015, a resident of Pokrovsk was stopped in his car and detained by four armed men. They brought him to the Right Sector training camp near Velykomykhailivka (Dnipropetrovsk region), where he was detained in a basement and beaten with a truncheon for two days. The victim was held *incommunicado* until 14 May 2015, during which time he was ill-treated and witnessed the death of another detainee. The perpetrators are currently on trial.[43]

39. OHCHR is concerned about the lack of progress in investigations of enforced disappearances which occurred in 2014. For example, there has been no progress in the investigation into the disappearance of a truck driver who went missing on 25 July 2014 near Katerynivka (formerly Yuvileine) in Luhansk region. HRMMU recently learned that his passport was found in March 2017 in possession of a UAF serviceman.[44] On 30 August 2017, National Police of Ukraine in Bilokurakynsk district of Luhansk region launched a criminal investigation under article 115 (murder).

[40] HRMMU interview.
[41] HRMMU interview.
[42] HRMMU interview. His appeal is currently being heard.
[43] HRMMU interview.
[44] HRMMU interview.

Territory controlled by armed groups

40. OHCHR documented the continued practice of 'administrative arrest', during which persons are held *incommunicado* and prohibited from contact with relatives or a defence counsel. The initial detention period of 30 days was often automatically prolonged beyond the initial period.[45] OHCHR is concerned about arbitrary application of 'administrative arrest' and *incommunicado* detention, and the lack of any procedural guarantees or recourse for persons who find themselves subjected to it. Further, OHCHR notes that such a practice – of detaining persons, denying them access to lawyers or relatives, and refusing to provide information to families on their whereabouts – may amount to enforced disappearance.

41. For example, on 29 April 2017, two men traveling to Dokuchaievsk were detained by 'border guards' at an armed-group-controlled checkpoint and taken to the 'department of combating organized crime' (UBOP) in Donetsk. Both men worked as State Fiscal Service inspectors in government-controlled territory. They were detained for a few days in 'UBOP' and then brought to a temporary detention facility administered by 'police' and held *incommunicado* under 'administrative arrest'. Their families were not notified of their 'arrests', and learned of their whereabouts from other sources. The lawyer hired by relatives was denied access to the detainee. Since April, the men were released every 30 days, given a moment to talk to relatives, and then immediately 're-arrested' by 'UBOP' on different 'charges' and placed under another 30-day 'administrative arrest'.[46]

42. On 27 February 2017, a couple was detained at a checkpoint controlled by armed groups. They were questioned for approximately six hours, then separated and brought to the 'MGB' building in Donetsk city. The woman was questioned again and told that they had discovered explosives in one of their bags and would charge her husband with 'espionage'. When she was released, she saw her husband in another office; his pupils were unusually enlarged. Ten days later, she received a call from and 'MGB officer' who stated her husband was under 'administrative arrest'. As of 15 November 2017, the victim was allegedly in Donetsk SIZO, however his wife has never been able to see him during his detention.[47]

43. OHCHR continued documenting cases of individuals subjected to enforced disappearance. On 31 August 2017, a young man who made his living carrying luggage for people walking along the Stanytsia Luhanska crossing route went missing. He had crossed the government-controlled entry-exit checkpoint while carrying luggage, but was stopped by personnel at the checkpoint controlled by the armed groups of the 'Luhansk people's republic' and his passport was taken away. Despite relatives' inquiries, the whereabouts and fate of the victim remain unknown.[48] On 2 September 2017, the National Police of Ukraine in Stanytsia Luhansk district of Luhansk region launched a criminal investigation under article 146 (Illegal confinement or abduction of a person).

44. On 25 August 2017, a man was taken from his home to a 'police station' in Makiivka by the 'ministry of state security' ('MGB') officers, where he was held for at least two days. The family's last contact with him occurred by phone on 27 August. They were informed by 'police' that the man was under 'administrative arrest' and denied permission to speak or meet with him. It is believed that his 'arrest' is retaliation for his political opinion, as he openly expressed 'pro-unity' views and criticism of the 'Donetsk people's republic' and the Russian Federation.[49]

45. OHCHR is concerned that there has been no progress on cases that occurred in earlier stages of the conflict. For example, on 1 July 2015 an unconscious man with visible injuries on his head and torso was seen being dragged from his apartment by three armed men in camouflage

[45] *See* OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, paras. 43-45.
[46] HRMMU interview.
[47] HRMMU interview.
[48] HRMMU interviews; HRMMU meeting, 15 September.
[49] Approximately seven months ago, the victim was fired from his job at a local hospital in Makiivka due to his 'pro-unity' views.

with 'Vostok' insignia. The victim was put in a car. As of 15 November 2017, his whereabouts remained unknown.

46. OHCHR notes that enforced disappearance not only constitutes a grave violation of the rights to life and to liberty and security of the person, but is "inseparably linked" to treatment that amounts to torture or to cruel, inhuman or degrading treatment or punishment.

3. Torture and ill-treatment

> *"If you behave well, if you say what we want – you won't be hurt. If you resist, we will send Right Sector to your house. Your boy will be crippled; your wife will be met on the way from work. We will inject you with drugs, so you will become a plant."*
>
> - Perpetrator to a victim of torture.

47. During the reporting period, OHCHR continued to receive allegations which match the previously documented pattern of use of torture to extract confessions from persons suspected of being members of or otherwise affiliated with armed groups.[50] Also, in a few cases, Ukrainian servicemen detained on suspicion of committing criminal offences were subjected to torture until they provided self-incriminating testimonies. It is deeply concerning that investigations into allegations of torture are rarely opened and when so, have been ineffective. Defence lawyers also rarely raise allegations of torture, either due to intimidation or as a strategy to reduce the sentence.

48. For example, in August 2015, in two separate episodes, SBU arrested two residents of Kharkiv region accused of being supporters of the 'Donetsk people's republic' and 'Luhansk people's republic' and planning to carry out subversive activities. Both victims were transported to the regional SBU department, where they were tortured (beaten, hands twisted behind the back, subjected to mock execution, and threats of violence against their families) until they signed self-incriminating statements. Although they were taken to hospital, SBU officers instructed doctors not to record any injuries. One of the victims begged a lawyer not to raise allegations of torture in court, fearing reprisals. The victim told the doctors in the pre-trial detention facility (SIZO) that he was injured falling from a tree. Both victims remain in detention, with trials ongoing.[51]

49. In another case, on 16 June 2016, a victim was physically attacked next to his apartment building by two men wearing balaclavas. The victim ran out into the street, where two other individuals hit him on the head, strangled him, and kicked his head when he fell on the ground. He was handcuffed, dragged into a van, and driven 30-40 minutes away. When the van stopped, an SBU official of the Kharkiv regional department questioned him about his acquaintances who joined the armed groups of the 'Donetsk people's republic'. Unsatisfied with the victim's reply, SBU officers strangled, kicked and punched him while threatening his family. When the victim agreed to cooperate, the SBU officers explained that he would be taken to the Ukrainian-Russian border and detained for "smuggling weapons". At the border, one officer stabbed the victim's heel so he would not be able to escape. Afterwards, the victim was taken to the Kharkiv SBU building and forced to memorise a written statement. His "confession" was video recorded. The victim is currently on trial for "terrorism" and "trespass against territorial integrity of Ukraine". While the Military Prosecutor for Kharkiv Garrison is investigating the allegations of torture, no notifications of suspicions or indictments have been issued.[52]

[50] Not all incidents documented by OHCHR which occurred during the reporting period are reflected in this report in order to maintain the highest protection of victims through strict adherence to the principles of confidentiality and informed consent.
[51] HRMMU interviews.
[52] HRMMU interviews; HRMMU trial monitoring, 15 September and 30 October 2017;HRMMU meeting, 5 September 2017.

50. In another case, a man was detained in his home in Nyzhnioteple in November 2016 by members of the UAF. They searched him at gun point, beat him causing lasting pain, and subjected him to suffocation and electroshocks. They forced him to make a video confession that he provided information on Ukrainian military positions to armed groups. Then he was taken to the Sievierodonetsk SBU building where he was interrogated without a lawyer and forced to sign papers in order to receive medical care. Afterwards, he was taken to the hospital but threatened by SBU officers not to complain of any ill-treatment. He is accused of being a spotter for armed groups and is currently on trial.[53]

51. OHCHR also followed cases of Ukrainian servicemen who reported being subjected to torture while detained on criminal charges.[54] On 30 October 2014, a serviceman of the Kirovohrad volunteer battalion together with five fellow soldiers was detained by a group of 20 armed men. The victim was held *incommunicado* in solitary confinement for three days in the basement of the SBU regional department building in Kramatorsk. He was tortured several times a night in order to extract information about his commanders. The victim was beaten, including with truncheons, and hung from bars while being hit and subjected to electroshocks. On the third night, the perpetrators cuffed the victim's hands behind his back, put duct tape tightly over his eyes and mouth causing pain, pushed him to the floor and kicked him. The victim lost consciousness and choked on his own blood. The beating continued until the victim confirmed that he was ready to "confess". He was told what to say in court and forced to sign documents. The SBU officers who took him to the court threatened that if he asked for a lawyer or complained, his "therapy" in the basement would continue. In the presence of two masked, armed SBU officers, the judge ordered his pre-trial detention for 60 days, without announcing any charges.[55] The victim's injuries were later documented at hospital and in the SIZO. Despite his written complaints about the *incommunicado* detention and torture, as well as two court orders for the Office of the General Prosecutor to conduct a forensic expertise of his injuries and investigate the circumstances of his arrest, there has been no progress in investigation. As of 15 November 2017, he remains in detention and complains about not receiving necessary medical aid.[56]

Territory controlled by armed groups

52. Victims of torture residing in territory controlled by armed groups hesitate to report torture and rarely give consent for public reporting for fear of retaliation and direct threats to their safety.[57] When cases are reported, it is often much later after the incident occurred.

53. OHCHR documented the case of a Russian blogger,[58] who was detained with his wife at their home in Donetsk city on 27 September 2017 by armed men dressed in camouflage. The blogger was physically assaulted by the perpetrators, resulting in a fractured leg. One of the perpetrators also attempted to suffocate him. The victims were then taken to the 'UBOP' office, and interrogated separately for a few hours. During this time, no medical aid was provided. The woman was released that evening, while the man was forced to sign a 'notice' that he was detained under 'administrative arrest' upon charges of participating in a terrorist organisation. He was released on 2 November 2017.[59]

54. During the reporting period, OHCHR received and followed up on accounts of seven individuals (three women and four men) who had been detained *incommunicado* in an armed-group-controlled place of detention called "Izoliatsiia".[60] Since at least 2016, the facility has been used by the 'MGB' and the 'UBOP' of the 'Donetsk people's republic' to detain men and women

[53] HRMMU interviews.
[54] HRMMU interviews.
[55] The victim was later charged and on 28 April 2017, the Kostiantynivka City Court convicted him under articles 187(2), 189(3), 263(1) and 410(1) of the Criminal Code and sentenced him to 10 years. He has appealed the verdict.
[56] HRMMU interview.
[57] HRMMU interviews.
[58] *See also* para. 105 *below*.
[59] HRMMU interviews.
[60] Izoliatsiia was an industrial facility that was turned into cultural facility in Donetsk city prior to the conflict. In May 2014, it was seized by armed groups and used as an illegal detention facility where individuals were tortured. OHCHR has previously reported on the human rights violations that occurred there.

suspected of "treason", "subversive activities" or cooperation with SBU. Some members of the armed groups of the 'Donetsk people's republic' were also reportedly held in this facility. Detention periods varied from a few hours to over a year. The facility has cells used for punishment (e.g. one only for sitting, another only for standing) and a 'monitoring room' from which the cells could be watched 24 hours via video cameras. Guards wore camouflage without insignia and were armed with AK-47 assault rifle**s.** To keep detainees in a state of exhaustion, the guards forced them to constantly perform physical work.[61]

4. Conflict-related sexual violence

> *"We will bring your daughter here and we will have sexual intercourse with her in all possible ways."*
>
> - Staff to detainee during interrogation.

55. OHCHR continued documenting cases of conflict-related sexual violence, most of which occurred at the early stages of the conflict, in 2014-2015, but were only reported recently when the victims felt safe and were able to access some services. These cases fit into the previously-identified pattern of sexual violence used as a form of torture or to force victims to perform actions demanded by the perpetrators.[62] Some emblematic cases are described below.

56. On 28 September 2017, a civilian man was taken off a bus at an internal checkpoint by armed men in camouflaged uniform and accused of affiliation with armed groups based on his social media pictures. He was transferred to a police station in Kreminna, where he was forced to strip to his underwear and stand in a cold room for two hours, with people walking in and out. He was beaten, threatened with rape and of being handed over to Azov battalion. Without access to a lawyer, he was forced to sign a statement, typed by an investigator, that he was a member of armed groups. The next day he was released.[63]

57. In December 2014, seven masked men armed with assault rifles, including several members of a volunteer battalion, broke into a private house in a town near the contact line. One perpetrator put a knife to the victim's neck, who was eight months pregnant, and threatened to cut her throat if she screamed. He tied her hands and legs with rope and gagged her with a cloth wet with engine oil, causing her to suffocate. He also pointed a gun to her stomach threatening to shoot her baby. While one perpetrator demanded to know where the money and valuables were, another one sexually assaulted her by touching her breasts and genitals under her clothing, and a third man threatened her with gang rape. During this ordeal, the victim could hear her parents screaming in another room, causing additional suffering and reinforcing the threats. After seizing all the valuables and money, the men threatened to shoot the family if they reported the crime. The perpetrators are currently on trial.[64]

Territory controlled by armed groups

58. On 31 May 2014, near Luhansk, two civilian men were abducted and detained by five members of an armed group masked with balaclavas and armed with assault rifles. They were taken to a tent camp and separated. One victim, who was known for his pro-Ukrainian views, was brought inside a tent, where other members of armed groups beat him and subjected him to a mock execution before interrogating him. At one point, the interrogator kicked the victim in his testicles, which was extremely painful and resulted in residual injury. The victim was also beaten with a metal rod wrapped in a rag by different individuals, including a woman. The perpetrators forced the victim to open his social network accounts, which was followed by more beatings on different parts of his body, including his kidneys and the back of his head. The perpetrators

[61] HRMMU interviews.
[62] *See* OHCHR report on conflict-related sexual violence in Ukraine, 14 March 2014 to 31 January 2017.
[63] HRMMU interview.
[64] HRMMU interview.

threatened the second victim that his younger sister "may not come back home tonight"; they knew where she studied and what time she returned home. The victims also heard a man armed with a pistol ask the guards whether his friends could rape the 'detainees'.[65]

5. Access to places of detention

59. In government-controlled territory, OHCHR – in general – continued to enjoy unimpeded access to official places of detention. OHCHR conducted confidential interviews, in line with international standards, of detainees in SIZOs in Bakhmut, Kharkiv, Kherson, Mariupol, Mykolaiv, Odesa, Starobilsk, Vinnytsia and Zhytomyr, and in penal colonies in Kharkiv, Mykolaiv and Odesa regions. At the same time, OHCHR faced unreasonable delays with access to a number of detainees held in Dnipro and Kyiv. In Kharkiv, OHCHR was denied permission for three months to hold a confidential interview with a detainee under SBU investigation, and also faced delays accessing other such detainees.

60. In both 'Donetsk people's republic' and 'Luhansk people's republic', OHCHR continued to be denied access to detainees and places of deprivation of liberty. Coupled with first-hand information received by HRMMU, this denial of access continued to raise serious concerns regarding detention conditions, as well as possible further human rights abuses such as torture and ill-treatment.

6. Conditions of detention

61. In government-controlled territory, HRMMU noted during its visits that the general conditions in some places of detention did not satisfy applicable international standards such as the Mandela Rules.[66] The issue of access to medical care remains acute, particularly for conflict-related detainees in SIZOs. Frequently raised concerns included: refusal to provide medical care[67]; failure or inability to provide opportunities for specialised medical care (e.g. consultations with a neurologist, endocrinologist, surgeon or gynaecologist) or for a specific medical examination despite repeated requests[68]; failure to provide medical check-ups or needed X-rays[69]; and failure to provide medical assistance due to the absence of basic medication in SIZOs[70] or inability to ensure access to antiretroviral treatment for detainees with HIV[71]. While these findings are based on HRMMU interviews with conflict-related detainees, the United Nations Subcommittee on Prevention of Torture (SPT) also captured these violations as a result of systemic challenges.[72]

62. During interviews and court hearings, alleged victims and their lawyers continue to raise concerns that bodily injuries of detainees as a result of torture are not systematically documented when detainees are admitted to a SIZO or temporary detention facility (ITT), despite existing regulations.[73] For example, a detainee was first rejected by the ITT in Kramatorsk due to visible signs of ill-treatment, but later admitted after the military police forced him to sign a statement that the injuries were sustained prior to his apprehension. The ITT administration did not attempt

[65] HRMMU interview.
[66] United Nations General Assembly Resolution 70/175, "United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)", 17 December 2015.
[67] HRMMU interviews.
[68] HRMMU interviews.
[69] HRMMU interview.
[70] HRMMU interview.
[71] HRMMU trial monitoring, 17 October 2017.
[72] CAT/OP/UKR/3, Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Visit to Ukraine undertaken from 19 to 25 May and from 5 to 9 September 2016: observations and recommendations addressed to the State party, paras. 53-56.
[73] For example, the existing Order of the Ministry of Internal Affairs No. 638 dated 2 December 2008, registered in the Ministry of Justice on 12 February 2009, requires that all detainees pass a medical examination in the medical institution under the Ministry of Health, and if a detainee has any health complaints, ITT staff should call an ambulance. If there are any visible signs of injuries, the Prosecutor's Office should be immediately notified. Unfortunately, based on HRMMU monitoring, these safeguards do not always work, which leads to poor documentation of torture at all stages. HRMMU therefore welcomes efforts of the National Police and other relevant law-enforcement agencies to improve the situation through training of their staff, including on Istanbul Protocol, as well as a pilot project in ITT nr. 1 in Dnipropetrovsk region.

to verify the veracity of the written statement.[74] Often, detainees are only asked if they have any medical complaints and are not duly examined by a health practitioner. In some cases, although injuries were documented, SIZO staff failed to provide a copy of the medical certificate to the detainee[75] despite the legal requirement to do so.[76] As was highlighted by the SPT, delayed or superficial medical examination may thwart investigative efforts into allegations of torture.[77]

Situation of pre-conflict prisoners in territory controlled by armed groups

63. OHCHR welcomes the transfer on 14 September 2017 of 19 pre-conflict prisoners from four penal colonies[78] controlled by the 'Donetsk people's republic' to facilities in government-controlled territory. The transferred prisoners did not report being subjected to torture or ill-treatment, however, in certain penal colonies, the conditions were poor, including substandard quality of food, insufficient healthcare due to lack of medical staff and supplies, and lack of adequate heating.[79]

64. Prisoners reported that one of the primary reasons for requesting transfer was to be able to maintain contact with families, which had become difficult once the armed conflict erupted. While prisoners are sometimes able to make phone calls, there is no postal service between government-controlled territory and armed-groups-controlled territory, and relatives cannot easily cross the contact line. OHCHR is not informed about criteria used for selecting detainees for transfer. It is of concern that the 'Donetsk people's republic' denies transfer requests of pre-conflict prisoners with official registration in government-controlled territory of Donetsk region.

65. Even those prisoners who have served their complete sentence or were acquitted by a court in government-controlled territory after the start of the conflict have not been released. The armed groups do not acknowledge court decisions taken in government-controlled territory and do not recognize or apply the Savchenko Law,[80] resulting in the arbitrary detention of the concerned individuals.[81]

66. To date, no pre-conflict prisoners have been transferred from penal colonies controlled by the 'Luhansk people's republic' despite numerous appeals by prisoners and advocacy by HRMMU. This raises concern when paired with allegations received by HRMMU of ill-treatment, particularly in penal colonies in Slovianoserbsk and Khrustalnyi (formerly Krasnyi Luch). In addition to poor conditions of detention,[82] prisoners alleged that they have been regularly beaten by masked men believed to be 'special forces' ("spetsnaz"). The perpetrators wore camouflage with a chevron displaying a skull wearing a beret with a knife in its teeth.[83]

[74] HRMMU interview.
[75] HRMMU interviews.
[76] Joint Decree of the Ministry of Justice Ukraine and the Ministry of Health of Ukraine no. 239/5/104 of 10 February 2012, explicitly requires SIZO medical staff to issue a copy of a medical certificate attesting to documented bodily injuries to the detainee, regardless of the nature and circumstances of such injuries
[77] CAT/OP/UKR/3, Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Visit to Ukraine undertaken from 19 to 25 May and from 5 to 9 September 2016: observations and recommendations addressed to the State party, paras. 34-38.
[78] Penal colonies no. 32 and 97 in Makiivka, no. 28 in Torez, and no. 52 in Yenakiieve.
[79] HRMMU interviews.
[80] Law of Ukraine 'On amendments to the Criminal Code of Ukraine concerning the improvement of rules of incorporation by the court of the period of pre-trial detention into the period of sentence' No.838-VIII of 26 November 2015.
[81] Under the Savchenko Law, when calculating time served, one day in a pre-trial detention facility was counted as two days of detention in a prison colony, which could substantially reduce the overall length of a prison sentence.
[82] Prisoners reported insufficient quantity of food, insufficient of medical aid, limited electricity and running water (available only two hours per day), no heating in the barracks, and insufficient opportunities for personal hygiene (prisoners are allowed to wash only once a month).
[83] HRMMU interviews.

III. Accountability and administration of justice

A. Accountability for human rights violations and abuses in the east

> *"We will kill you now, and we will avoid any punishment for that."*
>
> - Perpetrators to victim of human rights violations.

67. The Government of Ukraine has a duty to ensure that victims of human rights violations and abuses have access to an effective remedy, including reparations, and that such remedies are enforced when granted.[84] Yet accountability for most conflict-related cases has not been achieved. These include both human rights violations perpetrated by Government forces and human rights abuses perpetrated by armed groups.

68. As of 1 November 2017, military prosecutor's offices reported carrying out 118 investigations into crimes allegedly perpetrated by Ukrainian military forces and other military formations (including killings of civilians) as well as by the SBU (including abuse of power and physical abuse of detainees to force confessions).[85] They further reported that, under their procedural guidance, the national police are carrying out 119 investigations.[86] At the same time, certain human rights violations allegedly perpetrated by Ukrainian military (in particular by members of special units formed on a voluntary basis) and SBU remain uninvestigated.[87]

69. Similarly, police were hesitant to investigate the enforced disappearance of a Luhansk resident on 14 July 2014 allegedly perpetrated by members of the Ukrainian military due to "absence of elements of the crime". Only in May 2017, after the victim's mother had repeatedly filed a complaint with the police, was an investigation formally launched.[88] In another case, a Ukrainian soldier, accused of arbitrarily detaining a person, complained that the military prosecutor's office failed to investigate his own complaint of arbitrary detention and beatings over the course of three days at the Kramatorsk SBU. Despite repeated complaints since 2015, the investigation was closed and reopened twice, with no results to date.[89]

70. The effectiveness of investigations is also an issue. For example, the criminal investigation into unlawful detention of individuals at the Kharkiv SBU has been ongoing for a year without yielding any results, raising concern regarding the genuine intention to bring the perpetrators to accountability.[90] Similarly, a conflict-related detainee's allegations of torture and ill-treatment by SBU officers in Sievierodonetsk were not properly addressed by the military prosecution.[91] Furthermore, the investigation into the enforced disappearance of a resident of Dobropillia (Donetsk region) on 1 October 2014 has not yielded any results. The victim's brother collected witness accounts suggesting that the crime had been committed by members of the

[84] ICCPR, art. 2(3); CERD art. 6; CAT, art. 14.
[85] According to the Military Prosecutor, in addition, 13 investigations have been suspended, 124 have been closed and 83 have been submitted to courts with indictments (52 of which resulted in judgments of conviction).
[86] According to the Military Prosecutor, in addition, 6 investigations have been suspended, 142 have been closed and 243 have been submitted to courts with indictments (150 of which resulted in judgments of conviction).
[87] For instance, killings of Roman Postolenko and Dmytro Shabratskyi, OHCHR thematic report on accountability for killings in Ukraine, Annex I, paras. 11-14 and 117-118 respectively.
[88] HRMMU interview.
[89] HRMMU interview.
[90] OHCHR Report on the human rights situation in Ukraine, 16 November 2016 to 15 February 2017, para. 41 and footnote 37.
[91] HRMMU interview. The victim complained to the Prosecutor's office of Luhansk region, which forwarded the complaint to the military prosecutor of Luhansk garrison, which in turn forwarded the detainee's complaint to the SBU internal oversight mechanism. The latter replied to the victim that no illegal actions had been established as a result of conducted investigation.

Donbas battalion with the acquiescence of the SBU and local police. The same police department is in charge of the investigation.[92]

71. OHCHR is deeply concerned with the release on 6 November 2017 of a State Border Guard who had been convicted in the first instance court of killing a civilian in 2014 and sentenced to 13 years in prison.[93] The release followed a public information campaign by political figures in support of the accused which distorted the facts of the case, requests by members of Parliament for the SBU to investigate the judges of the trial court for links to armed groups and to examine their previous judgments,[94] and a meeting between members of Parliament and the Prosecutor General.[95] Further, President Poroshenko made a public statement in support of the accused.[96] Such pressure is emblematic of interference with the judiciary, and is likely to have a chilling effect on future investigations into serious violations of international human rights law or international humanitarian law committed by members of the security forces.

72. The Office of the Military Prosecutor continued to investigate human rights abuses perpetrated in territory controlled by armed groups, including killings, arbitrary deprivation of liberty, and torture and ill-treatment of both Ukrainian military and civilians. It reported having established numerous violations of Part 2 of Article 75 of Protocol I.[97] Testimonies of over 1,050 individuals arbitrarily detained by armed groups have reportedly been collected.

73. Individuals affiliated or linked with armed groups continued to face charges based only on their alleged participation in or support to armed groups rather than on violations of international humanitarian law or the human rights abuses they may have committed.[98] According to the Military Prosecutor, only 11 persons have been charged with violating the rules and customs of war under article 438 of the Criminal Code.[99]

74. OHCHR notes the *in absentia* murder conviction and life sentences issued on 10 November 2017 against three members of armed groups of the 'Donetsk people's republic' for the 2014 killing of 16-year-old Stepan Chubenko.[100] While OHCHR welcomes adjudication of

[92] HRMMU interview.
[93] Judgement of conviction, Prymorskyi district court of Mariupol, 15 November 2016, upheld by court of appeal of Donetsk region on 7 February 2017, available at: http://reyestr.court.gov.ua/Review/64775792. The accused was released based on the decision of the High Specialized Court for Civil and Criminal Cases on 6 November 2017 to return the case for retrial, available at: http://reyestr.court.gov.ua/Review/70144868.
[94] *See* appeal of judges of Prymorskyi district court of Mariupol to the High Council of Justice regarding interference with the judiciary, 6 November 2017, available at http://www.vru.gov.ua/content/file/2951-0-6-17_.pdf. On 1 November, a member of Parliament filed a request with SBU to examine whether the judges of Prymorskyi district court are linked to the armed groups. In addition, approximately 150 men, including senior officials and servicemen of the State Border Guard Service, members of the Donbas battalion, at least four members of the Parliament, and young men in sportswear with a red duct tape on their shoulders, attended the hearing on 2 November, and up to 200 men in military uniform attended the hearing on 6 November before the High Specialized Court for Civil and Criminal Cases. HRMMU trial monitoring, 2 and 6 November 2017.
[95] On 2 November, members of Parliament who support the perpetrator met with the Prosecutor General to discuss the case. http://www.gp.gov.ua/ua/news.html?_m=publications&_t=rec&id=218440&fp=20.
[96] President Poroshenko made a statement supporting the Court decision saying that "sometimes the Motherland has to defend its defenders" (available at: https://www.facebook.com/petroporoshenko/posts/1136056533195404)
[97] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 8 June 1977.
[98] *See* OHCHR report on the human rights situation in Ukraine, 16 February to 15 May 2017, para. 88; OHCHR report on the human rights situation in Ukraine, 16 May to 15 August 2017, para. 72.
[99] See defendants listed in OHCHR report on the human rights situation in Ukraine, 16 February to 15 May 2017, footnote 118. Additional defendants include a 'commander' of the 'Hooligan battalion' of the 'Luhansk people's republic' (suspected of armed assault, abduction and illegal detention), the 'military commandant' of the 'ministry of defence' of the 'Luhansk people's republic' (suspected of creating an armed group in July 2014, assault, and misappropriating of property to be used in operation of the 'Luhansk people's republic'), commander of the 'Vostok battalion' for failure to provide medical aid to a Ukrainian soldier, leading to his death (*see* OHCHR thematic report on Accountability for killings in Ukraine from January 2014 to May 2016, Annex I, paras. 26-28), and a member of the armed groups of 'Donetsk people's republic' for physical violence against captured military servicemen and civilians in Snizhne, Donetsk region. According to the Office of the Military Prosecutor, 3,000 persons (including 1,450 civilians) have been unlawfully detained and subjected to torture, inhuman and degrading treatment.
[100] Judgment of conviction of Dzerzhynskyi town court of Donetsk region (available at: http://reyestr.court.gov.ua/Review/70145786). *See also* OHCHR thematic report on accountability for killings from January 2014 to May 2016, Annex I, paras. 44-47.

the human rights violation rather than focusing on membership in an armed group, concerns remain regarding possible deficiencies of the national legal framework regulating trials *in absentia* which may fall short of international human rights standards.[101]

B. Fair trial rights

> *"The European Court of Human Rights is very far. SBU, on the other hand, is right here."*
>
> - Criminal judge.

75. Individuals arrested and detained for conflict-related charges often found themselves victims of human rights violations such as arbitrary detention, torture and ill-treatment. The pattern suggested that the majority of these violations occurred shortly after arrest with the aim of obtaining incriminating testimonies and information. Victims' complaints of torture or ill-treatment were often disregarded, even when submitted in court.[102] Furthermore, OHCHR documented cases suggesting that immediate access to a lawyer remains a problem for conflict-related detainees. This problem existed mainly in combination with the practice of unlawful detention prior to registering the arrest of a person.[103]

76. Article 258-3 of the Criminal Code on the "setting up of a terrorist group or organization" criminalizes a broad range of actions, including "participating in" as well as "materially, institutionally, or otherwise facilitating the setting up or operation of" a terrorist group or organization. Such wording allows for broad interpretation of the law, in contradiction to the basic principle of legal certainty. On 28 September 2017, the Andrushivskyi district court of Zhytomyr region sentenced one media professional and one IT specialist to nine years for the "informational facilitation" of "activity of a terrorist organization" for helping to organize the operation of Novorossiia TV channel.[104]

77. OHCHR continued to observe attempts to pressure or otherwise interfere with the judiciary in conflict-related cases. A judge of Zarichnyi district court of Sumy[105] reported being harassed by 'civic activists' in response to the acquittal of a former security officer accused of joining an armed group.[106] In an unrelated case, after acquitting the former chief of the Kramatorsk town police who was accused of supporting armed groups, another judge found himself under investigation for the same charges.[107] A judge of the court of appeal of Luhansk region considering an appeal in the second acquittal of a district council official charged under article 114-1 of the Criminal Code[108] openly stated during a hearing that it was difficult for him to handle the "poorly substantiated appeal" given the attention to the case of "people from above".[109] Judges of Selydivskyi town court of Donetsk region who complained to the High

[101] While an accused person has the right to be present at his or her trial (art.14, ICCPR), trials *in absentia* may be acceptable in special circumstances so long as the rights of an effective defence is preserved (General Comment no. 13, art. 14, ICCPR). The Criminal Code of Ukraine allows for *in absentia* trials, however does not provide for retrials, nor an opportunity to appeal against the verdict after the expiry of the general 30-day statutory limitation.
[102] HRMMU interviews (with regard to complaints made in six different cases).
[103] HRMMU interviews.
[104] Judgment available at http://reyestr.court.gov.ua/Review/69213571.
[105] HRMMU interview.
[106] The acquittal was based on lack of recognition of the 'Donetsk people's republic' as a terrorist organization and non-admissibility of evidence, obtained by coercion.
[107] HRMMU interview.
[108] Article 114-1, introduced into the Criminal Code at the wake of the armed conflict in April 2014, criminalizes any "obstruction of lawful activities of the armed forces of Ukraine or other military formations". The current legislation does not define such 'lawful actions' with sufficient clarity, nor does it set a threshold to qualify as 'obstructing' them. This raises concerns that an unjustifiably wide discretion is left to prosecutors and judges, and the article may be used to persecute legitimate complaints against the military.
[109] HRMMU trial monitoring, 30 October 2017. According to publicly available information, the Deputy Minister for Temporary Occupied Territories and IDPs made prejudicial statements against the accused and another senior official of

Council of Justice about interference with their functions by the prosecutor's office of Donetsk region in conflict-related criminal cases, afterwards found themselves under investigation led by the latter.[110]

78. OHCHR recalls that the presumption of innocence is among fundamental guarantees of fair trial, and senior public officials should refrain from making public statements regarding criminal proceedings which would prejudice the public to believe the suspect is guilty or prejudge the assessment by judicial authorities.[111] OHCHR is concerned with public statements made by the deputy speaker of the Parliament claiming that former Sloviansk mayor Nelia Shtepa[112] (currently on trial for trespass against territorial integrity of Ukraine and creation of terrorist organization) called the "Russian world" into Donbas.[113] (*See also* the release of a convicted State Border Guard, para. 71 *above*.)

C. Territory controlled by armed groups

> *"The circus continues..."*
>
> - Person on 'trial'.

79. The 'Donetsk people's republic' and 'Luhansk people's republic' continued developing structures through which they performed government-like functions, including in the area of 'justice'. OHCHR recalls that it is increasingly accepted that non-state actors exercising government-like functions and effective control over a territory must respect human rights standards when their conduct affects the human rights of individuals under their control.[114]

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the district council, blaming them for construction of barricades obstructing the movement of UAF troops. Notably, he publicly admitted to interfering with the judiciary and pledged to "not step away until purging the land of this scum". *See* https://apostrophe.ua/ua/article/society/2015-10-02/georgiy-tuka-o-vozvraschenii-separatistov-vo-vlast-i-blujdayuschih-snayperah/2353 and https://amnesty.org.ru/ru/2015-09-18-ukraina2/.

[110] *See* complaints regarding interference with the judiciary, dated 23 June 2017 and 11 July 2017 (available at http://www.vru.gov.ua/content/file/1288-0-6-17_.pdf and http://www.vru.gov.ua/content/file/1288-1-6-17_.pdf). The judges complained about the failure of the prosecutor's office of Donetsk region to comply with legislation when prosecuting individuals on conflict-related charges, leaving judges no option but to return indictments back to the prosecution or acquit defendants. They alleged that in order to shift attention from their failures, the prosecutors blame the judges of intentional protraction of proceedings and unwillingness to adjudicate in conflict-related cases. On 7 July 2017, a group of "National Corps" activists allegedly organized by the prosecutor's office of Donetsk region protested against the acquittal of the 'head' of the 'supreme court' of 'Donetsk people's republic' and performed a mock 'hanging of the corrupt judge' (*see* http://azov.press/ru/selidivs-kim-suddyam---lyustraciyu). On 4 August 2017, based on a submission of a member of the Parliament, the prosecutor's office of Donetsk region launched an investigation into the acquittal of the 'head' of the 'supreme court' of 'Donetsk people's republic' by the judges of Selydivskyi district court of Donetsk region on charges of delivering a knowingly unjust verdict (*see* OHCHR report on the human rights situation in Ukraine, 16 May to 15 August 2017, footnote 74).

[111] It is a duty of all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused. In *Gridin v. Russia* (2000), the Human Rights Committee found a violation of the presumption of innocence where public statements by officials which received wide media coverage presented the accused as guilty. *See also Saidova v. Tajikistan* (2004); *Ismoilov and others v. Russia*, ECtHR, no. 2947/06, 24 April 2008.

[112] *See* OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2017, footnote 122. On 20 September 2017, Leninskyi district court of Kharkiv released Ms Shtepa from custody, replacing detention with house arrest upon the motion of the defence. Decision available at http://reyestr.court.gov.ua/Review/69076525). After more than three years of extending the detention (since Shtepa's arrest in July 2014), the court concluded that there was not a risk of flight. Of note, on 6 November 2017, the court informed the parties that the presiding judge on the trial has gone on paternity leave and recused himself. It is unclear whether the case will now need to be tried *de novo*.

[113] *https://www.facebook.com/iryna.gerashchenko/p*osts/1512039325550542.

[114] 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

80. The armed groups contend that conflict-related detainees are under 'investigation' and/or in 'custody' awaiting 'trial'. As a general rule, conflict-related 'criminal cases' ('espionage', 'high treason', etc.) are held in closed 'sessions' without outside observers or independent international monitors. OHCHR is concerned that, behind closed doors, conflict-related detainees are 'convicted' and face harsh 'sentences' without recourse to effective remedy. For example, on 31 October, a 'military court' of the 'Luhansk people's republic' 'sentenced' a man to 12 years for 'high treason' after a two-week 'trial' held in closed sessions. OHCHR notes that the defence counsel, who was 'appointed' by 'MGB', never visited his client in detention. OHCHR further notes that while the details of the 'prosecution' and 'conviction' are unknown, the man was initially arrested after singing a Ukrainian song in a local bar.[115]

81. In addition to these concerns, the inherent lack of independence and impartiality of these 'tribunals' raises serious concerns that residents in territory controlled by armed groups do not have adequate protection of their rights and no access to justice. The situation is even more concerning in light of reports that a second 'death penalty' was 'pronounced' on 7 November 2017 by the 'supreme court' of the 'Donetsk people's republic'.[116] International law sets stringent conditions for application of the death penalty, including meticulous compliance with international fair trial standards. The structures put in place by the "Donetsk people's republic" clearly fail to meet those standards and should therefore in no circumstances impose capital punishment.

82. In territory controlled by armed groups of both 'Donetsk people's republic' and 'Luhansk people's republic', the process of 'registered' detention is often preceded by a period of *incommunicado* detention perpetrated by the 'law enforcement structures', by 'MGB'[117] or 'UBOP'[118], which is not subject to any 'review'. Such *incommunicado* detention may last for weeks or months.

83. Persons residing in territory under the control of armed groups, including those in detention, who wished to obtain a lawyer faced new challenges. On 30 June 2017, the 'head' of 'Donetsk people's republic' issued a 'decree' stating that only lawyers who were 'certified' by the 'Donetsk people's republic' may represent a 'defendant' in 'criminal cases', which is in conflict with the 'law on the bar and practice of law'.[119] Many lawyers fear obtaining such 'certification', as it may put them at risk of arrest and prosecution when they travel to government-controlled territory because the certification procedure requires taking an oath to the 'Donetsk people's republic'.

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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.

[115] HRMMU interviews. In addition, on 9 October 2017, the 'prosecutor-general's office' of the 'Donetsk people's republic' reported the 'sentencing' of two people to 14 years each for 'espionage', and on 13 November, OHCHR attended the pronouncement of a 'judgement' by the 'military tribunal' of the 'Donetsk people's republic' where a woman was 'convicted' of 'espionage' and 'sentenced' to 10 years. She reportedly received the minimum 'penalty' in exchange for cooperating with the prosecution.

[116] The 'defendant' was 'convicted' of the rape, sexual assault and killing of a nine-year-old girl. Judgment available at https://supcourt-dnr.su/content/verhovnyy-sud-prigovoril-nasilnika-i-ubiycu-k-isklyuchitelnoy-mere-nakazaniya. The first 'death penalty' was 'pronounced' in December 2015 in a 'case' involving 'charges' of brigandism and killings, however as of 27 June 2017, the 'death penalty' had not been executed?

[117] HRMMU interview; OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2017, paras. 47-50.

[118] HRMMU interview.

[119] The 'law' allows lawyers certified in Ukraine or the U.S.S.R. who have continuously practiced law in the 'Donetsk people's republic' since 11 May 2014 and are registered with the 'ministry of justice' to represent criminal defendants. HRMMU interview.

D. High-profile cases of violence related to riots and public disturbances

84. OHCHR continued to follow the cases of killings and violent deaths in the context of mass assemblies, including those which occurred at Maidan in Kyiv,[120] during the 2 May 2014 violence in Odesa[121], during the Unity March in Kharkiv on 22 February 2015[122] and from the explosion near Parliament on 31 August 2015.[123] Investigations into some episodes have been ongoing, while others have reached the courts, however no essential progress has been observed in convicting perpetrators.

1. Accountability for the killings of protesters at Maidan

85. According to the Prosecutor-General's Office, 53 persons (including former senior officials) have been notified of suspicion of committing crimes against participants of Maidan protests. Forty of them have reportedly absconded; special pre-trial investigations *in absentia* were launched against 27 of them.

86. Ten persons have been indicted, including five former "Berkut" special police regiment servicemen who are on trial on charges of killing 48 people and inflicting 128 gunshot injuries to 80 protesters on 20 February 2014, together with other absconded servicemen. They remain in custody pending trial at Sviatoshynskyi district court of Kyiv, which is still reviewing witnesses' and victims' testimonies and examines case files.

87. On 14 November 2017, Pecherskyi district court of Kyiv extended the pre-trial detention of one of alleged accomplices[124] of the abduction of two Maidan protesters on 21 January 2014. Both were reportedly severely beaten and released in a forest outside Kyiv. As a result, one victim froze to death.

88. The Prosecutor-General's Office continues its investigation against the former deputy head of the Kyiv SBU for launching an "anti-terrorist operation" in the Kyiv city centre which resulted in the deaths of protesters.[125] In total, 380 persons are under investigation for committing crimes against Maidan protesters.[126]

2. Accountability for the 2 May 2014 violence in Odesa

89. On 18 September 2017, the Illichivskyi town court of Odesa region acquitted 19 persons[127] of mass disturbances in the city centre which led to the killing of six men.[128] The court held that the prosecution failed to prove that the accused took active part in the disorder. The court also noted that the pre-trial investigation was not impartial as it was carried out by police and according to available information, police officers could have been engaged in organizing and participating in the mass disturbances along with those on trial. The court also shared OHCHR's concerns regarding the one-sided investigation, noting in particular that the prosecution was biased against the 'pro-federalism' activists.

90. The court ordered the immediate release of the five defendants who had remained in custody since May 2014. SBU immediately re-arrested two of them in the courtroom after the

[120] At least 108 protesters and other individuals, as well as 13 police officers, were killed during the Maidan protests. *See* OHCHR report on Accountability for killings in Ukraine, paras. 20-24 and Annex I, tables 1 and 2.
[121] During the mass disorder in Odesa city centre, 6 persons were shot dead and 42 died while trapped in the burning House of Trade Unions. *See* OHCHR report on Accountability for killings in Ukraine, paras. 25-27 and Annex I, table 3.
[122] Four people were killed by a blast. *See* OHCHR report on Accountability for killings in Ukraine, Annex I, para. 4.
[123] Four police officers were killed by a combat grenade explosion. *See* OHCHR report on Accountability for killings in Ukraine, Annex I, para. 5.
[124] Another 11 suspects have been put on a wanted list.
[125] For more details, see OHCHR thematic report on Accountability for killings in Ukraine from January 2014 to May 2016, Annex I, Table 1.
[126] Of them: 48 senior officials, 203 law enforcement officers, including 25 investigators, 16 prosecutors and 15 judges, and 42 civilians (the so-called "titushky") have been charged with crimes against Maidan protesters from November 2013 to February 2014. One hundred fifty five indictments against 239 persons have been submitted to courts, and 42 people have been convicted.
[127] The 20th accused absconded from Ukraine on 11 August 2017 and his case was separated.
[128] Judgment of acquittal, available at: http://reyestr.court.gov.ua/Review/68926870. OHCHR notes that the legal proceedings were beset with delays, having been transferred between four different courts, as well as re-started on three different occasions. Notably, once the case reached the panel of the Illichivskyi town court of Odesa region, the trial saw rapid progress and was completed within four months (from 31 May to 18 September 2014).

judgement was pronounced, on charges of "trespass against the territorial integrity of Ukraine" in connection with a peaceful motorcade rally of 'pro-federalism' supporters in March 2014.[129]

91. The court decision left unanswered the question of who is responsible for organizing the mass disturbances which resulted in 48 deaths. As of the date of this report, the investigations had identified only two persons who allegedly shot dead two men. One of the suspects is a member of 'pro-unity' groups and remains at liberty pending his trial, in stark contrast to the members of 'pro-federalism' groups who were detained for several years prior to their acquittal.[130]

IV. Fundamental freedoms

A. Freedom of movement

> *"If we did not have to travel to the territory controlled by the Government to confirm our right to receive pensions, we would still go there... But to meet with relatives, to purchase food, not to be humiliated."*
>
> - Resident living in territory not controlled by the Government.

92. Restrictions on freedom of movement and the transfer of goods and currency across the contact line continued to adversely affect hundreds of thousands of persons. Such restrictions, which required civilians to expose themselves to security risks, long queues and physical challenges, only served to further divide a once-integrated community.

93. Numerous factors contributed to longer queues at entry-exit checkpoints (EECPs) on both ends of the crossing routes. A total of 1.2 million individual crossings were recorded at the five crossing routes in August, and 1.1 million in September and October each.[131] The daily working hours of the checkpoints at the crossing routes were reduced by 4.5 hours over the course of the reporting period.[132] As of 15 November 2017, they were open from 8:00 to 17:00 hrs. Newly introduced measures[133] at the Cargill checkpoint (controlled by 'Donetsk people's republic'), also significantly slowed down the movement of people across the contact line. HRMMU observed that due to the longer waiting periods at this checkpoint, people attempted to cross the contact line through other crossing corridors, contributing to longer queues there as well. Civilians complained to HRMMU that long queues at government-controlled checkpoints were caused by an overly complicated checking procedure. OHCHR notes that corrupt practices were also claimed to be a significant factor negatively impacting the flow of civilians across the contact line.[134]

94. During the reporting period, there have been at least nine security incidents at or in the vicinity of the crossing routes.[135] Mines continued to pose a serious threat to civilians crossing

[129] http://reyestr.court.gov.ua/Review/69748399, http://reyestr.court.gov.ua/Review/69748019
[130] The second suspect is a 'pro-federalism' activist who allegedly fled Ukraine after the 2 May violence.
[131] Number of individual crossings of the contact line per month (information provided by the State Border Guard Service of Ukraine): August – 1.194.000; September – 1.093.000; October – 1.108.000; 1-15 November – 485.000.
[132] On 1 September 2017, the working hours were reduced by 2.5 hours, and on 29 October, they were reduced by a further 2 hours. At the close of the reporting period, the EECPs were open from 8:00 to 17:00 hrs.
[133] Individual passport registration and checks already in place at other checkpoints were introduced at Cargill checkpoint on 7 September 2017.
[134] HRMMU site visits of all five crossing routes throughout the reporting period and information received from interlocutors.
[135] *See* Ukraine: Checkpoints – Humanitarian Snapshot (as of 16 November 2017), available at https://reliefweb.int/report/ukraine/ukraine-checkpoints-humanitarian-snapshot-16-november-2017; Ukraine: Checkpoints – Humanitarian Snapshot (as of 15 September 2017), available at https://reliefweb.int/report/ukraine/ukraine-checkpoints-humanitarian-snapshot-15-september-2017. Further, on 13 October 2017, one Ukrainian Border Guard was wounded as a

the contact line and those living in close vicinity to EECPs. On 22 August, two women (aged 60 and 56) suffered injuries requiring hospitalization from an explosive device while walking off the main road near the Novotroitske EECP.[136] On 1 September, a 54-year old woman was wounded by a mine explosion in a forest in Stanytsia Luhanska.[137]

95. OHCHR continued to express concern over conditions at Stanytsia Luhanska, the sole crossing route in Luhansk region, which requires people to climb across unsafe wooden ramps connecting parts of a destroyed bridge.[138] This is especially challenging for elderly people (who make up the vast majority of those crossing), persons with disabilities, and families travelling with children. With the onset of winter, traversing the ramps will become increasingly more difficult due to snow and ice. For this reason, persons with disabilities living in territory controlled by armed groups often decide it is too dangerous to travel across in order to receive their disability support and pensions.[139] OHCHR fears that these conditions may also encourage use of alternative, unofficial crossing paths, which are often mined. For example, on 10 November 2017, a resident of Donetsk stepped on a landmine while attempting to cross the contact line from Donetsk to Marinka outside of official crossing routes.[140] He died instantly from his injuries, however, his body remained in "no man's land" for two days before it could be recovered.

96. On 20 October 2017, in a unilateral action, the Government once again opened its EECP located at the hitherto closed crossing route near Zolote in Luhansk region[141] and allowed people to cross into "no man's land" towards positions of armed groups of the 'Luhansk people's republic'. The people were prohibited from crossing checkpoints manned by the armed groups and had to return. While OHCHR strongly urges the opening of additional crossing routes across the contact line, including at Zolote, this must be done in a coordinated manner and must avoid placing civilians at increased security risks.

97. OHCHR continued to document cases of discriminatory restriction of freedom of movement through so-called 'internal check points' operated by the National Police. Civilians, including representatives of local and international NGOs who are registered in territory controlled by armed groups are often stopped and required to present an IDP certificate and their cell phones for a check of IMEI codes.[142] All personal data is reportedly stored for future use. Such practice not only restricts freedom of movement and has a negative impact on operation of NGOs but also has a discriminatory nature targeting people who are registered in territory controlled by armed groups.

98. Residents were also adversely affected by unnecessary and disproportionate restrictions imposed by Order no. 39 of the Ministry of Temporarily Occupied Territory, which specifies the list of goods and quantities which may be transported across the contact line. On 28 July 2017, a woman crossing the contact line was stopped from transporting life-saving medication for her disabled daughter who suffers from a serious kidney condition, because the quantity of medication exceeded the prescribed maximum. The mother and child were stuck at the EECP for eight hours, during which the woman had to perform peritoneal dialysis for her daughter twice.

result of sniper fire at Marinka checkpoint, and on 10 September 2017, the area around the government-controlled checkpoint at Maiorsk was impacted by shelling.

[136] Daily report of the OSCE SMM, 25 August 2017, available at http://www.osce.org/special-monitoring-mission-to-ukraine/336636.

[137] ATO Press Centre, 2 September 2017, available at https://www.facebook.com/ato.news/posts/1682749488402517.

[138] See OHCHR report on the human rights situation in Ukraine, 16 May to 15 August 2017, para. 91.

[139] HRMMU meeting, 12 September 2017.

[140] OSCE SMM Daily report, 13 November 2017, available at http://www.osce.org/special-monitoring-mission-to-ukraine/356591. In addition, on 7 November, a resident of Stanytsia Luhanska died when he detonated an anti-personnel mine in the vicinity of Krasnyi Yar village while attempting to cross a river by boat from government-controlled territory to territory controlled by armed groups (information provided by OSCE SMM).

[141] The Government first opened the Zolote checkpoint in March 2016, however armed groups of the self-proclaimed 'Luhansk people's republic' refused to open checkpoints on territory under its control which would allow for the crossing of civilians.

[142] Information provided by NGO Right to Protection. In addition, on 16 October 2017, HRMMU national Human Rights Officers staff travelling in a private car were asked at an internal checkpoint about their registered place of residence ("propiska"), suggesting discriminatory treatment.

They were allowed to transport the medication across the contact line only after a local NGO intervened.[143]

99. Since there is no legal provision determining the amount of money which may be transported across the contact line, border guards apply Order no. 39 arbitrarily and confiscate amounts in excess of 10,000 UAH.[144] As of 28 August 2017, the State Fiscal Service of Ukraine (SFS) had seized cash from persons crossing the contact line on 26 occasions, totalling over 300,000 USD.[145] In each of these incidents, the SFS opened criminal proceedings under article 285-5 of the Criminal Code ("financing terrorism") and transferred the cases to SBU for investigation.

100. Civilians complained that at government-controlled checkpoints, SBU officers pressured civilians residing in territory controlled by armed groups to sign papers agreeing to cooperate with SBU, by gathering information and reporting it back to SBU.[146] OHCHR is deeply concerned that such actions place civilians at serious risk. Such exchanges with SBU, occurring at checkpoints, can have grave repercussions such as 'arrest' by members of the armed groups on 'charges' of 'high treason' or 'espionage'.

B. Freedom of opinion and expression

> *"If you cover the events in a wrong manner, you will end up with a criminal case of terrorism."*
>
> - Legal defender.

101. OHCHR is concerned about the use of and the broad interpretation of terrorism-related provisions of the Criminal Code, as well as the provisions on high treason and trespass on territorial integrity of the country, in cases against Ukrainian media professionals, journalists and bloggers who publish materials or make posts or reposts in social media which are labelled by the security service as 'anti-Ukrainian'.

102. Within the reporting period, at least three individuals were arrested and detained[147] and one was convicted and given a suspended sentence based on a repost he made on social media.[148] In addition, on 28 September 2017, the Andrushivskyi district court of Zhytomyr region convicted one media professional and one IT specialist on terrorism charges and sentenced each to nine years.[149] They were accused of facilitating the online broadcasting of Novorossiia TV channel (affiliated with the 'Donetsk people's republic', which the SBU considers a terrorist organization). Another journalist detained at Zhytomyr SIZO since 2 August 2017 is charged

[143] HRMMU interview.
[144] The Order provides that a person may transport goods with a total value of 10,000 UAH.
[145] According to the SFS, they confiscated 3,393,500 UAH, 1,319,700 RUB, 137,300 USD, 8,600 EUR, 100 CAD and 35 GBP during 2017.
[146] HRMMU interviews.
[147] SBU arrested one man on 28 September 2017 in Zaporizhzhia for his alleged affiliation with the 'social communication committee' of the self-proclaimed 'Donetsk people's republic' and his publications which SBU claimed to be anti-Ukrainian and contain public calls to trespass the territorial integrity of Ukraine (*See* https://ssu.gov.ua/ua/news/1/category/2/view/3952#.3AuLYZF0.dpbs), the second on 19 October in Berezivka town in Odesa region (https://ssu.gov.ua/ua/news/7/category/21/view/4035#.ZODEPeyc.dpbs), and the third on 27 October 2017 in Dnipro (https://ssu.gov.ua/ua/news/4/category/21/view/4067#.r2HQ9i27.dpbs) for social media posts deemed "anti-Ukrainian".
[148] On 2 October 2017, the Desnianskii district court in Kyiv convicted a man under article 109 of the Criminal Code ("Actions aimed at forceful change or overthrow of the constitutional order or take-over of government") for his repost on social media (http://reyestr.court.gov.ua/Review/69284181#).
[149] Both were found guilty of "Creation of a terrorist group or a terrorist organization" (Article 258-3 of the Criminal Code), and the IT specialist was additionally convicted of "public calls to commit a terrorist act" (Article 258-2) and "Violating the equality of citizens based on their race, ethnicity or regional beliefs" (Article 161). HRMMU interviews. *See also* Fair trial rights, para. 76 *above*.

inter alia with treason and terrorism based on his publications, and could face up to 15 years of imprisonment.[150]

103. The lack of accountability for crimes against journalists raises serious concerns. Little progress was achieved in investigations of recent physical attacks against media professionals[151] or in the high-profile cases of the killings of Pavlo Sheremet[152] and Oles Buzyna.[153]

104. OHCHR also noted a worrying trend of foreign journalists reporting on the conflict in the east being labelled "propagandists" as a basis for their deportation from Ukraine.[154] Three journalists from the Russian Federation and two from Spain were subjected to arrests, interrogations, and expulsions in connection with their reporting.[155] The SBU insists it is compelled to undertake restrictive measures in cases when journalists disregard objectivity and distort information. OHCHR stresses that any restriction of freedom of expression, if applied, must be proportionate to the legitimate aim pursued and calls for careful consideration of each restrictive measure, based on international standards including practice of the European Court of Human Rights.[156]

Territory controlled by armed groups

105. Freedom of expression remains severely restricted with no critical publications or elements of dissent allowed in media outlets circulating in 'Donetsk people's republic' and 'Luhansk people's republic'. On 27 September 2017, armed men forcibly entered the home of a well-known blogger and activist in Donetsk, beat him and interrogated both him and his wife (*see also* para. 53 *above*). The blogger was arbitrarily detained for 36 days, until 2 November,

[150] He is charged with "High Treason" (Article 111 of the Criminal Code), "Trespass against the territorial integrity and inviolability of Ukraine" (Article 110), "Violations of citizens' equality based on their race, ethnicity and religious beliefs" (Article 161) and "Creation of a terrorist group or a terrorist organization" (Article 258-3). HRMMU interviews; https://ssu.gov.ua/ua/news/1/category/2/view/3945#.Zd2HXxCc.dpbs.

[151] On 15 September 2017, a journalist and a cameraman from Radio Liberty were attacked in Kyiv, allegedly by a state guard officer while they were filming near the venue of the wedding of the General Prosecutor's son. A criminal case was opened under article 345-1 ("threats or violence towards a journalist"). Both the victims and their lawyer state the law enforcement are failing to investigate the case. On 24 October 2017, one journalist was beaten and two others were attacked and apprehended while reporting on a trial in Sviatoshynskyi district court in Kyiv. A criminal case was opened under article 171 of the Criminal Code of Ukraine ("preventing legal professional activity of journalists"). In total, from January to October 2017, the National Union of Journalists of Ukraine documented 80 attacks against journalists, 20 of which were reportedly committed by state officials, civil servants or law enforcement agents. http://nsju.org/index.php/article/6679.

[152] See OHCHR report on the human rights situation in Ukraine covering the period between 16 May and 15 August 2017, para. 97.

[153] See OHCHR report on Accountability for killings in Ukraine, January 2014 to May 2016, Annex I, para. 79-82; OHCHR report on the human rights situation in Ukraine covering the period between 16 February and 15 May 2017, para. 86.

[154] The practice was widely criticised by the international community: On 18 September 2017, the Committee to Protect Journalists (CPJ) published an open letter to President Poroshenko which referred to seven incidents from August to September where SBU "targeted newsrooms and journalists on accusations that appear politically motivated, and in retaliation for critical reporting" and called on the President "to reaffirm his commitment to ensuring journalists' safety", available at https://cpj.org/2017/09/cpj-calls-on-ukrainian-president-petro-poroshenko-.php.

[155] On 14 August 2017, SBU detained Tamara Nersesyan, special correspondent for Russian state broadcaster VGTRK and interrogated her about her reporting in eastern Ukraine. On 29 August 2017, SBU reported it had barred Spanish freelance journalists Antonio Pampliega and Ángel Sastre over their reporting on the conflict in the east and for posting "anti-Ukrainian" messages on social media. On 30 August 2017, unknown persons abducted Russian journalist from 'Pervyi kanal', Anna Kurbatova, from a street in the centre of Kiev. On 4 October, SBU detained Russian 'NTV' journalist Viacheslav Nemyshev and reported he had a 'press accreditation' of the self-proclaimed 'Donetsk people's republic' and had been working on the armed-group-controlled territory in 2016-2017, reporting "anti-Ukrainian information". All these journalists were expelled and barred from entering Ukraine for three years. On 13 October 2017 SBU reported to have lifted the ban for the two Spanish journalists

[156] *See* fact sheet on hate speech by the European Court of Human Rights, available at http://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf; *Handyside v. the United Kingdom*, Judgment, 7 December 1976, § 49: "Subject to paragraph 2 of Article 10 (art. 10-2), [freedom of expression] is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. https://hudoc.echr.coe.int/eng#{"itemid":["001-57499"]}.

accused of 'terrorism'. The 'charge' allegedly stemmed from his published articles criticising the leadership of the 'Donetsk people's republic'.[157]

106. Armed groups of 'Donetsk people's republic' continue to detain blogger Stanislav Aseyev (aka Vasin), held since 3 June 2017.[158] Another blogger in 'Luhansk people's republic' was reportedly 'convicted' of "extremism" and "espionage" for his critical posts on social media and 'sentenced' to 14 years imprisonment.[159]

107. The privacy and personal data protection of internet users in 'Donetsk people's republic' have been compromised. On 21 September 2017, the 'ministry of communication' sent a letter to internet providers requesting them to collect and store the personal data of internet users[160] and information about their online activities.[161] The justification provided was the "significant number" of requests from 'law enforcement agents' to identify persons suspected of committing offences.

C. Freedom of religion or belief

108. OHCHR continued documenting interference with freedom of religion through policies and actions undertaken in particular in territory controlled by armed groups. OHCHR also continued to monitor ongoing disputes between different churches in Ukraine for potential impacts which may infringe upon the freedom of religion.[162]

109. On 17 August 2017, the 'ministry of culture, sports and youth' of 'Luhansk people's republic' adopted a 'decree'[163] requiring religious organizations to obtain a positive "theological opinion" in order to 'register', act as 'legal entity' and operate. The 'expert council' created to conduct such theological expertise can issue a negative opinion on the basis of a broad and vague list of reasons.[164] OHCHR is concerned that implementation of this 'decree' will lead to arbitrary infringement on the right to manifest one's religion or belief, while further shrinking the space for members of minority religious groups to exercise their rights.

110. In both 'Donetsk people's republic' and 'Luhansk people's republic', a number of actions were taken against Jehovah's Witnesses communities. In Horlivka, one of the houses of worship of the Jehovah's Witnesses community (known as "Kingdom Halls") was reportedly 'expropriated' by the 'Donetsk people's republic' on the basis that it was "abandoned", despite documentation confirming the congregation's ownership of the property[165] as well as its continued use by parishioners.[166] On 28 August, the 'MGB' of the 'Luhansk people's republic' announced that activities of unregistered organizations of Jehovah's Witnesses were banned due to their alleged ties with the SBU. Since then, Kingdom Halls in Luhansk, Alchevsk and Holubivka in territory controlled by the 'Luhansk peoples' republic' have been inaccessible for parishioners, bringing the total number of Jehovah's Witnesses religious buildings seized by

[157] HRMMU interview.
[158] OHCHR Report on the human rights situation in Ukraine, 16 May and 15 August 2017, paras. 49 and 103.
[159] Joint Submission under Article 19 of the Centre of Democracy and Rule of Law, Interdisciplinary Scientific-Educational Centre on Fighting Corruption, Human Rights Information Centre, Human Rights Platform and Institute for Development of Regional Press for the Universal Periodic Review of Ukraine, 30 March 2017, available at http://bit.ly/2jzbKwS; Press briefing by a representative of the self-proclaimed 'Luhansk people's republic', available at https://www.youtube.com/watch?time_continue=111&v=5XeYdB6-rlo.
[160] Internet providers are expected to provide 'law enforcement' with a user's name, residence registration, contact details and IP address.
[161] The information is to be stored for no less than six months. The letter is published on the website of the 'ministry of communications', available at https://xn--b1akbpgy3fwa.xn--p1acf/sites/default/files/pismo_ms_2418.pdf.
[162] These churches include the Ukrainian Orthodox Church (Moscow Patriarchate), Ukrainian Orthodox Church of the Kyiv Patriarchate, and Ukrainian Greek Catholic Church.
[163] 'Decree' on 'order of issuance of theological opinion on permissibility of state registration of religious organizations', available at https://mklnr.su/engine/download.php?id=507&area=static.
[164] The list *inter alia* includes "complicity in aggression against the 'Luhansk people's republic'".
[165] The documents were issued by Ukrainian authorities prior to the outbreak of the conflict.
[166] No 'decision' was communicated to the parishioners, who found out from anonymous sources after the 'expropriation' had already taken place.

armed groups since the beginning of the conflict to 12.[167] Furthermore, on 14 October, 'MGB' entered the private home of a parishioner, interrupted a joint worship and collected personal data of all the participants. Four parishioners were temporarily detained and one was accused of organising an unauthorised public gathering.[168]

V. Economic and social rights

A. Right to an adequate standard of living

> *"We had hoped that when we retire, we can finally start living for ourselves. But now we do not have money for anything. We just sit at home all day long. It is very depressing."*
>
> - Pensioner.

111. The living conditions of people residing in conflict-affected areas remained dire due to damages and wear of key civilian infrastructure affecting public gas, water and electricity supply, lack of basic services in remote villages close to the contact line, severe restrictions on delivery of humanitarian aid, deteriorating economic environment, food insecurity, high level of unemployment and limited access to psycho-social and other forms of support.

112. As temperatures fell, the humanitarian situation in villages close to the contact line where civilian infrastructure and public gas supply are often damaged worsened. For example, the gas pipeline to (government-controlled) Krymske, Toshkivka and Nyzhnie was damaged by shelling on 5 June 2017, interrupting the supply of gas to those villages. The majority of residential houses have not been equipped with other heating mechanisms and will rely on limited humanitarian support in this regard. A similar situation was observed on the other side of the contact line, in Pikuzy village (formerly Kominternove) where 35 residential houses have not had gas supply since shelling damaged the pipeline in April 2017. Although the pipeline was repaired in May 2017, the gas company (located in Mariupol) stopped supplying gas to Pikuzy on 9 June 2017.[169] Due to high prices, residents cannot afford to purchase coal on a regular basis for heating purposes and instead rely on electric heaters. However, the electricity supply is irregular due to frequent damages inflicted by shelling.[170]

113. Much of the key water infrastructure is located in "no man's land", which is often shelled and/or contaminated with UXO. The security situation poses serious obstacles for performing maintenance and repairs which should be completed prior to the onset of winter in order to avoid possible serious irreversible damage.[171] Dokuchaievsk (located 2km from the contact line in territory controlled by 'Donetsk people's republic') receives approximately only

[167] Kingdom Halls in Horlivka, Donetsk, Perevalsk, Khrustalnyi (formerly Krasnyi Luch), Boikivske (formerly Telmanove), Yenakiieve, Holubivka (formerly Kirovsk) and Brianka remain confiscated. In addition, Kingdom Halls in Luhansk and Alchevsk were searched by 'MGB' on 4 August 2017 based on alleged mining of the area, during which, parishioners were forced out from the building, had their personal data collected, and were individually questioned (including children who were questioned without the presence of their parents). On 15 August, the Kingdom Hall in Holubivka (formerly Kirovsk) was sealed by the 'Luhansk people's republic' without any justification provided. HRMMU interview; Jehovah's Witnesses Report on Observance of Freedom of Religion in "Certain Territories in the Donetsk and Luhansk Regions", July – September 2017; OHCHR Report on the human rights situation in Ukraine, 15 May to 14 August 2017, paras. 105-106.

[168] HRMMU interview. HRMMU documented other cases where parishioners of Jehovah's Witnesses were detained, questioned with regard to their religious affiliation, and ill-treated by members of armed groups.

[169] HRMMU meeting, 7 September 2017.

[170] Other locations with restricted access to electricity caused by the conflict include government-controlled Lopaskyne (since May 2017), armed-group-controlled Staromarivka (since end of September 2017) and Novooleksandrivka (where inhabitants have not had electricity for more than three year). OSCE SMM.

[171] If the pipes do not have water running through them when temperatures drop, they may freeze, causing irreversible damage. HRMMU meeting (WASH Cluster), 31 August 2017.

70 per cent of its water needs due to damages of the South Donbas Water Pipeline caused by shelling; the same damage places at risk the centralized heating of 400,000 people during the winter. Repairs would require a "window of silence" for water specialists to fix known damage and to check nine kilometres of pipe located in "no man's land", which may be contaminated with mines and UXO.

114. People living in villages close to the contact line continued to face obstacles accessing basic services and goods. For instance, in Opytne village where 42 residents remain, there has been no electricity, heating, gas or water supply since the beginning of the conflict. Furthermore, there is no grocery store, no pharmacy, no medical facility, and no public transportation. In order to access basic services, residents must walk 6 km to Avdiivka, along a footpath going through fields contaminated by mines and UXO, as the roads leading to Opytne are closed to vehicles. Persons with disabilities or elderly people who cannot walk the distance are especially vulnerable.[172]

115. Restrictions on movement also prevented humanitarian assistance from reaching Opytne and other remote villages located close to the contact line in "no man's land". An NGO attempting to deliver humanitarian aid was stopped at an 'internal' checkpoint at the entrance to Pishchane (located 1.2km from the contact line) and denied entry to the village.[173] Similar incidents were documented in Novoluhanske, and the government-controlled area of Zaitseve (Bakhmutka and Zhovanka).[174]

116. Access to adequate housing also remained an issue, in particular for displaced persons with disabilities. OHCHR observed poor living conditions in a collective centre for IDPs in Sviati Hory sanatorium in Donetsk region, where 90 per cent of the 203 residents (including 31 children) are persons with disabilities.[175] The indoor temperature of the two buildings was approximately 15 degrees Celsius. Residents share a single functioning shower, and a warm shower is available only once every nine days. The electricity is weak and the elevators do not function. Furthermore, IDPs accommodated in this collective centre lack basic food items, medications and hygiene products. OHCHR also documented the case of an 80-year-old wheelchair-bound IDP and her husband from Donetsk, who have spent two years living in their unheated country house. With very few accessible apartments available, they were unable to obtain appropriate alternative accommodation.[176]

117. The space for humanitarian action in territory controlled by armed groups continued to be restricted. For instance, in 'Donetsk people's republic' a new 'accreditation' for humanitarian cargo was introduced,[177] adding a third layer to an already cumbersome 'accreditation' process for humanitarian activity.[178] This cumbersome procedure creates additional challenges for humanitarian aid to reach people in need, at a time when 800,000 people in territory controlled by armed groups (double the number in 2016), are severely and moderately food insecure.[179]

[172] HRMMU visit to Opytne village, 10 October 2017. HRMMU documented similar situations during visits to Chornyi Buhor and Chihari settlements in Pivdenne (2 November 2017), Dacha (1 November 2017), Katerynivka - particularly its western part Koshanivka (30 August 2017), Krymske (29 August 2017), government-controlled parts of Zaitseve (Bakhmutka and Zhovanka, 1 November 2017), Znamianka (9 November 2017) and Novooleksandrivka (20 October).
[173] HRMMU visit to Pishchane, 5 October 2017.
[174] HRMMU visit to Novoluhanske, 4 October 2017.
[175] HRMMU visit, 5 September 2017.
[176] HRMMU interview.
[177] Although 'decree' no. 74 "on adoption of a temporary order of accreditation of humanitarian cargo" was signed on 28 April 2017, it was not published until 12 September 2017.
[178] There are now three 'accreditation' required, for the humanitarian organization to operate in the territory, for the specific humanitarian project, and for humanitarian cargo.
[179] Food Security and Livelihoods Cluster, Update on Sectoral Needs, Ukraine, October 2017, available at: http://fscluster.org/sites/default/files/documents/fslc_brief_update_on_sectoral_needs_october_2017.pdf.

B. Right to social security and social protection

> *"You should have thought about this in 2014! When will they terminate your pension?"*
>
> - Border Guard to pensioner crossing the contact line.

118. There has been no change in the Government's policy of linking pensions to IDP registration.[180] The verification and identification procedure[181] under this policy has led to the suspension of pension payments to at least 500,000 people since its adoption on 8 June 2016.[182]

119. OHCHR stresses that this discriminatory requirement violates Ukraine's legal obligations[183], jeopardizes social cohesion, and creates additional hardships for vulnerable people. For example, persons with disabilities, who are particularly affected by the conflict[184] and face greater challenges due to restrictions on freedom of movement,[185] have increased difficulty fulfilling the verification procedure. The policy also distorts displacement statistics and puts administrative burdens on local social protection departments tasked with conducting the verification. Moreover, verification (home visits) often cannot be conducted in government-controlled territory located near the contact line.[186]

120. OHCHR notes that the suspension of pensions under the verification process, which deprived hundreds of thousands of people - and often entire families - of their sole income, appears to have been disproportionate and unnecessary. Of the 547,300 cases of suspensions which were reviewed by the inter-agency commission on assigning (resuming) pension payments in 2017, pension payments were reinstated in 385,100 cases, amounting to 70 per cent.[187] Further, those pension suspensions which were challenged in court also led to reinstatement in a significant number of cases.[188] Notably, on 30 August 2017, the Dobropillia city-district court of Donetsk region ruled in favour of a plaintiff who had been deprived of her pension since October

[180] *See* OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para. 99; OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2017, para. 118.
[181] Verification is intended to confirm that pensioners with residence registration in armed-group-controlled territory have *de facto* become IDPs living in government-controlled territory, which is required to continue receiving pension payments. The procedure was introduced by Cabinet of Ministers resolution no. 365 on "Some questions of implementation of social payments to internally displaced persons", available at http://www.kmu.gov.ua/control/ru/cardnpd?docid=249110200. On 13 September 2017, the Cabinet of Ministers adopted resolution no. 689 (available at http://www.kmu.gov.ua/control/uk/cardnpd?docid=250271225) abolishing the verification procedure (home visits) for pensioners if they undergo the obligatory identification procedure (personal appearance) in 'Oshchadbank' (due every three months). However, regular verification will continue for those IDPs who receive targeted assistance or any other forms of social benefits. As the majority of IDP-pensioners also receive IDP assistance or social benefits, they do not benefit from the amendments. In other cases, lack of cooperation and technical means for timely information exchange between the departments of social policy and 'Oshchadbank' have thwarted the intended effect of the reform.
[182] Data provided by the Pension Fund of Ukraine on 3 November 2017.
[183] Article 9 of the International Covenant on Economic, Social and Cultural Rights; Article 1 of Protocol I to the Convention for the Protection of Human Rights and Fundamental Freedoms; Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms; Articles 41 (the right to property) and 46 (on the right to social security) of the Constitution of Ukraine; Decision of the Constitutional Court of Ukraine dated 7 October 2009 recognizing that pension payments cannot be suspended solely on the basis of the beneficiary's place of residents.
[184] *See, e.g.* Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Ukraine, 2 October 2015, paras. 13-14, 22-25; OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2017, paras. 91, 111 and 115.
[185] *See* Freedom of Movement *above*.
[186] For example, HRMMU was informed that representatives of the Ukrainian Pension Fund refused to cross the bridge to Staromarivka (located in "no man's land" in Donetsk region) to process the verification of four bedridden pensioners, whose entitlements were thereafter suspended. HRMMU meeting with NGO Right to Protection on 6 September 2017.
[187] Data provided by the Pension Fund of Ukraine, covering all cases reviewed from 1 January to 26 October 2017.
[188] In 90 per cent of cases filed in 2017 by the NGO Right to Protection (over 80 decisions), Ukrainian courts ruled in favour of citizens who appealed the decision to suspend their pension payments. The Pension Fund informed HRMMU that between January and October 2017, 165 IDPs had their pension payments restored based on court decisions.

2014, marking the first time that a court confirmed the right to pension of a resident who continuously lived in territory controlled by armed groups.[189] The decision, however, was overturned on 31 October 2017 and is now pending before the High Administrative Court of Ukraine.

121. Furthermore, the linking of the right to pension with IDP registration for citizens with residence registration in armed-group-controlled territory even when they choose to register a residence in government-controlled territory creates obstacles for the integration of IDPs in their new communities.[190] OHCHR reiterates that in order to prevent a situation of protracted displacement, Government policies should facilitate access to durable solutions such as local integration.

122. OHCHR noted a worrying trend where IDPs have been denied targeted financial assistance because the settlements they fled were not included in the official list of settlements where state authorities do not exercise their functions in accordance with Cabinet of Ministers' Order No. 1085.[191] For example, Zaitseve, Zolote-5, Pivnichne, and Nevelske - which are regularly affected by the armed hostilities - have not been included in the list.

Territory controlled by armed groups

123. Since the conflict began, persons residing in territory controlled by armed groups have suffered from the loss of access to Government services. Persons with disabilities have been disproportionately affected as, for example, they no longer receive discounts on or free provision of certain medications, hygienic items and prosthetic equipment, and the social taxi (for people in wheelchairs) no longer functions. In addition, persons with disabilities in armed-group-controlled territory, including children, can no longer receive annual treatment or undergo rehabilitation in sanatoriums.

124. Residents stated that the 'disability allowance' paid by the self-proclaimed 'authorities' in both 'republics' is not a sustainable source of income and does not cover basic needs.[192] As a result, persons with disabilities were often left fully dependent on families and/or humanitarian assistance, at a time when humanitarian organizations faced continuing restrictions *(see also* Adequate standard of livin*g above*).

C. Housing, land, and property rights

125. The lack of restitution and rehabilitation of, or compensation for, destroyed or damaged property remained among the most pressing unaddressed socio-economic issues.[193] OHCHR notes that there was no progress in development of a unified registry of damaged and/or destroyed property.[194] In certain areas close to the contact line, where residents were forced to leave their homes due to the security situation, the local civil-military administrations check on damaged property only when specifically requested by the owner. Therefore, it is likely that a large number of damaged and/or destroyed properties have not been certified by civil-military administrations, which would make it difficult for owners to obtain compensation or restitution in the future.

126. In six cases, a first instance court recognised the right to compensation of persons whose houses were damaged or destroyed due to the hostilities, however these decisions were overturned either by appeal or cassation courts.[195] In a recent decision, a court of appeal

[189] Court decision available at http://reyestr.court.gov.ua/Review/68839150.
[190] HRMMU interviews.
[191] On 31 May 2017, the Cabinet of Ministers adopted amendments to resolution No. 505 (on provisions of targeted assistance to IDPs), which provides that only IDPs from settlements listed in Order No. 1085 are eligible for targeted Government assistance. The list in Order 1085 was adopted in November 2014 and last amended in December 2015.
[192] HRMMU interviews.
[193] *See* OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2017, para. 119.
[194] In its previous report on the human rights situation in Ukraine, OHCHR recommended to the Cabinet of Ministers to develop property inventory and inspection procedures, including an effective and accessible mechanism for documentation and assessment of damages caused by the armed conflict.
[195] Information provided by the NGO Right to Protection.

overturned a judgment awarding compensation because the owner had received humanitarian assistance in the form of construction materials.[196] OHCHR reiterates that persons whose houses have been damaged or destroyed due to the armed conflict have the right to full and effective compensation as an integral component of the restitution process.[197]

127. On 20 September 2017, the Cabinet of Ministers adopted resolution no. 708, which provides necessary criteria for IDPs to participate in the state affordable housing program.[198] The program provides financial assistance amounting to 50% of the estimated cost of purchasing or building a home. OHCHR welcomes the adoption of the resolution but cautions that, taking into consideration housing prices and unemployment levels in conflict-affected areas, housing may still be unaffordable for vulnerable categories of people despite this assistance.[199]

Territory controlled by armed groups

128. A number of IDPs whose homes lie in territory controlled by armed groups expressed concern regarding a new 'program' introduced by the 'Luhansk people's republic' to make an inventory of all "abandoned" apartments so that they can be allocated to people in need.[200] This 'program' raises concerns that the private property of IDPs temporarily residing in government-controlled territory may be seized.

129. On 3 November 2017, the armed groups of 'Donetsk people's republic' published a 'decree' on 'nationalisation' of harvest planted on land plots which are included in the 'state' or 'municipal' 'property funds' and have been "occupied" by legal entities or private persons without 'authorization'.[201] The 'ministry of taxes' was given unhindered access to the storages of legal entities and private persons to implement the decree, which applies retroactively. OHCHR is concerned about the possible human rights impact of this action, particularly in light of the level of food insecurity in the territory.[202]

VI. Discrimination against persons belonging to minority groups

130. OHCHR continued to document attacks against persons belonging to minority groups, as well as the reluctance of police to classify such attacks as hate crimes. On 30 September, participants of the Equality Festival in Zaporizhzhia were attacked by a group of approximately 200 young people, resulting in hospitalization of four female activists.[203] Whilst the perpetrators were beating the victims, they shouted, "This is not the place for people like you!" The police, whose number was insufficient to protect the participants,[204] failed to timely react to the attack. Seventeen people were arrested, however police were unwilling to classify the attack as a hate crime[205] and classified the charges as hooliganism.

131. OHCHR is concerned with manifestations of intolerance, including threats of violence, by extreme right-wing groups[206] against individuals holding alternative, minority social or

[196] Decision of the Court of Appeal of Donetsk region, 12 September 2017, available at http://reyestr.court.gov.ua/Review/68895276.
[197] United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, known as the 'Pinheiro Principles', Principle 21.
[198] Available at http://zakon3.rada.gov.ua/laws/show/708-2017-%D0%BF.
[199] This point was raised during the HLP Fair organised by the Danish Refugee Council on 5 October 2017.
[200] HRMMU phone conversations with IDPs from Luhansk. Statement of the 'head' of 'Luhansk people's republic' of 11 September 2017.
[201] https://old.dnr-online.ru/wp-content/uploads/2017/11/Ukaz_N291_03112017.pdf
[202] See Food Security and Livelihoods Cluster, Update on Sectoral Needs, Ukraine, October 2017, available at: http://fscluster.org/sites/default/files/documents/fslc_brief_update_on_sectoral_needs_october_2017.pdf.
[203] HRMMU interview.
[204] The Ministry of the Interior informed HRMMU that 70 police officers were present.
[205] Art. 161 of the Criminal Code prohibits "wilful actions inciting national, racial or religious enmity and hatred, humiliation of national honour and dignity, or the insult of citizens' feelings in respect to their religious convictions, and also any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, skin colour, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics.
[206] "Extreme right-wing groups" is an umbrella term encompassing political parties, movements and groups who blame vulnerable groups for societal problems and incite intolerance and violence against them. Extreme right-wing groups bring into question fundamental principle of non-discrimination by propagating an ideology based on racism, racial

political opinions. On 8 September 2017, the LGBT association 'Liga' in Mykolaiv intended to lay flowers at a monument commemorating those who died during Maidan protests. The event was cancelled due to violent threats from representatives of Sokil[207] and the Right Sector,[208] and a lack of security guarantees from police.[209] Organizers of the Forum of Editors, held in Lviv from 14 to 17 September, also received threats[210] from extreme right-wing groups (including the Right Sector, Sokil, National Corps[211] and Volunteer Ukrainian Corps[212]), forcing them to cancel the presentation of a book featuring lesbian parents. On 31 October, a session of the Gender Club organized by students of the National Pedagogical University was disrupted by members of "Traditions and Order"[213] who physically threatened the participants and ripped apart the European Union flag flying on the university building.[214] OHCHR is further concerned with expressions of intolerance voiced by government authorities, such as the Poltava City Council which adopted an open statement calling upon the Verkhovna Rada to discriminate against the LGBTI community.[215]

VII. Human rights in the Autonomous Republic of Crimea and the city of Sevastopol

> *"This arrest is an attempt to shut our mouths."*
>
> - Crimean Tatar on trial for alleged membership in a terrorist group.

132. Despite continued lack of access to Crimea, OHCHR was able to document aspects of the human rights situation on the peninsula, through interviews with witnesses and victims of human rights violations, as well as visits to the Administrative Boundary Line with Crimea and meeting with local Government officials. During the reporting period, two deputy chairs of the Crimean Tatar Mejlis were sentenced by courts in Crimea to various terms of imprisonment. On 25 October, they were pardoned and jointly released. In other cases, OHCHR recorded serious human rights violations such as arbitrary arrest, torture and ill-treatment. The exercise of freedoms of peaceful assembly, opinion and expression continued to be curtailed through verdicts criminalizing criticism and dissent. OHCHR notes that under article 43 of the 1907

discrimination, xenophobia and related intolerance. The same groups are also involved in attacks against individuals based on their gender identity and sexual orientation. *See* Reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/35/42 of 26 April 2017 and A/HRC/18/44 of 21 July 2011).

[207] The youth wing of the extreme right-wing political party Svoboda.

[208] Right Sector is an extreme right-wing movement which consists of political party, paramilitary volunteer battalion and youth organization.

[209] *See* Appeal of the Head of LGBT Association 'Liga' to the Ukrainian Parliament Commissioner for Human Rights, available at http://lgbt.com.ua/звернення-до-уповноваженого-пл/. Representatives of Sokil and Right Sector openly threatened to violently disrupt the event and stated that such events are not in line with the ideology of their organizations and cultural traditions of Ukraine.

[210] A number of extreme right-wing groups signed a letter addressed to the head of the Lviv Regional Department of the SBU, head of the Lviv Regional State Administration and the Head of the Lviv City Council calling upon them to prevent presentation of the book and threatening to otherwise take all possible actions themselves. *See* http://bookforum.ua/wp-content/uploads/2017/09/Lyst.pdf.

[211] Extreme right-wing political party with Social Nationalistic ideology.

[212] Volunteer battalion and military wing of the Right Sector Movement.

[213] Extreme right-wing group propagating nationalism and traditional family values.

[214] HRMMU was informed that the perpetrators were shouting that the idea of gender is contrary to Ukrainian traditional values and that such topics should not even be discussed. The police arrived to the site, however, after taking some written testimonies from perpetrators, they departed without taking any further actions. HRMMU interview.

[215] On 19 September 2017, the Poltava City Council adopted an open statement calling for the Verkhovna Rada to ban "propaganda of deviant sexual behaviour" including "dignity marches", "prides", "gay parades" and "queer-culture festivals", erase any mention of "sexual orientation" or "gender identity" from domestic legislation, abstain from adopting the Law on Civil Partnership, remove sexual education aimed at eliminating gender stereotypes from schools, adopt the Law on "prohibition of propaganda of homosexuality", halt the process of amending the Constitution and other legal acts with regard to the definition of family, marriage, fatherhood, motherhood and childhood.

Hague Regulation and article 64 of the Fourth Geneva Convention of 1949, the Russian Federation, as the occupying power, must respect the laws already in place in the occupied territory, and can only adopt penal provisions that are essential for maintaining an orderly government and ensuring its security.

A. Rule of law and administration of justice

133. On 25 October 2017, two Crimean Tatar leaders Akhtem Chiygoz and Ilmi Umerov, convicted in Crimea for "organizing mass disorders" and "public calls to violate the territorial integrity" of the Russian Federation, respectively, were freed. They were flown to Turkey and, on 27 October, returned to Ukraine. The President of the Russian Federation reportedly pardoned both deputy chairs of the Mejlis following negotiations with the Turkish President.

134. Chiygoz was sentenced on 11 September 2017 to 8 years in prison for organizing mass disorders during a rally in Simferopol on 26 February 2014. Umerov was found guilty on 27 September 2017 and sentenced to two years of imprisonment for public calls to violate territorial integrity of the Russian Federation during a televised interview. OHCHR notes that the conviction of Chiygoz may be viewed as a violation of Article 70 of Geneva Convention IV, according to which the arrest, prosecution and conviction by the occupying power of a "protected person"[216] for acts committed before the occupation are illegal, notwithstanding the issue of the law applied to the case.[217] With regard to the conviction of Umerov, OHCHR recalls that all forms of opinion are protected under human rights law and cannot be criminalized.

B. Right to liberty and security

135. During the reporting period, Crimean law enforcement officers arrested 10 Crimean Tatars alleged to be members of terrorist or extremist groups promoting a sectarian form of Islam. The police also briefly detained 49 Crimean Tatars who initiated peaceful single-person pickets to denounce the arrests and portrayal of Crimean Tatars as terrorists.

136. Following house raids, four Crimean Tatar men – all devout Muslims – were arrested on 2 October by the Crimea branch of the Russian Federation Federal Security Service (FSB). They are accused of "extremist activities" and alleged to be members of *Tablighi Jamaat*, a Sunni movement banned in the Russian Federation as an extremist organization.[218] Three of the men, who were represented by private lawyers, were remanded in custody and the remaining man was placed under house arrest. Within a few days, the three men in detention terminated the services of their private lawyers. According to OHCHR interlocutors, the waivers are the result of pressure exerted by FSB on the suspects and their relatives in order to dissuade them from requesting the services of a dedicated counsel in exchange for promised leniency.[219]

137. On 11 October, the FSB and Special Forces units carried out a series of simultaneous searches of homes of Crimean Tatars in Bakhchysarai, resulting in the arrest of six Crimean Tatar men – all practicing Muslims – on charges of alleged membership in *Hizb ut-Tahrir*, an organization labelled as 'terrorist' and banned in the Russian Federation.[220] With these arrests, the number of people detained in Crimea since March 2014 on accusation of membership in *Hizb ut-Tahrir* has reached 25. On the same day, 11 other Crimean Tatar men who came to show

[216] Article 4 of Geneva Convention IV states that "Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals."
[217] Article 70 of Geneva Convention IV stipulates that "protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed before the occupation, with the exception of breaches of laws and customs of war."
[218] The Supreme Court of the Russian Federation declared *Tablighi Jamaat* an extremist organization on 7 May 2009. In Ukraine, *Tablighi Jamaat* is allowed.
[219] HRMMU interviews.
[220] The Supreme Court of the Russian Federation declared *Hizb ut-Tahrir* a terrorist organization on 14 February 2003.

solidarity and film the actions of law enforcement officers were also detained and later released. Nine of them were sentenced to administrative fines.[221]

C. Right to physical and mental integrity

138. OHCHR documented grave human rights violations allegedly perpetrated by the Crimean branch of the FSB against a Crimean Tatar man. In the early morning of 13 September, following a search of his home, a Crimean Tatar man was detained by the Crimean FSB. The victim was held *incommunicado* for more than a day in the premises of the FSB in Simferopol, during which time his family made continuous inquiries to law enforcement about his whereabouts and fate.[222] On 14 September, the victim was left at a bus station in Simferopol. He was physically injured and stated he had been beaten and tortured, including by electric shock, and threatened with sexual violence in order to force him to make incriminating statements against himself and others. No formal record of his arrest was made and no official charges were brought against him.

D. Freedom of opinion and expression

139. Those who claimed that Crimea was occupied by the Russian Federation faced criminal consequences and possible imprisonment.

140. Like Ilmi Umerov, freelance journalist Mykola Semena was convicted on separatism charges on 22 September 2017 and handed a 30-month suspended prison sentence. He is also barred from "public activities" - including journalism - for three years. The conviction stems from an article he wrote for Radio Free Europe/Radio Liberty in 2015 which criticized the occupation of Crimea and called for its blockade by military means.

141. OHCHR notes that anti-separatism provisions must be applied in a manner consistent with the obligation of states under article 19, paragraph 1, of the International Covenant on Civil and Political Rights, and not used to silence or criminalize opposing opinions or criticism.

E. Freedom of religion or belief

142. On 31 August, court bailiffs stormed the building housing the Ukrainian Orthodox Church of the Kyiv Patriarchate (UOC-KP) in Simferopol. The action was undertaken pursuant to a judgment, upheld by the Supreme Court of the Russian Federation in February 2017, ordering to vacate premises used by a subsidiary company of the UOC-KP as office space and a shop in the first floor of the building. OHCHR notes that these developments created anxiety among churchgoers and revived concerns about the future of the UOC-KP, whose functioning in Crimea remains precarious due to the lack of an official legal status pursuant to Russian Federation legislation.[223]

143. Unlike the UOC-KP, the Ukrainian Greek-Catholic church (UGCC) re-registered in 2016 and is operating in Sevastopol, Yalta and Yevpatoriia in accordance with the legal framework imposed by the Russian Federation. However, the church had to change its name to the 'Byzantine Catholic Church', as its original appellation is not recognized in the Russian Federation. Furthermore, only two UGCC priests permanently reside in Crimea where they continue providing religious services. The other UGCC officials who were not residents of Crimea in March 2014 - and thus did not meet the legal condition to become Russian Federation citizens - became foreigners under Russian Federation law which was imposed in Crimea, and had to leave the peninsula.[224]

[221] HRMMU interview.
[222] HRMMU interviews.
[223] Under Russian Federation law, all public organizations in Crimea, including religious communities, had to re-register in order to obtain legal status. Without registration, religious communities can congregate but cannot enter into contracts to rent State-owned property, open bank accounts, employ people or invite foreigners.
[224] HRMMU interviews. *See also* OHCHR report on "The situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, paras. 64-70.

F. Freedom of peaceful assembly

144. The authorities in Crimea continued to impose restrictions on the exercise of the freedom of assembly. The police arrested 49 people who conducted one-man pickets in protest against the prosecution of Crimean Tatars. Further, 13 municipalities rejected requests to hold peaceful assemblies on LGBT rights.

145. On 14 October, a series of one-person pickets took place throughout Crimea in protest against the arrests of Crimean Tatars for alleged membership in "terrorist" or "extremist" organizations in Bakhchysarai. Nearly 100 people held up placards expressing demands to stop the persecution of Crimean Tatars. The police reported the arrests of 49 picketers for violating Russian Federation federal law on public assemblies.[225] After "precautionary conversations" with the police, they were released. According to Russian Federation legislation applied by the Occupying Power in Crimea, one-person pickets do not require pre-authorization.[226] OHCHR recalls that under international human rights law, restrictions on the exercise of the right to peaceful assembly may only be justified if they are necessary in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.

146. Thirteen municipalities in Crimea - Yevpatoriia, Yalta, Sudak, Feodosiia, Dzhankoi, Armiansk, Bakhchysarai, Sevastopol, Kerch, Alushta, Saky, Simferopol, and Krasnoperekopsk - banned LGBT assemblies planned in October 2017. LGBT organizations from the Russian Federation petitioned for these peaceful assemblies to advocate for recognition of human rights of LGBT persons. The refusals were based on Russian Federation legislation, applied by the Occupying Power in Crimea, prohibiting propaganda of "non-traditional sexual relations". In *Bączkowski and Others v. Poland*, the European Court of Human Rights recognized that the refusal to hold a peaceful assembly on the ground of sexual orientation amounts to a violation of the right to free assembly in conjunction with the violation of the prohibition of discrimination.[227]

G. Military conscription

147. On 2 October 2017, the Russian Federation launched a new military draft. Around 2,000 men from Crimea are expected to be conscripted into the Russian Federation Armed Forces. The Russian Federation Ministry of Defence confirmed that one third of the conscripts will be transferred outside the peninsula, to the Russian Federation. Draft evasion is punishable under the Criminal Code of the Russian Federation, and possible sanctions include up to two years of incarceration.[228] A local department of the Russian Federation Investigative Committee in Sevastopol confirmed pending criminal charges against a Sevastopol resident for draft evasion.[229] OHCHR notes that the military draft violates the international humanitarian law prohibition to compel protected persons to perform military service in the armed forces of the occupying power.[230]

[225] https://82мвд.рф/news/item/11345690/.
[226] However, according to the Constitutional Court of the Russian Federation, when several one-person pickets are held simultaneously and are similar to one another with "sufficient obviousness" in respect of the items used, common goals, slogans and timing, such pickets may be considered as one single public picket carried out by a group of individuals, to which pre-authorization requirements for their conduct will apply. (Judgment of the Constitutional Court of the Russian Federation, 14 February 2013 No. 4-П, par. 2.5; https://rg.ru/2013/02/27/mitingi-dok.html).
[227] ECtHR, *Bączkowski and Others v. Poland* (No. 1543/06), 3 May 2007.
[228] Article 328 of the Criminal Code of the Russian Federation.
[229] Sevastopol Investigation Department of the Investigative Committee of the Russian Federation, statement of 28 September 2017, available at http://sevastopol.sledcom.ru/news/item/1167566/; Statement of 11 October 2017, available at http://sevastopol.sledcom.ru/news/item/1170699/.
[230] Article 51, Geneva Convention IV.

VIII. Legal developments and institutional reforms

A. Legal framework concerning territory not controlled by the Government in certain areas of Donetsk and Luhansk regions

148. On 6 October, the Parliament of Ukraine prolonged[231] by one year the application of a 2014 law[232] providing for expanded local self-rule in certain areas of eastern Ukraine not under Government control as one of the political commitments under the Minsk agreements. The introduction of special governance rules is conditioned upon the implementation of a set of requirements for safe and democratic elections,[233] including the withdrawal of weapons and all illegal military formations.

149. On the same day, Parliament adopted in its first reading the draft law providing a framework for the Government to re-establish control over certain areas of Donetsk and Luhansk regions.[234] It states that the Russian Federation has conducted an armed aggression against Ukraine, resulting in the temporary occupation of parts of its territory. The text affirms Ukraine's right to self-defence,[235] alongside its commitment to a peaceful political settlement based on international law. Conflict management is entrusted with the military - the Joint Operative Headquarter of the Armed Forces of Ukraine (JOHAFU)[236] - and the principle of an anti-terrorist operation conducted under the auspices of the State Security Service of Ukraine (SBU) is abandoned.

150. Under the draft law, Ukraine claims no responsibility for illegal acts of the Russian Federation and armed groups in the territory they control and considers null and void any act (decisions, documents) committed by them in this territory. It recognizes Ukraine's positive obligations towards the population of these areas, and creates a "special legal regime" to protect its rights and freedoms, based largely on the 2014 law[237] which previously applied exclusively to Crimea. The Ministry on Temporarily Occupied Territory (TOT) and IDPs is tasked with designing "protective measures" such as facilitating the satisfaction of economic and social needs, providing humanitarian aid, and ensuring access to the Ukrainian media and legal remedies. The procedure regulating movement of persons and goods across the contact line is to be defined by the Head of JOHAFU in consultations with the SBU and the Ministry on TOT and IDPs.

151. OHCHR takes note of the intention of the legislator to define, in legally binding terms, the conflict in eastern Ukraine. At the same time, it underlines that this position should not be used to impose a narrative - and introduce legal sanctions - restricting the freedom of opinion and expression.

152. OHCHR notes that the draft law generally lacks clarity regarding the legal framework for the protection of rights and freedoms in certain areas of Donetsk and Luhansk regions. Although legislation applying to Crimea is mentioned as forming the legal basis for human rights protection in eastern Ukraine, its transposition appears to require adjustments without which the legal certainty requirement may not be satisfied.

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[231] Adoption of the Law of Ukraine "On Creating the Necessary Conditions for a Peaceful Settlement in Certain areas of Donetsk and Luhansk Regions" no.2167-VIII.

[232] Law of Ukraine "On the Special Order of Local Self Government in Certain Areas of the Donetsk and Luhansk regions" no.1680-VII of 16 September 2014. The law had been adopted for a three-year period, set to expire on 18 October 2017.

[233] *Ibid.*, Article 10.

[234] Draft Law no.7163 "On Particular Aspects of Public Policy Aimed at Safeguarding the Sovereignty of Ukraine over the Temporarily Occupied Territory of the Donetsk and Luhansk regions of Ukraine".

[235] Article 51 of the United Nations Charter.

[236] The Joint Operative Headquarter of the Armed Forces of Ukraine (JOHAFU) is a body responsible for the management and coordination of inter-agency militarised forces. Together with the General Staff of the UAF, it forms part of the Ukrainian military command. JOHAFU was included into the structure of the Ukrainian Armed Forces in the course of its reform in June 2016. *See* Law of Ukraine "On amendments to the legislation concerning defence"no.1420-VIII of 16 June 2016.

[237] Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" no.1207-VII of 15 April 2014.

153. OHCHR also has concerns regarding the provision proclaiming blanket non-recognition of acts issued in the territory not under Government control, and urges that, in order to guarantee legal recognition of persons living in these areas, at a minimum that the procedure of recognition of the facts of birth and death occurring in such territories be continued.

154. Anticipating the consequences of the promulgation of the draft law, OHCHR urges the Government to prevent the abrupt termination of the validity of legal acts[238] that established certain guarantees and privileges for the population for the duration of the anti-terrorist operation. A transitional period should foresee that the validity of such privileges be extended until national legislation is harmonized with the new legal framework.

B. Law on Education

155. On 28 September, a new law "On education" entered into force which aims to ensure equal opportunities for students to achieve fluency in the official language and introduces new rules on the use of languages in public education.[239]

156. Under the law, Ukrainian will become the main language of instruction in secondary (i.e. beginning from fifth grade) and higher education. National minorities retain the right to be instructed in their mother tongue in pre-primary and primary school, and at higher levels may request to be taught their native languages as a subject. Additionally, "one or more" subjects may be taught bi- or multi-lingually, in Ukrainian and any of the official languages of the European Union. Indigenous peoples can be educated in their native language from pre-primary to secondary school, and will also have the option of continuing to learn their indigenous language as a separate subject thereafter.[240]

157. OHCHR notes that the previous education law allowed the use of minority languages as a medium of instruction at all levels of education, thereby enabling national minorities to benefit from the full extent of international education standards. The UNESCO Principles on Language and Education state that minority language education should cover primary instruction and "be extended to as late a stage in education as possible".[241] Similarly, according to the United Nations Special Rapporteur on National Minorities, "ideally, the instruction in the mother tongue should last for a minimum of between six to eight years – more when this is feasible".[242]

158. The new legislation is more restrictive than the previous education law, as national minorities may not be instructed in their mother tongue beyond primary education. In its 2001 decision *Cyprus v. Turkey*, the European Court of Human Rights found a violation of the right to education[243] where the provision of instruction in the minority language was ensured during primary education but not secondary.[244]

159. While it is a legitimate aim for states to provide students with sufficient opportunities to achieve fluency in the official language, OHCHR believes this should not be at the expense of education in minority languages.[245] It also stresses that all rights must be enjoyed in a non-

[238] For instance, the Law "On Temporary Measures for the Duration of the Anti-Terrorist Operation" no.1669-VII of 2 September 2014.
[239] President Petro Poroshenko stated that the law improves the quality of the education system of Ukraine, enhances the role of the Ukrainian language, and provides everyone with equal learning opportunities. He also emphasized the determination to rigorously respect education rights of national minorities.
[240] A transition period is provided for students who commenced their secondary education before 1 September 2018, and for whom former language rules will apply, but only until 1 September 2020 when the provisions of the new law will apply to all.
[241] UNESCO, Principles of Language and Education, Principle 1.
[242] United Nations Special Rapporteur on minority issues: Language Rights of Linguistic Minorities. A Practical Guide for Implementation, Geneva, March 2017, p. 18.
[243] Article 2 of Protocol No. 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms, (European Convention on Human Rights).
[244] European Court of Human Rights, *Cyprus v. Turkey*, Judgement of 10 May 2001 (Grand Chamber) *Cyprus v. Turkey* , at para.278.
[245] According to the United Nations Special Rapporteur on minority issues, "students should be provided with sufficient opportunities to achieve fluency in the official language, although not at the expense of education in their own language", *supra*, footnote 4, p. 19.

discriminatory manner. This applies, for example, to the right of national minorities to be educated in "one or more subjects" in an official EU language, which is not available to those whose mother tongue is not an official EU language.

160. OHCHR recalls that the context prevailing in a country is central to the proper regulation of minority language issues. Representatives of various national minorities[246] have approached HRMMU and complained that the provisions of the law, as adopted, do not take their interests into account, which were expressed during consultations. Some expressed concern that the significant limit on educational instruction in minority languages will affect both the quality of education and their right to cultural self-determination, especially in certain remote areas with a high concentration of residents belonging to national minorities. OHCHR is concerned that the new law may result in increased tensions in Ukrainian society.[247] The Government of Ukraine is invited to ensure flexibility in developing and implementing language and education policies, and to introduce any changes gradually, in full respect of its international and regional obligations.

IX. Technical cooperation and capacity-building

161. OHCHR engages in technical cooperation and capacity-building activities to assist the Government of Ukraine in meeting its international obligations to protect and promote human rights. During the reporting period, meetings and events were held with a wide range of government actors and civil society, in order to provide guidance and assistance in addressing human rights issues. In particular, closer cooperation was established with the Permanent Representative of the President of Ukraine to Crimea. Further, OHCHR continued to support preparations for Ukraine's third Universal Periodic Review (UPR) which took place on 15 November 2017.

162. HRMMU continued to promote implementation of the Istanbul Protocol[248] through trainings and dissemination of information. In September and October, HRMMU provided trainings to over 160 practitioners including civil society monitors of the National Preventive Mechanism (NPM), management and medical staff of penitentiaries, members of prosecution offices, police and forensics experts. The trainings focused on torture prevention, humane treatment of detainees in line with the "Nelson Mandela Rules"[249], effective identification and investigation of torture, state obligations under international law, and United Nations mechanisms to address torture. Such capacity-building activities complement HRMMU's monitoring, reporting and advocacy efforts with regard to the practice of torture by Government agents and armed groups against conflict-related detainees, which the Mission has been documenting since 2014. In addition, on 10 October, jointly with the NPM, HRMMU conducted a partners' meeting on implementation of the Istanbul Protocol. Representatives of the Office of the Prosecutor General, Ministry of Health, Ministry of Justice, the Parliament's Commissioner for Human Rights (Ombudsperson), civil society and international organisations shared information on their completed and planned activities and identified challenges and gaps.

163. HRMMU also continued to raise awareness of conflict-related sexual violence and carry out follow-up activities to the OHCHR thematic report on conflict-related sexual violence in Ukraine released in February 2017. On 28 September and 2 November 2017, HRMMU delivered sessions on prevention of arbitrary and unlawful detention, torture and conflict-related sexual

[246] HRMMU interviews with representatives of the Albanian, Gagauz, Hungarian, Moldovan, Romanian and Russian national minorities.
[247] HRMMU was informed about a number of demonstrations against the language provision of the new law on education. For example, on 17 October 2017 in Chernivtsi a demonstration of people belonging to Romanian national minority demanded the right to education in their native language; simultaneously there was a counter demonstration organized by Ukrainian nationalist groups, including Right Sector and Svoboda, shouting that every citizen of Ukraine must be taught in Ukrainian (*see e.g.* http://zik.ua/news/2017/10/17/u_chernivtsyah_rumunski_organizatsii_piketuvaly_oda_cherez_zakon_pro_osvitu_1187809).
[248] United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf.
[249] United Nations Standard Minimum Rules for the Treatment of Prisoners, A/RES/70/175 adopted on 17 December 2015, available at https://www.penalreform.org/resource/standard-minimum-rules-treatment-prisoners-smr/.

violence to military personnel who will be deployed to the conflict area in civil-military coordination units. In addition to presenting the findings of the thematic report, HRMMU provided an overview of relevant international human rights and international humanitarian law standards, including through specific case studies. Further, in support of the Government's commitment to undertake steps to design and operationalize effective measures to address conflict-related sexual violence, HRMMU and UN-Women contracted an international expert consultant to provide strategic advice to the Government, civil society and the United Nations system on preventing and addressing conflict-related sexual violence in Ukraine. Extensive consultations were held from 13 October to 2 November with representatives of the Government, Parliament, local authorities, civil society and UN Agencies The consultant's visit concluded with a workshop on 10 November hosted by the Ministry of Justice, where key state actors, including regional and local authorities from conflict-affected areas, service providers, civil society and development partners contributed to the development of the national strategy to prevent and address conflict-related sexual violence.

164. On 15 November 2017, Ukraine's compliance with international human rights obligations was appraised under the Universal Periodic Review (UPR) procedure of the Human Rights Council. 190 recommendations were issued by Member States in relation to women's rights/gender equality, domestic and sexual violence, fighting xenophobia and homophobia, inter-ethnic harmony, corruption, accountability/impunity, and judicial reform. The United Nations system in Ukraine contributed to an informed review of Ukraine's third UPR by submitting a joint human rights assessment, raising the awareness of embassies in Ukraine about key human rights issues, and facilitating consultations involving the Government, civil society organizations and the Ombudsperson Institution.

165. The United Nations Partnership Framework with Ukraine defining the support of the United Nations to national development priorities was signed on 25 October 2017. Under the Framework, OHCHR will contribute to specifically support those priorities related to democratic governance, rule of law, civic participation, human security and social cohesion.

X. Conclusions and recommendations

166. The temporary lull in the armed hostilities and consequent reduction in civilian causalities recorded in September and October demonstrated the potential positive impact on the population of adherence to the ceasefire. However, the number of civilian casualties is on the rise again in November. Further, while the number of casualties may have temporarily dipped, the adverse effects on the population caused by the conflict in eastern Ukraine did not diminish. Sudden and unpredictable spikes in the armed hostilities claimed lives, inflicted suffering and destroyed families. The duration of such suffering, stretched over three years, has taken a heavier toll than can be reflected in statistics. This suffering was compounded as individuals were subjected to human rights violations - including arbitrary detentions, torture and ill-treatment - committed in connection with the conflict on both sides of the contact line. At the same time, continuing restrictions on the freedom of movement served to further suffocate and isolate communities, jeopardizing social cohesion and future peace and reconciliation efforts.

167. For the 4.4 million people who have been affected by the conflict,[250] there were no indications of serious efforts by the parties to the conflict to halt hostilities and restore peace. Faced with "more of the same", those who have already lost their loved ones, health, property, livelihood and opportunities are now losing hope. The approach of the fourth winter of security risks and hardship is anticipated as more difficult to bear than those endured earlier in the conflict.

168. Earnest efforts to take concrete steps toward resolving the conflict are long overdue. With the passage of time, divisions in Ukrainian society resulting from the conflict will continue to deepen and take root. Challenges which need to be overcome for a true reconciliation and

[250] 2018 Humanitarian Needs Overview, Ukraine. November 2017, available at https://reliefweb.int/report/ukraine/ukraine-humanitarian-needs-overview-2018-enuk.

long-term peace throughout Ukraine also become greater as they remain unaddressed over time. A serious intention to honour and implement commitments made in the Minsk agreements would be an invaluable first step towards peace and reconciliation.

169. Furthermore, as we move into 2018, it is imperative that Government policies and legislative developments evolve in an inclusive manner, and together with judicial reforms, contributes to the enhancement of accountability and the foundation for future peace and reconciliation. Such measures would also create conditions for a free media and freedom of expression in the run-up to the 2019 elections, while combatting hate speech and discriminatory acts of violence.

170. Crimea continues to remain subjected to the legal and governance framework of the Russian Federation, in violation of international humanitarian law. For its part, the Government of Ukraine should foster and implement inclusive policies towards the population of the peninsula, to help ensure that existing divisions do not deepen further. The lifting of all unnecessary restrictions to freedom of movement would be a significant element in such an approach.

171. Most recommendations made in the previous OHCHR reports on the human rights situation in Ukraine have not been implemented and remain valid. OHCHR further recommends:

172. **To the Ukrainian authorities:**

a) Where military presence within civilian areas is justified due to military necessity, take all possible steps to protect the resident civilian population, including making available adequate alternative accommodation, as well as compensation for the use of property and any damages;

b) Government of Ukraine to develop a national mechanism to make adequate, effective, prompt and appropriate remedies, including reparation, available to civilian victims of the conflict, especially those injured and the families of those killed;

c) Government of Ukraine to establish independent, transparent and non-discriminatory procedures of documentation and verification of housing, land and property ownership, create a registry of damaged or destroyed housing and other property, and a comprehensive legal mechanism for restitution and compensation;

d) Law enforcement agencies to ensure effective investigation of cases of enforced disappearance, *incommunicado* detention, torture and ill-treatment in which Ukrainian forces (SBU, UAF, volunteer battalions, etc.) are allegedly involved, and consider establishing an inter-agency group in charge of investigation of such cases, as civilian investigative bodies do not have access to many alleged places of detention or where the victims were last seen;

e) Security Service of Ukraine to grant immediate, unrestricted, and confidential access to conflict-related detainees newly arrested by SBU, including in Kharkiv region;

f) Cabinet of Ministers to amend its resolution no. 99 so that it provides a list of items prohibited from transport across the contact line to replace the current list of permissible goods and quantities;

g) Government of Ukraine to lift unnecessary and disproportionate restrictions and ease freedom of movement at all checkpoints including 'internal' checkpoints, and ensure that persons with residence registered in territory controlled by armed groups are not subjected to additional discriminatory checks;

h) National Police to conduct transparent and effective investigation in all cases of attacks on media professionals, and undertake all possible measures to ensure

accountability for killings of journalists, including with international expertise where needed;

i) National Police, Headquarters of the Antiterrorist Operation, heads of regional, district and village councils and heads of civil-military administrations to collaborate on defining the list of settlements affected by the armed conflict, ensuring that it does not deprive people of their economic and social rights;

j) Ministry of Social Policy to ensure that the protection and support to IDPs extends to all persons who meet the IDP definition, without any discrimination including based on the list of settlements affected by the armed conflict;

k) Government, Parliament and other relevant State bodies to eliminate obstacles which prevent Ukrainian citizens from having equal access to pensions regardless of place of residence or IDP registration;

l) Ministry of Social Policy to establish effective cooperation and information exchange processes with all relevant actors engaged in conducting verification and identification procedures in relation to pensions, as well as in home-delivering payments for IDPs receiving pensions and social benefits, to avoid double-verification or any additional burden on vulnerable people;

m) Cabinet of Ministers, Parliament and other relevant state bodies to ensure that persons with disabilities, regardless of their place of residence, have access to health services, including rehabilitation, as foreseen by state programs and laws;

n) Ministry of Temporarily Occupied Territories and Internally Displaced Persons, Ministry of Social Policy and other relevant state bodies to ensure that IDPs with disabilities are provided with adequate accommodations, access to in-home and other services, and means for inclusion in the community;

o) National Police and other law enforcement agencies to take all appropriate measures to secure public gatherings of persons belonging to minority groups;

p) Office of the Prosecutor General and other law enforcement agencies to ensure appropriate classification, investigation and prosecution of hate crimes, including any crimes committed on the basis of ethnicity, sexual orientation and gender identity;

q) Office of the Prosecutor General and other law enforcement agencies to properly address and investigate manifestations of intolerance, including threats of violence, by extreme right-wing groups against individuals of minority social groups and those holding alternative political opinions;

r) Government of Ukraine to ensure that the language provision in the new Law on Education does not lead to violations of the rights of minorities and to avoid any discrimination against certain minority groups;

s) Government authorities to create an administrative procedure, which is accessible to all, without discrimination of any kind, and free of charge, enabling use of documents relating to the facts of birth and death which are issued on territory not under Government control in the process of recognition of such facts under Ukrainian legislation, and maintain the judicial procedure as an alternative for disputable cases.

173. **To all parties involved in the hostilities in Donetsk and Luhansk regions, including the Ukrainian Armed Forces, and armed groups of the self-proclaimed 'Donetsk people's republic' and 'Luhansk people's republic':**

a) Bring to an end the conflict by adhering to the ceasefire and implementing other obligations undertaken in the Minsk agreements, in particular regarding withdrawal of prohibited weapons and disengagement of forces and hardware,

and until such implementation, agree on and fully respect "windows of silence" to allow for crucial repairs to and maintenance of civilian infrastructure in a timely manner;

b) Strictly adhere to international humanitarian law standards on the prohibition of use of weapons with indiscriminate effects in populated areas, including those with a wide impact area or the capacity to deliver multiple munitions over a wide area;

c) Respect the agreement reached in Minsk on 19 July 2017 in which parties expressed commitment to create "safety zones" around the critical civilian water facilities of Donetsk Filtration Station and First Lift Pumping Station in Donetsk region, and expand the list of such "safety zones" to include facilities which house hazardous materials that would endanger civilians and the environment if damaged by the armed hostilities;

d) Take necessary measures to ensure protection of civilian population living close to the contact line and in the case that the security of the civilian population or military imperative demand evacuation, ensure humane conditions of such evacuation and provide adequate alternative accommodation;

e) Enable and facilitate the voluntary transfer of all pre-conflict detainees to government-controlled territory, regardless of their registered place of residence, in order to enable contact with their families without the unnecessary hardship linked to restrictions on freedom of movement;

f) Facilitate the safe and unimpeded passage of civilians across the contact line by ensuring that crossing routes and entry-exit checkpoints are a no-fire area and by increasing the number of crossing routes, especially in Luhansk region by opening the Zolote crossing route for vehicles and pedestrian traffic;

g) Refrain from unnecessary impediments to access of humanitarian assistance to people in need, including in villages and settlements located close to the contact line;

h) Armed groups of the 'Donetsk people's republic' and 'Luhansk people's republic' to respect freedom of religion or belief in territory under their control and refrain from infringement upon this right, including by halting the seizure of religious buildings of Jehovah's Witnesses and the harassment of their parishioners;

i) Armed groups of the 'Luhansk people's republic' to ensure proper respect for property rights of IDPs when conducting any inventory of abandoned property.

174. **To the Government of the Russian Federation:**

a) Implement General Assembly Resolution 71/205 of 19 December 2016, including by ensuring proper and unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea;

b) Uphold human rights in Crimea for all and respect obligations that apply to an occupying power pursuant to international humanitarian law provisions;

c) Investigate all cases of enforced disappearance, torture and ill-treatment involving officers of the Crimean branch of the FSB, bring perpetrators to justice and ensure redress for victims;

d) Refrain from application of anti-extremism and anti-terrorism legislation to criminalize peaceful religious conduct of devout Muslims in Crimea, and immediately release all persons arrested and charged with such crimes;

e) Put an end to searches of houses indiscriminately affecting Crimean Tatars by law enforcement agencies in Crimea;

f) Ensure that the rights to freedom of expression, peaceful assembly, thought, conscience and religion can be exercised by any individual and group in Crimea, without discrimination on any grounds, including race, nationality, political views, ethnicity or sexual orientation;

g) Comply with the international humanitarian law prohibition against compelling residents of the occupied territory of Crimea to serve in the armed forces of the Russian Federation;

175. **To the international community:**

a) Continue using all diplomatic means to press all parties involved to end hostilities, by emphasizing the human rights situation and suffering of civilians caused by the active armed conflict;

b) Support the Ministry of Justice and other Government actors in carrying out penitentiary reform in Ukraine which will improve material conditions and provision of services, particularly medical services, in places of detention;

c) Ensure that the Media Freedom Guidelines developed for Ukraine by international media experts and lawyers continue to adhere to international standards and best practices in the domain of freedom of expression during any review or amendment process;

d) Support the Government of Ukraine in devising laws and policies that promote inclusiveness and social cohesion.