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

**Report on the human rights situation in  
Ukraine 16 February to 15 May 2016**



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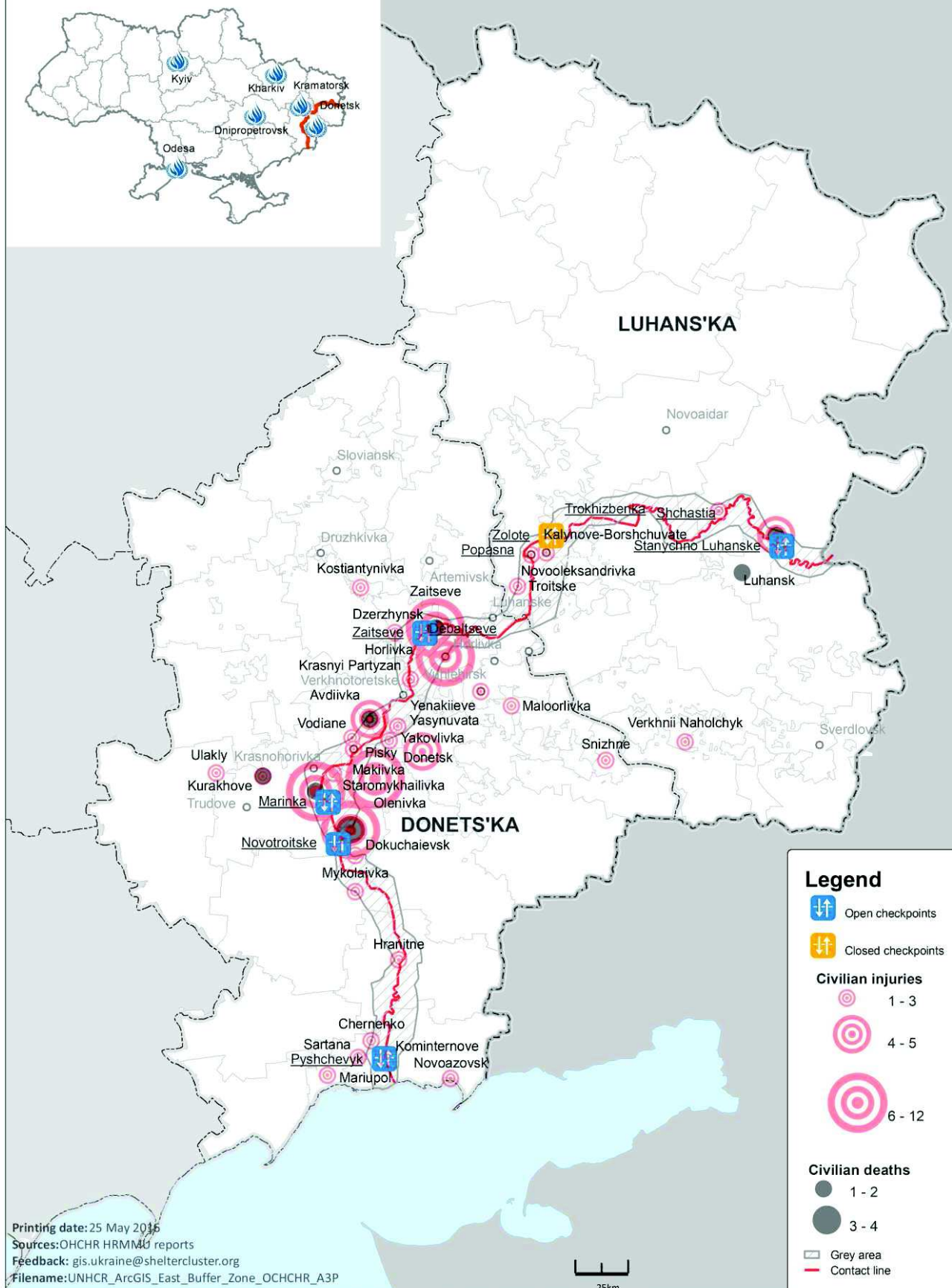
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# Ukraine





### OHCHR HRMMU office locations in Ukraine



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## I. Executive Summary

1. The fourteenth report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU)<sup>1</sup> covers the period from 16 February to 15 May 2016<sup>2</sup>. This report also marks two years since the start of the human rights crisis in Ukraine.

2. When the conflict broke out in spring 2014 with the influx<sup>3</sup> of foreign fighters, including citizens of the Russian Federation, ammunition and heavy weaponry into east Ukraine from across the border with the Russian Federation and the Government of Ukraine's security 'anti-terrorism operation' response, OHCHR witnessed major violations and abuses of human rights. The lack of security and at times intense military hostilities contributed to a total breakdown in the rule of law, leading to lack of any real protection for those opposing the presence of armed groups and a worsening human rights situation in certain areas of Donetsk and Luhansk regions. Since mid-2014, OHCHR has recorded some 1,500 accounts from victims, witnesses and relatives. These accounts show that all parties are responsible for human rights violations and abuses and violations of international humanitarian law. Above all, these testimonies – and the civilian casualty data collected – demonstrate that civilians have paid the greatest price for this conflict.

3. From mid-April 2014 to 15 May 2016, OHCHR recorded 30,903 casualties in the conflict area in eastern Ukraine, among Ukrainian armed forces, civilians and members of the armed groups. This includes 9,371 people killed and 21,532 injured<sup>4</sup>. After two years, the situation in the east of Ukraine remains volatile and may develop into a 'frozen conflict', creating a protracted environment of insecurity and instability; escalate, with dire consequences for civilians living in the conflict-affected area; or move towards sustainable peace through the meaningful implementation of the Minsk Package of Measures. The stakes are high, and it is essential that human rights abuses and violations are addressed to prevent further abuses and to build confidence toward a durable solution to the crisis.

4. Since the start of the security operation, hundreds of people accused of involvement in or affiliation with the armed groups have been detained and charged

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

<sup>2</sup> The report also provides an update of recent developments on cases that occurred during previous reporting periods.

<sup>3</sup> *The declaration of the self-proclaimed 'Donetsk people's republic' and the self-proclaimed 'Luhansk people's republic' have not only precipitated the escalation of armed conflict in certain districts of Donetsk and Luhansk regions, but also brought in an influx of fighters from abroad that have had significant influence on human rights in Ukraine. .... The Working Group was informed that foreigners joined combat to support all parties to the conflict. These foreigners came from various countries, mostly in Europe, and joined volunteer battalions on the side of the Government and the armed groups of the self-proclaimed 'Donetsk people's republic' and the self-proclaimed 'Luhansk people's republic'. References to the use of mercenaries by all parties to the conflict, and these require further analysis by the delegation, in light of the specified definition of mercenary in international law.* Preliminary findings by the UN Working Group on the use mercenaries on its Mission to Ukraine, 18 March 2016, Kyiv, Ukraine

<sup>4</sup> This is a conservative estimate of OHCHR based on available data. These totals include: casualties among the Ukrainian forces, as reported by the Ukrainian authorities; 298 people from flight MH-17; civilian casualties on the territories controlled by the Government of Ukraine, as reported by local authorities and the regional departments of internal affairs of Donetsk and Luhansk regions; and casualties among civilians and members of the armed groups on the territories controlled by the 'Donetsk people's republic' and the 'Luhansk people's republic', as reported by the armed groups, the so-called 'local authorities' and local medical establishments. This data is incomplete due to gaps in coverage of certain geographic areas and time periods, and due to overall under-reporting, especially of military casualties. The increase in the number of casualties between the different reporting dates does not necessarily mean that these casualties happened between these dates: they could have happened earlier, but were recorded by a certain reporting date.



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under existing counter-terrorism provisions. Individuals detained by Ukrainian authorities in connection with the armed conflict have been tortured and ill-treated, and continue to face systematic violations of their due process and fair trial rights. In many cases, criminal proceedings against individuals charged with terrorism offenses have brought the lack of independence and impartiality of the judiciary and legal profession into harsh relief. Further, in conducting the security operation and armed conflict, Ukrainian authorities have often run afoul of the principle of non-discrimination through adopting policies that distinguish, exclude, and restrict access to fundamental freedoms and socio-economic rights to persons living in the conflict-affected area<sup>5</sup>. The Government has applied special measures to the conflict zone, lowering human rights protection guarantees and derogating from a number of international treaty obligations.

5. Maintaining a presence in Donetsk has allowed OHCHR to monitor the human rights situation under armed group control and to advocate for human rights protection. The self-proclaimed ‘Donetsk people’s republic’ and self-proclaimed ‘Luhansk people’s republic’<sup>6</sup> have undermined the human rights of the estimated 2.7 million people residing under their control. They have imposed an arbitrary system of rules, established a network of places of deprivation of liberty where detainees are tortured and ill-treated, and cracked down on dissent. The ‘ministry of state security’ of the ‘Donetsk people’s republic’ has emerged as the main entity responsible for carrying out repressive house searches, arrests, and detentions. In a worrying pattern of behaviour, the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ continued to deny international organizations and external observers unfettered access to places of deprivation of liberty. Subjected to unaccountable rule and excluded from the legal system applying to the rest of Ukraine, the population living in the territories controlled by the armed groups has been effectively denied basic protection and deprived of basic human rights and freedoms.

6. The conflict has severely impacted economic and social rights on either side of the contact line. Many depend on humanitarian assistance, which has been severely curtailed following decisions by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to deny the majority of humanitarian actors access to territories under their control, particularly those conducting protection activities. A large number of internally displaced persons (IDPs) continue to meet daily obstacles in exercising their economic and social rights due to discrimination, barriers to receiving payments and entitlements, and finding appropriate housing. The number of cases where civilian housing and property have been damaged, looted or occupied has increased, demonstrating an urgent need for a mechanism to address the needs of those affected for remedy, including reparation. Victims of torture, especially civilians, and families of missing continue to struggle in accessing State medical and social services.

7. The conflict has also led to widely felt restrictions on fundamental rights to freedoms of expression, association, peaceful assembly and religion across Ukraine. There have been concerning developments related to fundamental freedoms in the territory controlled by the Government of Ukraine, including the use of counter-terrorism legislation to curtail the activities of those that may express views differing from the authorities’. In armed group-controlled areas, the lack of freedom of expression, freedom of association and freedom of assembly leads OHCHR to have serious concerns about the ability to implement free and fair elections in Donetsk and Luhansk regions as prescribed in the Package of Measures for the Implementation of the Minsk Agreements.

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<sup>5</sup> The Temporary Order on the control of movement of people, transport vehicles and cargoes along the contact line in the Donetsk and Luhansk regions was developed and approved by ‘the Operational Headquarters of Management of the Anti-Terrorist Operation’, and entered into force as of 21 January 2015. After consultations with civil society it was amended on 12 June 2015.

<sup>6</sup> Hereinafter ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’



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8. Following the extension of Russian Federation control over the Autonomous Republic of Crimea and the City of Sevastopol<sup>7</sup> on 16 March 2014, OHCHR was denied access but has continued to monitor the human rights situation on the peninsula from Kyiv through a wide network of contacts and monitoring visits along the administrative border, guided by United Nations General Assembly Resolution 68/262 on the territorial integrity of Ukraine. In the two years after the Russian Federation extended its jurisdiction over Crimea, the human rights situation in the peninsula has sharply deteriorated. Russian Federation laws and citizenship have been compulsorily imposed on the population of the peninsula. Those who have refused to accept this state of affairs have faced harassment and discrimination in their daily life, including through the denial of access to free health care and other social services. Treatment of people living with HIV and drug-users has become inadequate. Fundamental freedoms of assembly, speech, association, conscience and religion have been significantly curtailed. Anti-extremism and anti-terrorism laws have been used to criminalize non-violent behaviour and stifle dissenting opinion, while the judicial and law enforcement systems have been instrumentalized to clamp down on opposition voices. The majority of victims have been Crimean Tatars and Ukrainians who publicly opposed Crimea's unrecognized 'accession' to the Russian Federation. On the other hand, human rights abuses committed by paramilitary groups, such as the Crimean self-defense, remain unpunished. The expression of Ukrainian culture and identity and the use of Ukrainian language are viewed with suspicion, discouraged and sometimes banned by the *de facto* authorities.

9. There has been no meaningful progress in the investigation into the Maidan events in Kyiv and ensuing violence<sup>8</sup>. High-level officials that bear responsibility for ordering and overseeing the violence have to date eluded justice. While there has been some progress in the investigation into the 2 May 2014 violence in Odesa and the resulting death of 48 individuals, serious concerns remain. These cases represent a barometer in how Ukraine is able to bring perpetrators to account and ensure justice for victims and their families.

10. Throughout the last two years, OHCHR has constructively engaged with the Government of Ukraine and its various organs. OHCHR has supported their efforts to fulfil their international human rights obligations, through sharing information regarding documented human rights violations, advising on the incorporation of international human rights standards into draft legislation and policies, strengthening national institutions that promote and protect human rights under the rule of law, and counselling on the National Human Rights Action Plan and Strategy. OHCHR has issued concrete recommendations and engaged with relevant authorities on the status and progress of their implementation. OHCHR has also engaged with the armed groups in Donetsk and Luhansk regions in advocating for the protection of and respect for the rights of people under their control and in their custody, as well as raising awareness of international human rights standards and humanitarian law. The abuses and violations documented in this report indicate that at this juncture, despite the lower intensity and frequency of hostilities, the full cessation of hostilities and meaningful implementation of the Minsk Agreements is critical to improving the overall human rights situation in Ukraine.

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<sup>7</sup> Hereinafter 'Crimea'

<sup>8</sup> The International Advisory Panel constituted by the Secretary-General of the Council of Europe commended the "genuine efforts, especially on the part of the representatives of the prosecuting authorities to address more closely the international requirements which should govern the investigations." Among the encouraging changes, the panel cited the creation of the Special Investigation Division in the Prosecutor General's Office and more active position adopted by the parliament to improve the quality of the investigations into the Maidan events.

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

*“When evening starts, I cower and sit in the corridor. There’s rustle, and a rocket is flying. I pray, God, please, let it miss the house, let it miss the house.”*

- Female resident of Makiivka

11. Since mid-April 2014, up to 2,000 civilians have been killed in armed hostilities, mostly as a result of indiscriminate shelling of populated areas from various artillery systems. Dozens of individuals were subjected to summary executions and killings, or died of torture and ill-treatment in custody. Hundreds of people remain missing – either in secret detention or, most likely, killed – with their bodies pending recovery or identification.

12. Arbitrary deprivation of liberty has reached an unprecedented scale in the territories controlled by the armed groups, with a broad network of unrecognized detention facilities. Thousands of people have gone through these places of deprivation of liberty, subjected to inhuman conditions of detention combined with the absence of access by external observers, torture and ill-treatment. In Government-controlled territories, OHCHR continues to receive allegations about unofficial places of detention in the conflict zone where conflict-related detainees are kept *incommunicado* and subjected to torture and ill-treatment, which the authorities systematically deny.

### A. Violations of international humanitarian law in the conduct of hostilities

13. Since 16 February 2016, the ceasefire in the east of Ukraine has slowly unravelled. The skirmishes in Avdiivka and Yasynuvata (both in Donetsk region) that erupted in the beginning of March 2016 are ongoing, affecting both towns on either side of the contact line, with populations of 35,000 each. Since mid-April, an increase in heavy weaponry use has been observed by monitors of the Organization for Security and Co-operation in Europe (OSCE) near the contact line. The presence of tanks and anti-aircraft missiles in residential areas<sup>9</sup> endangers civilians and indicates that the risk of a re-escalation in hostilities remains high. A renewed “cessation of fire” reached in late April (ahead of the Orthodox Easter) stymied the spike in hostilities, but remains precarious. The armed conflict between the Government of Ukraine and the armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ continues to be fought without due regard for civilian protection.

14. Ukrainian armed forces and armed groups continue to lay landmines, including anti-personnel mines, despite Ukraine’s obligations as a State party to the 1997 Mine Ban Treaty<sup>10</sup>. Credible estimates indicate that mines contaminate large areas of agricultural land in east Ukraine, often in areas which are poorly marked, near roads and surrounding civilian areas. This has resulted in civilians being killed and maimed, often while walking to their homes and fields. These risks are particularly acute for people living in towns and settlements near the contact line, as well as the 23,000 people who cross the contact line every day.

15. Water filtration stations and other essential infrastructure have been damaged in hostilities in the shelling of densely-populated civilian areas, as the parties to the

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<sup>9</sup> Daily Report, Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 15 May 2016; Daily Report, Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 1 May 2016; Daily Report, Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, based on information received as of 19:30hrs, 27 April 2016

<sup>10</sup> Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 18 September 1997

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conflict have failed to take all feasible precautions in attacks to protect and prevent the destruction of objects indispensable to the survival of the civilian population<sup>11</sup>. In Krasnohorivka, a village under Government control, there has been no heating and no hot water for two years following the shelling of a gas pipeline in 2014. The pipeline cannot be repaired due to ongoing hostilities in that area. In early May 2016, it was reported that in parts of Debaltseve and nearby Vuhlehirsk, residents have no access to water due to damaged pipelines. As of April 2016, residents of Mariinka, who relied on the Petrovskyi district water station in Donetsk, have sporadic access to potable water. It is alleged that armed groups are deliberately limiting access to water for residents of Government-controlled areas. Depriving people of access to safe water denies them a fundamental human right.

16. Ukrainian armed forces and armed groups have appropriated residential property of local residents for military use (See: Housing, land, and property rights). In many cases, this has forced the owners or residents to leave their homes and in some cases, their communities. On 22 April 2016, OHCHR witnessed Ukrainian armed forces members occupying residential houses in Luhanske. Residents complained that they were forced to leave their homes, which had been damaged and looted by soldiers. In response to OHCHR advocacy, soldiers vacated the houses, reportedly moving closer to the contact line. People living in contested areas close to the contact line are most exposed to military forces and armed groups and are most vulnerable to coercion. Female-headed households are at particular risk of losing their homes to military use, especially in areas close to the contact line where there is little rule of law or law enforcement presence. OHCHR recalls the general protection afforded to the civilian population and individual civilians against the dangers arising from military operations<sup>12</sup>.

17. Hostilities have also endangered medical personnel evacuating the wounded, medical facilities, and journalists, with disregard to their special protection under international humanitarian law<sup>13</sup>. On 16 March 2016, a female medical first responder with the ‘Luhansk people’s republic’ was injured in Kalynove, when a shell hit her unmarked vehicle. According to the ‘ombudsperson’ of the ‘Donetsk people’s republic’, 67 medical facilities in the areas controlled by armed groups remain damaged as the result of hostilities. In addition, OHCHR continued to receive reports about the military occupation of medical facilities. The sole polyclinic in Trudovskii neighbourhood in Petrovskyi district of Donetsk city continued to be used by armed groups<sup>14</sup>. Such conduct violates binding international humanitarian law<sup>15</sup>.

18. OHCHR is concerned about the application of counter-terrorism laws and the security regulatory framework to the provision of medical assistance to the sick and wounded in armed group-controlled areas. The Temporary Order has for a year caused delays in the delivery of humanitarian aid and basic medical necessities, resulting in continued shortages of supplies for civilians living in armed group-controlled areas, particularly affecting among children. Judicial decisions have also recast medical care as impermissible support to the armed group-controlled areas<sup>16</sup>.

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<sup>11</sup> Article 15, Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 54

<sup>12</sup> Article 13(1), Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 22.

<sup>13</sup> Article 9, Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 28.

<sup>14</sup> HRMMU interview, 30 March 2016.

<sup>15</sup> Article 11, Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 22.

<sup>16</sup> In January 2015, a court in Lysychansk, Luhansk region, rules that the provision of medicine by an owner of a pharmacy to a hospital in armed group-controlled areas amounted to the crime of providing “assistance to members of a criminal organization” through “creating conditions for medical treatment of members of

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19. Due to ongoing heavy shelling in the western outskirts of Donetsk near the contact line, some residents still use bomb shelters on a regular basis, sleeping in damp, damaged basements on a nightly basis. Over the reporting period, OHCHR recorded civilian casualties caused by artillery shelling and the use of small arms and light weapons in the Government-controlled towns Avdiivka and Mariinka, and the villages of Novooleksandrivka, Pisky and Vodiane (all in Donetsk region). Civilian casualties were also recorded in the contested village of Zaitseve (Donetsk region), as well as in the cities of Donetsk, Horlivka and Makiivka, and the villages of Kominternove, Mykolaivka, Olenivka and Yakovlivka (all controlled by the ‘Donetsk people’s republic’).

20. On 27 April 2016, civilians waiting to cross a checkpoint in Olenivka village, on the road between Mariupol and Donetsk city, were hit by shelling at night. Four civilians were killed and eight others injured. According to OSCE crater analysis, the mortar rounds were fired from the west-south-westerly direction<sup>17</sup>. This indicates the responsibility of the Ukrainian armed forces. The checkpoint is routinely – both during day and night time – surrounded by passenger vehicles waiting to cross the contact line due to the restrictions imposed by the Temporary Order<sup>18</sup>. This is a stark illustration of the impact of the limitations on freedom of movement, which have compelled civilians to spend prolonged periods exposed to the violence and risks of ongoing hostilities near the contact line.

21. Humanitarian assistance rarely reaches the villages and towns in the “grey” and “buffer” zone. According to the World Food Programme (WFP)<sup>19</sup>, the two-year long conflict in eastern Ukraine has left 300,000 people severely food insecure and in need of immediate food assistance. It added that people living in the armed group-controlled territories of Luhansk region and near the conflict line were most affected by food insecurity with over half of the population, in both the Government-controlled and non-Government controlled areas, having experienced a complete loss or a significant reduction of income. The ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ denial of access to humanitarian actors and resulting lack of protection activities, at a time when the civilian population in armed group-controlled territories is experiencing undue hardship, further violates norms of international human rights and humanitarian law<sup>20</sup>.

22. OHCHR positively notes the efforts of the Government of Ukraine to include in the training of its armed forces personnel humanitarian law, including by holding some 25 training workshops with the support of the International Committee of the Red Cross.

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a criminal organization”. Lysychansk city court, 19 January 2015, № 415/4328/14-к (accessible at: <http://reyestr.court.gov.ua/Review/42468935>)

<sup>17</sup> Spot Report by the OSCE Special Monitoring Mission to Ukraine (SMM): Shelling in Olenivka, 28 April 2016

<sup>18</sup> HRMMU interview, 27 April 2016.

<sup>19</sup> World Food Programme, Conflict In Eastern Ukraine Leaves 1.5 Million People Hungry, 4 April 2016 (accessible at: <https://www.wfp.org/news/news-release/conflict-eastern-ukraine-leaves-15-million-people-hungry>)

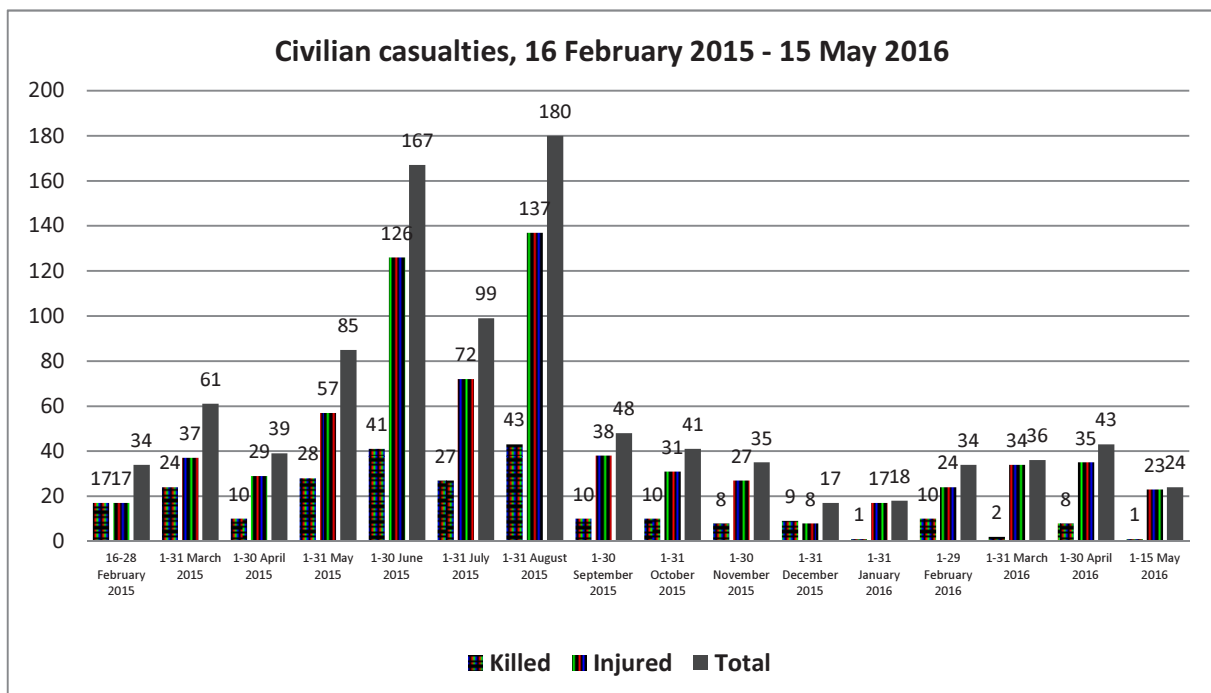
<sup>20</sup> Article 18, Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 55

## B. Casualties

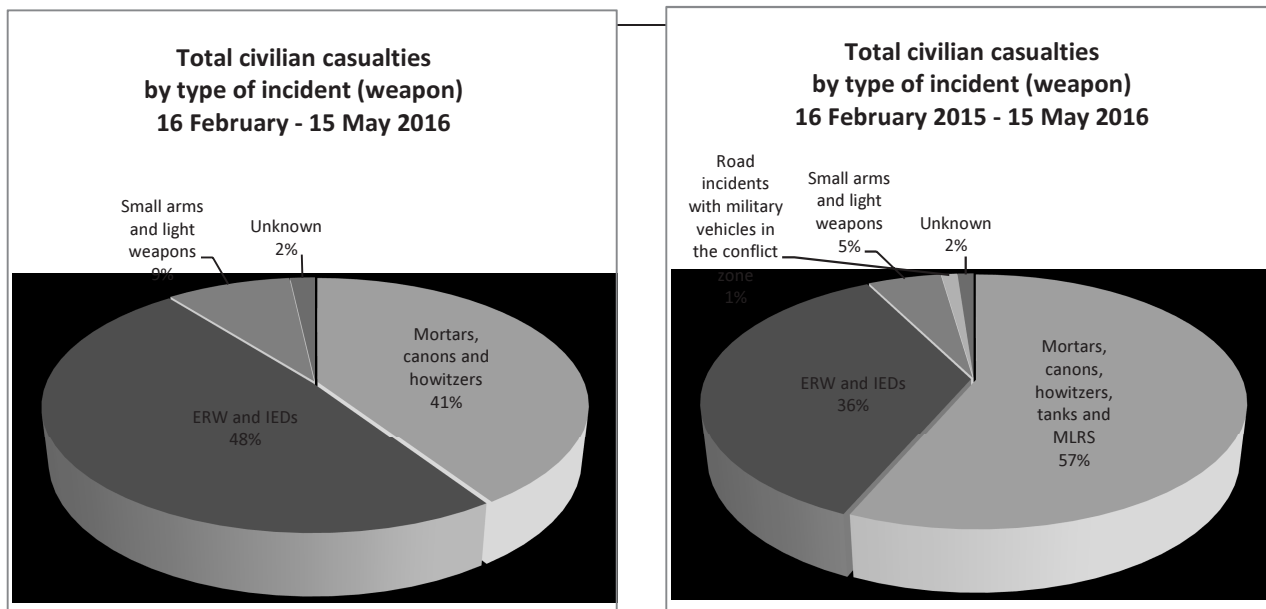
23. In total, from mid-April 2014 to 15 May 2016, OHCHR recorded 30,903 casualties in the conflict area in eastern Ukraine, among Ukrainian armed forces, civilians and members of the armed groups. This includes 9,371 people killed and 21,532 injured<sup>21</sup>.

24. The overall trend of relatively low levels of civilian casualties, observed since the ceasefire of 1 September 2015, continued. During the reporting period, average monthly civilian casualties remained to be among the lowest since the beginning of the conflict in mid-April 2014. Between 16 February and 15 May 2016, OHCHR recorded 113 conflict-related civilian casualties in eastern Ukraine: 14 killed (three women, ten men and one adult whose sex is unknown) and 99 injured (24 women, 57 men, and seven adults whose sex is unknown; six girls, four boys and one child whose sex is unknown).

25. Compared to the previous reporting period, the share of casualties resulted from shelling increased: five killed (three women and two men) and 41 injured (14 women, 19 men and five adults whose sex is unknown; two boys and a child whose sex is unknown). Explosive remnants of war (ERW) and improvised explosive devices (IEDs) continued to account for the majority of civilian casualties: eight deaths (a woman, six men and an adult whose sex is unknown) and 47 injuries (seven women, 30 men and two adults whose sex is unknown; six girls and two boys). Small arms and light weapons accounted for ten casualties: a man was killed and three women and six men were injured. Two adults were injured from unspecified firearms.



<sup>21</sup> This is a conservative estimate of OHCHR based on available data. These totals include: casualties among the Ukrainian forces, as reported by the Ukrainian authorities; 298 people from flight MH-17; civilian casualties on the territories controlled by the Government of Ukraine, as reported by local authorities and the regional departments of internal affairs of Donetsk and Luhansk regions; and casualties among civilians and members of the armed groups on the territories controlled by the 'Donetsk people's republic' and the 'Luhansk people's republic', as reported by the armed groups, the so-called 'local authorities' and local medical establishments. This data is incomplete due to gaps in coverage of certain geographic areas and time periods, and due to overall under-reporting, especially of military casualties. The increase in the number of casualties between the different reporting dates does not necessarily mean that these casualties happened between these dates: they could have happened earlier, but were recorded by a certain reporting date.



### C. Missing persons and the recovery and identification of mortal remains

26. As of 1 April 2016, 3,687 criminal cases had been initiated by the National Police of Ukraine into cases of missing people in Donetsk and Luhansk regions since the beginning of the security operation. Besides, 2,755 criminal investigations into abductions or kidnappings had been initiated. The whereabouts of the majority of the missing or abducted persons have been established; hundreds of people, however, remain missing or believed to be in detention (recognized or secret) by the armed groups or Ukrainian authorities.

27. Since 1 April 2014, 1,351 unidentified bodies have been recovered in Government-controlled territories of the conflict zone. As of 1 April 2016, 523 of these bodies have been identified while 828 were pending identification. The armed groups have also publicly reported on a number of unidentified bodies in morgues or buried in unmarked graves on the territories they control. In early April 2016, a dozen of bodies of Ukrainian servicemen and members of armed groups were recovered in the Government-controlled territories and in the territories controlled by the armed groups. There are still many bodies of fallen soldiers and members of armed groups that have not yet been recovered. In the 'Donetsk people's republic', at least 430 families are looking for their missing relatives.

28. A draft law 'On prevention of disappearance of people and facilitation in tracing the missing persons' has been developed under the auspices of the Ministry of Justice of Ukraine. This marks an important step toward streamlining relevant national procedures and the implementation of international human rights and humanitarian law obligations<sup>22</sup>. However, it requires further development, such as the establishment of a centralized entity or institution dealing with missing persons.

### D. Summary executions, enforced disappearances, unlawful and arbitrary detention, and torture and ill-treatment

29. Enforced disappearances, arbitrary detention, torture and ill-treatment remain deeply entrenched practices. Though new cases documented by OHCHR mostly fall outside of this reporting period, OHCHR believes that this demonstrates the hidden character of the phenomenon and delayed reporting by victims and witnesses, rather than a genuine improvement in the conduct of relevant actors. Enforced

<sup>22</sup> Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 117.



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disappearances are continuing offences, as long as the perpetrators continue to conceal the fate and whereabouts of the disappeared persons<sup>23</sup>.

*Ukrainian law enforcement, armed and security forces*

30. OHCHR received allegations of enforced disappearances, arbitrary and *incommunicado* detention, torture and ill-treatment committed by Ukrainian law enforcement. Among these were over 20 cases of arbitrary detention and ill-treatment<sup>24</sup>. OHCHR communicates well-founded information to the relevant Ukrainian authorities and requests investigations into the allegations. Many of the victims of these cases approach OHCHR demanding justice for the violations they suffered. Until there is genuine investigation and prosecution of those responsible, these victims continue to have their rights to access to justice and redress mechanisms violated.

31. The majority of cases documented during the reporting period concerned incidents in the conflict zone. While the cases from 2014 and early 2015 suggest that volunteer battalions (often in conjunction with the Security Service of Ukraine (SBU)) were frequent perpetrators, information from the late 2015 and early 2016 mostly implicate SBU. Many of these cases concern *incommunicado* detention in unofficial detention facilities where torture and ill-treatment are persistently used as means to extract confessions or information, or to intimidate or punish the victim. SBU continued to deny practicing secret or *incommunicado* detention, the mere existence of unofficial detention facilities, and the whereabouts and fate of individuals who were forcibly disappeared. SBU officials continue to maintain that allegations documented by OHCHR are “unfounded insinuations” made by criminals trying to portray themselves as victims.

32. On 20 February 2016, a Mariupol resident was transferred to Donetsk as part of a simultaneous release of detainees. Since March 2015, he had been held *incommunicado* at the Kharkiv SBU. He was apprehended in Mariupol on 28 January 2015 and kept in an illegal detention facility. There, he was reportedly severely tortured and electrocuted by three men who wanted him to identify supporters of the ‘Donetsk people’s republic’ in Mariupol. On 8 February 2015, he was charged under article 258 (terrorism) of the Criminal Code. The following day, the court placed him in Mariupol SIZO. On 12 March 2015, he was released from custody under house arrest and, while leaving the courthouse, was apprehended by SBU and transferred to Kharkiv SBU. At the time of his arrival, 72 individuals were held there; 17 when he was released on 20 February 2016.

33. As of March 2016, OHCHR was aware of the names of 15 men and one woman disappeared in Kharkiv SBU. On 20 April, the Ombudsperson’s Office of Ukraine conducted an unannounced inspection visit and found that there were no detainees held at the Kharkiv SBU. A few days later, OHCHR learned from a reliable source that on 20 April, detainees were told to pack their belongings and were taken to a different location for 24 hours.

34. On 18 February 2016, a woman disappeared in the village of Zhovanka (Donetsk region), located in the so-called grey zone, after she went to check on her house. Local Ukrainian armed forces told her neighbours she had been taken to hospital for medical treatment. On 22 February, a video was released of her confessing to being an informant for the armed groups,<sup>25</sup> suggesting she had been apprehended and detained, while local forces concealed her fate and whereabouts for four days.

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<sup>23</sup> Article 17(1) of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance

<sup>24</sup> HRMMU interview, 24 March 2016; HRMMU interview, 25 February 2016; HRMMU interview, 24 March 2016; HRMMU interview, 18 March 2016; HRMMU interview, 18 March 2016.

<sup>25</sup> HRMMU interview, 25 February 2016.

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### *Armed groups*

35. OHCHR recorded new allegations of killings, abductions, arbitrary detention, torture and ill-treatment perpetrated by members of the armed groups. The accounts most often referred to incidents that took place outside the reporting period. Some victims delayed reporting until they left the areas under the control of the armed groups. In other cases, the relatives of those deprived of their liberty or otherwise abused by the armed groups requested that their cases remain confidential for fear of retribution.

36. Despite repeated requests to the ‘authorities’ of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to grant OHCHR access to places of deprivation of liberty on the territories they control, such access was not provided. All these factors considerably limit OHCHR’s ability to report on human rights abuses perpetrated on the territories controlled by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. Due to the absence of due process, redress mechanisms, and denial of access to external observers, OHCHR remains particularly concerned about the situation of individuals deprived of their liberty by armed groups. The information that has been obtained by OHCHR indicates poor conditions of detention, arbitrary and *incommunicado* detention, torture and ill-treatment.

37. A woman informed OHCHR that on 16 July 2014, her son was deprived of his liberty at the ‘Saryi Most’ checkpoint, in the town of Stanychno Luhanske (Luhansk region), controlled by the ‘Luhansk people’s republic’. She was later informed that he and another man were deprived of their liberty by a ‘mobile group’ of the ‘Luhansk people’s republic’. On 17 July, she received a phone call from a man who informed her he had been kept with her son in a house located approximately a 10 minute drive from the ‘Saryi Most’ checkpoint. The whereabouts of the man remains unknown<sup>26</sup>.

38. A serviceman of the Ukrainian Armed Forces was captured on 10 August 2015 by four members of the so-called ‘Vostok’ battalion of the ‘Donetsk people’s republic’, near the village of Verkhnioteretske (Donetsk region). They put a plastic bag on his head, handcuffed him, and drove him to a private house. He was then tied to a tree with wristbands, severely beaten, threatened, and tortured with electrical shocks at 220 volts. He lost consciousness on several occasions. After three hours of torture inflicted by some 10 men wearing masks and camouflage with the insignia of the ‘Donetsk people’s republic’, he was interrogated. No medical aid was provided to him. He was then transferred to a military base in the centre of Makiivka. In October 2015, he was taken to a sports hall, apparently in a school, not far from the military base in Makiivka and placed in a cell with two local civilians and two members of the armed groups. Within a month, he was taken to a basement of an office centre in Makiivka where he was held until his transfer to Government territory as part of a simultaneous release of detainees on 20 February 2016<sup>27</sup>. OHCHR documented a number of cases when people were deprived of their liberty by armed groups while crossing the contact line. For instance, on 14 February 2016, while crossing the contact line in Stanychno Luhanske, a man was deprived of his liberty at a check point of the ‘Luhansk people’s republic’. As of 12 May, his relatives were not informed about reasons of his deprivation of liberty, and the place where he is kept.

39. On 5 March 2016, while travelling to Donetsk through the Zaitseve/Maiorsk checkpoints, a man went missing after passing Government checkpoints. Reports indicate that he was deprived of his liberty at the checkpoint of the ‘Donetsk people’s republic’ and would have been transferred to the department of the ‘ministry of state security’ in the city of Makiivka. To date, his whereabouts remain

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<sup>26</sup> HRMMU interview, 2 March 2016.

<sup>27</sup> HRMMU interview, 4 March 2016.

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unknown. Before the conflict, the man was working in the Donetsk State University of Management. He was known for his strong pro-Ukrainian views, which he expressed at the beginning of 2014. He moved to Kyiv in 2014 as the security situation was deteriorating, and started working in the National University<sup>28</sup>.

40. OHCHR continues to receive reports of human rights abuses committed in penal colonies in the territory controlled by the 'Donetsk people's republic'. For instance, OHCHR interviewed a man sentenced to life imprisonment prior to the conflict, who was formerly held in penal colony No. 52, in the city of Yenakiieve (Donetsk region) under the control of the armed groups. In February 2015, several such prisoners in Yenakiieve were reportedly subjected to mock execution for their alleged pro-unity Ukrainian views. The first deputy of the head of the colony allegedly carried out the mock execution. Several detainees were forced to kneel in the 'square' near the administration building. After a short speech on "proper political views", the first deputy reportedly fired shots above the heads of the detainees<sup>29</sup>. Four former detainees from penal colony No. 52 informed OHCHR about an incident involving two prisoners in May 2015, where they were severely beaten for three days with the involvement of local 'police' to "teach them a lesson."<sup>30</sup>

41. Another man sentenced to life imprisonment prior to the conflict, who was formerly held in penal colony No. 52 and then transferred to Government-controlled territory, informed OHCHR that in January-February 2015, he witnessed how one detainee died. His cellmate had kidney problems, was denied treatment, and was transferred to a cell with tuberculosis patients. One day before his death, his legs were severely swollen. The head of medical staff at the facility ignored his deteriorating health condition<sup>31</sup>.

42. OHCHR welcomes the efforts by the Ombudsperson's Office to facilitate the transfer of such pre-conflict prisoners to the territory controlled by Ukraine, to allow prisoners better access to and communication with their families.

*Release of persons deprived of their liberty*

43. During the reporting period, there has been no progress regarding the release of "hostages and illegally-held persons" under the 'all for all' principle foreseen by the Minsk Agreements, although a number of simultaneous releases took place, such as a three to six release on 20 February 2016. OHCHR continues to advocate for the 'all for all' release of detainees with representatives of the armed groups, Government and facilitators.

44. According to OHCHR's Government interlocutors, the absence of a legal framework for simultaneous releases of detainees contributes to human rights violations. The release process takes place outside the protection of the law and is directly linked to *incommunicado* detention and enforced disappearance, contributes to conduct that is tantamount to hostage-taking. Moreover, the role of the SBU in coordinating the simultaneous releases compromises judicial independence.

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<sup>28</sup> HRMMU interview, 11 March 2016.

<sup>29</sup> HRMMU interview, 20 February 2016.

<sup>30</sup> HRMMU interview, 20 February 2016.

<sup>31</sup> HRMMU interview, 7 March 2016.

## E. Sexual and gender-based violence

*“They invited a notary to the building. I was offered to sign papers to surrender all my real estate. At first I refused, but then the terrorists’ chief “Vasilevich” told me that he will bring my wife and my daughter here; Chechen fighters will rape them both in front of me. Then of course I said that they can take everything they want – just don’t harm my girls.”*

- A man detained by armed groups in Donetsk region in 2014

*“They asked me if I had given birth. When I replied ‘yes, three times’ they said that it meant I was able to endure pain. So they started hitting me on the top and on the side of my head. They didn’t beat me in the face. They also hit me on the chest, legs. They beat me with their fists and with a heavy flat object.”*

- A woman detained by police in Government-controlled Donetsk region in 2015

45. Details about incidents of sexual and gender-based violence are limited and often difficult to verify. Due to the collapse of law and order in conflict-affected areas, as well as a lack of capacity of law enforcement and service providers to deal with such cases, victims rarely appeal for help. Forensic examinations have not been conducted in any of the cases documented by OHCHR. As a result, survivors may feel deterred from seeking recourse to police protection in a context where victims of sexual and gender-based violence are often confronted with inaction from state authorities or armed groups who exercise control over certain areas. The lack of services for survivors on both sides of the contact line is of particular concern, and international humanitarian actors specialized in the provision of such services are not allowed to operate in the territories controlled by armed groups.

46. Moreover, underreporting of sexual and gender-based violence can be attributed to the difficulty many women and men feel to speak about rape and other forms of sexual abuse, fear of reprisals and the stigma attached to rape. The cases documented below have been recorded in the reporting period, while the actual incidents may have taken place in 2014 and 2015. As the conflict reaches its two-year mark, it seems that survivors of sexual and gender-based violence are increasingly able to speak about their experiences in detention during the early stages of the conflict.

47. During the reporting period OHCHR continued to document cases of conflict-related sexual and gender-based violence<sup>32</sup>. While certain cases may be attributed to general lawlessness, the majority of allegations suggest that threats of rape and other forms of sexual violence are used as a method of ill-treatment and torture in the context of arbitrary or illegal detention, both towards men and women. It was also noted that threats of sexual violence, injury or death towards female relatives, or their detention, are often used as a means to compel male detainees to confess, relinquish their property, or perform other actions demanded by the perpetrators, as an explicit condition for their safety or release.

### *Ukrainian law enforcement, armed and security forces*

48. In the majority of cases documented by OHCHR, law enforcement employed threats of sexual violence against individuals detained under charges of terrorism,

<sup>32</sup> ‘Conflict-related sexual violence’ refers to incidents or patterns of sexual violence, that is rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity, against women, men, girls or boys, including as a tactic of war or tool of political intimidation. Such incidents or patterns occur in conflict or post-conflict settings or other situations of concern (e.g., political strife). They also have a direct or indirect nexus with the conflict or political strife itself, i.e. a temporal, geographical and/or causal link. Broader acts of gender-based violence that are not related to a situation of conflict are generally beyond the scope of the present document.

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along with other forms of torture and ill-treatment during interrogation. Two of the documented cases took place in or around Avdiivka in April and May 2015. A male detainee who was subjected to torture and forced to confess to his involvement in the armed groups on camera, was subsequently threatened with sexual violence, told that he would be handcuffed and raped by a homosexual man<sup>33</sup>. Two women from the same family, aged 18 and 41, were tortured and repeatedly threatened with sexual violence.

49. Other documented cases appear to be linked to the military presence in densely populated civilian areas, such as towns near the contact line, and general impunity. A man with a mental disability was subject to cruel treatment, rape and other forms of sexual violence by eight to 10 members of the 'Azov' and 'Donbas' battalions in August-September 2014. The victim's health subsequently deteriorated and he was hospitalized in a psychiatric hospital<sup>34</sup>.

50. On 17 October 2015, a couple was attacked by two drunken soldiers from the 92<sup>nd</sup> Brigade in Kalanchak, Kherson region. As a result, the wife's arm was broken. On 5 December 2015, her property was attacked by intoxicated members of the 'Aidar' battalion (some of them armed), reportedly involved in the 'civil blockade' of Crimea<sup>35</sup>. On 18 December 2015 the same perpetrators attacked her on the street, chased her, beat her, "saying dirty sexual words". The police did not take any measures, and according to the victim were afraid to protect her for fear of antagonizing the perpetrators<sup>36</sup>. This case is now being investigated by the Prosecutor's office in Kherson region.

#### *Armed groups*

51. On 9 December 2015, in Donetsk a man was beaten and raped in SIZO No. 5. He was taken outside for his daily walk, where he was confronted by a group of 'masked riot police', who hit his legs and back twice with a baton and insulted him. Following the assault, the police stripped him down completely and forced him to bend over in front of them. He described standing naked in front of the camouflaged men in below 0 degree Celsius temperature. The 'riot police' mocked and insulted him, and subjected him to a "rectal examination". The victim named the perpetrators and believes he was subjected to such treatment in retaliation for applying to be transferred to Government-controlled territory to serve the remainder of his sentence<sup>37</sup>.

52. Some Ukrainian soldiers who were held by armed groups for several months also provide accounts suggesting sexual violence against women in armed group custody. One of them, who was kept<sup>38</sup> in the building of the 'ministry of state security' in Donetsk city, reported that some local women were deprived of their liberty for having violated the curfew or other violations of the 'laws'. He referred to the frequent turnover of the women, "sometimes [they were] taken somewhere and never returned". Although he never witnessed any incidents, he had serious concerns that those women could have been subjected to sexual violence. Another soldier, who was deprived of his liberty in Donetsk from February to April 2015, was kept in a cell with a man and a woman who had come to Donetsk to register their marriage. One day, drunken members of the armed group took the woman with them and brought her back several hours later. She was intoxicated, her hair and clothes were dishevelled and she was silent. The witness suspects that she was raped<sup>39</sup>. OHCHR will attempt to obtain more information on the situation of women

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<sup>33</sup> HRMMU interview, 2 March 2016.

<sup>34</sup> HRMMU interview, 2 February 2016.

<sup>35</sup> See 12<sup>th</sup> HRMMU report, covering 16 August to 15 December 2015, pp. 29-30.

<sup>36</sup> HRMMU interview, 22-28 February 2016.

<sup>37</sup> HRMMU interview, 2 March 2016.

<sup>38</sup> HRMMU interview, 5 April 2016.

<sup>39</sup> HRMMU interview, 1 March 2016.



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kept by armed groups, but remains constrained by the lack of access to places of deprivation of liberty in armed group-controlled territories.

### **III. Accountability and the administration of justice**

53. Two years since the beginning of the security operation on 14 April 2014 in Donetsk and Luhansk regions, there remains a lack of accountability for human rights abuses and violations committed in the course of the conflict. The human rights aspect of crimes has not been adequately addressed, and as a result, the conflict continues to be fought with little consideration for human rights. None of the cases brought against the armed groups members to the courts have contained charges for human rights abuses. All charges heard in courts pertain to violations against the territorial integrity of Ukraine or crimes against public safety.

54. Impunity of law enforcement and security elements for human rights violations remains widespread, and is often justified by the challenges posed by the ongoing armed conflict. In territories controlled by the armed groups, law and order has collapsed and illegal parallel structures have developed. These structures are wielded as tools to intimidate and control the population under armed group control, and to perpetrate further human rights abuses. OHCHR is cognizant of the constraints faced by Ukrainian authorities, particularly due to their lack of access to territories controlled by the armed groups and resulting inability to establish direct perpetrators<sup>40</sup>. In many cases, starting in September 2014 under the Minsk framework, persons detained in connection with the conflict have been exchanged in the course of ‘mutual releases’, preventing accountability for potential human rights violations. OHCHR also continued to follow a number of high-profile individual investigations and prosecutions linked to the human rights crisis.

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

55. OHCHR notes the efforts of the Government to bring perpetrators from its own ranks to justice. Since 15 March 2014 until February 2016, the Office of the Military Prosecutor has investigated 726 crimes committed by members of the territorial defence battalions, including 11 crimes of killing, 12 – torture, 27 – arbitrary deprivation of liberty, 29 – creation of a criminal gang, 6 – banditry and 18 – unlawful appropriation of a vehicle. 622 people were charged, of them 381 – indicted. Courts have heard and ruled on cases concerning 272 persons.

56. OHCHR is following the case of special police patrol battalion ‘Tornado’, 13 members of which have been charged with torture and illegal confinement or abduction of a person<sup>41</sup>. 11 servicemen of the battalion have been indicted. Two others were detained on 13 April 2016. The Office of the Military Prosecutor is also investigating criminal cases against servicemen of the 24 territorial defence battalion ‘Aidar’ on charges of intentional homicide, illegal abduction or confinement of a person, brigandism, gangsterism and illegal appropriation of a vehicle. In the course of investigation five ‘Aidar’ servicemen were charged, four of them were placed in custody, and one was put on a wanted list. On 6 April, two servicemen were indicted for several acts, including the abduction of a person.

57. OHCHR remains concerned about the administration of justice toward persons accused of involvement in the armed groups. From the beginning of the armed

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<sup>40</sup> The Office of the Chief Military Prosecutor informed OHCHR that it is carrying out pre-trial investigations into alleged cases of killing, torture and ill-treatment of Ukrainian soldiers and civilians by members of the armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ in 2014-2016. The Office informed OHCHR that 3,000 victims have been identified, including those deprived of their liberty by members of the armed groups; over 450 victims have provided testimonies of having been tortured or ill-treated.

<sup>41</sup> See 11<sup>th</sup> HRMMU report covering 16 May to 15 August 2015, paragraph 123.



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conflict, SBU has qualified any acts involving membership in, organization or support of, or participation in, the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ as involvement in a terrorist organization under article 258-3 or the “creation of unlawful paramilitary or armed formations” under article 260 of the Criminal Code. Many of those detained in pre-trial detention have been deprived of their liberty because the current provisions of the Code of Criminal Procedure do not envision non-custodial measures for terrorism-related offenses<sup>42</sup>. This runs counter to European Court of Human Rights jurisprudence<sup>43</sup>, and contributes to a perception among detainees that pre-trial detention is employed to punish those suspected of being affiliated with the armed groups or maintaining links with persons residing in armed group-controlled territory. Further, the application of a counter-terrorism and security framework to conflict-related detention has created a permissive environment and climate of impunity.

58. OHCHR documented allegations of unidentified armed men detaining people living near the conflict zone due to their alleged affiliation with armed groups. They complained about being subjected to ill-treatment and torture in order to extract confessions that they assisted armed groups. Following their confessions, they were taken to SBU premises and officially charged. OHCHR has consistently observed that the SBU fails to inquire into the condition of detainees and the circumstances of their capture. This pattern of conduct suggests that SBU investigators may either be involved in certain cases of arbitrary detention, or fail to act to prosecute perpetrators.

59. A resident of Mariupol was detained by three servicemen of the ‘Azov’ battalion on 28 January 2015 for supporting the ‘Donetsk people’s republic’. He was taken to the basement of Athletic School No. 61 in Mariupol, where he was held until 6 February 2015. He was continuously interrogated and tortured. He complained about being handcuffed to a metal rod and left hanging on it, he was reportedly tortured with electricity, gas mask and subjected to waterboarding and he was also beaten in his genitals. As a result he confessed about sharing information with the armed groups about the locations of the Government checkpoints. Only on 7 February, he was taken to the Mariupol SBU, where he was officially detained.

60. Allegations of torture and ill-treatment are rarely investigated. There are few prospects for accountability for abuses perpetrated by members of law enforcement agencies. In some cases, attempts by victims of torture to complain to judges in the course of a hearing have been met with inaction and callousness, with judges frequently ignoring or dismissing complaints, revealing the judiciary’s lack of impartiality.

61. On 11 March 2016, when considering a case<sup>44</sup> of a person indicted under article 258-3 (facilitation of activity of a terrorist organisation) of the Criminal Code, the Dobropilskyi District Court of Donetsk region disregarded the defendant’s claims that he was actually apprehended two days before his official date of detention. The court also disregarded the statements of an eyewitness to his apprehension, challenging them with the statements of law enforcement members who detained him. The court also disregarded the defendant’s claim that he was tortured and ill-treated during those two days saying that he was mistreated prior to his apprehension.

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<sup>42</sup> The law ‘On Amendments to the Criminal and Criminal Procedure Code of Ukraine Regarding Unavoidability of Punishment for Certain Crimes Against National Security, Public Order and Corruption Crimes’ precludes to apply any other non-custodial measures of restrains to the persons suspected in abovementioned crimes

<sup>43</sup> *Kharchenko v. Ukraine*, European Court of Human Rights, no. 40107/02

<sup>44</sup> Dobropilskyi District Court, 11 March 2016, 227/2128/15-к (accessible at: <http://reyestr.court.gov.ua/Review/56350801>)

62. In another case<sup>45</sup> on 12 February 2016, Prymorskyi District Court of Mariupol admitted that the accused “was actually detained on 19 September 2015, and until 29 September 2015 was deprived of liberty without any court decision”, failing, however, to take any action in relation to his unlawful detention.

63. In certain cases, courts fail to initiate criminal investigations into allegations of torture, which appears to be due to a lack of an effective mechanism<sup>46</sup>. Allegations of torture that arise in the course of court proceedings are referred to the prosecution, which can more easily initiate a criminal investigation. Prosecutors, however, are required to supervise the legality of the entire investigative process. Thus, they are at risk of professional reprimand should the allegations of torture or ill-treatment – rendering the obtained evidence inadmissible – be confirmed at a later stage of the proceedings. As a result, the availability of a remedy for torture is compromised at its initial stage, as allegations of ill-treatment raised during trial either do not trigger any investigative actions, or do not yield any results.

64. OHCHR also notes that the armed groups have also taken steps to ‘prosecute’ perpetrators from their own ranks. On 17 March, the ‘office of the prosecutor general’ of the ‘Luhansk people’s republic’ reported that ‘pre-trial investigations’ into the ‘criminal cases’ against the ‘Batman’ armed group and an armed group headed by Serhii Kosohorov were completed. The criminal cases were submitted to the ‘military court’ of ‘Luhansk people’s republic’. Reportedly, members of the two armed groups are accused of committing 53 crimes, including illegal detention, torture, banditry, seizure of cars, drugs and weapons smuggling<sup>47</sup>.

## **B. Parallel structures of administration of justice**

65. OHCHR continued to monitor the development of parallel ‘administration of justice’ structures in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. These structures have been established to impose the authority of the armed groups over the population residing on the territories under their control and to legitimize human rights abuses by the armed groups. Such structures contravene the spirit of the Minsk Agreements.

66. On 6 April 2016, the ‘supreme court’ of ‘Donetsk people’s republic’ reported that, from the beginning of 2016, ‘courts of general jurisdiction’ had ‘considered’ 3,318 criminal cases, including 11 pre-conflict cases. The ‘courts’ had reportedly delivered ‘decisions’ in 461 cases, including two convictions regarding seven pre-conflict detainees. In 2015, the ‘courts’ had reportedly ‘considered’ 18,678 criminal cases and delivered decisions in 1,935 cases, including in 60 cases initiated before the conflict. OHCHR has not been able to verify that the ‘judicial system’ of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ meets the key due process and fair trial standards in particular in relation to the non-derogable writ of habeas corpus to provide a person deprived of liberty with an opportunity to challenge the lawfulness of detention<sup>48</sup>. OHCHR is concerned that the development of parallel structures of ‘administration of justice’ leads to systematic abuses of the rights of persons deprived of their liberty by the armed groups and issuance of decisions which contravene human rights norms.

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<sup>45</sup> Prymorskyi District Court of Mariupol, 12 February 2016, №234/18927/15-к (accessible at: <http://reyestr.court.gov.ua/Review/55707736>)

<sup>46</sup> HRMMU interview, 15 April 2016.

<sup>47</sup> Luhansk Information Centre, “General Prosecution of the LPR hands over case materials on the case of “Batman” and “Kosogora” to a LPR military court,” March 2016, (accessible at: <http://lug-info.com/news/one/genprokuratura-lnr-peredala-materialy-po-dela-betmena-i-kosogora-v-voennyi-sud-lnr-11660>)

<sup>48</sup> Working Group on Arbitrary Detention’s “Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of His or Her Liberty by Arrest or Detention to Bring Proceedings Before Court”.

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67. In the context of an armed conflict, only an impartial and regularly constituted court may pass judgment on an accused person<sup>49</sup>. Unfair trials cannot provide justice to victims of serious human rights abuses and violations of international humanitarian law, and further contribute to the lack of rule of law and accountability that has come to characterize the armed group-controlled areas.

### C. Individual cases

#### *Nadiia Savchenko*

68. On 22 March, the Donetsk City Court of the Rostov region, Russian Federation, sentenced a Ukrainian citizen, Nadiia Savchenko<sup>50</sup>, to 22 years of imprisonment for her complicity in the death of two Russian Federation journalists in eastern Ukraine and the attempted murder of another. She was also fined 30,000 RUB for crossing the border illegally. Ms. Savchenko chose not to appeal the court decision. As of 10 May Nadiia Savchenko remains in a pre-trial detention facility in Novochoerkassk, Russian Federation. Without access to the territory of the Russian Federation, OHCHR relies on the official statements of the Russian Federation authorities and Ms. Savchenko's defense lawyers. One of Ms. Savchenko's defense lawyers submitted a communication to the United Nations Working Group on Arbitrary Detention (WGAD) and the United Nations Special Rapporteur on Human Rights Defenders. On 20 April, the Ministry of Justice of the Russian Federation confirmed having received a request from the Ministry of Justice of Ukraine for the transfer of Ms. Savchenko to Ukraine in line with the 1983 Convention on the Transfer of Sentenced Persons. According to one of Ms. Savchenko's lawyers, on 29 April Nadiia Savchenko formally consented to her transfer. According to her lawyers, the health of Ms. Savchenko deteriorated significantly as a consequence of previous hunger strikes. OHCHR is very concerned about reported breaches of due process and fair trial rights in this case as well as the humanitarian consequences of Ms. Savchenko's continued detention. On 25 May, Ms. Savchenko was pardoned by the President of the Russian Federation and transferred to Ukraine. She was released at the same time as two Russian citizens, Aleksandr Aleksandrov and Yevgenii Yerofiev, who were pardoned by the President of Ukraine after being sentenced to 14 years of imprisonment for 'waging an aggressive war' against Ukraine<sup>51</sup>.

#### *Nelia Shtepa*

69. OHCHR continued to follow the case of Nelia Shtepa, the former mayor of Sloviansk, Donetsk region, who remains in detention on charges related to seizure of Sloviansk by armed groups in 2014<sup>52</sup>. Due to the dismissal of the presiding judge, who was found to have violated his oath<sup>53</sup>, the court proceedings in Ms Shtepa's case have re-commenced in March 2016. Ms. Shtepa remains in detention in the Kharkiv pre-trial detention centre, where she has been held for over 22 months. During the reporting period Ms. Shtepa has had no complaints of

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<sup>49</sup> Article 3 common to the four Geneva Conventions, and Article 6(2), Additional Protocol II to the four Geneva Convention; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 100

<sup>50</sup> Nadiia Savchenko is a Ukrainian military pilot, who has been in detention in the Russian Federation since July 2014, after being allegedly apprehended and transferred from Ukraine by armed groups. For more information, see paragraph 88 of the 13<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 November 2015 to 15 February 2016, paragraph 137 of the 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015, paragraph 60 of 11<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015, and paragraph 54 of the 10<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2015.

<sup>51</sup> This development falls outside of the reporting period, but has been exceptionally included as a critical development.

<sup>52</sup> See 13<sup>th</sup> HRMMU report covering 16 November 2015 to 15 February 2016, paragraph 87; 12<sup>th</sup> HRMMU report covering 16 August to 15 November 2015, paragraph 133.

<sup>53</sup> See 12<sup>th</sup> HRMMU report covering 16 August to 15 November 2015, paragraph 135.

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conditions of detention. OHCHR has not observed breaches of due process and fair trial rights after the resumption of court proceedings against Ms. Shtepa.

*Oleh Kalashnikov and Oles Buzyna*

70. Oleh Kalashnikov, an opposition politician from the Party of Regions affiliated with President Yanukovich, was assassinated on 15 April 2015. After one year<sup>54</sup>, no suspects have been identified and there has been no progress in the investigation. Similarly, the killing of chief editor of *Segodnya* newspaper, Oles Buzyna, on 16 April 2015, continues to be investigated. Buzyna<sup>55</sup> was a critic of the Maidan protests and a proponent of close ties between Ukraine and the Russian Federation. The investigation into his killing, which has been going on for over a year, has been marred by procedural irregularities. The case has not yet been submitted to court. Two suspects arrested on 18 June 2015 were released from detention in December 2015, subject to summonses to appear in court. In April 2015 the Minister of Internal Affairs stated that he would personally oversee investigations into the death of Oleh Kalashnikov and Oles Buzyna. OHCHR observes a lack of progress in criminal cases involving persons affiliated with or perceived as political and ideological supporters of the Government of President Yanukovich. It is essential for justice to be impartial and to hold those responsible for the killings to account.

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

*November 2013 – February 2014 demonstrations at Maidan, Kyiv*

71. Two years after the mass killing of protesters and law enforcement officials at the Maidan protests, there has been no meaningful progress in bringing those responsible to justice, in particular individuals who were in positions of authority and exercised control over those who shot at and killed protesters. Many former senior officials left Ukraine for the Russian Federation. Numerous extradition and judicial cooperation requests filed to the Russian Federation have been simply ignored. Trial in absentia, which were introduced into the Criminal Procedural Code of Ukraine in late 2014, are also not an option due to the strict requirement envisaged in the Code that the suspect must be wanted by Interpol. Requests filed to Interpol to issue international warrants for the suspects have been denied under article 3 of its Constitution, which strictly forbids the Organization to undertake any intervention or activities of a political character<sup>56</sup>. OHCHR notes progress made by the Office of the Prosecutor General in relation to investigation into human rights violations committed during Maidan protests. Despite fleeing of a large number of suspects and loss of most of the documents and material evidence the criminal case encompasses some 1,200 volumes, which allowed to file charges against a number of former senior officials, including President Yanukovich, the Minister of Internal Affairs, the Head of the Security Service<sup>57</sup>.

72. On 16 February 2016, the Sviatosynskyi District Court of Kyiv decided to merge two episodes<sup>58</sup> of killing 48 Maidan protestors at Instytutaska street in Kyiv on 20 February 2014 into one criminal case. In these circumstances charges against two Berkut servicemen indicted on 24 February 2015, have been extended – they have been accused of killing nine more protestors, whose death as established by

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<sup>54</sup> See 10<sup>th</sup> HRMMU report covering 16 February to 15 May 2015, paragraph 137.

<sup>55</sup> See 11<sup>th</sup> HRMMU report covering 16 May to 15 August 2015, paragraph 148; 10<sup>th</sup> HRMMU report covering 16 February to 15 May 2015, paragraph 67.

<sup>56</sup> INTERPOL Constitution, Article 3: “It is strictly forbidden for the Organization to undertake any intervention or activities of a political, military, religious or racial character.”

<sup>57</sup> See 12<sup>th</sup> HRMMU report covering 16 August to 15 November 2015, paragraph 116

<sup>58</sup> The initial episode, where two Berkut servicemen were accused with killing 39 protestors, which was submitted to Sviatosynskyi District Court of Kyiv on 24 February 2015 and the second episode, where two other Berkut servicemen and a Berkut commander were accused of killing 48 protestors at Instytutaska street, in Kyiv on 20 February 2014.

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the investigation have resulted from the same type of weapons and in the similar circumstances. As of the date of this report they are reviewing the new case files.

73. Such decision of the court allowed to bring five accused (four servicemen and a commander of 'Berkut' special police regiment) before a jury panel and may contribute to expedite the proceedings. All those accused remain in custody and the court continues to hear witness testimony in the case. Twenty other 'Berkut' servicemen, also charged with involvement in the killing of 48 protesters and inflicting bodily injury to 80 others, are on a wanted list as they have evaded the investigation.

74. Two 'Berkut' servicemen are awaiting trial for excessive use of force resulting in the killing of three Maidan protestors at Instytutska Street and Kriposnyi Lane, on 18 February 2014. Other servicemen have also been prosecuted for abuse of power against Maidan protesters.

75. OHCHR is following the case of the only senior official currently undergoing trial in relation to the Maidan events, the former head of SBU for the city of Kyiv and Kyiv region. He is accused of leading an 'anti-terrorist operation' in central Kyiv which inter alia resulted in the arson of the House of Trade Unions, aimed at the forceful dispersal of Maidan protesters, which resulted in the death of 17 people. On 21 April, Shevchenkivskyi District Court of Kyiv ruled to return the indictment to the Prosecutor General for revision of inaccuracies, which the prosecution has appealed on 28 April 2016. In particular the court came to a conclusion that while the defendant is accused of intentional homicide of 10 persons, the indictment does not contain specific information on time, place, modus operandi, motive of a crime and other essential factors. The indictment according to the court contains only statement of certain facts and list of victims. The court also ruled to extend his custodial detention until 19 June 2016.

#### *2 May 2014 demonstrations in Odesa*

76. According to the Office of the Prosecutor General, 27 individuals have been indicted on charges under articles 115 (intentional homicide of two or more persons, based on profit-gaining motives committed to conceal or facilitate another crime), 263 (illegal handling of weapons) and 294 (mass disturbances) of the Criminal Code of Ukraine in relation to their involvement in the violent events which took place on 2 May 2014 in Odesa and resulted in the death of 48 people. OHCHR has noted that in addition to the shortcomings of the pre-trial investigation, interference in the independence of the judiciary remains an obstacle to bringing perpetrators to justice.

77. Despite the large number of casualties caused by the violence, only one perpetrator, Serhii Khodiiak, an active member of 'pro-unity' movement, has been identified and accused of shooting one person to death in the city centre of Odesa, on 2 May. However, due to the pressure of other 'pro-unity' activists on the court, he was released after two days in custody. Furthermore, although the pre-trial investigation was completed in August 2015, the trial has not started. Over the reporting period two district courts of Odesa refused to consider the case and appealed to the Court of Appeals of Odesa Region, alleging that judges were intimidated by both the claimant and the defendant camps, and warning of possible clashes in the courts. On 29 February, the case was transferred to the Kyivskyi District Court of Odesa. With only four district courts in Odesa<sup>59</sup>, should the

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<sup>59</sup> On 5 August 2015, the Court of Appeals of Odesa Region ruled to transfer the case from Prymorskyi District Court of Odesa to Malynovskyi District Court of Odesa; on 27 January 2016, the Court ruled to transfer the case to Suvorovskyi District Court of Odesa; on 29 February 2016, the Court ruled to transfer the case to the Kyivskyi District Court of Odesa. The National Police launched an investigation into allegations of pressure and interference with the judiciary under article 376 (interference with activity of judicial authorities) of the Criminal Code of Ukraine concerning the incident of 27 November 2015, when a group of 'pro-unity' supporters pressured judges in Malynovskyi District Court of Odesa not to release



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Kyivskyi District Court also refuse to hear this case, it will be transferred to another region. On 10 May, the Kyivskyi District Court of Odesa adjourned the preliminary hearing for the second time due to the absence of victims and the defendant's lawyer. OHCHR observed approximately 50 'pro-unity' activists, who behaved aggressively toward the panel of judges, the prosecutor and a journalist from a 'pro-federalism' media website. The police presence in the courtroom was insufficient to protect those involved in the proceedings.

78. On the other hand, the 'pro-federalism' supporters who were detained in connection with the 2 May 2014 violence have been held in custody for up to two years, pending trial. Moreover, through monitoring court hearings in the case of 'pro-federalism' activists accused of mass disorder in the city centre of Odesa on 2 May 2014, OHCHR noted serious shortcomings: the prosecution failed to provide sufficient evidence against both accused citizens of the Russian Federation, it failed to ensure the presence of witnesses and, after a year of hearings, requested to recuse the panel of judges. Both citizens of the Russian Federation launched a hunger strike. The panel of judges notified the General Prosecutor of Ukraine several times about the low quality of the prosecution and reprimanded the prosecution for delaying the proceedings. OHCHR is concerned about failure of the police to prevent the attack of 'pro-unity' activists on a few 'pro-federalism' accused near the court building on 10 March. The skirmish led to hospitalization of one of the accused.

79. OHCHR is also concerned about the lack of progress in the investigation into the House of Trade Unions fire and the failure of the fire brigade to respond. It took the Office of the Prosecutor General almost six months to open a criminal investigation into the negligence of the State Emergency Service of Odesa region and another five months to charge its head under article 135 (leaving in danger) of the Criminal Code. On 1 March 2016, the suspect fled after his deputy and two other subordinates were detained by the police on the same charges. He has since been put on a wanted list.

80. OHCHR welcomes the progress made in the investigation into failure of the police to ensure public safety on 2 May 2014. On 26 February, the Office of the Prosecutor General filed an indictment against former Head of Odesa Regional Police, Petro Lutsiuk. He is accused of committing crimes under articles 136 (failure to provide assistance to people whose life is in danger), 364 (abuse of authority or office) and 366 (forgery in office) of the Criminal Code. He is also accused of not implementing a special plan ('Volna' - wave) aimed at counteracting public disorder at mass assemblies and gatherings, which led to the death of 48 people and injuries of more than 200. He is also accused of intentionally leaving people in danger. However, as of the date of this report, the court has not completed the preliminary hearing due to procedural delays caused by the absence of the parties to the trial and failure to duly notify all victims about the date of the court hearing. The relatives of victims of the violence and the defendant's lawyers denounced the poor quality of the indictment in the case and have requested that the court return it to the prosecution for revision.

## **IV. Fundamental freedoms**

81. Since the Maidan events in 2014, Ukrainians have gained greater freedom to exercise individual liberties, including their rights to freedoms of association, peaceful assembly and expression. The last two years have seen a notable increase in active civil society groups and volunteer engagement.

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20 'pro-federalism' defendants from custody on interim conditional release (for more details on the incident see 13<sup>th</sup> HRMMU report covering 16 November 2015 to 15 February 2016, paragraph 100).



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82. At the same time, there are cases where counter-terrorism legislation has been used to arrest and detain members of political parties, NGOs and media professionals. Also, journalists and civil society organizations, including humanitarian organizations, continued to face significant challenges in operating in the conflict-affected area. Civil society actors, even those working in the areas controlled by the Government, have described self-censorship. This includes choosing not to discuss in public concerns related to the military occupation of civilian homes, or media professionals limiting themselves when reporting from areas near the contact line.

83. Almost all who publicly opposed the self-proclaimed ‘republics’ left the armed group-controlled territories in 2014 due to intimidation and fear, including human rights activists, members of some religious communities, media workers and civil society. The few civil society actors remaining in these territories continued to be targeted (see OHCHR 13<sup>th</sup> report), leading to the stifling of public scrutiny and discourse.

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

84. Civilians’ freedom of movement remained restricted in the conflict-affected area, including due to the Temporary Order and further controls imposed by the armed groups. The period under review has been marked by two key developments: a significant increase in the number of people crossing the contact line, reaching an average of 30,000 people per day in mid-April 2016; and the temporary closure of checkpoints reportedly due to deteriorating security and the first instance in which civilians waiting to cross the contact line were killed by shelling.

85. New Government regulations concerning payments of social entitlements have increased a sense of insecurity among people living in armed group-controlled territories. As they can only receive their social entitlements in the Government-controlled territories, this leads to more frequent travel across the contact line as many had to renew documentation to access entitlements, including pensions. Persons also continue to cross the contact line to access health services, reunite with family members, and for their livelihoods.

86. OHCHR regularly crosses the contact line and observes queues of 150 to 500 cars. At the Maiorsk entry-exit checkpoint, people reported spending up to 30 hours in queues, often having to stay overnight in their cars between the checkpoints, without access to water, food or sanitation facilities in an area contaminated by UXOs and landmines. On 27 April, four civilians (three men and a woman) were killed and at least eight (a woman, two men, 15-years-old boy, gender unknown for the other four) were injured by shelling while queuing overnight at the Mariupol-Donetsk transport corridor, near Olenivka, controlled by the ‘Donetsk people’s republic’. The mortar shells hit an area where approximately 50 vehicles were parked along the road. Following the incident the transport corridor was closed for approximately one month, leaving only three operational corridors in Donetsk region, which became severely overcrowded.

87. During the reporting period, OHCHR continued to document cases of people detained at checkpoints by armed groups on the basis of ‘wanted lists’ or by Government forces based on the ‘Myrotvorets’ (‘Peace-maker’) website database<sup>60</sup>.

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<sup>60</sup> It was announced that the website was closed on 13 May but was opened for access on 15 May 2016. The website includes personal data and information available in social media about people, who are allegedly involved in the activity of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. It is allegedly maintained by volunteers, but is actively used by the Government forces at the checkpoints. As previously noted by OHCHR, it not only includes armed groups members, but also the civil servants, who decided not to move to the Government-controlled areas, as well as members of civil society who provide humanitarian assistance in the areas controlled by armed groups. See 12<sup>th</sup> HRMMU report covering 16 August to 15 November 2015, paragraph 69.

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OHCHR documented three new cases of civilians detained by armed groups of ‘Donetsk people’s republic’ based on such lists (See Right to life).

88. OHCHR continued receiving complaints regarding corruption at the checkpoints, whereby bribes are demanded or goods confiscated to ease passage.<sup>61</sup> In a few cases, when passengers say they will complain to the ‘Headquarters of the Anti-Terrorist Operation’ hotline, they have been allowed to pass freely.

89. The situation of civilians in Luhansk region is particularly severe as there are still no functioning official vehicle crossings between Government and armed group-controlled territories. On 8 April, due to the deterioration of the security situation, the Government temporarily closed the Stanychno Luhanske entry-exit checkpoint, which was the only operational crossing in Luhansk - a pedestrian crossing over a collapsed bridge. On average, between 3,000 and 5,000 people use this crossing daily. Civilians started taking roundabout routes, with a high risk of exposure to ERW and UXO. On 30 April 2016, the ‘Headquarters of the Anti-Terrorist Operation’ of Ukraine re-opened the crossing in Stanychno Luhanske.

90. The Government’s attempt to open an additional, vehicular transport corridor in Luhansk region with the entry-exit checkpoint in Zolote, on 31 March, has been unsuccessful. The armed groups of the ‘Luhansk people’s republic’ let civilians onto their territory and proceeded to block their further movement, claiming they had agreed to the opening of a different corridor, which would also allow cargo<sup>62</sup>. Consequently, 179 people were trapped for several hours between checkpoints controlled by the Government and the armed groups of the ‘Luhansk people’s republic’. Some civilians reported being verbally assaulted by members of the armed groups. Reportedly, the State Emergency Service of Ukraine and the Regional State Civil Military Administration organized buses to take people back and put them up in tents for the night. As of 15 May 2016, the corridor remained closed. OHCHR calls for additional checkpoints to be opened, for them to remain operational to the maximum extent possible, and for simplified procedures to be adopted to facilitate more efficient movement of civilians.

## **B. Violations of the right to freedom of religion or belief**

91. Overall, during the reporting period, the majority of religious communities in Ukraine could exercise their freedom of religion or belief. However, law enforcement failed to ensure effective investigations into the few incidents concerning violations of the right to freedom of religion or belief were documented.

92. According to a Muslim religious leader, on 5 February 2016, in Vinnytsia city, worshippers leaving the Islamic cultural centre (which also serves as a mosque) following Friday prayers, were confronted by 10 officials from SBU and the Migration and State Border Services. They were requested to present their identification documents and allowed to leave but the officials then inspected the premises of the centre without providing grounds for such action. The Muslim community has been uniquely targeted for such ID-checks and inspections of places of worship.

93. On 24 March 2016, in Cherkasy city, at the beginning of the Jewish holiday of Purim, graffiti were found on a building in the city centre (calling for “*Death to the Jews*” and alleging that “*the Jews have occupied Ukraine*”). The same night, a wreath that had been laid by the Israeli Minister of Justice at the Holocaust memorial in Kyiv was burnt down. A representative of the Jewish community also reported that in Kyiv, graffiti of swastikas were often painted on Jewish kindergartens and schools. The community is not aware of investigations into these incidents, despite security camera footage of the incidents being available.

### *Territory controlled by armed groups*

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<sup>61</sup> HRRMU interview, 3 April 2016.

<sup>62</sup> HRMMU meeting, 22 April 2016.

94. The situation of minority Christian communities in armed group-controlled territories remained precarious. Three members of the Jehovah Witnesses community were captured<sup>63</sup> in Horlivka, on 17 January, by the ‘ministry of state security’ of the ‘Donetsk people’s republic’, and released on 16 February. While in captivity, the victims were interrogated and accused of being members of a “prohibited” “sect”<sup>64</sup>. Although the Jehovah Witnesses in Horlivka continue holding meetings, the number of parishioners regularly attending the church has decreased. During the reporting period, OHCHR was informed that the majority of one of the Christian Charismatic communities had to leave Luhansk in 2014 because they were persecuted by the armed groups<sup>65</sup>.

95. On 18 March 2016, the ‘Donetsk people’s republic’ ‘national council’ passed a ‘draft law’ on ‘freedom of consciousness and religious unions’, which is not publicly available. A representative of the ‘Donetsk people’s republic’ stated that “1400 religious organizations were registered in Donbas [before 2014], the majority of which were imposed from abroad”, adding they were “mainly sects, which aim to brainwash people”<sup>66</sup>. Religious communities that continue to operate in the territory controlled by armed groups fear that the ‘law’ may announce a new wave of persecution against them, as was observed after the adoption of the ‘constitution’ in May 2014<sup>67</sup>. Since the beginning of the conflict, the Muslim, Jewish, Greek-Catholic and other religious minorities in areas controlled by the armed groups has significantly decreased. OHCHR recalls that religious minorities should be respected in their freedom of religion or belief without any administrative registration procedures<sup>68</sup>.

96. The Ukrainian Orthodox Church – Kyiv Patriarchate continued facing intimidation in the ‘Luhansk people’s republic’. In February 2016, two representatives of the ‘ministry of state security’ of the ‘Luhansk people’s republic’ demanded that a local priest in the ‘Luhansk people’s republic’ sign a ‘cooperation agreement’. A priest stated that parishioners did not feel safe at their place of worship and were sometimes the targets of insults from local residents and the armed groups.

### **C. Violations of the right to freedom of peaceful assembly**

97. On 19-22 February 2016, people across Ukraine held assemblies<sup>69</sup> to commemorate the two-year anniversary of violent clashes and civil unrest that led to the death of over 100 people on Maidan Nezalezhnosti (Independence Square) in Kyiv. OHCHR monitored the assemblies across the country, observing their largely peaceful nature. Law enforcement appeared well-prepared to address possible provocations and generally did not interfere with the assemblies.

98. However, OHCHR observed increased tensions between ‘pro-unity’ and ‘pro-federalism’ activists in Odesa. ‘Pro-unity’ activists acted aggressively during mass gatherings on 27 March, 2 April and 10 April, leading to clashes with ‘pro-federalist’ protesters. OHCHR observed that police failed to ensure adequate security, impacting most severely ‘pro-federalism’ supporters, a majority of which were elderly and female.

<sup>63</sup> For more information, see 13<sup>th</sup> HRMMU report covering 16 November 2015 to 15 February 2016, paragraph 123.

<sup>64</sup> HRMMU interview, 29 February 2016.

<sup>65</sup> HRMMU interview, 18 March 2016.

<sup>66</sup> Official Site of the National Council of the Donetsk People’s Republic, “Member of Parliament Nikolai Ragozin urges action to prevent the activities of destructive religious organizations on the territory of the DPR,” 24 March 2016, (accessible at: <http://dnrsovet.su/deputat-nikolaj-ragozin-prizval-ne-dopustit-deyatelnosti-destruktyvnyh-religioznyh-organizatsij-na-territorii-dnr/>)

<sup>67</sup> See 4<sup>th</sup> HRMMU report covering 8 June to 15 July 2014, paragraph 156.

<sup>68</sup> Thematic report of the UN Independent Expert on Minority Issues, A/68/268, paragraph 61.

<sup>69</sup> HRMMU interview, 19-22 February 2016.

99. During the reporting period, OHCHR interviewed supporters of ‘anti-Maidan’<sup>70</sup> in Zaporizhzhia, who claimed that their fear of being assaulted by ‘pro-Maidan’ supporters and the inaction of police had resulted in a total absence of ‘anti-Maidan’ gatherings in Zaporizhzhia and Melitopol. On 21 February 2016, ‘anti-Maidan’ demonstrators from Melitopol who gathered in Zaporizhzhia to protest against the demolition of a Lenin monument were physically prevented by ‘pro-Maidan’ supporters from conducting a gathering, which resulted in clashes and injuries of several ‘anti-Maidan’ protesters. The police did not intervene. During the clashes, OHCHR witnessed an elderly woman lying on a bench while a ‘pro-unity’ activist threatened her. In a conversation with OHCHR, police officers observing the incident openly refused to protect the ‘anti-Maidan’ activists, referring to them as “separatists”. OHCHR interviewed a participant in the demonstration<sup>71</sup> who claimed to have been illegally arrested and taken to the Zaporizhzhia Regional SBU where was allegedly interrogated without the presence of a lawyer, and intimidated. On 22 April 2016, the leader of the ‘Union of Left Forces’ was physically prevented by ‘pro-Maidan’ activists from conducting a press conference in Zaporizhzhia. He was assaulted by ‘pro-Maidan’ supporters and received bodily injuries in front of the police officers who intervened but did not apprehend the assailants. OHCHR interviewed an associate of the victim who was also beaten by ‘pro-Maidan’ activists; he stated that about 15 police officers were present nearby but did not react. The prosecutor’s office in Zaporizhzhia region conducted an inquiry into the allegations, but found that no violations had taken place.

100. Overall the celebrations on 1, 2 and 9 May across Ukraine passed relatively calmly with no major incidents reported and with heavy police presence securing the main localities. In larger cities on 9 May, including Kyiv, Odesa, Lviv, Kharkiv, and Dnipropetrovsk, tensions did however lead to skirmishes between demonstrators with Communist symbols and flags, and the St. George ribbon (associated with ‘anti-Maidan’ and pro-federalist camps) and people of opposing views, including members of the Azov Civil Corps in Kharkiv and Mykolaiv. The police prevented several incidents from escalating by isolating aggressive demonstrators. In Odesa and Mykolaiv police detained mostly ‘pro-federalism’ supporters and did not respond adequately to breaches of public order committed by ‘pro-unity’ activists. In several instances, the police asked demonstrators to take off the St. George ribbon and explained the legal prohibition on the use of Communist symbols and flags<sup>72</sup>. According to the Head of National Police, 100 persons were detained throughout Ukraine, and the deputy Minister of Internal Affairs reported that six police officers were injured. They also reported that most protesters were detained for using prohibited Communist symbols and distributing ‘provocative’ leaflets.

101. OHCHR was informed that the SBU in Odesa conducted house searches and interrogated ‘pro-federalism’ activists on 2 and 9 May, thus preventing them from participating in the commemorative demonstrations. Furthermore, during the 2 May commemoration, police in Odesa closed the symbolic Kulykove Pole square, where 42 pro-federalists died, for relatives of the victims and ‘pro-federalism’ supporters intending to lay flowers. This was done allegedly after receiving two bomb threat calls. OHCHR notes that law enforcers in Odesa have also in the past used allegations of bomb threats to prevent participation of ‘pro-federalism’ activists in public events.

*Territory controlled by armed groups*

102. OHCHR continued to observe an absence of open and free assemblies in territories controlled by armed groups. The space to articulate alternative views is

<sup>70</sup> HRMMU interview, 21 February 2016.

<sup>71</sup> HRMMU interview, 24 February 2016.

<sup>72</sup> Law of Ukraine "On condemning the communist and national socialist (Nazi) totalitarian regimes in Ukraine and prohibition of propaganda of their symbols", No. 317-VIII of 9 April 2015.

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severely limited and people are concerned that they may be ‘arrested’ if they organize protests or assemblies against the policies of the armed groups.

103. The only assemblies that OHCHR observed in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ have been in support of the local authorities. In April, a few dozen young people organised two protests in front of the OSCE office in Luhansk, calling the OSCE staff “agents of Kyiv” and accusing them of encouraging the conflict. There are reasons to believe that the armed groups organized these rallies, as all demonstrators arrived at the same time at the OSCE office and did not appear to be informed about the substance of their demands nor OSCE’s mandate.

104. Attempts to organize public protest to express disagreement with actions or decisions of the armed groups have been met with restrictions. For instance, OHCHR interviewed a coal miner who explained that, in December 2015, in Makiivka, mine workers organized a protest to denounce their deteriorating working conditions, the low or partial and irregular salaries, and violations of safety rule.<sup>73</sup> The ‘ministry of state security’ threatened the protesters and seven of them were deprived of their liberty and subjected to forced labour. The ‘ministry of state security’ of the ‘Donetsk people’s republic’ then prohibited miners to protest.

105. On 9 April 2016, OHCHR monitored a demonstration in Donetsk celebrating two years since the establishment of the ‘Donetsk people’s republic’ observing several thousand protesters gathered near the ‘house of government’ (former regional administration) and along nearby streets. Each group of demonstrators was organized by an entity in the ‘Donetsk people’s republic’, such as universities, districts, professional unions, and departments of the ‘republic’. When asked about the purpose of the gathering many people were not able to provide an answer, indicating that demonstrators may have been requested or compelled to participate. There was a presence of ‘police’ and some uniformed men, and the central street and a few others streets were blocked by the ‘police’. No public unrest or violence has been reported. A similar situation was observed during the 1 May demonstrations, where approximately 2,000 people were assembled representing their respective professional unions, educational institutions and the ‘communist party of the Donetsk people’s republic’. The participants were chanting “*No to fascists*”.

#### **D. Violations of the right to freedom of association**

106. In Kharkiv, OHCHR observed an increasing number of incidents involving political and activist groups. These groups appear to be employed by political and business actors to suppress political and social demands of the populace through intimidation and violence.

107. In Dnipropetrovsk, the space to articulate alternative views, particularly support to communism, remained limited. OHCHR interviewed<sup>74</sup> the leader of two organizations who stated that after March and April 2014, he and members of his organization were subjected to threats and attacks by right-wing activists. The State Registration Service within the Ministry of Justice submitted a claim to the Dnipropetrovsk circuit administrative court with a request to prohibit the activities of both organizations, accusing their representatives of publically campaigning against the territorial integrity of Ukraine during demonstrations in 2014. The head of the organization claimed that SBU had conducted approximately 60 searches in the apartments of members of the NGO but had not brought charges against them.

108. In Dniprodzerzhynsk, OHCHR is following the case of two members of the ‘Communist party’ who were charged with trespassing the territorial integrity

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<sup>73</sup> HRMMU interview, 11 March 2016.

<sup>74</sup> HRMMU interview, 23 March 2016



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of Ukraine and unlawful possession of weapons in September 2014. Both were held in custody in the Dnipropetrovsk SIZO until 19 April 2016 when the court released them on bail. OHCHR observed that the case was marked by procedural violations.

*Territory controlled by armed groups*

109. Civil society organizations, including human rights defenders, cannot operate freely or in the territory controlled by armed groups. Some Donetsk residents informed OHCHR that they were being prosecuted (or afraid of being prosecuted) by the ‘ministry of state security’ for their pro-Ukrainian views or previous affiliation with Ukrainian NGOs.

110. In the ‘Donetsk people’s republic’, there is allegedly a continuing process whereby ‘state employees’, ‘officials’, coal miners, doctors, and teachers are compelled to join the so-called ‘public movement’ ‘Free Donbas’ (‘Svobodnyi Donbass’). The NGO’s website is frequently updated, and members’ names are put online, raising concerns about their security should they wish to cross the contact line. OHCHR received information from residents of the ‘Donetsk people’s republic’ that members of armed groups demand that employees of companies operating in armed group-controlled territory either join the above ‘NGO’ or resign. Allegedly, members of armed groups, accompanied by representatives of the ‘Free Donbas’, conduct visits to offices and businesses to strongly advertise employees join the ‘public movement’. Most report joining so as to not lose their jobs. OHCHR is also aware that students of Donetsk State University of Management have been forced to join the ‘Young Republic’ association.

111. OHCHR continued to follow the deprivation of liberty by the armed groups of a citizen journalist from Kyiv, detained in early 2016, and a man with open pro-Ukrainian views who was captured in 2015. A religious scholar detained in January 2016 remains deprived of his liberty and continues to be denied access to legal counsel. Meanwhile, the co-founder of a humanitarian organization who was deprived of his liberty in the ‘Donetsk people’s republic’ was released<sup>75</sup>.

**E. Violations of the right to freedom of opinion and expression**

112. Journalists face restrictions when covering conflict-related issues on the territories under Government control including increased pressure on journalists by the owners of media outlets, as well as self-censorship of journalists working near the contact line.

113. Journalists and civil society activists who criticise various state authorities may also be targeted for investigation. On 25 March 2016, the General Prosecutor’s Office opened criminal proceedings against the NGO Anticorruption Centre<sup>76</sup>. Pecherskyi District Court of Kyiv granted prosecutors the power to seize the documents in possession of the NGO and allowed them to inspect their financial records. On 11 May the General Prosecutor’s Office reportedly addressed Pecherskyi District Court of Kyiv requesting permission to access further documents of the organization. The NGO is well known for its public statements on anti-corruption, and believes that they have been targeted in retaliation. Reportedly no illegalities have been confirmed at this stage. A well-known TV host whose political talk shows provided a platform for participants to express diverse opinion, including heavy criticism of authorities, had his work permit cancelled on 26 April and went on a two-day hunger strike after deeming this cancellation “politically motivated”. Some media experts believe<sup>77</sup> such behaviour by law enforcement and state bodies is meant to obstruct independent and critical journalism.

114. In Zaporizhzhia, the ‘Social Zaporizhzhia’ NGO has faced pressure from the Zaporizhzhia Regional SBU. In December 2015, four members of the

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<sup>75</sup> See 13<sup>th</sup> HRMMU report covering 15 November 2015 to 15 February 2016, paragraphs 136-139, 143-147.

<sup>76</sup> HRMMU interview, 22 April 2016.

<sup>77</sup> HRMMU interview, 27 April 2016.



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NGO were granted witness status in a terrorism case, where they are expected to testify about the activities of the NGO and whether they carried out acts against the territorial integrity of Ukraine. One of the members told OHCHR that the NGO has suspended all public activity, fearing that they may “go from being witnesses to becoming the accused”<sup>78</sup>.

115. OHCHR has monitored attacks on the offices of three TV channels: ‘Inter’, ‘TV 17’ and ‘TRK Ukraina’. According to media reports, on 21 February 2016, unknown individuals attacked TV 17 journalists. In addition, the channel’s office was partially destroyed and equipment looted. On 22 April a group of young people entered the lobby of the office of the TV channel ‘TRK Ukraina’ and scattered leaflets with the inscription: “*There will be blood.*” On 25 February around 50 people associated with the civil corps of the Azov regiment blocked the building of the largest Ukrainian TV channel *Inter*. This was apparently triggered by explicit remarks on air by a Russian journalist working at *Inter*, perceived as offensive towards those who died during the Maidan events. The previous day, the SBU had forcibly returned the journalist to the Russian Federation following her statements on air. In all three cases the police either launched an investigation or opened criminal proceedings against suspects for the obstruction of journalistic activities.

116. OHCHR continued to follow the case of two journalists<sup>79</sup> detained in the Zhytomyr SIZO since 24 November 2015, accused of creating a terrorist organization. The lawyer of one of the journalists alleged procedural irregularities, including unnecessary prolongation by the court of the pre-trial detention, which has been extended until 25 May 2016. The indictment was filed on 28 April 2016. The court proceedings are ongoing.

117. On 12 May 2016, the Ivano-Frankivsk city court sentenced the journalist Ruslan Kotsaba, accused of treason and impeding the work of the Armed Forces of Ukraine, to 3 years and 6 months of imprisonment. The court found that Ruslan Kotsaba was preparing propaganda material on the request of Russian mass media aimed at preventing activities of the Armed Forces of Ukraine. According to the court’s ruling, the judges took into account the public prosecutors’ information on Kotsaba’s links with the armed groups. At the same time the court excluded from the charge the accusation of high treason. The lawyers of the journalist indicate that an appeal will be filed.

118. The Ukrainian Parliament approved amendments<sup>80</sup> to the February 2015 law on the ban of Russian-produced films. Though minor, this and other similar decisions indicate a tendency toward further restrictions on the free flow of information.

119. On 10 May 2016 the Ukrainian website “*Myrotvorets*” published the personal data of 4068 Ukrainian and international journalists supposedly accredited to work in the ‘Donetsk people’s republic’. The information included their names, telephone numbers and addresses. One media professional based in the ‘Donetsk people’s republic’ indicated to OHCHR<sup>81</sup> that the list includes individuals who are not journalists and who were working in Donetsk also prior to the conflict. It is of concern that those on the list are portrayed in the Government controlled areas as cooperating with terrorists, something which may endanger the individuals. OHCHR recalls the importance of ensuring that personal data is protected to avoid misuse, and also notes that the website publishing this data is the same which publishes data utilized by Government forces at the check-points at the contact line.

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<sup>78</sup> HRMMU interview, 22 April 2016.

<sup>79</sup> HRMMU interview, 28 March 2016.

<sup>80</sup> Law on Amendments to the Law of Ukraine “On Cinematography” on movies from a state-aggressor (№ 3359)

<sup>81</sup> HRMMU interview, 10 May 2016.

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120. The Ministry of Information Policy established an inter-departmental working group as part of the implementation of the Human Rights Action Plan. The working group will propose amendments to legislation concerning freedom of speech with the goal of harmonizing legislation in the field of media and freedom of expression with European standards. It is vital that this process be transparent and involves consultations with civil society.

*Territory controlled by armed groups*

121. In the territories controlled by the armed groups, freedom of expression, including the ability to openly express dissenting views, remained severely restricted. Persons living in the 'Donetsk people's republic' and 'Luhansk people's republic' know that expressing their opinion freely and publicly is not acceptable in armed group-controlled territory. When asked why no one would protest and publicly speak out against the 'republics', residents inform OHCHR that such actions would be unimaginable.

122. On 3 March 2016, the freelance journalist Maria Varfolomieieva – who was abducted by armed groups of the 'Luhansk people's republic' on 9 January 2015 – was released following the exchange for a detained female member of the armed groups. To many journalists seeking to report from the 'Donetsk people's republic' and 'Luhansk people's republic', her prolonged deprivation of liberty was a signal of the intolerance and danger of free opinion and expression in areas under the control of the armed groups.

123. On 8 March 2016 a group of five Russian journalists of 'Russia Today', 'Pervyi Canal', 'Pyatyi Canal', 'RIA Novosti' came under fire near Yasynuvata checkpoint of the 'Donetsk people's republic' on the Yasynuvata-Horlivka highway. Reportedly, the journalists were not injured. The journalists were identifiable and reportedly had communicated their coordinates to the military forces present in the area. OHCHR recalls that journalists enjoy special protection during armed conflict under international humanitarian law.

124. On 1 May 2016, at the Kurakhove checkpoint several 'officers' of the 'ministry of state security' of the 'Donetsk people's republic' denied entry to two British and one Australian journalists working for the Turkish media outlet 'TRT World' despite having received accreditation on 29 April. The reason for the denial is not confirmed.

125. OHCHR has observed a further stifling of media providers who operate on the territories controlled by the armed groups. In addition to the 150 websites that were previously banned by the 'ministry of justice' of the 'Luhansk people's republic' on 22 March 2016, the 'ministry of information, press and mass communications' registered an 'order'<sup>82</sup> prohibiting operators and providers of telecommunications services to disseminate information in violation of the 'Luhansk people's republic' rules. According to the 'ministry of justice', such restrictive measures had been taken to further protect the 'national security of the republic'.

126. OHCHR received information that armed groups are directly influencing and shaping the content in local media when it comes to depicting the leaders of the armed groups as well as the conflict-related developments. According to local journalists only a very few Internet websites or online channels provide a platform where people and media professionals can freely express their views without censorship.

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<sup>82</sup> Order' of the 'Ministry of Information, Press and Mass Communications' of the 'LPR' on March 22, 2016 № 10-OD "On the prohibition of the dissemination of information resources that publish information in violation of the 'Luhansk People's Republic' legislation and ban of broadcasting" registered in the Ministry of Justice LC April 25, 2016 for № 181/528

## V. Economic and social rights

*“Why us, why us? It is not a life. We are a family of six surviving on two pensions. Neither of us can afford medication. They would have better killed us here than suffering like this”*

- Elderly woman with cancer living in Donetsk city

127. Two years of conflict have significantly affected the enjoyment of social and economic rights of civilians throughout Ukraine. Measures introduced by the November 2014 decisions<sup>83</sup> of the Government of Ukraine continue having a detrimental impact on civilians living in the areas controlled by armed groups. The withdrawal of all public services resulted in decreased protection and greater vulnerability of the population. Unless registered in the Government-controlled areas, citizens cannot access their social entitlements, bank accounts or civil registration documents.

128. According to the Ministry of Social Policy of Ukraine, there are 1.78 million registered internally displaced persons (IDPs). Many IDPs are denied their rights and equal protection under the law. The law on local elections of 14 July 2015 excluded IDPs from voting in the October 2015 local elections. OHCHR interviewed a Crimean IDP who through multiple court procedures received the right to vote in one of the rounds of the 2015 local elections. OHCHR urges the Parliament to adopt legislative acts to ensure the voting rights of IDPs, and calls attention to the fact that durable solutions that would ensure their integration have not yet been developed. IDPs continue to live in great insecurity and may be at risk of becoming second-class citizens.

129. Victims of torture, families of the missing and demobilized soldiers have difficulties accessing necessary rehabilitation services. Adequate State services remain largely unavailable.

130. The entire population of Ukraine has been affected by the deteriorating economic situation. According to a World Bank report<sup>84</sup>, the ongoing armed conflict has put a significant burden on the national budget. Military expenditure represents an estimated 5 per cent of GDP for 2016 (almost four billion USD). On 1 March 2016, the NGO Patients of Ukraine organized a peaceful demonstration outside the Cabinet of Ministers to raise awareness about the budget currently lacking UAH four billion (USD 157,201.96) for life-saving medication. On 7 April, the World Bank<sup>85</sup> set out that the annual GDP growth rate for Ukraine in 2015 was negative 10 percent, with the sharpest decline in private consumption in all of Eastern Europe and Central Asia<sup>86</sup>.

131. On 16 March 2016, the Cabinet of Ministers adopted the national Strategy to Overcome Poverty<sup>87</sup>, indicating that 23.8 per cent<sup>88</sup> of the population lived under the relative poverty line.

<sup>83</sup> The Decision of the National Security and Defence Council of 4 November On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions, enacted by the Decree of the President of Ukraine Nr. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine Nr.595 as of 7 November 2014, On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions.

<sup>84</sup> 25 February 2016 – World Bank Workshop report: Conflict in Ukraine and the road ahead

<sup>85</sup> World Bank, “The economic outlook for Europe and Central Asia,” 7 April 2016 (accessible at: <http://pubdocs.worldbank.org/pubdocs/publicdoc/2016/4/684961459973316876/Presentation-ECA-Economic-Update-April-2016.pdf>)

<sup>86</sup> UNDP January: Socio-Economic Risk and Vulnerability Assessment

<sup>87</sup> The Order of the Cabinet of Ministers Nr. 161-p, 16 March 2016.

<sup>88</sup> The estimates were made in 2015.

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132. The International Organization for Migration (IOM) is concerned that the continued deterioration of the economic situation in Ukraine may create conditions that encourage the growth of human trafficking. NGOs providing services to victims of trafficking in regions with a high influx of IDPs reported to OHCHR that while the number of identified victims remains low, it was noted that local men are more eager to go abroad (predominantly to the Russian Federation and Poland) to find employment as there are very few opportunities in the region. It is particularly concerning that due to the same factors even those who have experienced exploitation in the past still continue to accept labour that may lead to repeated exploitation. Traffickers are also targeting IDPs, who are often most economically vulnerable. Currently, a counter-trafficking NGO in Kharkiv is providing rehabilitation services to two sisters from Torez who were trafficked to Finland and three young men from Donetsk region, who reportedly were exploited in the Russian Federation.

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

133. On 17 February 2016, the Parliament held its first hearing since the start of the conflict on the situation of IDPs and citizens of Ukraine living in the territory not controlled by the Government. Based on this hearing and in coordination with civil society<sup>89</sup>, the Parliament adopted a comprehensive set of recommendations, foreseeing the establishment of a central coordination body on IDP matters. This has materialized with the establishment of a new Ministry on temporarily occupied territories and IDPs, on 14 April 2016<sup>90</sup>.

134. On 21 February 2016, the Cabinet of Ministers announced a residence verification process for IDPs as a condition for entitlements and benefit payments. On 16 February, the Ministry of Social Policy instructed its regional offices and local departments to suspend all social payments for IDPs, pending verification of their presence in Government-controlled territory, with the view to combating fraud. Previous regulations introduced in November 2014 linked eligibility to social entitlements (pensions, disability benefits, maternity leave and assistance to single parents and families with more than three children), to IDP registration. As a result, persons internally displaced but not registered as an IDP are denied entitlements, which is in violation of the 16 October 2015 Supreme Administrative Court decision.

135. Available information indicates that following the Cabinet of Ministers' decision, SBU provided regional administrations with lists of individuals, recommending that their social entitlements be revoked pending verification. OHCHR reviewed a list which SBU submitted to the regional administration in Kharkiv. It seems to have been developed based on information from the SBU database of individuals who received permits to cross the contact line. OHCHR has interviewed IDPs in Donetsk, Luhansk, Kharkiv, Dnipropetrovsk, Kramatorsk and Zaporizhzhia regions about the impact of the verification process, and has noted widespread concern about the criteria and their application.

136. According to international human rights law<sup>91</sup>, the usage of personal data must not be discriminatory. Furthermore, even in the context of fighting terrorism, data collection and processing should be proportionate to the aim for which the collection and processing are foreseen. Such misuse of information about the people who have applied for permits has adversely affected their ability to enjoy

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<sup>89</sup> Resolution of the Parliament of Ukraine 'On recommendations of the parliamentary hearings on human rights situation of the internally displaced people and citizens of Ukraine living in the temporarily occupied territory of Ukraine and the territory uncontrolled by the Ukrainian authorities in the area of the anti-terrorist operation', No. 4273 of 18 March 2016.

<sup>90</sup> Cabinet of Ministers Resolution 4424, 14 April 2016

<sup>91</sup> ICCPR General Comment No. 16: Article 17 (Right to Privacy) of the Human Rights Committee, The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, adopted on 8 April 1988; Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers on 11 July 2002 at the 804th meeting of the Ministers' Deputies.

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their economic and social rights and raises concerns as to how such information may be further used. OHCHR also conducted an interview<sup>92</sup> with IDPs from Crimea who allege their right to privacy has been violated by the administration of the temporary facility where they reside, whose administration allegedly opened their correspondence.

137. On 1 April, the local department of social protection in Berdiansk published a post on its website encouraging residents of the city to verify the factual residence of IDPs according to a published list of addresses. The representatives of the department argued that their intent was to ease the verification process for IDPs and avoid long queues. Yet, it is of serious concern that a host community was encouraged by officials to provide information on IDPs in this manner, potentially impacting prospects for local integration and exposing IDPs to negative sentiments. The post was removed on the same day, but led to negative reactions in social media.

138. The new regulations have had a particular impact on older persons and people with disabilities whose limited mobility impedes their access to social protection departments and/or pension funds to verify whether they have been included in the lists or to prove their residence address. As a result, vulnerable IDPs have suffered from groundless suspension of their social entitlements and pensions without prior notification, depriving some of any means and exposing them to impoverishment. OHCHR interviewed a woman<sup>93</sup> with disabilities in Kramatorsk, who is an IDP and the single parent of a 13-year-old daughter. She incidentally discovered that she was on the “suspicion list” and, when she went to the pension fund, found that all her other social payments had also been cut, including her disability pension.

139. On 28 March and 5 May 2016, OHCHR and the United Nations High Commissioner for Refugees addressed a joint letter to the Government of Ukraine, recommending a transparent process be put in place for IDP status verification, a mechanism to appeal such decisions, and de-link social entitlements, which are not connected to displacement, with IDP status. The Government of Ukraine has not yet responded to the letter.

140. In addition, contradicting provisions of recent legislative acts further hinder internally displaced persons from accessing their social entitlements and rights. Amendments to the IDP law of 24 December 2015 simplified procedures for IDP registration by cancelling the requirement to have a stamp from the State Migration Service in their IDP certificate to prove their place of residence. However, the Cabinet of Ministers failed to meet the three-month transitional period to amend its bylaws and procedures to comply with the new state of legislation. Reinstatement of benefit procedures has varied by location, creating confusion. As a result, social protection departments at the local level still require a stamp from the State Migration Service. At the same time, according to the amendments to the Law “On the Freedom of Movement and free choice of residence”, which entered into force on 4 April, the Migration Service no longer can confirm the place of residence, as this function was delegated to the administrative service centres.

141. The requirement that IDPs be physically present to renew bank cards to receive social entitlements, as set out in the Cabinet of Ministers Resolution 167, further discriminates against people with disabilities or limited mobility, and those living in areas controlled by the armed groups.

*Territories controlled by armed groups*

142. Access to employment remains one of the biggest challenges in the areas controlled by armed groups. According to the ‘employment centre’ in Donetsk

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<sup>92</sup> HRMMU interview, 22 April 2016.

<sup>93</sup> HRMMU interview, 8 April 2016.



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city, in the period from 1 January to 3 May 2016, some 29,000 people were officially registered as unemployed, out of them only 5,600 were able to find permanent employment.

143. Coal miners and railway employees appear to be among the most affected by the armed conflict, as their two industries have either ceased operations or dramatically reduced their activities. Many receive reduced salaries with severe delays, or not at all. Most are not eligible for humanitarian assistance as they are not considered to be of a vulnerable demographic. Railway workers in Yenakiieve and Debaltseve have been officially registered on the Government-controlled side and had to cross the contact line in order to get paid; however they have not received salaries from the Ukrainian Government since February 2016. The employees are concerned about the lack of payment as well as the lack of clarity regarding their future. Approximately 70 per cent of the railway employees are women.

## **B. Civil registration and access to public services**

144. Civil registration documentation, such as birth and death certificates, issued in the territories controlled by the armed groups are not valid in Ukraine. Such documentation remains a prerequisite to access certain types of public services. The documents are only recognized by Ukraine after a court procedure, in violation of international jurisprudence requiring recognition through an administrative procedure – rather than a court.

145. The new simplified court procedure introduced by the Ministry of Justice set out that individuals have to travel to the territory controlled by the Government of Ukraine, pay a court fee of approximately UAH 275.60 (USD 10), and that the process will take on average between one and three days. This has reportedly reduced the waiting time to access entitlements conditional upon a recognized birth certificate.

146. Interviews conducted by OHCHR show that identification documents impact people's access to entitlements and social services. OHCHR was informed that orphans evacuated from areas controlled by the armed group- and former detainees transferred from such areas often do not have identity documents, which prevents them from accessing education, employment, humanitarian or social assistance. While this has been known since 2014, the Government of Ukraine has still not developed a procedure on how to restore documents. People living in the areas controlled by armed groups who need to renew their passports face further complications.

### *Territories controlled by armed groups*

147. OHCHR is concerned that civilians who return to the territories controlled by the armed groups may be at risk of discrimination and viewed as “traitors”. According to HRMMU interlocutors, a special procedure of ‘public voting’ can be applied to decide whether a returnee can or cannot be employed, especially as a doctor, teacher or a civil servant.

148. Since 16 March 2016, the ‘Donetsk people’s republic’ started issuing its own ‘passports’. Priority was given to those who reached the age of 16, 25 or 45 (age at which the passport is issued for the first time or requires an update) or those who lost their identification documents. Reportedly, 34,000 ‘passports’ will be issued by June 2016<sup>94</sup> and will be required for people to be able to vote, but will not affect access to other public services. It is of concern that unless children aged between 16-18 living in armed group-controlled areas cross the contact line to apply

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<sup>94</sup> Donetsk News Agency, “More than 34 thousand passports of ‘republican’ issue will be issued to young citizens of the DPR by summer,” 16 March 2016, (accessible at: <http://dan-news.info/politics/bolee-34-tysyach-pasportov-respublikanskogo-obrazca-do-leta-poluchat-molodye-grazhdane-dnr-zaxarchenko.html>)



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and obtain Ukrainian passports, they will not have any identification documents recognized outside the areas controlled by the armed groups.

### **C. Housing, land, and property rights**

149. Housing, land and property rights remain a major concern for civilians living on either side of the contact line. The Ukrainian Government has not yet established a comprehensive response, including compensation mechanisms. Continued fighting and occupation of houses constitute impediments for people to permanently return to their homes. Furthermore, checking on their property is reportedly one of the main reasons IDPs return to the conflict affected area due to the reports of looting and further damage of civilian property.

150. During the reporting period OHCHR conducted a number of interviews revealing the use and seizure of private houses by the Ukrainian military. OHCHR also witnessed the military occupation of residential homes in Luhanske<sup>95</sup>. A house was occupied from 7 January 2015 to March 2016, looted and partially damaged by members of ‘Aidar’, ‘Dnipro-1’ battalions and soldiers of the Ukrainian armed forces. UAF left following the victims complaint about the occupation of her house submitted to the Department of the National Police of Ukraine, in Novoiar. However, the property is occupied by other groups. A private house<sup>96</sup> has been used by the military in Pshenychne village of Stanychno Luhansk district (Luhansk oblast) since December 2014, reportedly until present time. The police have not taken any measures following the complaints of the owner against the servicemen occupying his home. OHCHR observes that the local police and law enforcement is often unwilling to investigate violations of housing, land and property rights committed by the Ukrainian military.

151. During the reporting period a resident of Sloviansk successfully litigated damages to private housing inflicted in the course of the conflict. Unlike previous rulings on this matter, on 15 March 2016, the Donetsk Regional Court of Appeals in Bakhmut, ordered the State to compensate for the damage caused to a property as a result of shelling in June 2014. Referring to domestic anti-terrorism legislation<sup>97</sup>, the court reaffirmed the Government’s obligation to compensate for property damage resulting from “a terrorist act” regardless of the perpetrator. OHCHR welcomes this court decision and will monitor its implementation.

152. OHCHR welcomes the fact that on 25 March 2015 the Ministry of Regional Development, Construction, Housing and Communal Services of Ukraine created<sup>98</sup> a working group to develop the mechanism for compensation for property that was damaged as a result of the conflict, as envisaged in the National Human Rights Action Plan. During the reporting period, several legislative initiatives to pave the way for ensuring remedy for civilians whose property has been damaged were introduced for consideration by the Parliament. OHCHR urges the Government of Ukraine to put in place an effective mechanism for restitution and compensation for damaged property, taking into account relevant international human rights standards and best practices.

153. OHCHR met with IDPs residing in the collective centre on Kustanaiska Street, in Kyiv (under the auspices of the Ministry of Justice), including families with children, people with disabilities and elderly. The IDPs stated that they felt discriminated based on their origin. They referred to the disruption of communal services, such as electricity, heating and hot water, during harsh winter conditions. OHCHR observed a similar situation in Odesa’s collective centre where the Odesa Regional State Administration and the centre’s

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<sup>95</sup> HRMMU interview, 22 April 2016.

<sup>96</sup> HRMMU interview, 7 March 2016.

<sup>97</sup> Article 19 of the Law of Ukraine “On Combating Terrorism”, No. 638-IV of 20 March 2003.

<sup>98</sup> Order of the Ministry of Regional Development, Construction, Housing and Communal services of Ukraine №69 of 25 March 2016.

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administration failed to agree upon the accommodation terms of several dozens of IDPs with disabilities as was promised to the IDPs. As a result, at the end of April about 50 IDPs were served with eviction notices. As of 10 May, several families have already moved to another collective centre to avoid eviction. In these cases, IDPs cannot fully enjoy their right to housing.

*Territory controlled by armed groups*

154. In the territories controlled by armed groups, looting, seizure, damage and military use of property continues. During the reporting period OHCHR interviewed people who reported that their property had been looted and partially or fully destroyed by the armed groups in 2014 or 2015.

155. Some of the victims believed they were targeted due to expressing pro-Ukrainian positions<sup>99</sup>. A couple from Alchevsk in Luhansk region reported that their neighbour had witnessed the looting of their property by armed groups and heard them saying that “pro-Ukrainian” were living there, using a derogatory word (“Ukropy”). A similar case was reported by a man<sup>100</sup> from Sverdlovsk in Luhansk region who is a former serviceman and currently an IDP. On 27 June 2014 the man was allegedly detained by armed groups and subsequently interrogated and tortured by three persons who identified themselves as representatives of the Main Intelligence Directorate of the Russian Federation. He alleged that the armed groups destroyed his logistics business including 30 trucks, several stocks, garages, cars and equipment worth 20,000,000 UAH (approximately 780,000 USD) in total. According to the witnesses of the complete destruction of his property the armed groups used explosive devices jeopardizing the lives of peoples residing nearby.

156. In July 2014, a businessman in Druzhkivka<sup>101</sup> was kept for five days by the armed groups and tortured for resisting his business expropriation and refusing “to cooperate with new authorities”. His wife and daughter were threatened with sexual abuse and his business and property were looted.

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

157. The health care system in Ukraine generally suffered systemic challenges prior to the conflict and the situation of patients requiring lifesaving treatment has further deteriorated since 2014. The State budget allocated to the health sector only covers treatment for 30 per cent of people living with HIV, 37 per cent of patients with tuberculosis, 9 per cent of patients with hepatitis, 66 per cent of children with cancer and 27 per cent of adults with haemophilia<sup>102</sup>. In addition, tenders for the purchase of such treatment remains protracted, which may lead to interruption and therefore to serious risks for the patients.

158. The need for psychological assistance remains high both for many civilians and soldiers. OHCHR was informed about a dramatic increase in heart diseases and cancer, on both sides of the contact line, attributed by medical specialists to psychological hardship and stress. The Ministry of Defence reported that out of 200,000 soldiers who obtained the status of participants in the ‘anti-terrorist operation’, only 20,000 have received psychological services. Among civilians, children remain at particular risk and have specific psycho-social support needs in time of conflict which are largely unmet. Statistics from a well-known hotline for children, which averages 4,000 calls per month, shows that more than 40 per cent of the calls pertain to mental health issues.

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<sup>99</sup> HRMMU interview, 18 March 2016.

<sup>100</sup> HRMMU interview, 5 May 2016.

<sup>101</sup> HRMMU interview, 3 April 2016.

<sup>102</sup> NGO Patients of Ukraine, accessible at: <http://patients.org.ua/2016/03/01/uryad-spisav-pomirati-bilshe-100-tisyach-smertelno-hvorih-patsiyentiv/>

159. Whereas soldiers released from armed group captivity can access basic medical diagnostics and treatment free of charge, State services for civilians remain largely unavailable and are exclusively provided by civil society organizations. There is a crucial need to ensure the availability of tests for hepatitis and other blood-borne communicable diseases as conditions of detention combined with physical torture and ill-treatment make detainees particularly vulnerable to such illnesses. Currently, civilians who were deprived of their liberty by armed groups and have been released are not eligible for free testing or treatment, which is prohibitively expensive.

160. OHCHR received alarming reports about the lack of medical care in pre-trial detention facilities, sometimes leading to death in custody; particularly SIZO No. 7 in Mariupol, Stryzhavke SIZO No. 81 in Vinnytsia region, SIZO in Dnipropetrovsk No. 4, pre-trial detention facilities in Zaporizhzhia and Mariupol. Only basic medication is available for detainees and no proper diagnostic procedures are in place. Protracted pre-trial investigations and trial proceedings often result in detainees spending up to one year in these facilities. Without proper medical assistance, their health deteriorates dramatically due to a combination of poor nutrition, lack of fresh air and heating.

*Territory controlled by armed groups*

161. In the areas controlled by armed groups, medication remained largely unavailable and unaffordable. While in the main cities, private pharmacies offer a wide variety of basic medication, patients rarely can afford prescribed medication due to limited financial resources and high prices.

162. Access to specialized care remains extremely limited. Since November 2014, due to the Government's decisions<sup>103</sup> on the relocation of all public institutions, hospitals in the areas controlled by armed groups have not received life-saving medication. According to local interlocutors, the healthcare system there survived thanks to humanitarian assistance, which has enabled the provision of basic medical care. In the reporting period, OHCHR received information about the lack of HIV tests, diagnosis and anti-retroviral treatment for new patients, as well as of tuberculosis and oncological treatment.

163. Organizations working in the self-proclaimed 'Donetsk people's republic' reported that approximately 62,000 children and adults needed treatment against cancer and that 9,810 of these patients were in a critical condition. Some patients even come from the Government-controlled areas as the Donetsk oncology centre used to be one of the best in Ukraine. In February 2016, hospitals in the territories controlled by the armed groups ran out of specialized life-saving oncological medication which had been delivered by international humanitarian organizations in November 2015. Currently, it is no longer possible to provide radiotherapy, and the number of surgeries has decreased by half due to lack of equipment compared to the pre-conflict level. Moreover, 85 per cent of the diagnosis equipment is out of order. Access to quality healthcare services is further affected by the state of medical equipment, most of which could not be maintained during the conflict.

164. The World Health Organisation, as well as NGOs, reported that 15,000 people living in the 'Donetsk people's republic' and 7,000 in 'Luhansk people's republic' are in daily need of insulin, while the supplies are insufficient. The

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<sup>103</sup> The Decision of the National Security and Defence Council of 4 November On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions, enacted by the Decree of the President of Ukraine Nr. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine Nr.595 as of 7 November 2014, On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions. For more information see 8th OHCHR report in the Human rights situation in Ukraine, covering the period from 1 to 30 November 2014, paragraph 47.

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mortality rate among children with diabetes has increased due to the fact that the type of insulin delivered from the Russian Federation is of a different type to what patients used to receive before the conflict<sup>104</sup>.

165. The situation in the rural areas and the outskirts of cities is even more alarming due to the lack of professionals and/or the absence of medical facilities. Due to the shortage of medical personnel, remaining doctors are overstretched, telling OHCHR that they routinely receive 50-70 patients per day.

166. In Horlivka, it was reported that doctors refused to attend to elderly people unless paid and that some were not admitted at hospital due to their age. For instance, OHCHR interviewed a woman, whose elderly husband passed away on 27 February, after he was refused to be hospitalised due to the “lack of space for such patients”<sup>105</sup>. The ‘authorities’ told OHCHR that anyone could receive the care free of charge; however even on the outskirts of Donetsk civilians reported that if admitted to the hospital, patients are expected to cover all medical expenses, which is often unaffordable for many<sup>106</sup>.

167. The need for psycho-social services remained high. In the outskirts of Donetsk, Horlivka and Makiivka, which continue to be shelled, OHCHR noted that civilians, mainly women, often cry and show visible signs of distress while talking about their lives. The situation of approximately 400,000 children living in the territories controlled by the armed groups is most alarming, particularly as humanitarian actors face restrictions in providing psycho-social support.

## VI. Legal developments and institutional reforms

168. The reporting period was characterized by a number of legal developments which could positively affect rights-holders. Ukraine ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, thus opening the way for enhanced protection of children’s rights. The implementation of the National Human Rights Action Plan, adopted in November 2015 has started. Ukrainian citizens living in territories not controlled by the Government of Ukraine appear to have generally benefited from the simplified court procedure for the recognition of civil documents. The Government established a State Bureau of Investigation (SBI) whose work is expected to assist criminal justice reform. On the other hand, one year after its establishment, the National Agency on the Prevention of Corruption has not started operating. In addition, no noticeable progress has been achieved in amending the Constitution of Ukraine.

### A. Ratification of United Nations treaties

169. On 16 March, the Parliament of Ukraine ratified the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure<sup>107</sup>. While welcoming the recognition of the competence of the Committee on the Rights of the Child to receive and consider individual and inter-State communications, OHCHR notes that the ratification was accompanied by a declaration whereby the Government stated that the application and implementation by Ukraine of its obligations under the Optional Protocol was “*limited and not guaranteed*” on territories deemed to be occupied and uncontrolled, and that this

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<sup>104</sup> HRMMU meetings on 19 and 21 April 2016.

<sup>105</sup> HRMMU interview, 13 April 2016.

<sup>106</sup> HRMMU interview, 20 April 2016.

<sup>107</sup> Ukraine also ratified the 1952 ILO Social Security (minimum standards) Convention No. 102. It accepted obligations under the following parts of the Convention: Part II – Medical care, Part III – Sickness benefit, Part IV – Unemployment benefit, Part V – Old age benefit, Part VI – Unemployment injury benefit, Part VII – Family benefit, Part VIII – Maternity benefit, Part IX – Invalidity benefit, and Part X – Survivor’s benefit.

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situation would apply until the complete restoration of constitutional order in, and the effective control of the Government over this territory. This raises concern that people living in Crimea and in certain areas of the Donetsk and Luhansk regions controlled by armed groups may be prevented from submitting individual communications to the Committee.

## **B. Implementation of the Human Rights Action Plan**

170. During the reporting period, Government agencies began to implement the National Human Rights Action Plan, adopted on 23 November 2015. The Ministry of Justice published the quarterly implementation report gathering the inputs of all responsible authorities. The report indicates that the implementation of most of the 44 activities that were to be accomplished in the first quarter of 2016 is still on-going, while some activities have been implemented ahead of the expected period.

171. According to a preliminary OHCHR assessment and the monitoring conducted by some civil society organizations, some activities that were marked as completed in the report, in fact, were implemented only partially or not in substance. One of them is the development of amendments to the national anti-discrimination legislation. Paragraph 105(1) of the National Human Rights Action Plan provides for the elaboration of amendments to legislation so as to bring the list of prohibited grounds for discrimination in line with European Union directives, including sexual orientation and gender identity. In November 2015, the Parliament adopted amendments to the labour legislation introducing such prohibited ground in employment relations<sup>108</sup>. OHCHR urges the authorities to also reflect this provision in the general anti-discrimination legislation.

## **C. Criminal justice**

172. On 29 February, the Government formally established<sup>109</sup> the State Bureau of Investigation (SBI)<sup>110</sup>, which is mandated to investigate crimes committed by high-ranking officials, members of law enforcement, judges and members of the National Anti-Corruption Bureau and the Special Anti-Corruption Office of the General Prosecution, as well as military crimes, with the exception of disclosing military information constituting a state secret, which remains under the jurisdiction of the SBU. According to the law, the Head of SBI is to be selected by a special commission<sup>111</sup> whose composition was finalized on 29 March. Until the operationalization of SBI<sup>112</sup>, investigators of the relevant law enforcement bodies, prosecution system and security service will continue exercising investigative functions, which they were temporarily vested with, according to the transitional provisions of the Criminal Procedural Code<sup>113</sup>. The establishment of the SBI is an important step in the creation of an independent criminal justice system.

173. On 12 May, the Parliament made amendments to the transitional provisions of the Criminal Procedure Code modifying the conditions allowing for criminal proceedings to be carried out *in absentia*<sup>114</sup>. According to the amendments, which were enacted on the day of adoption, a lower threshold for proceedings *in*

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<sup>108</sup> Law of Ukraine 'On amendments to the national labour legislation concerning harmonisation of anti-discrimination provisions with the law of the European Union', No. 785-VIII of 12 November 2015.

<sup>109</sup> Decree of the Cabinet of Ministers 'On the establishment of the State Bureau of Investigation' No. 127, of 29 February 2016.

<sup>110</sup> Law of Ukraine "On the State Bureau of Investigation", No. 794-VIII, of 12 November 2015.

<sup>111</sup> Selection Commission consists of nine persons: three persons chosen by the government, three by the president and three by the parliament.

<sup>112</sup> The Criminal Procedural Code of Ukraine provides that it shall take place no later than 20 November 2017.

<sup>113</sup> The amendments to the transitional provisions of the Criminal Procedure Code made on 12 May enable the investigators of the prosecution system to complete the investigations in the cases that were opened before the launch of the SBI, but no longer than two years after the SBI has started to operate.

<sup>114</sup> Law of Ukraine 'On amendments to legislation concerning the activity of the Prosecutor General's Office', No. 1355-VIII of 12 May 2016.



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*absentia* will be applicable temporarily, until 15 April 2017. The modified conditions, however, appear to lack sufficient safeguards, which may lead to violations of due process and fair trial rights. For instance, an individual staying in the area of “anti-terrorist operation”, which includes the localities controlled by the Government, may be subjected to the proceedings *in absentia* having no knowledge about criminal charges against him/her.

#### **D. Civil registration**

174. The first results of the implementation of the simplified court procedure for the recognition of births and deaths occurring in the territories controlled by the armed groups in the east, as well as in Crimea show that during the first two months of implementation of the relevant amendments to the Civil Procedure Code of 4 February 2016, the Ukrainian registration authorities issued 1,085 birth certificates and 1,138 death certificates on the basis of court decisions, which are generally in favour of the applicants.

175. OHCHR recognizes progress resulting from the amendments to the Civil Procedure Code but is concerned about the cost of the procedure<sup>115</sup>, which frequently appears to be prohibitive for people with limited economic means. The National Human Rights Action Plan envisages the introduction of an administrative procedure to recognize births and deaths occurring in the temporary occupied and uncontrolled territories<sup>116</sup>. OHCHR encourages the Government to follow through by implementing this measure.

#### **E. Reform of the civil service**

176. On 1 May, the law “On the civil service” of 10 December 2015 entered into force. In general, OHCHR positively assesses the law as it enables a comprehensive reform of the civil service system and aims to eradicate corruption at State and local levels of government. It establishes a competitive system of selection for all civil service positions. The law provides for clear distinction between the civil service positions and other (political or patronage) posts. It also introduces an institute of professional managers at the Ministries - so called Secretaries of State. However, OHCHR remains concerned that the provisions of the law concerning the staff selection procedure may affect the independence of the Ombudsperson’s Office by authorising an external commission to nominate the Chief of Staff of the institution and entitling that person to appoint other staff members.<sup>117</sup> This also conflicts with the existing provisions of the law “On the Ukrainian Parliament Commissioner for Human Rights”.

177. On 28 March, draft amendments to the law ‘On the civil service’ were registered that would allow the Ombudsperson to recover his or her competence to appoint staff, had been compromised by the law “On the civil service”. OHCHR supports these amendments as they would prevent the risk of undermining the independence of the Ombudsperson’s Office and would reaffirm the autonomy of the institution, in accordance with the requirements of the Paris Principles<sup>118</sup>.

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<sup>115</sup> The court fees amount to 275.60 UAH.

<sup>116</sup> Paragraphs 126(3) and 129(1) of the National Human Rights Action Plan provide that in the second quarter of 2016, the Ministry of Justice is to elaborate “with the participation of non-governmental organizations and international experts, and taking into account international experience (Moldova), and submit for consideration to the Cabinet of Ministers, a draft law on amending the law of Ukraine ‘On the State Registration of Acts of Civil Status’ which shall establish administrative procedures for the registration of acts of civil status” occurring in Crimea and in certain districts of the Donetsk and Luhansk regions where State authorities temporarily cannot exercise their powers or do not exercise their powers in full.

<sup>117</sup> See the 13<sup>th</sup> HRMMU report covering 16 November 2015 to 15 February 2016, paragraph 180.

<sup>118</sup> See “Composition and guarantees of independence and pluralism,” Principles relating to the status of national institutions (the Paris Principles), approved by the General Assembly in 1993, annexed to General Assembly resolution, 48/134.



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## VII. Human rights in the Autonomous Republic of Crimea and the city of Sevastopol<sup>119</sup>

178. Two years ago, the Russian Federation assumed control over Crimea after a “referendum”, which was not authorized by Ukraine and had “no validity” according to UN General Assembly Resolution 68/262, was held on the peninsula. Since then, Crimean residents have witnessed a sharp deterioration of the human rights situation, including the imposition of a new legal framework restrictive of civil liberties, abductions and disappearances, the shutting down of opposition media outlets and the silencing of dissenting voices through the initiation of repressive measures, including abusive criminal proceedings, targeting mainly pro-Ukrainian activists and Crimean Tatar institutions.

179. During the reporting period, the activities of the Crimean Tatar Mejlis were banned after a ‘court’ declared the Mejlis to be an extremist organisation. Several ‘police’ operations targeted members of the Crimean Tatar community. A deputy head of the Mejlis was arrested. Court proceedings were held involving a Maidan activist. Freedom of expression contributed being curtailed as one journalist was accused under separatism charges and the Simferopol city authorities issued a decision to ban all public assemblies.

### A. Rights to life, liberty, security and physical integrity

180. Thus far in 2016, there have been no reports of disappearances due to possible criminal or political causes. However, nine people who went missing in 2014 and 2015 remain unaccounted for<sup>120</sup>. There are grounds to believe that they were abducted, allegedly by members of the so-called Crimean self-defence paramilitary group, while most were known for their pro-Ukrainian positions. There has been no progress in investigations into the death of Crimean Tatar activist Reshat Ametov, who was killed in March 2014 after being pulled out of a peaceful protest by men in military-style uniforms. Likewise, the cases of ill-treatment and torture of people illegally arrested in the run-up to, and after the March 2014 ‘referendum’, remain not investigated. The failure of the authorities to follow up on such serious cases creates an atmosphere of impunity and of insecurity, particularly for Crimean Tatars.

181. The ‘police’ arrested two Crimean Tatars in Krasnokamianka on 18 April and four in Bakhchysarai on 12 May. They were charged for their alleged membership in the Hizb-ut-Tahrir organization. A pan-Islamic religious group that is considered an extremist organisation and banned in the Russian Federation but not in Ukraine. Fourteen people in total, mostly Crimean Tatars, are currently in custody in Crimea awaiting trial for their membership in the organization. Four were arrested in 2015, and so far ten have been detained in 2016.

182. On 12 May, Ilmy Umerov, one of the three deputy heads of the Mejlis, was arrested by the Russian FSB in Simferopol and charged with the offence of making “public calls and actions aimed at undermining the territorial integrity of the Russian Federation”, an offence which carries a prison sentence of up to 5 years. The accusation against Mr. Umerov refers to statements he made to the Ukrainian media on March 2016 and internet publications. He was released on the same day but is under the obligation not to leave Crimea. Another deputy head of the Mejlis,

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<sup>119</sup> The Autonomous Republic of Crimea technically known as the Autonomous Republic of Crimea and the City of Sevastopol. OHCHR has not been granted access to Crimea and has no *in situ* presence there. It has been able to follow the human rights situation through contacts with Crimean residents on the peninsula and mainland Ukraine, and relying on a variety of interlocutors, including representatives of political, religious, civil society organizations, victims, relatives and witnesses of alleged human rights violations, members of the legal profession, journalists, entrepreneurs, teachers, doctors, social workers, human rights activists and other categories, including individuals with no specific affiliations. OHCHR has continued to seek access to Crimea.

<sup>120</sup> This number includes three ethnic Ukrainians and six Crimean Tatars

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Akhtem Chiihoz, has been detained in Crimea since 2015 for his alleged role in organizing violent protests on 26 February 2014.

183. OHCHR is increasingly worried about the growing number of large-scale ‘police’ actions conducted with the apparent intention to harass and intimidate Crimean Tatars and other Muslim believers. On 1 April, armed and masked people entered a café located in the village of Pionerske (Simferopol district) and started behaving rudely, destroying furniture, reportedly in search for drugs. They took 35 Muslim men, mostly Crimean Tatars, to the police ‘centre for countering extremism’ in Simferopol. The men were detained four hours, during which they were interrogated, photographed, asked what form of Islam they followed and what mosque they attended. Their fingerprints and DNA samples (saliva) were taken. They did not have access to legal counsel. They reported seeing other Muslim men - Chechens, Dagestanis, Azeris - who had previously been detained. Before being released, all had to sign protocols stating they had no complaints against the police. Attempts were reportedly made to recruit some as police informants. The Crimean ‘prosecutor’ declared on 2 April 2016 that actions of a ‘preventive’ character had been conducted in various night clubs and places of entertainment in the peninsula, stating that the police were looking for people who appeared in various ‘wanted’ lists.

184. On 6 May 2016, about 50 armed men stormed into a mosque in Molodizhne village of the Simferopol district after Jumu’ah service (Friday prayers). According to a Crimean Tatar lawyer, approximately 100 Muslims were taken in an unknown direction. Later, all were released but issued summonses to appear before the police in the coming days.

185. On 7 May 2016, the ‘police’ detained 25 Muslim men at a central market in Simferopol. The action was reportedly linked to the search for suspects in a murder case which occurred in Russia’s Krasnodar region. There was no explanation of the reason why Muslim residents had been targeted. After being interrogated, they were released and no charges were brought against them.

## **B. Minority and indigenous peoples’ rights**

186. On 26 April, the ‘supreme court of Crimea’ declared the Mejlis - a self-governing body of the Crimean Tatar people - to be an extremist organization and banned its activities in Crimea. In addition to prohibiting any public activity and the use of bank accounts, the decision means that the estimated 2,500 members of the national and local Mejlis bodies can now incur criminal liability and could face up to eight years in prison for belonging to an organization recognized as ‘extremist’. The judgment was passed following a petition filed on 15 February 2016 by the ‘prosecutor of Crimea’ who accused the Mejlis of inciting violence and actions aimed at disrupting the territorial integrity of the Russian Federation. Earlier, on 13 April 2016, the ‘prosecutor of Crimea’ had suspended the activity of the Mejlis pending the ‘supreme court’ decision and the Ministry of Justice of the Russian Federation had included the Mejlis in the general list of public and religious associations whose activity in the Russian Federation has been suspended.

187. The chairman of the Mejlis, Refat Chubarov, informed OHCHR that prior to the Mejlis ban, on 19 February, a majority of its members (23 out of 33) had given him the power to issue decisions on behalf of this institution if “insurmountable circumstances” would prevent its normal functioning. Using this authority, Mr. Chubarov set up on 26 April a 9-member “special council”<sup>121</sup> with decision-making powers, which have assumed the functions of the Mejlis. The council is based in Kyiv.

188. OHCHR considers that the decision to outlaw the Mejlis confirms the significant restrictions already imposed by the *de facto* authorities on this institution

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<sup>121</sup> The “special counsel” includes Mustafa Dzhemilev and eight Mejlis members, including Refat Chubarov,

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since March 2014. The ‘judgment’ refers to Russian Federation anti-extremism legislation of 2002, which allows for a wide interpretation of what may constitute extremism and unduly restricts internationally recognized freedom of speech standards. In addition, the ‘ruling’ appears to be based on prejudicial evidence and could be perceived as a collective punishment against the Crimean Tatar community.

### **C. Due process and fair trial rights**

189. OHCHR has been following legal proceedings involving Andrii Kolomiets, a Maidan activist arrested in the Russian Federation on 15 May 2015, and transferred to Crimea (Simferopol), where he has been held in custody since 13 August 2015. A Ukrainian citizen from the region of Kyiv, he is accused of murder or attempted murder of a law enforcement officer during the Maidan protests in Kyiv and of possession of drugs. If found guilty, he risks a prison sentence of up to 20 years. During a court hearing, on 30 March, Mr. Kolomiets’ lawyer stated his client had been tortured following his arrest, which was allegedly confirmed by a witness of the defence. The lawyer also claimed that the charges had been fabricated and that Mr. Kolomiets was forced to testify against Oleksandr Kostenko.

190. The Kolomiets case follows a pattern observed in the Kostenko case and the legal proceedings against the deputy head of the Mejlis and six other Crimean Tatars<sup>122</sup>. All have been convicted or indicted on the basis of legislation introduced after the March 2014 ‘referendum’ for facts which occurred before that date. This raises serious concerns of compliance with the principle of legality, and particularly the retroactive application of the law.

### **D. Violations of the right to freedom of peaceful assembly**

191. On 7 March 2016, the ‘head’ of the Simferopol city administration prohibited by decree all rallies and other public events on the territory of the city, with the exception of those organized by the *de facto* and local authorities. Restrictions to public events - which have been applied since 22 November 2015 due to the state of emergency proclaimed by the *de facto* authorities following the interruption of energy supplies from mainland Ukraine<sup>123</sup> - were amended to enact a total ban.

192. This blanket prohibition of public gatherings is the latest in a pattern of serious violations of the fundamental freedom to hold peaceful public assemblies. No recent deterioration of public order in Simferopol would justify such a drastic measure.

193. In the other Crimean territorial unit, the city of Sevastopol, a protest action planned by the “Union of Entrepreneurs of Sevastopol” on 15 April was banned by reference to a decree of the Governor imposing a state of emergency limiting the conduct of public events in the city of Sevastopol as of 22 November 2015. However, the protestors who intended to criticize the policy decisions of the Governor of Sevastopol in the socio-economic sphere, defied the ban. They conducted their protest rally, which was peaceful and did not lead to any ‘police’ intervention.

### **E. Violations of the right to freedom of opinion and expression**

194. On 1 April 2016, a new television channel (*‘Millet’*) in the Crimean Tatar language started satellite broadcasts from Crimea. Ruslan Balbek, a ‘deputy prime minister’ of the *de facto* government, declared that the aim of the channel was to counter “anti-Russian propaganda.”

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<sup>122</sup> See 13<sup>th</sup> HRMMU report covering 16 November 2015 to 15 February 2016, paragraph 187.

<sup>123</sup> See 13<sup>th</sup> HRMMU report covering 16 November 2015 to 15 February 2016, paragraphs 199-200

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195. On 1 April, during a search at the Department of All-Ukrainian Shevchenko Society “Prosvita” (“Enlightenment”) in Sevastopol, Russian Federal Security Service (FSB) officers seized over 250 books. FSB officials stated that 18 copies of 9 editions figured in the federal list of extremist material, claiming the confiscated literature was meant to propagate “Ukrainian nationalism and separatist ideas among the inhabitants of Russia.”

196. On 19 April, Mykola Semena, a contributor to a news site about Crimea run by Radio Free Europe/Radio Liberty (RFE/RL) was arrested in Crimea by the ‘police’ acting upon a request of the ‘prosecutor of Crimea’. He was accused of issuing “calls for undermining the territorial integrity of the Russian Federation via mass media” and faces up to 5 years in prison. After being interrogated, Mr. Semena was released but ordered as a pre-trial measure of restraint not to leave the peninsula while investigations are underway. On the same day, the ‘police’ also searched the homes of several local journalists and confiscated computers and data allegedly proving that materials of an extremist character had been under preparation.

## **F. Violation of the right to freedom of movement**

197. In addition to the absence of air, maritime or railway links between mainland Ukraine and Crimea, freedom of movement was further restricted by a decision taken on 1 April 2016 of the *de facto* authorities affecting the use of vehicles. All Crimean residents were required to re-register their vehicles by switching to Russian number plates by 1 April 2016, or face administrative sanctions, including the prohibition to use their vehicle for up to three months. OHCHR is aware of cases where people who temporarily left for mainland Ukraine before April 2016 without having changed their number plates were prohibited from returning to the peninsula with their vehicles after 1 April 2016. Another worrisome aspect of this decision is that re-registration is conditioned upon the possession of a passport of the Russian Federation. Those who have refused Russian Federation citizenship (and passports) will thus be denied the possibility to use a vehicle.

## **G. Transfers of persons deprived of their liberty outside of Crimea**

198. According to several sources, including the Ukrainian Ministry of Foreign Affairs, at least 179 prisoners were transferred from Crimea to penitentiary institutions in the Russian Federation since March 2014. The majority of cases concern people who were sentenced in Crimea before Ukraine ceased exercising effective control over the peninsula. This raises serious concerns about the retroactive application of laws. Moreover, while many were later amnestied under Ukrainian law, the *de facto* authorities have refused to release them.

199. A number of people transferred to the Russian Federation had been arrested by the *de facto* authorities after the March 2014 ‘referendum’, including Oleh Sientsov, Oleksandr Kolchenko, Hennadii Afanasiev and Oleksii Chyrynii, all arrested in Simferopol in May 2014 and sentenced for terrorism by Russian Federation courts<sup>124</sup>. Transfers to remote facilities, often difficult to reach from Crimea, endanger the family links of detainees.

200. According to a report of the *de facto* ‘Crimean Ombudsperson’ for 2014, 22 convicts serving their sentences in Crimea filed petitions to be extradited to Ukraine after the March 2014 ‘referendum’ and 18 rejected Russian citizenship in writing. However, information at the disposal of OHCHR indicates that no prisoners have yet been sent back to mainland Ukraine.

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<sup>124</sup> Oleh Sientsov is believed to be in Yakutsk, Oleksandr Kolchenko in Kopeysk (Chelyabinsk region), and Gennady Afanasiyev in Mikuni (Republic of Komi). Aleksey Chirnyi is believed to be in a psychiatric hospital in Moscow since August 2015.

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## **H. Conscription into military service**

201. A representative of the Armed Forces of the Russian Federation stated on 31 March that close to 2,000 Crimean residents would be called to serve in the army in the spring of 2016. He added that, as in 2015, Crimean conscripts would serve on the territory of the Crimean peninsula. Crimean Tatar representatives told OHCHR that members of their community had received military notifications and that failure to present themselves at recruiting centres could expose them to criminal sanctions.

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

202. On 3 April, a Crimean woman died as a result of delays in getting medical treatment. The woman sought to be admitted to a public hospital in Simferopol but was initially refused access because she did not have a medical insurance. It should be noted that one can only benefit from medical insurance if she or he possesses Russian Federation citizenship and a Russian passport, which the woman had rejected in 2014. After her condition worsened due to high blood pressure, she was admitted to the hospital but died of a heart attack in the reception room. OHCHR documented a similar case occurred in December 2015<sup>125</sup>. OHCHR recalls that the refusal to hospitalize anyone with a serious health condition - including due to his or her origin or status, such as citizenship - constitutes a grave violation of the internationally protected right to the highest attainable level of physical and mental health.

## **VIII. Conclusions and recommendations**

203. Only the full implementation of the Minsk Agreements will result in conditions allowing due respect for international human rights norms. In order to ensure that Ukraine's international human rights and humanitarian law commitments have a genuine impact for individuals, OHCHR has provided support to the Government to develop the National Human Rights Strategy and Action Plan, and will continue to monitor its implementation. It will expand its work to further support and advise the Government, parliament, the Ombudsman Institution, civil society and the international community on means and ways to ensure that recommendations made by the UN Human Rights mechanisms, as well as OHCHR through its reporting, are transformed into action that bring about meaningful change in the protection of human rights.

204. OHCHR has already provided advisory services by commenting on a number of draft pieces of legislation including on missing persons, the civil service and advocated for legal amendments regarding freedom of movement for civilians and equal protection under the law for IDPs. By highlighting where draft legislation falls short of international standards, OHCHR has assisted the Government in complying with its international obligations. This has bolstered the protection afforded under Ukrainian domestic legislation. By further monitoring the implementation of legislation, OHCHR is working to ensure that all people in Ukraine benefit from equal protection under the law, particularly those in conflict-affected areas.

205. Ukraine has an important reform agenda, that OHCHR will continue monitoring, built around strengthening democratic institutions and public trust and fighting corruption. The success of reforms will depend, in large part, on the ability to establish an independent justice system, where judges will feel protected and be able to work free from political interference and other forms of pressure aimed at influencing judicial decision-making.

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<sup>125</sup> See 13<sup>th</sup> HRMMU report covering 15 November 2015 to 15 February 2016, paragraph 195.



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206. OHCHR has also advocated on critical issues which may threaten to undermine human rights, including equal access to civil documentation, *incommunicado* detention and the use of torture and ill-treatment, and arbitrary deprivation of liberty, among others. OHCHR's advocacy has yielded an improvement in some of these areas: conditions of detention in certain locations has improved following OHCHR visits, the adoption of a simplified court procedure for the recognition of civil documents for births and deaths in armed group-controlled areas, and transfers of pre-conflict detainees from armed group-controlled areas to Government-controlled territory by facilitating the work of the Ombudsperson's Office.

207. Monitoring the human rights situation in Ukraine and engaging with relevant authorities has also allowed OHCHR to identify areas where the international community can focus its support. Particular attention and resources have been dedicated to working with humanitarian actors to ensure that OHCHR's human rights findings could be utilized to shape a protection-focused response to address the needs of the most vulnerable in the conflict-affected population.

208. Bringing a meaningful end to hostilities in the eastern regions of Ukraine and fully complying with the provisions of the Minsk Agreements is critical and the only viable strategy for achieving a peaceful solution to the conflict. The parties to the conflict, as well as influential States, must ensure that civilian protection and accountability for violations and abuses of human rights and violations of international humanitarian law are discussed during the Minsk Talks. The restoration of full control by the Government of Ukraine over parts of the border with the Russian Federation in certain areas of Donetsk and Luhansk regions, the withdrawal of foreign fighters, pull-out of all heavy weaponry, pardon and amnesty through law and with due regard for human rights is critical. OHCHR reiterates that an environment conducive to the promotion and protection of human rights in Ukraine – and in particular in the Autonomous Republic of Crimea – depends on respect for General Assembly resolution 68/262 on the territorial integrity of Ukraine.

209. OHCHR's civilian casualty documentation work has also acted as a reference for many international – and national – actors seeking to understand the human cost of the ongoing armed conflict. The statistics and analysis provided by OHCHR on civilian casualties, the location of each incident, and disaggregated data on the cause of death or injury can also help inform civilian casualty mitigation efforts by the Ukrainian armed forces and armed groups.

210. OHCHR's monitoring and reporting from Donetsk and Luhansk regions serves to inform policy and decision-makers, as well as Ukrainians at large, about the realities of life under armed group control and the socio-economic conditions of those living in close proximity to the contact line. OHCHR has acted as a link between detainees in Government facilities and their families in armed group-controlled areas. OHCHR has also worked to maintain links between people across the contact line, through conducting cross-line field visits, monitoring the freedom of movement, and advocating for free and safe passage of civilians.

211. OHCHR has issued recommendations in each of its public reports. These recommendations have served as the foundation for OHCHR's engagement with Government and armed groups toward respect human rights standards. The recommendations draw from OHCHR's interviews with civilians living on either side of the contact line, their immediate protection needs and long-term human rights concerns. They include a number of immediate and medium-term domestic human rights measures that could contribute to the outcome of sustainable peace and address systemic human rights abuses and violations, as any durable solution to the ongoing crisis must also address the underlying nature of human rights abuses and violations in Ukraine. Recommendations made in OHCHR reports on the human rights situation in Ukraine published since April 2014, which have not yet



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been acted upon or implemented, remain valid. OHCHR calls upon all parties to also implement the following recommendations:

**212. To the Government of Ukraine:**

- a) The Ministry of Defence and Ministry of Internal Affairs to ensure that its armed and constituent forces take all feasible precautions in attack, and protect civilians and persons *hors de combat*;**
- b) Investigate and provide remedies in relation to all incidents of damage, confiscation and looting of property, including by the Ukrainian armed forces; establish a mechanism for restitution and compensation for damaged property, taking into account international human rights standards and best practices;**
- c) The General Prosecution and Military Prosecution to ensure equal treatment under the law, including through uniform charging of criminal conduct and through requesting proportional sanctions;**
- d) The ‘Anti-Terrorism Operation’ Prosecutor’s Office to conduct effective, independent and prompt investigation of all allegations against officials accused of extrajudicial killing, arbitrary detention, torture and other forms of ill-treatment, inhuman detention conditions, denial of the right of access to lawyer and doctor;**
- e) The Security Service of Ukraine (SBU) to treat all persons detained in the context of the ‘anti-terrorism operation’ humanely and without adverse distinction in compliance with binding international human rights law and standards;**
- f) The SBU to cease the practice of extracting confessions or self-incriminating statements under duress and to immediately release any individuals in unlawful detention;**
- g) The Ministry of Justice and Penitentiary Service to facilitate contact of detainees with the outside world, including through taking measures to ensure that detainees whose families are in armed group-controlled areas can communicate with their relatives at regular intervals, both through correspondence and receiving visits;**
- h) The Government to establish an independent and impartial, centralized State authority for tracing missing persons and identifying human remains, with sufficient capacity and reach to carry out its mandate effectively;**
- i) The Ministry of Justice to initiate the waiving of the court processing fee in civil registration cases stemming from the armed group-controlled territories and the Autonomous Republic of Crimea, in order to ensure equal access and protection of the law without discrimination on the basis of origin and place of birth or residence;**
- j) The Cabinet of Ministers to implement the Supreme Administrative Court decision of 16 October 2015 to pay pensions to all citizens of Ukraine, regardless of their place of origin or residence; de-linking of the payment of social entitlements such as pensions and other benefits from IDP registration;**
- k) Parliament, the General Prosecution and the National Police to adopt and take effective measures to protect judges from interference and pressure in high-profile cases such as the ongoing 2 May 2014 violence trials in Odesa;**

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- l) The SBU to review the legality, necessity and proportionality of the provisions of the Temporary Order vis-à-vis imposed restrictions on the freedom of movement, delivery of medication and foodstuffs and other basic supplies;
  - m) Parliament to draft and adopt legislation providing free legal aid to internally displaced persons, who are currently denied such services; and to implement the IDP law of 6 January 2016 requiring harmonisation of contradicting legislative acts concerning the registration of IDPs;
  - n) The Parliament to amend the Law on fighting terrorism allowing a person suspected of terrorism to be held in preventive detention for up to 30 days without initiating criminal proceedings and appearing before a court; and to ensure, in particular, compliance with article 9(3) of the International Covenant on Civil and Political Rights (ICCPR);
  - o) The Government to establish a mechanism for periodic independent review by the Parliament of the necessity of measures derogating from the ICCPR and lift the derogation as soon as it is no longer strictly required;
  - p) Law enforcement agencies should take measures to secure assemblies and protect protesters regardless their political affiliation, sexual orientation, origin or nationality, and investigate cases of violations in due course;
  - q) Law enforcement agencies should ensure immediate and effective investigation of allegations of hate crimes based on ethnicity, religion or other grounds, to prevent impunity and guarantee access of victims to legal redress;
  - r) SBU, National Guard and State Border Service to facilitate free and unimpeded passage by civilians across the contact line by increasing the number of transport corridors and entry-exit checkpoints;
  - s) Law enforcement to document and investigate all allegations of conflict-related sexual violence and ensure that services for the survivors (male, female, boys and girls) are created;
  - t) Parliament and Cabinet of Ministers to put in place specific measures ensuring protection of civil society, journalist and whistle blowers engaged in anti-corruption work.

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

- a) Ensure free and unimpeded passage of civilians across the contact line;
- b) Facilitate access for human rights monitors and legal counsel providers' to the checkpoints established as per the Temporary Order ensuring effective mechanisms for civilians to report complaints or human rights abuses and violations;
- c) Immediately release all persons arbitrarily deprived of their liberty without delay and in conditions of safety;
- d) Treat all persons deprived of their liberty, civilian or military, humanely and according to international human rights and humanitarian law standards;

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- e) Ensure unimpeded access of OHCHR and other international monitors to the places of deprivation of liberty in the conflict zone, including unofficial and ad hoc locations;
  - f) Commit to not pass 'sentences' or carry out executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees recognized as indispensable, recalling that such acts violate binding provisions of Common Article 3 of the Geneva Conventions and incur individual criminal responsibility under international criminal law;
  - g) Address all allegations of conflict-related sexual violence and ensure that services for the survivors (male, female, boys and girls) are created and available, as well as services for victims of torture, including by facilitating the work of international humanitarian actors;
  - h) Ensure that the bodies and remains of people killed as a result of hostilities are treated with due respect and dignity, providing free and safe access to areas where bodies are buried, ensuring their identification and return to their families. Preserve evidence of possible summary executions, bearing in mind future accountability;
  - i) Respect the housing, land and property rights of displaced persons, including taking measures to ensure that civilian property is not used for military purposes;
  - j) Ensure that returnees are guaranteed their housing, land, and property rights, and do not face discrimination upon return to their homes;
  - k) In line with the international customary and international humanitarian law, guarantee the right to freedom of religion or belief and the right not to be subjected to discrimination on any grounds, including religious affiliation;
  - l) Ensure that freedom of expression, freedom of association and freedom of assembly can take place in the territories controlled by the armed groups allowing the implementation of free and fair elections envisioned as part of the Minsk Package of Measures;
  - m) Continue to cooperate towards the transfer of pre-conflict detainees to Government-controlled areas to serve their sentences and the transfer of pre-conflict case materials and files with a view to preventing further delay in proceedings, arbitrary deprivation of liberty, and ensuring accountability;
214. To the *de facto* authorities of Crimea and to the Russian Federation:
- a) Repeal the decision to outlaw the Mejlis and allow the Crimean Tatar community to choose its own self-governing institutions;
  - b) Repeal the decision banning leaders of the Mejlis from entering the peninsula;
  - c) Ensure that all persons deprived of their liberty both at the pre-trial and trial stages benefit from all legal guarantees, including equal treatment before the law, the right not to be arbitrarily detained, the presumption of innocence, and the prohibition from self-incrimination;
  - d) Guarantee fair trial proceedings and independent judicial-making in the cases involving the Crimean Tatars accused of involvement in the protests of February 2014, alleged members of the Hizb-ut-Tahrir organization, and Maidan activists;

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- e) **End the practice of retroactive application of laws, and the application of Russian Federation law in accordance with General Assembly Resolution 68/262;**
  - f) **Refrain from transferring people detained in Crimea to the Russian Federation;**
  - g) **Investigate all allegations of ill-treatment, torture, abductions, disappearances and killings involving members of the security forces and the Crimean ‘self-defence’; identify and punish their perpetrators;**
  - h) **End the practice of restricting free media reporting and opening criminal proceedings against journalists, bloggers and activists for expressing their views and opinions;**
  - i) **Enable Crimean residents, without discrimination, unfettered exercise of the right to freedom of assembly and lift administrative measures imposing partial or total bans on the holding of public events;**
  - j) **Ensure equal rights and non-discriminatory access to employment, healthcare, education, social services and entitlements for all Crimean residents, including those who do not have Russian Federation citizenship and passports;**
  - k) **Protect and promote the rights of all minority groups and indigenous peoples’ and enable them, in particular to maintain and develop their national identity and use their native language, including in the education sphere;**
  - l) **Ensure direct and unfettered access to the Crimean peninsula by established regional and international human rights monitoring mechanisms to enable them to carry out their mandate in full conformity with General Assembly resolution 68/262.**