

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	397
Land:	Ukraine
Kilde:	Human Rights Watch og Amnesty International
Titel:	Joint Public Statement. Ukraine: Justice Still Needed for Victims of Unlawful Detention in Eastern Ukraine
Udgivet:	6. august 2020
Optaget på baggrundsmaterialet:	7. oktober 2020



HRW.org



JOINT PUBLIC STATEMENT

6 August 2020
EUR 50/2852/2020

Ukraine: Justice Still Needed for Victims of Unlawful Detention in Eastern Ukraine

In summer 2016, Amnesty International and Human Rights Watch published a joint report, [You Don't Exist](#), which documented arbitrary, prolonged detention of civilians, and torture and other ill-treatment, by both the Ukrainian authorities and Russia-backed separatists. In many cases, these human rights violations are also crimes under international law. Four years on, the prospect for justice, truth and reparations for victims of such crimes on both sides remains elusive.

In some cases, the detentions constituted enforced disappearances, meaning that the authorities in question refused to acknowledge the detention of the person or refused to provide any information on their whereabouts or fate. In most cases, these individuals were forcibly disappeared for months and even more than a year at a time, and in at least one case, for years. Most, if not all, of those detained were allegedly subjected to torture or other forms of ill-treatment. Several were denied needed medical attention for the injuries they sustained in detention. Some of the former secret prisoners suffer health effects of their prolonged incarceration and ill-treatment that will last their lifetime.

By the end of 2016, the [Security Service of Ukraine \(SBU\) had covertly released its remaining secret prisoners](#). The Ukrainian Military Prosecutor's Office opened an investigation into the reported practices, but the investigation has made little substantive progress. [You Don't Exist](#) provided detailed information that could ground an effective investigation. In August 2016, our organizations jointly [submitted comprehensive information](#) to the investigating authorities [in Kyiv, with additional details on cases. This included details provided by](#) one former secret detainee in SBU custody who came forward with testimony about his abduction, torture and other ill-treatment, and secret incarceration for over a year.

Others did so later.

Yet since then, victims' efforts to attain justice have encountered overt or indirect obstruction. For example, the prosecuting authorities attempted to permanently close the investigation by changing the principal witness's legal status from "victim" to "witness", then reluctantly changed it back.

To the best of the two organizations' knowledge, there have been no new cases of enforced disappearances and secret detention by Ukrainian security services since 2016. However, the UN Human Rights Monitoring Mission in Ukraine continues to document short term, arbitrary detentions by the SBU.

Given the years of delays and obstruction, the investigation's future remains uncertain. The only genuine obstacle in the way of an effective investigation has been lack of political will on the part of the authorities. *Amnesty International and Human Rights Watch call on the Ukrainian authorities to commit the political will needed to thoroughly investigate and hold accountable those responsible for the enforced disappearances and torture in SBU custody.*

To the best of our knowledge, no steps have been taken to investigate reports of abduction, arbitrary, prolonged detention of civilians, and torture and other ill-treatment of detainees in the non-government controlled areas of Donetsk and Luhansk regions, and no indication that these crimes under international law have stopped. The Russia-backed de facto authorities in the Donetsk and Luhansk regions have continued their practice of unlawful deprivation of liberty and torture and other ill-treatment of individuals. Details of such cases have continued to emerge, while documenting them has become considerably more difficult.

Amnesty International and Human Rights Watch call on the de-facto authorities in these areas to immediately end the arbitrary detention, torture and other ill-treatment of detainees. They should immediately take all steps necessary to ensure that those responsible are held accountable for human rights abuses, including crimes under international law. They should also immediately grant the UN Human Rights Monitoring Mission in Ukraine and expert humanitarian organizations access to detention facilities to conduct visits in line with their respective mandates.

SBU'S SECRET PRISONS: A HISTORY OF ABUSE, VIOLATIONS AND IMPUNITY

DENIALS

Ukraine's security services repeatedly denied the violations the two organizations documented. They have also sought to deflect criticism by repeatedly claiming, falsely, that reports of enforced disappearances were disinformation spread by Russian propaganda.

On June 4, 2020, the Head of the SBU, Ivan Bakanov, missed an opportunity to provide transparency and clarity on the investigation into the allegations in our 2016 report. During a meeting with the prosecutor's office, he commented publicly on claims, the origins of which are unclear, of ongoing secret detentions. He said, "We are defending ourselves not only from Russian bullets but from information attacks and huge targeted lies. [...] I will stress once again, the Security Service [of Ukraine] has no secret prisons where someone is purportedly being tortured. These are fantasies of Russian propagandists."¹¹

The statement had broad resonance in the Ukrainian media, leaving open to readers' interpretation whether Bakanov's comments applied also to past abuses.

The SBU issued similar denials previously, including in an April 2018 letter sent to Amnesty International, in response to the organization's global annual report published in February that year. The chapter on Ukraine raised the issue of impunity enjoyed by the SBU officials for its past secret prisons.

The SBU's letter, signed by head of the Department for Protection of National Statehood, denied that there had been secret prisons or use of torture and other ill-treatment. The letter stated that the SBU had only one detention center under its jurisdiction and conducted all its criminal investigations and the detention of criminal suspects in strict accordance with the law. In the same envelope with the letter was a page cut out of a furniture catalogue depicting a luxurious bed inside an equally luxurious bedroom. The page bore no relevance to the letter.

SECRET RELEASES FROM SECRET DETENTION

During a July 21, 2016 meeting with the Chief Military Prosecutor of Ukraine, Amnesty International and Human Rights Watch provided a list of 16 people the organizations knew were secretly held at that time by the Kharkiv branch of the SBU. In an [August 2016 follow-up letter](#), we provided information about two additional individuals. Many of these cases were documented in *You Don't Exist*. After the meeting, the Chief Military Prosecutor publicly confirmed his agency's commitment to investigate the documented violations.¹

On July 25, 2016, the Kharkiv branch of the SBU released 13 people it had forcibly disappeared, and on August 20, 2016, it released two more. According to the individuals released and subsequently interviewed by the two organizations, they were taken from their place of imprisonment, driven to a random location, released clandestinely and without any paperwork, and given small amounts of cash so they could get back to their homes. They were warned not to share their stories with anyone. The remaining three individuals the organizations knew about were held by the SBU until their clandestine release on December 12, 2016. The Ukrainian authorities have still not acknowledged the detention of these individuals nor their release.

DELAYS, INTIMIDATION OF FORMER DETAINEES

Among the individuals whose enforced disappearance we documented, the first to file a criminal complaint was Kostyantyn Bezkorovaynyi.² After Amnesty International publicized his case in January 2016, he was clandestinely released the following month. In April 2018, several other former secret prisoners filed official complaints, on the basis of which investigations were opened. They, too, were recognized as "victims". However, the investigation into their allegations has been marred by ongoing delays and complications,

¹ See https://old.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=189280.

² Kostyantyn Bezkorovaynyi's wife filed the complaint while he was still in secret detention.

and witness intimidation. In some instances, the latter resulted in victims' withdrawal from the case.

In one particularly telling instance of obstruction, in May 2018, the lawyer representing Kostyantyn Bezkorovaynyi told Amnesty International that the [Military Prosecutor's Office in Donetsk Region had changed Bezkorovaynyi's procedural status from "victim" to "witness" and had then closed the investigation](#) into his alleged enforced disappearance and unlawful detention. Neither Bezkorovaynyi nor his lawyer was informed of this decision, although notification is required by law. It was only after the lawyer specifically inquired about progress in the investigation that she learned about the changed status. After several unsuccessful appeals, Bezkorovaynyi's "victim" status was finally restored, and the case reopened.

Another significant delay happened in the investigation into Mykola Vakaruk's case. Vakaruk was forcibly disappeared between December 9, 2014 and July 25, 2016. During this time, in October 2015, he was taken to a hospital in Kharkiv, as he required surgery and was treated in an intensive care unit under a false name. It took until 2019 for the investigation to document his hospitalization, and the authorities have not provided an explanation as to why it took so long.

There was at least one alleged attempt by the SBU to intimidate Vakaruk, who has been outspoken about his treatment in secret detention and actively seeking justice. Following his release, Vakaruk repeatedly travelled between the government-controlled territory and territory controlled by the armed groups of the self-styled "Donetsk People's Republic". On April 26, 2019, while travelling back into the government-controlled territory via the checkpoint in Marinka at around 6:00 p.m., Vakaruk was taken aside and questioned by two men he believed were working for the SBU. The checkpoint was closing, and at 6:30 p.m. the men instructed him to travel with them to nearby Kurakhove. There the men forced him into their car and questioned him again. They had screenshots from his phone of a Viber conversation with an acquaintance in Donetsk. They questioned his loyalty to Ukraine and said that he would be shot with no one knowing what happened to him unless they made a video on their smartphone of him criticizing Russia, Russian President Vladimir Putin, and the "Donetsk People's Republic". After filming the video, the men told him that he had to work for them as an informant or they would send the video to the de facto authorities in Donetsk, and said that they would call him later.

They did not call him, however.

Vakaruk did not see them again, as it seems they were rotated out of the area. Vakaruk submitted a complaint about this incident, and a criminal case has been opened with him as "victim" status. About a week before his detention at the checkpoint, his wife had also been stopped and questioned there, by men she believed were from the SBU, who wanted information about her husband.

In December 2019, the investigation into the alleged enforced disappearances, SBU secret prisons and torture and other ill-treatment was handed over by the Military Prosecutor's Office to the State Bureau for Investigations, a recently created standalone agency charged with investigation of crimes allegedly committed by law enforcement

agencies. The Prosecutor's Office previously had oversight responsibility for the entire criminal justice system, as well as responsibility for investigations, acting as prosecutor in court. The creation of the State Bureau for Investigations is a welcome development that will hopefully overcome the conflict of interest that had been inherent in the Prosecutor's Office's functions.

UNLAWFUL DEPRIVATION OF LIBERTY, TORTURE AND OTHER ILL-TREATMENT OF CIVILIANS BY ARMED GROUPS IN EASTERN UKRAINE

Russia-backed armed groups in eastern Ukraine have continued their practice of "arresting" civilians, while refusing to acknowledge the deprivation of liberty or concealing the fate or whereabouts of the disappeared person and subjecting them to physical violence and psychological abuse. Since the publication of [*You Don't Exist*](#), no one has been held accountable for these practices, and the prospect of ending them, let alone bringing those suspected of criminal responsibility to justice in fair trials before ordinary civilian courts, appears as unattainable as ever.

An individual detained by the de facto authorities in eastern Ukraine in the context of the conflict has no recourse to justice and cannot access legal remedies, and their primary hope, it appears, comes from the prospect of being swapped for prisoners held by the Ukrainian authorities. Such was the resolution of the case of at least two individuals whose cases were documented in [*You Don't Exist*](#). In December 2017, both Ihor Kozlovsky and Volodymyr Fomichov were released as part of the prisoner swap between the Russia-backed de facto authorities and the Ukrainian authorities. There were others who were released in similar circumstances, including at the end of 2019.

Journalist Stanislav Aseev spent 30 months in detention in separatist-controlled Donetsk, arrested and later [*"convicted" for alleged espionage*](#). His disappearance was reported in early June 2017, and his whereabouts remained unknown for 45 days until the armed groups in Donetsk acknowledged his detention. In December 2019, he was released during the prisoner swap.

Bohdan Maksymenko was detained by armed group members in Donetsk on April 10, 2020. Before his arrest, he had regularly posted pro-Ukrainian messages on his Facebook page. Armed groups searched his apartment in Donetsk and seized his computer and devices. His family did not know anything about his whereabouts for 73 days. After numerous queries and searches, they were able to determine that he was held in a detention facility in Makiivka, a town under the control of armed groups close to Donetsk. According to his family, Maksymenko suffers from a serious heart condition and requires specialist treatment which his captors are denying him.

Serhiy Kuris was illegally detained by unidentified armed men near his home in Donetsk on September 6, 2019. His wife and lawyer had no communication with him for over a month after his detention. Serhiy has been charged with "terrorism" and espionage for the SBU. According to what Kuris wrote in a letter which he was able to give to someone to smuggle out, he was subjected to torture in the extrajudicial detention center 'Izolatsiya' for six days. His torture included electric shocks, hanging by handcuffs from a grate, beating, and

waterboarding. The “officials” in charge of the detention center used these methods to force him to sign a “confession”. At time of writing, Kuris is believed to be held at the “pretrial detention center No. 10” in Donetsk. Due to Covid-19 restrictions, Kuris has had almost no contact with his family or his lawyer. He was allowed a meeting with a lawyer only on July 3, for the first time since March.

The UN Human Rights Monitoring Mission in Ukraine reported that Luhansk’s “security services” arbitrarily detained a woman crossing a checkpoint in Stanytsia Luhanska on January 16, 2020, and held her until January 21, 2020. According to the UN, the woman’s captors “threatened to harm her family, interrogated her about cooperation with the SBU and submitted her to a polygraph test.”

Throughout 2016-2020, Amnesty International and Human Rights Watch have received information about other such cases, involving unlawful deprivation of liberty and torture and other ill-treatment of civilians by members of the armed groups. The information is difficult to verify due to the lack of access to areas not controlled by the government for human rights monitors. The de facto authorities in these areas continue to deny humanitarian groups and the UN Human Rights Monitoring Mission in Ukraine access to places of detention.³

³ For more details, see for instance OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020*, page 11. Available at: https://www.ohchr.org/Documents/Countries/UA/29thReportUkraine_EN.pdf.