

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

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

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I. EXECUTIVE SUMMARY

1. The present report is based on the findings of the United Nations (UN) Human Rights Monitoring Mission in Ukraine (HRMMU)¹ covering the period of 2 April - 6 May 2014. It follows the first report on the human rights situation in Ukraine released by the Office of the UN High Commissioner for Human Rights (OHCHR) on 15 April 2014.

2. Since the issuance of the first report, the HRMMU has noted the following steps undertaken by the Government of Ukraine to implement some of the recommendations from the report. These include: the drafting of legislation on peaceful assembly; and the development of a policy to prevent the negative stereotyping of minority communities in the media.

3. The HRMMU also notes the ongoing investigation by the Office of the General Prosecutor into the gross human rights violations that were committed during the violent Maidan clashes between November 2013 and February 2014 that resulted in the killing of protesters and police, as well as allegations of torture and reports of missing persons. These investigations need to be completed in a timely, independent, effective and impartial manner to ensure accountability and justice for all, both victims and alleged perpetrators; the process and the results of these investigations must be transparent.

4. OHCHR appreciates that the Government of Ukraine has welcomed the HRMMU, offering open and constructive cooperation. It has been forthright in providing information and discussing with the HRMMU human rights concerns: right to life, liberty and security of person, the freedoms of movement, peaceful assembly, expression and association, as well as right to fair trial and equal access to justice without discrimination and the protection of the rights of all minorities.

5. The main findings and conclusions for the period covered by this report are:

- i. The Government of Ukraine is taking steps to implement the provisions of the Geneva Agreement concluded on 17 April 2014.² On the same day, the Cabinet of Ministers of Ukraine issued an Order "On the organization of the discussion of amendments to the provisions of the Constitution of Ukraine on decentralization of State power". On 18 April, a parliamentary coalition suggested to all political parties represented in the parliament to sign a memorandum of understanding regarding ways to resolve the situation in eastern Ukraine. According to acting President and Speaker of Parliament Turchynov, the initiative was not supported by members of the opposition. On 22

¹ Concept note on the HRMMU is attached.

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

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

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

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

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

II. METHODOLOGY

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

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

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

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

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

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

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

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

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

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

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

⁴ The “Berkut” unit was the Special Forces within the Ministry of Interior. On 25 February 2014, Minister of Interior Arsen Avakov signed a decree dissolving the unit.

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

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

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

Request to the International Criminal Court to investigate the Maidan violence

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

Missing persons

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

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

23. An International Advisory Panel⁶ has been initiated by the Secretary-General of the Council of Europe, Thorbjorn Jagland, to oversee the judicial investigations into the violent clashes during the Maidan events from 30 November 2013 to 21 February 2014. Information has been requested by the Panel into violent acts committed by any person during three

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

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

IV. HUMAN RIGHTS CHALLENGES

A. Rule of law

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

Constitutional reform

25. On 17 April, the Cabinet of Ministers issued an Order “On the organization of the discussion of amendments to the provisions of the Constitution of Ukraine on the decentralization of State power”. By 1 October 2014, senior government officials, the regional administrations and the Kyiv city administration are to organise debates on the planned constitutional amendments⁷ that would propose the decentralization of power. This Order accelerates the implementation of the Concept on reforming local government and territorial organization of power in Ukraine, which was adopted on 1 April 2014.

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

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

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

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

Criminal Code amendments toughen sanctions for violations of territorial integrity

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

Law on Lustration

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

30. On 8 April, the Parliament passed the Law "On the restoration of the credibility of the judiciary in Ukraine" (the Law on lustration of judges) with 234 votes⁹ and it entered into force on 10 May (while the proposed law on lustration for public servants was taken off the Parliamentary agenda). Its purpose is to strengthen the rule of law, to restore confidence in the judiciary, and to combat corruption in the courts through the dismissal of judges whose gross violations of professional and ethical standards have discredited the judiciary. The Law also determines the legal and organisational framework by which judges are to be vetted. It sets out the aim, objectives and timelines for the vetting of judges, as well as the bodies authorised to conduct these procedures, the content of the vetting, and the measures to be taken following the results of the vetting. According to the Law, the process of lustration is to be carried out by an Interim Special Commission. It is foreseen to consist of 15 members; five candidates from each of the following institutions: the Supreme Court, the Parliament and the Governmental Commissioner on the Issues of the Anti-Corruption Policy.

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

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

⁹ In total, there are 450 members of Parliament.

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

Amnesties

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

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

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

Law on Occupation

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

B. Law enforcement sector reform

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

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

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

¹² Official death toll as of 4 May 2014.

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

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

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

C. Freedom of peaceful assembly

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Freedom of expression

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

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

¹³ See below under section IV. E.

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

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

¹⁶ See section V.

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

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

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

E. Right to life, liberty and security

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

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

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

¹⁷ Presidential Decree No. 449/2014

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

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

Odesa violence

63. On 2 May, a national unity rally gathered around 1,500 people, including many fans from the football clubs of Chornomorets Odesa and Metalist Kharkiv¹⁸, as well as city residents. Among the crowd there were reportedly also some radical members of the Right Sector and Maidan self-defence unit armed with bats and metal sticks. Shortly after the rally began, the latter were provoked by approximately 300 well-organized and armed pro-federalism activists; the rally turning into a mass disorder, which lasted for several hours. As a result, four protesters in support of Ukraine were killed by gunshots (a fifth died later in the hospital from his injuries). Many were injured during the afternoon (mostly protesters supporting federalism). During the evening, violent clashes between the two sides continued on the main square (Kulikove polje), which ended in a fire at the Trade Union building where protesters supporting federalism had taken refuge. As a result of the events, 46 people died of whom 30 (including 6 women) were trapped and unable to leave the burning building and 8 (including one woman) died from jumping out of the windows. In total, 38 died at the scene of the fire. At least 230 were injured.¹⁹ As of 5 May, 65 remained in hospital, including two minors. Nine were in critical condition, including one policeman.

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

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

¹⁸ Joint marches among fans are a regular tradition before all football matches.

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

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

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

F. Political rights

Human rights in the electoral process

68. On 4 April, the Central Election Commission (CEC) confirmed the registration²¹ of 23 candidates (20 men and 3 women) for the Presidential elections scheduled on 25 May.²²

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

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

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

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

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

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

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

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

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

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

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

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

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

Women's participation

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

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

Political parties

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

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

G. Minority rights

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

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

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

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

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

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

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

- a) In Odesa on 7 April, an incident when graffiti with swastikas was painted on Jewish tombs, the Holocaust memorial and on houses next to the Synagogue was monitored by the HRMMU. The signature of the Right Sector allegedly appeared next to the graffiti. On 8 April, the leaders of Right Sector from Kyiv and of the Ukrainian National Assembly personally met with the Chief Rabbi, Avraam Volf, to assure him that these organisations had not participated in these acts. Together with the municipal service and pro-unity activists, they washed off the graffiti from the tombs. The Jewish community believes these acts were a provocation and not part of a broader threat. On 8 April, the police opened a criminal investigation into the case based on article 296 of the Criminal Code (Hooliganism).²⁷
- b) On 15 April, in Donetsk, anti-Semitic leaflets²⁸ with the stamp of the “Donetsk People’s Republic” were circulated near the local synagogue. The self-proclaimed leaders of the “Donetsk People’s Republic” denied their involvement in the incident; its self-proclaimed Governor, Serhiy Pushylin, called it a provocation. On 18 April, the Security Service of Ukraine announced that the materials of this case were added to the on-going criminal proceedings under articles 110 (Trespass against territorial integrity and inviolability of Ukraine) and 294 (Riots).

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

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

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

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

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

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

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

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

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

V. PARTICULAR HUMAN RIGHTS CHALLENGES IN THE EAST

A. The right to life, liberty and security

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

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

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

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

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

Security and law enforcement operation

95. The Government first announced a “counter-terrorist” operation in eastern Ukraine, namely Donetsk region, on 13 April. The ensuing security and law enforcement operation was ceased by the authorities in observance of the Easter holidays and in the aftermath of the Geneva meeting and statement.²⁹ Following the discovery of the bodies (with alleged signs of torture) of Volodymyr Rybak³⁰, Horlivka city councillor, and Yuriy Popravko³¹, a student and Maidan activist from Kyiv, in a river near Slovyansk on 19 April, acting President Oleksandr Turchynov ordered the resumption of the “counter-terrorist” operation in eastern Ukraine on 24 April.

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

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

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

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

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

Unlawful detentions

²⁹ See footnote 2.

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

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

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

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

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

Detentions and cases of alleged enforced disappearances

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

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

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

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

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

B. Freedom of expression

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

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

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

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

108. The exact number of the journalists still unlawfully detained remains unknown. As of 5 May, the HRMMU was following the cases of a number of journalists, including: 1) journalist with the Open Dialogue Foundation who went missing on 16 April but was released on 6 May; 2) staff member of the “Hidden Truth TV, went missing on 20 April. Both were reportedly seen by a journalist who was then released³² in the basement of the seized building in Slovyansk; 3) a journalist with the Lviv-based media outlet “ZIK” was unlawfully detained by unknown persons on 25 April on the main square of Slovyansk; and 4) a journalist with the Lutsk-based “Volyn Post” newspaper, went missing on 26 April in Slovyansk. The whereabouts of at least two of these journalists remains unknown.

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

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

C. Investigations related to events in the east

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

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

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

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

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

D. Economic and social rights

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

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

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

VI. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA

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

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

A. Internally displaced persons from Crimea

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

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

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

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

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

B. Rights of Crimean residents

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

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

Right to citizenship

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

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

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

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

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

Freedom of movement

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

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

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

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

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

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

Freedom of expression and access to information

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

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

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

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

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

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

Freedom of association

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

Freedom of religion

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

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

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

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

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

C. Rights of indigenous peoples

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

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

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

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

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

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

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

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

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

154. This is a deeply worrying development, especially considering other examples³⁴ of human rights violations regarding Crimean Tatars.

VII. CONCLUSIONS AND RECOMMENDATIONS

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

To the Government of Ukraine:

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

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

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

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

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

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

f) Primarily as a result of the actions of organised armed groups, the continuation of the rhetoric of hatred and propaganda fuels the escalation of the crisis in Ukraine, with a potential of spiralling out of control. Acts of hate speech must be publicly condemned and deterred. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech³⁵.

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

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

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

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

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

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

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

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

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

To the authorities in Crimea:

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

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

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

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

VIII. ANNEX

Concept Note UN human rights monitoring in Ukraine

Introduction

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

Rationale for OHCHR's engagement

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

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

Objectives

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

Activities

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

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

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

Composition and deployment of the mission

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

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

Security

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

Dates of the mission

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

Funding

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

