

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

**Report on the human rights situation in Ukraine  
17 August 2014**

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## I. EXECUTIVE SUMMARY

1. Intense and sustained fighting, as a result of the continuing violence by the armed groups and the ongoing security operation being undertaken by the Ukrainian Government, took a heavy toll on the human rights and humanitarian situation in eastern Ukraine during the past month, with at least 36 people being killed on average every day.<sup>1</sup> The number of casualties has more than doubled in total since the last report issued one month ago. As of 17 August, the total number of people killed (civilians, military personnel and some members of armed groups) is at least 2,220<sup>2</sup> since the fighting began in mid-April.<sup>3</sup> At least 5,956 people have been wounded.

2. As previously noted,<sup>4</sup> the armed groups are now professionally equipped and appear to benefit from a steady supply of sophisticated weapons and ammunition, enabling them to shoot down Ukrainian military aircraft such as helicopters, fighter jets and transport planes. The Ukraine Government claims that the Russian Federation is providing such equipment as well as fighters. The Ukrainian military has reported shelling from the territory of the Russian Federation, and of the illegal use of landmines in Ukraine territory near the border area.<sup>5</sup>

3. During the past month, the Ukrainian armed forces have tightened their blockades around the main strongholds of the armed groups – the cities of Luhansk, Donetsk and to a lesser extent Horlivka – and the situation in these cities has further deteriorated.

4. Armed groups have continued to prevent residents from leaving, including through harassment at checkpoints where residents report being robbed, and firing at vehicles conveying fleeing civilians. The armed groups are locating their military assets in, and conducting attacks from, these densely populated areas, thereby putting the civilian population at risk. Targeting civilians and civilian infrastructure as well as indiscriminate attacks are violations of international humanitarian law and more must be done to protect them. Responsibility for at least some of the resulting casualties and damage lies with Ukrainian armed forces through reported indiscriminate shelling.

5. All those involved must make a greater effort towards achieving a lasting and peaceful political solution which “is the most effective way to save lives and avoid a humanitarian disaster.”<sup>6</sup>

6. The situation was particularly dire in Luhansk as the fighting increased. On 1 August, the Luhansk City Council warned that the city was on the verge of a humanitarian catastrophe: its residents were without water, electricity or gas, food sources were unreliable, cell phone communication was cut off and medical services were virtually non-existent. It reported that 93 civilians had been killed and 407 injured between 1 and 28 July. There had been extensive damage to buildings, including schools, residences, factories and stores.

7. Starting on 30 July, a “safe corridor”, unilaterally established by the Ukrainian forces, enabled people to leave the city daily between the hours of 10am and 2pm; many thousands did so. Similar corridors were created for Donetsk and Horlivka. But the corridors traverse areas

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<sup>1</sup> This is the fifth report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU). It covers the period from 16 July to 17 August 2014.

<sup>2</sup> This is a very conservative estimate based on officially provided figures; the number of people killed or wounded may be considerably higher.

<sup>3</sup> This date marked the beginning of the armed groups’ occupation of public buildings in a coordinated fashion in areas of the east.

<sup>4</sup> See 4<sup>th</sup> monthly report of OHCHR on the human rights situation in Ukraine.

<sup>5</sup> For example, the briefings of Andrii Lysenko, spokesperson for the Information-Analytical Center of the National Security and Defense Council of Ukraine at Ukraine Crisis Media Center on 10 and 11 August 2014.

<sup>6</sup> Statement of the United Nations Secretary-General, 8 August 2014.

where the fighting is ongoing and casualties have been reported. This raises concerns about the security of such corridors to ensure safe passage for those wishing to flee the hostilities.

8. The armed groups have obstructed the international investigation into the crash of the Malaysian Airlines flight MH17 that on 17 July killed all 298 passengers on board, despite an order by the President of Ukraine to implement a 40 kilometre ceasefire zone around the crash site, which is under the control of armed groups. Sporadic fighting made it impossible for international investigators to properly conduct their search, which had to be suspended on 6 August.

9. In addition to the fighting, armed groups continued to commit killings, abductions, physical and psychological torture, ill treatment, and other serious human rights abuses and violations of international humanitarian law continued to be committed by the armed groups. It is unknown how many people remain in captivity, although it is estimated to be, at least, 468 people as of 17 August: some have been released by Ukraine forces as they regained control of territory; others have been released through negotiation, including through an exchange of detainee process, the payment of ransom or other means.

10. The HRMMU also received reports of human rights violations committed by territorial battalions under the Ministry of Defence or special battalions under the Ministry of Internal Affairs. This includes cases of arbitrary detention, enforced disappearances and torture.<sup>7</sup> Allegations of such activities by these volunteer battalions must be investigated and the perpetrators held accountable. In addition, the relevant Ministries should exercise more control over these volunteer battalions, in particular instructing them in international humanitarian law.

11. Everyone is reminded that efforts will be made to ensure that “anyone committing serious violations of international law including war crimes will be brought to justice, no matter who they are.”<sup>8</sup>

12. The Ukrainian forces increased operations to arrest people it allegedly suspects of subversive or terrorist activity, both in the east and in other regions of Ukraine. The Security Service of Ukraine and police have detained more than 1,000 people in the Donbas region, as of 16 August, because of “irrefutable evidence of their participation in terrorist activities.”<sup>9</sup> The procedural rights of these people have not always been observed and there are reports of ill-treatment during arrest or while in custody.

13. Parliament approved three laws during its 12-15 August session that would significantly expand the powers of law enforcement bodies in relation to the security operation in the east. These include laws to expand the powers of the prosecutor and extending the period of preventive detention of suspects, which appear to be in conflict with international human rights standards, and to restrict the rights of due process and presumption of innocence. While acknowledging that security measures might require the adoption of specific provisions limiting certain guarantees, they must always be consistent with the norms, standards and procedures of international law.<sup>10</sup>

14. A new round of peace talks initiated by the President of Ukraine was held in Minsk on 31 July, with representatives of Ukraine, the Russian Federation and the armed groups, under the auspices of the Organization for Security and Cooperation in Europe (OSCE). Agreement appeared to have been reached on securing safe access for the international investigators to reach the Malaysian Airlines crash site and on the release of a “sizeable number” of persons deprived of

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<sup>7</sup> Reported to HRMMU by a Ukrainian human rights organization on 30 July 2014.

<sup>8</sup> Statement by the UN High Commissioner for Human Rights, 28 July 2014.

<sup>9</sup> Statement of Colonel Andrii Lysenko, spokesperson for the Information-Analytical Center of the National Security and Defense Council of Ukraine, 3 August 2014.

<sup>10</sup> Report of the Working Group on Arbitrary Detentions, E/CN.4/2004/3.

their liberty – the latter being one of the key pre-conditions for establishing another ceasefire.<sup>11</sup> Some detainees were subsequently released but it is not known if this was a result of the Minsk agreement.

15. As the Government regains territory formerly seized by armed groups, it must ensure that all allegations of human rights abuses and violations by armed groups and its forces are fully investigated in accordance with international human rights norms and standards. Particular attention must also be paid to ensure that those people who remained in the areas under the control of armed groups do not face false claims of collaboration, with any such allegation being met with due process and the avoidance of reprisals. Military prosecutors and the Security Service of Ukraine have already investigated over 1,500 cases of various offences committed by local officials and citizens in the east, and more than 150 people have been prosecuted.<sup>12</sup> In Slovyansk, the Ministry of Internal Affairs launched 86 criminal investigations into allegations of kidnapping and enforced disappearance.<sup>13</sup> The police in the Donetsk and Luhansk regions have come under scrutiny with 80% - about 20,000 police officers - requiring 're-qualification' to ascertain they were not involved in any crimes while under the control of armed groups. The remaining 20% were dismissed for misconduct or for not returning to work.<sup>14</sup> It was reported that all police officers were subjected to a lie detector test to determine their possible affiliation with the armed groups.<sup>15</sup> Residents of these regions back under the control of the Government report the fear of reprisals, the lack of confidence that their own cases will be investigated, and fear that impunity will continue with no accountability.

16. By 3 August, the Government stated it had regained control of 65 towns and villages in eastern Ukraine that had been held by the armed groups. Some 20,000 residents who had fled the fighting have since returned home to Slovyansk.<sup>16</sup> Government ministries and volunteer groups began working on restoring essential services, clearing away the rubble and unexploded ordinances and rebuilding areas that had been ravaged by months of fighting. By the end of July, the acting mayor of Slovyansk reported to the HRMMU that the city no longer required humanitarian aid and electricity, gas and water supply had resumed to 95% of the normal level. Residents started receiving pensions and other social welfare benefits that had not been paid during May and June while the city was under the control of armed groups.

17. The continued violence by the armed groups and the ongoing security operation being undertaken by the Government of Ukraine, will leave deep psychological scars on Ukrainians living in the affected areas. Many residents, especially children, who have been affected by this atmosphere of fear and intimidation and the prolonged fighting, may need psychological assistance to heal and rebuild their lives. Many others, such as victims of torture and former hostages, especially those held for long periods, will also need help to recover. In order to ensure accountability and an end to impunity, all such grave human rights violations must be investigated and the perpetrators brought to justice, and victims provided with remedies and reparations. Only then will effective national dialogue and reconciliation be possible.

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<sup>11</sup> The other two elements are Government control of the border and disarming of the armed groups, as previously stated by the Ukraine President. Following the Minsk talks, the OSCE said other elements were an OSCE supported monitoring and verification mechanism to become effective simultaneously with the entry into force of a ceasefire and the effective control and verification of the border between Ukraine and the Russian Federation. Currently, armed groups remain in control of about 100 kilometers of the Ukraine-Russian Federation border.

<sup>12</sup> According to the Ukraine Prosecutor General on 2 August.

<sup>13</sup> Reported to the HRMMU on 30-31 July 2014.

<sup>14</sup> As reported to HRMMU by the Ministry of Internal Affairs.

<sup>15</sup> Reported to the HRMMU on 30-31 July 2014.

<sup>16</sup> According to UNHCR, since early July.

18. The effects of the four months of fighting are not restricted to the Donbas region. In addition to receiving increasing numbers of internally displaced persons leaving the conflict area,<sup>17</sup> the other parts of Ukraine have also been affected by the conflict. Partial mobilization, decreed by Parliament on 23 July, is expected to call up an additional 50,000 men and women aged between 18 and 60, including eligible IDPs. This has triggered protests especially from relatives of people being mobilized, but also on social media.

19. There has been a rise in violent incidents in Ukraine targeting local officials that would seem to be coordinated. For example, the mayor of Kremenchuk (Poltava region) was shot dead and a rocket attack was launched on the home of the mayor of Lviv; both incidents occurred within 24 hours of each other, on 25 and 26 July. Bomb threats have increased in most of the major cities in Ukraine over the past month. In reaction, law enforcement measures and emergency preparedness have been increased.

20. Ukrainians will also be facing more economic difficulties due to the financial implications of the continuing security operation in the east, which is now entering its fifth month. On 31 July, Parliament authorized changes to the national budget allocating an additional 9 billion UAH (about 607 million USD) for the conduct of the security operation in the east and 2 billion UAH (about 140 million USD) for the rebuilding and revitalization of the east.

21. Investigations into the Maidan violence of November 2013 – February 2014 continued; 445 cases of unlawful acts against demonstrators have been open of which 114 cases of unlawful police or other law enforcement actions are under investigation.<sup>18</sup> The investigations also continued into the 2 May violence in Odesa. The impartiality of the ongoing processes must be assured to dispel any concerns related to the investigations.

22. In the Autonomous Republic of Crimea, harassment and discrimination continued against Ukrainian nationals, Crimean Tatar and other minorities. No serious attempts have been made to investigate allegations of human rights abuses committed by the so-called Crimean self-defense forces following the March “referendum”. Meanwhile complaints against the self-defense forces continued. The number of IDPs from Crimea is now more than 16,000 according to United Nations High Commissioner for Refugees (UNHCR). The continued flow could be attributed to increasing human rights restrictions, which particularly affect members of minorities, and more broadly to the tense security environment, compounded by fighting in the east of Ukraine.

23. The transformation of Ukraine into a fully democratic society, with no place for corruption, was among the key demands of the Maidan protestors and civil society activists, who have since been advocating for reforms. However, many in civil society consider that the central Government has been unreceptive to private initiatives and recommendations.

24. As part of its European Union aspirations and required reforms, and in order to address the multiple issues raised in this and previous reports by the Office of the United Nations High Commissioner for Human Rights, (OHCHR) the Government should develop a multi-year human rights national plan of action. OHCHR reiterates its readiness to work with the Government in this regard, in close cooperation with the international community, regional organizations and the United Nations Country Team.

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<sup>17</sup> As of 14 August the number of IDPs in Ukraine was more than 155,800, according to UNHCR, of which 139,621 were from the east.

<sup>18</sup> For the period November 2013 until 1 August 2014, according to the General Prosecution Office.

## **II. RIGHTS TO LIFE, LIBERTY, SECURITY, AND PHYSICAL INTEGRITY**

### **A. Casualties**

25. Intensified fighting, including the use of heavy weaponry (artillery, tanks, rockets and missiles), in the east of Ukraine continued to cause considerable loss of life among civilians as well as members of the Ukrainian armed forces and armed groups. During the reporting period, the fighting lines moved to the suburbs of Donetsk and Luhansk cities, and a number of other settlements, such as Avdiyivka, Debaltsevo, Horlivka, Snizhne, Stepanivka and Yasynuvata in the Donetsk region, and Pervomaisk in the Luhansk region, became arenas of fighting.

26. There have been numerous reports alleging the indiscriminate use of weapons, such as artillery, mortars and multiple rocket launcher systems, in and around the densely populated areas. Ukrainian officials have reiterated that the Ukrainian armed forces never target populated areas. These officials suggest that all reported cases of such targeting should be attributed to the armed groups only. However, in those urban settlements which have been controlled by the armed groups and insistently attacked by the Ukrainian armed forces, responsibility for at least some of the resulting casualties and damage to civilian objects lies with the Ukrainian armed forces. On the other hand, the armed groups are locating their military weaponry within or near densely populated areas, and launching attacks from such areas. This constitutes a violation of international humanitarian law by the armed groups. However, such actions by the armed groups do not absolve the Ukrainian armed forces of the need to respect their obligations under international law, including upholding the principles of distinction, proportionality and precautions in attack.

27. As a result of intensified hostilities, there has been an escalation in the number of casualties which has more than doubled in total since the last report. By a very conservative estimate of the HRMMU and the World Health Organization (WHO), based on the best data available, at least 1,200 people have been killed, and at least 3,250 have been wounded in east Ukraine between 16 July and 17 August. On average, at least 36 people have been killed and 98 have been wounded every day during this period.

28. In total, since mid-April, and as of 17 August, at least 2,220 people (including at least 23 children) have been killed and at least 5,956 (including at least 38 children) have been wounded in the fighting in eastern Ukraine. This includes civilians, personnel of the Ukrainian forces and some members of the armed groups (for whom no separate casualty figure is known). This overall figure does not include the 298 people killed in the crash of the Malaysian Airlines flight MH-17 on 17 July.

29. According to the Council for National Security and Defence (RNBO), casualties within the Ukrainian armed forces comprised, at least, 618 killed and 2,302 wounded as of 17 August. According to the reports by civil medical establishments on the number of people delivered to hospitals and morgues, and by local administrations, casualties among civilians and armed groups include, at least, 949 killed and 1,727 wounded in the Donetsk region, and, at least, 653 killed and 1,927 wounded in the Luhansk region.

30. The actual number of fatalities due to the violence and fighting in the east of Ukraine is probably much higher. Indeed, casualties in the areas controlled by the armed groups have been underreported for two major reasons. First, although many of the hospitals continue to work, insecurity has prevented people from seeking medical aid. Second, many of those killed have been buried without being taken to morgues or bureaus of forensic expertise. In addition, communications have frequently been disrupted. There are also allegations that bodies of some members of the armed groups killed in action have been taken to the territory of the Russian Federation.

31. In addition, there appear to be large discrepancies in figures provided by different local authorities. For example, in the Luhansk region, hospitals and morgues reported, at least, 439 killed as of 5 August, while in an interview published on 6 August, the acting head of the Luhansk regional state administration said that “among civilians in Luhansk region in general... one and a half thousand were killed” since mid-April.<sup>19</sup>

32. Reports of medical establishments from the areas under the control of the armed groups do not distinguish between civilian and military casualties. A gender imbalance of casualties reported by these establishments (as of 11 August, women comprised 11% of killed and 13% of wounded in the Donetsk region)<sup>20</sup> may indicate that members of the armed groups who are predominantly male constitute a considerable part of these casualties. On the other hand, women comprise a large proportion of the internally displaced (IDPs) who have left the areas of fighting.

33. The cities of Donetsk and Luhansk continued to account for the majority of fatalities, but a number of other settlements were also severely affected by fighting. For instance, in Horlivka, 52 persons, including 9 children, were killed, and 170 wounded between 27 July and 10 August.<sup>21</sup> According to people who had left Pervomaisk, 200 people had been killed in the town, and more than 400 wounded since 22 July, with the dead being buried in courtyards.<sup>22</sup>

## **B. Evacuation of civilians**

34. Beginning on 29 July, the Ukrainian armed forces established special “corridors” to allow civilians to leave Donetsk, Horlivka (Donetsk region) and Luhansk city where there was heavy fighting. However, these corridors traverse areas where there is fighting and casualties have been reported. This raises concerns about the security of such corridors to ensure safe passage for those wishing to flee the hostilities.

35. The exact number of people who have used the corridors so far is not known. According to the Luhansk regional administration, during the week of 4-10 August, more than 4,000 people left Luhansk using the corridor, and 7,000 by 13 August. Trains continued to run intermittently from Donetsk, enabling people to leave that city. Estimates suggest that about half the population of Donetsk and Luhansk cities has left. The remaining population in these cities is estimated at 200-500 thousand in Donetsk, and about 250,000 in Luhansk.

36. The evacuation of institutionalized children started too late and was not properly coordinated as it was conducted by various ministries. During the reporting period, some additional efforts were undertaken to evacuate 138 children and 26 young people housed in institutions in the area of hostilities. In addition, 128 family-type institutions were evacuated. As of 15 August, 119 children remained in institutions in the area of the security operation, according to the RNBO spokesperson.

37. As previously reported, the armed groups have allegedly prevented the evacuation of institutionalized children to other parts of Ukraine. On 13 August, it was reported that eight children (aged 8 months to 2 years) from a Luhansk institution who were taken to the Russian Federation on 8 August 2014, by the supporters of Luhansk People’s Republic (LPR), had safely returned to Ukraine following efforts by of the Ukrainian Ombudsperson, the Russian Federation Ombudsperson, the Ukraine Ministry of Foreign Affairs and the Consulate General of Ukraine in Rostov-on-Don.

38. Evacuation of institutionalized older persons and persons with disabilities has not been given adequate attention, and it is not known how many remain in the hostilities area. On 13

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<sup>19</sup> The HRMMU tried to receive information about primary data behind this estimate, with no success.

<sup>20</sup> The breakdown of statistics is not available for the Luhansk region.

<sup>21</sup> According to the health department of the city council.

<sup>22</sup> Interviewed by the OSCE Special Monitoring Mission (SSM) on 11 August.



August, 400 older persons were evacuated from the Veterans' House in the Kirovskyi district of Donetsk, and 417 patients of a psychiatric clinic in the city of Torez. On 13 August, it was reported that the situation of the 200 patients of the Horlivka Mental Hospital was critical due to the lack of electricity, water, food and medication. Many patients came from Semenovka Mental Hospital near Slovyansk which was completely destroyed during the fighting. Many older persons have been left behind when their families fled the fighting, increasing their vulnerability.

39. Prisoners held in the east have been another group at risk. On 29 July, 272 prisoners from a women's prison, located in Chervonopartyzansk (Luhansk region), were evacuated to other prisons around the country due to fighting in the immediate vicinity. The penal colony No. 124, was hit by artillery shells on the outskirts of Donetsk city during the night of 10/11 August, resulting in the death of one prisoner, and injures to five prisoners and two guards.

### **C. Arbitrary and illegal detention<sup>23</sup> and enforced disappearances**

#### ***Detention by Ukrainian armed forces and police***

40. As the Government's security operation continues, Ukrainian armed forces are gaining back control over more localities in the Donetsk and Luhansk regions that were previously seized by armed groups. A number of people suspected of collaborating with or belonging to the armed groups have been detained by the Security Service of Ukraine (SBU), by territorial battalions under the Ministry of Defence, or by special battalions under the Ministry of Internal Affairs. From mid-April until 16 August, more than 1,000 "militants and subversives" had been detained by police and SBU in the Donbas territory, according to the Ministry of Internal Affairs. The detainees are usually accused of violation of the territorial integrity of Ukraine (Article 110 of the Criminal Code) or participating in terrorism (Article 258 of the Criminal Code).

41. The cases followed by the HRMMU suggest that there have been violations of the criminal procedural law during some of these arrests, particularly regarding detention by the volunteer battalions. People are being detained without being given any explanation, for example while they were leaving the security operation areas affected by the fighting and security operation, and questioned without being delivered to law enforcement agencies. The presumption of innocence and privacy rights of those detained have been violated when their apprehension was filmed and made public through the Internet and TV. Detainee's relatives were often not notified about the detention, and legal aid was rarely made available.

42. According to the Criminal Code, an illegal detention is a crime, and as a consequence, the individual who is unlawfully detained must be immediately released. This does not seem to have been the case for those arrests which the HRMMU followed: in the few cases of what appeared to be arbitrary detention that were brought to the attention of a court, releases have been rare.

43. On 8 July 2014, servicemen of the Aydar battalion under the Ministry of Internal Affairs detained the deputy head of Shchastya town administration. According to his relatives, he was accused of "separatism". Reportedly, he was released on 29 July. However, the HRMMU has no information about any criminal investigations initiated against him or the people who were in charge of his detention. On 5 August, the head of the Mariupol city police was detained by the leader of the Radical Party of Ukraine, Oleh Lyashko (MP) and servicemen of the Shakhtarsk battalion under the Ministry of Internal Affairs. Mr Lyashko uploaded a video of the detention to an open source, accusing the detainee of "collaboration with the separatists". However, the detainee was released on the same day of his detention, and the HRMMU has no information of any investigation undertaken into the circumstances of his detention. On 7 August, the head of the Luhansk city council was detained at a check-point in the town of Shchastya by the Aydar battalion. On 12 August, the head of the Luhansk regional department of Internal Affairs

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<sup>23</sup> United Nations Working Group on Arbitrary Detention regards as detention all forms of deprivation of liberty.

described this action as illegal. According to him, the detainee, whose whereabouts had been unknown since the day of detention, was now in “a safe place”, protected by the police, and considered a “crime victim”.<sup>24</sup> All such cases, as well as others alleging human rights violations, require prompt verification and investigation with perpetrators held accountable and justice provided to victims.

44. The HRMMU continues to receive reports of cases of enforced disappearances by Ukrainian forces in the areas restored to the control of the Government. In one particular case, the HRMMU was informed on 15 August that a video-blogger was released as part of an exchange of over 26 detainees between Ukrainian armed forces and armed groups. He was apprehended by Ukrainian servicemen on 10 May near Slovyansk and was a case of enforced disappearance until early August when he was found in a detention facility. In June, following an intervention on the case by the HRMMU the Authorities took action by opening an investigation for murder.

45. Some people who had previously been detained by armed groups were later detained by the Ukrainian law enforcement agencies as they took control of areas of the Donetsk and Luhansk regions formerly under the control of the armed groups. For example, the HRMMU interviewed the father of an adult man from the Slovyansk district who said that around 30 June, his son was detained by the armed groups for being drunk, and was then sent to dig trenches near a checkpoint about 2.5 km from the his house. He dug trenches for four days, after which he was allowed to return home. On 24 July, he was detained by the Ukrainian armed forces and accused of separatism and collaboration with the armed groups, despite the fact that he was detained and subjected to forced labour. His arrest and detention was later authorized by the court.

46. Some people were kept in detention by the Ukrainian armed forces for up to 14 days, subjected to ill-treatment and released after signing a paper that they do not have any claims against those who detained them.<sup>25</sup> According to a Ukrainian human rights organization, many such cases have been associated with the Aydar battalion. The organization informed the HRMMU about the detention by the battalion of an armed group commander nicknamed Batko who reportedly died as a result of torture. The HRMMU was also informed about the arrest and torture of a member of the Aydar battalion who allegedly tried to protect Batko from torture, and who had to leave the unit in order to save his own life. Some of those armed groups members who were exchanged for Ukrainian servicemen allege that while in detention, they were beaten, kept in dungeons, and deprived of food and medical aid.

47. Mrs. Nelia Shtepa, the former mayor of Slovyansk, mentioned in the previous report,<sup>26</sup> continued to remain in detention. She was arrested on 11 July, and is being detained in the Kharkiv pre-trial detention facility without bail for 60 days by order of the court,<sup>27</sup> despite alleged numerous violations of her rights invoked during the hearing.<sup>28</sup> The HRMMU is aware of other similar cases and is concerned about cases of detention that appear to be politically motivated or may constitute a measure of reprisals.

48. The HRMMU has also observed that some judges overlook procedural irregularities in the arrest and detention of individuals suspected of “anti-Ukrainian” activities. In one of the southern

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<sup>24</sup> As he informed the OSCE Special Monitoring Mission.

<sup>25</sup> As reported by human rights organizations at a roundtable in mid-August.

<sup>26</sup> See the 4<sup>th</sup> monthly report on the human rights situation in Ukraine paragraph 44.

<sup>27</sup> Ms. Shtepa is being charged under part 3 of article 110 of the Criminal Code “encroachment on the territorial integrity and inviolability of Ukraine, if appropriate actions have led to death or other serious consequences”. If found guilty, she could be sentenced to between 10 to 15 years or life imprisonment.

<sup>28</sup> Ms. Shtepa had previously been detained by the armed groups for almost 3 months, accused of collaboration with the Right Sector. She was only able to leave captivity when the armed groups fled Slovyansk as the Ukraine forces regained control of the city on 5 July. She told HRMMU that during her captivity by the armed groups she was beaten and threatened with her husband’s murder unless she undertook to speak at a ceremony in support of the 9 May “referendum”. She also said her arrest by SBU was “extremely brutal” with the officer beating her violently.

regions of Ukraine, for example, senior law enforcement officials stated that pro-unity (or pro-Maidan) activists were considered “heroes” and Ukrainian patriots and were given “immunity” from being arrested or prosecuted. In the Lviv region, on 12 August, traffic police detained seven members of the Right Sector (pro-Ukraine) who were driving from the security operation area to the Zakarpattia region carrying a large number of rifles, shells and explosives. Although a criminal investigation was opened for illegal possession of weapons, the suspects were released later that day.

### *Detention by the armed groups*

49. Estimates vary concerning the number of people detained by armed groups, although the numbers are coherent in scale and reflect the constantly evolving pattern of detentions and releases. According to the adviser to the Minister of Internal Affairs, as of mid-August, some 1,026 people have been abducted or detained by armed groups since mid-April, and of these, 468 people were still missing. Victims come from all walks of life: police, servicemen, border guards and security personnel; journalists; judges, advocates and prosecutors; local executives, city and regional council officials; politicians and civil activists; volunteers involved in humanitarian action; and many persons not affiliated to any of the warring parties and who were not engaged in any public activity. The HRMMU has been following the cases of 510 people who have been abducted or detained by armed groups since mid-April. Of these, 200 have been released, 9 people are dead (some having visible signs of torture), 301 are still in the captivity of armed groups, of whom 293 are men and 8 are women.

50. Negotiations on an exchange of detainees with the armed groups mostly involve a swap for Ukrainian servicemen. On 14 August, Ukrainian military reported that 13 Ukrainian servicemen had been released from the captivity of the armed groups. The number of members of the armed groups released in this exchange is not known. On 15 August, the President of Ukraine met with 25 people released from captivity by the armed groups. During this swap, according to one of the people released, 26 Ukrainians were released in exchange to 27 members of the armed groups. On 17 August, the Kharkiv regional state administration announced that five Ukrainian servicemen were released that day.

51. According to the adviser to the Minister of Defence on the release of captives and hostages, who himself spent 88 days in captivity of the armed groups, Ukrainian military personnel (who comprise on average 10-15% of all people in captivity of the armed groups)<sup>29</sup> are kept separately from civilians, usually in decent conditions and treated according to the “rules of war” and “officers dignity”. According to him, other detainees are usually kept in basements and in very poor conditions. Their release almost entirely depends on the efforts of relatives, civil activists and international organizations.

52. Examples of detentions by the armed groups include the detention of a policeman and his father, a retired policeman, by the armed groups in Donetsk on 19 July. The alleged reason was that the police officer did not take an oath of loyalty to the armed groups. As of 11 August, their whereabouts were unknown. On 21 July, 29 employees of the Spetsselektrobud Company were abducted by armed groups in Donetsk on their way to the Russian Federation, reportedly for “betrayal of the Fatherland”, and urged to join the armed groups. According to one of the released detainees, six individuals who rejected the proposal were subjected to psychological pressure, including death threats. All of them were released the next day. On 31 July, it was reported that two volunteers from Kyiv who were delivering humanitarian assistance to the security operation area, went missing in the Donetsk region. Later, the HRMMU learned that armed men who had taken the volunteers considered the abductees had assisted the Ukrainian military by directing

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<sup>29</sup> Calculated by the HRMMU on the basis of statistics on people abducted or detained by the armed groups as of 18 July and as of 6 August provided to the HRMMU by the Ministry of Internal Affairs.

airstrikes from the ground. On 1 August, armed men abducted a retired resident of Luhansk. According to his son, those who detained his father were looking for his brother who is head of the Luhansk branch of the NGO Youth Association of Ukraine. While searching the apartment, the armed men allegedly found a photo of the detainee in a “vyshyvanka” (a traditional Ukrainian embroidered shirt), and accused him of being the “Kyiv junta’s accomplice and terrorist”. On 9 August, a Donetsk journalist working for NGO.donetsk.ua, currently relocated to Kyiv, learned that her parents were detained “until the clarification of circumstances”. Ukrainian servicewoman Nadiya Savchenko who was allegedly taken captive in Luhansk region, continues to remain in a detention facility in the Russian Federation.

53. According to the reports from former detainees, people held by the armed groups are often subjected to ill-treatment. On 28 July, the HRMMU learned that on 17 June, a watchman of a communal enterprise in Druzhkivka, Donetsk region was detained by the armed groups. They put a bag on his head and beat him. He reportedly remained in custody for 4 days; all this time he was subjected to ill-treatment and forced to confess that he was a supporter of the Right Sector. In late July, two surgeons of the Institute of Emergency and Reconstructive Surgery were detained by an armed group and subjected to harassment including threats of execution by a firing squad. On 15 August, a Ukrainian serviceman released from armed groups’ captivity said that he had spent 17 days in a basement, and was tortured every day.

54. Although the fighting and security operation is ongoing, in the areas where the Government has restored control, it needs to immediately start investigating allegations of violations of international law by armed groups and Ukrainian forces. Any delay causes further risk that vital evidence will be lost. Meaningful and sustainable reconciliation of communities requires justice for victims, the curbing of impunity and accountability of perpetrators for crimes.

### **III. FREEDOMS OF EXPRESSION, PEACEFUL ASSEMBLY, RELIGION OR BELIEF**

#### **A. Freedom of expression**

55. The media, including social media, has the potential to support efforts for peace building as well as the capacity to incite violence. Therefore, impartial, objective, balanced reporting is important in a situation of conflict. Journalists must be afforded the same protection that international humanitarian law affords to civilians and attacks against journalists exercising their professional activities are prohibited.

#### ***Physical safety of journalists and other media professionals***

56. Abductions, threats, harassment and intimidation of foreign and Ukrainian journalists by armed groups continued to take place in the east of Ukraine. For example, on 19 July, 10 foreign journalists, who had been attempting to report on the MH17 crash, were detained by armed groups in Donetsk. All were released several hours later after interrogation. On 22 July, a CNN freelance journalist and field producer was abducted from the Donbas Palace hotel in Donetsk and accused of being a Ukrainian spy. He was released on 26 July after being severely beaten. On 31 July, two Ukrainian freelance journalists were detained by the armed groups in the Luhansk region and on 2 August, the operator of the NTN channel was abducted in Donetsk. The whereabouts of all three remains unknown.

57. On 31 July, the NGO Institute of Mass Information (IMI), which monitors violations of journalists' rights in Ukraine, published<sup>30</sup> an overview of its study covering the cases of 51 journalists who have been abducted and held as hostages by armed groups in the Donetsk and Luhansk regions from April to the end of July. It provides examples of abducted journalists who against their will were forced to give false statements to Russian media, in particular, LifeNews. It appears that cooperation with Russian or pro-Russian media was sometimes a prerequisite for ending or lessening their inhumane treatment and, in some cases, release.

#### ***Obstruction to lawful journalist activities***

58. On 21 July, the so-called “defence minister” of the self-proclaimed Donetsk People’s Republic (DPR), Igor Strelkov, announced that journalists, cameramen and photographers were not allowed to take photos, videos and audio recordings, or to be present in a combat zone or in the immediate proximity of military objects. Several journalists were subsequently harassed, regardless of whether or not they had accreditation from the so-called DPR. For example, a freelance field producer (fixer) for foreign media crews told the HRMMU that on 31 July, armed groups stopped her and the crew in Shakhtarsk (Donetsk region), threatened them with guns and confiscated their camera.

59. It was reported on 15 August, that in Krasnodon, Luhansk region, the representatives of the so-called “Army of the south east” have prohibited photographing and filming in public places in the city, under the threat of prosecution by their so-called military tribunal.

#### ***Arrests and detentions of journalists by Ukrainian forces***

60. On 18 July, the central district court of Mykolaiv sentenced the editor of the local website “Nabat”<sup>31</sup> to four years of imprisonment with two years’ probation for publishing incorrect information about the security operation and spreading anti-Ukrainian information, which was classified as trespass against territorial integrity and inviolability of Ukraine under article 110/1 of the criminal code.

61. On the night of 22 July, a freelance journalist from the TV channel Russia Today<sup>32</sup> was detained by the SBU near the Donetsk airport where heavy fighting was going on. He reported having been held for three days and that his Ukrainian colleague was beaten up. He was then reportedly taken to the Polish border and “dumped out” after being told he was banned from Ukraine for three years; the Ukrainian journalist was released on 24 July.

62. On 1 August, a female journalist (citizen of the USA and Russian Federation) working for Russia Today was detained by the SBU in Rakoshyno, Zakarpattia region for questioning. She was released after three hours and reportedly obliged to leave the territory of Ukraine by 4 August.

63. Three journalists (from the Serbian weekly Pecat, 112 Ukrainian TV channel, and a freelance journalist from the Luhansk region) went missing on 1 August. Five days later, all three were found by local residents in Dniprodzerzhynsk. The journalists reported that they were detained by the territorial defence battalion Kryvbas at a checkpoint near Amvrosiivka after crossing the Russian Federation-Ukraine border. They reported having being blind-folded for five days, with their hands tied, ill-treated, threatened and forced to remove their clothes before being

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<sup>30</sup> The study, published on 31 July, included, among other cases, those of Volyn Post’s journalist (held hostage from 26 April to 18 May), a freelance photographer (22-25 April), Hromadske TV’s journalists (30 June-2 July) and a freelance journalist and field producer (22-26 July). The HRMMU has mentioned these cases in its previous reports.

<sup>31</sup> The “Nabat” website is known for its pro-federalism views.

<sup>32</sup> The Russia Today journalist had been previously detained by the Ukraine Security Service on 30 May for unauthorized filming of classified military objects, but was later released. On 24 July, it was reported that based on the complaints in the UK about the coverage of the Malaysian Airlines crash by the TV channel Russia Today, it might be sanctioned by the UK organization that oversees broadcast standards. Several employees of Russia Today have recently resigned accusing the channel of covering the Malaysian Airlines crash story with “total disregard for the facts”.

released separately at night. Local residents took the journalists to the police, who recorded their complaints and provided them with food and clothing.

64. The chief editor of the Donetsk newspaper “Municipalna Gazeta” was arrested on 3 August by the SBU while leaving Donetsk for Mariupol. It was reported that she was trying to reach Crimea and is accused of supporting terrorism by heading a pro-Russian information unit in Donetsk. She was detained with her 17-year-old son, who was with her at that time. Both were taken to Kyiv where the son was released. According to the ruling of the investigating judge, the journalist is to be held in custody without bail for 60 days, until 4 October, while the pre-trial investigation is ongoing. An appeal on this will take place on 21 August.

65. A photojournalist of the International Information Agency RIA Novosti went missing in the Donetsk region on 5 August. His colleagues allege he has been detained by Ukrainian armed forces; however the Government military spokesman has denied this. On 11 August, the police opened an investigation into his disappearance.

### ***Media regulation***

66. During the period under review, the Government of Ukraine has sought to regulate the media in order to censor and control the growing number of publications and radio and television outlets that are publishing or broadcasting unverified information or one-sided, judgemental reports, especially Russian media broadcast or distributed in Ukraine.

67. On 18 July, the SBU asked the Ukrainian Internet Association for its assistance in limiting access in Ukraine to 24 Internet resources registered outside Ukraine, alleging they promoted violence, ethnic hatred and violation of the territorial integrity of Ukraine, based on the conclusions of the National Expert Commission for the Protection of Public Morals.<sup>33</sup> On 7 August, the head of the Association stated that while supporting the SBU initiative to ensure informational safety in Ukraine, she would not block web-sites without a proper investigation and a court decision for each case.

68. The National Council of TV and radio broadcasting issued a statement on 7 August, demanding that cable TV providers stop broadcasting the Russian channel RBK-TV, because it does not comply with Ukraine law. The decision is based on the results of monitoring that the Council conducted on 25, 29 July and 1, 4 August. The Council has already banned at least 12 Russian channels including “First Channel”, “RTR Planet”, “Russia 24”, “NTV-Mir”, “TV Centre – International”, “Russia 1”, “NTV”, “TNT”, “Petersburg 5”, “Zvezda”, “Ren TV”, and “LifeNews”.

69. Any restrictions on the right to freedom of expression are only permissible to the extent that they are compatible with article 19 (3) of the ICCPR. Launching and supporting initiatives<sup>34</sup> that debunk false reports, educate the public on and promote ethical standards (particularly while reporting on conflict situations) are one of the ways to counter disinformation and low-quality reporting regarding the events in the eastern regions of Ukraine without imposing restrictions.

### ***Inflammatory speech***

70. Developments in the eastern regions have exacerbated tensions between those with opposing views, which often results in the usage of inflammatory or even hate speech, particularly on social media networks, in the mass media and during rallies. For example, in Odesa, public displays of a

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<sup>33</sup> The National Expert Commission for the Protection of Public Morals was created in 2003. According to its mandate it has the right to conduct monitoring of the activity of media outlets, as well as companies that organise mass entertainment events, to ensure that they do not popularize products of sexual, erotic content or that contain elements of violence and cruelty. The decision of the National Expert Commission adopted within its competence are mandatory for consideration by central and local governments, the media of all forms, and natural and legal persons.

<sup>34</sup> For example, the volunteer initiative “Stop Fake” launched on 2 March 2014.

symbol, slogan or poster associated with one side or the other,<sup>35</sup> including displays of the Ukrainian flag or of St. George ribbons,<sup>36</sup> has on many occasions sparked a negative, sometimes violent reaction.<sup>37</sup>

71. It is of particular concern that some public figures, particularly political and religious leaders, resort to inflammatory speech, including on social media. At the same time, the Government and civil society activists are making efforts to address it. For example, on 6 August, during the session of the Temporary Oversight Commission of the Odesa Regional Council, a senior police investigator described “pro-federalism” activists who were gathering at Kulikove Pole as “previously convicted lumpen, from marginal circles, foreigners and unemployed” and “having the intellectual level equal to a 14-year-old”. The Ministry of Internal Affairs reacted to this statement and disciplinary measures have been taken.

72. On 5 August, volunteers and journalists from the Zakarpattia region sent a letter to the leaders of all regions represented in Zakarpattia describing instances of priests addressing parishioners with “ambiguous statements and negativism” that may provoke intolerance. The letter was intended as a precautionary measure and urged the senior priesthood to ensure that the religious sphere was not politicised and that priests refrained from any such statements.

## **B. Freedom of peaceful assembly**

73. The right to peaceful assembly was exercised without restrictions in most of Ukraine during the reporting period. In Donetsk and Luhansk regions, rallies could not be held either due to security reasons and active fighting, or because of restrictions imposed by armed groups. The only peaceful assembly in the east was the Prayer Marathon<sup>38</sup> held in Donetsk. However, because it is “unsanctioned” by DPR, its activists are regularly harassed, intimidated and abducted by the armed groups.

74. For the first time since March, in Severodonetsk (Luhansk region), once the Ukrainian Government regained control of the city on 22 July, residents were able to openly gather on 1 August, in the central square, for a pro-Ukraine rally in the form of a flash mob.

75. A number of rallies have taken place in western Ukraine expressing dissatisfaction with local or regional officials, opposing Russian-owned companies, in support of or against IDPs, against mobilization, or with demands for law-enforcement and criminal justice reforms. In some cases the protesters blocked critical roads. However, no violent incidents were reported. In western regions, the local authorities appeared more open to dialogue with the protesters. For example, in Lviv there were several instances when activists were invited by the mayor to the sessions of the city council to present their demands.

76. In Kharkiv, parallel rallies<sup>39</sup> of two opposing groups (the supporters of a unified Ukraine and the supporters of federalisation) were held again on Freedom Square, under the surveillance of about 100 police officers, with no clashes reported.

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<sup>35</sup> In Odesa, the two opposing sides are referred to as “pro-unity” or “pro-federalism” supporters.

<sup>36</sup> Saint George ribbons are associated with the pro-federalism movement

<sup>37</sup> For example, in Odesa, some activists told the HRMMU that they would like to have psychological help as a result of trauma following the 2 May violence, but are afraid that because of their pro-federalism views they might be harassed or reported to law-enforcement agencies. In Bessarabia (south Odesa region) there have been reports of people demonstrating aggressiveness against pro-unity symbols, including the Ukrainian flag.

<sup>38</sup> The Prayer Marathon is an inter-denominational initiative, which started on 4 March 2014 in Donetsk. It was initiated by the Council of Christian Churches in the Donetsk region. Representatives of different religious traditions, beliefs and people of good will were invited to gather at the main square to pray for peace, freedom and unity. Since April, the activists of the Marathon have been regularly harassed and abducted by the armed groups.

<sup>39</sup> The holding of parallel rallies in one place was commonplace previously, especially during April-May, when in many cases it led to clashes between the protestors with resulting casualties.

77. Compared to previous months, the assemblies tended to involve more participants. An increased in participation of women in public protests could be observed, on average representing over 60% of demonstrators. This could be attributed to the growing number of protests against mobilization, in which mothers of the drafted soldiers play a leading role.

78. In Odesa, activists supporting federalisation continued to gather on the main square, Kulikove Pole, protesting against the security operation in the east and the slow investigation into the 2 May events and demanding fair trials for pro-federalism activists who had been detained. On the other hand, pro-unity activists organised protests in relation to lustration, corruption, environmental protection, as well as “anti-Russian” protests, such as requests for a boycott of products from the Russian Federation. In the past few weeks, there has been an observable increase in tensions as a result of rallies where activists of opposing sides gathered in the same place, trying to provoke each other. Some activists were arrested due to aggressive behaviour and “hooliganism” and all were released after a maximum of three hours.

### **C. Freedom of religion or belief**

79. On 8 August, after the regular evening session of the Prayer Marathon in Donetsk, four activists (three men and one woman) were abducted by the armed groups. The female activist was released the same day; two abducted Protestant pastors were released the following day. The fourth activist (also Protestant) was released on 12 August. According to the Prayer Marathon participants, his health was satisfactory, yet he required recovery.

80. They were initially detained because in the view of the armed groups they were participating in an “unsanctioned” rally. However, once identified as Protestants, they were subjected to harsher treatment. In the so-called constitution of the self-proclaimed Donetsk People’s Republic, the Orthodox Christianity of the Moscow Patriarchate is the only recognised religion, and all other “sects” are prohibited.

## **IV. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS**

### **A. Investigations into the 2 May violence in Odesa**

81. The official investigation into 2 May violent events in Odesa has made little progress. The Ministry of Internal Affairs and the Office of the General Prosecutor, which are two of the entities leading the investigation, have not provided results. However, they did present some preliminary findings.

82. On 6 August, at the request of the Temporary Oversight Commission of the Odesa Regional Council, the Ministry of Internal Affairs, the SBU and the Regional Prosecutor’s Office presented their preliminary findings on at a Council session. Most of the information provided did not contain new elements; some information published by the Ministry of Internal Affairs and the Office of the General Prosecutor appeared to be contradictory with regard to the number of suspects and detainees and the results of forensic examinations. There was also a difference of opinion about the proposal to disclose the detainees’ political affiliation since this might be considered as influencing the case.

83. The following information was reported by the Ministry of Internal Affairs of the 33 suspects regarding 2 May violence in the city centre, 12 were in custody and 21 under house arrest, and are charged under Article 115, part 1 (Intentional homicide) and Article 294, part 2 (Mass riots/unrest). The suspects included people from the Russian Federation and the Transnistrian region of the Republic of Moldova. It was announced that trials will be scheduled for the end of August. The SBU stated that five additional persons (four of whom were in



detention) were suspected of committing crimes against the State during the events in Odesa. The HRMMU visited all 12 detainees in the pre-trial detention centres in Odesa, Vinnytsya and Kyiv.

84. According to the Ministry of Internal Affairs, the cause of deaths in the Trade Union building remained unclear and required further investigation. This contradicts information provided by the Head of the Regional Forensic Office on 20 June at a public session of the Temporary Oversight Commission of the Odesa Regional Council, who stated that the causes of all deaths were determined.

85. The information provided did not contain any new elements. Some information published by the Ministry of Internal Affairs and the Office of the General Prosecutor appeared to be contradictory with regard to a number of suspects and detainees, and forensic examinations.

86. The Office of the General Prosecutor continues to investigate police negligence on 2 and 4 May. Regarding 2 May, the main suspect (the former Deputy Head of the Regional Ministry of Internal Affairs) remains at large. Its investigation Unit is preparing materials for court hearings related to the 4 May events when detainees were “illegally” released from police custody. In this case the Head of Odesa’s City Police, the Head of the Temporary Detention Centre under the Ministry of Internal Affairs, and the Duty Officer have been notified that they are under suspicion.

87. Members of the Independent Commission on the Investigation of the 2 May violence have expressed serious concerns about factual errors in the forensic evidence and suggested annulling all previous forensic results. All 42 people (except one body that remains unidentified) who were killed in the Trade Union building and who have been buried were identified through the use of forensic evidence.

88. On 8 August, the Independent Commission published further conclusions, including an analysis of the police conduct during the 2 May violence. They deplore that fact that the principal initiators of the violence remain unknown and therefore enjoy impunity. (1) The Regional Ministry of Internal Affairs was well informed in advance about the tense situation in Odesa at the beginning of May, and of the plans of the pro-unity and pro-federalism activists. (2) A special police tactical plan had reportedly been approved by the Head of the Regional Ministry of Internal Affairs, and was supposed to guarantee police readiness. However, for reasons that remain unknown, this plan was not implemented. (3) The Independent Commission concludes that despite prior knowledge and planning, police forces were deployed to secure public order, for unknown reasons. In addition, the police units in the city centre were not adequately equipped to control a large gathering or mass disorder. As a result, according to official data, 14 National Guards and 50 police officers were injured or wounded. Reportedly, additional 50 police officers from other districts of the Odesa region were injured but did not register with any of the city hospitals. (4) The Independent Commission is currently studying the official State Emergency Service (fire brigade) transcript of emergency telephone calls received during the evening of the 2 May. According to the transcript, it took the fire brigade 38 minutes to arrive at Kulikove Pole (site of the violence) following the first emergency call, although it is only 5 minutes away.

89. Every Sunday since 2 May, pro-federalism supporters gather at Kulikove Pole, the square in front of the Trade Union building. A memorial with the photos of the deceased people and candles was set up but demolished twice within 24 hours, on 19 and 20 July, by unknown people. This reflects the continued sensitivity and division following the 2 May violence, and the need for a thorough and independent investigation.

## **B. Investigations into human rights violations committed at Maidan**

90. Eighty-four criminal proceedings have been instituted in connection with human rights violations committed during the Maidan protests, held in Kyiv and other cities of Ukraine from November 2013 until February 2014. They concern the circumstances surrounding the forceful

dispersal of protesters on 30 November 2013, the killing of protesters on 19-21 January 2014 and mass killings on 18-20 February 2014. In addition 30 cases of unlawful acts by law enforcement officers against participants of the AutoMaidan are under investigation.

91. The Ministry of Internal Affairs and the Prosecutor's offices investigated 445 cases of unlawful acts against demonstrators between November 2013 and 1 August 2014 according to the Office of the General Prosecutor. Of these 66 cases were closed with no crime having been committed, 265 were merged with other cases and 84 are ongoing, as of 1 August. On the basis of these investigations, 76 civil servants, including law enforcement officers, 6 judges, and 2 civilians are to undergo pre-trial criminal investigation.

#### ***Forceful dispersal of protesters on 30 November 2013***

92. As noted in previous reports, the forceful dispersal of protesters on 30 November 2013 was the first instance of the excessive use of force against peaceful Maidan demonstrators and triggered further protests.

93. A law<sup>40</sup> adopted shortly after the 30 November events, decriminalized all the protesters' deeds and some acts of violence and human rights violations committed during the forceful dispersal of the demonstration, thus discharging the perpetrators from criminal responsibility for these actions. The law was repealed on 21 February. The Office of the General Prosecutor informed the HRMMU that five persons were on 24 February notified of being under suspicion for illegal obstruction of public meetings, rallies and demonstrations. However, the pre-trial investigation into this was suspended on 17 July due to the prosecution being unable to locate three of the suspects who have apparently fled Ukraine. In addition, by court order on 29 July, the Office of the General Prosecutor was requested to undertake further investigations into possible abuse of power by two of the suspects, who were previously exempted from criminal responsibility according to the law.

#### ***Killing of protesters on 19-21 January and 18-20 February 2014***

94. The Office of the General Prosecutor is conducting an investigation into the circumstances of the death four people between 19 and 21 January 2014 and of at least 98 people between 18 and 20 February 2014. So far there has been no significant progress in this investigation. However, the Office of the General Prosecutor expected that the case would be submitted to the court in the nearest future.

95. The Prosecutor's investigation has found that these crimes were instigated by a group, headed by the then President of Ukraine, Victor Yanukovich, and composed of the highest level officials, including from the law enforcement agencies such as the SBU and special police forces. The Office of the General Prosecutor said that the investigation is complicated by the fact that all members of the group have fled Ukraine and are beyond its jurisdiction. The Government of Ukraine have taken all the necessary procedural steps at the international level to be able to prosecute the suspects.

96. With regard to the actual perpetrators of the crimes, the Office of the General Prosecutor informed the HRMMU that three former servicemen of the Berkut special police force, who are suspected of killing 39 of the 98 protesters who died between 18 and 20 February 2014, were in detention and 24 suspects were put on the wanted list. The Office of the General Prosecutor was expecting to submit materials about these cases to court in the near future.

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<sup>40</sup> The Law of Ukraine on Elimination of the Adverse Effects and Prevention of Prosecution of Punishment of Individuals with regard to Events which Took Place During peaceful assemblies, adopted on 13 December 2014, was repealed on 21 February 2014.

97. According to the Office of the General Prosecutor the case of a journalist who was severely beaten and shot by so-called “titushky”<sup>41</sup> on the night of 18 February and who died in hospital on 19 February, was submitted to the court with an indictment. However, seven perpetrators of the crime have not yet been located.

98. The report submitted to the Office of the General Prosecutor on 7 July by the Provisional Investigating Commission of the Ukrainian Parliament on the Maidan events<sup>42</sup> largely reiterated the prosecutor’s findings. The Commission emphasised the malicious negligence of law enforcement investigators, which resulted in their failure to collect and/or duly secure evidence. This led to an unalterable loss of material evidence, due to which it has become almost impossible to bring the actual perpetrators to trial.

99. People who had been living in the Maidan encampment since the end of the protests refused to dismantle the barricades in Instytutska Street in Kyiv, claiming that it would destroy potential remaining evidence. On 24 July, the Kyiv city prosecutor initiated criminal proceedings against the Kyiv city administration, accusing them of having failed to ensure the departure of pro-Maidan activists from 12 buildings they have been occupying illegally since December 2013 and for not restoring public order and normal traffic in and around the Maidan area of Independence Square. From 7 to 15 August, the Maidan encampment in Independence Square in Kyiv was removed by the voluntary battalions under the auspices of the Ministry of Internal Affairs. This triggered resistance from the inhabitants of Maidan who tried to defend their camp; a number of tents and tires were set on fire and clashes occurred. Some Maidan inhabitants were arrested and one suffered a gunshot wound. He said to HRMMU that he was shot in the back by law enforcement officers.

### **C. Investigations into other human rights violations**

100. Investigations are ongoing into the human rights violations in the Rymarska case in Kharkiv in March 2014, when members of the pro-Russian organisation Oplot clashed with members of the far-right Patriots of Ukraine. As a result two Oplot activists were killed and several wounded. The SBU said that two suspects are in pre-trial detention, but are not yet charged. The SBU told the HRMMU that it considers that the killings of the Oplot activists were in self-defence, arguing that the victims had committed an armed attack.

101. Investigations are also ongoing into the human rights violations perpetrated during the assault and seizure, on 9 May, of the Mariupol Department of the Ministry of Internal Affairs and the military base by pro-Russian armed groups. When the special police battalion Azov sought to prevent the seizure of the administrative building 20 armed persons were reportedly killed and even more hospitalized. According to the Office of the General Prosecutor, the pre-trial investigations into both these events are expected to be submitted to court in the near future.

102. Investigations into three cases of Volodymyr Rybak, Yurii Popravko and Yurii Diakovskiy, who were abducted by armed groups and found dead in the river near Slovyansk (Donetsk region) with visible signs of torture in mid-April, have not made any progress in four months. According to the relatives, the law enforcement bodies have not questioned the live witnesses or collected the evidence in the building where victims were held as hostages.

103. According to an advocate providing legal aid to people released from the captivity of the armed groups, the investigation of detentions is often sent back to the police precincts in the

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<sup>41</sup> Organized groups of young men, sometimes armed, used to attack peaceful rallies or stage provocations; see first report.

<sup>42</sup> Provisional Investigatory Commission of the Parliament of Ukraine on investigation of unlawful acts of the law enforcement organs and particular officials, encroachment of rights and freedoms, life and health of citizens during the events, related to mass socio-political protests, which took place in Ukraine from 21 November 2013.

Donetsk and Luhansk regions (as it is their jurisdiction). However, when these crimes were committed, the police were cooperating with the armed groups and some of the same people are still police officers. Therefore it seems unlikely that any action will be taken concerning these investigations. In addition, there are concerns about reprisals, particularly against family members of the former detainees who might still reside in the east. Some cases have not even been registered in the unified registry of pre-trial investigation.

## **V. LEGISLATIVE DEVELOPMENTS AND INSTITUTIONAL REFORMS**

104. On 23 July, the President created a National Reform Council to spearhead the national reform process. While there were no developments in amending the constitution, the lustration commission for judges has started vetting requests and a draft law on lustration had its first reading in Parliament.

105. During the reporting period, Parliament adopted several pieces of legislation relating to the security operation in the east, which expands the powers of law enforcement agencies in “counter-terrorist operation area”, and thus imposing restrictions on human rights.

106. In Lviv, a pilot project on police reform that was launched on 1 July has begun work.

### **A. Changes to the legislative framework**

#### ***Constitutional amendments***

107. So far Parliament has not considered the draft law<sup>43</sup> introduced by the President on 2 July to amend the Constitution of Ukraine. As noted in the previous report, the proposed amendments foresee the decentralization of power as well as enhanced protection of minority rights, particularly linguistic minority rights, among other issues.

108. The draft law was submitted for review to the Venice Commission of the Council of Europe in early July. The Venice Commission was expected to present its opinion on these amendments by the end of August but this was postponed. A review of the draft law has been included in the agenda of the 100<sup>th</sup> Plenary Session of the Venice Commission, which will take place on 10-11 October 2014.

#### ***National Reform Council***

109. The President created a statutory framework for reform on 13 August detailing the mandate and functions of three bodies: the National Reform Council (NRC)<sup>44</sup>, an Executive Committee and an Advisory Council for Reforms. The Executive Committee will be responsible for strategic planning, harmonizing the implementation of reforms and monitoring their implementation. It is currently preparing a strategic plan for the sustainable development of Ukraine until 2020, which it is to submit to the NRC by 23 October. The Advisory Council will ensure that reforms being proposed are based on best international practices and will promote their implementation. Along with the President, other members of the NRC include the Speaker of Parliament, the Prime Minister and other members of the Cabinet, the Head of the National Bank of Ukraine, the heads of the Committees of Parliament, four representatives of NGOs, and one representative of the Advisory Council.

110. The NRC is to coordinate the activities of ministries and government agencies in formulating and implementing reforms. It is foreseen that a special donors’ committee will be established within the NRC to fundraise and manage funds provided in support of reforms.

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<sup>43</sup> No. 4178a

<sup>44</sup> The National Reform Council will be chaired by the President.

## *Legislation*

111. On 23 July, the President signed into law partial mobilization according to which, for the following 45 days, people aged between 18 and 60 are to be mobilized for deployment to the security operation. According to the Ministry of Defence, up to 50,000 people could be mobilized, bringing the total number of active servicemen to 100,000. The law applies to all regions of Ukraine, except Crimea. Students, members of Parliament and men or women with no military experience were exempt from the mobilization plan. It was clarified later that this mobilization would also apply to eligible IDPs.

112. According to the presidential decree that was approved by Parliament on 22 July, the need to declare partial mobilization was justified by the concentration of forces with significant offensive potential on the territory of the Russian Federation near the border with Ukraine, the threat of an attack, and a threat to Ukraine's state independence. This is the third wave of mobilization of servicemen and reservists since the beginning of the security operation in mid-April.

113. Ukraine's Parliament on 12 August adopted three laws that would significantly expand the powers of law enforcement bodies in the areas where the security operation is being conducted.<sup>45</sup> Although these laws are intended to address a temporary situation – the current security operation in eastern Ukraine – there is no provision concerning their term of validity and their temporary character is not mentioned. These laws appear to be in conflict with international human rights norms and standards. While it is acknowledged that times of emergency might require limiting certain guarantees, in all circumstances such measures must remain consistent with the norms of international law.<sup>46</sup>

114. One law<sup>47</sup> would extend the period of time a suspect could be held in preventive detention on suspicion of terrorism without initiating criminal proceedings and a court decision. The Criminal Procedure Code requires that a suspect be brought before a court within 60 hours (72 hours for judgment) while the new law allows a suspect to be held for up to 30 days before appearing before a court. This appears to be in conflict with international human rights norms and standards, in particular article 9(3) of the International Covenant on Civil and Political Rights which requires that “(any)one arrested or detained on a criminal charge shall be brought *promptly* before a judge or other officer authorized by law to exercise judicial power...” (emphasis added).

115. In a second law,<sup>48</sup> Parliament expanded the authority of the prosecutor in emergency situations or under martial law. In this law, the prosecutor is given judiciary functions in that the prosecutor can order searches of property, documents, premises and other related activities in cases of suspected terrorist activity. Previously only a court could authorize this. The law does not provide for any appeal mechanism regarding the prosecutor's action. It is in contravention of provisions of the Ukraine Constitution prohibiting any delegation of court functions, the limitation of rights and personal immunity. In addition, the law runs conflicts with international recommendations, which call for reducing the powers of the prosecution not related to the criminal justice process.

116. The third law,<sup>49</sup> regarding conditions permitting the use of force, special munitions and guns without notice in the region of the security operation, would enable the police to shoot at a person under any circumstances without warning. This law, if applied in the context of law enforcement operations, could be contrary to the UN Basic Principles on the use of force and firearms by law enforcement officials, which stipulate that intentional use of firearms may only be made when

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<sup>45</sup> As of 28 August all three laws entered into force.

<sup>46</sup> Report of the Working Group on Arbitrary Detention, E/CN.4/2004/3.

<sup>47</sup> Amendment to the Law of Ukraine “On Fighting Terrorism”.

<sup>48</sup> Amendment to the Criminal Procedure Code of Ukraine regarding a special regime of pre-trial investigations under martial law, state of emergency and in the region of the anti-terrorist operation.

<sup>49</sup> Amendment to the Law of Ukraine “On Police”

strictly unavoidable in order to protect life and that in such cases, officials shall identify themselves as such and give a clear warning of their intent to use firearms.

117. Parliament also adopted a law<sup>50</sup> on the creation of military prosecutors which would establish a Military Prosecutor's Office within the General Prosecution Office of Ukraine, to be headed by a Deputy Prosecutor General of Ukraine who will also be the Chief Military Prosecutor. The Prosecutor General can also authorise him/her to perform other duties. The law enables the military prosecutor's office to perform the functions of general prosecutors in exceptional circumstances, which are unspecified. If implemented in line with human rights standards, this law could fill a gap in the current criminal justice system in the east. Currently in most of Donetsk and Luhansk regions, the judicial system, prosecutor and law enforcement do not function.

## **B. Law enforcement and judiciary reforms**

### *Law enforcement*

118. The Ministry of Internal Affairs launched on 1 July a pilot project in Lviv, which would provide some preliminary research and assessments to develop nationwide police reform. This pilot project involves seven expert groups with a total of around 110 experts – policemen, representatives of civil society, sociologists and journalists – from different regions of Ukraine, who will examine all aspects of the current state of the police and propose changes, including possible draft legislation.

119. According to some of the participating experts who met with the HRMMU, one proposal would be to link the efficiency of the work performed by the police, not to the number of crimes solved (as is currently the case), but to the public's evaluation of safety in a particular city and its level of satisfaction with police activities. Another expert group proposes to introduce a lie detector test for anyone wishing to become a police officer. According to some of the experts, the root cause of many current problems with the police force is legislative and budgetary and these need to be addressed before any meaningful change will happen to the police. An additional problem that does not seem to be addressed in any of the expert groups' mandates is the systemic corruption in the police force. In addition, according to the experts, reform of the police will not have the desired impact unless it is accompanied by simultaneous reform of the prosecutorial and judicial systems. Nevertheless, the experts noted that this project is the first time that central authorities have expressed the political will to change the law enforcement system and they considered this a hopeful breakthrough for a long-lasting improvement of police activity.

### *Administration of justice*

120. On 3 July, a Temporary Special Commission<sup>51</sup> began its assessment of the decisions and conduct of general court judges who considered civil, administrative or criminal cases related to Maidan mass protests held throughout Ukraine from 21 November 2013 and until the law entered into force of the law<sup>52</sup> on 11 April 2014. The Commission will also review the decisions and conduct of judges who ruled on cases which were assessed by the European Court of Human Rights as having violated the European Convention on the Protection of Human Rights and Fundamental Freedoms. Any person or legal entity can request a judge to be assessed by the Commission under the above two circumstances.

121. In addition the Commission will also review cases related to the October 2012 Parliamentary elections and the preceding election campaign. Only people whose rights were violated during these events can apply for the Commission's review. The Commission will conduct its first public hearings in September 2014. The mandate of the Commission will expire on 3 July 2015.

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<sup>50</sup> No. 4446a Amendments to the law "On prosecution".

<sup>51</sup> Established according to the Law on Restoration of Confidence in Judiciary in Ukraine.

<sup>52</sup> Law on Restoration of Confidence in Judiciary in Ukraine.

122. As of 8 August, 541 applications had been submitted to the commission for review, of which 82 were accepted and 459 rejected. In most cases, the rejections were because they failed to meet the time frame criteria or to the fact that the cases did not fall within the Commission's mandate. The applications mostly requested a review of decisions made during the Maidan events or related to alleged violations of the right to peaceful assembly, as well as illegal arrests and detentions. The conclusions of the Commission on each case will be of an advisory character, and will be shared with the High Council of Justice of Ukraine, which will decide on what measures to apply against the judges.

### *Lustration*

123. The lustration<sup>53</sup> or vetting of corrupt officials and those associated with the previous administration was one of the central demands of the Maidan activists and remains an important focus of civil society. Local communities have been playing a key role in this process by demanding better governance by local and regional officials, including accountability.

124. In most regions throughout Ukraine, especially the western ones, local lustration committees have been created which lead public discussions about whether people in local positions of power should be subject to lustration for their past actions and in identifying and recommending specific candidates to replace them. For example, a Lustration Committee of the Khmelnytskyi region was set up in April consisting of 8 members from civil society and political parties. In March, the People's Council<sup>54</sup> of Ivano-Frankivsk established a Lustration Commission of 9 members (local journalists, entrepreneurs and civil activists) which later integrated five local civil society organizations. Volyn was the first western region to establish a Public Lustration Committee (in late February), which includes 10 members (journalists, academics, workers, and pensioners); it has a public office in the building of the Volyn Regional Council where anyone can initiate a lustration procedure against any public official or candidate for an official post. In Rivne, there are two separate lustration committees and an on-line platform,<sup>55</sup> whereby anyone can express an opinion about public officials or candidates. The Lviv region Lustration Committee, also created in late February 2014, consists mainly of civil activists and journalists and has its own weekly TV programme, "Lustration", broadcast on the local TV channel ZIK. Candidates for Lviv state jobs are invited by the Committee to participate in the programme, during which the Committee questions them and decides whether the candidate "passed" lustration. The civic initiatives have had some success in having regional and local officials dismissed and others appointed.

125. However, many of the people responsible for human rights violations remain in positions of power. Activists demand that anyone who ordered violations during Maidan, past leaders of communist organizations, former Security Service of the USSR (KGB) agents, anybody who supports the separatists and public officials who are unable to explain the sources of their property, should be deprived of public office and roles in the government.<sup>56</sup>

126. On 14 August, Parliament held a first reading of a draft law on the Lustration of State Authorities. The draft law does not create a single independent lustration body; responsibility for carrying out lustration is given to the heads of each body concerned. It proposes to dismiss virtually all state officials occupying leading posts in previous years, thus entailing wholesale dismissal within certain departments. There is no mechanism for replacing these officials that would guarantee that qualitatively different persons would occupy these posts.

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<sup>53</sup> The term "lustration" literally means "cleansing" but is taken to mean "investigation and dismissal" of corrupt officials and those associated with previous regimes.

<sup>54</sup> A special local body created during the Maidan protests and authorized to represent the people's interests.

<sup>55</sup> <http://rv.lustration.co.ua/about> .

<sup>56</sup> Stated at a press conference of Kharkiv lustration activists, Kyiv 8 August 2014

## VI. ECONOMIC AND SOCIAL RIGHTS

127. The fighting in the eastern regions continues to have a negative impact on economic, social and cultural rights, not only in the Donetsk and Luhansk regions, but in the whole country. As of July, there was evidence of further decline in the economic situation: the GDP decreased by 4.7% compared to last year, capital investments dropped by 23.1%, the consumer price index grew by 11.6% and the unemployment rate increased from 8 to 8.8%.

128. In order to finance the security operation in the east and to address reconstruction in the Donetsk and Luhansk regions (the main strongholds of armed groups), Parliament approved amendments to the budget on 31 July which will make cuts in social programmes, pensions, unemployment and disability benefits, and salaries of state employees. These cuts will negatively affect women disproportionately, as they constitute 67% of the population over 65 years old, 55% of the registered unemployed and 75% of state employees.

129. At the same time on 31 July, the Government introduced a 1.5% “military tax” to be paid from all salaries and wages until 1 January 2015. Already there are large wage arrears in Ukraine, amounting to 970.7 million UAH (about 72.5 million USD) as of July 2014, with the highest rates in Kyiv region (125 million UAH), Donetsk region (121.1 million UAH) and Kharkiv region (102.6 million UAH). These factors will have negative impacts on businesses and households.

130. The principal driver of the further deterioration of the economic and social situation in the east is the continuation of the fighting which is concentrated in densely-populated areas. On 14 August, an UN-led preliminary response plan on the humanitarian aspects of the situation in eastern Ukraine was presented to a donors’ conference. According to the plan, some 3.9 million people live where fighting is ongoing or where fighting was taking place until very recently. The population remaining in the Donbas region, even those not directly affected by hostilities, face reduced or disrupted services, with water and electricity supply and transportation badly affected.

131. According to the Ministry of Social Policy, as of 15 August, the security situation made it impossible to deliver pensions to 11 towns and districts in the Donetsk region: Snizhne, Horlivka, Yenakieve, Zhdanivka, Kirovske, Makiivka, Torez, Khartsyzk and Shahtarsk town and district. In the Luhansk region, pensions could not be paid in 5 districts. Elderly people are particularly affected as many have been left alone when their families fled the area. According to Donetsk Regional authorities, about 20,000 persons with disabilities and the elderly, were left alone in their homes in Donetsk, Makiivka and Horlivka, have no access to their pensions and food.

132. Other social welfare benefits (for families living in poverty, families with children, children with disabilities) could not be paid in 14 towns and districts of the Donetsk region: Avdiivka, Horlivka, Yenakieve, Zhdanivka, Kirovske, Makiivka, Snizhne, Torez, Khartsyzk, Marjivka, Shahtarsk town and district, Yasynuvate town and district and Donetsk city. Due to technical difficulties, State allocations for social welfare benefits could not be delivered to the Luhansk region.

133. The situation is particularly critical in Luhansk city, directly affecting the 250,000 residents who remained. According to the Luhansk city council, as of 15 August, the city had been under continual shelling for 13 days, without electricity, water and mobile/telephone connection. There was a shortage of food, potable water and medications. Water had not been sanitised and the rubbish had not been collected for more than two weeks.

134. The assessment of the World Health Organisation suggests that access to, and the provision of, quality emergency and primary health care in hospitals and medical facilities in the Luhansk and Donetsk region has been severely impacted by the security situation, which has led to a deterioration and the insufficient provision of services due to the extreme lack of pharmaceuticals, consumables and human resources, as well as intermittent electricity and water supply. According to preliminary estimates, in Donetsk and Luhansk regions 15 hospitals have been damaged in the



course of fighting, 20 medical institutions closed and 70% of the medical personnel have fled the area.

135. Medications for patients in need of renal dialysis, vaccinations and antiretroviral treatment (ARV), as well as insulin dependents, patients with rare diseases and the disabled are currently provided through available local resources, which will soon run out. The incidence of tuberculosis may increase due to the risk of treatment interruption or inadequate treatment. It is increasing difficult to distribute some live-saving medications, such as ARV and insulin. These medications are bought through national tenders and delivered to regional centres first. In the current situation, with fighting concentrated in Luhansk and Donetsk, such treatment cannot be delivered even to smaller towns where fighting has stopped.

136. People who are in institutions face particular difficulties. Institutions where older persons live were not evacuated from the eastern regions. Most of these homes had been in very poor condition with little equipment and resources. They are located off the main roads making deliveries difficult; they thus now face severe shortage of food, medicines and basic commodities. Furthermore, due to the constant stress experienced by the residents as a result of prolonged fighting and shelling, cases of heart attacks and strokes have become more frequent.

137. More than 23% of all prisoners in Ukraine are held in the eastern regions. As of beginning of August, out of 36 penitentiary institutions, 28 were in territories controlled by the armed groups in the Luhansk and Donetsk regions. Due to the lack of food delivery, it has become a major challenge to feed the inmates. Some penitentiary institutions do not have sufficient supplies of ARV treatment. Since April 2014, due to the security situation and fighting, inmates could not be sent for treatment to the regional hospital of Donetsk.

138. As a result of fighting, public infrastructure in the east has been severely damaged and its reconstruction will require significant time, human and financial resources. Availability of basic infrastructure and adequate living conditions is a determining factor for IDPs who plan to return home. In such towns as Kramatorsk, Slovyansk, the electricity and water supply have been fully restored. Nevertheless, as of 13 August, 76 towns and villages in the Donetsk region had limited or no electric power. Reconstruction of buildings damaged by shelling, particularly residential ones, will be required. For example, in Semenivka, a suburb of Slovyansk, 250 houses were completely destroyed by shelling; in Slovyansk, approximately 2000 buildings were damaged.

139. On 12 August, the Confederation of Free Trade Unions of Ukraine reported that out of 93 mines (which provide a large proportion of the jobs available in the eastern regions), only 20 were fully functioning, 48 were semi-operational, 6 were flooded and others were closed and/or damaged.

140. On 7 August, during a roundtable on access to education for children from the eastern regions, the Ministry of Education and Science reported that the buildings of at least 51 kindergartens and 102 schools in the Donetsk and Luhansk regions had been damaged. It is expected that in the districts where fighting has stopped, the school year will be postponed by a month and will start on 1 October. For the towns where the fighting is ongoing, alternative plans will be developed, most likely distance learning.

141. It is also expected that with the beginning of the school year, problems will arise in other regions of Ukraine regarding education. Many IDPs have not registered officially with the local authorities; this prevents an assessment of their various needs, including education. To facilitate IDP children's enrolment in schools, the Ministry of Education allowed school administrations to enrol IDP children only based on the written request of their parents. Also the Ministry is cooperating with the Ministry of Health to simplify the procedure for children to obtain medical clearance to be able to register in schools.

142. In large towns, people have to wait for a year, on average, to place their children in a kindergarten. To tackle this problem, on 8 August, the President of Ukraine signed a law allowing for the transfer of state property to local authorities in order to create new kindergartens.

## **VII. SITUATION OF INTERNALLY DISPLACED PERSONS (IDPs)**

143. As of 14 August, UNHCR reported that 155,800 IDPs had been identified by the Government of Ukraine. Of these, 139,621 were from the Donbas region, and 16,179 were from Crimea. The actual scale of internal displacement is higher, as many IDPs have not identified themselves at this stage, namely those staying with friends and relatives or hosted by civil society groups. Mostly those IDPs have registered who require social welfare assistance, despite the fact that the procedures for registration are not clear.

144. Despite this, IDPs from the Donbas area continue to report hoping that their displacement will be short-lived and that they will be able to return home at the end of the summer. For this reason, many remain near to their homes, staying in rural areas of the Donetsk and Luhansk regions or in the nearby regions of Kharkiv, Dnipropetrovsk and Zaporizhzhya. Due to insecurity, humanitarian actors have not been able to assess the situation of persons displaced in the Luhansk region.

145. Among the IDP population registered by the Government, 53% are adults. 65% of all IDPs are women, 35% are children, and 12% are older persons and persons with disabilities. Older persons and persons with disabilities are having difficulty obtaining (or paying for) healthcare, including medication. They cannot move as easily to new locations. A large number of displaced children need to be enrolled in schools, a process that is only just beginning. With many men having remained behind, IDP women face the often overwhelming challenge of caring for elderly and disabled relatives, supporting children who are deeply affected by the violence they have witnessed.

146. The movements of people over the last month have responded to the developments of the continuing fighting. After the Government re-established control of various towns in the northern Donetsk region in early July, many IDPs returned. For example, some 20,000 IDPs returned to Slovyansk from other areas of the Donetsk region. Local authorities in Slovyansk estimate that while some 40% of the population was displaced at the peak of the hostilities, up to 90% had returned home by 17 August.

147. However, the intensified fighting in the urban areas of Donetsk and Luhansk cities and neighbouring towns has led to larger waves of displacement, with the number of displaced rising by more than 50,000 persons in the three weeks from 15 July – 8 August. According to local authorities and IDP accounts, between a third to one half of the population have left Donetsk and Luhansk cities, which suggests that over 450,000 people would have been displaced from these cities alone. However, leaving these cities has become more dangerous with IDPs reporting that armed groups block the departure of men, and that they must travel on long winding journeys riddled with dozens of checkpoints.

148. Regional and local authorities are providing some emergency shelter for IDPs in collective centres, but large cities like Kharkiv, Kyiv and Lviv – where employment opportunities are generally better – report that they do not have any more free spaces to accommodate IDPs. In part, their reluctance stems from the fact that the central Government has not yet guaranteed any funds to help regions pay for accommodation of IDPs from the Donbas area.

149. Shelter and humanitarian assistance are also being provided by a wide array of business, religious and civic groups, but this has started to subside. With the displacement entering its fifth

month, fatigue and lack of capacity has started to set in, and this is compounded by the economic downturn.

150. Deeper tensions are also emerging. Host populations and IDPs are competing over scarce resources. In various cities, this competition is expressed over the issue of pre-school slots, since these are in short supply in Ukraine's urban areas. In western Ukraine, host populations increasingly resent male IDPs, accusing them of evading military service while men from the west are being mobilized<sup>57</sup>. IDPs staying at a church-run centre near Kyiv reported being threatened by their neighbours who accused them of stealing jobs and evading their military duties. Some media outlets are fuelling these resentments with alarmist articles about the alleged misbehaviour of IDPs from the east. According to UNHCR and civil society, some IDPs in Kyiv and Lviv have reported that landlords have become reluctant to rent apartments to them because they are from the Donbas area. Those IDPs who have fled without their "labour book" - a document normally retained by employers - face difficulties in obtaining official employment or accessing unemployment insurance.

151. In the area around Mariupol, some IDPs live in dire conditions, sleeping in tents, cars or decrepit summer camp facilities. A joint UN mission visited locations with insufficient toilet facilities and no potable water. These conditions pose serious health risks, and are completely untenable for the winter months. An unknown number of IDPs are staying in camps and other old buildings, which cannot be efficiently heated. The regional authorities are just beginning to plan how to extend shelter to IDPs over the winter, which is expected to be complex and costly.

152. Local and regional governments throughout the country are responding to these humanitarian needs to the best of their abilities with limited resources and guidance from the central level. What is needed is a more systematic approach backed by a clear allocation of responsibilities and resources from the central level.

153. The President vetoed a law adopted by Parliament on 17 June on the rights of persons displaced from Crimea or the "zone of the anti-terrorist operation". Civil society organizations expressed serious concerns about it, including that it would have established of overly complex procedures for registration and would not solve the administrative problems IDPs face in accessing their social and economic rights. The Presidential Administration has consulted extensively with civil society in drafting a new piece of legislation.

## **VIII. SITUATION OF PERSONS BELONGING TO MINORITIES**

154. The Commissioner for Ethno-National Policy in Ukraine informed the HRMMU that although instances of discrimination based on ethnicity occurred, they were neither systemic, nor regular. Most ethnic communities have raised concerns about insufficient financial allocations for their cultural needs and of the necessity to adopt an ethno-national policy, which should become the basis for updating current legislation, particularly the law "On national minorities in Ukraine" (1992), to fully meet international standards. Based on consultations with the minorities' leaders and the head of the Parliamentary commission on human rights, minorities and religions, the Commissioner for Ethno-National Policy plans to lobby for the adoption of such a policy after the upcoming parliamentary elections.

155. Among all of the different ethnic communities that live in Ukraine, Roma communities seem to be the least integrated largely due to negative stereotypes and bias. Residents and local officials of some small towns and villages have tried to discourage Roma IDPs from settling in

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<sup>57</sup> The Government has announced that eligible IDPs are subject to the current partial mobilization.

those places. In order to avoid discrimination, many Roma allegedly choose to conceal their nationality by pretending that they are Moldovan or Greek.

156. The main struggles of the Roma community remain coping with poor living conditions, inability to obtain basic identity documents (birth and marriage certificates and passports) and overcoming obstacles accessing education, employment and healthcare. The Government tried to address these issues in 2013 by adopting the Strategy for the Protection and Integration of the Roma national minority into Ukrainian society for the period until 2020 and the Action Plan for its implementation. Roma representatives were not invited to participate in the development of the Strategy or the Plan. The two documents have been criticized for being declarative and inefficient; also no State funding was allocated for this programme.

157. On 30 July, during their all-Ukrainian conference, the Roma Council of Ukraine presented a detailed analysis of the Strategy, based on which the delegates prepared an appeal to the Government with a request to: (1) revise or cancel the Strategy; (2) create an inter-agency working group to draft a new State programme, under the responsibility of the Ministry of Culture, with the participation of Roma community representatives; (3) Ukraine to join the Decade of Roma Inclusion.

158. In the Donetsk and Luhansk regions, particularly those areas that were previously controlled by the armed groups, new challenges may arise. Media propaganda that was systematically used by the armed groups and the lack of reliable information about the ongoing situation from local authorities has created artificial tensions between the residents of these regions. Ethnicity and the language spoken were used as elements for creating differentiation. It is important to direct efforts at reconciliation and re-integration regardless of the ethnicity or language spoken. The Commissioner for Ethno-National Policy considers this as an important task and focus of his work for the nearest future. It is also important to secure the right of all ethnic minorities to effective and inclusive participation in decision-making processes, especially those that affect them and to enjoy their own culture freely without interference or any form of discrimination.

## **IX. HUMAN RIGHTS ISSUES IN CRIMEA**

159. The situation in the Autonomous Republic of Crimea during the reporting period was characterized by human rights violations and restrictions on freedoms affecting in particular minority groups, and a tense security environment, compounded by fighting in the east of Ukraine. Since the last report about 2,800 residents of Crimea were internally displaced from the peninsula to mainland Ukraine.

160. Intimidation of political opponents, independent journalists and civic activists continued. Crimean law enforcement agencies have conducted raids in order to identify cafés, sales outlets and service providers operating illegally. Crimean Tatar representatives claimed that these actions were aimed at intimidating their community which largely opposed the March “referendum”; most of the cafés and facilities visited by the police and the Federal Security Service of the Russian Federation (FSB) were owned by representatives of the Crimean Tatar Mejlis (Assembly) or had been used for their meetings. On 22 July, the Mayor of Bakhchisaray initiated a procedure to terminate the lease of the building where the regional Mejlis is located. Many facilities built by the Crimean Tatars were constructed without authorization and have not been legalized and, according to Crimean Tatar activists, this is used to exercise pressure on them.

161. Media outlets identified as being pro-Ukrainian are increasingly under threat. The chief editor of the Crimean Tatar newspaper Avdet was summoned on 24 July by the Crimean FSB and informed that a complaint had been lodged against the newspaper by a media monitoring body, the Russian Federal Service for the Supervision of Communications, Information Technology and

Mass Media (Roskomnadzor). The complaint relates to the publication of information about the decision of the Mejlis to boycott elections in Crimea scheduled for September 2014. A similar complaint has been made against another Crimean Tatar newspaper, Qirim. Since March 2014, no Ukrainian TV channels have been broadcast in Crimea and they were switched off by the Crimean cable operators as of 1 July.

162. Human rights organisations<sup>58</sup> report that freedom of expression; in particular freedom of the media is being restricted in Crimea. Reportedly, journalists perceived to be pro-Ukrainian are not allowed to attend official events of the Crimean authorities; according to a Crimean journalist from the Chernomorskaya TV Company, they are not allowed in since they are not on the list of so-called “approved journalists”. Journalists as well as ordinary Crimean residents are at risk to incur criminal responsibility due to the recent Russian legislation concerning extremism and separatism.<sup>59</sup>

163. Priests and followers of the Ukrainian Orthodox Church of the Kyiv Patriarchate (UOC-KP) continued to report of harassment. For example, on 21 July, a house in the village of Mramornoye (near Simferopol), which was the property of the UOC-KP, was burnt to the ground. A church and buildings, also belonging to the UOC-KP and located on the same land plot, were not damaged. In June, this church had been robbed. Four out of 12 churches of the UOC-KP have closed<sup>60</sup> since the March “referendum”.

164. The situation of four people, including Ukrainian filmmaker Oleg Sentsov, who were detained in Crimea in May 2014 and later transferred to a FSB detention facility in Moscow, remains unchanged. All are accused of terrorism charges, which two of them deny. The others two reportedly were forced to plead guilty to the charge. The Ukrainian Embassy in the Russian Federation was informed of their arrest two weeks after they were detained but representatives of the Ukrainian Consular Office have not been allowed to meet with them under the pretext that the detained men were now citizens of the Russian Federation, which the detainees deny and try to litigate. The Ukrainian Ministry of Foreign Affairs considers them to be political prisoners. Their lawyers have had difficulties accessing their clients. Oleg Sentsov complained of having been tortured during his detention in Crimea. His defence lawyer in Moscow was not permitted to take any written statement from his client or to meet him without the presence of FSB officials. Visitors of the FSB detention facility, including defence lawyers, must sign a declaration of non-disclosure of information obtained during the visit prior to seeing the inmates. On 15 July, the Russian Ombudsperson declared that Mr. Sentsov should not be held in the same cell as inmates who had earlier served several custodial sentences.

165. The whereabouts of three pro-Ukrainian activists who disappeared in May<sup>61</sup> are still unknown (Hennadiy Afanasiev, Alex Cirno, and Alexander Kolchenko). Two of them are not registered by the police as missing, hence the absence of any investigation to find them. The third one was registered by the police but no investigation has been undertaken. On 15 March, a pro-

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<sup>58</sup> Media lawyer of the Ukrainian NGO Regional Press Development Institute mentioned violations and restrictions in his interview to Hromadske Radio on 8 August; representatives of the Crimean Human Rights Field Mission mentioned this during a press conference on 4 August

<sup>59</sup> On 22 July, the President of the Russian Federation signed into law (№ 274-ФЗ dd. 21.07.2014 “On amendments to article 280-1 of the Criminal Code of the Russian Federation”) provisions that increase the punishment for public calls for separatism, including on the Internet. The maximum punishment is imprisonment of up to four years; on 30 July, the President of the Russian Federation signed a law (N 179-FL dd. 28.07.2014 “On amendments to certain legislative acts of the Russian Federation”) that introduces prison sentences for public calls for extremism, or attempts to humiliate people. This applies to internet posts as well as mass media publications. The maximum punishment for this felony is imprisonment of up to five years.

<sup>60</sup> Two churches were located on the territory of the Ukrainian military units and were sieged by pro-Russians paramilitary and the other 2 were closed due to administrative pressure.

<sup>61</sup> See 15 May monthly report.

Ukrainian activist disappeared in Sevastopol; reportedly he was abducted by the pro-Russian self-defence militia. The police in Sevastopol refused to register that he was missing. On 3 July, a student from Nigeria went missing and his disappearance was later registered with the police. His whereabouts remain unknown.

166. In spite of numerous allegations of human rights violations committed before and after the March “referendum” by different groups, including the so-called Crimean self-defence forces, no serious attempt has been made to investigate any of these allegations and punish the perpetrators. On 11 June, the self-proclaimed parliament of Crimea passed a law which resulted in the integration of self-defence groups into a “people’s militia”, with powers to assist the police in keeping law and order. During the reporting period a bill<sup>62</sup> was registered in the self-proclaimed parliament of Crimea that would consider all actions committed by the self-defence forces between 25 February and 11 April 2014, including those resulting in harm or damage, as “acts of extreme necessity”. The perpetrators of violations would therefore be immune from prosecution. Meanwhile, complaints continued being made against the Crimean self-defence forces.

167. Ukrainian companies are increasingly finding it difficult to continue their activities in the peninsula. The Ukrainian gas company Sevastopolgas was reportedly asked to leave its equipment or negotiate its sale. The energy company Sevastopolenergo and the Ukrainian telecom carrier Ukrtelecom have also been forced to leave Crimea since the authorities of Sevastopol want to replace the companies with new ones. There are discussions about adopting a law, which would allow the authorities of Crimea to “reprivatize” Crimean enterprises whose owners are in Ukraine.

168. The alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol, at variance with UN General Assembly resolution 68/262, and the resulting introduction of an administrative line, has restricted the freedom of movement between Crimea and mainland Ukraine. Russian customs officers deny Crimean residents the right to leave the peninsula if they do not have Russian passports and have either lost their Ukrainian passports or have invalid Ukrainian travel documents. A third Crimean Tatar leader has been subjected to a five-year ban from entering Crimea.<sup>63</sup> On the other hand, Ukrainian border guards deny entry into mainland Ukraine to people holding Russian passports that do not contain an entry registration done at one of the official border crossing points between Ukraine and Russia.

169. Several institutions or bodies dealing with Crimea have been created by the Government of Ukraine. On 16 May, a department for Crimea and social adaptation was created in the Presidential Administration. On 1 July, a Department on issues related to the Autonomous Republic of Crimea and the city of Sevastopol was established within the Cabinet of Ministers of Ukraine. On 17 July, a Government Service on issues related to the Autonomous Republic of Crimea, the city of Sevastopol and IDPs was set up to implement decisions of the Department on Crimea. The position of representative of the President of Ukraine for Crimea was established on 26 May, based in Kherson. These institutions have been established to deal with issues related to economic, social and property rights and the needs of those Ukrainians who have left Crimea, as well as those who still live in the peninsular. On 21 July, a bill was registered in the Parliament of Ukraine calling for the creation of a Ministry on Crimean issues and IDPs. There are discussions by the Government of Ukraine NGOs and activists on the development of a strategy on the ‘reintegration’ of Crimea into Ukraine, to be prepared by the National Council on Security and Defence of Ukraine, and the holding of a conference on Crimea.

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<sup>62</sup> “On the prohibition of the pursuit of persons for actions committed with the purpose to maintain public order and protect the interests of the Crimean Republic”

<sup>63</sup> In May, two other Crimean Tatar leaders had 5-year entry bans imposed on them by Crimean authorities.

170. During its session from 12 to 14 August, the Parliament of Ukraine adopted a law that affects Crimean IDPs. According to the law<sup>64</sup>, citizens from Crimea will be able to continue their education at higher educational institutions in mainland Ukraine in accordance with the usual procedure, which means that additional government-funded places in higher educational institutions will not be created for students from Crimea, as had been previously proposed.

171. Crimean IDPs on the mainland are considered by the government to be temporarily displaced. For this reason, the Minister of Social Policy of Ukraine said on 17 July that IDPs from Crimea will not be provided with subsidized housing on the mainland. The task of the state, according to the Minister, is to provide IDPs with affordable temporary housing conditions until they return home.

## **X. CONCLUSIONS AND RECOMMENDATIONS**

172. While the Government of Ukraine has a legitimate responsibility to restore law and order in areas seized by armed groups, nevertheless, the security operation must at all times respect its obligations under international law, including by upholding the principles of distinction, proportionality and precautions in attack. It is urgent to find a peaceful solution to end the violence in the eastern regions. This is the only way to save lives and to avoid a large scale humanitarian disaster. Effective control of the state border between Ukraine and the Russian Federation is a priority. Rule of law and the respect for human rights should be ensured for all. Accountability and curbing impunity are the basis for meaningful national reconciliation and dialogue.

173. The continued fighting coupled with the breakdown of law and order in the areas controlled by the armed groups in the east will leave deep scars on Ukrainians. Many residents, especially children, who have been affected by this atmosphere of fear and intimidation inflicted by the armed groups and the prolonged fighting, may need psychological assistance to heal and rebuild their lives. Many others, such as victims of torture and former hostages, especially those held for long periods, will also need to recover. In order to ensure accountability and an end to impunity, all such grave human rights violations must be investigated and the perpetrators brought to justice, and remedies provided to victims. Only then will reconciliation efforts be really successful and sustainable.

174. As highlighted in previous OHCHR reports, short-term human rights concerns should be addressed within the broader and longer term framework that will see institutional reform and enable change that will impact on the enjoyment of all rights – civil, cultural, economic, political, and social. OHCHR reiterates its firm call for needed human rights reforms to be part of the EU aspirations of Ukraine and its reform agenda.

175. The root causes of the current crisis were due to the systematic and structural curtailment of basic human rights, especially the weaknesses of rule of law institutions and widespread corruption. These were exacerbated by the alteration of status of the Autonomous Republic of Crimea and the city of Sevastopol, as well as the violence and fighting in eastern Ukraine. The way out of the current crisis in the east, to ensure reconciliation of communities through peaceful and democratic means, will be through accountability for violations and the full respect and guarantee of all human rights for all.

176. All recommendations contained in the OHCHR reports issued since 15 April 2014 remain valid.

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<sup>64</sup> "On amendments to the Law of Ukraine "On ensuring citizens' rights and freedoms and legal regime on the temporary occupied territory of Ukraine" re place of residence and the right to education" No. 4931 dd. 12.08.2014.

177. In addition, OHCHR calls upon all those involved to implement the following recommendations:

- a) Urgently put an end to fighting and violence in the eastern regions of Ukraine.
- b) Ensure that the protection of civilians in the areas of conflict is a priority: all those involved in the hostilities in the affected areas of the east must comply with the principles of distinction, proportionality and precaution. This is particularly important in densely populated areas.
- c) Targeting civilians and civilian infrastructure are violations of international humanitarian law, and more must be done to protect them; those who have committed such crimes must be held accountable.
- d) Access to areas affected by the hostilities – including the crash site of MH17 - must be guaranteed for international organisations and independent investigators.
- e) The armed groups and the Ukrainian law enforcement and security forces must allow and facilitate rapid and unimpeded safe passage for civilians wishing to flee the areas of violence and fighting; as well as the delivery of humanitarian relief for the civilian population, in strict compliance with international norms and standards.
- f) Rule of law should replace the rule of the gun; justice and accountability must replace impunity for major human rights violations in the east.
- g) In line with international norms and standards, all those involved in detaining individuals should promptly release all those abducted and unlawfully or arbitrarily detained.
- h) All violations of international law, including war crimes, must be fully investigated; perpetrators must be promptly brought to justice and victims provided with remedies and reparations.
- i) A law on IDPs must be introduced and adopted by Parliament and signed by the President as soon as possible, as well as the establishment of a central registry.
- j) Reprisals against people in territories regained by the Ukrainian Government should be avoided and the rights of those detained/charged must be fully observed by the Ukrainian armed forces and law enforcement agencies.
- k) In the cases of the violence at Maidan, Odesa, Mariupol and Rymarska, investigations must be in full compliance with international norms and standards, guaranteeing justice for the perpetrators, and ensuring remedies for the victims.
- l) All manifestations of incitement to hatred and intolerance in public life must be publicly condemned.
- m) Legislative reforms should comply with international norms and standards and Ukraine's obligations under human rights treaties.

178. To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- n) OHCHR reiterates the need to implement UN General Assembly resolution 68/262, entitled "Territorial integrity of Ukraine", as well as to undertake measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
- o) In addition, OHCHR recalls the earlier 17 recommendations from the previous four reports and urges their prompt and effective implementation.