



# Asamblea General

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## Consejo de Derechos Humanos

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**Informe anual del Alto Comisionado de las Naciones Unidas  
para los Derechos Humanos e informes de la Oficina  
del Alto Comisionado y del Secretario General**

**Asistencia técnica y fomento de la capacidad**

## **Informe del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre la situación de los derechos humanos en Ucrania\* \*\***

### *Resumen*

Este informe se presenta de conformidad con la resolución 26/30 del Consejo de Derechos Humanos. El informe abarca el período comprendido entre el 21 de noviembre de 2013 y el 5 de septiembre de 2014 y contiene una exposición general de los principales acontecimientos y problemas en materia de derechos humanos que se describen en los cinco informes publicados por la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (ACNUDH) entre el 15 de abril y el 29 de agosto de 2014, sobre la base de la labor de la Misión de las Naciones Unidas de Vigilancia de los Derechos Humanos en Ucrania.

\* Documento presentado con retraso.

\*\* El anexo se distribuye tal como se recibió.

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## I. Introducción

1. En su resolución 26/30, de 25 de junio de 2014, sobre la cooperación y la asistencia a Ucrania en la esfera de los derechos humanos, el Consejo de Derechos Humanos invitó a la Alta Comisionada para los Derechos Humanos a que le informara de la aplicación de la resolución en su 27º período de sesiones.
2. El presente informe abarca el período del 21 de noviembre de 2013 al 5 de septiembre de 2014 y contiene una exposición general de los principales acontecimientos y problemas en materia de derechos humanos que se describen en los cinco informes presentados por la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (ACNUDH) entre el 15 de abril y el 29 de agosto de 2014, basados en la labor de la Misión de las Naciones Unidas de Vigilancia de los Derechos Humanos en Ucrania.

## II. Antecedentes

3. Entre el 21 de noviembre de 2013 y el 22 de febrero de 2014 se produjeron protestas callejeras multitudinarias en respuesta a la decisión del Presidente del país, Viktor Yanukovych, de no firmar un acuerdo de asociación con la Unión Europea. La causa subyacente de las protestas fue el descontento profundo y generalizado con un sistema que muchos consideran corrupto, que no rinde cuentas y que se caracteriza por la debilidad de las instituciones del estado de derecho, la falta de independencia del sistema judicial y su incapacidad de garantizar la igualdad de derechos, el derecho a un juicio justo y las debidas garantías procesales.
4. Las manifestaciones se vieron exacerbadas por la violencia y el uso excesivo de la fuerza por la policía, en particular en la Plaza de la Independencia (Maidán) de Kyiv, donde más de cien personas murieron entre enero y febrero de 2014, algunas de ellas asesinadas por francotiradores. La violencia y las violaciones de los derechos humanos ocurridas en la plaza Maidán propiciaron la caída del Gobierno, la salida del país del Presidente con destino a la Federación de Rusia y la formación de un gobierno interino proeuropeo el 27 de febrero de 2014.
5. En marzo de 2014 la crisis se intensificó y personal paramilitar y los llamados grupos de autodefensa, junto con soldados sin insignia que se sospechaba provenían de la Federación de Rusia, se hicieron con el control de la República Autónoma de Crimea y organizaron un *referendum* para decidir la anexión a la Federación de Rusia. En su resolución 68/262 de 27 de marzo de 2014, la Asamblea General, reafirmando la soberanía y la integridad territorial de Ucrania, concluyó que el *referendum* no tenía validez (párr. 5). Además, las personas no podían ejercer libremente su derecho a la libertad de expresión y de reunión pacífica, y hubo denuncias verosímiles de acoso, detenciones arbitrarias, tortura y persecución de activistas y periodistas que no apoyaron el *referendum*.
6. En este mismo mes de marzo, a raíz de los acontecimientos de la plaza Maidán, comenzaron a organizarse manifestaciones periódicas, principalmente en las regiones de Donetsk, Járkov y Lugansk, en el este del país, pero también en el sur, en particular en Odesa, en las que participó la población local y, presuntamente, personas y grupos de las regiones vecinas de la Federación de Rusia. La principal demanda de los manifestantes era que se celebrara un *referendum* para decidir sobre la federalización de Ucrania o su anexión a la Federación de Rusia, además del reconocimiento del ruso como segundo idioma oficial de Ucrania. Las manifestaciones contaron visiblemente con un amplio apoyo de los medios de comunicación y las redes sociales en idioma ruso. Partidarios y opositores del movimiento de protesta se enfrentaron en varias ocasiones, lo que dio lugar a las tres

primeras muertes de la crisis en las regiones del este del país, los días 13 y 14 de marzo de 2014.

### III. Despliegue de la Misión de las Naciones Unidas de Vigilancia de los Derechos Humanos en Ucrania

7. En esta situación, el 14 de marzo de 2014 el ACNUDH envió una Misión de Vigilancia de los Derechos Humanos a Ucrania para supervisar e informar acerca de la situación de los derechos humanos en el país y proponer recomendaciones al Gobierno y a otros agentes para abordar los problemas incipientes relacionados con los derechos humanos, así como las causas primigenias de la situación que se estaba creando<sup>1</sup>. Si bien en un comienzo la Misión fue enviada por un período de tres meses por invitación del Gobierno de Ucrania, de conformidad con un Memorando de Entendimiento firmado entre el ACNUDH y el Gobierno del país, el mandato de la Misión de Vigilancia de los Derechos Humanos se prolongó dos veces, la última hasta el 15 de diciembre de 2014. Desde abril de 2014, el ACNUDH ha presentado cinco informes públicos mensuales sobre la situación de los derechos humanos en Ucrania, que se incluyen en el anexo a este documento, basados en las conclusiones de los equipos de la Misión de Vigilancia de los Derechos Humanos en Kyiv, Donetsk, Járkov, Leópolis y Odesa. De conformidad con la resolución 68/262 de la Asamblea General, la Misión de Vigilancia de los Derechos Humanos en Ucrania examina la situación en la República Autónoma de Crimea desde su oficina en Kyiv y en otros lugares, dado que las autoridades locales de Crimea no permiten el acceso a la península.

8. La Misión de Vigilancia de los Derechos Humanos en Ucrania trabaja en estrecha colaboración con la Misión de Vigilancia Especial en Ucrania de la Organización para la Seguridad y la Cooperación en Europa (OSCE). La Misión de Vigilancia también coopera con organizaciones internacionales y regionales, otros organismos y programas de las Naciones Unidas, la institución nacional independiente de derechos humanos y las organizaciones no gubernamentales, en el logro de sus principales objetivos.

### IV. Escalada del conflicto en Ucrania oriental

9. La Misión de Vigilancia de los Derechos Humanos observó las primeras señales del rápido deterioro de la situación de la seguridad a mediados de abril de 2014, cuando grupos de hombres armados ocuparon ilegalmente edificios públicos e instalaciones policiales y de seguridad en ciudades y localidades de las regiones de Donetsk y Lugansk, de manera coordinada y bien organizada. Los grupos alzaron barricadas y establecieron puestos de control para seguir controlando las áreas ocupadas.

10. El 14 de abril de 2014, el Gobierno lanzó una operación de seguridad<sup>2</sup> para recuperar el control de los territorios, pero en mayo de 2014 ambas regiones

<sup>1</sup> La Misión de Vigilancia de los Derechos Humanos en Ucrania tiene los siguientes objetivos: vigilar la situación de los derechos humanos en el país y presentar informes periódicos, precisos y públicos al Alto Comisionado sobre la situación de los derechos humanos y los problemas y riesgos emergentes; recomendar acciones de seguimiento concretas a las autoridades competentes, las Naciones Unidas y la comunidad internacional sobre el modo de abordar los problemas de los derechos humanos; prevenir las violaciones de los derechos humanos y mitigar los riesgos incipientes; determinar los hechos y las circunstancias y hacer un compendio de los casos de presuntas violaciones de los derechos humanos cometidas en el transcurso de las manifestaciones y de las violencias subsiguientes registradas entre noviembre de 2013 y febrero de 2014; y determinar los hechos y las circunstancias relacionados con posibles violaciones de los derechos humanos cometidas durante la misión.

<sup>2</sup> A la que el Gobierno denominó "operación antiterrorista".

autoproclamaron una "república popular", tras la celebración de los llamados referendos que no fueron reconocidos por el Gobierno de Ucrania ni por la comunidad internacional. Grupos armados que apoyaban a las autoproclamadas "repúblicas populares" de Donetsk y Lugansk hicieron extensivos los territorios ocupados de esas regiones a la mayor parte de las principales zonas urbanas. Se produjo un colapso general de la ley y el orden público y los grupos armados crearon estructuras paralelas con ánimo de ejercer algún tipo de control de las funciones públicas.

11. El 25 de mayo de 2014 se celebraron elecciones presidenciales en Ucrania, pero en la mayoría de los distritos de las regiones de Donetsk y Lugansk, grupos armados de las autoproclamadas "repúblicas populares" de Donetsk y Lugansk impidieron a los ciudadanos ejercer el derecho de voto. Como consecuencia de la intensificación de las hostilidades en las zonas urbanas entre hombres fuertemente armados —incluidos combatientes extranjeros— y de las operaciones de seguridad y observancia de la ley efectuadas por el Gobierno, se produjo una escalada de la violencia que provocó graves violaciones de los derechos humanos y del derecho internacional humanitario.

12. Tras el anuncio de un plan de paz por el nuevo Presidente de Ucrania, Petro Poroshenko, el 20 de junio de 2014, el Gobierno proclamó un alto el fuego de diez días que, al parecer, se incumplió al menos 108 veces, provocando la muerte de soldados y civiles ucranianos. Durante los meses de junio, julio y agosto se intensificaron los enfrentamientos y la violencia en las regiones de Donetsk y Lugansk, en particular en la ciudad de Mariúpol. El 5 de septiembre de 2014, el Grupo de Contacto Trilateral sobre Ucrania se reunió en Minsk, donde firmó el Protocolo de Minsk, que incluía un acuerdo de alto el fuego que entraría en vigor de inmediato, así como un plan de paz de 12 puntos.

## **V. Problemas graves de derechos humanos en Ucrania oriental**

13. Como pudo verificar la Misión de las Naciones Unidas de Vigilancia de los Derechos Humanos en Ucrania, el estado de derecho fue reemplazado por un régimen de violencia en las regiones de Donetsk y Lugansk, donde los gobiernos locales, al igual que la policía y el poder judicial, dejaron de funcionar efectivamente. Se atracaron bancos, se atacaron minas de carbón, muchas de las cuales se vieron obligadas a cerrar, y hubo explosiones en las vías férreas. Además, en los lugares controlados por los grupos armados se suspendió el pago de los salarios, las jubilaciones y las prestaciones sociales.

14. Lo más grave es que la intensificación de las hostilidades provocó un fuerte aumento del número de muertes. El marcado incremento de las muertes de civiles en el último mes se debió principalmente a los fuertes enfrentamientos, que incluyen el uso de armas pesadas y el bombardeo indiscriminado de zonas densamente pobladas. Debido a la presencia de un número cada vez mayor de combatientes extranjeros, incluidos ciudadanos de la Federación de Rusia; que presuntamente eran "antiguos militares" o personal militar activo con "licencia", a la utilización de armas pesadas y sofisticadas (como tanques, y artillería y misiles confiscados por los grupos armados en partes de las regiones de Donetsk y Lugansk) y a las operaciones de seguridad llevadas a cabo por el Gobierno, la Misión de Vigilancia de los Derechos Humanos en Ucrania registró un promedio de al menos 11 muertos al día entre mediados de abril y mediados de julio de 2014, y de 36 muertos al día en el período del 16 de julio al 17 de agosto de 2014. De mediados de abril de 2014 al 3 de septiembre de 2014 murieron al menos 2.905 personas (entre ellas 28 niños) y 7.640 resultaron heridas (sin contar las 298 víctimas del accidente del vuelo MH 17 de Malaysian Airlines).

15. En este contexto, es necesario recordar y respetar los principios del derecho internacional humanitario durante las hostilidades, al igual que los principios de necesidad, distinción, proporcionalidad y precaución, a fin de garantizar la protección de la población civil. Es menester que se rindan cuentas por los delitos cometidos. En efecto, independientemente de quiénes sean los autores o las víctimas, hay que hacer todo lo posible para que todas las personas que han cometido violaciones graves del derecho internacional sean llevadas ante la justicia. Esto es fundamental para superar las divisiones y allanar el camino hacia la reconciliación.

16. Además, los grupos armados continuaron haciendo secuestros y practicando la tortura física y psicológica, los malos tratos y otras violaciones graves de los derechos humanos. Diversas personas fueron secuestradas para pedir rescate, para utilizarlas en el trabajo forzoso o para intercambiarlas por combatientes detenidos por las autoridades ucranianas. En el momento de la publicación del presente informe, se estima que el número de personas —en su mayoría civiles— capturadas por grupos armados supera las 460. El régimen de terror e intimidación de los grupos armados ha sido bien documentado en los informes de la Misión de Vigilancia de los Derechos Humanos en Ucrania. La movilización forzosa y las amenazas de la pena de muerte fueron formas adicionales utilizadas para atemorizar a la población en el territorio controlado por los grupos armados. Sigue preocupando el caso de Nadiya Savchenko, una expiloto del ejército ucraniano que fue presuntamente detenida y trasladada ilegalmente de Ucrania por grupos armados, y que actualmente está en prisión preventiva en Vorónezh, en la Federación de Rusia. Fue acusada de complicidad en el asesinato de dos periodistas rusos de la televisión, ocurrido el 17 de junio de 2014 en las cercanías de Lugansk. El tribunal de Vorónezh prolongó su detención hasta el 30 de octubre de 2014 y ordenó, supuestamente contra su voluntad, que se sometiera a un examen psiquiátrico en el Instituto Serbsky de Moscú.

17. La Misión de Vigilancia de los Derechos Humanos en Ucrania recibió denuncias de que grupos armados impiden a los habitantes abandonar sus regiones, acosándolos en los puestos de control (donde residentes también denunciaron que habían sido robados), disparando contra los vehículos que trasladan a los civiles que escapan y, según se afirma, utilizándolos como escudos humanos. En algunos lugares, los ancianos o las personas con discapacidad que decidieron quedarse en el país o que no lograron salir, son cada vez más vulnerables, al no contar con servicios regulares de personal sanitario y de asistencia. Al 30 de julio de 2014, los "corredores de seguridad" establecidos unilateralmente por las fuerzas ucranianas permitieron a varias personas salir de las ciudades de Donetsk, Górllovka y Lugansk. Alrededor de 7.000 habitantes de Lugansk utilizaron los corredores de seguridad a comienzos de agosto.

18. Las acciones de los grupos armados y las operaciones de seguridad ucraniana también destruyeron y dañaron infraestructuras y estructuras civiles (incluidas las viviendas) como edificios de comunicaciones e instalaciones de agua, electricidad y tratamiento de aguas residuales, lo que provocó el cierre de los servicios esenciales. Esta situación tuvo fuertes repercusiones para la población civil. Las clínicas y los hospitales también sufrieron ataques y se vieron obligados a cerrar. Los medicamentos básicos y los servicios médicos de emergencia se volvieron cada vez más escasos o indisponibles.

19. También preocupa mucho la situación de las personas más vulnerables, como los niños internados en instituciones de las regiones de Donetsk y Lugansk. Los esfuerzos de las autoridades ucranianas para evacuar a los niños se vieron entorpecidos por los grupos armados, que trasladaron ilegalmente a niños internados a la Federación de Rusia. Sesenta niños fueron secuestrados del orfanato de Lugansk el 26 de julio de 2014 y 8 niños con parálisis cerebral fueron secuestrados del mismo establecimiento el 8 de agosto de 2014. Previamente, el 12 de junio de 2014 16 niños internados y 2 personas que los acompañaban

habían sido secuestrados por representantes armados de la llamada "república popular" de Donetsk, siendo trasladados a la Federación de Rusia. Todos los niños han sido devueltos.

20. Uno de los efectos más inmediatos del conflicto armado en Ucrania oriental ha sido el incremento del número de desplazados internos. Alrededor de la mitad de la población de Lugansk y una tercera parte de la población de Donetsk han huido. Se han registrado más de 230.000 desplazados internos provenientes de Ucrania oriental, en su mayoría mujeres y niños. Sin embargo, la cifra real de desplazados internos no registrados puede ser el doble o el triple. Según la Oficina del Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR), en los últimos meses alrededor de 378.000 personas cruzaron la frontera en dirección a la Federación de Rusia.

21. En un principio, el Gobierno de Ucrania no reaccionó de inmediato ante la creciente afluencia de personas que huían de la violencia en el este del país, sino que dependía del trabajo de voluntarios y de la buena voluntad de las comunidades locales de acogida. Sin embargo, a medida que aumentaba el número de refugiados, y la falta de coordinación, planificación y recursos se hacía manifiesta, intervino el Servicio Público de Emergencias. A pesar de ello, muchos problemas siguen sin abordarse, como la necesidad de un registro central que documente los desplazados internos y de que el Gobierno central facilite el acceso de los desplazados internos a los derechos económicos y sociales. A este respecto, es fundamental que el proyecto de ley sobre los desplazados internos, que está siendo revisado por el Parlamento, delimite las zonas en que las autoridades deberían brindar servicios básicos, de conformidad con los Principios Rectores de los Desplazamientos Internos<sup>3</sup>. Además de una mayor participación del Gobierno, se necesita ayuda internacional. Las condiciones provisionales en que vive la mayoría de los desplazados internos en los centros colectivos no podrán sostenerse durante mucho más tiempo. La situación se ve empeorada por los cortes de energía programados en el país, que probablemente afectarán a toda la población, aunque en forma desproporcionada a los desplazados internos que viven en refugios temporales no adaptados a temperaturas más bajas.

22. A principios de agosto de 2014, el Gobierno de Ucrania recuperó el control de algunas de las áreas que habían sido ocupadas por los grupos armados y consiguió restablecer la ley y el orden. En Sláviansk, alrededor de 20.000 habitantes que habían huido del enfrentamiento regresaron a sus casas<sup>4</sup>. Ministerios del Gobierno y grupos de voluntarios empezaron a trabajar para restablecer los servicios esenciales, retiraron los escombros y los artefactos explosivos sin detonar y reconstruyeron las zonas dañadas. Se restablecieron todos los servicios básicos y los residentes comenzaron a cobrar las prestaciones sociales y las pensiones de jubilación que no habían cobrado en mayo y junio de 2014, cuando la ciudad estaba en poder de los grupos armados.

23. La Misión de Vigilancia de los Derechos Humanos en Ucrania también recibió denuncias de presuntas violaciones de los derechos humanos cometidas por batallones de voluntarios a las órdenes del Ministerio de Defensa o del Ministerio del Interior en las zonas mencionadas. Las denuncias incluían casos de detenciones arbitrarias, desapariciones forzadas y tortura. Dichas denuncias deben investigarse y los culpables han de rendir cuentas de sus actos. Además, los ministerios competentes deberán controlar mejor los batallones de voluntarios. Según se informa, a 16 de agosto de 2014 el Servicio de Seguridad de Ucrania y la policía habían detenido a más de mil personas en la región del Don, aduciendo "pruebas irrefutables de su participación en actividades terroristas". En algunos casos no se han respetado los derechos procesales de esas personas y ha habido

<sup>3</sup> Oficina de Coordinación de Asuntos Humanitarios, *Principios Rectores de los Desplazamientos Internos*, (Ginebra, 2004).

<sup>4</sup> Según el ACNUR, desde principios de julio de 2014.

denuncias de malos tratos durante su detención. Debe procurarse en especial garantizar la presunción de inocencia de las personas y que no sean objeto de represalias.

24. Los medios de comunicación y, en ocasiones, la falta de profesionalismo, contribuyen crecientemente a generar conflictos, dividir a la sociedad y causar tensiones. El empeoramiento de la situación ha ido acompañado de la desinformación, la incitación al odio y la propaganda, promovidos principalmente por los medios de comunicación en idioma ruso. Tanto los periodistas nacionales como los extranjeros han sido víctimas de amenazas, secuestros y asesinatos. Las autoproclamadas "repúblicas populares" de las regiones de Donetsk y Lugansk han impedido ilegalmente la transmisión de canales ucranianos en el territorio que controlan. Al mismo tiempo, las autoridades ucranianas prohibieron varios canales de televisión rusos, de conformidad con decisiones judiciales. Es importante mantener un entorno en el que la población pueda recibir información plural, mientras se pone freno a las incitaciones al odio y la violencia. Además, deben condenarse todos los actos de intimidación contra periodistas y el Gobierno debe procurar que todos los actos de violencia sean debidamente investigados.

25. Es probable que los ucranianos tengan más problemas en materia de derechos sociales y económicos debido a las repercusiones en su economía de la situación actual en Ucrania oriental y en la República Autónoma de Crimea.

## **VI. Rendición de cuentas**

26. El Gobierno debe garantizar que se investiguen en forma exhaustiva todas las denuncias de violaciones y vulneraciones de los derechos humanos y que se cumplan estrictamente las normas y leyes internacionales de derechos humanos, incluida la presunción de inocencia y las garantías procesales y judiciales, en lo que respecta a las violaciones cometidas tanto por los grupos armados como por las fuerzas ucranianas o sus batallones voluntarios. Los autores de violaciones graves del derecho internacional durante el conflicto deben ser llevados ante la justicia para que rindan cuenta de sus actos, incluidos los casos de responsabilidad del mando.

27. Aún no se ha determinado quiénes fueron los responsables de las violencias en la plaza Maidán y alrededores. El Fiscal General empezó a investigar 445 casos de actos ilegales contra manifestantes, pero solo 2 personas fueron condenadas por malos tratos a un manifestante y 3 miembros de una unidad especial de la policía fueron enviados a prisión preventiva por haber disparado contra manifestantes. Nadie ha sido responsabilizado de la dispersión violenta de los manifestantes el 30 de noviembre de 2013. Aún no se ha establecido la responsabilidad por los incidentes violentos ocurridos el 2 de mayo de 2014 en Odesa entre partidarios de la unidad y partidarios de la federalización de Ucrania, en los cuales murieron 48 personas, en su mayoría partidarias de la federalización. Dos personas fueron detenidas por acusaciones de homicidio y asignadas a arresto domiciliario por orden judicial. Según el Ministerio del Interior, de los 33 sospechosos de los incidentes violentos del 2 de mayo de 2014, 12 estaban detenidos y 21 estaban en arresto domiciliario, acusados de homicidio internacional y de provocar disturbios. Entre los sospechosos figuraban personas de la Federación de Rusia y la región Transnistria de Moldavia.

## **VII. Problemas graves de derechos humanos en Crimea**

28. En Crimea, la situación de los derechos humanos se caracteriza por las violaciones múltiples y sistemáticas. La introducción de legislación de la Federación de Rusia, contrariamente a lo dispuesto en la resolución 68/262 de la Asamblea General, obstaculiza el disfrute de los derechos humanos y las libertades fundamentales. Se han derivado



muchos problemas jurídicos de la aplicación de leyes y reglamentos de la Federación de Rusia con respecto a la ciudadanía, que ponen en peligro los derechos de los residentes en la región, en particular de los que no son ciudadanos rusos. Los residentes de Crimea conocidos por ser "pro-ucranianos" son víctimas de intimidaciones; muchos son discriminados, en particular en las esferas de la educación, el empleo y los derechos de propiedad. Los líderes tártaros crimeos tienen prohibida la entrada en Crimea y los activistas tártaros de Crimea son perseguidos y se les limita el disfrute de sus derechos. La mayoría de los residentes no pudieron participar en las elecciones del 25 de mayo de 2014 por la incertidumbre y los gastos inherentes al viaje fuera de la región, que debía hacerse con antelación para poder votar.

29. Se ha producido un deterioro de los derechos de los residentes en Crimea, específicamente de la libertad de expresión, reunión pacífica, asociación, religión y creencias. Además, no se han investigado seriamente las denuncias de violaciones de los derechos humanos cometidas por las llamadas fuerzas de autodefensa crimeas, tras el "referendum" de marzo de 2014. Según el ACNUR, el 1 de septiembre de 2014 había 15.845 desplazados internos de Crimea. Por otra parte, hasta el momento se ha hecho caso omiso de las recomendaciones a las autoridades locales, que se recogen en los informes mensuales de ACNUDH sobre Crimea.

30. No ha cambiado la situación de las cuatro personas, entre ellas el director de cine ucraniano Oleg Sentsov, que fueron detenidas en Crimea en mayo de 2014 tras haber sido acusadas de terrorismo y trasladadas a un centro de detención del Servicio Federal de Seguridad (FSB) de Rusia, en Moscú. No se permitió a representantes de la Oficina Consular de Ucrania en Moscú reunirse con ellos, so pretexto de que ahora los hombres detenidos son ciudadanos de la Federación de Rusia. Sus abogados tuvieron dificultades para ver a sus clientes y deben firmar una declaración de que no revelarán la información obtenida en cada visita. Al abogado del Sr. Sentsov no se le permitió tomar declaraciones de su cliente por escrito ni reunirse con él sin la presencia de oficiales del FSB.

## VIII. Gobernanza y reformas legislativas

31. El Gobierno de Ucrania se ha esforzado por aplicar la Declaración de Ginebra<sup>5</sup>. Se celebraron mesas redondas nacionales sobre la reforma constitucional, la descentralización, los derechos de las minorías y el estado de derecho el 14 de mayo de 2014 en Kyiv, el 17 de mayo de 2014 en Járkov y el 21 de mayo de 2014 en Mykolaiv. En Járkov, el Primer Ministro Arseniy Yatsenyuk declaró que era preciso modificar la Constitución para otorgar un estatuto especial al idioma ruso y a los idiomas nacionales minoritarios.

32. El 27 de junio de 2014, el Presidente Petro Poroshenko firmó un acuerdo comercial con la Unión Europea, con el que se concluyó el proceso de asociación. El 2 de julio de 2014, el Gobierno de Ucrania publicó las enmiendas propuestas a la Constitución, que prevén una mayor autonomía regional y la concesión de un estatuto especial al idioma ruso.

<sup>5</sup> La Declaración de Ginebra sobre Ucrania fue formulada el 17 de abril de 2014 por representantes de la Unión Europea, los Estados Unidos de América, Ucrania y la Federación de Rusia. En ella se indican las siguientes medidas iniciales convenidas para disminuir las tensiones y restablecer la seguridad para todos: 1) todas las partes deben abstenerse de actos de violencia, intimidación o instigación; 2) todos los grupos armados ilegales deben desarmarse; todos los edificios ocupados ilegalmente deben devolverse a sus dueños legítimos, y deben desocuparse todos los lugares públicos ocupados; 3) los manifestantes que abandonen los edificios ocupados y entreguen las armas serán amnistiados, con excepción de los que sean declarados culpables de crímenes de lesa humanidad, y 4) el proceso constitucional anunciado será inclusivo, transparente y responsable y se conseguirá mediante un amplio diálogo nacional.

Como el Gobierno se concentra principalmente en la situación del este del país, las reformas necesarias avanzan muy lentamente. El 23 de julio de 2014, el Presidente creó el Consejo Nacional de Reforma (NRC) encargado de dirigir el proceso nacional de reforma, y el 13 de agosto de 2014 se estableció un marco jurídico para la reforma, en el que participan tres organismos. El NRC deberá preparar un plan estratégico para el desarrollo sostenible de Ucrania hasta 2020, y garantizar la coordinación de las actividades de los ministerios y los organismos públicos en la formulación y la aplicación de las reformas. A medida que se van aprobando reformas, leyes y políticas estatales, es fundamental que el proceso sea suficiente y verdaderamente inclusivo.

33. Se han adoptado las primeras medidas para reformar la aplicación de la ley; sin embargo, la reforma también debe abarcar las facultades del Servicio de Seguridad de Ucrania. Se ha mejorado el marco jurídico para combatir la corrupción y se ha modificado la ley contra la discriminación, de conformidad con las normas internacionales. Se aprobó una ley encaminada a restablecer la confianza en la institución del poder judicial, que contempla un procedimiento de depuración. No obstante, persiste la preocupación acerca de las debidas garantías procesales. No se han previsto garantías jurídicas para asegurar la independencia del poder judicial y la reforma de la fiscalía sigue detenida. Se aprobó una ley progresista que reglamenta los derechos de los ciudadanos ucranianos de Crimea sin renunciar a la libertad de movimiento, y que no contiene disposiciones discriminatorias. Sin embargo, aún no existe una ley que regule la libertad de reunión. Aunque se creó el cargo de Comisario Presidente para Asuntos de los Tártaros Crimeos, todavía no se ha aprobado una ley sobre los pueblos indígenas.

34. En agosto de 2014 se aprobaron varias leyes que amplían considerablemente las facultades de los organismos del orden público en relación con la operación de seguridad en Ucrania oriental, entre ellas leyes que amplían las facultades de la fiscalía y prolongan de 60 horas a 30 días el período durante el cual el sospechoso detenido debe presentarse ante un tribunal. A este respecto cabe señalar el Pacto Internacional de Derechos Civiles y Políticos, que dispone que las personas arrestadas o detenidas por cargos penales deben ser llevadas oportunamente ante un juez para que se las procese o sean puestas en libertad. Si bien se reconoce que las medidas de seguridad pueden requerir la adopción de disposiciones específicas que limiten determinadas garantías, siempre deben ajustarse a las leyes, normas y procedimientos del derecho internacional.

## IX. Conclusión

35. El respeto de los derechos humanos, la buena gobernanza y el estado de derecho son fundamentales para la paz y la seguridad, y para el desarrollo económico y social. Un entorno que propicie la promoción y la protección de los derechos humanos en Ucrania dependerá de que se respete la resolución 68/262 de la Asamblea General sobre la soberanía y la integridad territorial de Ucrania, no estalle un conflicto armado y se controlen eficazmente las fronteras estatales entre Ucrania y la Federación de Rusia.

36. Como el ACNUDH ha destacado sistemáticamente en sus informes, el Gobierno de Ucrania debería dar prioridad a la solución de los problemas sistémicos y estructurales del ejercicio de los derechos humanos a través de una reforma institucional, con objeto de establecer sistemas de gobernanza y justicia eficaces y responsables que promuevan y protejan los derechos humanos de todos y no sean discriminatorios.

37. Un plan general sobre los derechos humanos, que recoja las recomendaciones de los mecanismos internacionales y regionales, debe formar parte integrante de la

reforma de Ucrania, con el apoyo permanente de la comunidad internacional, las organizaciones regionales y las Naciones Unidas.

38. El ACNUDH agradece la cooperación del Gobierno de Ucrania con la Misión de Vigilancia de los Derechos Humanos en Ucrania. La Misión continuará vigilando la evolución de la situación e informando al respecto, con vistas a contribuir a una evaluación imparcial y precisa de la situación de los derechos humanos y un sistema más sólido y eficaz de protección de los derechos humanos.

## Anexo

*[en inglés únicamente]*

**Reports by the Office of the United Nations High  
Commissioner for Human Rights on the human rights  
situation in Ukraine from 15 April to 29 August 2014**

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

**Report on the human rights situation in  
Ukraine**

**15 April 2014**

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Annex I: Concept Note for the deployment of the UN human rights monitoring mission in Ukraine

## I. EXECUTIVE SUMMARY

1. During March 2014 ASG Ivan Šimonović visited Ukraine twice, and travelled to Bakhchisaray, Kyiv, Kharkiv, Lviv, Sevastopol and Simferopol, where he met with national and local authorities, Ombudspersons, civil society and other representatives, and victims of alleged human rights abuses. This report is based on his findings, also drawing on the work of the newly established United Nations Human Rights Monitoring Mission in Ukraine (HRMMU).

2. Underlying human rights violations, including lack of accountability for past human rights violations committed by security forces, the lack of independence of the judiciary and a perceived denial of equal rights and protection, including though mismanagement of resources and through corruption, lack of a system of checks and balances and the lack of free elections, were among the root causes of the popular protests that took place throughout Ukraine, and in particular on Independence Square (Maidan) from November 2013 to February 2014. While the protests were initially triggered by the Yanukovych Government's refusal to sign an Association Agreement with the European Union, the excessive use of force by the Berkut special police and other security forces at the end of November initially against largely peaceful protestors on the Maidan led to a significant radicalisation of the protest movement. The violence on 30 November transformed the protests, from demonstrations in favour of signing the EU Association Agreement, to include demands to reform the system of authority and punish those responsible. Serious human rights violations were committed including during the Maidan protests, which resulted in the death of 121 individuals (this number includes 101 Maidan protesters, 17 officers of the internal affairs/police, 2 were members of NGO "Oplot" that attacked the Maidan in Kharkiv and a Crimean Tatar found dead). There have been also numerous reports of torture and ill-treatment of protesters. The Maidan protest movement<sup>1</sup> also revealed historical, but still relevant divisions within Ukrainian society and long-standing grievances with respect to the lack of good governance and the rule of law of previous Governments.

3. Since the Government took power at the end of February 2014, tensions have decreased, along with the allegations of human rights violations. However, some developments could have a detrimental impact if not promptly addressed, especially in light of the presidential elections scheduled for 25 May.

4. For instance, the advocacy of national, racial or religious hatred by some political parties, groups and individuals, that constitutes incitement to discrimination, hostility or violence and nationalistic rhetoric witnessed during the Maidan protests may have an adverse impact on the situation in Ukraine. An attempt by the new ruling coalition in Parliament on 23 February 2014, to repeal the Law on the Principles of State Language Policy, and thus make Ukrainian the sole State language at all levels, was seen as a hostile move against the Russian-speaking minority. Acting President Turchynov however declined to sign and approve the Parliament's decision to repeal the law, on 2 March 2014. The drafting of new language legislation must not be hurried and must include the active involvement of representatives of minorities at the very outset.

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<sup>1</sup> The Maidan protest movement refers to the various groups that participated in demonstrations and centred on Independence (Maidan) square in the centre of the Kyiv. This initially included persons demonstrating for Ukraine to enter the Association Agreement with the European Union, hence the fact that there is often a reference made to "Euro-Maidan". However, over time the movement included a number of other elements, including anti-Government, anti-corruption, far right wing groups and others, some of whom did not necessarily share the same pro-European aspirations.

5. Similarly, in a bid to break away from the past, the Parliament has taken initial steps to adopt legislation regarding a lustration policy that would apply to some public officials affiliated to the previous Government. There are concerns that this law, if adopted, could be used to vet out large numbers of officials. It is essential that any new legislation and policies be adopted through an approach based on the rule of law and human rights, without any spirit of revenge. It is crucial to ensure that human rights violations are not dealt with any form of human rights violations.

6. In Crimea, a number of concerns relating to human rights could be observed before and during the 16 March referendum. On 27 March, the General Assembly in paragraph 5 of resolution 68/262 concluded that the referendum “had no validity”. In addition to this, the presence of paramilitary and so called self-defence groups as well as soldiers in uniform without insignia, widely believed to be from the Russian Federation, was not conducive to an environment in which voters could freely exercise their right to hold opinions and the right to freedom of expression. There have also been credible allegations of harassment, arbitrary arrest, and torture targeting activists and journalists who did not support the referendum. Furthermore, seven persons were reported as missing; the HRMMU is verifying their whereabouts. The situation of the Tatar community is also one that remains somewhat ambiguous following the referendum. While the Tatar community was promised numerous concessions, including Government positions as well as the recognized status as indigenous peoples, the majority of the members of the community chose to boycott the referendum.<sup>2</sup> Statements from authorities in Crimea and officials in the Russian Federation indicate plans to relocate or resettle within Crimea some of those Crimean Tatars who in protest against the slow progress of the restitution of land lost following forced relocation of their land, have occupied land illegally in recent years.

7. In eastern Ukraine, where a large ethnic Russian minority resides, the situation remains particularly tense with ethnic Russians fearing that the central Government does not represent their interests. Although there were some attacks against the ethnic Russian community, these were neither systematic nor widespread. There are also numerous allegations that some participants in the protests and in the clashes of the politically opposing groups, which have already taken at least four lives, are not from the region and that some have come from the Russian Federation.

8. Irrespective of the fact that systemic shortcomings may be only remedied in the longer-term, it will be important to immediately take initial measures to build confidence between the Government and the people, and among the various communities, and reassure all people throughout Ukraine that their main concerns will be addressed.

9. In addition to combatting speech that advocates national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and introducing impartial reporting on the on-going human rights situation, it will be critical to counter the deepening divide in the country by ensuring inclusivity and equal participation of all in public affairs, including political life. In this respect, legislation on minorities, in particular on linguistic rights, should be adopted following full consultation with all those concerned and according to relevant international and regional human rights standards.

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<sup>2</sup> OHCHR was informed by representatives of Crimean Tatars that no more than 1000, out of a population of 290,000-300,000, participated in the 16 March referendum.



10. While the situation requires attention in particular in eastern Ukraine and in Crimea, there are positive changes underway or under reflection. There are, for example, indications of a willingness to ensure a break with past injustices and to elaborate a new vision for Ukraine's future. Strengthening the rule of law, democracy and human rights will be key to any lasting change. Legislative and institutional reforms should be carried out in a comprehensive, transparent and consultative way, and therefore not be rushed. Furthermore, they should be sustained through consistent and accountable implementation.

11. The international community, including the United Nations, can play a role in supporting an environment where the human rights of all, including minorities and indigenous peoples, may be best promoted and protected. In particular, it will be important to ensure that the 25 May elections take place in an environment conducive to free and fair elections. Without an independent, objective and impartial establishment of the facts and circumstances surrounding alleged human rights violations, there is a serious risk of competing narratives being manipulated for political ends, leading to divisiveness and incitement to hatred.

12. Among other means to address these challenges and at the request of the Government of Ukraine, OHCHR established the UN Human Rights Monitoring Mission in Ukraine (HRMMU). This mission became operational on 15 March and will consist of 34 staff, including national staff, deployed in Lviv, Kharkhiv, Odesa and Donetsk, and seeks also the presence of a sub-office in Simferopol. In the meantime, HRMMU continues to monitor the situation in Crimea, in accordance with the General Assembly resolution 68/262 of 27 March on the Territorial Integrity of Ukraine.

13. In addition to monitoring the human rights situation, the Office of the United Nations High Commissioner for Human Rights stands ready to provide technical assistance for legislative and other reforms.

## **II. INTRODUCTION**

### **A. Context**

14. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has been closely following the human rights situation in Ukraine since November 2013, when mass protests started in Kyiv further to the Government's announcement that it would not sign the Association Agreement with the European Union (EU). These protests subsequently spread to other parts of the country, and by mid-February had escalated into violent clashes between riot police and other security forces and protesters.

15. The excessive use of force by the Berkut special police and other security forces was met with impunity and led to a significant radicalisation of the protest movement. Over time, protest called for the resignation of President Yanukovich and his government, and for overall change. Violence escalated after 16 January 2014, following the adoption of a set of more stringent anti-protest laws. Anti-government demonstrators occupied several government buildings, including the Justice Ministry and the Kyiv City Hall, and demonstrations spread across the western and central parts of Ukraine. The violent clashes that occurred between security forces and protesters from 18 to 20 February, including the actions of snipers, resulted in the death of 121, mostly protesters, but also law enforcement officials. Hundreds of people were injured and had to be hospitalised, and some of them remain in critical condition. According to the General Prosecutor's Office of Ukraine, more than 100 persons remain unaccounted for as at 2 April.

16. On 21 February, President Yanukovich and opposition leaders signed a compromise agreement setting out elections by the end of the year and a return to the 2004 Constitution. On the same day, the Ukrainian Parliament reinstated the 2004 Constitution. After President Yanukovich's departure from Kyiv, on 22 February, the Parliament decided that he had "withdrawn from performing constitutional authorities" and decided to hold presidential elections on 25 May<sup>3</sup>. In the meantime, Parliament elected Mr Oleksandr Turchynov as Speaker and thus acting President of Ukraine. A new Government was formed on 26 February.

17. While a number of domestic and international initiatives were undertaken during the Maidan events, they did not manage to prevent conflict escalation and bloodshed. The departure of former President Yanukovich put an end to the deadly confrontations, but daunting new challenges emerged.

### **Events in Crimea**

18. Following the dismissal of President Yanukovich at the end of February, unidentified armed men began taking over strategic infrastructures in Crimea. Ukrainian Authorities alleged that the armed men were Russian armed forces and/or allied local paramilitary groups.

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<sup>3</sup> After long discussions mediated by EU foreign representatives, President Yanukovich stated on 21 February that he had reached a deal with the opposition which would "settle the crisis". On 22 February 2014, 328 of 447 members of the Ukrainian parliament (MPs) voted to "remove Viktor Yanukovich from the post of president of Ukraine" on the grounds that he was unable to fulfill his duties<sup>1</sup> and to hold early presidential elections on 25 May. The vote came an hour after Mr. Yanukovich stated in a televised address that he would not resign. He subsequently declared himself as "the legitimate head of the Ukrainian state elected through a free vote by Ukrainian citizens. However, later that day he fled the capital for Kharkiv, then travelled to Crimea, and eventually to southern Russia.

The Russian Government insisted that the forces did not include Russian troops, but only local self-defence groups. As Russia refused to recognize the new Government of Ukraine, but instead recognized the legitimacy of former President Victor Yanukovych, his request for intervention was taken into consideration by the Russian authorities.

19. On 27 February 2014, in a contested situation including the presence of armed persons around its building, the Parliament of the Autonomous Republic of Crimea dismissed the former local government and appointed Mr Sergey Aksyonov as “prime minister”. The same day, it also decided to hold a referendum on 25 May 2014, on the future status of Crimea. The Ukrainian Central Electoral Committee declared this decision as contrary to the Ukrainian Constitution. On 14 March the Constitutional Court of Ukraine ruled that the decision to hold a referendum was unconstitutional. On 15 March the Ukrainian Parliament terminated the powers of the Verkhovna Rada. The date of the referendum was brought forward first to 30 March, and finally to 16 March. At the referendum, voters were asked to choose between two options: firstly, “Do you support the reunification of Crimea with Russia with all the rights of the subject of the Russian Federation?”; or, secondly, “Do you support the restoration of the 1992 Constitution of the Republic of Crimea and the status of the Crimea as part of Ukraine?”. On 11 March, the Supreme Council of Crimea voted to secede from Ukraine.

20. On 1 March, the Federation Council of the Russian Federation (upper chamber of the Russian Parliament) approved a request from President Vladimir Putin permitting the usage of Russian armed forces to protect the Russian speaking population. According to reports, the Russian Federation also started boosting its military presence in Crimea. Unidentified armed men, without military insignias, took control of the administrative border between Crimea and the rest of Ukraine and blocked several Ukrainian military bases. Ukrainian Authorities alleged that the armed men were Russian armed forces and/or allied local paramilitary groups. The Russian Government justified its involvement to be in response to the will of the local population and as an effort to protect ethnic Russians and Russian-speakers in the region.

21. On 5 March 2014, the Shevchenko district court of Kyiv issued arrest warrants for Mr. Sergey Aksyonov and the Chair of the Supreme Council (Crimean Parliament), Vladimir Konstantinov. The Security Service of Ukraine was requested to bring them to court. Ukraine’s new Government also warned the Crimean Parliament that it faced dissolution unless it cancelled the referendum. In response, the authorities in Crimea stated that the new Government in Kyiv came to power illegitimately through a coup d’état. On 11 March, they also closed the airspace over Crimea for flights from the rest of Ukraine. On 15 March, the Ukrainian Parliament took the decision to dissolve the Supreme Council of Crimea.

22. On 16 March, the Supreme Council of Crimea voted to secede from Ukraine, and held a referendum on whether Crimea should join the Russian Federation or remain part of Ukraine with the degree of autonomy it had in 1992. The referendum resulted in a reported turnout of over 81%, where based on reports over 96% of voters supported Crimea joining the Russian Federation. However, the OHCHR delegation received many reports of vote rigging. Ukraine refused to recognize the results of the Crimean referendum, claiming that it was in violation of its Constitution.

23. On 27 March, the UN General Assembly adopted resolution 68/262 upholding the territorial integrity of Ukraine and underscored that the referendum held on 16 March 2014 had no validity. In addition, the resolution’s operative paragraph 4 welcomed the UN and OSCE assistance to Ukraine in protecting the rights of all persons, including minorities.

## **B. Universal and regional human rights instruments ratified by Ukraine**

24. Ukraine is a party to most core international human rights instruments, including: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of all Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the Convention on the Rights of Persons with Disabilities.

25. Ukraine is a party to a number of regional European treaties, including: the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR); Protocol No. 6 to the ECHR concerning the abolition of the death penalty in times of peace; Protocol No. 12 to the ECHR concerning the general prohibition of discrimination; Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances; Framework Convention on the Protection of National Minorities; the European Charter for Regional and Minority Languages; the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment; the Council of Europe Convention on Action against Trafficking in Human Beings.

26. It has not yet become a party to the following instruments: the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.

27. Ukraine has not availed itself of the right of derogation under article 4 of the International Covenant on Civil and Political Rights, and therefore the rights contained therein are fully applicable.

## **C. UN human rights response**

28. In light of the deteriorating situation, it was assessed that the UN can play an important role in deescalating tensions, including through human rights monitoring. Assistant Secretary-General (ASG) Ivan Šimonović, planned to undertake a mission to Ukraine in March, which was requested by the Secretary-General to be moved forward due to the rapid deterioration of the situation. Several high-level UN visits took place from mid-February to mid-March, including respectively, Senior Adviser Robert Serry; Deputy Secretary-General, Jan Eliasson; and Under-Secretary-General for Political Affairs Jeffrey Feltman and the Secretary-General, Ban Ki-Moon. The latter two visits took place at the same time as that of ASG Šimonović.

29. The UN offers a neutral platform and professional expertise which can add significant value to the efforts to ensure that human rights are respected and protected in Ukraine. Independent monitoring and analysis of the human rights situation will outline technical, legal or other assistance needs, which will complement recommendations received by Ukraine from UN human rights mechanisms, and may contribute to addressing the root causes of the violence. These endeavours can and should be undertaken in cooperation with regional organizations, including the OSCE and the Council of Europe.

30. ASG Šimonović mission to Ukraine had the following overall objectives: to assess the human rights situation; to raise the issue of accountability and bring visibility to human rights violations and concerns; to make strong calls for the protection of human rights (including those of minorities); and to place human rights promotion and protection as a critical factor in deterring pre-electoral, electoral and post-electoral violence and possible further violations.

31. ASG Šimonović arrived in Kyiv on 6 March and left on 18 March. The delegation led by the ASG visited Kyiv, Kharkiv, and Lviv. It sought access to Crimea, but was not able to go, as the authorities informed the delegation that they would neither receive the mission nor ensure its security. On 14 March, a second request for access to Crimea was sent to the authorities. They then confirmed their readiness to meet with ASG Šimonović, with a view to discussing measures for human rights protection, which could lead to the de-escalation of tension. In all locations, the ASG and his delegation met with stakeholders from across the cultural, ethnic, linguistic and political spectrum - high-level officials, the Ombudsperson, civil society organizations representing various communities, representatives of regional organizations and the diplomatic community. Information from these meetings as well as documents gathered form the basis for this report. The delegation met and heard accounts from victims of human rights violations committed during the demonstrations in Kyiv and elsewhere. The delegation also met with the UN Country Team (UNCT). On Friday 14 March, ASG Šimonović held a press conference in Kyiv and another through VTC in New York. The same day, he also briefed representatives of the Kyiv diplomatic community on the preliminary findings of his mission. On 19 March 2014, ASG Šimonović briefed the Security Council on his mission.

32. ASG Šimonović undertook a second mission to visit Crimea from 21 to 22 March.

33. In the meantime, OHCHR deployed a Human Rights Monitoring Mission in Ukraine (HRMMU) as of 14 March, upon the invitation of the Government of Ukraine. The objectives of the HRMMU are to: monitor the human rights situation in the country and provide regular, accurate and public reports by the High Commissioner on the human rights situation and emerging concerns and risks; recommend concrete follow-up actions to relevant authorities, the UN and the international community on action to address the human rights concerns, prevent human rights violations and mitigate emerging risks; establish facts and circumstances and conduct a mapping of alleged human rights violations committed in the course of the demonstrations and ensuing violence between November 2013 and February 2014 and to establish facts and circumstances related to potential violations of human rights committed during the course of the deployment.

34. Mr. Armen Harutyunyan was appointed to lead the mission. Nine international staff members are deployed in Ukraine as of early April 2014. The entire team, once fully operational will comprise 34 staff, including national professional staff and 12 drivers. HRMMU is currently deployed in Lviv, Kharkiv, Odesa and Donetsk and it seeks also the presence of a sub-office in Simferopol. In the meantime, HRMMU continues to monitor the situation in Crimea, in a manner consistent with the General Assembly resolution 68/262 of 27 March 2014, on the Territorial Integrity of Ukraine.

#### **D. Methodology**

35. The present report contains preliminary findings on the human rights situation in Ukraine up to 2 April 2014. It is based on the two missions of ASG Ivan Šimonović to Ukraine (from 6 to 18 March and from 21 to 22 March to Crimea) and on the first weeks of

operation of HRMMU. Although information continues to be gathered and verified, the present report with its preliminary findings is being publicly released already now with a view to contributing towards establishing the facts and defusing tensions. Impartial reporting on the human rights situation can help not only to trigger accountability for human rights violations, but it also aims at the prevention of manipulation of information, which serves to create a climate of fear and insecurity and may fuel violence. This is especially important with regard to eastern Ukraine.

**36.** In accordance with its objectives, HRMMU is gathering and verifying information with regards to particular cases of human rights violations and, more broadly, the overall human rights situation. Information is then assessed and analysed, thus contributing to accountability and reinforcing State responsibility to protect human rights. HRMMU is providing reports on the basis of information verified as credible and from reliable sources, and is advocating for measures to be taken by respective state institutions with a view to providing appropriate remedies. HRMMU is also undertaken in line with the Secretary-General's Rights Up Front Plan of Action, to ensure that the UN is aware of the human rights context and that OHCHR regularly provides analysis of main human rights concerns and risks of violations, and that a UN strategy is developed as necessary to address the situation at country, regional and global levels. The present report, in line with the UN General Assembly resolution on the "Territorial Integrity of Ukraine", underscores also the obligation of authorities in Crimea to ensure the protection of all the rights to which individuals there are entitled within the context of Ukraine's ratified universal and regional human rights instruments.

### **III. UNDERLYING HUMAN RIGHTS VIOLATIONS**

#### **A. Corruption and violations of economic and social rights**

**37.** Corruption remains one of the most serious problems in Ukraine and has affected all human rights, whether civil, political, economic or social, exacerbated inequalities, eroded public trust in state institutions including the justice system, led to impunity and undermined the rule of law. It may be noted that in 2013, Transparency International ranked Ukraine 144<sup>th</sup> out of 176 countries (the country being ranked first is considered the least corrupt).

**38.** There has been only patchy implementation of international commitments to tackle corruption made under the UN Convention against Corruption, which entered into force in December 2005 and was ratified by Ukraine four years later. A National Anti-Corruption Strategy for 2012 – 2015 was adopted by presidential decree in October 2011, but there is currently no comprehensive anti-corruption law in Ukraine. The Ministry of Justice informed the OHCHR delegation that a draft law containing provisions applicable to corruption in both the public and private sectors would be presented by the end of March.

**39.** Corruption has disproportionately affected the poor and the most vulnerable. It impacts negatively on the enjoyment by all of economic and social rights, including the right to health services. Health service allocations make up 3.5% of the country's GDP, which falls well short of the minimum recommended by the WHO (7%). The poorest segment of the population cannot afford costly treatment in a situation where the country has no medical insurance system.

**40.** The Ministry of Health supports reform of management of medical services to move away from a centralized medical system and enable greater medical self-governance.

Insufficient salaries for employees in the health service have led to emigration of qualified staff. It has also affected professional competency and fed corruption practices, thus leading to inequalities in access to health care.

41. More generally, the socio-economic situation in Ukraine is of concern and constitutes one of the causes of recent events. In its 2008 review of the implementation of the International Covenant on Economic, Social and Cultural Rights in Ukraine, the Committee on Economic, Social and Cultural Rights expressed a number of concerns. In particular, it referred to a finding that 28 per cent of the population reportedly lived below the official poverty line, that the minimum wage does not provide an adequate standard of living, and that unemployment benefits amount to 50 per cent of the minimum subsistence level. It also expressed concern at the inadequate level of social assistance, and that several hundreds of thousands of children below the age of 15 were working in the informal and illegal economy and several thousands of children living in the street.

42. These concerns should constitute priorities for any new Government in Ukraine in the coming months and years. The Ukrainian Authorities must, as a matter of priority, put in place measures to eradicate corruption, while ensuring good governance and the rule of law. In addition, efforts should be made to redress disparities in standards of living and ensure equal access to, and quality of, health, education, employment and social support structures for all, including marginalised communities throughout the country.

#### **B. Lack of accountability for human rights violations and rule of law institutions**

43. The justice system in Ukraine has traditionally been marred by systemic deficiencies, including corruption, lack of independence and a lack of equality of arms between prosecution and defence in criminal proceedings. Other major concerns relate to the excessive use and length of pre-trial detention, numerous reports of cases of torture and ill-treatment, a significant reliance on suspects' confessions during criminal proceedings, insufficient or inadequate legal reasoning in indictments and overall underfunding of the justice system.

44. A new Code of Criminal Procedure (CCP) entered into force in November 2012. The new code responds to some of the major concerns expressed by UN human rights mechanisms (e.g. the UN Human Rights Council, Universal Periodic Review, or the UN Human Rights Committee). It introduces an adversarial system; supports the presumption of innocence, including the need to specify the circumstances suggesting reasonable suspicion that would justify a deprivation of liberty; and provides increased safeguards for timely access of detainees to a lawyer and a doctor. Alternative measures to deprivation of liberty are also provided.

45. A round-table discussion organized in November 2013 by the Ombudsperson's office on the occasion of the first anniversary of the entry into force of the new CCP identified the substantial decrease in the number of pre-trial detentions as a clear achievement since the entry into force of the new code. However, dozens of people who participated in the Maidan demonstrations were arrested and held in police custody and lengthy pre-trial detention, subjected to torture and ill-treatment, and deprived of their right to a fair trial and due process, in violations of the new CCP.

46. Other challenges remain. The provisions of the new CCP are not applied to all cases. Those opened before November 2012 are still processed under the former Code. The lack of

effective implementation of the new CCP provisions and examples of political interference in legal proceedings (“new provisions, old instructions”) also constitute a challenge.

47. According to the current provisions of the Constitution, judges are appointed for an initial period of five years by the President, upon recommendation of the High Council of Justice, based on a proposal from the High Qualifications Commission for Justice. After this five-year probation period, they become eligible for life tenure by Parliament, upon proposal of the High Qualifications Commission. This system opens the possibility for undue influence on the decision-making of judges during their probation period. The role and composition of the High Council of Justice and High Qualifications Commission as currently provided for in the Constitution are also a cause for concern. The Minister of Justice is represented on the High Qualifications Commission and can exercise considerable influence on the appointment of, as well as on disciplinary procedures against, judges. The High Council of Justice is composed of 20 members, the majority of whom have institutional links to the executive branch.

48. It should be noted that the CCP in place until 2012, conferred considerable discretion to the Prosecutor throughout criminal proceedings, including with regard to decisions on pre-trial detention. In addition, the public prosecutor’s multiplicity of roles is also a cause of concern raised by many international human rights mechanisms. Aside from his responsibility to conduct criminal investigations and prosecute persons formally accused, s/he oversees the legality and human rights compliance of those investigations.

49. Complaints and allegations of torture or ill-treatment are examined by the Public Prosecutor’s office which is reluctant to pursue complaints and, through its work on criminal investigations, has very close links with police forces. Article 216 of the new CCP provides for the creation within five years (as of 2012) of a State Bureau of Investigation to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. However, no progress has yet been made towards its creation.

50. In March 2014, the Ukrainian Parliament prioritized the adoption of legislation related to prosecution, anti-corruption and law enforcement reform.

51. The prevalence of impunity for human rights violations perpetrated by law enforcement forces has been an issue for a long time in Ukraine. An overall reform of the security sector needs to be undertaken. In this context, law enforcement officers should receive adequate training with regard to international human rights norms and standards. All acts of torture or ill-treatment should be investigated while also condemned firmly and publicly by the Ukrainian Authorities.

52. There has been a culture of effective impunity in Ukraine for the high level of criminal misconduct, including torture and extortion, often committed by the police in the course of their work. Structural shortcomings, widespread corruption, close functional and other links between prosecutors and police, non-existent or flawed investigations into criminal acts committed by the police, harassment and intimidation of complainants, and the subsequent low level of prosecutions all fuel this lack of accountability for human rights violations. There is a large number of detentions, many of which are not registered. Allegations of torture may not be investigated effectively and promptly and complaints of such violations were generally ignored or dismissed for alleged lack of evidence.



#### **IV. HUMAN RIGHTS VIOLATIONS RELATED TO THE MAIDAN PROTESTS**

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

53. There have been notable failures to respect the right to freedom of peaceful assembly in line with international human rights standards since protests started in November 2013. In some cases, local authorities sought to ban or restrict public gatherings through court decisions. On 22 November, the Kyiv district administrative court banned the use of “temporary structures such as tents, kiosks and barriers” from 22 November to 7 January. Local authorities in Odesa applied to a court to ban a demonstration that had attracted several hundred people on 23 November. On 24 November, the court endorsed the ban and the remaining demonstrators were violently dispersed by the police.

54. The Ukrainian Authorities attempted to disperse the demonstration in Kyiv twice, on 30 November and on 11 December, respectively. On 30 November, the Authorities justified the decision to disperse the demonstration by claiming that a New Year tree needed to be erected in the square. On 11 December, the Minister of Interior stated that the decision to remove barricades from the roads surrounding the Maidan was in response to citizens’ complaints that the demonstration was blocking traffic. There have also been reports of individuals having been prevented from attending demonstrations or who were harassed for having done so.

55. While article 39 of the Ukrainian Constitution guarantees freedom of assembly, no post-independence laws regulate it. In the absence of such a law, courts have referred to local authority regulations or to the Decree of the Presidium of the Supreme Soviet of the USSR of 28 July 1988 on the procedure for organizing and holding meetings, rallies, street marches and demonstrations in the USSR.

##### **B. Excessive use of force, killings, disappearances, torture and ill-treatment**

56. The first instance of excessive use of force against demonstrators took place in the early hours of 30 November 2013, when 290 riot police officers (known as ‘Berkut’) dispersed Maidan protesters, mainly students and youths. Witness testimony and footage of the incident shows that the riot police used excessive force to clear demonstrators, forced assessed as both indiscriminate and disproportionate, including through chasing and beating demonstrators who ran away. The violence escalated on 1 and 2 December and there were serious clashes in nearby streets between demonstrators and riot police, and an attempt to storm the presidential administration building. At least 50 riot police and hundreds of protestors were injured, and twelve persons detained on charges of “organizing mass disorder”. A third instance of excessive use of force and violent clashes occurred on 10 and 11 December 2013, when the riot police attempted to remove barricades, and left 36 persons hospitalized, including 13 policemen. Violent clashes resumed on 19 January 2014, following the adoption of controversial new laws on 16 January limiting the ability to conduct unsanctioned public demonstrations. Demonstrators, many of whom were linked to the far right wing “Right sector” group, attacked governmental buildings, throwing stones, firecrackers and Molotov cocktails at the police. The response of the police included the use of water cannons, in sub-zero temperatures and live fire, as a result of which five demonstrators were killed.

57. The violence in Kyiv reached its peak between 18 and 20 February 2014, when mass violent clashes took place mainly on Institutska Street. During these three days around 90 people were killed, mostly from sniper shots allegedly from rooftops. The new Minister of

Health, Mr. Oleg Musii, indicated to OHCHR that, as chief of the medical services on Maidan, he saw law enforcement officers removing the bodies of individuals who are still unaccounted for. He noted that snipers were aiming to kill (targeting the head and vital organs of the victims) and also depicted cases of police brutality, including beatings of medical staff and preventing medical personnel from attending the wounded. According to information gathered so far, in the period from December 2013 to February 2014, in total 121 people were killed, either as a result of severe beating or gunshots. This number includes 101 Maidan protesters, 17 officers of the internal affairs/police, 2 members of NGO “Oplot” that attacked Maidan in Kharkiv and a Crimean Tatar found dead.

58. Most acts of severe beatings, torture, and other cruel, inhuman or degrading treatment were attributed to the ‘Berkut’ riot police. For example, one demonstrator was stripped naked, roughly pushed around and forced to stand still on the snow in freezing temperatures while a police officer filmed him with a mobile phone. At the same time, there were a number of examples of members of the broad Maidan protest movement around the country taking control of local state administrations and forcing regional governors to sign their applications for resignation letters, while in parallel protesters took over Regional Administration buildings. One example of such actions was from the Right Sector activist Alexander Muzychko, who filmed himself intimidating and physically assaulting the prosecutor of Rivne district on 27 February 2014.<sup>4</sup>

### **C. Accountability and national investigations**

59. The Ukrainian Authorities have committed to shedding light on all cases of excessive use of force and arbitrary killings, including from unidentified snipers, torture, disappearances and other human rights violations that occurred during the Maidan events. There were also cases of abductions by unidentified individuals in or outside hospitals, and persons were later found dead.

60. The newly appointed Prosecutor-General launched investigations into the killings of protesters, including regarding the responsibility of high-ranking officials. An investigation by the Interior Ministry is looking into the fate of persons who disappeared during the protests and cases of abuse of power by law enforcement officials. The OHCHR delegation was informed that a group of 75 victims are included in one single criminal investigation targeting responsibility of former senior officials, including the former President, former Interior Minister and several other officials, while there are also 65 separate cases filed against police for the abuse of power and brutality.

61. While OHCHR was provided with general information about the cases launched by the Office of the Prosecutor-General, it also heard from civil society representatives that some of the victims have not yet been contacted by relevant authorities for investigation purposes. According to NGO sources, there are also concerns regarding the collection and preservation of evidence and forensic examinations which may not have been systematically carried out regarding cases of those killed during recent events. Such examinations would have been essential to help determine criminal responsibility, including with regard to the so-called snipers whose identity and affiliation remains to be clarified. Involvement of international experts can be helpful both in terms of capacity as well as impartiality and credibility. Concerns have been raised by local interlocutors in relation to the fact that the investigation is

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<sup>4</sup> Mr Muzychko died in a police raid in Rivne on 24 March. The exact circumstances will require further investigation.

concentrating exclusively on the issue of persons killed by snipers on 20 February, and that it is not looking into issues related to responsibility for excessive force used on other occasions during the course of demonstrations between November 2013 and January 2014.

## **V. CURRENT OVERALL HUMAN RIGHTS CHALLENGES**

### **A. Protection of minority rights**

62. According to the 2001 census, ethnic Ukrainians constitute about 78 per cent of Ukraine's population, ethnic Russians constitute around 17 per cent, and around 5 per cent belongs to other ethnic groups. While 67 per cent of the population declared Ukrainian as their native language, well over one-third of the population (including many ethnic Ukrainians) speaks Russian in their daily life. Russian is the predominant language of communication in eastern and southern regions of the country, as well as in central Ukraine, including capital Kyiv. As a result, Ukraine is largely a bilingual society, as was confirmed by stakeholders met by the delegation throughout Ukraine. Consequently, nationalistic rhetoric and hate speech may turn the ethno-linguistic diversity into a divide and may have the potential for human rights violations.

63. The diversity of Ukrainian society – as in any society is enriching – and needs to be promoted and protected as a positive factor rather than a divisive one. According to a law adopted in August 2012, any local language spoken by at least a 10% minority could be declared official within the relevant area (oblast, rayon or municipality). Russian was within weeks declared an official language in several southern and eastern oblasts and cities. The 2012 Law also recognised 17 other languages as regional languages.

64. As already noted, Ukraine is a party to the Council of Europe's Framework Convention for the Protection of National Minorities and to the European Charter for Regional or Minority Languages. Both the Advisory Committee on the Framework Convention and the Committee of Experts on the European Charter, while acknowledging progress, have found that there was great scope for improvement regarding the protection of the rights of minorities in Ukraine.

65. In its third opinion released in 2012, for example, the Advisory Committee on the Framework Convention recalled its previous observations on the need to remove legal obstacles to wider representation of national minorities and more effective participation of persons belonging to national minorities in elected bodies. It regretted that the numerous recommendations made by international bodies for the introduction of a regional proportional system based on open lists and multiple regional constituencies, to allow for stronger regional, including minority, representation, had not been taken into account.

66. The OHCHR delegation met with some interlocutors who conveyed a perception that the right of minorities to participate in political life is not fully taken into account. While the *Batkivshchyna* and *Svoboda* parties, currently part of the new majority coalition, are largely affiliated with western Ukraine, the Party of Regions is seen as prevalently being supported by the population of eastern regions. The composition of the current Cabinet is perceived by some people in eastern and southern Ukraine as not being inclusive, as most of its members come from western Ukraine. According to various reports, a number of high level officials – governors, mayors, and senior police officers – have been replaced by supporters of the new coalition parties, many coming from western Ukraine.

67. A motion of the new ruling coalition in Parliament on 23 February 2014, attempted to repeal the Law on the Principles of State Language Policy, adopted on 3 July 2012, and make Ukrainian the sole State language at all levels. On 2 March, Oleksandr Turchynov, acting President and Chair of the Parliament, declined to sign and approve the Parliament's decision to repeal the law. The 2012 law continues to apply for the time being, but a new law is being prepared. The motion, though never enacted, raised concerns among Russian speakers and other minorities in Ukraine, and was largely considered a mistake. Despite deepening divides between some social groups, there are also civil society actions against it, emphasising the need for tolerance, mutual respect and solidarity. In Lviv, the delegation was heartened by its meeting with Mr. Volodimir Beglov, who had launched a campaign for people across Ukraine to speak Russian for a day in protest against the repeal of the Law on Languages, and in solidarity with Ukraine's Russian-speaking minorities. This individual initiative shows that there is a way forward and that transcending ethnic and linguistic differences is possible in Ukraine.

## **B. The right to freedom of expression, peaceful assembly and the right to information**

68. Demonstrations have continued to take place since early March, in particular in eastern Ukraine. At least four persons were killed as a result of violence that broke out between anti-government protestors and supporters of the Government, who allegedly travelled to Donetsk and Kharkiv from western and central regions of Ukraine. The OHCHR delegation was told by several interlocutors about allegations according to which people were brought in buses and paid to take part in protests and conduct them according to specific scenarios, including causing violent incidents. Some protesters allegedly come from the Russian Federation, according to information received from local authorities and confirmed by the central authorities.

69. Reports have been made of arrests during demonstrations that have taken place during the week starting on 10 March in Donetsk and in Kharkiv<sup>5</sup>. Police moved to clear protests sites and arrested the leader of protests in Donetsk<sup>6</sup>. Since the start of the Maidan protests, and particularly after the beginning of the Crimea crisis, the human right to information needs to be carefully monitored. While the distorted anti-Maidan discourse of the media controlled by the supporters of former President Viktor Yanukovich ended with the latter's dismissal in the end of February, new concerns emerged whereby pro-Maidan politicians or activists would exert pressure on the media to air or voice 'patriotic' discourse. For example, on 18 March 2014, the representative of Svoboda political party MP Igor Myroshnichenko and other Svoboda party members arrived to the National Television Company of Ukraine and intimidated and assaulted its Head Mr Olexander Panteleimonov, forcing him to sign a resignation letter. The Acting Prosecutor General committed to investigating the attack, which was also condemned by the Authorities.

70. The OHCHR delegation was provided with various accounts of events that have been perceived by some interlocutors as indicating attempts to limit freedom of expression. While cases under previous Governments were numerous, recent ones include:

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<sup>5</sup> <http://rus.ozodi.org/archive/news/20140201/11266/11266.html?id=25287436>

<sup>6</sup> [http://obs.in.ua/index.php?option=com\\_content&view=article&id=4859:ukr-world&catid=3:reg-news&Itemid=11](http://obs.in.ua/index.php?option=com_content&view=article&id=4859:ukr-world&catid=3:reg-news&Itemid=11)

- On 13 March, the Pechorski District Court of Kiev placed Mr. Hennady Kernes, Mayor of Kharkiv, under house arrest under three articles of the Criminal Code. However, Mr. Kernes believes that he is a victim of selective justice due to his political views;

- On 10 March, the police arrested Mr. Mikhail Dobkin, former Governor of Kharkiv, allegedly on suspicion of a crime under article 110 (2) of the Criminal Code of Ukraine ("Offence against the territorial integrity and the inviolability of borders of Ukraine, committed by an individual in his capacity as a State official").

71. The delegation was unable to obtain further clarification on the aforementioned cases, although Mr. M. Dobkin was eventually released. Irrespective of the actual facts of these specific examples, it will be important, in particular in the preparation of the 25 May elections, to ensure free communication of information and ideas about public and political issues between citizens, candidates and elected representatives. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.

72. New restrictions on free access to information came with the beginning of the Crimea crisis. Media monitors indicated a significant raise of propaganda on the television of the Russian Federation, which was building up in parallel to developments in and around Crimea. Cases of hate propaganda were also reported. Dmitri Kiselev, Russian journalist and recently-appointed Deputy General Director of the Russian State Television and Radio Broadcasting Company, while leading news on the TV Channel "Rossiya" has portrayed Ukraine as a "country overrun by violent fascists", disguising information about Kyiv events, claimed that the Russians in Ukraine are seriously threatened and put in physical danger, thus justifying Crimea's "return" to the Russian Federation. On 6 March, analogue broadcasts of Ukrainian television channels (notably Ukraine's First National Channel, Inter, 1+1, Channel Five etc.) were shut off in Crimea, and the vacated frequencies started broadcasting Russian TV channels. On 12 March, Ukrainian broadcasters blocked three leading television channels – the 1 Channel, NTV and Rossia TV - in Kyiv and other locations in Ukraine. As a result, there are serious concerns that people – both in Russia and Ukraine and especially in Crimea – may be subject to propaganda and misinformation, through widespread misuse of the media, leading to a distortion of the facts. OHCHR shall analyse the recent decision of the Kyiv District Administrative Court to suspend broadcasting by First Channel, Worldwide Network, RTR Planeta, Rossiya 24 and NTV Mir, in line with applicable provisions against advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. During the month of March 2014, in several regions, the authorities have reacted to anti-Government protests and attempts to forcefully take over administrative buildings by detaining perpetrators. In some cases, persons were charged under the Criminal Code article sanctioning offences against the territorial integrity and inviolability of the borders of Ukraine (articles 110). There is concern that this article may sometimes have been used to restrict freedom of speech. On 22 March the local police in Donetsk arrested Mikhail Chumachenko, described as the leader of the "Popular Militia of the Donbas". Material is reported to have been seized demonstrating Chumachenko's intention to take over the regional administration building and proclaim himself the 'people's governor'. In addition to being charged for attempting to forcefully overthrow the authorities and/or the constitutional order (article 109 of the Criminal Code), he was also charged under article 110.

### **C. Incitement to hatred, discrimination or violence**

73. During its mission, the OHCHR delegation was informed that there had been some cases where members of the Russian minority have been harassed or even attacked, such as in the case of the attack against a member of Parliament. While it seems that these violations are neither widespread nor systemic, the delegation endeavoured to collect information on cases of incitement to intolerance or hatred and related violence against all minorities. It noted the following instances:

- Ukrainian businessman and politician who on 4 March was reportedly detained and beaten by the Crimean police and who allegedly called on the crowds in Independence Square, to “shoot at the heads of Russian citizens who are in Crimea... using snipers”;
- On 10 March, in Luhansk, Mr Oleh Lyashko, Leader of the Radical Party of Ukraine and a member of the Ukrainian Parliament, who is supportive of the new coalition Government, together with a group of armed men, allegedly detained Mr Arsen Klinchaev, member of the Luhansk Regional Council and activist of the Young Guard believed to be a pro-Russian organization. The detention was allegedly accompanied with violence and threats<sup>7</sup>;
- In another alleged incident in early March, Mr. Dmytro Yarosh, leader of the Right Sector<sup>8</sup>, who declared his intention to run for presidency during the upcoming elections on 25 May, posted a call on a Russian-language social network vkontakte.com. He allegedly wrote: “Ukrainians have always supported the liberation struggle of the Chechen and other Caucasian peoples. Now it’s the time for you to support Ukraine... As the Right Sector leader, I urge you to step up the fight. Russia is not as strong as it seems”. The Right Sector later denied that its leader made such statements, explaining that his website had been hacked. According to other reports, Mr. Yarosh also allegedly stated that “non-Ukrainians” should be treated according to principles set forth by Ukrainian nationalist leader Stepan Bandera, although such statements were publicly refuted by Mr Yarosh himself.

74. Only isolated anti-Semitic incidents have been reported before and after the recent period of unrest. In February 2014, a Molotov cocktail was thrown at the synagogue in Zaporizhzhya (central Ukraine)<sup>9</sup>. On 13 March, a Jewish rabbi was attacked by two unidentified young men in the Podol neighbourhood of Kyiv<sup>10</sup>. Another attack was reported in the same neighbourhood in Kyiv on the following day against a Jewish couple<sup>11</sup>. However, when interviewed by an impartial and reliable source representative of the various Jewish communities in Ukraine, it appears that these communities do not feel threatened, as confirmed also by the Association of Jewish Organisations and Communities of Ukraine, publicly in a letter to the President of the Russian Federation on 5 March 2014.

75. On 1 March, OHCHR received information about alleged attacks against Roma in the Kyiv Oblast. On 27 February, a young Roma was beaten up in Pereslav-Khmelnytskyi. His attackers accused him of being ‘apolitical and indifferent to the country’s political life’. According to reports, around 15 masked and armed persons raided Roma houses in Korostena,

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<sup>7</sup> <http://news.meta.ua/cluster:35037395-Liashko-v-Luganske-zaderzhal-lidera-prorossiiskoi-organizatsii/>

<sup>8</sup> Right Sector (Ukrainian: Pravyi Sektor) is a Ukrainian nationalist paramilitary collective of several organizations, described as having far right views. The group's membership has been growing and has been estimated to be about 5,000. The group first emerged at the end of November 2013 at the Euromaidan protests in Kiev, as an alliance of far-right Ukrainian nationalist groups.

<sup>9</sup> <http://www.vaadua.org/news/neizvestnyy-kinul-kokteyl-molotova-v-zdanie-sinagogi-v-zaporozhe#sthash.45DHa1qx.dpuf>

<sup>10</sup> <http://112.ua/kriminal/v-podolskom-rayone-kieva-napali-na-ravvina-34122.html>

<sup>11</sup> <http://112.ua/obshchestvo/v-kieve-soversheno-esche-odno-napadenie-na-evreev-34609.html>

on 28 February, allegedly with the same motivation. Roma victims stated that they had called the police for protection, to no avail. Several Roma families have reportedly left town after receiving threats.

76. Recent developments in the eastern part of Ukraine and in Crimea are likely to have an impact on radical groups with possible signs of nationalistic sentiments and rhetoric and therefore need to be closely monitored. The OHCHR delegation heard from various sides about concerns with regard to the “Right Sector”, a right-wing group that expresses paramilitary ambitions and is known for statements which could be considered extremist. Their active participation in the defence of Maidan and suggested increasing popularity are causing concerns for the Russian-speaking minority. While there has been no confirmed evidence of attacks by the “Right Sector”, including any physical harassment, against minorities, there were numerous reports of their violent acts against political opponents, representatives of the former ruling party and their elected officials. The role of the group during the Maidan protests was prominent; they were often in the first line of defence or allegedly leading the attacks against the law enforcement units. Their alleged involvement in violence and killings of some of the law enforcement members should be also investigated. However, according to all accounts heard by the OHCHR delegation, the fear against the “Right Sector” is disproportionate, although parallels have been drawn by some between this group and past right wing nationalistic movements at the time of the Second World War. On 1 April, the Ukrainian Parliament adopted a decision by which all armed groups, including the Right Sector, must disarm.

#### **D. Lustration, judicial and security sector reforms**

77. In a bid to break away from the past, the new Government has taken initial steps to implement a lustration policy that would apply to all public officials. A lustration committee under the Cabinet of Ministers was established in February 2014 but is not yet functioning. The committee in its current form is composed of representatives of civil society and lawyers. The head of the Committee, Mr. Yegor Sobolev, emphasized that a “special act” on the judiciary would be prepared as a priority, with the assistance of Council of Europe experts. The draft law should determine the status of the lustration committee and include provisions to ensure its effective functioning.

78. During discussions with the Vice-Speaker of the Verkhovna Rada, Mr. Ruslan Koshulinskii, he expressed the view that the draft lustration law may also refer to other senior officials, including officials who worked closely with the administration of Mr. Yanukovich, held senior positions in the former Soviet Union and its former Communist Party, and former KGB officials. The Deputy Minister of Justice mentioned during a meeting that the notion of lustration was “too generic” and that specific language would be used to address vetting needs for different categories of state services.

79. All reforms and new policy measures must be taken through an approach based on the rule of law and human rights, without any spirit of revenge. It is crucial to ensure that human rights violations are not addressed with any form of human rights violations. In particular, any lustration measure must be taken fully respecting human rights. This should include: an individualized review process, and that employees subject to a review should be granted a fair hearing, with the burden of proof falling on the reviewing body to establish that a public employee is not suitable to hold office.

## **VI. SPECIFIC HUMAN RIGHTS CHALLENGES IN CRIMEA**

80. ASG Šimonović visited Crimea on 21 and 22 March and travelled to Bakhchisaray, Sevastopol and Simferopol. The main objectives of the visit, were to: discuss the presence and operation of the UN Human Rights Monitoring Mission's sub-office in Simferopol and, in this context, present Mr. Harutyunyan as the Head of the UNHRMM in Ukraine who will be based in Kyiv; discuss the human rights concerns and allegations collected so far, and inquire about actions undertaken by the authorities to address them; and finally, to discuss measures pertaining to human rights which would contribute to addressing urgent protection concerns and thus also alleviating tensions and leading to the de-escalation of situation in and around Crimea.

81. ASG Šimonović collected first-hand information through meetings with the authorities in Crimea, leaders and members of the Crimean Tatar community, other representatives of civil society and journalists, and Ukrainian military officers and officers without insignia. Additional information has been gathered from a variety of reliable sources, including some through extensive telephone and Skype discussions.

82. The political aspects of recent developments in Crimea are beyond the scope of the assessment of this report. At the same time, however, these developments have a direct impact on the enjoyment of human rights by all people in Crimea. The delegation met with sources, who claimed that there had been alleged cases of non-Ukrainian citizens participating in the referendum, as well as individuals voting numerous times in different locations.

83. Preliminary findings, based on publicly available information as well as reports from civil society representatives in Crimea, suggest that the referendum of 16 March raised a number of concerns in terms of respect for human rights standards. Such concerns relate to the free communication of information and ideas about public and political issues. This implies a free press and other media are able to comment on public issues without censorship or restraint and to inform public opinion. A local Ukrainian journalist reportedly received threats through posters, which were disseminated near his place of residence. According to other reports, people in Crimea had limited access to information during the week prior to the referendum. According to some reports, Ukrainian TV channels were blocked since 10 March.

84. For the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the International Covenant on Civil and Political Rights, it is necessary to ensure, *inter alia*, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign and to advertise political ideas. Bloggers and local civil society representatives reported cases of human rights violations regarding journalists and civil society representatives who were perceived to be against the referendum.

85. Reports included a number of cases of abduction, unlawful arrest and detention by unidentified armed groups, harassment, and violence against peaceful demonstrators. Some activists and journalists were arbitrarily detained or disappeared. According to information provided by civil society groups, seven persons were known to have gone missing. Some previously considered missing were later released but found to have been subjected to torture or other ill-treatment. Some victims were kept in the Military Drafting Center (Voenkomat) in Simferopol. For example, on 9 March, two persons – Mr. Andrei Schekun and Mr. Kovalski – were allegedly kidnapped and later released on the administrative border with Kherson Oblast – with signs of ill-treatment or torture. However, the media reported soon after the referendum about the disappearance of a Crimean Tatar, Mr Reshat Ametov, who had been



missing for several days. Reportedly, he was taken away by uniformed men. Mr. Ametov's body was found on 16 March in the village of Zemlyanichne, in the Belogoski district of Crimea, with alleged signs of torture, hand-cuffed and with adhesive tape over his mouth. The HRMMU is verifying the whereabouts of all those who went missing.

86. The presence of paramilitary and so called self-defence groups as well as soldiers without insignia, widely believed to be from the Russian Federation, was also not conducive to an environment in which the will of the voters could be exercised freely. According to reports, some individuals had their documents/ passports taken away before the poll by unidentified militias, and searches and identity checks were conducted by unauthorised or unidentified people, in the presence of regular police forces<sup>12</sup>.

87. The ASG was assured that the authorities in Crimea will conduct thorough investigations of all human rights violations. These investigations should also cover crimes and human rights abuses allegedly committed by members of self-defence units. All cases of abductions and forced disappearances, arbitrary detentions, torture and ill-treatment, reportedly by so-called self-defense militia and disbanded Berkut, should be fully and impartially investigated and the results of these investigations made public. The authorities in Crimea should react promptly to any similar violations that may occur in future and decisively condemn them.

88. The protection of the rights of Crimean Tatars regarding restitution of property, including land or compensation for its loss related to their deportation from Crimea during times of USSR has been a concern since their return after the independence of Ukraine. Recent events have led to a renewed sense of uncertainty among Tatar representatives. According to Mr. Refat Chubarov, chairman of the Mejlis of Crimean Tatars, and other civil society actors in Crimea, there are reports of unidentified uniformed men claiming rights on properties and land. Several statements from the authorities in Crimea and officials in the Russian Federation, indicate plans to relocate or resettle within Crimea some of those Crimean Tatars who have occupied land illegally in recent years while waiting for their land to be returned. The authorities in Crimea have assured the Crimean Tatars that their rights would be protected, including through positive measures such as quotas in the executive and legislative organs. However, Crimean Tatar representatives have expressed reservations regarding the reality of these assurances. In addition to land squatting issues, concerns were also raised with regard to recent statements by some authorities that certain land segments will be alienated for public purposes.

89. It is widely assessed that Russian-speakers have not been subject to threats in Crimea. Concerns regarding discrimination and violence were expressed by some ethnic Ukrainians members of minorities, and especially Tatars, as indigenous peoples. In a meeting with authorities in Crimea these concerns regarding inter-ethnic tensions were dismissed, assuring that ethnic Russians, ethnic Ukrainians and Crimean Tatars and other minorities receive sufficient protection, with their three languages recognized as official languages. Despite this, Tatars largely boycotted the referendum and remain very concerned about their future treatment and prospects. Although there was no evidence of harassment or attacks on ethnic Russians ahead of the referendum, there was widespread fear for their physical security. Photographs of the Maidan protests, greatly exaggerated stories of harassment of ethnic Russians by Ukrainian nationalist extremists, and misinformed reports of them coming armed

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<sup>12</sup> There are numerous reports about the searches by the self-defense groups (sometimes in the presence of uniformed police) of the personal belongings of people arriving by train to Simferopol or by car travelling from the mainland.

to persecute ethnic Russians in Crimea, were systematically used to create a climate of fear and insecurity that reflected on support to integration of Crimea into the Russian Federation.

90. During the ASG's visit to Crimea, the situation of the remaining Ukrainian military personnel in Sevastopol and Bakhchisaray was discussed. The authorities in Crimea confirmed that although there were some complaints of the previous period, the blocked garrisons had sufficient food and access to healthcare, though some experienced shortages in drinking water. The reported pressure on them and their families had allegedly decreased. Some officers and soldiers with whom the delegation was able to meet stressed their fear of being accused of defection or desertion and being criminally prosecuted upon return to mainland Ukraine.

91. Notwithstanding the adoption of General Assembly resolution 68/262 on the Territorial Integrity of Ukraine, there are a number of measures taken in Crimea that are deeply concerning in terms of human rights. For example, measures such as the introduction of Russian citizenship, making it difficult for those who opt to maintain their Ukrainian citizenship to stay in Crimea, give rise to issues of legal residency and loss of related social and economic rights, including the right to work. The current situation also raises concerns with regard to land and property ownership, wages and pensions, health service, labour rights, education and access to justice. In particular, civil society representatives have drawn attention to the difficulties arising from the location of the central property register in Kyiv and the severing of communication between the local administration and the administration based in Kyiv. The authorities in Crimea indicated during discussions that human rights will be fully respected, including those pertaining to citizenship and property rights.

92. The overall climate of uncertainty, including human rights and protection concerns, has led some people, predominantly Tatars and ethnic Ukrainians, to leave Crimea. For example, in the Lviv region alone, the local authorities and private citizens have already accommodated some 639 Crimeans, among them a majority being Crimean Tatars who have left and gone to the Lviv region; others have left for Turkey. The number of Crimean Tatars currently displaced is estimated to have reached 3000.

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

### **A. Conclusions**

93. There is an urgent need to ensure full respect for the rule of law and human rights in Ukraine in order to guarantee the enjoyment of human rights for all, including minorities, while also contributing to de-escalate tensions in eastern Ukraine and Crimea. In doing so, it is proposed that immediate recommendations on overcoming human rights challenges be implemented as a matter of priority. However, underlying human rights violations that are among the root causes of the protests and continue to negatively impact on the situation must also be addressed in the long-term. It is important that the Government demonstrates commitment and pursues a public and inclusive debate on necessary legal and policy reforms, and where possible, takes concrete steps towards the implementation of some of the long-term recommendations, as outlined in this report.

94. As a matter of priority for the Government during this crucial period, is to immediately address possible instances of speech that advocates national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence in order to de-escalate tensions and ensure an environment that is conducive to the holding of free and fair elections. Political leaders should be encouraged to send messages of inclusiveness and counter hate speech and

other manifestations of extremism. That will play an important role in promoting a culture of tolerance and respect. Any public statements that incite national, racial or religious hatred should be unequivocally condemned, promptly investigated and adequately sanctioned, to ensure that such discourse is not condoned in society.

95. During this sensitive period for the country, the protection of minority rights is clearly both a human rights imperative and key to conflict prevention. In the current context, the adoption of measures to reassure all members of minorities regarding respect for their right to equal participation in public affairs and public life is urgently needed. The conduct of public affairs covers all aspects of public administration, as well as the formulation and implementation of policy at international, national, regional and local levels. Therefore, a mechanism should be put in place to ensure full consultation of minorities, including numerically smaller minorities, in decision-making processes at the central, regional, and local levels,

96. Violations related to the Maidan protests should be investigated and addressed in order to ensure accountability of perpetrators. In light of numerous attacks against journalists during the Maidan demonstrations, and ahead of the referendum in Crimea, measures should be taken to ensure that their right to security of the person, as well as freedom of expression are protected and promoted. The Government should send out a strong public message in this regard. It should clearly inform that all acts of aggression, threats and intimidation against journalists and other media professionals, as well as human rights defenders, will be immediately investigated, prosecuted and punished. Journalists and human rights defenders, who are victims of such acts, should be provided with adequate remedies.

97. With respect to Crimea, it will be important for the authorities in Crimea to both publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions. It is crucial that the cases of missing persons are resolved, and that access to places of detention is granted, including the Military Drafting Center (Voenkomat) in Simferopol, to all international organisations requesting it. The protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars, must be assured.

98. The actions carried out by members of paramilitary groups in Crimea, raise serious concerns. The rule of law should be urgently restored in Crimea and security of all individuals and public order ensured. Permitting unregulated forces to carry out abusive security operations violates that obligation and basic respect for human rights. The authorities in Crimea should immediately disarm and disband all paramilitary units operating outside of the law, protect people from their illegal actions, and ensure that all law enforcement activities are carried out by the police. The authorities should ensure that any self-defence units that are created operate in accordance with the law and that the public is aware of the units' chain of command structure and accountability mechanisms. The authorities in Crimea confirmed their intention to disarm and disband all armed groups (including self-defense groups).

99. Independent and impartial monitoring and reporting of the human rights situation in Crimea would deter violations, stimulate accountability and prevent the spreading of rumours and political manipulations. Mr. Rustam Timirgaliev was informed on the structure and the mandate of the envisaged UN Human Rights Monitoring presence and had promised to revert. However, in the meantime, the Russian Federation communicated through diplomatic

channels that any UN human rights presence should be discussed with it and that it does not support the deployment of human rights monitors in Crimea. Nonetheless, UN HRMMU will continue to seek the presence of a sub-office in Crimea, in consultation with the Government of Ukraine and various interlocutors in Crimea, and continue to monitor the human rights situation from outside the Autonomous Republic of Crimea.

100. There is also serious concern about violations of the civil and political rights of the inhabitants of Crimea, in particular with regard to those who oppose recent events. Recent events also create major concerns of effective statelessness, as well as concerns of the loss of rights of those who wish to be considered citizens of Ukraine.

101. Underlying human rights violations by previous Governments were among the root causes of the popular demonstrations that took place throughout Ukraine and in particular in the centre of Kyiv on Maidan from November 2013 to February 2014. There are now clear indications of a willingness by the present Government to ensure a break with past injustices and to elaborate a new vision for Ukraine's future. Strengthening the rule of law, democracy and human rights will be key to any lasting change and to avoid any spirit of revenge. Legislative and institutional reforms should be carried out in a comprehensive, transparent and consultative way, and therefore not be rushed. Furthermore, they should be sustained through consistent and accountable implementation.

102. A number of priority human rights concerns and corresponding reforms need to be addressed in the short, medium and long term. Irrespective of the fact that systemic shortcomings may be only remedied in the medium and long-term, it will be important to pave the way immediately through a series of initial measures that will build confidence and reassure all people, including minorities, that their concerns will be addressed.

103. The international community and the UN in particular, can and should play a role in supporting an environment where the human rights of all, including minorities and indigenous peoples, can be best promoted and protected. Without an independent and objective establishment of the facts and circumstances surrounding alleged human rights violations, there is a serious risk of competing narratives being manipulated for political ends and leading to divisiveness and incitement to hatred.

104. In this context, OHCHR engagement and provision of information and analysis of the human rights situation through the UN Human Rights Monitoring Mission on the ground will allow the UN to undertake further steps to respond to the situation in Ukraine in line with the Secretary-General's Rights Up Front approach. In providing an impartial and authoritative human rights assessments, it can contribute to establishing the facts, de-escalating tensions, and paving the way for an environment that is conducive to the holding of free and fair elections. OHCHR is ready to assist in the implementation of the recommendations contained in this report.

## **B. Recommendations**

### **To the Government of Ukraine:**

#### **(i) Recommendations for immediate action**

##### Accountability and the rule of law

1. Ensure accountability for all human rights violations committed during the period of unrest, through securing of evidence and thorough, independent, effective and impartial investigations, prosecutions and adequate sanctions of all those responsible for these violations; ensure remedies and adequate reparations for victims.
2. Ensure that any lustration initiatives are pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.

##### Inclusivity, equal political participation and rights of minorities

3. Ensure inclusivity and equal participation of all in public affairs and political life, including members of all minorities and indigenous peoples and establish a mechanism to facilitate their participation.
4. Ensure that legislation on minorities, in particular on linguistic rights, is adopted following full consultation of all minorities concerned and according to relevant international and regional human rights standards.

##### Freedom of expression and peaceful assembly

5. Ensure the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the International Covenant on Civil and Political Rights. A conducive environment to the forthcoming elections will also require the Freedom of expression, assembly and association, which are essential conditions for the effective exercise of the right to vote and must be fully protected. This includes: freedom to engage in political activity individually or through political parties and other organizations; freedom to debate public affairs; to hold peaceful demonstrations and meetings; to criticize and oppose; to publish political material; to campaign for election; and to advertise political ideas.
6. Ensure freedom of expression for all and take all measures that will ensure the safety of journalists, media professionals and human rights defenders so that they are able to play their full role in the run-up to elections, in shaping the future of their country.
7. Adopt legislation and other measures needed to ensure the right to peaceful assembly in compliance with the requirements of article 21 of the International Covenant on Civil and Political Rights. In particular, ensure that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management of peaceful assemblies.
8. Prevent media manipulation by ensuring the dissemination of timely and accurate information. Take action against deliberate manipulation of information, in compliance

with international standards of freedom of expression and in full respect of due process guarantees.

#### Combatting hate speech

9. Combat intolerance and extremism and take all measures needed to prevent advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and punish such incitement or acts of violence, which is of fundamental importance. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.
10. Take resolute steps to prevent negative stereotyping of minority communities in the media, while fully respecting the freedom of the press. Efforts to train media professionals must be increased, including by further promoting the visibility and effectiveness of the work of the national union of journalists in this regard.

#### Corruption

11. Put in place, as a matter of priority, all legislative and policy measures needed to effectively eradicate corruption.

#### Cooperation with HRMMU

12. Closely cooperate with the HRMMU and act upon its recommendations and steps needed to provide protection for persons at risk.

#### To the authorities in Crimea:

13. Publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions.
14. Actively resolve cases of missing persons, and grant access to places of detention, including the military facilities and offices in Simferopol and Sevastopol, to all international organisations requesting it.
15. Act to re-establish the rule of law, including by the effective disbandment of any and all 'self-defence forces' and/or para-military groups.
16. Take all measures to ensure that the human rights of Ukrainian soldiers based in Crimea are also fully respected.
17. Take all needed measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to access to citizenship, right of residence, labour rights, property and land rights, access to health and education.

18. Investigate all allegations of hate speech and media manipulation, and take appropriate measures to prevent them and take appropriate sanctions while fully ensuring and strengthening freedom of expression.
19. Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.
20. Grant access to independent and impartial human rights monitors, including by OHCHR.

**(ii) Long-term recommendations:**

Engagement with the international human rights system

- 21.. Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.
22. Ratify international human rights instruments to which Ukraine is not yet party. These include, the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.
23. Implement recommendations of international human rights mechanisms. The recommendations and concerns expressed in the past few years by several human rights mechanisms continue to be of relevance and should be taken into account by the authorities when considering various reforms that will greatly impact on the protection of human rights for all people in Ukraine:
  - a. In particular, the UN Human Rights Committee issued several important recommendations in July 2013 when it considered the latest periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights;
  - b. The recommendations adopted by the UN Human Rights Council following the Universal Periodic Review of the human rights situation in Ukraine in October 2012 should also be taken into consideration.
  - c. The report of the UN Sub-Committee on the Prevention of Torture following its visit to Ukraine in 2011 should be made public immediately and taken into consideration by the authorities when considering issues related to torture, ill-treatment, and detention related matters.
  - d. Ukraine has issued a standing invitation to special procedures. It should accommodate requests for such visits.
  - e. Encourage the development of a national human rights action plan, with clear timelines and benchmarks, addressing every recommendation resulting from the international and regional HR systems to be implemented within a certain time-frame - with the support of the international community, regional and bilateral actors, and the UN system.

#### Legislative and policy reforms:

24. Reform the administration of justice system so that it functions independently, impartially and effectively; reform the security sector so as to ensure that it functions in full respect of international norms and standards; provide for full accountability for human rights violations.
25. Strengthen rule of law institutions so that they fully comply with relevant international and regional human rights norms and recommendations of human rights mechanisms.
26. Review legislation and policies applicable to the management of peaceful assemblies, and if necessary, modify them to ensure their compliance with human rights standards. In particular, these should specify that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management. In this regard, particular attention should be paid to the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
27. Ensure that such policies, practices and instructions are observed through rigorous training for the personnel involved. In particular, effective internal oversight mechanisms must be put in place in order to review all incidents of injury or loss of life resulting from the use of force by law enforcement personnel as well as all cases of use of firearms during duty.
28. Ensure the institutional independence of the State Bureau of Investigation, under Article 216 of the new CCP, which provides for its creation within five years (as of 2012) to enable it to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. It will be very important to ensure that this new body is independent from the Prosecutor's Office. Public accountability and sufficient resourcing is essential to enable it to function effectively, promptly, independently and impartially.

#### Economic and social rights:

29. Take concrete steps to redress disparities in standards of living and equal access to and quality of health, education, employment, and social support structures for all, including marginalised communities throughout the country.

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

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

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## **I. EXECUTIVE SUMMARY**

1. The present report is based on the findings of the United Nations (UN) Human Rights Monitoring Mission in Ukraine (HRMMU)<sup>13</sup> covering the period of 2 April - 6 May 2014. It follows the first report on the human rights situation in Ukraine released by the Office of the UN High Commissioner for Human Rights (OHCHR) on 15 April 2014.

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

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

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

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

- i. The Government of Ukraine is taking steps to implement the provisions of the Geneva Agreement concluded on 17 April 2014.<sup>14</sup> On the same day, the Cabinet of Ministers of Ukraine issued an Order "On the organization of the discussion of amendments to the provisions of the Constitution of Ukraine on decentralization of State power". On 18 April, a parliamentary coalition suggested to all political parties represented in the parliament to sign a memorandum of understanding regarding ways to resolve the

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<sup>13</sup> Concept note on the HRMMU is attached.

<sup>14</sup> The Geneva meeting took place on 17 April 2014. As the result of the negotiations between the representatives of Ukraine, EU, USA and Russian Federation in Geneva on 17 April 2014, an agreement was reached on initial concrete steps to de-escalate tensions and restore security for all: (1) All sides must refrain from any violence, intimidation or provocative actions; (2) All illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public offices must be vacated; (3) Amnesty granted to the protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) The announced constitutional process will be inclusive, transparent and accountable carried out through a broad national dialogue.

situation in eastern Ukraine. According to acting President and Speaker of Parliament Turchynov, the initiative was not supported by members of the opposition. On 22 April, the draft law “On prevention of harassment and punishment of persons in relation to the events that took place during mass actions of civil resistance that began on 22 February 2014” was registered in Parliament.

- ii. Armed groups continue to illegally seize and occupy public and administrative buildings in cities and towns of the eastern regions and proclaim “self-declared regions”. Leaders and members of these armed groups commit an increasing number of human rights abuses, such as abductions, harassment, unlawful detentions, in particular of journalists. This is leading to a breakdown in law and order and a climate of intimidation and harassment.
- iii. In the aftermath of the 16 March unlawful “referendum”<sup>15</sup> in the Autonomous Republic of Crimea, Ukraine, there are increasing reports of residents being affected by the changing institutional and legal framework. Human rights concerns relate to citizenship, property and labour rights, access to health and education. Of concern to the HRMMU, are the increasing reports of on-going harassment towards Crimean Tatars, and other residents who did not support the “referendum”. The reported cases of Crimean Tatars facing obstruction to their freedom of movement, as well as the recent attack on the building of the parliament of the Crimean Tatar people are worrying developments. Legislation of the Russian Federation is now being enforced in Crimea, in contradiction with UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”. In addition, its differences with Ukrainian laws will have a significant impact on human rights, posing in particular limitations on the freedoms of expression, peaceful assembly, association and religion.
- iv. The Government of Ukraine needs to carry out a prompt, transparent and comprehensive investigation into the violent events in Odesa and ensure that the perpetrators are brought to justice in a timely and impartial manner. The impact of the 2 May violence in Odesa has hardened the resolve of many, and strengthened the rhetoric of hatred. In its aftermath, a call was made for mobilisation to join local armed groups in the eastern regions of Donetsk and Luhansk. Referenda on the “recognition” of the so-called “Donetsk People’s Republic and “Luhansk People’s Republic” were planned in both regions for 11 May.
- v. Many peaceful demonstrations have been observed by the HRMMU in the country. A tendency has been observed for a peaceful protest to suddenly turn into a violent confrontation. Increasingly the result of such violent acts and confrontation leads to numerous deaths and injuries. All too often, the police appear unable to guarantee the security of participants, and ensure law and order. Peaceful assemblies must be

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<sup>15</sup> UN General Assembly Resolution 68/262 on the territorial integrity of Ukraine, OP 5: “*Underscores* that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol”.

permitted, both as a matter of international law and as a way for people to express their opinion. Policing should facilitate such assemblies, ensuring the protection of participants, irrespective of their political views.

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

## **II. METHODOLOGY**

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

information gathered through reliable networks, again through as wide a range of sources as possible that are evaluated for credibility and reliability.

11. Where the HRMMU is not satisfied with the corroboration of information concerning an incident, it will not be reported. Where information is unclear, the HRMMU will not report on the incident and conclusions will not be drawn until the information obtained has been verified.

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

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

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

13. On 2 April, the Kyiv City Appeal Court cancelled, and sent back for further review, the decision of the Pecherskyi District Court on the amnesty for persons, responsible for ordering the violent crackdown and dispersal of demonstrators by the riot police “Berkut”<sup>16</sup> on the night of 30 November 2013. This was the first instance of excessive use of force against peaceful demonstrators during the Maidan demonstrations. At least 90 persons were injured; 35 protesters were detained and later released. This violent incident is widely viewed as triggering further Maidan protests. A new hearing is scheduled at the Pecherskyi District Court on 14 May.

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

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

15. The HRMMU has been following the two separate criminal proceedings opened by the Office of the General Prosecutor: one for the killing of demonstrators and one for the killing of police officers.<sup>17</sup>

16. The Office of the General Prosecutor has opened a criminal investigation based on Articles 115 (Murder), 121 (Intended grievous bodily injury) and 194 (Wilful destruction or damage of property) of the Criminal Code. This is looking at the killing of protesters (75

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<sup>16</sup> The “Berkut” unit was the Special Forces within the Ministry of Interior. On 25 February 2014, Minister of Interior Arsen Avakov signed a decree dissolving the unit.

<sup>17</sup> As of 6 May, criminal proceedings were underway, with no further details available.

persons) and injuries caused by the use of firearms between 19 January to 20 February on Hrushevskoho and Instytutska streets.

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

18. The Investigative Department of the Office of the General Prosecutor continues to investigate the excessive use of force and degrading treatment by law enforcement officials against Maidan activist Mr. Havryliuk, who was stripped naked, roughly pushed around and forced to stand still in the snow in freezing temperatures while a police officer filmed him with a mobile phone. In this case, a serviceman of the internal troops of the Ministry of Interior is under suspicion based on article 365 (Excess of authority or official powers) of the Criminal Code.

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

*Request to the International Criminal Court to investigate the Maidan violence*

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

*Missing persons*

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

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

23. An International Advisory Panel<sup>18</sup> has been initiated by the Secretary-General of the Council of Europe, Thorbjorn Jagland, to oversee the judicial investigations into the violent clashes during the Maidan events from 30 November 2013 to 21 February 2014. Information has been requested by the Panel into violent acts committed by any person during three periods: the night of 30 November/1 December 2013; 1 December 2013; and 18-21 February 2014. The Panel will hold its first meetings in Kyiv at the end of June 2014.

#### **IV. HUMAN RIGHTS CHALLENGES**

##### **A. Rule of law**

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

##### *Constitutional reform*

25. On 17 April, the Cabinet of Ministers issued an Order “On the organization of the discussion of amendments to the provisions of the Constitution of Ukraine on the decentralization of State power”. By 1 October 2014, senior government officials, the regional administrations and the Kyiv city administration are to organise debates on the planned constitutional amendments<sup>19</sup> that would propose the decentralization of power. This Order accelerates the implementation of the Concept on reforming local government and territorial organization of power in Ukraine, which was adopted on 1 April 2014.

26. Public parliamentary hearings were held on amendments to the Constitution of Ukraine on 29 April, with the main areas of reform aiming to empower local governments, strike a balance between all branches of State power, ensure the independence of the judiciary, and

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<sup>18</sup> The members of the panel are: Sir Nicolas Bratza, Chairman, a former President of the European Court of Human Rights; Mr. Volodymyr Butkevych, a former Judge of the European Court of Human Rights; and Mr. Oleg Anpilov, a member of Kharkiv Regional Council.

<sup>19</sup> According to the Parliamentary Interim Commission on Constitutional Reform, the main areas of the Constitutional reform are: extension of powers of local self-government, to achieve a balance between all branches of power; the development of an independent judicial branch; oversight of public authorities. Under a new Constitution regional and district state administrations will be dissolved. Local territorial communities would elect regional and district councils (local parliaments) and their heads. The executive committees of local councils would serve as local governments. State power and authority, as well as the functions of setting the local budget would be delegated to such structures. At the same time, state representative bodies would be created and located at the territorial level. They will maintain control over the adherence to legislation in a certain territory but would have no financial or economic influence in the region.



oversight of the work of public authorities. Political parties agreed that by 25 May proposals on constitutional amendments will be finalised, with a Parliamentary session on constitutional reform to be held after this date. Further steps towards the delegation of broad powers to the local authorities are being made. On 23 April, the Government approved the first draft law “On cooperation of the territorial communities” that envisages five forms of possible cooperation within communities, based on an earlier Concept on the Reform of Local Self-Government and Territorial Organisation of Powers in Ukraine, approved on 1 April by the Cabinet of Ministers.

27. On 5 May, Prime Minister Arseniy Yatseniuk, submitted to the Parliament a draft law “On a national survey”, to be conducted on 25 May, the same day as the Presidential elections, on issues of concern for all Ukrainians: national unity, territorial integrity of the country and the decentralisation of power.<sup>20</sup> On 6 May, Parliament decided not to adopt the initiative.

*Criminal Code amendments toughen sanctions for violations of territorial integrity*

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

*Law on Lustration*

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

30. On 8 April, the Parliament passed the Law “On the restoration of the credibility of the judiciary in Ukraine” (the Law on lustration of judges) with 234 votes<sup>21</sup> and it entered into force on 10 May (while the proposed law on lustration for public servants was taken off the Parliamentary agenda). Its purpose is to strengthen the rule of law, to restore confidence in the judiciary, and to combat corruption in the courts through the dismissal of judges whose gross violations of professional and ethical standards have discredited the judiciary. The Law also determines the legal and organisational framework by which judges are to be vetted. It sets out the aim, objectives and timelines for the vetting of judges, as well as the bodies authorised to conduct these procedures, the content of the vetting, and the measures to be taken following the results of the vetting. According to the Law, the process of lustration is to be carried out by

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<sup>20</sup> The idea to conduct such survey was announced by Mr. Yatseniuk on 30 April during the opening of a session of the Government. He stated that, “in framework of the decentralisation of power, Ukrainian authorities are ready for the additional guarantees on the respective territory for the Russian-speaking population and other national minorities”.

<sup>21</sup> In total, there are 450 members of Parliament.

an Interim Special Commission. It is foreseen to consist of 15 members; five candidates from each of the following institutions: the Supreme Court, the Parliament and the Governmental Commissioner on the Issues of the Anti-Corruption Policy.

31. The HRMMU is concerned that immediate dismissal of judges may put in jeopardy the administration of justice. The implementation of the Law can lead to the unjustified and non-motivated dismissals of judges. The Law does not follow some generally recognized requirements in the area of judicial proceedings: it implements retrospective liability for actions which were not considered punishable before the Law's adoption; the adopted court decisions mentioned in the Law are to be scrutinized by the Interim Special Commission. Also, the text of the Law uses the term "political prisoner", which is not defined in current Ukrainian legislation. The HRMMU reiterates its earlier recommendation that any lustration initiatives be pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.<sup>22</sup>

#### *Amnesties*

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

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

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

#### *Law on Occupation*

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<sup>22</sup> OHCHR report on the human rights situation in Ukraine, 15 April 2014, p. 25 (available online at [http://www.ohchr.org/Documents/Countries/UA/Ukraine\\_Report\\_15April2014.doc](http://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15April2014.doc)).

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

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

### **B. Law enforcement sector reform**

36. The ongoing events and violence in various parts of the country have resulted in an increasing erosion of law and order. The most recent example is the tragic events that took place in Odesa during the afternoon and evening of 2 May, where 46 people were killed in violent clashes, and a fire in the Trade Union building where many people had taken refuge.<sup>24</sup>

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

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

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

### **C. Freedom of peaceful assembly**

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

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<sup>24</sup> Official death toll as of 4 May 2014.

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

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

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

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

45. At the same time there were a number of examples when such peaceful rallies turned violent. The HRMMU is concerned with repeated acts of violence against peaceful participants of rallies, mainly those in support of Ukraine’s unity and against the lawlessness in the cities and villages in eastern Ukraine. In most cases, local police did nothing to prevent violence, while in some cases it openly cooperated with the attackers. For example, on 6 April, 1,000 pro-Russian activists attacked an improvised gathering by several dozen supporters of Ukraine’s unity in Severodonetsk in Luhansk Region. Six of the pro-Ukrainian activists sought medical assistance.

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

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

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

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

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

51. The most tragic of all incidents occurred in Odesa on 2 May where what was initially a rally spiralled into violent clashes and a fire, which claimed 46 lives.<sup>25</sup>

52. While article 64 of the Constitution provides for the freedom of peaceful assembly, there is no law that regulates the conduct of such assemblies.<sup>26</sup> The HRRMU has observed that this gap in the legislative framework creates confusion, irregularities and an *ad hoc* approach to policies and practices that regularize and manage peaceful assemblies. These include: the organisation/preparation of a peaceful assembly; cooperation with the police during a peaceful assembly; the terms of notification for a peaceful assembly; the appeal procedure when an assembly is rule to be prohibited.

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<sup>25</sup> See below under section IV. E.

<sup>26</sup> According to Article 39 of the Constitution of Ukraine citizens have the right to assemble peacefully without arms and to hold meetings, rallies, processions and demonstrations, upon notifying in advance the bodies of executive power or bodies of local self-government. This provision is the only legislation in Ukraine that governs the exercise of the right to peaceful assembly. A draft law on peaceful assembly is currently included on the Parliamentary agenda.

53. The HRMMU has observed that in some cases the local authorities turned to administrative courts to decide on the prohibition of assemblies.<sup>27</sup> Such decisions are motivated by an inability to ensure the safety of participants, the lack of police staff. However, such practices lead to the violation of the human right to peaceful assembly.

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

#### **D. Freedom of expression**

55. The HRMMU is concerned about the curtailment of freedom of expression, harassment and threats to security incurred by journalists working in Ukraine, especially in the east. Below are some cases that the HRMMU is following, illustrating the pressure, intimidation and danger that journalists and media outlets are coming under in the struggle for control of the media, and what information the general public can access and obtain. For more cases, particularly in the Donetsk region see section V on “Particular Human Rights Challenges in the east”:<sup>28</sup>

- a) On 9 April, journalists in Kharkiv protested against violations of press freedom after the local TV channel ATN was attacked by a group of armed persons who beat up and threatened Oleg Uht, the TV director of ATN. A suspect has been arrested in the investigation of this case.
- b) On 15 April, a newspaper editor was severely beaten by unidentified persons in Sumy. He suffered severe injuries to the head and an open fracture of his arm.
- c) On 16 April, the TV station “Center” in Horlivka (Donetsk region) reportedly terminated broadcasting its programs due to an increased number of attacks against its journalists. Journalists have reported to the HRMMU that they feel increasingly threatened each time they showed their Ukrainian ID.
- d) On 23 April, unknown assailants reportedly threw Molotov cocktails at the premises of the local newspaper “Province” in the town of Konstantinovka, Donetsk region. The newsroom was burned down. Prior to the incident, staff of the newspaper had faced certain threats and intimidation. On 18 April, the front door of the paper was reportedly painted with the words “Enough lying!” and “Here you can sign up for membership in the Right Sector”.
- e) On 25 April, a Russian journalist and cameraman were deported from Ukraine on the basis that their activities were “harming the security and territorial integrity of the country”.

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

<sup>28</sup> See section V.

f) On 4 May, in Odesa, a Channel 5 journalist was attacked by pro-federalism activists, while reporting on events in the city. The Office of the Regional Prosecutor initiated a criminal investigation under article 171 (prevention to the legal journalists' activity).

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

57. Acting President Oleksandr Turchynov, issued a Presidential decree 28 April "On measures to improve the formation and realisation of State policy in the sphere of informational safety of Ukraine".<sup>29</sup> It foresees the development of further laws and policies to regulate the media environment and activity of journalists, particularly of foreign media outlets.

### **E. Right to life, liberty and security**

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

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

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

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

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

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<sup>29</sup> Presidential Decree No. 449/2014

shelter for victims of trafficking and domestic violence is run by the authorities, with space for 13 individuals.

### *Odesa violence*

63. On 2 May, a national unity rally gathered around 1,500 people, including many fans from the football clubs of Chornomorets Odesa and Metalist Kharkiv<sup>30</sup>, as well as city residents. Among the crowd there were reportedly also some radical members of the Right Sector and Maidan self-defence unit armed with bats and metal sticks. Shortly after the rally began, the latter were provoked by approximately 300 well-organized and armed pro-federalism activists; the rally turning into a mass disorder, which lasted for several hours. As a result, four protesters in support of Ukraine were killed by gunshots (a fifth died later in the hospital from his injuries). Many were injured during the afternoon (mostly protesters supporting federalism). During the evening, violent clashes between the two sides continued on the main square (Kulikove polje), which ended in a fire at the Trade Union building where protesters supporting federalism had taken refuge. As a result of the events, 46 people died of whom 30 (including 6 women) were trapped and unable to leave the burning building and 8 (including one woman) died from jumping out of the windows. In total, 38 died at the scene of the fire. At least 230 were injured.<sup>31</sup> As of 5 May, 65 remained in hospital, including two minors. Nine were in critical condition, including one policeman.

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

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

66. In the context of the events in Odesa, the role of the police and the lack of preparedness and protection were highly questionable.<sup>32</sup> The Office of the Prosecutor has opened criminal proceedings against the police officers under article 367 (Neglect of official duty). On 3 May, the head of the regional police, Mr Lutsiuk, was dismissed.

67. On 5 May, Arsen Avakov, the Minister of Interior, announced that a special unit of the National Guard (400 persons) arrived in Odesa to protect the integrity of the region and restore public order. It will be under supervision of the head of Odesa Regional Administration. The

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<sup>30</sup> Joint marches among fans are a regular tradition before all football matches.

<sup>31</sup> According to the Odesa City Council Health Department, 230 persons requested medical aid, out of them 214 were delivered to hospitals in ambulances.

<sup>32</sup> The preparedness of the State Emergency Service of Ukraine and its ability to deal with arson is also questionable. Whereas the medical help (first aid provided by ambulance and medical help in the hospitals) was assessed as highly effective.



unit comprises armed volunteers, which is of concern given their lack of training in handling mass protests.

## **F. Political rights**

### *Human rights in the electoral process*

68. On 4 April, the Central Election Commission (CEC) confirmed the registration<sup>33</sup> of 23 candidates (20 men and 3 women) for the Presidential elections scheduled on 25 May.<sup>34</sup>

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

- a) On 10 April, Oleg Tsariov (non-affiliated candidate from eastern Ukraine) following a press conference in Odesa was reportedly prevented from leaving the location by “Right Sector” activists. Scuffles broke out between the latter and supporters of Mr. Tsariov. The police managed to transfer Mr. Tsariov out of the hotel.
- b) On 14 April, Mykhailo Dobkin (Party of Regions) and Oleg Tsariov were attacked in Kyiv at the ICTV (national TV channel) media building. Both are known for their pro-Russian stance and for supporting federalism.
- c) On 11 April in Rivne, there were reports of “Right Sector” activists who picketed, burned documents and then sealed the office of the Communist Party. They demanded activities of the party be banned for as long as Petro Symonenko, Head of the Communist Party, supported separatist activities in south-east Ukraine.
- d) On 22-23 April in Krasnodon and Alchevsk (Luhansk region) unknown persons attacked campaigning tents of Anatoliy Hrytsenko (Civic Position party). On 30 April, in Mykolaiv his campaigners were verbally harassed with demands to remove the campaign tents by unknown persons.
- e) On 28 April in the village Perehrestivka (Romensky district, Sumy region), the pro-unity campaign team of Oleh Liashko (Radical Party) was threatened and their property destroyed. He cancelled his campaigning activities in the area.
- f) Also on 28 April, Mykhailo Dobkin, was prevented from leaving the plane at Kherson airport by some 250 pro-unity activists. The police claimed they were prohibited from accessing the runway, and could not provide security to the Presidential candidate. A criminal case has been opened against the aforementioned activists (still being identified) under article 279 (Blocking transport communications by placing obstacles preventing

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<sup>33</sup> CEC denied registration to 17 candidates as they did not comply with the procedural norms. There were no claims of unlawful refusal in registration.

<sup>34</sup> On 25 May there will be elections of mayors in some of the towns (namely Kyiv, Cherkasy, Chernivtsi, Odesa, Kherson, Mykolaiv, Sumy and a number of smaller towns throughout Ukraine. During the presidency of Viktor Yanukovych, the results of the mayors’ elections in these towns were illegitimate, but the early elections were blocked through the administrative pressure. The towns were governed by the secretaries of the city halls.

normal functioning of transport or creating danger to human life or the onset of other serious consequences) of the Criminal Code.

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

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

72. On 1 May, Oleg Tsariov and Natalia Korolevska officially withdrew as candidates from the Presidential elections.<sup>35</sup> On 16 April, two criminal proceedings were initiated against Oleg Tsariov based on articles 109 (Actions to overthrow a government) and 110 (Separatism). As of 5 May, 21 candidates (19 men and 2 women) were confirmed as running for the Presidential post.

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

74. On 30 April, Andriy Mahera, Deputy Chair of the CEC, announced that Presidential elections would be conducted whatever the circumstances and their outcome would be legally binding. Furthermore, in order to prevent the disruption of the electoral process, as well as to hinder any possible unlawful referendums in support of the various self-proclaimed “people’s” republics (e.g. Donetsk People’s Republic) the decision had been made to block the access to the State Voter Register in several towns in Donetsk and Luhansk regions.<sup>36</sup>

#### *Women’s participation*

75. Women represent 54 % of the Ukrainian population, but they are underrepresented in politics as leaders. Ukraine is falling short of fulfilling its 2015 Millennium Development Goal commitment of having 30% of top leadership positions filled by women. Of the 21 Presidential candidates, only two are women. Only 10% of the members of Parliament are

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<sup>35</sup> Oleg Tsariov claimed that elections were not possible at a time of “civil war” in the country. Natalia Korolevska gave the reason for her decision as being that the elections were dividing the country.

<sup>36</sup> The access to the State Voter’s Registry in 7 towns of Donetsk region was blocked on 24 April and in 7 towns of Luhansk region on 30 April. The access to the registry in Crimea remains blocked since 6 March.

women. The current Cabinet of 18 Ministers includes only two women, although its composition was completely revisited in February. Women are better represented in local government: 12% of regional councillors; 23% of district councillors; and 28% of city councillors; and in village councils women making up 50% of the councillors.

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

#### *Political parties*

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

78. On 30 April, the District Administrative Court of Kyiv issued a decision to terminate the activities of the political party “Russian Unity”.<sup>37</sup> The Ministry of Justice provided evidence that the leader of the party, Sergey Aksionov (current “governor” in the Autonomous Republic of Crimea), had conducted an anti-State policy, aimed at the violation of the territorial integrity and independence of the country. The court hearing on the “Russian Block” is to resume on 12 May.

### **G. Minority rights**

79. The UN Special Rapporteur on Minority Issues, Rita Izsák, conducted a mission to Ukraine on 7-14 April 2014, visiting Kyiv, Uzhgorod, Odesa and Donetsk (she was unable to access Crimea). In her press statement at the conclusion of the visit, she noted that inter-ethnic and inter-faith relations were harmonious; and that the legislative and policy environment was conducive to the protection of minority rights, including cultural rights. However, she also observed that considering the great diversity of population groups in Ukraine, the institutional attention to minority issues was currently insufficient and had declined or been downgraded in recent years. She further noted that the recent developments in Ukraine had created an environment of uncertainty and distrust that may create fractures along national, ethnic and linguistic lines and threaten peaceful coexistence if not resolved. She warned that in some localities the level of tension had reached dangerous levels and must be diffused as a matter of urgency.<sup>38</sup>

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<sup>37</sup> On 15 April, the Ministry of Justice filed a lawsuit prohibiting the activities of the political parties Russian Bloc and Russian Unity in Ukraine. Allegedly the leadership of the political parties was seeking to change the constitutional order by force, to undertake activities violating the sovereignty and territorial integrity of Ukraine, to illegally seize State power, to undertake war propaganda, violence, and incitement to ethnic, racial or religious hatred – all of which are contrary to Article 5 of the law “On Political Parties in Ukraine”.

<sup>38</sup> Press statement of 16 April 2014, by the Special Rapporteur on minority issues, available online at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14518&LangID=E>.

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

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

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

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

- a) In Odesa on 7 April, an incident when graffiti with swastikas was painted on Jewish tombs, the Holocaust memorial and on houses next to the Synagogue was monitored by the HRMMU. The signature of the Right Sector allegedly appeared next to the graffiti. On 8 April, the leaders of Right Sector from Kyiv and of the Ukrainian National Assembly personally met with the Chief Rabbi, Avraam Volf, to assure him that these organisations had not participated in these acts. Together with the municipal service and pro-unity activists, they washed off the graffiti from the tombs. The Jewish community believes these acts were a provocation and not part of a broader threat. On 8 April, the police opened a criminal investigation into the case based on article 296 of the Criminal Code (Hooliganism).<sup>39</sup>
- b) On 15 April, in Donetsk, anti-Semitic leaflets<sup>40</sup> with the stamp of the “Donetsk People’s Republic” were circulated near the local synagogue. The self-proclaimed leaders of the “Donetsk People’s Republic” denied their involvement in the incident; its self-proclaimed Governor, Serhiy Pushylin, called it a provocation. On 18 April, the Security Service of Ukraine announced that the materials of this case were added to the on-going criminal

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<sup>39</sup> Criminal Code also foresees accountability for such criminal offences as: violation of graves (article 297), illegal desecration of religious sanctities (article 179), and violation of citizens’ equality based on their race, nationality or religious preferences (article 161).

<sup>40</sup> The text of the leaflet obliged all Jews of Donetsk region to pass registration by 3 May, which costs 30 USD. If not passed, they will be deprived of citizenship and deported from the Donetsk People’s Republic with the confiscation of their property.

proceedings under articles 110 (Trespass against territorial integrity and inviolability of Ukraine) and 294 (Riots).

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

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

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

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

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

89. Acknowledging the need for confidence-building between various communities in society, there have been some attempts by human rights NGOs in the Donetsk region to organize discussions aimed at breaking the stereotypes that exist in the society about tensions between different groups and to engage in dialogue. On 16 April in Luts'k (western Ukraine), local civil society activists held a round table discussion on mutual understanding with representatives of national minorities of the region. Representatives of the local chapter of the Right Sector, Community Sector, Auto-Maidan, the Russian Cultural Centre and the Polish Cultural Society took part in this event.

## **V. PARTICULAR HUMAN RIGHTS CHALLENGES IN THE EAST**

### **A. The right to life, liberty and security**

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

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

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

93. This has contributed to a situation where armed persons, now formed into illegal groups, operate and run towns with impunity, for example in the town of Slovyansk located in the northern part of the Donetsk region. There has been a noted shift of apparent ‘control’

from the ‘political base’ of the “Donetsk People’s Republic” in Donetsk, to the “armed operations base” of the “Slovyansk self-defence unit” in Slovyansk.

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

*Security and law enforcement operation*

95. The Government first announced a “counter-terrorist” operation in eastern Ukraine, namely Donetsk region, on 13 April. The ensuing security and law enforcement operation was ceased by the authorities in observance of the Easter holidays and in the aftermath of the Geneva meeting and statement.<sup>41</sup> Following the discovery of the bodies (with alleged signs of torture) of Volodymyr Rybak<sup>42</sup>, Horlivka city councillor, and Yuriy Popravko<sup>43</sup>, a student and Maidan activist from Kyiv, in a river near Slovyansk on 19 April, acting President Oleksandr Turchynov ordered the resumption of the “counter-terrorist” operation in eastern Ukraine on 24 April.

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

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

98. In Kostyantynivka on 3 May, during the security and law enforcement operations the Security Service of Ukraine reported wounded persons, not disclosing the exact number.

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<sup>41</sup> See footnote 2.

<sup>42</sup> Mr Rybak - a well-known supporter of the unity of Ukraine - was abducted by unknown persons on 17 April, and his whereabouts since that time had remained unknown. On 23 April, the State Security Service opened an investigation into the killing of Mr. Rybak.

<sup>43</sup> Mr Popravko went missing on 18 April. Allegedly was tortured and drowned the same day.

According to local sources in the hospital in Kostyantynivka, there were a number of casualties as a result of those operations. The HRMMU is trying to further verify this information.

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

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

#### *Unlawful detentions*

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

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

- a) On 19 April, a railway police officer, left home in Slovyansk and has never returned. Criminal proceedings have been opened under article 46 of the Criminal Code (Illegal abduction or deprivation of liberty);
- b) In Kramatorsk, on 21 April an armed group abducted a police officer; criminal proceedings were initiated under article 349 of the Criminal Code (Capture of representative of government law enforcement agency as a hostage);
- c) On 29 April, a local activist, was allegedly abducted by unidentified persons, and is now unlawfully detained by an armed group in the occupied building of the State Security Service in Luhansk;
- d) On 29 April, an armed group abducted a member of the Svoboda party and a local election commission representative in the town of Konstantinovka. The next day, an armed group abducted a second Svoboda party representative. Unofficial sources told relatives that the two men are unlawfully detained in Slovyansk;



- e) On 2 May in Donetsk an armed group abducted an activist and aide. He was unlawfully detained, beaten and interrogated for three days. He was released on 5 May;
- f) On 3 May, pro-unity activists were unlawfully detained, beaten and interrogated in Luhansk. They were released on 4 May;
- g) On 4 May, a group of armed men abducted six residents of Novogrodovka in Donetsk region, including town councillors and trade union members. They were severely beaten and tortured while unlawfully detained in the occupied building of the Regional State Administration in Donetsk and some of them were released on 5 May.

#### *Detentions and cases of alleged enforced disappearances*

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

- a) On 26 April, an activist from the Artyomivsk self-defence unit, was reportedly detained by the Ukrainian military and transported by helicopter to Kramatorsk. He was interrogated and released on 27 April after one day of enforced disappearance. The HRMMU interviewed the activist in the Artyomivsk hospital where he has been undergoing medical treatment for injuries sustained while in detention. According to him, Ukrainian special military units (allegedly “Alfa”) searched him at a checkpoint, which had been operated by an armed group. He was reportedly unarmed. His membership card from the Ukrainian branch of the Don Cossacks organization was found. He was beaten, blindfolded and taken to Kramatorsk where he was interrogated about his alleged connections to the Russian Federation. The local police in Artyomivsk registered the case. No criminal investigation has been opened, as he has refused to file an official complaint for fear of retaliation;
- b) An activist of the “Donetsk People’s Republic” was detained on 3 April by the Security Service of Ukraine and transferred to the Security Service of Ukraine pre-trial detention center in Kyiv. He has since been charged under article 294 (Civil unrest), and article 341 (Illegal occupation of government or public buildings and installations) of the Criminal Code. His relatives were not informed about his detention and transfer to the SBU in Kyiv for some time - HRMMU is verifying the timeframe. The National Preventive Mechanism has confirmed to the HRMMU that his state of health is satisfactory and he receives legal aid.

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

## **B. Freedom of expression**

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

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

107. The HRMMU is aware of at least 23 journalists, reporters, photographers (both foreign and Ukrainian nationals) who have been abducted and unlawfully detained by armed groups, primarily in Slovyansk. As of 5 May, 18 of them were known to have been released. They have reported that those still kept in unlawful detention, including journalists, by the “Slovyansk self-defence unit”, had been subjected to ill-treatment.

108. The exact number of the journalists still unlawfully detained remains unknown. As of 5 May, the HRMMU was following the cases of a number of journalists, including: 1) journalist with the Open Dialogue Foundation who went missing on 16 April but was released on 6 May; 2) staff member of the “Hidden Truth TV, went missing on 20 April. Both were reportedly seen by a journalist who was then released<sup>44</sup> in the basement of the seized building in Slovyansk; 3) a journalist with the Lviv-based media outlet “ZIK” was unlawfully detained by unknown persons on 25 April on the main square of Slovyansk; and 4) a journalist with the Lutsk-based “Volyn Post” newspaper, went missing on 26 April in Slovyansk. The whereabouts of at least two of these journalists remains unknown.

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

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

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<sup>44</sup> Journalist of the VICE News (USA) who was detained on 22 April and released on 24 April.

### **C. Investigations related to events in the east**

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

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

113. In addition, the HRMMU verified allegations made by a Russian senator claiming that Pavel Gubarev, the self-proclaimed governor of Donetsk, who was detained in Donetsk by police on 6 March and transferred to Kyiv, had been tortured and was in a critical condition. The HRMMU spoke with the lawyer of Pavel Gubarev and the head of the National Prevention Mechanism; both denied the torture claim. On 30 April, the lawyers of Mr. Gubarev announced that Shevchenkivskiy District Court in Kyiv had prolonged the detention period of Mr. Gubarev until 28 June.

### **D. Economic and social rights**

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

115. The HRMMU heard of concerns regarding the on-going crisis from representatives of Women’s NGO in both Kyiv and Donetsk. Their sense is that there is very little participation

and inclusion of women in efforts to resolve the current crisis in Ukraine, particularly in the eastern regions. Their more active inclusion in such activities is viewed by many as critical to the success of possible steps to secure good governance, respect for human rights and the rule of law. Advocacy is necessary at all levels to ensure the inclusion of women into any effective efforts at national reconciliation and dialogue.

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

## **VI. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

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

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

### **A. Internally displaced persons from Crimea**

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

reports of an increased registration of ethnic Ukrainians, ethnically mixed families, and ethnic Russians. Most IDPs are women and children.

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

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

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

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

## **B. Rights of Crimean residents**

124. As the legislation of the Russian Federation is being enforced on the territory of Crimea, at variance with the UN General Assembly resolution 68/262, this is creating difficulties for Crimean residents, as there are many differences with Ukrainian laws. One particular example concerns the treatment now available to HIV/AIDS patients in Crimea. In Ukraine, people who use drugs have access to opioid substitution therapy (OST) as an integral part of the widespread implementation of harm reduction programmes. These programmes are an essential element in controlling HIV/AIDS and other infectious disease among injecting drug users in Ukraine, as elsewhere in Eastern Europe. In 2013, the Ukrainian State Service for drug control reported that approximately 8,000 people in Crimea were infected with HIV/AIDS. As of 1 March, there were 806 people using OST in Crimea; as of 6 May, the OST programmes in Crimea stopped. The majority of former OST patients now face deterioration in their health condition due to the fact that this treatment has been curtailed. This raises serious concerns for HIV/AIDS patients in particular, questioning how they may now access and gain quality healthcare treatment.

### *Right to citizenship*

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

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

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

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

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

#### *Freedom of movement*

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

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

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

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

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

135. On 30 April, the Cabinet of Ministers of Ukraine issued an Order “On temporary closure of crossing points across the border and checkpoints”,<sup>45</sup> according to which 27 check points are to be closed. The Order is not likely to have an impact on the freedom of movement for Crimean residents, as the check points to be closed are at airports (all flights connecting Crimea and continental Ukraine have been cancelled following the unlawful “referendum”) or at coastal entry points. This, however, might have a negative effect in the long run on trade, and thus economic rights.

*Freedom of expression and access to information*

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

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

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<sup>45</sup> It is stated that the measure is required due to the deterioration of the situation in the Crimea and invasion of the armed formations and persons with the extremist views to the territory of Ukraine and military aggression from the side of the Russian Federation, blocking of the border check points, which prevents from conducting the control foreseen by the legislation.

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

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

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

*Freedom of association*

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

*Freedom of religion*

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

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

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



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

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

### **C. Rights of indigenous peoples**

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

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

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

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

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

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

152. On 3 May, Mustafa Jemilev tried to enter Crimea from mainland Ukraine via the crossing point Armiansk, after having been prevented from boarding the plane from Moscow to Simferopol on 2 May. Traditionally, Crimean Tatars drive to greet their leader on his return and entry to Crimea. This time they were met by a number of armed military personnel

without clear identification insignias how blocked them. Later on, some of the Crimean Tatars crossed to mainland Ukraine. When the procession of people headed by Messrs. Jemilev and Chubarov tried to cross the border again, they were stopped. Access to Mr. Jemilev was once again forbidden and he returned to Kyiv. After several hours of waiting, Crimean Tatars returned to Crimea, where they organised a peaceful flash-mob to draw attention to the incident. On 5 May, the court decision was issued to two persons, who were fined with 10,000 RUB each, for participating in the flash-mob. Reportedly, the court hearings were conducted under the strict control of the “Office of the Prosecutor” of Crimea.

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

154. This is a deeply worrying development, especially considering other examples<sup>46</sup> of human rights violations regarding Crimean Tatars.

## **VII. CONCLUSIONS AND RECOMMENDATIONS**

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

### **To the Government of Ukraine:**

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

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

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<sup>46</sup> HRMMU is verifying reports that Crimean Tatars working in law enforcement or holding important public positions are being pressured to submit letters of resignation.

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

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

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

f) Primarily as a result of the actions of organised armed groups, the continuation of the rhetoric of hatred and propaganda fuels the escalation of the crisis in Ukraine, with a potential of spiralling out of control. Acts of hate speech must be publicly condemned and deterred. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech<sup>47</sup>.

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

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

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

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

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<sup>47</sup> See the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4, appendix, para. 36).

k) The announced national consultations on the discussion of the amendments to the Constitution of Ukraine on the decentralization of state powers should be advanced in accordance with the principle of equal inclusion of all, including national minorities and representatives of civil society, and ensuring equal role for women. A system of checks and balances should be fully provided. If conducted in a broad, consultative and inclusive manner, this may be a positive step leading to the de-escalation of tensions and genuine national reconciliation.

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

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

#### **To the authorities in Crimea:**

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

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

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

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

## **VIII. ANNEX**

### **Concept Note UN human rights monitoring in Ukraine**

#### **Introduction**

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

#### **Rationale for OHCHR's engagement**

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

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

#### **Objectives**

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

- Establish facts and circumstances related to potential violations of human rights committed during the course of the deployment.

## **Activities**

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

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

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

## **Composition and deployment of the mission**

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

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

## **Security**

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

## **Dates of the mission**

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

## Funding

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



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

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



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## EXECUTIVE SUMMARY

1. The present report is based on findings of the United Nations (UN) Human Rights Monitoring Mission in Ukraine (HRMMU) covering the period of 7 May – 7 June 2014. It follows two reports on the human rights situation in Ukraine released by the Office of the UN High Commissioner for Human Rights (OHCHR) on 15 April and 16 May 2014.
2. During the reporting period, the human rights situation in the Donetsk and Luhansk regions has continued to deteriorate. The 11 March “referendum” on “self-rule” held by the self-proclaimed “Donetsk People’s Republic” and “Luhansk People’s Republic”,<sup>48</sup> albeit without effect under international law, was seen by their representatives as the first step to the creation of a “Novorossia”. In addition, armed groups have continued to physically occupy most of the key public and administrative buildings in many cities and towns of the Donetsk and Luhansk regions, and have declared virtual “independence”, however, the provision of administrative services to the local population remains with the State.
3. The presence of armed people and weapons in the regions of Donetsk and Luhansk has increased. Representatives of the “Donetsk People’s Republic” have recognised the presence within their armed groups of citizens of the Russian Federation, including from Chechnya and other republics of the North Caucasus. In the period following the elections, the HRMMU observed armed men on trucks and armoured vehicles moving around downtown Donetsk in daylight.
4. The escalation in criminal activity resulting in human rights abuses is no longer limited to targeting journalists, elected representatives, local politicians, civil servants and civil society activists. Abductions, detentions, acts of ill-treatment and torture, and killings by armed groups are now affecting the broader population of the two eastern regions, which are now marked by an atmosphere of intimidation and consequent fear. Armed groups must be urged to stop their illegal activities and lay down their arms.
5. There has also been more regular and intense fighting as the Government has been trying to restore peace and security over the eastern regions of Donetsk and Luhansk through security operations involving its armed forces. Local residents of areas affected by the fighting are increasingly being caught in the cross-fire between the Ukrainian military and armed groups, with a growing number of residents killed and wounded, and damage to property. The HRMMU is concerned at the increasing number of reports of enforced disappearances as a result of the security operations. The Government must further use restraint of force, and ensure that its security operations are at all times in line with international standards.<sup>49</sup>
6. As a result of these developments, residents of the Donetsk and Luhansk regions live in a very insecure environment, coupled with social and economic hardships. Daily life is

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<sup>48</sup> Hereafter referred to as the “Donetsk People’s Republic” and the “Luhansk People’s Republic”.

<sup>49</sup> Human Rights Watch Letter to former Acting President Turchynov and President-Elect Poroshenko dated 6 June 2014, on the conduct of security operations in south-eastern Ukraine in light of the growing number of credible reports regarding Ukrainian forces’ use of mortars and other weapons in and around populated areas, and the recent intensifying of hostilities between Ukrainian forces and armed groups.

more and more of a challenge. The HRMMU is gravely concerned that the combination of the increased number of illegal acts by the armed groups, and the intensification of fighting between armed groups and Ukrainian forces is raising serious human rights concerns, including but not limited to, the fate of the general population, especially women and children, in the areas under the control of armed groups.

7. As of 6 June, the departments of social protection in Ukraine's regions had identified over 12,700 internally displaced persons (IDPs)<sup>50</sup>. However, the actual number of people who have fled the violence and fighting in the regions of Donetsk and Luhansk is believed to be higher and increasing daily.
8. Freedom of expression continues to be threatened, particularly in the eastern regions, where journalists face ongoing intimidation and threats to their physical security. Hate speech, particularly through social media, continue to fuel tensions and to deepen division between communities.
9. In Crimea, the introduction of Russian Federation legislation, in contradiction with the United Nations General Assembly resolution 68/262 and applicable bodies of international law, hampers the enjoyment of human rights and fundamental freedoms. It has created a legislative limbo as, while Ukrainian legislation was supposed to remain in force until 1 January 2015, the legal institutions and framework are already required to comply with the provisions of legislation of the Russian Federation.
10. Residents in Crimea known for their "Pro-Ukrainian" position are intimidated. The HRMMU is concerned that many may face increasing discrimination, particularly in the areas of education and employment. Leaders and activists of the indigenous Crimean Tatar people face prosecution and limitations on the enjoyment of their cultural rights. During the reporting period, the situation of all residents of Crimea has deteriorated with regard to their right to freedoms of expression, peaceful assembly, association, religion or belief.
11. From 14 to 19 May, Assistant Secretary-General (ASG) for Human Rights Ivan Šimonović travelled to Ukraine. During his visits to Kyiv, Donetsk and Odesa, he discussed the 16 May report with the Government, regional and local officials, the Ombudsperson and representatives of civil society, and the international community. The ASG highlighted the importance of prompt follow-up to the recommendations made in the OHCHR report as a means to de-escalate tensions, in particular ahead of the Presidential elections.
12. The investigations under the Office of the Prosecutor General into the Maidan events continued. On 28 May, a Kyiv court sentenced two police officers who subjected a Maidan demonstrator to ill-treatment. On 15 May, relatives of those killed on Maidan, dissatisfied with the perceived slowness of the official investigation, created an initiative group to conduct their own investigation. The HRMMU remains in regular contact with

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<sup>50</sup> As of 16 June, UNHCR estimate there to be 34,336 IDPs in Ukraine.

According to the Russian Federation Federal Migration Service, as of 6 June, 2014, 837 persons had applied and were granted refugee status; and 3,750 persons had applied and were granted Temporary Asylum. Approximately 15% were minors under the age of 18. These figures do not include people from Crimea.

the Office of the Prosecutor General and emphasizes the need for the investigation to be transparent, comprehensive and timely.

13. With respect to the incidents that took place in Odesa on 2 May, it should be noted that six official investigations have been established. The main bodies undertaking such investigations are the Ministry of Interior (MoI) and the State Security Service in Ukraine (SBU). It is with regret that the HRMMU reports a lack of cooperation from both governmental bodies, particularly at the central level with the HRMMU, which has been preventing the HRMMU from conducting a proper assessment of the progress made. The HRMMU reiterates the need for prompt and thorough investigations into the violent incidents on 2 May in Odesa. Some key questions must be addressed to ensure confidence in the investigation and to guarantee accountability, due process and to enable the communities to accept fully the results of such an investigation. Among those questions are the conduct of the police on 2 May: why it, and the fire brigade, either did not react, or were slow to react; what caused the fire in the Trade Union building; who are the perpetrators of the killings in the afternoon and the fire in the evening; and what measures are being taken to guarantee justice for the victims, and due process for the people detained in connection with these events. Furthermore, the Government must pay particular attention to ensure social media is not used for hate speech or incitement to hatred.
14. A key development during the reporting period was the Presidential election held on 25 May 2014. There were 21 candidates officially on the ballot. On 3 June, the Central Election Commission (CEC) confirmed that Mr. Petro Poroshenko had won with 54.7% of the vote. In the regions of Donetsk and Luhansk, attacks had taken place every day during the week preceding the elections and multiplied on election day, with violent obstruction of polling stations. The pattern of such attacks consisted of representatives of the “Donetsk People’s Republic” and the “Luhansk People’s Republic” and armed men entering the premises of the district election commissions, threatening staff and sometimes beating and/or abducting them, often taking away voters’ lists, computers and official documents. In some cases, the premises of these commissions were seized and blocked; others had to close either because they became inoperative, or for security reasons the staff were frightened to come back. Several attacks against district election commissions and polling stations were reported just prior to, and on, the election day, with armed men entering polling stations, forcing them to close and/or destroying or stealing ballot boxes. These illegal acts prevented many people living in the Donetsk and Luhansk regions to exercise their right to vote.
15. Residents of Crimea had to go to mainland Ukraine to vote. The HRMMU monitored the situation in the Kherson region, where most of the Crimean voters had registered, and spoke to representatives of the Crimean Tatars. As they crossed the administrative border by car to go to vote, representatives of “self-defence forces” reportedly recorded various personal details, including car license plates and passport numbers. The HRMMU was informed that many Crimean Tatars did not go to vote due to the cost of travelling, concerns about crossing the administrative border, and fear of reprisals by the authorities in Crimea.

16. During the reporting period, the Government of Ukraine continued to implement the Geneva Statement.<sup>51</sup> National roundtables on constitutional reform, decentralization, minority rights and the rule of law were held in Kyiv on 14 May, in Kharkiv on 17 May, and in Mykolaiv on 21 May. These meetings brought together former Presidents Kravchuk and Kuchma, Prime Minister Yatsenyuk, political party leaders, members of the business community and other civil society organizations. In Kharkiv, Prime Minister Yatsenyuk declared that the Constitution should be amended in order to provide a special status for the Russian language and national minority languages.
17. On 13 May, the Parliament adopted the Law “On amending some legislative acts in the area of state anti-corruption policy in connection with the implementation of the European Union (EU) Action Plan on the liberalisation of the visa regime for Ukraine”. The Law provides for more stringent penalties for corruption offences committed by individuals or legal entities.
18. On 20 May, Parliament adopted by resolution № 4904 the Memorandum of Concord and Peace, which was drafted during the roundtable on national unity in Kharkiv on 17 May, and discussed on 21 May in Mykolaiv. Supported by 252 votes (all deputies except the Communist Party of Ukraine and Svoboda), the document foresees that the adoption of a constitutional reform package, including the decentralization of power and a special status for the Russian language; judicial and police reform, and the adoption of an amnesty law for anti-government protesters in the east who would accept giving up weapons, except for those who have committed serious crimes against life and physical integrity. The Parliament called on all to work together to protect, promote and build a democratic Ukraine, and the peaceful coexistence of all nationalities, religions and political convictions.

## **I. METHODOLOGY**

19. The present report was prepared by the HRMMU on the basis of information collected during the period of 7 May to 7 June 2014. During this period, the HRMMU continued to operate pursuant to the objectives as set out at the time of its deployment in March 2014, and in accordance with the same methodology as outlined in its second monthly report on the situation of human rights in Ukraine issued by OHCHR on 16 May.<sup>52</sup> The present report does not intend to present an exhaustive account of all human rights concerns in Ukraine that have been followed by HRMMU during the reporting period. It rather focuses on those violations and developments which represent particular human rights challenges at the current juncture or demonstrate trends for potentially longer-term human rights concerns in the country.

<sup>51</sup> The Geneva Statement on Ukraine was issued on 17 April 2014 by representatives of the European Union, United States, Ukraine and the Russian Federation. It sets out the agreed initial concrete steps to de-escalate tensions and restore security for all: (1) All sides must refrain from any violence, intimidation or provocative actions; (2) All illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public offices must be vacated; (3) Amnesty should be granted to the protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) The announced constitutional process will be inclusive, transparent and accountable carried out through a broad national dialogue.

<sup>52</sup> <http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>

20. The HRMMU continued to work closely with the United Nations entities in Ukraine. It is grateful for the support and contributions received for the report from the Office of the United Nations Resident Coordinator, the Department for Political Affairs (DPA), the United Nations High Commissioner for Refugees (UNHCR), the World Health Organisation (WHO), the United Nations Children's Fund (UNICEF), the United Nations Development Fund (UNDP), the World Food Programme (WFP), the United Nations Population Fund (UNFPA), the United Nations Office on Drugs and Crime (UNODC), the International Labour Organisation (ILO), the International Organisation for Migration (IOM), and the Office for the Coordination of Humanitarian Affairs (OCHA).
21. The HRMMU appreciates the close cooperation with international and national partners, including among others, the Organisation for Security and Cooperation in Europe (OSCE).

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

### **A. Investigations into human rights violations related to Maidan protests**

22. Five separate initiatives are ongoing in connection with the investigations into human rights violations committed during the Maidan events: (1) the official State investigation is undertaken by the Office of the Prosecutor General of Ukraine in cooperation with the MoI; (2) a temporary "*commission on the investigation of illegal actions of the law enforcement bodies and individual officials and attacks on the rights and freedoms, lives and health of citizens during the events connected with the mass actions of political and civil protests that have been taking place in Ukraine since 21 November 2013*" was established by Parliament on 26 December 2013; (3) the Secretary-General of the Council of Europe initiated, in December 2013, a three-member International Advisory Panel to oversee that the investigations of the violent incidents which have taken place in Ukraine from November 2013 onwards meet the requirements of the European Convention on Human Rights and the case-law of the European Court of Human Rights; (4) a Public Commission on the investigation and prevention of human rights violations in Ukraine was created on 27 January 2014, initiated by a group of Ukrainian legal academics; and (5) an initiative group comprising family members of people who died on Maidan.
23. The Ukrainian Ombudsperson issued a special report on "Infringement of Human Rights and Freedoms in Ukraine - The Events of November 2013 – February 2014".<sup>53</sup>  
*Forceful dispersal of Maidan protesters on 30 November 2013*
24. As noted in the previous reports, the violent dispersal of protesters on 30 November was the first instance of the excessive use of force against peaceful demonstrators, and triggered further protests.

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<sup>53</sup> Ukrainian Parliament Commissioner for Human Rights, Special Report on 'Infringement of Human Rights and Freedoms in Ukraine - The events of November 2013 – February 2014', issued on 28 February, 2014.

25. On 14 May, the Kyiv Pechersky Court postponed a hearing of Oleksandr Popov, former Head of the Kyiv City administration, and of Volodymyr Sivkovych, former Deputy Secretary of the National Security and Defence Council, who are under suspicion of being responsible for the forced dispersal of Maidan protesters on the night of 30 November 2013. The hearing was scheduled after the Kyiv city Court of Appeal cancelled the decision of the Kyiv Pechersky Court of 31 January 2014 to amnesty persons responsible for ordering the crackdown of demonstrators by the “Berkut” riot police under the law of 19 December, which has since then been rescinded.
26. The hearing planned for 14 May eventually took place on 26 May but was followed by an incident. About 15 members of the “Maidan self-defence” attacked Oleksandr Popov after he left the court room. He was doused with water, alcohol and iodine, and insulted. Members of the police, who were standing by, did not intervene.
27. During the following hearing, on 5 June, the plaintiffs (representing Maidan victims) submitted a petition for the revocation of the judge considering the case. The petition was accepted by the court, leading to the postponement of the hearings until a decision on the revocation.

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

28. During 19-21 January 2014, fierce clashes broke out in central Kyiv between the police and protesters, resulting in the first three casualties among demonstrators. The death toll rose significantly between 18-20 February, with confrontations taking the lives of dozens of persons, mostly protesters.
29. Different figures continue being reported regarding the number of deaths during the protests in January and February. According to information from the Office of the Prosecutor General communicated to the HRMMU on 27 May, 76 protesters were killed as a result of firearm wounds on Hrushevskoho and Institutska streets due to armed confrontations. On 21 May, the Ministry of Health announced that 106 demonstrators had died during the protests. Information from the NGO “Euromaidan SOS”, dated 3 June, refers to 113 casualties among protesters (109 in Kyiv and 4 in the regions).
30. There are also discrepancies concerning casualties among law enforcement officers: 14 according to the Office of the Prosecutor General; 17 according to the Investigation Commission of the Parliament of Ukraine on the Maidan events; and 20 according to the NGO “Euromaidan SOS”.
31. For investigation purposes, all the killings of protesters by firearms were merged by the Office of the General Prosecutor into one criminal proceeding. As of 24 April, three “Berkut” officers had been arrested and officially charged with Article 115 (Murder) of the Criminal Code. The situation has not changed over the past month and a half. The killing of law enforcement officers is being investigated by a separate team within the Office of the Prosecutor General. As of 6 June, no suspects had been identified.
32. On 20 May, the deputy head of the Kyiv Department of the MoI, Sergiy Boyko, declared that all documentation related to the activities of the special police unit “Berkut” during

Maidan had been destroyed upon the order of the unit commander in the last days of February 2014.

33. On 5 June, the HRMMU met with a representative of an initiative group claiming to represent about 320 relatives of people killed on Maidan. The group held its first meeting on 15-16 May, and is planning to initiate an independent investigation into the events, with the involvement of lawyers and journalists. They consider their initiative as necessary as they are not satisfied with the ongoing investigations. The group, which plans to register an NGO entitled “Family Maidan” also intends to support families of Maidan victims.
34. On 21 May, the Head of the Parliamentary Investigation Commission on the Maidan events reported that two persons who had participated in the protests were still missing. Eleven persons suspected in the killing of demonstrators have been identified, of whom three were arrested and eight remain at large, allegedly in the Russian Federation. The Commission is seeking to obtain full and reliable information on violations during Maidan and will forward evidence to the General Prosecutor’s Office. It has a one-year mandate and must issue a report to Parliament no later than six months after its establishment that is by 26 June 2014.
35. The International Advisory Panel (IAP) of the Council of Europe overseeing the Maidan investigations held two working sessions in Strasbourg on 9-11 April and 5-7 May 2014. On 16 May, it issued guidelines for NGO submissions and requested input by 11 June 2014. It also decided to request ‘certain authorities’ to submit information mainly concerning the Maidan investigations. The first meetings of the IAP in Kyiv will take place at the end of June 2014.

#### *Torture and ill-treatment*

36. On 28 May, the Kyiv Pechersky Court sentenced two police officers for abuse of power and violence against a demonstrator, Mykhailo Havrylyuk, during the Maidan protests. Mr. Havrylyuk had been stripped naked in the street by the police in freezing conditions and forced to stand in the snow while being mocked, assaulted and filmed with a mobile phone. During the hearings, the defendants pleaded guilty. One of them was sentenced to three years of imprisonment with a probation period of one year, and the other to two years, including a one-year probation period.

### **B. Investigations into human rights violations related to 2 May Odesa violence**

#### *Summary of events*

37. The most serious single incident of significant loss of life in Ukraine since the killings on Maidan occurred in Odesa on 2 May 2014.<sup>54</sup> The events occurred on the same day that a football match was due to take place between the Kharkiv football team “Metallist” and the Odesa football team “Chernomorets”. On 1 May, the police authorities issued an official statement announcing that due to possible disorder because

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<sup>54</sup> See also OHCHR report on the human rights situation in Ukraine, 15 May 2014 (<http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>)



of the football game, an additional 2,000 police officers would patrol the streets of Odesa.

38. Early in the morning of 2 May, at least 600 football fans arrived from Kharkiv. Football fans from both teams are known to have strong “Pro-Unity”<sup>55</sup> sympathies. A pre-match rally for “United Ukraine” had been planned for 3.00 p.m. on Sobornaya square and gathered, at least, 2,000 people, including supporters of the two football teams, Right Sector activists, members of so-called self-defence units, and other “Pro-Unity” supporters. Right Sector and “self-defence” unit supporters were observed by the HRMMU wearing helmets and masks, and armed with shields, axes, wooden/metallic sticks and some with firearms. By 3:00 p.m. the HRMMU had observed 15 police officers on Sobornaya square and two buses of riot police officers parked nearby.
39. Meanwhile, the HRMMU observed that about 450 metres away from Sobornaya street, “Pro-Federalism” activists, comprising approximately 300 activists from “Odesskaya Druzhina” (radical “Pro-Federalism” movement), had also gathered one hour earlier. They reportedly intended to prevent the “Pro-Unity” rally; and were wearing helmets, shields, masks, axes, wooden/metal sticks and some of them with firearms.
40. The HRMMU observed an insufficient and inadequate police presence to manage and ensure security, and crowd control of the “United Ukraine” march towards the football stadium. The HRMMU noted that additional police officers arrived at the scene, but were unable to stop the violent confrontation.
41. At 3.15 p.m., the “Pro-Federalism Odesskaya Druzhina”, “Narodnaya Druzhina” and other activists approached the Sobornaya square and started to provoke the participants of the “United Ukraine” rally. Clashes arose and quickly turned into mass disorder, which lasted for several hours until 6.30 p.m. Police officers and supporters from both sides were injured during the afternoon. Six men were killed by gunshots fired by activists.
42. The HRMMU observed that following the clashes in the city centre, some “Pro-Federalism” activists ran from the area chased by “Pro-Unity” supporters. Approximately 60 “Pro-Federalism” activists took refuge in the “Afina” shopping centre, which had been closed during the day. The “Afina” shopping centre was then surrounded by “Pro-Unity” activists. Riot police (Special Forces “SOKOL”) arrived on the scene, and reportedly took away 47 “Pro-Federalism” activists, while letting women out of the complex. Other “Pro-Federalism” supporters ran from the clashes to the tent camp at the Kulikovo Pole square, where approximately 200 supporters had gathered (including all the “Pro-Federalism” leaders) during the afternoon.
43. Some “Pro-Unity” politicians called upon their supporters to march towards the Kulikovo Pole square. At 7.00 p.m., the “Pro-Unity” supporters marched in that direction, accompanied behind them by approximately 60 riot police.

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<sup>55</sup> The terms “Pro-Unity” and “Pro-Federalism” are used in the context as describing the motivations and orientation of the supporters / activists.

44. The “Pro-Federalism” leaders were informed that “Pro-Unity” supporters were heading towards the tent camp, and between 6.00 – 6.30 p.m., they decided to take refuge in the nearby Trade Union Building.
45. At 7.30 p.m., when the “Pro-Unity” supporters reached Kulikovo Pole square, they burned all the “Pro-Federalism” tents. The “Pro-Federalism” activists, who had hidden in the Trade Union Building, and the “Pro-Unity” activists, then reportedly started throwing Molotov cocktails at each other. Gunshots could reportedly be heard coming from both sides. At around 8.00 p.m., the “Pro-Unity” activists entered the Trade Union Building where the “Pro-Federalism” supporters had sought refuge.
46. During the evening a fire broke out in the Trade Union Building. At 7.43 p.m., the HRMMU called the fire brigade, which has its base located 650 metres from the Trade Union Building. Reportedly, the fire brigade only arrived 40 minutes after receiving the first phone call about the fire. According to fire brigade officials, this was due to the fact that the police did not create a safe and secure perimeter allowing the fire brigade to easily access the Trade Union Building. The cause of the fire remains unclear at this stage.
47. As a result of the fire, officially 42 people died: 32 (including 6 females) were trapped and unable to leave the building and 10 (including one female and one minor) died jumping from windows.
48. The HRMMU has received information from credible resources that some “Pro-Unity” protesters were beating up “Pro-Federalism” supporters as they were trying to escape the Trade Union Building, while others were trying to help them.
49. 247 other people were brought from the scene requiring medical assistance: 27 people with gunshot wounds, 31 with stab wounds, 26 with burns and intoxication caused by combustible products and 163 with injuries by blunt objects. Of these, 99 people were hospitalised, including 22 policemen, with 35 in serious condition. According to various sources, all those who died were Ukrainian citizens. There are no more official reports of people missing in relation to 2 May events. Seven of those injured remain in hospital. The HRMMU received allegations that many who were treated in hospitals did not give their real names and addresses. Moreover, some people who were heavily injured from the violence did not go to hospital for fear of retaliation.
50. During the evening, it was reported to the HRMMU that a bare minimum police force was present at the Kulikovo Pole square. Even when the special riot police force arrived at the scene, the officers did not intervene in the violence that took place on the Kulikovo Pole square. The HRMMU was told by high ranking police officers that the reason for this is that they did not receive any formal order to intervene.

#### *Detentions*

51. The HRMMU has noted slight discrepancies regarding the number of people arrested/detained/transferred during, and in the aftermath of, the 2 May violence. The Regional Prosecution Office and the Regional Ministry of Interior present different figures relating to these events. For example, figures for those arrested in the centre of

town vary from 42 to 47 people, and figures for those arrested at the Trade Union Building from 63 to 67 people.

52. Criminal investigations have been launched under the following articles of the Criminal Code of Ukraine: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); Article 345 (Threat or violence against a law enforcement officer), Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty).
53. The 47 “Pro-Federalism” activists who took refuge in the “Afina” shopping centre were taken away (for so-called protection reasons) by Police Special Forces “SOKOL” and transferred to two police stations outside Odesa (Ovidiopol and Bilhorod-Dnistrovkyi) where they were detained for two days.
54. During this 48 hour period in police custody, detainees were not given food or water on a regular basis, nor were they provided a one-hour walk per day, as per internal MoI regulations<sup>56</sup>.
55. On 4 May, all 47 detainees were transferred to Vinnitsa (424 km from Odesa). According to information provided to the HRMMU by credible sources, during the transfer, which lasted for 12 hours, they received neither food nor water, nor were they allowed to use toilet facilities (they had to urinate in the detainees van). According to Ukrainian internal regulations, detainees during transfer should receive food and water.
56. On 6 May, video court hearings of the “Pro-Federalism” activists were organised with the Primorsky District Court of Odesa. All were charged with Article 294 (Mass riots) and/or Article 115 (Intentional homicide) of the Criminal Code; and during the following days some were given additional criminal charges of either: Article 194/2 (Intentional destruction or damage of property); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); or Article 345 (Threat or violence against a law enforcement officer). According to the court decisions of the 47 arrested, 14 were placed in the Vinnitsa pre-trial detention centre. Four of these, after appealing the court decision, were placed under house arrest and have since reportedly returned to Odesa. 33 of the 47 individuals originally arrested were placed under house arrest as of 10 June 2014. Late in the evening of 2 May, 67 people were arrested at the Trade Union Building and transferred to the Odesa City Police Station, where they were detained for two days. On 2 and 3 May, all were charged with either Articles 115 (Intentional homicide) or Article 294 (Mass riots) of the Criminal Code. On 4 May at 5.00 p.m., the Odesa City Police Station was stormed by relatives and friends of the “Pro-Federalism” movement. Under unclear circumstances all of the 67 detainees were “released” by the police.
57. In addition to those arrested on 2 May, the MoI arrested at least four other people. On 6 May, one of the leaders of the “Pro-Federalism” movement was arrested and charged

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<sup>56</sup> Ministry of Interior regulation Number 60 dated 20/01/2001: warm food three times per day, and one hour walk per day.

under Article 294 of the Criminal Code. He is currently detained in a pre-trial detention centre. On 18 May, a “Pro-Unity” activist was arrested, accused of firing at, and injuring several people in the city centre on 2 May, including police officers, “Pro-Federalism” activists and journalists. He was first transferred to the Investigation Department of Odesa Regional Police Office, before being transferred to Kyiv. He is accused under Article 115 (Murder) and Article 294-2 (Mass riots) of the Criminal Code and on 21 May, he was placed under house arrest in Odesa by the Kyiv Pechersky District Court.

58. Of the arrests conducted between 2 May and 3 June, in connection with the investigations into the 2 May violence, 13 persons remain in pre-trial detention centres under the Penitentiary Services (either in Vinnitsa, Odesa or Kyiv) charged with one or more of the following six articles of the Criminal Code: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).
59. In addition, reportedly 40 people were placed under house arrest in Odesa charged with the following articles of the Criminal Code: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).
60. Two cases concerning “Pro-Unity” activists suspected of shooting and killing persons during the 2 May violence, were heard by the Pechersky District Court of Kyiv, following the arrest of two suspects on 18 and 26 May. Both were given house arrest; both are charged under Article 294 (Mass riots), and one has been additionally charged under Article 115 (Murder) of the Criminal Code.

*Due process rights during, and after, the 2 May violence*

61. The HRMMU visited detainees held in the pre-trial detention centre in Odesa. The Penitentiary Services administration fully cooperated with the HRMMU and granted access to several detainees (including one female) with whom private interviews were carried out. The detainees did not complain about their conditions of detention or physical treatment in the pre-trial detention centre in Odesa. They confirmed they were able to meet privately with their lawyers.
62. The HRMMU also met with lawyers, victims, witnesses, detainees and relatives with regard to the 2 May violence. It also held numerous meetings with the Ombudsperson’s team, as well as representatives of law enforcement agencies, mass media, local politicians and officials, activists and local officials. Through its monitoring, the HRMMU has identified various human rights concerns with regard to the on-going criminal investigations, which include some of the following.

*Timely notification of reasons for arrest and charges within short period of time*

63. On 15 May, the SBU apprehended five additional people. Although this took place at 9.00 a.m., the official arrest time has been recorded as 11.50 p.m. – over 12 hours later. According to Article 208/4 of the Criminal Procedure Code ‘a competent official who apprehended the person, shall be required to immediately inform the apprehended person, in a language known to him, of the grounds for the apprehension and of the commission of what crime he is suspected’. Furthermore, the procedure applied for the arrest was not in line with Articles 9.2 and 9.3 of the International Covenant on Civil and Political Rights (ICCPR).
64. Similarly eight people apprehended by the SBU on 27 May at the Odesa railway station did not receive prompt notification of the reasons for their arrest.

*Right to a fair trial*

65. Law enforcement agencies resorted to an illegal practice in order to prevent prompt access to legal counsel. Indeed, during criminal interrogation procedures, police and SBU officers summoned individuals as “witness” and later then substituted their status as “suspect” and/or substituted their interrogation by interviewing. This resulted in violating the persons’ right to see and consult a legal counsel (as provided for in Article 208/4 of the Criminal Procedural Code) and gave an opportunity to “delay” the official time of apprehension.
66. For instance, the eight people who were arrested by the SBU at the Odesa railway station were transferred to the SBU for an alleged “interview”. They were not informed about their rights with regard to apprehension, nor were they provided with legal counsel, nor could they contact their lawyers before and during interrogation.
67. The HRMMU observed, based on interviews with detainees and their relatives, that the governmental Free Legal Aid scheme (established in connection with the new Criminal Procedural Code of November 2012) encountered gaps in its system. For the legal defence of detainees arrested during and after 2 May violence, the Free Legal Aid system could not provide enough lawyers.
68. As of 4 June, the legal status of the 67 “detainees” released on 4 May from Odesa city Police Station remained unclear. Due to procedural gaps following their alleged illegal release (i.e. without a court decision), they remain suspects. The measure of restraint was not applied to them as required in accordance with the Criminal Procedural Code.

*Right to medical care*

69. In Ovidiopol and Bilhorod-Dnistrovskiy Police Stations medical care was not provided to those among the 47 detainees who required such assistance due to illness. The relatives of detainees placed in custody in the Vinnitsa pre-trial detention centre also reported about the lack of medical care provided to their kin.

*Personal data*

70. Concerns have been raised with the HRMMU that on 19 May, the presumption of innocence may have been violated during an official press conference of the MoI, by the Deputy Minister of Interior/Head of Main Investigation Unit by disclosing personal data

of 12 detainees. The HRMMU reminds the authorities of the importance of respecting international standards concerning the presumption of innocence and the prohibition of arbitrary interference with one's privacy or attacks upon his/her honour and reputation.

71. Also on 3 May, the SBU published the names and passports of three citizens from the Russian Federation allegedly involved in the 2 May violence.

#### *Legality of arrest*

72. On 15 May, the SBU conducted an illegal search of an apartment from 8.00 p.m. to 3.00 a.m., without a search warrant and without preparing a report/protocol on the search. During the search, they broke the door, forced the family, including a girl to lie down on the floor. A woman (wife/mother) was subsequently arrested and taken to the SBU Office. The next day she was transferred to the Odesa Police Station. On 17 May, the Primorsky District Court placed her in custody under Articles 294 (Mass riots) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code. She is currently detained in Odesa pre-trial detention centre.

#### *Accountability: Update on investigations into the Odesa incidents*

73. Six official investigations have been initiated to look into the incidents of 2 May in Odesa and are ongoing: 1) a criminal investigation by the MoI; 2) an investigation of the General Prosecution Investigation Unit into police conduct; 3) a criminal investigation by the SBU into alleged state level crimes (including actions aimed at forceful change or overthrow of the constitutional order); 4) an investigation by the Ombudsperson; 5) an investigation by the Parliamentary Commission; and 6) an investigation by a commission comprising civil society representatives under the auspices of the Governor. During his visit in May, ASG Šimonović met with interlocutors involved in these various investigations.
74. These parallel investigations by different bodies present a high risk of miscommunication between the various law enforcement agencies' commissions, which may impact the integrity of the criminal investigations. Furthermore, there appear to be widespread concerns among citizens regarding the ability of local law enforcement agencies to conduct independent and thorough investigations due to the politicisation of the 2 May events. The day after the violence, the former acting President dismissed several local high-ranking officials on the grounds of Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty) of the Criminal Code). An interim government and new officials were appointed at the local level: the Governor of Odesa, the Head of the Regional MoI, the Head of the Odesa City Police, and the Head of the Regional Prosecution Office.

#### *Governmental Commission on the issues of numerous deaths of people during "Pro-Ukrainian" protests and fire in the Trade Union Building in Odesa City*

75. During the late evening of 2 May, Vice-Prime Minister Vitalii Yarema was appointed Head of the Governmental Commission on the issues of numerous deaths of people during "Pro-Ukrainian" protests and the fire in the Trade Union Building in Odesa City, which is responsible for overseeing the investigation carried out by the law enforcement

agencies at the Odesa regional and city level. The HRMMU has officially requested to meet with this Commission, but had not received a response as of 7 June 2014.

*Criminal investigation by the Ministry of Interior Investigation Unit*

76. On 2 May, a criminal investigation was launched by the Odesa Regional Police Investigation Department. On 6 May, the responsibility for the investigation was transferred to the Main Investigation Department of the MoI in Kyiv (under the lead of Deputy Minister of Interior). According to the law, the investigation process should be completed in 60 days. Investigators from Kyiv, Odesa and other regions are cooperating on this investigation, which has been launched under the following articles of the Criminal Code of Ukraine: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).

*General Prosecution Investigation Unit regarding police duty performance*

77. On 3 May, the Odesa Regional Prosecutor Office launched a criminal case against four police officials under Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty) of the Criminal code. On 6 May, this investigation was transferred to the Investigation Unit of the General Prosecutor.
78. According to information provided to the HRMMU by credible sources, the regional MoI did not enforce the special police tactical plan called “Wave” (“Khvyliya”), which would have allowed the use of special police means and forces, and ensured coordination of all official emergency units (e.g. health, and the department of emergency situations).
79. Furthermore, there are credible reports that during the 2 May violence, all high ranking officials from the Regional MoI and Regional Prosecutor’s Office were holding a meeting and were unavailable.
80. Since then, several criminal proceedings have been initiated against high-ranking police officials and policemen. The Deputy Head of the Regional MoI was placed under house arrest in relation with the 2 May violence and the “release” of the 67 detainees held in the Odesa Police Station on 4 May. His current whereabouts remain unknown but he is thought to be outside Ukraine. On 8 May, the Head of the Odesa City Police, the Head of the Odesa Police Detention Centre and the duty officer were apprehended and transferred to Kyiv. On 9 May, the Head of the Odesa City Police was released on bail. Both The Head of the Odesa Police Detention Centre and the duty officer were also released under obligations to make a personal commitment not to leave Ukraine.

*Criminal investigation under the State Security Service of Ukraine (SBU)*

81. In mid-March, the SBU initiated a criminal investigation throughout the country under Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code in relation to threats to national security and national integrity. As of 15 May, the SBU arrested several people in Odesa region.

According to the HRMMU informal sources, 18 people were placed under investigation by the SBU and detained in the Odesa pre-trial detention centre between 2 May and 3 June.

82. On 15 May, the SBU arrested five people (four male and one female) who were allegedly leaving the Odesa region to join armed groups in eastern Ukraine. The woman was placed under house arrest. Later that day another female “Pro-Federalism” supporter, allegedly the organiser of the expedition, was arrested and placed in pre-trial detention in Odesa. One more person was arrested the following day in connection with the same case. As of 7 June, the HRMMU had no information on his whereabouts.
83. On 27 May, eight men were arrested at the Odesa railway station from a train about to depart for Moscow. The SBU stated that these people were planning to attend a “paramilitary training” in Moscow before joining the armed groups in eastern Ukraine. On 29 May, the Primorsky District Court charged all of them under Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code. They have been placed in custody in the pre-trial detention centre in Odesa. One more person was arrested the following day in connection with the same case. As of 7 June, the HRMMU had no updated information on his whereabouts.
84. On 28 May, three men, members of the NGO "Orthodox Cossacks", were arrested in Odesa and on 31 May, they were charged by the Primorsky District Court under Articles 109 and 110 of the Criminal Code, and placed in custody at the pre-trial detention centre in Odesa.

*Parliamentary Interim Commission of inquiry into the investigation of the death of citizens in the cities of Odesa, Mariupol and other cities of the Donetsk and Luhansk regions of Ukraine.*

85. On 13 May, the Parliament adopted decision 4852 establishing an” Interim Inquiry Parliamentary Commission on the investigation of the death of citizens in the cities of Odesa, Mariupol and other cities of the Donetsk and Luhansk regions of Ukraine”, further to a proposal by parliamentarians representing the Odesa region. The mandate of this Commission expires on 15 June, by which date it is to submit its report to Parliament.
86. The Commission informed the HRMMU that it had already gathered a lot of information on the violence of 2 May in Odesa, which should be properly analysed and processed. According to the Head of the Parliamentary Commission, its members met with officials from Odesa, including the regional SBU divisions, MoI, Prosecutor’s Office, independent experts, NGOs and suspects under house arrest. He believes many people are still frightened by the events with some afraid to share important information. Moreover, he highlighted that the situation in Odesa is not stable yet, and it is important to optimise the activities of law enforcement bodies in the investigation. According to him, the criminal investigation by the MoI had only conducted approximately 7% of the necessary work. The perpetrators of the Odesa events have still not been identified, with some suspects detained for a few days and then released by courts. From information



gathered by the Commission, there is much questioning within local communities as to why this happened. There is also a fear that the local population will use reprisals against suspected persons for the restoration of justice. Thus, according to the Head of the Commission, the Special Interim Parliamentary Commission has intensified its contacts with the local community representatives.

*Investigation by the Ombudsperson's Office*

87. The Ombudsperson's Office initiated an evaluation on human rights violations by law enforcement agencies during the 2 May violence in Odesa. The Ombudsperson and her team visited Odesa on several occasions and were provided with official documents from all law enforcement agencies.<sup>57</sup>

*Commission investigating the 2 May violence*

88. A commission was established under the auspices of the Head of the Odesa Regional State Administration (Governor). This commission, which includes civil society activists, journalists and experts, is conducting its own investigation and intends to play a public oversight role concerning the official investigation.
89. The commission members are undertaking their work through open sources, without interfering with the official investigation. It is foreseen that their conclusions will be published only if all members agree on its content. A first official briefing took place on 30 May.

*Specialised Headquarters providing assistance in the aftermath of 2 May*

90. In the aftermath of the 2 May events, the former acting Mayor of Odesa established an emergency headquarters (HQ) encompassing various departments of the City Council Executive Committee. It provided assistance to victims and their relatives, such as healthcare, information, social services. It also ran an emergency hotline in the aftermath of 2 May incidents. The HRMMU has been in daily contact with the staff on follow-up required, and to enquire about the situation of the victims, particularly medical care and the list of those declared missing. As of 7 June, the Social Welfare Department remained the only operational part of this emergency HQ.
91. After the 2 May violence the HRMMU has been monitoring the criminal proceedings launched by the Office of the General Prosecutor, the MoI and the SBU.
92. As the investigations continue, some key questions must be addressed to ensure confidence in the investigation and to guarantee accountability, due process and to enable the communities to fully accept the results of such an investigation. Issues to be clarified include:
  - a. the identification of the perpetrators who were shooting at protesters during the afternoon;

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<sup>57</sup> The Ombudsperson submitted a report of her findings to the Prosecutor General on 10 June 2014. It is not a public document.

- b. the conduct of the police on 2 May - why the police and the fire brigade either did not react, or were slow to react and who ordered what action;
  - c. what happened in the Trade Union Building and what caused the fire there;
  - d. what was the cause of the deaths in the Trade Union Building;
  - e. the identification of the perpetrators of the incidents and violence surrounding the fire in the Trade Union Building;
  - f. the need to guarantee justice for the victims and due process for the detainees.
92. The HRMMU regrettably reports the lack of cooperation from the MoI and the SBU at the central level.
93. The HRMMU reiterates the need for prompt, thorough and impartial investigations into the events so as to ensure accountability of all those concerned and to provide redress and reparations for victims and their families. This process is critical to restore people's confidence in the authorities.

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

94. The HRMMU continues to follow closely the investigation into the human rights violations that occurred in March in 2014 in Kharkiv, including into the "Rymarska case", a clash between pro-Russian and pro-Ukrainian organizations "Oplot" and "Patriots of Ukraine" on 13 March. On 7 May, it was confirmed that the case had been transferred from the police to the SBU. Investigations were opened in connection with the role of the police in this case, as well as during the attack by protesters against the ATN TV station on 7 April. On 5 June, the Deputy Head of the regional SBU informed the HRMMU that the investigation into "Rymarska case" was ongoing - there were two suspects, who still had to be detained. The challenging aspect of the investigation is that many minors participated in the incident, which requires additional measures to ensure due process.

## **III. HUMAN RIGHTS CHALLENGES**

### **A. Rule of law**

95. During the reporting period, the HRMMU monitored legal and policy developments affecting human rights and the rule of law. These include the adoption of a "Memorandum on Concord and Peace" resulting from national roundtable discussions; legislative amendments to combat discrimination, corruption, and on the situation of refugees; developments relating to amnesty, lustration of judges, language rights, internally displaced persons (IDPs) from Crimea, ethnic policy, torture and ill-treatment, the media and the reform of law enforcement agencies.

#### *Constitutional reform*

96. Pursuant to an Order of the Cabinet of Ministers of 17 April 2014, debates were organized on constitutional amendments proposing the decentralization of power to regions. In accordance with the Geneva Statement of 17 April, roundtables on national

unity, co-organized by the Government of Ukraine and the OSCE, were held on 14, 17 and 21 May. At the first roundtable in Kyiv, the eastern regions of the country were largely under-represented, with the only official being the Mayor of Donetsk, Mr. Lukyanchenko (Party of Regions). During the roundtable in Kharkiv, acting Prime Minister Yatsenyuk declared that the constitution should be amended in order to provide a special status for the Russian language and national minority languages. With more representatives present from the east, including local parliamentarians, various perspectives were raised; at the same time, this brought to the fore an array of diverging views on the way forward. The roundtable also prepared a Memorandum containing provisions for a unified society, changes to the Constitution, increasing the local authorities' role, and decentralisation of state power.

97. On 20 May, through resolution 4904, Parliament adopted the “Memorandum of Concord and Peace”, which was drafted during the second roundtable discussion in Kharkiv. This document foresees the adoption by Parliament of a constitutional reform package, including the decentralization of power, a special status for the Russian language, judicial and police reform, and an amnesty law for anti-government protesters in the east who accept to give up their weapons (except for the perpetrators of serious crimes against life and physical integrity). The Parliament called on all to work together to protect, promote and build a democratic Ukraine, and the peaceful coexistence of all nationalities, religions and political convictions.

#### *International Criminal Court*

98. On 23 May, former acting President Oleksandr Turchynov requested the Constitutional Court to assess whether the Constitution of Ukraine would preclude the ratification of the Rome Statute of the International Criminal Court (ICC). The document was signed on 20 January 2000. On 25 February 2014, the Parliament recognised the jurisdiction of the ICC for acts committed in Ukraine from 21 November 2013 to 22 February 2014. On 9 April, Ukraine informed the Registrar of the Court about this decision. On 25 April, the Office of the Prosecutor of the ICC announced a preliminary examination on the situation in Ukraine to establish whether all the statutory requirements for the opening of an investigation are met.
99. A Member of the Parliament of Ukraine from Odesa, Sergey Kivalov, registered on 15 May a draft resolution which aims to create the legal and institutional conditions for those responsible for the deaths of dozens of people in Odesa, on 2 May, to be tried by the ICC. As of 7 June, the draft resolution<sup>58</sup> had not been considered by Parliament.

#### *Crimea*

100. On 5 June, Parliament adopted, on first reading, amendments to the Law of Ukraine “On Securing Citizens’ Rights and Freedoms and the Legal Regime on the Temporary Occupied Territory of Ukraine”. These amendments aim at making the registration

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<sup>58</sup> Draft resolution “On the recognition by Ukraine of the jurisdiction of the International Criminal Court concerning crimes against humanity having led to very serious consequences, deliberate and planned of mass killing of citizens in a particularly brutal and cynical way during the peaceful protests on 2 May 2014 in Odesa, and concerning all perpetrators of these crimes, and on the request to the International Criminal Court to bring the perpetrators to justice”.

procedure for those displaced from Crimea easier and faster, especially for those who wish to re-register their business. Thus, IDPs from Crimea in mainland Ukraine will no longer need other documents than the national passport.

#### *Amnesty*

101. During the reporting period, no actual progress was made in adopting an amnesty law in relation to the events in the east of the country. On 18 April 2014, the Cabinet of Ministers prepared a draft law “On the prevention of harassment and punishment of persons in relation to the events that took place during mass actions of civil resistance which began on 22 February 2014”. The text would exempt from criminal liability all those who attempted to overthrow the legal government; took part in riots; seized administrative and public buildings; and violated the territorial integrity of Ukraine, provided they agreed to voluntarily cease all illegal actions and were not guilty of “particularly serious crimes”. Four other so-called “amnesty laws” were registered in Parliament by different political parties between 9 and 23 April. On 6 May, a draft resolution was registered, calling on Parliament to make the draft law submitted by the Cabinet of Minister the basis for the adoption of an amnesty law. During his inauguration speech, on 7 June, President Poroshenko offered to amnesty protesters who did not have “blood on their hands”.

#### *Discrimination*

102. On 13 May, Parliament adopted amendments to the Law “On preventing and countering discrimination”. The amendments bring the definitions of direct and indirect discrimination in line with Ukraine’s obligations under the ICCPR and other international human rights instruments. They include, in particular, the prohibited grounds listed in Article 2(1) of the Covenant (except “birth”). It should be noted, however, that the amendments do not integrate the jurisprudence of the UN Human Rights Committee on the prevention of discrimination on the basis of sexual orientation. The amendments also provide for criminal, civil and administrative liability in case of discrimination. While these are positive changes, other legal texts, notably the Criminal Code, must be brought in line with the anti-discrimination amendments in order to ensure effective remedies for victims and contribute to enhanced prevention of discrimination.

#### *Anti-corruption*

103. On 13 May, Parliament adopted the Law "On amending some legislative acts Ukraine in the area of state anti-corruption policy in connection with the implementation of the EU Action Plan on the liberalisation of the visa regime for Ukraine”. The Law provides for more stringent penalties for corruption offences committed by individuals or legal entities. In particular, the liability for providing knowingly false data in the declaration of assets, income and expenses is introduced to the Code on Administrative Offences. The Law also strengthens the protection of persons reporting on corruption, for instance, providing for anonymous phone lines for reporting corruption. An external control of declarations of assets, income, expenses and financial obligations is also to be introduced. While the amendments are welcome, the key to combatting corruption lies in the readiness of all government institutions to effectively tackle this phenomenon and to

implement anti-corruption norms in place. In this regard, the HRMMU recalls that in its concluding observations adopted in May 2014, the UN Committee on Economic, Social and Cultural Rights called on Ukraine to “make politicians, members of parliament and national and local government officials aware of the economic and social costs of corruption, and make judges, prosecutors and the police aware of the need for strict enforcement of the law”.

#### *Torture and ill-treatment*

101. On 3 June, the Minister of Justice announced at a press-conference the establishment of a Special Committee to carry out random inspections of penitentiary institutions, with broad powers to check violations of human rights and the detention conditions of prisoners. The Committee will be a permanent body and is to produce monthly reports. It will comprise representatives of the Ministry of Justice and representatives of civil society.
102. While welcoming this step, the HRMMU notes that the Ombudsperson was designated by law as the National Preventive Mechanism (NPM) against torture, in line with the Optional Protocol to the United Nations Convention against Torture. As such, it is entrusted to conduct visits to places of deprivation of liberty, with the involvement of civil society, and with a view to preventing human rights violations affecting detainees or contributing to their elimination. Due to the obvious similarities between mandates of the Special Committee and the NPM, proper coordination and consultations between these bodies will be required to ensure the effectiveness of efforts to combat torture and ill-treatment.

#### *Lustration*

103. The Interim Special Commission on the vetting of judges was established on 4 June, pursuant to Article 3 of the Law "On the restoration of trust in the judiciary in Ukraine", which entered into force on 10 May. The Commission consists of five representatives from the Supreme Court, the Parliament and the Governmental Commissioner on the Issues of the Anti-Corruption Policy. Legal entities and individuals will have six months from the date of advertisement of the establishment of the Commission in the newspaper "Voice of Ukraine" to request examination (vetting) of judges. Public information about the activities of the Interim Special Commission will be published on the official website of the High Council of Justice of Ukraine. The HRMMU reiterates its concern that the immediate dismissal of judges by the Special Commission may put in jeopardy the administration of justice. Any lustration initiatives should be pursued in full compliance with the fundamental human rights of the people concerned, including the right to individual review and the right of appeal.

#### *Ethnic and national policy*

104. The Minister of Culture stated on 4 June that the Cabinet of Ministers decided to establish a 'Council of interethnic consensus' and to create the position of a Government commissioner for ethnic and national policy. This official, who has not been appointed yet, will reportedly be responsible for the implementation of the ethnic and national policy developed by the Government.

### *Language*

105. On 4 June, a draft law was submitted to Parliament “On the official status of the Russian language in Ukraine”. The draft law proposes to give “official status” to the Russian language without compromising the position of Ukrainian as the state language. The bill proposes to introduce the wide usage of Russian language in state institutions, courts, educational institutions, mass media, official publications of legislation and by-laws, pre-trial investigation, advertising and labelling of goods.

### *Media*

106. On 4 June, the Cabinet of Ministers instructed the State Committee on television and radio broadcasting to prepare a draft law "On Amending Certain Legislative Acts of Ukraine regarding resisting informational aggression of foreign states". Other ministries and agencies that will participate in the drafting of the bill will include the Ministry of Economic Development, Ministry of Finance, Ministry of Justice, Ministry of Foreign Affairs, MoI, State Security Service, the National Council on Television and Radio Broadcasting, and the State Committee on Entrepreneurship of Ukraine. This development comes after a Ukrainian court banned, in March 2014, broadcasting by four Russian TV channels in Ukraine, and armed groups in the east having disrupted broadcasting of Ukrainian channels.
107. The HRMMU is of the view that professional journalism and critical thinking, not prohibition, are the proper answers to the attempts to distort or manipulate facts. Everyone, in accordance with article 19 of the ICCPR, should have the right to hold opinions without interference and to freedom of expression, which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers.

### *Refugees*

108. On 13 May, Parliament adopted amendments to the refugee Law extending the definition of complementary protection to include persons fleeing armed conflict and other serious human rights violations. This brings the definition of complementary protection into line with international and European standards.
109. The HRMMU notes, that certain legal gaps remain, affecting particularly the quality of due process in the asylum procedure and the reception conditions for asylum-seekers. The quality of decision-making on asylum applications also remains of concern, as well as the fact that State funding for asylum matters is inadequate.

### *Martial law*

110. On 3 June, former acting President Oleksandr Turchynov signed decree № 936/2014 “About considering the question of the introduction of martial law in certain areas of Ukraine”. The decree requests the Secretary of the Council of the National Security and Defence of Ukraine to “*immediately cooperate with the Ministry of Defence of Ukraine, the Ministry of Interior of Ukraine, the Security Service of Ukraine, the Administration of the State Border Service of Ukraine to consider the question about the need to impose martial law in the Donetsk and Luhansk Regions, where the security operation is taking place, to prevent further development and ensure the ending of the armed conflict on the territory of Ukraine, to prevent mass deaths of civilians, military personnel and*

*members of law enforcement agencies, to stabilize the situation and restore normal life in these regions”.*

#### *Law enforcement sector reform*

111. On 4 June, Prime Minister Arseniy Yatseniuk instructed the Cabinet of Ministers to set up a working group that will prepare legislation to reform the law enforcement system by 1 August 2014. The working group will be headed by First Vice-Prime Minister, Vitaliy Yarema, who stressed the need to develop draft laws on the police, the security service and the prosecutor's office. Experts from the European Commission and Poland will assist the working group.
112. On 5 June, Parliament adopted the Law "On Amendments to the Law of Ukraine on combating terrorism". The law provides a definition of a Counter-Terrorist Operation (CTO), the authority of the CTO participants and other innovations. It also prescribes the possibility of "physical elimination of the terrorists" in case of resistance. Speaking at a press conference, the former acting Head of the Presidential Administration gave his support to the introduction of martial law in the Donetsk and Luhansk regions, as well as in the border areas of seven other regions of Ukraine.

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

113. After the 2 May events in Odesa, a police presence has been highly visible during peaceful assemblies in all major cities of Ukraine. However, the real or perceived inaction of law enforcement is a further challenge to ensuring accountability at such events such as demonstrations, rallies and pickets.
114. Ahead of 9 May (Victory Day), for instance, security was heightened with numerous checkpoints on roads in several cities the programme of celebrations was changed in order to avoid situations that could provoke unrests, for example by cancelling parades. Public commemorations and rallies took place in Kyiv, Kharkiv, Lviv and in many cities in western and central Ukraine. In Donetsk, a rally gathering 2,000 persons went peacefully.
115. However, legislation is required to regulate the conduct of assemblies in line with international standards, as previously recommended by the HRMMU.<sup>59</sup>
116. A trend of local administration requesting courts to take measures to prevent peaceful assemblies illustrates the need for relevant legislation. For instance, on 4 June, the Mykolaiv District Administrative court decided to ban until 30 June all rallies planned in the city centre further to a request from the City Council. The Mykolaiv City Council had requested such a prohibition after 2 June when the police intervened to prevent clashes between participants of two rallies running in parallel. The court justified the ban, arguing that the right to life and health was more important than the right to peaceful assembly.

#### **C. Freedom of expression**

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<sup>59</sup> The OHCHR report on the human rights situation in Ukraine report, 15 April 2014, paras. 52-54.

117. The HRMMU remains concerned about the curtailment of freedom of expression, including harassment and threats to targeting journalists working in Ukraine, mostly in eastern regions (see section C, in Chapter V).
118. During the reporting period, a few isolated cases of obstruction to media work and attacks on journalists were registered across Ukraine.
119. On 23 May, two journalists of “Russia Today”, who were travelling to Ukraine to cover the elections, were denied entry at Odesa airport. The border officers reportedly forced them to buy return tickets to Moscow and fly back, without providing any reason.
120. On 25 May and shortly after, journalists were prevented from filming the vote counting. The HRMMU is aware of such cases having occurred in Sumy, Dnipropetrovsk, Kremenchuk (Poltava region), Lviv, Mykolaiv, Uzhgorod and Kyiv. To the knowledge of the HRMMU, none of these instances resulted in physical violence or damage to equipment.
121. On 23 May, the holding “Multimedia invest group”, based in Kyiv, reported that the accounts of the company were blocked and its building was searched by tax police. The management sees this as pressure against its media outlets (newspaper and website “Vesti”, TV Channel UBR and Radio Vesti) which are critical of the Government.
122. In general, the developments in eastern and southern regions of Ukraine and the large number of casualties have generated an escalation of hate speech and tension between the two rival sides. This is particularly obvious in social media.

#### **D. Minority rights**

123. The HRMMU regularly meets representatives of various minorities in Ukraine. In the reporting period no major incidents and human rights violations were reported in that regard.

##### *National and Ethnic minorities*

124. Ethnic minorities generally speak of positive relations and atmosphere conducive to exercising their human rights, including cultural rights. Some communities, particularly Russian, expressed concerns with the lack of financial allocations for the needs of ethnic minorities or bureaucratic obstructions by local authorities, for example, in establishing additional schools, churches, newspapers, etc.
125. On 20 May, during a press-conference, Josyf Zisels, the Head of the Association of the Jewish Organisations and Communities of Ukraine, underlined that there was no increase in anti-Semitism in Ukraine. He noted that the number of anti-Semitic incidents is declining since 2007. While pointing out that in the first half of 2014 more Ukrainian Jews had migrated to Israel compared to the previous year, he attributed this to the social-economic impact of the situation in Crimea and in the eastern regions.

##### *Linguistic rights*

126. The guarantees of using one’s mother tongue freely in private and public life without discrimination remain high on the public agenda. The Law “On the Basics of State Language Policy” currently in force (provides for the introduction of a “regional



language” based on ethnic composition). However, the Government has recognised that a new language law was needed, reflecting broad consensus as well as the expectations of the Russian-speaking population. There have been attempts to amend legislation and a draft law has been developed. The latest draft law was submitted on 4 June, which proposes to provide Russian language with “official status” through extensive usage in State institutions and public documents (see section D, Chapter IV).

127. On 30 May, the Ministry of Education amended the framework curriculum and study plans for secondary school students of grades 5-9 for the learning of minority languages, such as Armenian, Bulgarian, Crimean Tatar, Gagauz, Greek, German, Hebrew, Hungarian, Korean, Moldovan, Polish, Romanian, Russian and Slovak. The Ministry also increased significantly the number of hours prescribed for learning of a minority language in schools where the relevant language is the working one (it is now equal to the hours of learning Ukrainian language).

#### *Sexual minorities*

128. The HRMMU continues to receive reports from the LGBT community regarding lack of tolerance and daily discrimination based on their sexual orientation and gender identity, mainly bullying at school/university, difficulties in finding and/or preserving employment especially when persons disclose their sexual orientation and gender identity; access to health services, particularly for transgender people; and physical attacks.
129. On 7 May, the High Specialized Court of Ukraine for Civil and Criminal Cases issued a letter (N 10-644/0/4-14) to appellate courts, explicitly prohibiting discrimination in employment on the basis of sexual orientation. The Court stressed that, when considering cases of labour discrimination, it is important to take into consideration the existing anti-discrimination law, which prohibits discrimination on any basis.

### **E. Political rights**

#### *Human rights in the electoral process*

130. On 25 May, the population of Ukraine voted to elect a new President among 21 candidates. On 3 June, the Central Election Commission (CEC) confirmed that Mr. Petro Poroshenko had won with 54.7% of the vote.
131. The elections took place in a challenging political, economic and, in particular, security environment, due to continued unrest and violence in the east of Ukraine, where armed groups control some areas, and the Government has been conducting security operations. This situation affected the general human rights situation and seriously impacted the election environment, also obstructing meaningful observation.
132. Notwithstanding, elections were characterised by a 60% voter turnout and the clear resolve of the authorities to hold elections in line with international commitments and with a respect for fundamental freedoms in the vast majority of the country. The voting and counting process were transparent, despite large queues of voters at polling stations in some parts of the country.

133. Despite efforts of the election administration to ensure voting throughout the country, polling did not take place in 10 of the 12 election districts in Luhansk region and 14 of the 22 election districts in Donetsk region. This was due to illegal activities by armed groups before, and on, the election day, including death threats and intimidation of election officials, seizure and destruction of polling materials, as well as the impossibility to distribute ballots to polling stations due to the general insecurity caused by these groups (see Chapter V). The majority of Ukrainian citizens resident in these regions were thus deprived of the right to vote. Elsewhere, a few isolated attempts to disrupt voting were reported.
134. The HRMMU followed the participation of Crimean residents in the Presidential elections. Simplified registration procedures were put in place to ensure that residents of Crimea and persons who resettled from Crimea to other regions could take part in the elections. According to the CEC, 6,000 Crimean residents voted on 25 May.  
*Political parties/ Freedom of association*
135. On 7 May, several political parties were allegedly banned in Luhansk region by a decision of the “people’s council”, including Batkivchyna, Udar, Svoboda and Oleg Lyashko’s Radical Party, as well as Right Sector. It also inferred “extended powers” on Valeriy Bolotov, the self-proclaimed “people’s governor”.
136. On 13 May, the Kyiv District Administrative Court banned the party Russian Bloc based on the fact that the party leaders had called for the overthrow of the constitutional order and violations of the territorial integrity of the country.<sup>60</sup>
137. It appears that the Communist Party of Ukraine is coming under increasing pressure. On 7 May, the Communist faction of the Parliament was expelled from a closed-door parliamentary hearing, which was denounced by the Party of Regions faction, allegedly, because of the “separatist” statements by its head, Petro Symonenko. The hearing was reportedly about the security operations in the east. Party of the Regions pointed out that information on these security operations should be made public.
138. On 18 May, former acting President Turchynov called on the Ministry of Justice to review documents gathered by the law enforcement bodies relating to the alleged illegal and unconstitutional activities of the Communist Party of Ukraine aimed at violating the sovereignty and territorial integrity of the country, undermining State security and illegal seizure of State power. On 19 May, the Ministry of Justice sent a request to the General Prosecutor’s Office and the SBU to investigate possible crimes by the leadership of the Communist Party of Ukraine.

#### **F. Internally displaced persons**

139. As of 6 June, the departments of social protection in the Ukrainian regions had identified over 12,700<sup>61</sup> internally displaced persons (IDPs)<sup>62</sup>. However, the actual number of

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<sup>60</sup> On 15 April, the Ministry of Justice filed a lawsuit to prohibit the activities of the political parties Russian Bloc and Russian Unity in Ukraine. The activity of Russian Unity was banned on 30 April. According to Ukrainian law, a court can ban the activities of a political party upon a request filed by the Ministry of Justice.

people who have fled the violence and fighting in the regions of Donetsk and Luhansk is believed to be higher and increasing daily. According to various estimates, around 64% are women; many are with children, including infants. The IDPs live dispersed across the entire territory, with significant concentrations in Kyiv and Lviv.

140. People have left Crimea for different reasons. The majority have economic, professional or family ties within Ukraine and do not wish to acquire Russian citizenship, which many feel compelled to do in order to continue a normal life in Crimea. Some Crimean Tatars fear limitations to their religious and cultural expression. Activists and journalists have been exposed to, or fear, harassment.
141. The main difficulties the IDPs from Crimea continue to face are: lack of temporary and permanent housing; access to social allocations, medical and educational services; access to bank accounts / deposits; possibility to continue entrepreneurship activity, and employment opportunities.
142. Despite efforts made, some of these issues, particularly housing, are very difficult to resolve without systemic changes and involvement of the Government. The HRMMU has been made aware of some instances when IDPs had to return to Crimea, since their basic needs could not be met in Ukraine.
143. Displacement from the Donetsk and Luhansk regions started in the days leading up to the “referendum” held in both regions on 11 May. People have been trying to leave the violence affected areas, particularly Slovyansk and Kramatorsk, after witnessing violence on the streets. Armed groups and increasing criminality have generated fear.
144. The HRMMU interviewed several IDPs from the eastern regions, who reported that apart from random violence, there were targeted attacks and intimidation of activists and increasingly of “ordinary” residents, known for their “Pro-Ukrainian” stance. Local NGOs confirmed that while seizing administrative buildings, armed groups obtained access to personal data of activists who participated in rallies. The latter and their families were reportedly being threatened and harassed.
145. One of the few interviewed activists reported being threatened and having to stay in a friend’s house for nine days without food, as her own apartment was under surveillance. Then other activists helped her escape and settle in another town. She has no information about her family and suffers from insomnia and anxiety attacks.
146. Political activists and journalists began to feel pressure from the armed groups who were consolidating their position in the region. After the “referendum” and with the intensification of violence, other residents of the region have started leaving their homes in areas affected by violence due to the illegal activities of armed groups and the security operations, particularly in the areas of Slovyansk and Kramatorsk. Many remain within

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<sup>61</sup> UNHCR estimated that, as of 16 June, there were 34,336 IDPs in Ukraine, with 15,200 located in the Donetsk and Luhansk regions.

<sup>62</sup> According to the Russian Federation Federal Migration Service, as of 6 June 2014, 837 persons had applied and were granted refugee status; and 3,750 persons had applied and were granted Temporary Asylum. Approximately 15% were minors under the age of 18. These figures do not include people from Crimea.

the eastern regions in rural areas, as IDPs have been reporting harassment at checkpoints if they were perceived to be leaving the region to seek protection.

147. The majority of international humanitarian actors, due to security reasons, are unable to access persons displaced within the Donetsk and Luhansk regions and thus only some very limited assistance has been provided. IDPs, who leave the eastern regions, have generally maintained a low profile, fearing retribution against their relatives who have remained at home.
148. There are considerable gaps in the State's ability to protect IDPs. The central authorities have not issued formal instructions regarding how to register and assist persons displaced from Donetsk and Luhansk regions, leading to different practices across the country. The system for registering the IDPs is rudimentary, so the number and profile of IDPs and their needs remain largely invisible. As a result, the actual number of displaced persons is difficult to estimate.
149. Regional authorities are waiting for instructions on funding allocations for IDPs from the Luhansk and Donetsk regions. Temporary accommodation, while theoretically available, cannot be paid for and is thus rationed in many regions. Several administrative matters remain unresolved, hindering IDPs' ability to resume a normal life: many cannot obtain temporary residence registration; register business activities; or in the case of IDPs from Crimea, who have not registered on the mainland, they may find that they cannot access their personal savings in bank accounts in Crimea.
150. IDPs from the Donetsk and Luhansk regions describe leaving the region with few personal belongings in order to disguise the purpose of their departure. Many report having witnessed violence and experiencing feelings of fear. In dozens of interviews with UNHCR, IDPs have reported significant deterioration of the humanitarian situation in the areas affected by violence and the security operations. They are mostly concerned about security: people report staying in cellars to keep away from the fighting, facing harassment at checkpoints and fearing the increasingly common abductions, threats and extortion. They have been reporting to UNHCR and the HRMMU about the serious social and economic impact of the conflict. Families have run out of money since jobs are lost, banks closed and pensions unpaid. Public utilities like electricity and water work only intermittently. Thus, the IDPs from the eastern regions are particularly vulnerable. There are multiple reports that thousands of people are eager to escape the areas affected by violence and the security operations as soon as they can safely move.
151. Many IDPs have exhausted their resources. Having originally been hosted by friends, family or even generous strangers identified through social networks, they find themselves under pressure to move out of these temporary housing arrangements, as conditions are overcrowded and hospitality reaches its limits. Without sufficient support to find jobs and housing, IDPs report increasing levels of frustration and humanitarian needs. Increasingly, IDPs are trying to self-organise into NGOs to help each other, as illustrated by Crimea SOS, Vostok SOS, the Unified Coordination Centre of Donbas. On 23 May, the HRMMU attended the first all-Ukrainian meeting organized by an initiative group of IDPs from Crimea to bring the problems faced by IDPs to the attention of the Government and local authorities so as to develop joint solutions.

#### **IV. PARTICULAR HUMAN RIGHTS CHALLENGES IN THE EAST**

##### **A. Impact of the security situation on human rights**

###### *Deterioration of the security situation*

152. The reporting period was marked by a significant deterioration in the security situation in eastern Ukraine. The HRMMU received credible reports illustrating an escalation of abductions, arbitrary detentions, ill-treatment, looting, as well as the occupation of public and administration buildings (with certain fluctuations, as some buildings are recovered by the Ukrainian military and law enforcement bodies, and some then again re-seized by armed groups). The period since the Presidential elections can be characterized by an increase of fighting in eastern Ukraine, with fluctuations in intensity.
153. The regularity and intensification of fighting between the armed groups and Ukrainian armed forces raises serious human rights concerns, including but not limited to: the fate of persons not involved in the fighting, especially children; the necessity and proportionality of the use of force; and the large-scale destructions, which only add to the social and economic hardship and a general lack of respect for international humanitarian law, when and where applicable to the fighting.
154. Violence and lawlessness have spread in the regions of Donetsk and Luhansk. Having gained access to deposits of weapons, including from the SBU building, the armed groups increasingly started spreading violence. Abductions of persons not involved in any fighting and related acts of arbitrary detentions, looting, and killings of persons not involved in any fighting and other activities in violation of international law have been carried out by the armed groups. Moreover there are reports of victims being subjected to degrading treatment, random shooting and provocations, particularly near the Ukrainian-Russian border. Increasingly, attacks target ordinary people, who take no part in the fighting.
155. The security operations by the Government, with military and National Guard forces particularly concentrated around the town of Slovyansk, are present in the regions of Donetsk and Luhansk. With their superior manpower and military hardware, the Ukrainian armed forces have controlled access to the cities through multiple layers of check-points.
156. Skirmishes between armed groups and the Ukrainian military also saw the inclusion of various territorial defence battalions under the command of the MoI.
157. The HRMMU observed an increasing presence of armed men on trucks and armoured vehicles moving around the city of Donetsk during daylight. For the first time, the HRMMU team members were stopped as they drove in their vehicle through Donetsk by armed persons who demanded to see their identity.
158. In the two regions, the situation has been made complex as some of the armed groups operating in the regions have reportedly slipped out of the control and influence of the self-proclaimed republics and their leaders. Examples of this can reportedly be found

with the armed groups in the area surrounding the town of Horlivka<sup>63</sup> in the Donetsk region, and the armed groups operating in the border area of the Luhansk region near the border with the Russian Federation. Moreover, on the “official” “Donetsk People’s Republic” media outlet “Anna Info News”, the Slovyansk commander “Strelkov” Igor Girkin referred to “criminal groups” operating in the regions and that the “Donetsk People’s Republic” was lacking volunteers.

159. Regardless of the veracity of this information, the proliferation of armed groups has clearly exacerbated threats to the security of the population, posing a further challenge in ensuring the rule of law and accountability for the numerous illegal acts committed. The “Donetsk People’s Republic” has reported the presence among them of citizens of the Russian Federation, including from Chechnya and other republics in the North Caucasus. A particular call for women to join the armed groups was made on 17 May through a video released with Igor Girkin “Strelkov”, urging women of the Donetsk region to enlist in combat units.

*“Referendum” on “self-rule” held in the Donetsk and Luhansk regions on 11 May*

160. On 11 May, a “referendum” on “self-rule” that was neither in accordance with the Constitution of Ukraine nor with effect under international law, took place in the Donetsk and Luhansk regions. The following question was asked: “Do you support the act of self-rule of the People’s Republic of Donetsk / People’s Republic of Luhansk?” The Government of Ukraine deemed the “referendum” illegal.
161. Reports suggest that there were a limited number of polling stations for the two regions. The official voter registration of the Central Election Commission was not used as a basis for the vote. Media outlets and journalists observing the “referendum” reported a number of violations (e.g. one person filling out several ballots; multiple voting; voting without documentation).
162. In the aftermath of the “referendum” of 11 May, the level of violence by armed groups intensified. At the same time, a new “government” was formed, and Alexander Borodai, a Russian citizen, nominated as “prime minister” of the “Donetsk People’s Republic”. A call was made for Ukrainian troops to leave the region.

*Casualties due to the escalation in intensity of fighting as Government aims to gain control of the territory*

165. Reports illustrate that over the past month, attacks and fighting have been intensifying with an increased number of casualties. Fighting remained concentrated in the northern part of the Donetsk region and the border areas and south of the Luhansk region. In the Kharkiv region, one Ukrainian serviceman was killed in an ambush, near the city of Izyum, on the border with the Donetsk region, which serves as a basis for the security operations of the Ukrainian forces.
166. On 3 June, the Prosecutor General Oleg Mahnitsky announced that 181 people had been killed since the start of the Government’s security operations on 14 April to regain control

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<sup>63</sup> Now reportedly under the control of an armed group led by Igor Bezler.

- of the eastern regions. Of those killed, 59 were Ukrainian soldiers; the others were reported to be residents. 293 were wounded as a result of these security operations in the Donetsk and Luhansk Regions. This is a considerable increase since 14 May, when the Prosecutor General had announced 68 killed (servicemen and residents).
167. The HRMMU is trying to verify these allegations and to obtain disaggregated data on the victims and perpetrators. This is, however, difficult to obtain due to either a lack of, or contradictory, information.
  168. On 13 May, a Ukrainian military unit was ambushed near Kramatorsk, killing seven Ukrainian soldiers. On 22 May, 17 Ukrainian servicemen were killed and 31 injured near Volnovakha (south of Donetsk); that same day another soldier was killed and two others injured in an attack by armed men on a convoy of military vehicles near Rubizhne in the Luhansk region. On 23 May, the territorial defence battalion “Donbas” was ambushed and attacked by an armed group, reportedly controlled by Igor Bezler, near the town of Horlivka close to Donetsk. Nine soldiers were wounded and detained by Bezler’s group; one was reportedly killed. On 29 May, a Ukrainian military helicopter was shot down near Slovyansk, which killed 12 service personnel who were on board, including a General.
  169. On 26 May, fighting broke out for control of the Donetsk airport between the armed groups and the Ukrainian military. Ukrainian military planes and helicopters were used against the armed groups who eventually conceded control. The airport terminal and the runway were damaged as a result of aerial bombing. According to the Interior Minister, there were no losses within the Ukrainian military but according to various sources, the armed groups suffered over 50 casualties, of these at least 31 volunteers were reportedly from the Russian Federation, including from Chechnya and other republics in the Northern Caucasus. Out of these casualties, 30 bodies of those fighting with the armed groups have not been recovered.
  170. During the fighting around Donetsk airport on 26 May, the Mayor called on the population not to leave their apartments unless absolutely necessary. Notwithstanding, residents did become victims. A woman was killed by a shell at a bus stop. A man was killed as a result of an incoming explosion near the Children's Hospital, with a further six people wounded, including a seven-year-old boy who was at home. A criminal case was opened under Article 258, Part 3 of the Criminal Code of Ukraine (“Terrorist act that led to the death of a person”).
  171. On 2 June, an explosion of an unknown nature took place at the occupied building of Luhansk Regional State Administration. According to various accounts, it was either a failed attempt by the local armed groups to hit a Ukrainian fighter plane, or the bombardment of the occupied building by a Ukrainian plane. Seven people in, and around, the occupied building were reported killed as a result of the shelling, including the “minister of health” of the “Luhansk People’s Republic”, Nataliya Arkhipova.
  172. The Ukrainian National Guard took control of the town of Krasnyi Liman (20 km North-West of Slovyansk) after fierce fighting on 3 June. The town hospital was badly damaged reportedly by shelling and most patients were evacuated to the basement of the hospital.

Two civilians were killed. The chief surgeon of the hospital was gravely wounded, and died on 4 June.

173. IDPs from Slovyansk have described to the HRMMU the situation they have faced for the past weeks. They claim that the Ukrainian air force was shelling the city and bombed a kindergarten. They also said that for two months they did not receive any social benefits. Some of them left male members behind, and/or their parents or grandparents. A hotline at the disposal of IDPs or people who are considering leaving the areas affected by fighting is run by a few Red Cross activists. Transport of people who come to the check points is mostly organized by “Auto-Maidan” activists. Reception centres for arriving IDPs organised the initial assistance they received, including psycho-social.

*Widening protection gap and erosion of the rule of law*

174. With the presence of armed groups in seized and occupied government buildings, and checkpoints, which shift hands as they are taken over by armed groups or the Ukrainian security and law enforcement units involved in the security operations, the human rights of the residents of the northern part of Donetsk region and parts of the Luhansk region are threatened.
175. With the demise of security, the rule of law and governance, the protection gap is widening. Armed groups physically occupy key public and administrative buildings in many cities and towns of the Donetsk and Luhansk regions, and have declared virtual “independence”. However, they are not undertaking any governing responsibilities. In addition, the atmosphere of fear and intimidation, particularly following the abductions and killing of town councillors and public civil servants, prevent many local officials from going to work.
176. Of particular concern is the continued erosion of the rule of law and the limited capacity of the Government to protect residents from the ever increasing acts of violence. Many of the attacks and abductions by armed groups target journalists, elected representatives and civil society activists. The number of armed robberies and shootings of residents has also been increasing.
177. The difficulty of providing public services impacts the daily life of residents of the regions, including the disruption of public transport (airports remain closed and rail services are disrupted); numerous checkpoints on the roads; lack of access to cash through banks; and earlier reports of schools and kindergartens being repeatedly closed before the summer holidays began in early June. Regional governments have endeavoured to make the necessary arrangements so that local residents are able to carry on with their daily lives. While this remains possible in the larger cities of Donetsk and Luhansk, and the less affected southern part of the Donetsk region, this is a challenge in the northern part of the Donetsk region. As a consequence, there are reportedly increased numbers of people leaving the area, in particular in the areas of Slovyansk; primarily women with children (see section B, Chapter V).
178. In the main cities, there were a few rallies supporting or opposing the self-proclaimed republics. On 13 May, hundreds of local residents of the Luhansk region addressed a petition to the Government of Ukraine, stating that they did not recognise the results of the “referendum”, and demanding more proactive and effective action to free the region from



“terrorists who do not allow us to live in peace” and to pay more attention to the concerns of the population.

179. According to NGOs, the week preceding the “referendum” of 11 May, over 500 apartments were reportedly put up for sale in Donetsk in just a few days as people were seeking means to leave. Since then, an average of 20 families leave the region every day.

*Presidential elections*

180. After the “referendum”, representatives of the “Donetsk People’s Republic” openly declared their intention to obstruct the 25 May Presidential election. Physical attempts to disrupt the election in these two regions were stepped up, with reports of attacks against electoral commissions. As a result, the CEC stated that in 24 districts of the Donetsk and Luhansk regions the election was obstructed due to illegal acts by armed groups and supporters of the self-proclaimed “People’s Republics”. According to official CEC figures, 82 % of the voters in the Donetsk region, and 88 % of voters in Luhansk region were thus deprived of their right to vote. Elections of Mayors due to take place in Antratsyt, Lisichansk and Severodonetsk in the Luhansk region also had to be cancelled due to such illegal activities.
181. There was a similar pattern of attacks on District Election Commissions (DEC) and Precinct Election Commissions (PEC). An armed group of between five to fifteen people representing the “Donetsk People’s Republic” would come to a Commission or polling station. Claiming that the Presidential election was illegal, they would seize office equipment and DEC/PEC protocols and stamps. Generally, they would detain the head of the commission for several hours or, in some cases for several days, subjecting individuals to interrogation and reportedly at times ill-treatment and torture.
182. On 13 May, representatives of the “Donetsk People's Republic” reportedly entered a DEC in Horlivka, demanding documents and office equipment and requesting that the staff leave the premises. The electoral staff refused to obey this. Two hours later the men returned, armed with baseball bats. The staff left, grabbing the most important documents and official stamps. A similar incident occurred in a DEC in Starobeshevo (Luhansk region) on 14 May. The DEC members were ordered to leave the building with threats to their families, should they return.
183. On 7 May, unknown groups of people broke into a DEC in Kuybyshevskiy district, seizing equipment containing electoral information. Upon arrival at the scene, the police did not intervene. Other examples of attacks by armed groups on DEC and TECs include incidents in Artemivsk, Donetsk and Metalist (near Amrosiyivka) on 20, 21 and 25 May.
184. Election commission members also faced attacks, with many abducted and detained. On 9 May, an armed group abducted a member of the DEC in Kramatorsk. He was taken to the occupied City Council and released after being interrogated. On 20 May, a member of the PEC in Mariupol was detained by armed persons, beaten up and then released.
185. Skirmishes around the electoral process included an incident on 25 May, when a group of armed people of the “Luhansk People’s Republic” reportedly attacked and stole the ballots from the PEC in Novoaydarsk in the Luhansk region. Ukrainian soldiers pursued the armed group. A violent confrontation took place, during which two members of the armed group

- were reportedly killed and three Ukrainian army servicemen were allegedly wounded. 14 people were subsequently detained by the Ukrainian army. Other accounts claim that three people were injured and one person was killed.
186. On the election day, five election commission members from Donetsk were detained by armed persons and taken to the SBU building. Following an intervention by the HRMMU with representatives of the “Donetsk People’s Republic” at the occupied SBU building, they were released the next day.
  187. Such attacks prevented DEC and PECs to continue their preparations for the Presidential election, which led to widespread limitations to exercise of the right to vote in eastern Ukraine, notably in the regions of Donetsk and Luhansk.
  188. On 26 May, the “speaker” of the “Donetsk People’s Republic”, Denis Pushylin, announced that a visit of the newly-elected President Petro Poroshenko to the Donbas would “heat up” the situation in the Donetsk region, and that dialogue was possible only through mediation by the Russian Federation. According to him, the “Donetsk People’s Republic” had proclaimed “martial law” on “its” territory and that a curfew might be imposed in certain areas.

#### **B. Right to life, liberty and security**

189. On 9 May, as reported by the MoI, some 60 men armed with automatic weapons stormed and seized the Mariupol Department of the MoI. The security operations which involved the National Guard, the special unit “Azov”, the special unit “Dnepr” and the armed forces of Ukraine, tried to take back the building. As a result, nine people were killed and many were wounded, primarily residents.
190. Unidentified armed persons reportedly started firing from the second floor of the building, and the Ukrainian forces fired back. Reportedly, the National Guard servicemen who were outside started firing at the building with machine guns and rocket propelled grenades. As a result, a fire started in the building. The fire brigade arrived. Those who were inside started running out the building and dispersing in the city.
191. In the early afternoon, while retreating, the special unit “Azov” came across local “Pro-Russian” demonstrators who reportedly tried to stop them. Members of the special unit “Azov” reportedly fired warning shots, first into the air, and then at people’s legs. The HRMMU is verifying this information.
192. After the armed forces left the military base in Mariupol, it was looted by “Pro-Russian” activists, who reportedly took an unknown number of weapons, ammunitions and two armoured vehicles. The Ukrainian security and law enforcement forces were relocated outside the city in an effort to decrease tensions, and for the safety of residents.
193. According to the MoI, 20 armed persons were killed and four captured; while the Public Health Department of the Donetsk Regional State Administration asserts that three persons were killed. The Chief of the Traffic Police was confirmed killed; and the Chief of Police was abducted and illegally detained. On his release on 11 May, confirmed by the MoI, he was found to have multiple injuries. The HRMMU is trying to verify this information.

194. Human rights activists from the NGO Memorial who visited Mariupol on 11 May reported finding 15 wounded men at Mariupol City Clinic Hospital № 1. Six police officers were hospitalised and the first civilian victims were brought later to the hospital. The Mariupol Emergency Hospital received 10 wounded persons, of whom one (a police officer) died. 15 wounded people were brought to Mariupol City Clinic Hospital № 2. As reported to the HRMMU by the human rights defenders, the majority of those wounded were not involved in the fighting.
195. The HRMMU continues to highlight the need for a prompt and comprehensive investigation into these events.

*Abduction and detentions*

196. In the regions of Donetsk and Luhansk, a reported escalation of violence and violations of international law (abductions and acts of arbitrary detention targeting persons not involved in the fighting, intimidation and harassment, torture and killings) by armed groups illustrated the growing erosion of law and order. The HRMMU is increasingly concerned about guarantees for the protection of human rights of the general population. According to the MoI, from April to 7 June 2014, armed groups in the eastern regions abducted 387 people, among them 39 journalists.
197. Below are some of the many cases reported to the HRMMU during the period covered by the present report. The HRMMU is keeping track of reports of abductions and acts of arbitrary detention targeting persons not involved in the fighting, intimidation and harassment, torture and killings in eastern Ukraine. It is trying to verify such reports through direct contacts with the victims and/or relatives or through other reliable sources. From its own records, the HRMMU is aware of 222 cases of abductions and detentions by armed groups since 13 April. Of these, 4 were killed; 137 released; and 81 remained detained as of 7 June.
198. The pattern of abductions consists of groups of armed men taking people away and detaining them in one of the buildings they occupy on the grounds that they are members of the Right Sector and “spies”. Some are released after a few hours, some after a few days, and there are numerous accounts of allegations of ill-treatment and torture.
199. According to local activists from Kramatorsk, on 9 May, about 40 residents of the city were abducted by the “Donetsk People’s Republic”. On 10 May, three “Pro-Ukrainian” female activists not involved in any fighting were abducted and detained by armed persons in Kramatorsk. One of them was released the next day after being reportedly subjected to torture during interrogation. She was subsequently hospitalised in Slovyansk, suffering from broken ribs, a pierced liver, a head injury and multiple bruises. The other two women were released on 13 May and placed under so-called “house arrest”, reportedly prohibited from leaving Kramatorsk.
200. On 8 May, a woman went to Slovyansk to try to secure the release of her son detained by the “Donetsk People’s Republic” and was reportedly abducted by the same armed persons. She has cancer and was undergoing chemotherapy. The whereabouts of a female interpreter was unknown from 4 to 18 May. Upon her release, she reported having been detained by armed groups in Donetsk and to having being subjected to ill-treatment and sexual assault.

201. On 26 May, the OSCE Special Monitoring Mission (SMM) lost contact in the town of Antrazyt, with one of its Donetsk-based teams, consisting of four persons. On 29 May, contact was lost with another team of four in the Luhansk region. As of 7 June, the eight remained detained and their whereabouts unknown. 11 other OSCE SMM members were stopped on 28 May for a few hours at a checkpoint in Mariynka (Donetsk region) before being able to return safely to Donetsk.
202. On 25 May, two officers of the SBU were reportedly detained by the “Luhansk People’s Republic” while attempting to negotiate the release of their colleagues who were being detained. Their current location remains unknown. On 2 June, three police officers of the Amvrosievka District Department of the MoI were reportedly abducted; their whereabouts remain unknown although there are reports they might be detained by armed groups in Horlivka. Two senior police officers went to Horlivka to negotiate their release. They have not returned and their whereabouts is also unknown.
203. The HRMMU was involved in efforts to negotiate the release of individuals detained by the armed groups under the control of the “Donetsk People’s Republic and the “Luhansk People’s Republic”. Following repeated interventions, several civic activists and members of district election commissions were released from the SBU building in Donetsk on 27 May. During the night of 29-30 May, 20 civilians detained in the SBU building were released following discussions between the HRMMU and representatives of the “Donetsk People’s Republic”.
204. The HRMMU appealed to the leadership of the “Luhansk People’s Republic” on 26 May for the release of two detained journalists at the occupied building of the SBU in Luhansk. A similar release took place of a third journalist. They were all detained by armed groups for having covered the elections in the Donetsk region. While in detention, two of the journalists were badly beaten, and were hospitalised upon their release.
205. The emergence of ransom demands is a worrisome trend, following abductions of people from their homes and in some cases accompanied by looting and stealing of valuables, including cars. For example, on 9-10 May, an armed group together with police officers allegedly abducted the parents of a local activist from “Svoboda”, from their home in the village Khanzhenkovo (near Makyivka, Donetsk region). On 10 May, the home of an activist from Kramatorsk was allegedly attacked and items stolen by armed persons. Applicable international law prohibits the taking of hostages for purposes of demanding ransom or political concessions, regardless of whether the victims are of the general population or involved in the fighting.
206. On 26 May, three deputy prosecutors were abducted by armed men, but two were immediately released. The third was subsequently exchanged for three supporters of the “Donetsk People’s Republic” who were being detained in the Lukyanovskoe pre-trial detention centre in Kyiv. That same day, a traffic police officer was taken hostage by an armed group of “Cossacks” in Antratsyt in Luhansk region. The family was asked for a ransom of one million UAH (approximately 80,000 USD).
207. Although most of the persons detained are activists, journalists, and town councillors, NGOs in Donetsk have highlighted to the HRMMU a growing pattern of the systematic

persecution against civil society. According to them, fear is spreading in the Donetsk and Luhansk regions, with an increasing number of acts of intimidation and violence by armed groups, targeting “ordinary” people who support Ukrainian unity or who openly oppose the either of the two “people’s republics”.

208. Among cases brought to the attention of the HRMMU, on 14 May, four armed men in camouflage reportedly abducted the principal of a school in Luhansk from the school premises. Allegedly, she had opposed holding the “referendum” on the school premises. She was released a few hours later, but refused to speak about the incident. The same day in Kramatorsk, armed men came to the apartment of an employee and reportedly abducted him. Reportedly they were looking for his 16-year old son, allegedly because of his active “Pro-Ukrainian” position, including in the social media. Since the son was not to be found, they took the father to the occupied building of the Kramatorsk City Council where he was beaten. Allegedly, they eventually found the son and took him to the city council. Both were released a few hours later, and the whole family left the region the same day.

#### *Killings*

209. Increasingly residents have been killed by armed groups. On 8 May, the burned body of Valeriy Salo, a farmer and head of a local cultural organization known as a “Pro-Maidan” activist, was found a day after he had been abducted by armed persons from his village. There have also been several reports of killings at checkpoints held by armed groups. That same day, an Orthodox priest was shot dead at a checkpoint near his hometown of Druzhivka, and a couple was also shot dead in their car at a checkpoint in the Luhansk region. Their daughter survived with head injuries. In the same region, on 23 May, a woman who allegedly did not stop at a checkpoint died when heavy gun fire was opened at her car.
210. The HRMMU is also concerned about reports of “summary executions” by representatives of the “Donetsk People’s Republic”. On 18 May, in a village near Slovyansk an elderly farmer was accused of bringing food to the Ukrainian forces, taken out of his house into the yard, where according to witnesses a “sentence” was read in the name of the “Donetsk People’s Republic” and shot dead, in front of his family and neighbours. Reportedly, on 26 May, by order of Igor Strelkov, Dmytro Slavov (“commander of a company of the people’s militia”) and Mykola Lukyanov (“commander of a platoon of the militia of ”Donetsk People’s Republic”) were “executed” in Slovyansk, after they were “sentenced” for “looting, armed robbery, kidnapping and abandoning the battle field”. The order, which was circulated widely and posted in the streets in Slovyansk, referred to a decree of the Presidium of the Supreme Council of the USSR of 22 June 1941 as the basis for the execution.

#### *Torture*

211. The HRMMU has been following cases of individuals who have been abducted and detained by armed groups in eastern Ukraine. Several interviews conducted with persons who were abducted provide vivid accounts of human rights abuses committed by representatives of the “Donetsk People’s Republic” and the “Luhansk People’s Republic”, including beatings, psychological torture and mock executions. There are instances of relatives of detained persons, including women and children, having been threatened and

terrorised. Witnesses also mention having seen supporters of the “Donetsk People’s Republic” and “Luhansk People’s Republic” being detained and subjected to harsh punishment for looting or insubordination.

212. Among the numerous cases reported to the HRMMU, a journalist from Lutsk who was abducted by armed groups in Donetsk on 25 April, stated that during 23 days of his detention, he suffered from permanent lack of drinking water. He was reportedly tortured with electric shocks, beaten repeatedly over the head with a heavy book, and his captors reportedly tried to cut off one of his fingers.
213. An activist of “Batkivschyna”, abducted on 22 May and detained by supporters of the “Donetsk People’s Republic” in Donetsk, reported being subjected to torture and forced labour while in detention. He stated that he only received food twice in the five days he was detained. He was interrogated about affiliation with the “Right Sector”, with “Euromaidan”, and trips to Kyiv. During one of the interrogations he was reportedly subjected to a mock execution.
214. Three activists of a local human rights NGO were detained in Donetsk on 27 May and released on 1 June. They were taken to the occupied building of the Makiyivka Department of Organized Crime Control, and interrogated on a daily basis, accused of being affiliated to the “Right Sector” and the Ukrainian military. Both of them allege having been tortured.

#### *Enforced disappearances*

215. The HRMMU has received credible reports of individuals being detained in conditions that amount to enforced disappearance, and has a list of 11 such cases.
216. On 10 May, units of the Ukrainian armed forces allegedly detained a streamer, who was covering the activities of armed groups, in particular, the attacks on the government buildings in Donetsk region. The HRMMU filed a request to the Ministry of Foreign Affairs (MFA), asking about the current location of the individual. On 15 May, the HRMMU was informed by the MFA that a criminal case was opened by the MoI under the Article 115 (Murder) of the Criminal Code.
217. In an earlier case of concern, working with the National Preventive Mechanism (NPM), the HRMMU was able to identify the location of an individual whose whereabouts had been unknown for nine days. The location of an activist of the “Donetsk People’s Republic” was identified on 26 May, after he had been allegedly detained by the National Guard on 17 April in the area of Amvrosiyivka. After enquiries made by the NPM, the activist was located in the pre-trial detention centre in Dnipropetrovsk. It remains unknown who exactly arrested the activist and why access was not granted to him for nine days. The NPM confirmed that he had no health complaints, besides having “a few minor bruises” on his body. It is checking on access to legal counsel for him. It is also unclear whether the activist has been officially charged.
218. This has put in motion a good practice for partnership with the NPM on such cases, which was key in drawing attention to the case of the enforced disappearance for six days of two LifeNews journalists, Oleg Sidiyakin and Marat Saychenko. Both were detained on 18 May near Kramatorsk during a raid by Ukrainian forces against armed groups. The whereabouts of the two journalists was unknown until their release on the evening of 24 May, when they

were flown to Moscow via Grozny. All attempts by their lawyers to be in contact with them, and gain some access to the two individuals, had failed. The HRMMU worked with the lawyers of the two journalists, and with others including the Ombudsperson, the NPM and the MFA. Through these institutions, requests were made on the case to the General Prosecutor, MoI and SBU. Upon their release, the journalists asserted that they were beaten in the first two days of their detention, initially held in a hole, blindfolded with hands tied, and then transferred to Kyiv. For the period from 18 May to 24 May, the journalists were effectively held in conditions that amounted to enforced disappearance.

219. The HRMMU was also looking into the detention conditions of supporters of the “Donetsk People’s Republic” and “Luhansk People’s Republic” detained by the Ukrainian forces during the security operations. Regular visits to places of detention take place, including in Kyiv when persons arrested have been transferred to detention facilities in the capital. The HRMMU actively cooperates with the Ombudsperson and the NPM to make sure the human rights of detained persons are upheld, including from the point of view of access to medication and to the services of a lawyer.

#### *Children*

220. The HRMMU is particularly concerned about the impact of the situation in eastern Ukraine - especially in the area between Donetsk and Slovyansk - on the human rights of women, and the most vulnerable persons - children and persons with disabilities, including those in institutional care, older persons, and those needing medical assistance.
221. According to a rapid psychological assessment of 204 children conducted by the UNICEF<sup>64</sup> in four cities of the region of Donetsk from 15 to 22 May, nearly every second child experienced fear, anger, sadness or problems with sleep. Other behavioural changes were also observed in a number of children.
222. According to Donetsk Regional State Administration, in the period between 9 – 30 May, seven children had been wounded as a result of the illegal activities of the armed groups. According to credible reports received by the HRMMU, 14 children from the children’s institution in Slovyansk have been evacuated from the city. An NGO in Kharkiv expressed concern that there were no evacuation plans for persons with disabilities living in closed institutions. On 7 June, the Ministry of Social Policy informed the HRMMU that out of 1,494 children who are in closed institutions (children’s institutions, shelters, and so forth) in Donetsk region, 663 have been evacuated; in Luhansk region out of 760 children, 464 have been evacuated.
223. As fighting intensifies and with the end of the school year on 30 May, parents are reportedly increasingly looking for ways to evacuate their children to safety. There is information that a group of children from Slovyansk has arrived in Crimea and most recently on 6 June to Odesa. On 30 May, various media outlets informed that a group of 148 children from Slovyansk was taken to a summer camp in Crimea. There were also reports that on 31 May, a group of 21 children crossed into the Russian Federation on foot, after having to disembark from their bus at the border. This information cannot be verified by the HRMMU.

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<sup>64</sup> UNICEF, Rapid Psychosocial Assessment of Children in Donetsk Oblast, 2014.

### C. Freedom of expression

224. Journalists' safety continues to be a serious issue in the Donetsk and Luhansk regions due to fighting between the Government's security forces and armed groups. On 24 May, an Italian photojournalist, Andrea Rocchelli, and his interpreter, Andrey Mironov, Russian citizen, were killed under mortar fire, while covering fighting between government forces and armed groups in Andreyevka near Slovyansk, Donetsk region. On 9 May, it was reported that a freelance cameraman of the video agency RUPTLY, which is part of the TV channel Russia Today, was wounded while filming events in Mariupol. Reportedly, he received necessary medical treatment and is in satisfactory condition.
225. The working environment for journalists has become increasingly dangerous, with the threat of abduction and illegal detention by armed groups. On 7 May, it was reported that armed groups in Luhansk offered a reward of USD 2,000-10,000 for each detained journalist. The HRMMU continues to closely monitor cases of detentions of journalists in Donetsk and Luhansk regions. Although all but one of the journalists abducted and known to the HRMMU before 6 May (cut-off date of the previous report) have been released, the HRMMU is aware of new cases abducted after that date. The HRMMU interviewed many of the released journalists, who reported ill-treatment, beatings, and sexual harassment (of women). They also confirmed the fact that other detainees were being kept in the seized administrative buildings; but the exact number and their identities remain unknown.
226. Also, journalists and editorial offices continue to be threatened and intimidated by armed groups. For instance, on 14 May, the HRMMU received credible reports that those journalists who work in the region but refuse to comply with the orders of the "Donetsk People's Republic" are threatened and harassed. Reportedly, the state regional television is in a particularly difficult situation; its office has been practically blocked by approximately 100 heavily armed men. On 21 May, an unidentified man called the editorial office of the Public television of Donetsk region and threatened its journalists.
227. Local journalists have reported having to flee Donetsk and Luhansk regions due to such threats and intimidation. On 8 May, two journalists from Donetsk had to move to Lviv out of fear of persecution and threats. On 13 May, an internet resource in Severodonetsk (Luhansk region) announced the forced suspension of activities and advised its journalists to leave the town because of growing pressure and threats against their lives from the armed groups. On 27 May, the editorial office of another local web-based outlet was forced to relocate to a different town, reportedly, due to threats from the self-proclaimed "Army of the South-East". On 26 May, it was reported that the publisher and editor in chief of one of the local newspapers in Kramatorsk was forced to flee the region with his family due to threats they were receiving after he had refused to publish materials armed representatives of "Donetsk People's Republic" demanded him to publish.

#### *Arbitrary arrests of journalists*

228. In the reporting period, Ukrainian and Russian journalists have been arbitrarily arrested; this raises concerns about the possibility for journalists to conduct their professional activities safely.



- On 10 May, a journalist of Russian TV channel Kuibishev 61, was allegedly detained by the Ukrainian security forces at a checkpoint on the road between Slovyansk and Kramatorsk. His whereabouts remain unknown to the family. On 22 May, the HRMMU sent an official inquiry to the MoI (via the MFA) about the case. On 5 June, the HRMMU was informed that as of 15 May a criminal investigation had been opened under Article 115 (Murder) of the Criminal Code. The HRMMU has requested more information on this case.
- On 15 May, a journalist and cameraman of the ICTV Ukrainian channel were arrested on the border (Kharkiv / Belhorod) while performing editorial tasks by the Border Service and Federal Security Service of the Russian Federation,. Reportedly, after more than 15 hours of questioning without water and food and deleting all photo and video materials, the journalists were released.
- Two LifeNews journalists, Oleg Sidyakin and Marat Saychenko, were detained on 18 May near Kramatorsk during a raid by Ukrainian forces against the armed groups. They were released on 24 May (see section B, chapter V).
- The HRMMU also followed closely the case of a British journalist working for Russia Today detained by the National Guard in Mariupol on 20 May for allegedly filming military objects. He was released on 21 May and transferred to the Consulate of the United Kingdom in Kyiv. After his release he tweeted details of his detention, including that he had been treated fairly.
- On the night of 6 June, two journalists of the Russian TV station “Zvezda” were detained by the National Guard of Ukraine (NGU) at a checkpoint near Slovyansk. According to their driver, who was also initially detained and later released, the journalists were cuffed, balaclavas were put on their heads, and they were forced to kneel down in a ditch (allegedly, to protect them from possible shooting). On 7 June, the NGU issued a statement saying that journalists were suspected of monitoring and collecting information. The MFA of the Russian Federation reportedly filed a note of protest to the MFA of Ukraine. On 8 June 2014, the TV station “Zvezda” received information from the SBU that the two journalists were in good health. They were released on 9 June and transferred to the Russian Federation.

*Obstruction to lawful professional journalist activities*

229. On 11 May, it was reported that Ukrainian journalists were not allowed to photograph or film the voting process during the “referenda” in the Donetsk and Luhansk regions.
230. The same instances were reported prior and during the election day on 25 May. For instance, the journalists of the Voice of America were warned not to film the seizure of one of the polling stations in Donetsk.

*Attacks on editorial offices and TV towers*

231. In the reporting period, there has been a growing number of armed attacks on the editorial offices of the local media outlets by armed men. Some of the examples are provided below.
- On 7 May, the office of the local newspaper “Hornyak” in Torez (Donetsk Region) was reportedly attacked and its equipment was broken and damaged.

- On 8 May, the independent newspaper “Provintsiya” in Kostyantynivka was attacked by armed, masked men, allegedly members of the “Donetsk People’s Republic”. The editors were told the paper was “closed” and taken to the “city commander’s office” situated in the occupied building of the City Council, where they were threatened and suggested to leave the town. The police was called, but did not interfere or arrested the attackers. The editors did not file a complaint because they do not trust the police will act and because they feel threatened and fear for their lives.
- On 11, 13, 19 and 20 May, armed groups shelled the TV tower in Slovyansk, which led to interruptions in broadcasting. On 14 May, in Kramatorsk, the armed groups blocked the TV tower, which transmits the channels not only for Kramatorsk, but also Slovyansk, Horlivka and Makiivka.

#### *Censorship / access to information*

232. According to NGOs, freedom of media in the Donetsk region is severely curtailed, with Ukrainian TV channels switched off by the “Donetsk People’s Republic” and replaced by the its own media programmes and Russian TV. Some of the examples include the following:

- On 8 and 25 May, armed group stormed the office of the local TV Channel “Union” with demands to report about the activity of “Donetsk People’s Republic” and declared their intent to control the activity of journalists. The target audience of the channel is about 3 million people in nine towns of Donetsk region.
- On 8 May, under threat of physical violence from the armed groups, the company “Vokar Holding” was forced to stop retransmission of Ukrainian TV Channels: “Inter”, “Ukraine”, “1+1”, ICTV, STB, “New Channel”, “5<sup>th</sup> Channel”, “112 Ukraine”, and “TVI” in Severodonetsk, Luhansk region. Instead the Russian channels were broadcasted. The same incidents occurred throughout May in Luhansk and its region (Krasnyi Luch, Alchevsk).
- On 2 June, armed members of the so-called “Donbas People’s Militia” arrived at the office of the newspapers “Donbas” and “Vecherniy Donetsk” and blocked all entrances and exits. They abducted the editor-in-chief of the “Donbas” and his deputy and the editor-in-chief of “Vecherniy Donetsk”. The armed men reportedly used psychological pressure and death threats to change the editorial policy of the newspapers and ensure more positive coverage of the “Donetsk People’s Republic”. The three editors were eventually released on 3 June after which all the “Donbas” employees were sent on leave and the newspaper stopped its publication. Also, the HRMMU has noted specific hate speech on the “official” media outlet of the “Donetsk People’s Republic” “Anna Info News”. On 20 May Oleksandr Mozhayev, known as “Babai” (a fighter participating in the armed groups) referred to the on-going operations as a “Holy War” and spoke of exterminating America.

- On 5 June, a local cable TV and Internet network provider in Donetsk terminated the broadcast of Ukrainian channels: “1+1”, “Donbas”, “UBR” and “News24” at the demand of “Donetsk People’s Republic” representatives.

#### *Propaganda*

233. The HRMMU reiterates the importance to counter misinformation, incitement to hatred, discrimination, and violence. As an example, the “Donetsk People’s Republic” denied all responsibility for the attack near Volnovakha, claiming that it was the National Guard “paid by Kolomoisky” which perpetrated this attack on the Ukrainian military. On 27 May, LifeNews posted a photo of a wounded child stating he was shot in the Donetsk International Airport; however the StopFake.org experts discovered that the photo was from the Syrian city of Aleppo in April 2013. Although the original publication in twitter was deleted, the photo was widely used for similar posts on alleged shootings of children. A different photo with a dead boy's body in a coffin was used for similar messages of alleged shooting of children in eastern Ukraine. The photo, however, was made in 2010, in the Crimean city Dzhankoy, of a boy killed by a local criminal.
234. Similarly, various videos became viral, allegedly showing either atrocities by the Ukrainian army, seizing of "Grad" complexes by armed groups, or of the use UN symbols on Ukrainian helicopters used in the security operations. It was also demonstrated that originals of such videos were also filmed earlier in the Russian Federation or in other countries, and had nothing to do with the current events in Ukraine.
235. Misinformation adds to the instability and fear which affect the lives of people in the region, and all sides should refrain from using it, especially to the extent that it amounts to advocacy to national hatred that constitutes incitement to discrimination, hostility or violence, which is prohibited under Article 20 of the ICCPR.

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

236. On 15 May, the Ukrainian Orthodox Church of the Kyiv Patriarchy (UOC-KP) condemned the violence and threats to the life and health of the clergy and the faithful of eastern Ukraine by armed groups. The statement by the Holy Synod of the UOC-KP calls for the Moscow Patriarchate to condemn collaboration with the supporters of the self-proclaimed “people’s republics” and distance itself from it. The UOC-KP requested the Government of Ukraine to protect the clergy and congregation of the Kyiv Patriarchy in the Donetsk and Luhansk regions from the attacks and threats of the “criminals”.
237. In the statement, the Church also appeals to the international community and inter-religious social human right organizations to pay attention to the infringement of rights of the believers of UOC-KP in the eastern parts of Ukraine and in Crimea.
238. In Donetsk, numerous attacks against the inter-religious Prayer Marathon (attended by all major denominations except the Moscow Patriarchy) took place almost on a daily basis in May, including heavy beatings of participants, the destruction of property, and threats to organisers and volunteers. On 23 May, after a repeated attack by 15 representatives of the “Donetsk People’s Republic”, in an attempt to discuss security arrangements for the Prayer Marathon, its coordinator allegedly went to the occupied building of the Donetsk Regional

State Administration. While there he was allegedly heavily beaten and had to seek medical assistance. The Prayer Marathon has continued gathering in June. No incidents have been reported.

239. Reports have also been received of other denominations being attacked, for example, Protestants.

#### **E. Economic and social rights – impact of the violence**

240. As background to the situation in the eastern regions and the current impact on economic and social rights being faced by the local population, the HRMMU recalls that Ukraine is a middle-income country, ranked 78 in the Human Development Index in 2013.
241. The recent evaluation of the UN Committee on Economic, Social and Cultural Rights (ESCR) published on 23 May 2014, highlighted the positive steps of the Government in ratification of, or accession to, various human rights instruments. At the same time the Committee identified major problems that have an adverse impact on the enjoyment of all human rights, including the large extent of corruption, discrimination against Roma and Crimean Tatars, a low level of social standards, unemployment among youth, around 30% gender pay gap, employment in the informal economy, a stable poverty rate of 24.7%, absence of a health insurance system, and low expenditure on health care.
242. The Committee made related recommendations to address the root causes of the aforementioned challenges.
243. The violence and security operations in the eastern regions has had a direct impact on the existing level of enjoyment of economic, social and cultural rights, and has also influenced the State capacity to progressively realize the rights and comply with the Committee's recommendations in the areas struck by the conflict.

#### *Right to education*

244. Despite the efforts of the Donetsk Department of education and science, as well as school administrations, studies had to be suspended in several towns of the Donetsk region in May. In Slovyansk, Krasnyi Lyman and Krasnoarmiysk, 62 schools and 46 kindergartens were not functioning, which affected 21,700 students and 5,600 children, respectively. On 28 May, it was reported that during the fights in Slovyansk two school buildings have been damaged; no one was injured.
245. In other towns in the Donetsk region schools remained open, but attendance varied from 25% in Slovyansk district to 98% in Makiivka district.
246. Most schools in the Donetsk and Luhansk regions managed to complete the academic year, which finished on 30 May. The main concern had been the organisation of the "External Independent Assessment<sup>65</sup>" for the students of these eastern regions. On 29 May, the Ministry of Education announced that testing in these regions would be postponed until 11 July to 27 July, and if necessary could be postponed again.

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<sup>65</sup> A final test for the high school students to enter universities in Ukraine.

247. Following instructions issued by the Ministry of Education and Science, all universities in the eastern regions had to ensure that foreign students finished their studies earlier, by 20 May, so that they could leave the country.<sup>66</sup>
248. Reportedly, school administrations have faced various forms of pressure from representatives of the “Donetsk People’s Republic” including in the preparation and holding of the “referendum” of 11 May, as well as establishing temporary “hideouts” in school premises.

*Right to health*

249. Due to the growing number of wounded, hospitals are overcrowded and understaffed. As of 28 May, in order to minimize the risk to life and security of patients, the Regional Hospital of occupational diseases in Donetsk partially discharged patients whose medical condition did not require in-ward treatment. A sanatorium for children with cerebral palsy was closed in Donetsk due to its proximity to the occupied Security Service of Ukraine building. On 26 May, Children’s Hospital Nr 1 and city hospital Nr 18 had to close due to the proximity to Donetsk airport<sup>67</sup>.
250. Access to medical services, treatment and supplies for residents in areas most affected by the fighting is becoming more and more challenging. This is of particular concern as more residents are caught in the crossfire between the armed groups and Ukrainian forces. The situation is most difficult in Slovyansk. The overcrowded, understaffed and under resourced hospitals are only admitting those who are severely injured. Primary Health Care services are overloaded and at times called to provide treatments and care that are within their capacity. Patients from the Mental Health Hospital (229 persons) were evacuated from Slovyansk. All emergency services have been relocated to the nearby village of Mykolayivka, with a number of medical number units set up in Svyatohirsk (location of a large Russian Orthodox monastery - the Lavra). Some patients were transferred to Poltava region. Pharmacies are open only a few hours per day.
251. The delivery of supplies, particularly medicines, becomes more complicated every day; especially with the Donetsk airport being out of service. Reports and requests sent to the UN agencies indicate the lack of specific medications, including some antibiotics, pain-killers, vaccines and consumables. In Donetsk, insulin was distributed to various locations; however, such deliveries are becoming more difficult. Supplies of food in hospitals are running low.

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<sup>66</sup> On 29 and 30 April, The Ministry of Education and Science issued two letters Nr 1/9 - 228 and Nr 08.01-47/12033 instructing all universities of Ukraine, particularly in the East, to terminate the studies of all foreign students by 20 May, which is much earlier than usually. Reportedly, the decision was made upon request of the embassies of foreign countries so that foreign students could complete exams and leave the country if they wish so due to the security situation. Allegedly, at the end of April there were two attacks in eastern regions on foreign students; however the HRMMU could not verify these facts.

<sup>67</sup> On 26 May 2014, approximately 20-30 armed representatives of the “Donetsk People’s Republic” reportedly arrived at Donetsk International Airport. According to the Press-Secretary of the Donetsk International Airport Dmytro Kosinov, they demanded the Ukrainian Armed Forces, which were guarding the airport, to withdraw. Fighting broke out at 7.00 a.m. and at that time the airport was closed. It was reported that it will stay out of service till 30 June. According to some reports the main terminal was partially destroyed and some fighting is still on-going there.

252. There have been reported difficulties to ensure uninterrupted provision of opioid substitution therapy (OST)<sup>68</sup>. This directly affects 759 persons (56% of whom are HIV positive) in Donetsk region and 609 (13% are HIV positive) in Luhansk region. According to the HIV/AIDS Alliance and the World Health Organisation, in a number of cities, such as Slovyansk, the healthcare facilities providing OST are completely controlled by armed groups. The fact that pharmaceuticals in the healthcare facilities in the districts have fallen beyond the legitimate authorities' control, is in its essence a certain risk factor for medical staff and patients. On 30 May, OST treatment was stopped for more than 100 patients in Mariupol, due to drugs not being delivered because of the security situation. As of 2 June, HIV service organisations reported that for some patients such an interruption in treatment had resulted in people using illegal drugs. In the long run, this may lead to an increase in cases of HIV and hepatitis infections due to intravenous drug use. Due to the numerous check-points and blocked roads, as well as interruptions in public transport, the specialized hospital for HIV/AIDS patients in Yasynovata, Donetsk region, is practically inaccessible.

*Conditions for treatment of patients*

253. The conditions for the treatment of patients, including those who have been wounded in fighting and violence, are precarious. As the security situation deteriorates, so does the access to hospital care and the quality that can be provided by medical professionals. For example, in Slovyansk, medical personnel were already highlighting the problems with the delivery of medical supplies to the city. In the regions affected by violence and the ongoing security operations, hospitals are trying to allocate what funds they have to purchase the medical supplies they require. In early June, some hospitals in Donetsk discharged patients, except those in critical condition or those who were immobile, leaving the hospitals almost empty.
254. Due to the lack of trust regarding law enforcement, both the medical personnel and patients try to conceal the facts and nature of wounds (the standard protocol is that medical institutions have to report any gunshot and/ stab wounds to the police). The HRMMU has received credible reports that doctors are at times trying to ensure the security of the wounded.
255. Cooperation with local civil society and community volunteers is an important part of treatment of those who suffered in the recent months. The volunteers, local NGOs, political parties and priests donated money, clothes, food, and medical drugs and provided psychological support. In some cases, when expensive purchases were necessary – such as plates for head surgery – they were purchased by charitable organizations, which also provided financial support to the victims after they were discharged from the medical institutions – to receive rehabilitation treatment in sanatoria. In the local hospitals where the wounded were brought – such as after the shooting on 22 May near Volnovakha in the Donetsk region – there were instances when the local community cared and protected the wounded, bringing them medical drugs, food and clothes.

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<sup>68</sup> This has been an integral part of the widespread implementation of harm reduction programmes. These programmes are an essential element in controlling HIV/AIDS and other infectious diseases among injecting drug users in Ukraine, as elsewhere in Eastern Europe.

256. Security in hospitals has been reported to the HRMMU as a concern with patients having to be protected from potential abductions by armed groups. The officials from the Donetsk Regional State Administration confirmed that such kidnappings of the wounded had taken place, however there is no official record of such cases, thus no exact figure could be provided. There is also an increased risk for healthcare professionals themselves, particularly if it involves moving around in the case of ambulance medical teams.

*Right to an adequate standard of living*

257. Since 17 May, prices for basic commodities (including bread) have been rising by a minimum 0.73 Hryvnia (UAH) and 1-2 UAH on average due to higher risks of production and delivery of goods into the occupied towns through numerous checkpoints. Seasonal vegetables and fruits are 4-5 UAH more expensive than usual.
258. Also, due to increased cases of looting, private businesses and retailers prefer to close down, which creates scarcity of supply. Consequently, while the minimum set of products is always available, the variety is much less. Often times there are interruptions in delivery of dairy products, fruits and vegetables, and non-alcohol drinks.

*Housing*

259. The HRMMU is concerned when security operations take place in residential areas of towns and villages of the Donetsk and Luhansk regions. As of 30 May, there had been reports of ruined residential buildings in Slovyansk, Kramatorsk and Donetsk. Additionally, on 7 June, it was reported that nine houses were damaged by the Ukrainian army shelling in Semyonovka near Slovyansk.
260. The HRMMU will raise this and other similar issues with the Ukrainian Government, including advocating for monetary compensation to be awarded to the victims for damages to their property in the course of these security operations.

*Electricity and water supply*

261. As of 18 May, in the Slovyansk region, 22 electrical sub-stations stopped functioning. As a result, more than 2,000 households were left without access to electricity. According to the Press-service of the company “Donetskoblenergo”, the company has all the necessary material and human resources for reconstruction. However, repair crews are unable to access the site due to the ongoing security operations.
262. In the northern part of the Donetsk region, the supply of water supply is increasingly under threat, with regular interruptions. Moreover, as of 3 June, residents of Slovyansk, Konstantynivka, Druzhkivka and Kramatorsk (cities in Donetsk region) had no access to running water, due to damage to the water supply reportedly as a result of the security operations.

*Social security (services and benefits)*

263. Due to the deteriorating security situation in the Donetsk and Luhansk regions, it is a growing challenge to ensure continuous work of State institutions. On 14 May, the Pension Fund department resumed its work (after the seizure of its building on 5 May) in Slovyansk, but the department’s office hours were cut. On 15 May, it was reported that the

National Bank of Ukraine suspended<sup>69</sup> the operations of its office in Donetsk region due to the threats by the representatives of the "Donetsk People's Republic". On 15 May, the Ministry of Revenue and Duties of Ukraine also evacuated the staff of its directorate and tax inspections in the region.

264. On 7 June, the Ministry of Social Policy informed the HRMMU that all social payments had been made to the regions of Donetsk and Luhansk. However, there were major challenges in delivering cash to Antratsyt in Luhansk region and Slovyansk and Kramatorsk in Donetsk region. The Ministry has already addressed the MoI and SBU to develop a mechanism of the safe delivery of cash to these regions if the situation remains the same or aggravates.
265. On 30 May, the head of Department of Marketing Communications of the Novokramatorskiy Machine-Building Plant Volodymyr Zhuliy spoke of the imminent "humanitarian catastrophe" in Kramatorsk, due to the termination of the work of the city department of the State Treasury of Ukraine since 20 May. In particular, Mr Zhuliy mentioned that thousands of the city's pensioners, local governance workers, educators and public health workers were deprived of the means for existence. Reportedly, the Treasury's debt to the workers and pensioners in Kramatorsk for the payments due in May already amounted to UAH 61.4 million.

*Increased lawlessness resulting in loss of individual property*

266. On 15 May, the Parliament Commissioner for Human Rights informed the HRMMU that there are numerous incidents in Donetsk and Luhansk regions when the armed groups' members seize personal phones and especially cars from ordinary citizens. The police rarely intervene or take any action, as they are usually unarmed and thus unable to perform their functions in the current situation. Consequently, although criminality is increasing, there is nobody to apply to in case of an alleged crime, and no effective means to intervene for police. It also becomes dangerous for persons to report about such crimes, so in most cases they chose to leave the region. The increase in criminality is, in the view of some, returning the regions to the "lawlessness of the 1990s":
- For example, on 8 May, the private residence of a local activist was allegedly shot at from a car; the attackers broke into the house and looted everything of value. The police called by the neighbours, allegedly made several photos of the location, but did not even walk into the building. Reportedly, the activist left the region to Kharkiv with his family, due to previous threats to his life, including attempted arson of his home with Molotov cocktails on 4 May.
  - On 15 May, owners of car-dealerships in the cities of Donetsk and Luhansk regions formed rapid response groups to protect their businesses against attacks aimed at robbery that have multiplied since the beginning of May.
  - On 28 May, the HRMMU spoke to one of the local political leaders in the Donetsk region. He reported that his legal firm's office was ruined when attackers took his computers, documentation on the legal cases and stole the firm's car. He was also

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<sup>69</sup> The staff of the Bank was evacuated, and online banking in the region was reportedly suspended.



detained for 7-8 hours and subjected to life threats, inhumane treatment and beating. After his release he fled the region together with his family.

*Labour rights*

267. There are growing concerns about the ability of enterprises in Donetsk and Luhansk regions to continue functioning due to the on-going fighting, targeted attacks and intimidations by the armed groups.
268. The presence of uncontrolled armed groups and rise of criminality obstruct the business activity of entrepreneurs, which first of all affects small companies in the sphere of services and retail (banks, logistic companies, stores, petrol stations, and bakeries).
269. On 20 May, the Mayor of Donetsk, Oleksandr Lukyanchenko, stated that a wide range of enterprises do not work in full capacity and some of them suspend production, in particular, “Donetsk Metallurgical Plant” employing approximately 2,100 persons.
270. On 29 May, the Secretary of the National Security and Defence Parliamentary Committee, Sergey Kaplin, stated that due to the current events in the Donetsk and Luhansk regions, approximately 60 % industrial enterprises of companies were forced to suspend their work, leaving thousands of employees without regular income.
271. There also have been armed attacks on mining companies, which constitute the main share of the regions’ economy. On 9 May, it was reported that local miners repelled an attack by the pro-Russian supporters of the “Donetsk People’s Republic”, who attempted to take down the Ukrainian flag and threatened the miners that they would throw explosives into the mine’s shafts for their disobedience. Allegedly, the miners decided to organize their own “self-defence” to protect themselves. On 19 May, there were armed attacks on the operational and closed coal mines in Horlivka, Donetsk region. On 22 May, a group of unidentified armed individuals allegedly captured four operating mines of the JSC “Lysychanskvuhillya” in Luhansk region. All of the four attacked mines temporarily suspended production activities. Reportedly the armed men pointed guns at the mines’ workers, demanding to supply them with explosives. The Ministry of Energy of Ukraine appealed to the SBU demanding that necessary steps be taken to protect the mines. Previously, on 26-27 May, due to pressure by the armed representatives of the “Donetsk People’s Republic” on the “Donetsk Coal-Mining Company”, coal production was suspended at several mines, including “Octyabrskiy Rudnik”, “E. Abakumov”, “A. Skochinskogo” and “Trudovskaya”.
272. On 20 May, Denys Pushylin, “speaker” of the “Donetsk People’s Republic”, announced the launch of the nationalization campaign in the region. According to their official sources, Mr. Pushylin blamed the local oligarchs’ unwillingness to pay taxes to the “republic’s” budget, and their opposition to the interests of Donbas as the reason for the adopted decision to start the nationalization. In particular, Mr Pushylin blamed Renat Akhmetov, owner of the company System Capital Management.

*The broader impact of the crisis in the eastern regions of Ukraine*

273. Recent developments in the country have already negatively affected the financial and banking system. In the first quarter of 2014, the national currency depreciated by 27%, dramatically reducing incomes and salaries. Whereas the average monthly wage in

December stood at \$453, by March it had dropped to \$343. This also puts significant pressure on those who have loans in foreign currencies.

274. After remaining quiescent for more than two years, inflation rates have shot up with a 6.8% increase in consumer prices reported for the beginning of May being the highest year-on-year inflation rate recorded since 2011.
275. Food prices have increased by 8.2% above 2013 levels, bringing the socio-economic crisis to many households in Ukraine. Large price hikes were reported for sugar (59%), vegetables (33%), and dairy products and eggs (10%).
276. Other inflationary pressures are now gathering, for example in the form of increases in communal service tariffs. Household gas prices shot up 56% on average in May; a 40% increase in heating tariffs is scheduled for July. These higher tariffs are projected to increase the numbers of low-income households from 1.4 to 4 million during this time.
277. Should these tariff increases be accompanied by a further weakening of the UAH, Ukraine's inflation rates could dramatically accelerate. Even in the best case scenario, consumer and food price inflation rates seem likely to remain in double figures for the rest of 2014, and going into 2015. These developments will place increased pressure, and need, for Ukraine's social welfare system to cushion the impact, particularly for the most vulnerable.
278. The 63 billion UAH deficit recorded on the consolidated government budget in 2013 (some 9% of GDP) is regarded as unsustainable by both the Government and the International Monetary Fund (IMF). Fiscal austerity in 2014 is therefore required. Although a justified measure, it may do little to boost the country's long term competitiveness or development prospects. Already in the first quarter of 2014 Government expenditure<sup>70</sup> in the health sector declined by 5%, and in the education sector by 8%, compared to the budget allocations in 2013. At the same time, the Government has been able to increase spending on social protection by 2% (which includes expenditures on both social assistance and social insurance) for 2014, which may lessen the hardships and pressures that many Ukrainian households are now facing.
279. The economy of the eastern region has already been in decline since April 2014, and it is likely to deteriorate further in any protracted situation of violence and fighting. Business is in decline in the region; personal income is decreasing; investments are dwindling. Compared to 2013, in the first quarter of 2014 investments in the eastern regions had significantly declined. In the annual rating Donetsk region moved from third place in 2013 to twenty-second place in 2014, and the Luhansk region from ninth to twenty-third.
280. Any exacerbation of the violence will lead to the further decline of industrial production in the region and Ukraine as a whole. The industries of the Donetsk and Luhansk regions account for 18.5% and 6.1% of all production in the country respectively. Such a decline would therefore increase the imbalance between the income of the state budget from the Donbas and expenditure provided to the region. This will augment the budget deficit. One

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<sup>70</sup> Changes are given in real terms: changes in nominal expenditure amounts divided by changes in the consumer price index.

result could be that it would jeopardise compliance with the agreed parameters of the IMF loan.

281. Official statistics released in May indicate that Ukraine's GDP dropped 1% in the first quarter of 2014. The recession is expected to worsen over the course of the year: IMF and the Ministry of Economic Development and Trade forecast a 3% decline in GDP, while other, more pessimistic forecasts point to 5-10% declines in output and income. The largest decline in exports (70-85%—relative to the fourth quarter of 2013) has already been recorded in the regions of Donetsk, Luhansk, Cherkasy, and Khmelnytskyi, as well in the Autonomous Republic of Crimea. Any collapse in exports could trigger a decline in industrial output, and subsequently in household incomes and livelihoods. These trends should be closely monitored.
282. There are concerns that if these macro-economic tendencies continue, the State will no longer be able to guarantee existing social standards, which could lead to the social unrest spreading throughout the country.

## **VI. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

### **A. Civil and political rights of Crimean residents**

283. Crimean residents faced difficulties in exercising their civil and political rights. A very small number participated in the Presidential elections of 25 May. Simplified registration procedures had been put in place to ensure that residents of Crimea and persons who resettled from Crimea to other regions can take part in the vote. Ukrainian citizens living in Crimea had to register in person at any polling station on the mainland no later than five days prior to the elections. The HRMMU monitored the situation near Kherson, where most of the Crimean voters had registered. Some 20 cars had left Crimea and were welcomed by local authorities. They drove to the polling station in a column with Crimean and Ukrainian flags. Prior to the election they had been summoned by the Crimean police for "conversations" and issued 'warnings' about the unacceptability of 'extremist activities'. While the cars were crossing the administrative border, representatives of the Crimean 'self-defence' reportedly wrote down license plates, passport numbers and driving licenses' details. Among those who intended to vote, many allegedly did not do so because of the cost of travelling, the uncertainty linked to having to cross the administrative border and the fear of reprisals by the authorities in Crimea.
284. During its month-long monitoring of events in Crimea, the HRMMU noted a continuation of worrying trends, including instances of enforced disappearances, arbitrary detentions, violence and ill-treatment committed by the so-called 'Crimean self-defence', often targeting journalists, human rights defenders and political opponents, and impunity for human rights violations. Furthermore the enforcement of the Russian Federation law on the territory of Crimea, at variance with UN General Assembly resolution 68/262 and applicable bodies of international law, is creating difficulties for Crimean residents to enjoy their human rights, as there are many differences with Ukrainian laws.

*Rule of law and the judiciary*

285. The judicial system remains practically paralyzed. Ukrainian laws will be in effect in Crimea until 31 December 2014<sup>71</sup>. Nevertheless, the judicial system is already being transformed to use Russian laws: restriction measures are implemented pursuant to the Criminal Procedural Code of the Russian Federation, and judicial decisions are adopted in the name of the Russian Federation. Pending cases that have not been decided by 18 March 2014 must be tried in accordance with the laws of the Russian Federation. This poses numerous problems in practice, especially in administrative and criminal cases, when Russian and Ukrainian legislation differs on the existence, nature and scope of rights and obligations; and remedies and sanctions available. The outcome of court decisions that are currently being appealed is unclear.
286. There are reports that, at least, 15,000 judicial cases are in legal limbo between Ukrainian and Russian laws. The Ukrainian “Law on the occupied territories” allows the transfer of judicial cases from the peninsula to Kyiv. However, in practice, this is unlikely to happen. The HRMMU notes that the current situation has detrimental consequences affecting access to justice, the right to fair trial and due process for Crimean residents.

*Right to life, liberty and security*

287. The Russian Security Service (FSB) confirmed on 30 May, the detention of four Ukrainian citizens in Simferopol (Crimea), including film-maker Oleg Sentsov. The other three are Aleksandr Kolchenko, Gennady Afanasiev and Aleksei Chyrnyi. The HRMMU spoke to Mr. Sentsov’s lawyer who stated that while his client had been arrested on 11 May, he managed to speak to him for the first time on 27 May. He also claims his client has been tortured while in detention to confess to criminal intentions he did not have. According to the FSB press release, the people detained are members of the Ukrainian ‘Right Sector’ party and were planning acts of sabotage and terrorism in Simferopol, Yalta and Sevastopol. On 6 June, Sentsov was, according to his lawyer, officially charged with terrorism and arms trafficking under Article 205, Part 2; Article 205.4, Part 2; and Article 222, Part 3 of the Criminal Code of the Russian Federation.
288. On 26 May, Timur Shaimardanov (born in 1980) left his home in Simferopol and did not return. He had participated in campaigns against Crimea becoming a part of the Russian Federation. The day before he went missing, he allegedly said that the whereabouts of one of his friends, Leonid Korzh, (born in 1990) had not been known for 3-4 days. On 30 May, Seiran Zinedinov, who had been coordinating the efforts to find Korzh and Shaimardanov also went missing.
289. Mr. Mustafa Dzhemilev, former head of the Crimean Tatar Mejlis (Assembly) who was banned from the authorities in Crimea to enter the peninsula on 3 May, informed the HRMMU that the “Crimean police” had brought to his Crimean house a summons for an interrogation related to illegal possession of weapons. Dzhemilev assumes that this could be an attempt to initiate a criminal case against him. Ms. Ella Panfilova, Ombudsperson of the Russian Federation, announced that her office has requested from the relevant

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<sup>71</sup> Paragraph 2 of Article 23 of the Federal Constitutional Law of 21 March 2014 N 6-FCL “On Acceptance of the Republic of Crimea into the Russian Federation and the Creation of the New Constituent Entity within the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol”.

Governmental bodies an explanation of the actions undertaken by officials towards Mustafa Dzhemilev, particularly regarding his ban on entering Crimea.

290. The Head of the Kurultai (Congress) of the Crimean Tatars, Zayr Smedlyaev, informed HRMMU that he had received a written “warning” from the Crimean police about the “inadmissibility of extremist activities and unlawful assemblies”, in line with Russian legislation. The notice says that on 3 May, the leaders of the Mejlis publicly spoke in support of ‘extremist statements’ by Mustafa Dzhemilev and provoked extremist manifestations from people.
291. On 15 May, three houses of Crimean Tatars in Simferopol were searched by FSB officials. Two houses belong to the head of the External Relations Department of the Mejlis, Ali Khamzin. The searches were performed at his actual place of residence (Bakhchysarai) and his place of registration (Strogonovka village, Simferopol region). FSB officials explained that these persons were suspected of preparing terrorist attacks.
292. On 15 May, the “Chairman” of the Council of Ministers of Crimea, Sergey Aksyonov, announced that the so-called “Crimean self-defence” would become regular and receive budgetary support to ensure public security. The HRMMU underlines that such an intention raises concern as the “Crimean self-defence” has reportedly been involved in numerous human rights violations.

#### *Accountability*

293. The HRMMU is concerned that after more than two months of investigation of the murder of 39-year-old Reshat Ametov, the Crimean law-enforcement authorities have not yet established the identities of perpetrators, although a video of the attackers is available that would allow their identification. Crimean Tatar Reshat Ametov was abducted by unidentified persons wearing military uniform in the centre of Simferopol in early March during a picket near the Council of Ministers of Crimea. On 17 March, his corpse was found with traces of torture in the Zemlyanichnoye village of the Belogorsk district.
294. The acting Prosecutor General of Ukraine reported on 27 May that an interagency ‘working group for legal issues relating to the temporarily occupied territory of Crimea’ had been established. The working group will coordinate the activities of the Ukrainian authorities on a wide range of legal issues connected with the violations that took place after the March “referendum”.

#### *Citizenship*

295. The HRMMU received worrisome information that, in some cases, Crimean residents were forced to give up their Ukrainian citizenship, which may amount to arbitrary deprivation of nationality. Judges of the Crimean Commercial Court in Simferopol and the administrative staff, who were granted Russian citizenship on a priority basis, were reportedly compelled to complete application forms renouncing Ukrainian citizenship. In general, the procedure of issuing Russian passports is slow. According to different calculations, providing passports to the whole population of Crimea will take up to 15 months while Russian laws allocated only three months for this procedure. Besides, it is unclear how citizenship issues, applications for social benefits and payments and other rights and entitlements are

organised for persons in closed institutions: orphanages, geriatric institutions, psycho-neurological hospitals, penitentiaries, and others.

296. The status of refugees and asylum seekers has not been regulated. Prior to the “referendum” there were 18 refugees on the territory of Crimea. It is unclear how their situation will be affected by the changed legal regime.
297. On 4 June, the President of the Russian Federation signed amendments to the law “On citizenship of the Russian Federation”, introducing criminal responsibility for concealment of dual citizenship. According to the amended law, those concealing their second citizenship will be fined up to 200,000 Rubles (\$5,700) or subjected to compulsory community service of up to 400 hours in case of a failure to notify the Federal Migration Service within two months from the date of the acquisition of the second citizenship. The new provisions will become effective on 1 January 2016.

#### *Freedom of expression*

298. The HRMMU is alarmed by excessive limitations placed on freedom of information and expression in Crimea. Journalists, human rights defenders and other individuals must be able to freely exercise their right to freedom of expression, in accordance with article 19 of the International Covenant on Civil and Political Rights. Any restrictions should comply with the strict requirements of article 19, paragraph 3 of the Covenant.
299. On 15 May, a photojournalist of the "Crimean telegraph" newspaper Maksim Vasilenko was briefly detained and ill-treated by members of the "self-defence of Crimea" in Simferopol while preparing a report about the training of the special police forces before the commemoration of the 70<sup>th</sup> anniversary of the Crimean Tatar Deportation. A cameraman of the "FM" television channel was also attacked; his phone was taken and his equipment was broken.
300. On 18 May, Osman Pashayev, Chief Editor of "Open Crimean Channel" internet project, and his crew (correspondent, cameraman and driver) were detained by members of the “Crimean self-defence” during the mourning events related to the anniversary of the Crimean Tatar Deportation. They were deprived of their equipment, phones and personal belongings, and subjected to physical and psychological pressure for four hours. No reasons were given for the detention. After being brought to the central district police station of Simferopol, they saw their lawyers and were released. Their money and personal belongings were not returned. Russian Human Rights Ombudsperson Ella Pamfilova condemned the incident, saying that the detention and interrogation of Pashayev and his crew without the presence of a lawyer for several hours constituted a human rights violation.
301. On 19 May, the “Crimean self-defence” detained for a short period of time Petr Ruzavin, a correspondent of Russian television company "Dozhd", subjected him to violence and damaged his equipment. According to Ruzavin, camouflaged people approached him when he was filming the central square of Simferopol and they were filmed as well. They requested him to delete his records, which he did. Ruzavin said he was beaten and his equipment was damaged. After being interrogated he was released.

302. On 2 June, the “Acting Prosecutor” of Simferopol summoned the Chief Editor of the Crimean Tatar newspaper “Avdet” Shevket Kaybullayev for questioning over possible “extremist activity”. According to the notice, Kaybullayev had to appear on summons to the Prosecutor’s Office. As written in the summons, the Prosecutor is investigating violation of the Russian law “On counteraction to extremist activity”. The ‘Avdet’ newspaper is a press organ of the Mejlis of the Crimean Tatar people, published since 15 June 1990.
303. On 2 June, the Editor of the “Crimean Centre for Investigative Journalism”, Sergey Mokrushyn, and his cameraman Vladlen Melnikov were attacked by members of the “Crimean self-defence” in Simferopol, taken to their headquarters (on Kirova 26) and beaten. They were eventually transferred to the police station for questioning, and released without any explanation being given for their detention and or any protocol of detention having been drawn up by the police.
304. The HRMMU recalls that acts of aggression, threats and intimidation against journalists must be investigated, prosecuted and punished and victims provided with appropriate remedies.
305. In the period of 12-25 May, the Russian Ministry of Communication and Mass Media and the Federal Service for Supervision of Telecom, Information Technologies and Mass Communications held seminars for Crimean journalists to explain requirements of Russian legislation with respect to the media. The HRMMU is concerned that the imposition of Russian media legislation is already negatively impacting the conditions for journalists to freely perform their functions. There is also concern that media representatives can be subjected to criminal prosecution pursuant to Article 280 (Public calls for extremism), Article 282 (Organisation of the activities of an extremist organisation) and Article 319 (Insult of a public servant) of the Criminal Code of the Russian Federation, which are too broad and can be used to criminalize conduct that is protected under international human rights law.

#### *Freedom of movement*

306. While air connections between other parts of Ukraine and Crimea were suspended in March 2014, it still remains possible to travel by train and car. However, freedom of movement is affected by a number of factors related to the status of Crimea and different regulations - Russian Federation and Ukraine’s - being applied. This creates difficulties to maintain personal and professional ties.
307. Pursuant to the Law of “On guaranteeing citizens’ rights and freedoms and legal regime in the temporarily occupied territory of Ukraine”, which entered into force on 10 May, foreigners and stateless persons may enter and leave Crimea through security check-points only subject to special permission. The procedure for obtaining such permission remains unclear. On 16 May, the Press Secretary of the Chairman of the State Border Service of Ukraine, Sergey Astakhov, confirmed that Ukrainian border guards around the Melitopol checkpoint (in the Kherson region bordering Crimea) obliged persons going from Crimea to continental Ukraine with Russian passports and Crimean residence permits to get off trains. He reported that the Crimean residents with Russian passports are considered as

foreign citizens and, consequently, shall entry into Ukraine and leave it only through special border points. According to him, the administrative border of Kherson and established control line is not a border of Ukraine. Therefore, the foreign citizens, including Russian citizens, may not be allowed via this line. He also noted that the Crimean residents with Russian passports who wish to enter Ukraine shall go to the Russian Federation first, for example, to Rostov-on-Don, and cross the borders there.

308. The Russian Federation illegally established its State border at the northern entrance to Crimea on 25 April. Citizens of Ukraine who are not registered in Crimea are regarded as foreigners and obliged to fill out an immigration card. Such a category also comprises the people who permanently reside in Crimea, own real estate or are employed there, but whose place of registration is mainland Ukraine. The Federal Immigration Service issued warnings that foreign nationals must promptly (within 90 days) leave the territory of Crimea and re-enter it pursuant to Russian laws applicable to foreign nationals. Inter alia, such regulations will create inconveniences for students who study in other regions of Ukraine and are temporarily registered there. While returning home to the territory of Crimea during summer vacations, they will be regarded as foreigners with an admitted stay of up to 90 days.

*Freedom of association*

309. Since the “referendum” on 16 March, many NGOs and human rights activists left Crimea out of fear of being prosecuted, detained and subjected to ill-treatment. Legislation of the Russian Federation - the so-called “foreign agents” law – has discouraged the activities and development of NGOs. Besides, Crimea does not yet have an institution to register civil society organisations; consequently, those that have not been registered before the Crimean “referendum” are deprived of such a possibility.

*Freedom of peaceful assembly*

310. Dozens of Crimean Tatars have been summoned to courts for participating in protest actions against the prohibition imposed on 3 May by the Crimean authorities on their leader, Mustafa Dzhemilev, to enter the peninsula. As of 8 May, the courts of Crimea had examined 55 cases related to those events. In 52 cases, the activists were fined on the basis of Article 20.2.2 (Public disorder) of the Code on Administrative offences of the Russian Federation.
311. On 16 May, the authorities in Crimea issued a decree prohibiting all mass events until 6 June. A similar prohibition was issued in Sevastopol. The degrees were motivated by security developments in south-eastern Ukraine and the need to prevent "possible provocations of extremists which can penetrate into the Republic of Crimea". The HRMMU recalls that under Article 4 of the ICCPR, a derogation from the right to freedom of assembly and association is only permissible “in time of public emergency” and “to the extent strictly required by the exigencies of the situation” and would require immediate notification to the other State Parties to the ICCPR through the UN Secretary-General.

*Freedom of religion or belief*

312. The HRMMU is concerned about reports of violations of freedom of religion and belief on the territory of Crimea.



313. On 8 May, the League of Muslim Women “Insaf” informed the HRMMU that some 150 persons from Kirovskoye and Stary Krym, including women, were being called in for interrogations. Reportedly, they were being invited to the local police stations for “a conversation”. They were reportedly fingerprinted and photographed.
314. On 20 May, the Head of the Ukrainian Greek Catholic Church made a statement expressing concern for the safety of the Greek Catholic priests remaining in Crimea. He reported that all five Crimean parishes had experienced pressure, allegedly from the representatives of the Orthodox Church of the Moscow Patriarchate.
315. On 1 June, men in Russian Cossack uniforms reportedly broke into the local Orthodox church of the Kyiv Patriarchate in the village of Perevalnoe (Crimea), shouting and terrorizing churchgoers. The car of the priest was allegedly damaged. The “Cossacks” said they were seizing the building for the Moscow Patriarchate. After three hours, the “Crimean self-defence” arrived with assault rifles and sided with the attackers. The police were called but reportedly did not show readiness to properly investigate the incident. On 2 June, the local authorities of the city of Evpatoriya conducted a check of the church documentation and called it an “illegal building”. In addition, the authorities in Crimea significantly raised the rent for the main Ukrainian Orthodox Cathedral in Simferopol. The rent increase has not affected Crimean Tatar mosques or Russian Orthodox churches. Mosques and Russian churches on the peninsula either belong to the religious communities (mosques) or to the Moscow Patriarchate (Russian churches) or are rented for a token fee.

## **B. Economic, social and cultural rights**

316. Crimean residents face serious challenges in realizing their rights under the International Covenant on Economic, Social and Cultural Rights (ESCR). This can be attributed, in part, to the complicated transition between two different legal systems, but also to the absence of appropriate reactions of the authorities in Crimea to human rights violations affecting certain communities. This concerns, in particular, the Ukrainian and Crimean Tatar communities who are being harassed, assaulted and prosecuted for speaking Ukrainian or Tatar languages in public places or using national symbols. Such conditions are also reflected in the diminishing possibilities to receive education in another language than Russian, particularly in Ukrainian.

### *Language and education*

317. There are only two Ukrainian schools in Crimea: in Yalta and Simferopol. According to the head of the Department of Education in Simferopol, three out of four classes in the Simferopol gymnasium will now use the Russian language. The decision is motivated by the decision of 86 % of the parents who reportedly decided to switch to Russian-language studies. The director of the gymnasium was allegedly forced to resign. There is information that the local authorities in Sevastopol are planning to close the only Ukrainian boarding school/orphanage.
318. On 14 May, the press service of the Ministry of Education and Science of the Russian Federation reported that teachers of the Ukrainian language and literature of general educational institutions could be re-trained to become teachers of the Russian language and

literature. The Presidential Council for Civil Society Development and Human Rights of the Russian Federation recommended to keep the study in the Simferopol Ukrainian gymnasium in Ukrainian language and to resume the work of the Faculty of Ukrainian and Crimean-Tatar Philology in the Tavrida National University.

319. In light of Article 27 of the ICCPR, the HRMMU recalls that all the national communities in Crimea must be supported to preserve, develop and promote their identity, language and culture, and to use their mother tongue in education and daily life.

#### *Property rights*

320. In early March, public notaries stopped documentation of property acquisition and sale deals in Crimea, when Ukraine blocked access to the peninsula for the State Register of Real Estate and Land Plots. Crimean residents face serious difficulties in exercising their right to property due to the pending court decisions, transactions, and the privatisation process. On 10 May, the Russian Minister of Crimean Affairs stated at a press conference that the Russian authorities would deal with cases of unauthorized acquisition of land in Crimea "with full responsibility and caution". On 28 May, a draft law "On the special procedure for real estate registration in Crimea" was introduced in the Russian Parliament. The text proposes to delegate to the local authorities, during a two-year transitional period, the right to resolve land issues.
321. The HRMMU stresses that decisions concerning such important issues as land and property must be taken through an inclusive, transparent and fair process that will eliminate the risk of corruption and tensions.

#### *Right to an adequate standard of living*

322. On 13 May, the Ukrainian State Water Resources Agency stated that Ukraine shut off water supplies to Crimea via the North-Crimean Canal, which accounts for 85% of all fresh water on the peninsula. The Canal water is mostly used for irrigation purposes, and its closure could severely impact agricultural land and the upcoming harvest. This situation has reportedly had no negative implications for drinking water, according to the 'First Deputy Chairman' of the Council of Ministers of Crimea, Rustam Temirgaliyev. Having no access to Crimea, the HRMMU does not have additional information about the impact of the shut-off of water supplies on the economic and social rights of the Crimean residents.

#### *Banking*

323. Access to banking services remains complicated for Crimean residents. On 7 May, the National Bank of Ukraine (NBU) decided to suspend operations of Ukrainian banks in Crimea until 6 June. However the activities of Ukrainian banks were terminated on 2 June, by decision of the Central Bank of Russia motivated by the need to protect the interests of depositors and customers. Compensation payments will reportedly be made by a non-profit organization, the "Depositor Protection Fund", which acquired the rights to deposits.

### **C. The rights of indigenous peoples**

324. The 18 May marked the 70<sup>th</sup> anniversary of the massive deportation of Crimean Tatars and other minorities by the Soviet authorities. A Decree of the President of the Russian Federation, in force on 21 April, had instructed the authorities in Crimea and Sevastopol to

support events commemorating the deportation. However, referring to security considerations linked to the events in south-eastern Ukraine, the authorities in Crimea issued on 16 May a decree prohibiting all mass events until 6 June. Eventually, the “Council of Ministers” of Crimea decided on 17 May that the commemoration could go ahead, although not in the centre of the capital of Crimea, Simferopol. The commemorations passed without incidents, albeit with significant and sometimes intimidating police presence.

325. On 29 May, the State archive of the SBU handed over the documents on Crimean Tatar deportation from Crimea in 1944 to the representatives of the Crimean Tatar Mejlis. The head of the SBU, Valentyn Nalyvaichenko, and the former head of the Crimean Tatar Mejlis, Mustafa Dzhemilev, participated in this event.
326. On 4 June, the Crimean Parliament adopted a Decree providing for social guarantees to the people who were deported on an ethnic basis in 1941-1944 from the Crimean Autonomous Socialist Soviet Republic. The Decree will provide social benefits in the form of one-time payments to the Crimean Tatars, Armenians, Bulgarians, Greeks and Germans, along with their families and children who were born in exile. This document was adopted pursuant to a Decree signed by Russian President Vladimir Putin on 21 April 2014, rehabilitating formerly deported people from Crimea.

## **V. CONCLUSIONS AND RECOMMENDATIONS**

327. During the reporting period, the HRMMU identified acute human rights concerns particularly in the eastern regions, Crimea and in the aftermath of the Odesa 2 May violence. They are symptomatic of the particular local contexts, not least involving the presence of armed groups, the breakdown in law and order and on-going security operations. As highlighted in the report issued on 15 April 2014 by OHCHR, 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. The root causes of the current crisis were initially due to the systematic and structural curtailment of human rights and widespread corruption. The way out of the current crisis, to ensure reconciliation of communities through peaceful and democratic means, will be through the accountability for violations and the full respect and guarantee of all human rights for all.
328. With the election of President Poroshenko, there is the opportunity for the Government of Ukraine to prioritise addressing these systemic and structural concerns through institutional reform focusing on human rights challenges in the short-term, and progressively paving the way for the establishment of a system that promotes and protects human rights for all, ensures justice, good governance and the rule of law through inclusive, non-discriminatory and participatory means. A comprehensive national human rights action plan reflecting all recommendations from the international and regional mechanisms is highly recommended, as well as the creation by the Government of a senior level coordination mechanism of

implementation open to state institutions, civil society and having the combined support of the UN, regional organisations and the international community.

329. Recommendations have been made below on Crimea to both the authorities in Crimea and the Russian Federation, which exercises de facto control over the peninsula. With the negative impact of the current situation, including the legal uncertainty, on the full enjoyment of human rights by the residents of Crimea, the HRMMU is advocating for the legal framework of Ukraine to remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
330. The recommendations should be read in conjunction with - and seen as complimentary to – those outlined in the OHCHR reports on the human rights situation in Ukraine, issued on 15 April and 16 May 2014, which have not yet been fully implemented.
331. The HRMMU takes note of the joint report by the OSCE Office for Democratic Institutions and Human Rights and the OSCE High Commissioner on National Minorities issued on 12 May 2014, and calls upon all relevant parties to implement its recommendations.

#### **To the Government of Ukraine and other stakeholders**

- a) There should be constitutional inclusive and meaningful consultations with all political parties, regardless of their ideology, as well as representatives of civil society and minority (national and ethnic, linguistic, religious and other) groups and indigenous peoples in order to embrace all components of society, including women in the dialogue for the new constitution, which will reflect the new reality of the country with a full-fledged system of checks and balances. The peaceful population of the east should participate in these consultations.
- b) As a representative body of the country, the Parliament should reflect the new political and social reality of the country; therefore there is a need for new parliamentary elections.
- c) All armed groups must immediately put an end to their violent activities and lay down their arms.
- d) The Government must ensure that its armed forces refrain from using excessive force, and ensure that its ongoing security operations are at all times in line with the relevant international standards applicable to different types of operations. In all circumstances, it must ensure the protection of those who are not involved in the fighting.
- e) All people detained in the context of the security operations should be treated in line with international norms and standards and guaranteed their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law. In order to protect its security personnel and persons not involved in the fighting, the Government should consider providing assurances that acts of abduction and detention by armed groups will not be prosecuted provided that they do not target people not involved in the fighting and the victims are treated humanely at all times.

- f) The role and position of the Ombudsperson and National Preventive Mechanism, as the main bodies / institutions working towards the strengthening of the national human rights system and the protection and guarantee of human rights for all, should be enhanced.
- g) All gaps of legislation should be brought in line with the recommendations of the international human rights mechanisms (treaty bodies, universal periodic review and special procedures); the Judiciary, Office of the Prosecutor General and the Bar Association should operate in line with relevant international norms and standards in order to ensure fair trial without which it is impossible to tackle corruption.
- h) The Constitutional Court should be enhanced – legal, social and all other guarantees need to be elaborated in order to ensure the genuine independence of the Constitutional Court.
- i) The State Migration Service should propose amendments to bring the refugee law in line with international standards, and to allocate sufficient funds to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.
- j) A language law should be adopted in line with international standards that enables the promotion of the official national language as well as other languages.
- k) A central authority should be established to respond to the humanitarian needs of IDPs, including by establishing a comprehensive registration system, formulation of legislative and regulatory acts to ease access to important social and economic rights, establishing public assistance programmes, mobilization and coordination of civil society-initiated relief efforts, and cooperation with international donors and technical assistance.
- l) All stakeholders should refrain from using messages of intolerance or expressions, which may incite hatred, violence, hostility, discrimination or radicalisation.
- m) Access for international organisations to the areas affected in eastern Ukraine by the security operations (urban areas in the epicentre of the fighting) should be facilitated so that the real needs of the population can be assessed and addressed.
- n) Normative acts to ensure freedom of movement for residents of Crimea should be enacted as soon as possible.

**To the authorities in Crimea and the de facto governing authority of the Russian Federation**

- o) Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
- p) Journalists, human rights defenders and individuals must be able to fully exercise their right to freedom of expression, in accordance with Article 19 of the International Covenant on Civil and Political Rights.

- q) Ukrainian legislation should remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
- r) Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security
- s) Criminal and administrative liability should not be used as a mechanism of intimidation against Crimean Tatars and other residents of Crimea, but used in line with international law.
- t) Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.
- u) All forms of intimidation and harassment of religious communities must be put to an end and all incidents, including those where there have been attacks on Ukrainian Orthodox Church, Greek Catholic Church and the Muslim community must be properly investigated, thus enabling the effective promotion and protection of the freedom of religion or belief.
- v) The promotion and protection of the rights of national minorities, including the Crimean Tatars and other indigenous peoples must be ensured, enabling them to participate fully and inclusively in public and political life.
- w) The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

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

## **Report on the human rights situation in Ukraine 15 July 2014**

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## **I. EXECUTIVE SUMMARY**



1. The continuing deterioration of the human rights situation in eastern Ukraine, the rapid escalation of hostilities and the growing impact on the rest of the country have been the main developments during the past month<sup>72</sup>.
2. Egregious human rights abuses have been committed in the Donetsk and Luhansk regions of eastern Ukraine, where armed groups supporting the self-proclaimed “Donetsk People’s Republic” and “Luhansk People’s Republic” (DPR and LPR respectively) have, until recently, controlled a large part of the territory, including most of the main population centres. There have been hundreds of abductions with many victims tortured.<sup>73</sup> Increasing numbers of civilians have been killed.
3. The Ukrainian security operation, referred to as an ‘anti-terrorist operation’ (ATO), aimed at regaining control of the regions of Donetsk and Luhansk held by these armed groups, involves the army, the military police (National Guard), the National Security Service (SBU) and volunteers’ battalions. In any law enforcement operation security forces must act proportionally to the threat and must at all times respect the right to life. In addition, in the conduct of hostilities all those involved in the hostilities must comply with principles of distinction, proportionality and precautions. This is particularly important in an environment in which armed groups and civilians are inter-mingled.
4. The current intense fighting using heavy weaponry in and around population areas, has devastated towns and villages, demolishing residential buildings and killing an increasing number of their inhabitants. Precautionary measures should be taken to avoid the deaths and injury of civilians.<sup>74</sup>
5. There has been deliberate targeting by the armed groups of critical public utilities like water, electricity and sewerage plants that have shut down essential supplies to the residents. Public and private properties have been illegally seized and residences destroyed. Banks have been robbed and coal mines attacked. Railways were blown up. Hospitals and clinics were forced to shut down and essential medicines and emergency medical services became scarce or totally unavailable. People were unable to leave their homes in some places, trapping older persons or persons with disabilities. The rule of law no longer existed and was replaced by the rule of violence. The increased level of fear, intimidation, harassment and fighting inflicted on the population of the region resulted in an ever growing flood of internally displaced persons fleeing, at latest count 86,609<sup>75</sup> people.
6. Some regional and local officials were abducted and tortured. The regional government in effect ceased to function in the two eastern regions. Some local authorities continued to work but with greatly reduced control or were co-opted by the armed groups. Salaries, pensions and other social welfare payments stopped in some places. The police and judiciary ceased to function. Residents were left to cope in whatever way they could. Volunteers attempted to fill the gaps.

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<sup>72</sup> This is the fourth 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 8 June to 15 July 2014.

<sup>73</sup> Illegal acts committed by the armed groups include abductions, detentions, torture, murder, executions, extortion, and destruction of property.

<sup>74</sup> On 23 July, the International Committee of the Red Cross (ICRC) issued a News Release calling the fighting in eastern Ukraine a ‘non-international armed conflict’ and urging all parties to comply with international humanitarian law. This requires to impose restrictions on the means and methods of warfare and to distinguish at all times between civilians and persons directly participating in the conflict. In particular, no attacks must be directed against civilian objects such as homes, schools, medical facilities and places of worship, among others.

<sup>75</sup> UNHCR, 15 July 2014.

7. In some places the situation was worse than in others. Slovyansk city (normal population about 130,000 which by early July was down to less than half) in northern Donetsk region was, since April, the stronghold and main base of operations for the armed groups. The residents were particularly badly affected due to the almost constant shelling and fighting there for weeks as the armed groups and Government forces clashed.
8. The professionalization of the armed groups fighting in the east has become openly acknowledged and self-evident. Their leadership, many of whom are nationals of the Russian Federation, are trained and hardened by experience in conflicts, such as in Chechnya (Russian Federation) and Transnistria (Republic of Moldova). What was previously something of a rag tag of armed groups with different loyalties and agendas is now being brought together under the central command of these men. Heavy weaponry including mortars and anti-aircraft guns, tanks and armoured vehicles, and landmines are now being used by them. As the 'Minister of Defence' of the armed groups told the HRMMU on 8 July: "we are in the state of war".
9. The armed groups from the Donetsk and Luhansk regions have themselves joined forces in a self-proclaimed 'People's Republic of Novorossia'. They claimed to have adopted a constitution and to be making other preparations for establishing an unlawful self-government.
10. Throughout the reporting period, the Government of Ukraine pursued its "anti-terrorist" operation (ATO), under the direction of the State Security Service, as it sought to regain control of territory in the eastern regions. This security operation has intensified in the past two weeks involving the use of heavy weaponry and airstrikes. Following the announcement of a Peace Plan by the President of Ukraine on 20 June, the Government implemented a 10-day ceasefire but this was reportedly breached at least 108 times, killing 27 Ukrainian soldiers and wounding 69. At least 9 people not involved in the fighting were also killed, including one eleven month old child. After the ceasefire ended on 30 June, the Government mounted an intense offensive, recapturing territory including the main strategic base of the armed groups in the Donetsk region - the city of Slovyansk - and stating it had regained control of the Ukraine-Russian Federation border areas that had previously been under the control of the armed groups. But the price was high with at least 30 civilian deaths, many wounded, and a great deal of destruction to the recaptured villages, towns and cities. And the control was tenuous, as evidenced by the continuing attacks by armed groups that have killed and wounded soldiers and many civilians. Neither side expressed any public willingness to come together to discuss a negotiated peace. The level of rhetoric and propaganda escalated, with allegations of deliberately targeting civilians. The President, however, stated his readiness to restore a ceasefire upon the following conditions: (i) all hostages should be released; (ii) Governmental control over the border with the Russian Federation should be restored; and (iii) armed groups should be disarmed.
11. The protection of civilians in the eastern regions has been of increasing concern. On 4 July, the United Nations High Commissioner for Human Rights expressed concern about the safety of people caught in the crossfire between Ukrainian forces and the armed groups, and reminded all those involved in the fighting of the need to scrupulously respect residents' fundamental rights, including the right to life. The Government appeared to take notice and, on 8 July, said it would give special attention to the prevention of civilian losses and would not bombard the cities of Donetsk and Luhansk, to which the armed groups had retreated. Instead it would blockade those cities in an effort to force the armed groups to surrender. A leader of one of the armed groups said it was prepared to start a full-scale guerrilla war.

12. Nevertheless people trapped in areas controlled by the armed groups continue to be killed as the heavy shelling continues from both sides. Questions arise about the conformity of these attacks with the rules governing the conduct of hostilities. It is essential that the authorities conduct full and impartial investigations of all incidents where civilians have lost their lives or been wounded.
13. Civilians continue to be abducted by the armed groups. Some people previously abducted and recently released have reported being tortured by them. New allegations of executions by the armed groups have arisen. There have also been cases reported of enforced disappearances of people detained by Government forces, including in areas where the Ukrainian authorities have regained control. The Government must guarantee accountability for all its actions, curtailing impunity and ensuring the local population do not face reprisals. There is also concern about the arbitrary detention of people who are suspected of being supportive of the armed groups.
14. Meanwhile, the situation in the east has begun to impact the rest of Ukraine. Although most people carried on their lives as normal outside the Donetsk and Luhansk regions, there are already signs that violence in the east is having an impact elsewhere.
15. One of the most obvious and immediate impacts has been the increase in the number of internally displaced persons (IDPs) – the majority of whom are women and children - having to be accommodated in the rest of the country. Initially the Government was slow to react to the growing flood of people fleeing the violence in the east, relying on volunteers and the goodwill of the local receiving communities. But as the numbers increased and the lack of coordination, planning and resources became evident, the State Service for Emergency Services stepped in. However, many problems remained to be addressed, including the need for a central registry to document the IDPs, and for the central government to ease access of the IDPs to important social and economic rights. This was partly addressed in a decision in June by the Cabinet. However, other concerns remain, including meeting the specific needs of women and children, who make up the majority of the IDPs. Most IDPs are accommodated in private homes, sanatoriums, student dormitories (that are currently vacant during the summer holidays), or in other temporary situations. If the fighting and hostilities in the east continue, there is concern about how this temporary accommodation will be maintained, especially as the weather gets colder and if the summer sanatoriums are not winterized.
16. At the same time, there is concern that there might be a new wave of IDPs from Crimea in the next few months because of tightening restrictions, the continuing harassment and discrimination against ethnic Ukrainians, Crimean Tatars, and representatives of minority groups in general, as well as stringent limitations of the rights of association, peaceful assembly and expression.
17. A second impact of the worsening situation in the east, are the instances of use of hate speech. High level public condemnations of such troubling developments are required. There are reports of Russian-owned banks and some businesses having been targeted by activists who charged them with ‘financing terrorism’ in the eastern regions. Steps have been taken to ban the Communist Party. Negativity about IDPs has begun to surface, in particular on social media, further dividing opinions between east and west.
18. Concerned about the lack of military equipment, families and local communities themselves have provided basics such as flak jackets, ammunition, and food to new troops being sent to the Government security operation. Local and regional authorities have tried to manage with the growing need to provide social protection to the increasing number of

local families who have members serving in the security operation. As the number of military deaths rise, it can be expected that there will be additional tensions.

19. In some places, tensions have risen for other reasons. In Odesa, there have been a series of bomb hoaxes and violent incidents. This has further affected communities already traumatised following the 2 May violence when 48 people were killed. Accountability for such loss of life must be guaranteed, ensuring justice for the victims as well as perpetrators. Regional and local authorities appear unwilling or unable to take steps to calm the current situation. Arrests have started to be more frequent around the country of people accused of being part of or linked to the armed groups in the east. Dissatisfaction with the lack of accountability in the appointment of regional and other high-level officials, and with the slowness of central government in effectively tackling corruption, has begun to come to a head with confrontational demonstrations.
20. The social impact of the violence and fighting should not be underestimated. It is further exacerbated by the propaganda war, alongside the rhetoric of hate speech that is fuelling further violence. On the other hand, there were some positive developments. Citizens, both individually and in groups have stepped in where their government has been unable to respond quickly enough to rapidly changing events, assisting their communities in the east, accommodating the people fleeing the fighting, and even providing support and equipment to the armed forces. Perhaps this new civic spirit will help drive the next phase of the much needed change in Ukraine.
21. On 27 June, President Poroshenko signed the trade agreement with the European Union (EU) that completes the Association process. Recognising the significance of the occasion, the President said after signing the agreement that this was the second most important event in Ukrainian history after independence. As promised, the Government published on 2 July its proposed amendments to the Constitution allowing for greater regional autonomy and for the use of their own languages. Other important legislation was passed tackling corruption and there were some institutional reforms, including the firing of staff who were found to be inept, corrupt or had committed other violations. Most notable among these, in terms of the large numbers involved, were the firing of 17,000 law enforcement officers and of 1,500 employees of the Office of the General Prosecutor, although the latter appeared to be more an austerity measure. It is essential that in undertaking such action, the rights of the individuals be fully respected.
22. With so much of its attention focused on the escalating security operation in the east and responding to the increase of violence of the armed groups, other key aspects of reform are beginning to receive less attention from the Government. Reform of the judiciary and the system of justice remain to be addressed. Initial steps have been taken to reform law enforcement with a pilot project to start in Lviv, the results from which will form the basis of a reform package. Reform also needs to address the powers of the State Security Service (SBU). The results of the investigations into the Maidan and Odesa violence are still awaited.
23. The unexpected cost of fighting an escalating security operation in the east, which could amount to many millions of dollars, will impose a heavy economic burden on Ukraine. The negative impact of this will be even greater given the current recessionary economic situation in the country, as will the damage inflicted by the armed groups on the infrastructure of the Donbas region, which houses a large part of Ukraine's heavy industry.
24. As it reclaims territory in the east that was formerly held by the armed groups, the Ukraine Government faces a daunting task of rebuilding communities ravaged by the months of fighting, instances of intense violence against protesters and the polarizing

impact of the on-going propaganda war. Humanitarian assistance is already being provided by the international community and a Donor's Conference is being organized by the EU for later in the year. This will provide resources for Ukraine to undertake necessary reform.

25. Corruption and mismanagement has existed for many years. The respect and promotion of good governance, the rule of law and human rights, including through the introduction of critical reforms, must continue as a priority as Ukraine seeks to fulfil its EU aspirations and establish a democratic, pluralistic and prosperous society.

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

26. The rights to life, liberty and physical security are usually the first to be abused during hostilities, such as that happening in eastern Ukraine. It is the responsibility of the Government to ensure that civilians are never targeted and that all precautions are taken to spare the loss of innocent lives. Detained persons must be treated humanely and provided with all due process guarantees, starting with the right to counsel and information about the reasons for the detention. Arbitrary detention and abduction, hostage taking and other human rights abuses must be promptly investigated and the perpetrators brought to justice. In addition, any allegations of extrajudicial killings and enforced disappearance must be duly investigated and perpetrators brought to account. The armed groups fighting in the east must abide by international law but unfortunately this has not been the case. Grave human rights abuses have been committed by those armed groups. And it must be remembered that these groups have taken control of Ukrainian territory and inflicted on the populations a reign of intimidation and terror to maintain their position of control. The Government is undertaking its security operation, within a legislative framework that includes anti-terrorism laws and the criminal procedure code. It also needs to ensure respect for international law and the protection of human rights for all those who live in the Donetsk and Luhansk regions.
27. All allegations of abduction, enforced disappearance, arbitrary detention, torture, ill treatment and other human rights abuses must be investigated and the perpetrators held to account. However, ensuring an impartial investigation of the multiple killings, detentions, cases of torture and enforced disappearances and other reported violations and abuses has not been possible until now because of the dangerous situation in the east and the limited control of the Ukrainian Government in the territory.

### ***Casualties***

28. The number of casualties is hard to ascertain. However, based on the best data available conservative estimates by the HRMMU and the World Health Organisation (WHO) are that at least 1,000 people have died from mid-April until 15 July. This includes military and civilians (including members of the armed groups). According to the Ministry of Health, as of 10 July, 478 civilians have been killed (441 men, 30 women and 7 children) and 1,392 injured (1,274 men, 104 women and 14 children) since the fighting began in eastern Ukraine in mid-April. However, the Ministry withdrew these figures the same day they announced them, and have issued no further data since. In addition, the Ministry's figures only include those dead who were delivered to morgues of medical establishments, or those wounded and who later died in hospital. In fact, many dead were buried without being taken to morgues. The number of casualties of the Ukraine armed forces is given as 258, with 922 wounded, according to the Council for National Security and Defence on 15 July.

The number of members of armed groups who have been killed is unknown, but some may have been counted within the numbers of civilians killed.

29. Since 10 July, there have been at least 44 more civilian casualties, including two children, for a total of 522 people, as reported by civil medical establishments and regional administrations in the Donetsk and Luhansk regions. Most of these recent have been the result of intense shelling of villages, towns and cities, the so-called 'collateral damage' to the fighting that is taking place in and around population centres.
30. In this report, the HRMMU has enumerated cases where people were killed by indiscriminate shelling. However, of the figures above, the Government has said that most of the deaths were by gunshot wounds.
31. The armed groups are locating their military assets in and conducting attacks from densely populated areas thereby putting the whole civilian population at risk. Locating military objectives within or near a densely populated area, and launching attacks from such areas may constitute a violation of international humanitarian law.
32. Human Rights Watch and Memorial, sometimes accompanied by Ukrainian human rights defenders, have visited the town of Krasny Liman, and the villages of Stanista-Luganskaya and Staraya Kondrashovka to investigate the circumstances in which civilians have been killed. In Stanista-Luganskaya and Staraya Kondrashovka, at least 11 people were killed including 2 children on 2 July; in Krasny Liman, shelling hit the Railway Hospital, killing the chief surgeon and wounding three others.
33. As the increasing number of casualties in the past few days attests, there has not been sufficient precaution taken to preventing death and injury to civilians. Recent examples include the shelling of the village of Maryinka and of the Petrovskiy district of Donetsk on 11 and 12 July when at least 16 people were killed, including one child. There was an air strike on the town of Snizhne in the Donetsk region on 15 July, and at least 11 people were killed from shrapnel wounds and eight more wounded, including one child. On 11 July, Ukrainian forces claimed to have destroyed a camp of an armed group located in the premises of an empty school in the village of Golmovsky, near Horlivka. The armed group claimed that one civilian had been killed during that air strike. On 13 July, two civilians were killed in Krasnogrovka in the Donetsk region. On 15 July, the Mayor of Luhansk announced that 17 Luhansk residents were killed in residential areas during attacks on 14 July and 73 people received shrapnel and gunshot wounds during the fighting. On 15-16 July, one civilian died and nine more were injured as a result of gunfire in Luhansk. During the hostilities, paramedics reported responding to 160 calls.
34. However, not all of the deaths and injuries can be attributed to reported shelling or air strikes of towns/villages. Some deaths had other causes. For example anti-personnel landmines have killed at least three and injured two others; people have been killed when the passenger buses they were travelling in were shot at; and people have been killed when travelling in their car. Three traffic policemen were killed at close range and without warning, according to an eyewitness, in Donetsk city on 3 July. A criminal investigation has been opened into the police killings. A motorist was killed when armed groups stole the car he was driving in Noviy Svit (Donetsk region). There have been reports of people being used as 'human shields' by the armed groups, as for example in Horlivka on 14 June. In this incident, after two people were killed and 8 injured, reportedly during an airstrike, the armed group then threatened to organise "human shields", by placing detainees on the roof of a city municipal building. The detainees, included five servicemen from the Kirovograd region and two 25<sup>th</sup> army brigade officers and their driver who were all from Dnepropetrovsk region.

### *Abduction and detention*

35. According to the Ukrainian government<sup>76</sup>, since mid-April, 717 people have been abducted by armed groups in eastern Ukraine. These included: 46 journalists, 112 police officers, 26 representatives of the OSCE, 22 deputies, members of political parties and heads of district (town) councils, 5 employees of the prosecution office, 2 lawyers, 2 judges, 1 employee of the penitentiary service and 481 other people (including 392 girls and women). The armed groups also detained 91 servicemen and border guards as well as 4 Security Service officers. 437 people were released. The whereabouts of 375 people remains unknown.
36. The HRMMU has been following the cases of 400 people who were abducted since mid-April. Of these, 4 people are dead (having been found dead with visible signs of torture), 211 are still detained, and 185 have been released. Of those still detained, 202 are men and 9 are women.
37. The number of people abducted by the armed groups has significantly increased in Luhansk city during the past 2 weeks. For example, a group of 13 employees of PrivatBank were abducted on 7 July. Four were subsequently released and 9 remain in captivity.
38. Intimidation and violence by the armed groups against civilians in the east has continued, with people being abducted and detained often for purposes of hostage taking. The armed groups also carry out acts of ill-treatment, torture and murder.
39. Some of those detained by the armed groups are local politicians, public officials and employees of the local coal mining industry; the majority are ordinary citizens, including teachers, journalists, members of the clergy and students.
40. The motivation for the abductions and detentions by the armed groups appears to be: a) exchange with detainees held by the Government; b) gain some influence on the situation; c) extortion of property or money; d) source of labour for digging trenches and preparing military barricades; e) opportunistic 'arrests' of people; and f) 'internal discipline' of the armed groups themselves. With these acts, the armed groups continued to exercise their power over the population in raw and brutal ways.
41. Examples of the 400 cases that the HRMMU has been following include the following: in Donetsk, a free-lance cameraman was reportedly abducted in Slovyansk. In Soledar (Donetsk region) the chairman of a Trade Union organization at the Artyomsol Company was abducted. A professor at the Luhansk National University was abducted. A resident of Pionerske village in the Luhansk region was reported missing. The Head of a company called Agrovostok in Malarovo (Luhansk region) was abducted. According to unconfirmed reports, the police chief of Severodonetsk (Luhansk region) was detained by armed persons. Two university students were abducted in Donetsk allegedly for breaking the curfew and told they would be drafted into the DPR army. They were later found in an occupied public building and had been engaged in 'forced labour'. A university professor was abducted by armed persons 'for questioning' for allegedly taking photos and videos of the movements of armed groups and posting them online. Two senior managers of a private company were abducted at a checkpoint while driving at night near Karlivka (Donetsk region). A protestant pastor and his wife were abducted and held in Druzhkivka (Donetsk region) by the 'Donbas People's Militia'. Three drunk people driving a car in Luhansk were reported missing; two others who were drinking with friends outside a café in downtown Luhansk were 'arrested' by armed men after a fight broke out. An assistant of the Donetsk Regional Governor was abducted on 26 June and the chief of the Artemivsk pre-trail

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<sup>76</sup> Ministry of the Interior figures as of 18 July.

detention centre was abducted on the same day, when armed groups robbed the centre's armoury. Reportedly, armed members of the "Right Sector" abducted the Mayor of Kurakhovo and a deputy of the city council on 8 July. They later confirmed to the HRMMU that they were questioned about their collaboration with the armed groups in Maryinka, and then were released on 9 July.

42. The length of period for those detained varies considerably – some are held for a few hours, others for several months. In the majority of cases, release depends on factors such as whether there is an exchange of some sort, e.g. money. However, there have also been occasions in the past month of a number of detainees being released without any particular "exchange". Between 7-13 June, some 32 people were released by the armed groups. However, a pattern emerged that no sooner were some people released than others were detained, reinforcing the opportunistic and resource providing element to the abductions and detentions.
43. In addition to the abductions and detentions of local citizens, there were the cases of the eight monitors (in two separate teams) from the OSCE Special Monitoring Mission who were abducted by armed groups in May. All eight were released over a period of a few days in early July.
44. Other cases of detention include the former Mayor of Slovyansk, the current mayor of Mykytivka (a village near Slovyansk), and the head of the Artyomivsk city department of the Ministry of the Interior (MoI), all of whom were detained by armed groups. In a 25 June meeting in Mariupol, the HRMMU learned that the acting Head of the Mariupol city department of the MoI was conducting investigations into "pro-Russian" activities in Mariupol in connection with the 9 May incidents. In addition some activists being detained by Ukrainian law enforcement and voluntary battalions, allegedly committed crimes under Article 258 (Act of terrorism) of the Criminal Code. No clarification has been provided to the HRMMU on the exact whereabouts of those detainees. It was also reported that the Right Sector in coordination with the Ukrainian military had detained a leader of one of the armed groups in the Donetsk region on 25 June.
45. Since 5 June there have been instances when drug users (even those in remission) and people living with HIV/AIDS who, because of their status, have been detained by armed groups. Reportedly, some are being tortured and kept in basements. The relatives of the detained are frequently required to pay a "fine" (ransom) ranging from 200 to 1,000 USD. Many detainees are also forced to "work off their guilt" as forced labour or to fight on the front lines for 15 days. Those who cannot pay the ransom are given the option to "wash off their guilt with blood"; in other words, they are sent to the front lines to fight on the side of the armed groups. Evidently, the armed groups consider these actions to be "prevention measures for drug addicts". At the same time there were some cases of abduction reported in other regions of Ukraine. For example, a local leader of a Right Sector chapter in Ivano-Frankivsk region was reported abducted by unknown persons during the reporting period.

#### ***Torture and ill-treatment***

46. In discussions with the HRMMU following their release, many detainees who were held by armed groups report beatings, ill-treatment, sleep deprivation and very poor conditions while in detention, and forced labour, including digging trenches on the front lines. As an "alternative" to torture and ill-treatment, it was suggested that detainees join the ranks of those fighting for the armed groups. Some, allegedly, are forced to participate in the abduction of other people. The son of a man abducted in Donetsk on 7 July reported that his father had been transferred by the armed groups to Snizhne where about 100 detainees, males aged from 14 to 60 years old, were being held. He said that during the day the



detainees were forced to dig trenches near the Ukrainian-Russian Federation border, which has been on the front lines of heavy fighting between the armed groups and the Ukraine forces. A Donetsk Regional State Administration official was released from captivity in Horlivka on 10 July. He had been held since 26 June and said he had been tortured.

### ***Executions***

47. Written records of execution orders authorized and signed personally by the ‘Commander-in-Chief’ of the armed groups, Igor Girkin (known as Strelkov), as well as protocols of hearings of a ‘military tribunal’ convicting people to death, were found in Slovyansk by a journalist on 7 July. The convictions were apparently of people associated with armed groups, and a common criminal. The HRMMU is verifying these records with relatives of the victims and a witness.

### ***Abduction of children***

48. Children face particular hazards in the conflict zones. Orphans, many very young or with disabilities, in the Donetsk and Luhansk regions have faced particular difficulties, sometimes being used as pawns in the larger geo-political dispute. For example, in Donetsk, the chief medical officer reported difficulty in evacuating children from an orphanage in Kramatorsk city, because armed groups did not want to send Donbas children “to an enemy country, Ukraine” and wanted them to go to the Russian Federation. All 32 children were eventually evacuated safely to the Kharkiv region on 28-29 June thanks to the intervention of a Moscow-based NGO. In so doing, one of their representatives faced some personal danger, including being briefly detained by local armed groups on 25 June.
49. A group of 16 children and two chaperones, who were allegedly abducted and transferred to the Russian Federation territory on 12 June by armed groups, were returned back to Ukraine on 13 June.<sup>77</sup> The Ombudspersons of Ukraine and the Russian Federation actively cooperated to facilitate the return of the children.
50. On 7 July, the UN in Ukraine received an official communication from the Government of Ukraine informing the UN of possible attempts by armed groups to forcefully transport 206 orphans from the Donetsk region to the Russian Federation, saying that it had informed the Embassy of the Russian Federation in Ukraine about the above-mentioned situation and called for the implementation of international obligations to guarantee the rights of children.
51. On 13 July, 54 children from a Maryinka orphanage were taken to Donetsk by armed groups after attempts to transfer the children to the Russian Federation were unsuccessful. This was in spite of intense pressure being placed on the directors of the orphanage. The children remain in Donetsk.

### ***Allegations of sexual violence***

52. The HRMMU has received reports of allegations of sexual violence being committed against individuals by members of the armed groups. It has also received allegations concerning a National Guard in Kramatorsk. The HRMMU is trying to verify such claims.

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<sup>77</sup> The Ministry of Foreign affairs (MFA) of Ukraine issued a statement on 12 June accusing the Russian Federation of having allowed the illegal transfer to its territory of 16 orphans. The children were reportedly part of a group of people abducted in the town of Snizhne by armed representatives of the “Donetsk People’s Republic”. According to the MFA, the children did not have proper permits to cross the border, and that in such conditions their transfer qualifies as an act of international abduction of children. The MFA sent a note verbale to the MFA of the Russian Federation requesting urgent measures to be taken to ensure the immediate return of the children in Ukraine and the prosecution of persons involved in the promotion of their illegal entry into the Russian Federation.

### *Arbitrary detentions and enforced disappearances*

53. Members of the Ukrainian territorial battalions and the National Guard are alleged to have arbitrarily detained a number of suspected supporters of the armed groups and subjecting them to enforced disappearances. The HRMMU is seeking verification on a number of cases.
54. On 11 June, the HRMMU with the Head of the National Preventive Mechanism (NPM) visited the Headquarters of the Government's security operation in the eastern regions, which is based in Izyum, to gain information on the situation of those detained by the Government armed forces in the context of the security operation. According to information provided to the HRMMU, all persons detained by the Ukrainian armed forces during the security operation are sent directly to the State Security Services of Ukraine (SBU).
55. On 27 June, the HRMMU met with the head of the Investigative Department of the SBU, who said that in the current situation, detentions are often carried out in areas within close proximity to the fighting, which sometimes does not allow for entire compliance with the procedure of detention of the Criminal Procedure Code. Also, since in many towns of the two eastern regions the police was not functioning, detainees had to be transferred to Kyiv, which reportedly did not allow for timely notification of the relatives about the fact of detention. The HRMMU was also told that none of the detainees kept in Kyiv by the SBU have been tortured or ill-treated.
56. On 4 July, the Ministry of Interior stated to the HRMMU that if detentions are undertaken by battalions subordinated to the Ministry of the Interior, they are carried out in accordance with the law "On police", which obliges battalions' volunteers to fill out a protocol for detention, and then they usually transfer detainees to the authorities (mostly in Kyiv). The HRMMU is, however, concerned that such procedures are not respected, following reports it has received on the situation of individuals detained in the course of the security operation. According to the Criminal Procedure Code of Ukraine, the detaining authority must immediately take steps to ensure that a person arrested can benefit from the services of a counsel; in addition, the person must appear before a court within 60 hours following his or her arrest in order to determine the measure of restraint to be applied. The HRMMU has observed that these two requirements were often not met because the security environment did not allow securing the services of a defence lawyer and for the suspect to appear before court within the prescribed deadline. In addition, the powers granted under Ukraine's counter-terrorism legislation, place emphasis on the collection of information, including interrogation of suspects. Thus, persons detained as part of the security operation may often be victims of a protection gap, and consequently suffer a violation of their rights, due to the application of provision of the Criminal Procedure Code in a context characterized by active fighting and limitation of movements.
57. Together with the NPM, the HRMMU is following up on cases of detention by the security forces, a number of which are cause for concern, in particular those of enforced disappearance.
58. For example, a Donetsk resident was detained by the SBU in the main Kyiv train station on 13 June. Information about the detention was published on the SBU website, which mentioned that the individual was "an active member of the terrorist DPR". However, the SBU later denied having detained this individual who is currently unaccounted for. His defence lawyer has been unable to contact him since the arrest took place.

59. Reports suggested that members of the Ukraine forces have been responsible for the ill-treatment and torture of detainees. On 18 June, the editor-in-chief of the local newspaper "Vestnik Priazovya" was detained by armed men of one of the Ukraine battalions in Mariupol. The HRMMU has received very contradictory information on this case of enforced disappearance, and is now closely cooperating with the NPM to verify it.
60. On 10 July, unknown persons reportedly opened fire on the Artemovsk Pedagogical College, in which the Ukrainian battalion "Donbas" was based. A soldier of the Battalion "Donbas" was reportedly arrested by his own battalion as of 8 July and accused of transmitting information about the deployment of the battalions to the supporters of the armed groups. Reportedly he was beaten and taken to Izyum police department (the Ukrainian security operation base in the Kharkiv region) and kept in solitary confinement. However, as of 15 July his whereabouts remain unknown.

#### ***Landmines and explosive remnants***

61. The first indication of the use of landmines by the armed groups came on 2 July when Ukraine forces regained control of the border area in Luhansk. In so doing, it discovered anti-tank landmines, one of which blew up a Ukraine Border Control vehicle, wounding the six border officials inside. Anti-personnel mines killed three civilians and wounded two more in separate incidents near Luhansk and Kramatorsk; both towns were at that time controlled by armed groups.
62. Ukraine is a party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction.
63. On 4 July, the Ministry of the Interior informed the HRMMU that the armed groups have been using two types of blast land mines. One of the types is an anti-personnel non-removable land mine complex with two wires between the mines which makes it almost impossible to safely de-activate. It was also reported that anti-tank mines are used in combination with anti-personnel mines, which make them more dangerous, not only for the armed forces, but also for the residents not involved in the fighting.
64. After Ukrainian forces regained control of Slovyansk, they discovered explosive remnants on many roads, enterprises and buildings. The Ukrainian Defence Minister reportedly said on 8 July that many highways were mined, in particular the routes from Slovyansk to Kramatorsk and from Slovyansk to Donetsk, saying "a lot of landmines and unexploded shells lie on the sides of the roads" and that they were working to dispose of them. There were reports of more civilian deaths from landmines on the outskirts of Donetsk city.

#### ***Other incidents***

65. As the fighting has escalated in the east, there has been a concurrent rise in incidents and 'preventive' action by the authorities elsewhere in Ukraine. For example, in the Dnipropetrovsk region, a woman who is allegedly the local coordinator for the armed groups in the Marinski and Velikonovoselski districts was arrested on 20 June for allegedly inciting people to disobey the Ukrainian Government and to support the "independence" of the Donetsk region.
66. During the week of 7-13 July, the SBU in Kharkiv announced the arrest of two people it alleged to be 'terrorists' participating in the armed groups in the east; the SBU also announced the arrest of a resident of Dnipropetrovsk who is the alleged leader of a terrorist group commissioned by the intelligence service of the Russian Federation to undertake intelligence and subversive activities against Ukraine. According to the SBU Press centre on 6 July, in Kherson, one of the leaders of the armed groups was detained while trying to cross from the Ukraine mainland into Crimea. In Odesa, the SBU on 10 July arrested two

people (including one citizen of the Russian Federation) in connection with an event at which, along with 50 other people, they were allegedly planning to create an ‘Odesa People’s Republic’.

67. Bomb threats have plagued Odesa since June targeting public buildings and facilities such as train stations and the courts. There were also a number of actual explosions and other incidents. An explosion at a military unit on the night of 3 July was called a ‘terrorist act’ by the Government. Two fires on 6 July at a bank and the office of a political party were considered suspicious. Two branches of the PrivatBank were damaged by powerful explosions on 13 July. No casualties were reported. A spokesperson of the bank said it was another attempt to de-stabilize the city. Nevertheless, a week-long international film festival in Odesa opened as planned on 11 July.
68. On 1 July the SBU blocked several streets in Odesa while arresting three individuals suspected to be “rebel fighters”. In the Kherson region, border guards and the SBU arrested two people trying to escape to Crimea who were wanted for allegedly participating in the storming of a military unit in Mariupol.
69. In Odesa, the city Department of the Ministry of Justice appealed to the Odesa District Administrative Court to ban a “pro-Russian” movement called ‘Molodizhna Ednist’ as being contrary to Ukrainian law on civil organizations. In June, one leader of the organization was arrested in March under Article 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code and is being held in Kyiv; his brother has been in hiding since the 2 May violence and is rumoured to have fled to the eastern region of Ukraine that is under the control of the armed groups.
70. On 8 July, authorities in the Russian Federation announced that the former Ukrainian military pilot, Nadiya Savchenko, who is being held in a pre-trial detention centre in Voronezh in the Russian Federation<sup>78</sup>, was being charged with complicity in the killing of two Russian TV journalists on 17 June near Luhansk. There has been a great deal of controversy surrounding the circumstances of the capture of Ms. Savchenko, with the Russian authorities insisting she crossed the border freely into its territory and was then arrested for having no documents and pretending to be a refugee. The Ukrainian Government insists she was abducted in Luhansk by the armed groups and was taken to the Russian Federation ‘as a result of an agreement or joint operation between the terrorists and the Russian secret services.’ The Ukrainian Government is appealing to the international community to help free Ms. Savchenko. On 19 June, the office of the Ukrainian Prosecutor General said a criminal investigation was being undertaken into the circumstances leading to the death of 10 persons, including the 2 Russian TV journalists, who were killed in a mortar attack near Luhansk on 17 June. On 10 July, the HRMMU was informed this is now an investigation under Article 258 of the Criminal Code (Terrorism) and the investigation is being handled by the SBU. On 10 July, the Luhansk Ministry of the Interior opened a criminal investigation into the abduction of Ms. Savchenko under Article 146 of the Criminal Code (Illegal confinement or abduction of a person).

### **III. RULE OF LAW**

#### **A. Impunity in the east**

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<sup>78</sup> The Government of Ukraine states that the Russian Federation did not allow a Ukrainian Consul to visit Ms. Savchenko for several days. Her lawyer said she went on a hunger strike to protest this treatment. Ms. Savchenko was allowed to see the Consul on 16 July.

71. The armed groups do not recognize the authority of the Ukraine Government. In the areas of the east that they control the rule of law has collapsed. The police are de facto under the control of armed groups. Police investigations concerning crimes attributed to armed groups are not conducted. During evening hours, the police do not respond to phone calls made on the emergency line. Some courts continue operating, but even in these there have been examples of hearings being interrupted by armed groups entering the courtroom.
72. Public buildings, such as those hosting the local or regional branches of the Ministry of the Interior, the Office of the Prosecutor, the State Security Service (SBU) and local government institutions, are occupied and are often used to detain and torture civic activists, journalists or political opponents. Criminal proceedings or other legal measures initiated by the Ministry of the Interior and the Prosecutor General of Ukraine remain a dead letter in territories controlled by the armed groups.
73. The armed groups claim that they are putting into place parallel ‘institutions’. For example, they claimed a ‘prosecution system’ had been set up, and that a ‘court martial’ temporarily carried out (unlawful) judiciary functions. They claim that a special (illegal) ‘military police’ is in the process of being created as well as a Criminal Code and Criminal Procedure Code, replicated from the Russian equivalents.
74. The Ukrainian security operation involves the army, the military police (National Guard), the National Security Service (SBU) and a number of volunteers’ battalions.<sup>79</sup> The involvement of battalions of volunteers (Donbas, Azov, Aydar, Dnipro, Ukraina, etc.) raises important questions. While they nominally operate under the command of the Ministry of the Interior or the Ministry of Defence, they would appear to enjoy a large degree of autonomy in their operation. There are allegations of human rights violations committed by these battalions. Currently four types should be distinguished: operational assignment battalions, special police forces battalions (both are under the Ministry of the Interior and function according to the law “On Police”), battalions of territorial defence (under the Ministry of Defence), and self-organised battalions who do not subordinate or report to State institutions. On 3 July, the Ministry of the Interior created a special department, which will oversee the activity of its battalions. However, the legal basis for the functioning of other battalions is not as clear. The Ministry of the Interior said it was deeply concerned about these groups and planned to reach out to as many of them as possible with a view to integrating them into existing battalions. This would solve the question of their legality and would also allow for coordination of their activities. It is imperative, for purposes of accountability, to clarify the legal framework within which these battalions operate.
75. Heavy armament, including tanks, military aviation and helicopters were used in addition to artillery. The armed groups also use heavy weaponry, including missiles and tanks. Incidents involving civilian deaths have occurred without any possibility to ascertain beyond any doubt whether the casualties were caused by Ukrainian forces or armed groups. Among them: a five-year-old and his mother were killed by mortar shelling in Slovyansk on 20 June; two Russian journalists were killed on 17 June during a mortar attack near Luhansk; 2 employees of the Public Utility Company “Water of Donbas” were killed by shelling at the water canal in the village of Semenivka on 10 June.

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<sup>79</sup> The first volunteer battalions appeared in mid-April in the eastern regions of Ukraine as small groups of pro-Ukrainian activists who wanted to protect their neighbourhoods from the lawlessness of armed groups. Eventually more people joined. By the end of May, a number of battalions (each battalion is around 500 people) were formed. As of July, some have already been officially integrated into the structure of relevant Ministries.

76. The authorities of Ukraine can legitimately claim they have a duty to restore law and order, including, if necessary, by resorting to force. In any law enforcement operation security forces must act proportionally to the threat and must at all times respect the right to life. In addition, in the conduct of hostilities all those involved in the hostilities must comply with principles of distinction, proportionality and precautions. This is particularly important in an environment in which armed groups and civilians are inter-mingled.
77. The use of heavy artillery and aviation, in particular, have increased the risks to civilians and caused casualties. It is essential that the authorities conduct full and impartial investigations of all incidents where civilians may have lost their lives or have been injured by the Ukrainian forces since the launch of the security operation. Remedies must be available to victims, if the damage to their property was done illegally.
78. The Ukrainian forces have regained several areas formerly controlled by armed groups since 5 July; it is essential to ensure that no reprisals are applied against civilians. The questioning of people and verification of information conducted by Ukrainian forces in areas, formerly controlled by the armed groups, must at all times uphold the presumption of innocence and respect human rights and human dignity<sup>80</sup>. The Government needs to provide information on how these activities are conducted and what human rights guarantees are attached to this process. The HRMMU stresses the paramount importance to uphold the right to life and ensure protection against arbitrarily deprivation of liberty, in accordance with Ukraine's obligations under the International Covenant on Civil and Political Rights (ICCPR) and other international instruments.
79. There are disturbing reports of cases, including journalists, politicians and of people allegedly supporting the armed groups, of having been arrested by the Ukrainian forces but whose whereabouts could not be ascertained for a long period of time or are still not known. These cases constitute a violation of the right to liberty and security, which implies a prohibition of arbitrary arrest or detention, and of the 'minimum guarantees', such as the right to a counsel, that every person deprived of liberty is entitled to benefit from under international human rights law.

## **B. Constitutional amendments**

80. On 2 July, the Parliament registered a draft law (№ 4178a) initiated by the President of Ukraine, proposing to amend the Constitution of Ukraine.
81. According to this document, Ukraine is to be divided into regions, districts and communities, based on the principles of unity, integrity and decentralization. Local self-government institutions with legislative and executive functions are to be created and local state administrations abolished. Representatives of the President are to be appointed at local level and entrusted with powers to suspend local decisions deemed to be in violation of the constitution. The draft mentions that the division of power between the different levels of self-governance is based on the principle of subsidiarity and that the President can revoke the powers of the local self-government institutions. The provisions regulating self-government institutions in Ukraine also apply to Crimea, but the function of the representative of the President in Crimea is abolished. Other new provisions include the possibility to grant "special status" to the Russian language and languages of other national minorities at the level of villages, towns, districts and regions; increasing the powers of the parliament to initiate or approve appointment of ministers and heads of state institutions;

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<sup>80</sup> In accordance with Article 10 of International Covenant on Civil and Political Rights (ICCPR) for detainees as well as the prohibition of torture and ill-treatment under Article 7 of ICCPR.

and abolishing the power of the Prosecution to oversee compliance with fundamental rights and freedoms. It should also be noted that the amendments do not contain provisions strengthening the independence of the judiciary. The Venice Commission of the Council of Europe was requested to present an opinion on the draft law and is expected to do so in the second half of July.

82. The draft law is expected to be discussed in parliament and amendments are likely to be proposed. The HRMMU insists on the importance of reaching out to the country in all its diversity to ensure a process of transparency, and inclusive consultations. Debates must be organized to enable the participation of a wide array of constituencies. Human rights defenders, associations of legal professionals, media and other civil society organisations including those representing women, children, minorities, indigenous peoples, refugees, and stateless and displaced persons, and labour and business<sup>81</sup> from all the regions of Ukraine should be given a voice. To facilitate this, the draft Constitutional changes should be made available in minority languages, such as Russian. Durable solutions to controversial issues will only be found through an inclusive, open dialogue and readiness for compromise.

### **C. Justice Sector Reforms**

#### ***Law enforcement reform***

83. Initial steps have been taken by the Government of Ukraine to reform the law enforcement system. An Expert Council “on the issues of human rights and reformation” was established in the Ministry of the Interior on 4 April in order to develop a concept for the reform of law enforcement bodies. On 1 July, the Minister of the Interior tasked the Expert Council to prepare and implement a pilot project in Lviv seeking to analyse the work of the police, its performance and cooperation with the local authorities, its relation to citizens, community policing practices, and issues of transparency and accountability. The results of the pilot project are expected to be presented at an Expert Council meeting in November 2014 and to form the basis of a law enforcement reform package. The HRMMU recommends that this pilot should be gender sensitive and ensure that it includes an assessment of how the police deal with domestic violence, rape and other crimes that affect women disproportionately.
84. The HRMMU stresses the importance of reforming the law enforcement system, which as a first step, should include the adoption of a new law on the police. The latter needs to move away from a militarized structure into a civilian, professional public service. Reform also needs to address the powers of the State Security Service (SBU). According to the Parliamentary Assembly of the Council of Europe Recommendation 1402 (1999) the SBU should be devoid of the authority for criminal investigation and arrest of persons<sup>82</sup>.
85. Training<sup>83</sup> should be developed and conducted on all aspects of policing (including or e.g. arrest, pre-trial detention, use of firearms, as well as gender sensitive issues as mentioned above) and a lot remains to be done to ensure that they conform to international standards. This should be another key element of the reform of the law enforcement system.

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<sup>81</sup>[http://www.unrol.org/files/Guidance\\_Note\\_United\\_Nations\\_Assistance\\_to\\_Constitution-making\\_Processes\\_FINAL.pdf](http://www.unrol.org/files/Guidance_Note_United_Nations_Assistance_to_Constitution-making_Processes_FINAL.pdf)

<sup>82</sup> “The control of internal security services in the member states of the Council of Europe”; para. V.iii

<sup>83</sup> UPR recommendations from 2012 require Ukraine to provide training for staff of law enforcement bodies on the rights of detainees.

86. Currently, internal oversight mechanisms are not effective in reviewing incidents of injury or loss of life resulting from the use of force by law enforcement personnel. In addition, the police are generally distrusted and perceived as being corrupt and lacking professionalism. For these reasons, it is important to create platforms, open to civil society and other non-police actors, including women's groups, to discuss the work of the police and its performance and to put in place conditions for greater public accountability of law enforcement officials.

#### *Administration of justice reforms*

87. As noted in previous reports, many of the concerns that led to the Maidan events and the crisis in the east are systemic ones, rooted in a weak rule of law and the absence of effective checks and balances. The law "On the restoration of the credibility of the judiciary in Ukraine" developed a mechanism for the dismissal of judges who have discredited the judiciary institution by violating professional and ethical standards or being corrupt. A lustration procedure has been put in place to undertake a vetting of judges. However it does not follow some generally recognized requirements in the area of judicial proceedings. For example, past court decisions can be scrutinized by an 'Interim Special Commission', which can decide to immediately dismiss judges. The Commission held its first session on 3 July, elected its head and deputy head, but has not initiated any vetting yet. There is concern that the implementation of the law could lead to unjustified and non-motivated dismissals of judges and jeopardize the administration of justice. There is an urgent need to strengthen the institutional independence of the judiciary. This can be done by ensuring, among other things, that the appointment and dismissal of judges, as well as the initiation of disciplinary proceedings against them, leave no room for undue political or other pressure. On matters of judicial self-administration, international standards require that any decision affecting the selection, recruitment, appointment, career progress or termination of office of a judge should be taken by an independent authority within which at least one half of those who sit are judges elected by their peers. However, the High Council of Justice, which plays a central role in the appointment judges, does not fulfil this requirement: only 3 out of 20 members are appointed by the Congress of judges. In addition, when appointed, judges serve for a 5-year trial period after which they can be elected by parliament to a lifetime position. This lengthy trial period is of concern as it opens up the possibility for undue influence on the decision-making of judges during that time. Legal and constitutional amendments should address obstacles to an independent judiciary, namely the role and composition of the High Council of Justice; the length of the trial period, and the role of Parliament in the appointment process. The authorities must also ensure that the justice system is sufficiently funded from the state budget. This would lower the dependency of the judiciary on public and private interests, and minimize the risk of corruption.
88. No progress has been made in reforming the prosecution system, which is another pillar of the justice system, and many recommendations have been made to that effect. The prosecution used to have broad powers outside the criminal justice process. Legal amendments in 2012 reduced them slightly by narrowing prosecutorial general supervision over the application of laws and abolishing the power to issue orders that have the effect of suspending an action undertaken/required. ("submissions"). In addition, the new Criminal Procedure Code, in force since November 2012, gives the Prosecution Service a greater role within the criminal justice process, which is a positive development. However, these measures are insufficient. It is important to provide the prosecution with a clearer mandate focused on leading pre-trial criminal investigations and prosecutions. Such changes can be implemented by amending the law "On the Prosecutor's Office" and possibly the Constitution. It should also be noted that no progress has been made in establishing a State



Bureau of Investigation, as required by the Criminal Procedure Code of Ukraine and recommendations from the Universal Periodic Review and the HRMMU.

89. The role of defence lawyers is critical to a well-functioning legal system and the fairness of trials. A National Bar Association exists that serves as a body of self-administration. However, the exercise of the profession and working conditions require enhanced protection. Courts do not have any premises for defence lawyers; legislation does not regulate the right to rest or social protection for defence lawyers. The current Criminal Procedure Code limits the number of defence lawyers allowed to work on one case; in case of absence, a lawyer can be replaced by a state-appointed lawyer. A law on the legal profession was adopted in 2012 and draft amendments are under discussion. It would be necessary to ensure that the new amendments create improved conditions of work for defence lawyers and a professional environment conducive to a proper exercise of the right to defence. Equality of arms should characterize the relationship between defence lawyers and prosecutors.

#### **D. Legislative developments**

90. An important number of laws, legal amendments or regulations adopted in recent months have been dictated by the necessity to address topical issues in a difficult and evolving context, characterized by the ‘referendum’ in Crimea<sup>84</sup> and a grave deterioration of the security situation in the east. They include: internally displaced persons; issues related to the rights of those taking part in the security operation and their families; sanctions for criminal actions threatening territorial integrity or aimed at overthrowing the government; the introduction of new penalties for financing illegal activities; amendments to the anti-terrorism law and others. The HRMMU is following these developments, which will be analysed and, if necessary, reflected in future recommendations.
91. In some cases, the new legislation foresees increased compliance with international instruments and recommendations of international human rights mechanisms. For example the definition of complementary protection applying to refugees was extended to include persons fleeing “international or internal armed conflict” and other serious human rights violations, in line with international and European standards. On the issue of discrimination, the definition, scope of prohibited ground, and range of sanctions have largely been aligned with relevant international norms and standards. Finally, the terms applicable to persons with disabilities in domestic legislation – such as “reasonable accommodation”, “universal design ” and “discrimination on the basis of disability ” - are used as defined in the Convention on the Rights of Persons with Disabilities. However, the amendments to the anti-discrimination law do not integrate the jurisprudence of the UN Human Rights Committee and the European Convention on Human Rights on the prevention of discrimination on the basis of sexual orientation.

#### ***Anti-corruption***

92. The legislative basis for combating corruption has improved in recent months: bribery is now classified as an offence under the Criminal Code and corruption in all its forms is treated as a crime. Liability of companies (“legal persons”) has been introduced under the Criminal Code. Regulations have been put in place concerning confiscation and seizure of proceeds of crime. A government Commissioner for anti-corruption policy has been appointed to lead the National Anti-Corruption Committee, established in 2010. However,

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<sup>84</sup> This referendum was ruled to be unconstitutional by the Constitutional Court of Ukraine; the UN General Assembly declared the referendum to have no validity in its resolution 68/262.

the latter was not given a sufficient level of independence to carry out a meaningful monitoring function of anti-corruption policies. The Government has indicated its intention to adopt a new anti-corruption strategy for 2014. Eradicating corruption is also inextricably linked to improving the functioning of other institutions. This includes amendments to the legal framework governing the powers and work of the Prosecutor's Office, public procurement procedures and reforming the public administration and civil service. In all these areas, no progress has been made during the reporting period.

### *Asylum*

93. On 30 May 2014, the amendments to the Refugee Law of Ukraine, which brought the complementary protection and temporary protection definitions in line with international and European standards, came into force. The definition of complementary protection now includes persons fleeing armed conflict and other serious human rights violations<sup>85</sup>. Also, in May 2014, asylum seekers were granted access to emergency medical care. Another recent development is the beginning of practical implementation of the age assessment procedure for unaccompanied children seeking asylum which was adopted by the State migration service in 2013. The first age assessment committee was convened in June 2014 in the Kyiv region.
94. However, numerous gaps remain in the current refugee law particularly affecting the quality of due process in the asylum procedure and the reception conditions for asylum-seekers. Asylum-seekers frequently have to find and pay for their own interpreters; if their applications are rejected, they are not provided the reasons for rejection, yet have only five days to file an appeal; asylum-seekers are frequently left undocumented because of gaps in the asylum procedure. Without documentation, asylum-seekers cannot exercise their right to temporary employment. Since reception conditions are generally poor (few spaces available in Temporary Accommodation Centres, no social assistance available outside these centres), many are compelled to work informally in order to meet their basic needs. This places them at risk of exploitation, and given the general economic downturn in the country, their livelihoods are extremely precarious.
95. The quality of decision-making on asylum applications remains a concern, as many persons with genuine international protection needs continue to be rejected and at risk of *refoulement*. For example, in 2013, 46% of Syrian asylum applicants received refugee status or complementary protection.
96. State funding for asylum matters is inadequate. Low staffing levels and high turnover at some migration service offices means that staff is frequently unavailable to perform regular tasks, such as receiving asylum applications or renewing documents. For example, in early May, one asylum-seeker had to approach the migration service on five different days in order to file an application. This gap means that asylum-seekers are often undocumented and at risk of detention. The state does not provide language classes, so asylum-seekers struggle to adapt. Recognized refugees receive a one-time grant of only 17 UAH (less than \$2), which is clearly insufficient.

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

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<sup>85</sup> On Amending Article 1 of the Law of Ukraine "On refugees and persons that require additional or temporary protection", available at <http://zakon1.rada.gov.ua/laws/show/1251-18>

97. The state has a duty towards its citizens to ensure accountability for the violations of their rights and freedoms. This is of paramount importance in the context of the situation in the east. It is also essential in relation to events in Maidan and Odesa, which have struck a deep chord within society.

**A. Investigation into human rights violations related to Maidan protests**

98. Five months after the end of the Maidan protests, which started on 21 November 2013 and ended with the arrival of a new Government on 22 February 2014, much remains to be done to ensure accountability for human rights violations committed during this period.
99. As a result of violent clashes between demonstrators and representatives of different law enforcement agencies, and the use of arms, an estimated 103 protesters (including three women) and 20 law enforcement officers died. Hundreds more were wounded on both sides. There have been numerous reports of violence, torture and ill-treatment of protesters, mainly attributed to the ‘Berkut’ special police. In addition, according to a civil society organization “EuroMaidan SOS”, 32 Maidan protesters (31 men and 1 woman) remain unaccounted for as of 14 July.
100. The killings on Maidan occurred during two periods: on 19-21 January 2014 and on 18-20 February 2014. To this date, nobody has been sentenced. Three ‘Berkut’ police officers accused of involvement in the killing of protesters have been detained under murder charges and are held in pre-trial detention. Regarding the killing of law-enforcement officers, the investigations have not led to the identification of suspects.
101. In relation to another incident, the violent dispersal of demonstrators by the riot police on the night of 30 November 2013 which triggered the Maidan protest, a Kyiv court is to decide whether two persons suspected of having ordered the dispersal are covered by an amnesty law voted in December 2013. Hearings have been postponed several times.
102. The only sentences passed so far involve 3 police officers who confessed to having ill-treated a demonstrator who had been stripped naked in the street in freezing conditions and was forced to stand in the snow while being mocked, assaulted and filmed. One of them was sentenced to three years of imprisonment with a probation period of one year, and another to two years, including a one-year probation period.
103. The Government of Ukraine submitted on 9 April a request to the International Criminal Court (ICC) to investigate the events that occurred on Maidan from 21 November 2013 to 22 February 2014. The Registrar of the ICC received a declaration lodged by Ukraine accepting the ICC jurisdiction. The declaration was lodged under article 12(3) of the Rome Statute, which enables a non-party to the Statute to accept the exercise of jurisdiction of the Court. The Prosecutor of the ICC has decided to open a preliminary examination into the situation in Ukraine in order to establish whether the Rome Statute criteria for opening an investigation are met. The government of Ukraine is currently considering the possibility to ratify the Rome statute of the ICC.
104. Various interlocutors contacted by the HRMMU expressed their concern at the slowness and inefficiency of the investigations. In particular, concerns were raised about the following: (a) the collection and preservation of evidence and forensic examinations may not have been systematic; (b) documentation related to the activities of the special police unit “Berkut” during Maidan has been destroyed; (c) it is believed that some suspects could be involved in the security operations in the east, hence the unwillingness to carry out meaningful investigations at a sensitive time; (d) corruption and general

inefficiency of the judicial and law enforcement system were cited as obstacles to an impartial and comprehensive investigation; (e) some witnesses may be afraid to talk.

105. Most families of Maidan victims, who have joined in an ‘initiative group’, are reported to have received one-time social payments of 121,800 UAH (about USD 10,100). The allocation of payments to all families should be completed by the end of July. The initiative group is finalizing negotiations with the Ministry of Education to ensure that 52 children from the families of people killed at Maidan will be entitled to education free of charge in all pedagogical institutions.
106. Different groups which actively participated in the Maidan demonstrations, continued to occupy buildings and facilities in central Kyiv that were taken over during the anti-government protests between December 2013 and February 2014. According to the Office of the Kyiv City Prosecutor, an estimated 950 people affiliated with the Maidan "self-defence", the Right Sector and the Social National Assembly have established themselves in and around 12 buildings, including the Ministry of Agriculture, the main post office, several cultural and business centres, shops, bars, restaurants and banks. This presence has been condemned by the Minister of Interior, the Prosecutor General of Ukraine, the Prosecutor of Kyiv, Mayor of Kyiv who have also called for the vacation of buildings. However, this has not led to the vacation of the buildings.

## **B. Investigation into human rights violations related to the violence in Odesa**

107. The violent incidents in Odesa on 2 May resulted in the deaths of 48 people, with over 200 injured. This appears to have hardened the resolve of those opposing the Government, and deepened division between communities. There is a need for resolution to the violent events of that day. The perpetrators must be brought to justice in a fair and non-selective manner.
108. More than two months after the 2 May violence in Odesa, the incidents still divide those who live in the city. Six investigations, official and independent, have been initiated into the killings of six people by gunshot that took place during the afternoon of 2 May, and the deaths of 35 men and 7 women in the fire in the Trade Union building<sup>86</sup>. Considering the number of investigations launched by law enforcement agencies and experts, there is a high risk of miscommunication and contradictory information. The HRMMU follows these criminal investigations and has received alarming information from different sources on violations of human rights by law enforcement agencies and free legal aid incompetence. On several occasions high ranking officials have disclosed information, which has since been refuted. Overall, the communities in Odesa have no trust in the law enforcement investigation independence. This negative atmosphere is deteriorating further due to the fact that there has been little transparency within the framework of the investigations, limiting access to information for the citizens of Odesa. Both the Ministry of the Interior (MoI) Investigation Commission and the Special Parliamentary Commission have requested the assistance of foreign experts.
109. The Deputy Minister of the Interior has requested international assistance in conducting the investigation process, by written appeals to four embassies (Germany, Israel, the United Kingdom and the United States). The Independent Commission has requested the assistance of foreign experts from the Organization for Security and Cooperation in Europe and the Council of Europe. The Commission has officially requested expertise from the UN Secretary General, the High Commissioner for Human Rights, the Human Rights Monitoring Mission in Ukraine and the UN Resident

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<sup>86</sup> See HRMMU monthly report of 15 June 2014, paragraphs. 37 – 93.

Coordinator in Ukraine. It is felt that such independent international experts would be able to receive more adequate answers since witnesses would have more confidence in foreigners than in local officials. The HRMMU recommends the following: (a) in the interest of the investigation, law enforcement officials should refrain from spreading damaging rumours and disclosing information; (b) all Commissions, within their mandates, should meet on a regular basis; (c) the regional and local authorities, should work on strategies to deescalate tensions within the communities and to initiate dialogue focusing on reconciliation; (d) law enforcement agencies should ensure the protection, fulfilment and promotion of human rights within their criminal investigations; (e) the Governmental Free legal aid system should ensure the competence of lawyers providing free legal defence.

***Criminal investigation by the Ministry of the Interior Investigation Unit***

110. The Main Investigation Department of the MoI in Kyiv (under the control of the Deputy Minister of the Interior) is investigating the 2 May violence. According to the MoI, at the expiration of the 60 days legally granted for investigation, the investigative team requested an additional five (5) months. More time is needed to conduct the following investigative proceedings: to identify all people involved in the mass riots and identify witnesses; identify organisers of the Odesa “Euromaidan”, Right Sector, local Self-Defence, Odesa “Narodnaya Druzhyna” and other participants; identify and interrogate policemen involved with securing public order on 2nd and 4th May; identify and interrogate State Emergency Service employees who received emergency fire calls and who dispatched fire brigades to the various locations on 2 May; analyse the phone-call registry between city centre and Kulikovo Pole; conduct a full-scale analysis of the video files; question victims claiming material damage; question all Trade Union building employees present at work on 2 May.
111. The HRMMU conducted a number of meetings with defence lawyers in the 2 May violence cases, who notified that the Investigation Commission requested a prolongation of measure of restraint for all detainees (under custody or house arrest) for an additional 60 days. The HRMMU received information that the investigation process, including the interrogation of detainees, has been very limited so far. Some detainees since their apprehension on 2 May have been questioned only twice.
112. The Primorsky District Court of Odesa has favourably satisfied all petitions presented by the MoI.
113. The HRMMU has not had any obstacle in cooperating with the Commission of MoI. As of 12 July, the Investigation Commission provided the HRMMU with the following information: 12 men remain in Pre-trial detention centres under the Penitentiary Services; 41 men are placed under house arrest; 53 persons were interrogated as suspects, 83 persons were interrogated as victims; 430 persons were interrogated as witnesses; 242 forensic examinations were appointed, of which 62 are still on-going; out of 42 men and 6 women deceased, one man is still not identified; one injured man remains in hospital; five detainees (all men) are reported to be foreign citizens.
114. None of the preliminary conclusions were made public by the Investigation Commission. However, although the investigation is still ongoing, several controversial statements were made by the MoI. In May, when the forensic examinations had just started, the deputy Minister of Interior stated that people in the Trade Union building died from breathing chloroform, which has never been confirmed. Furthermore, the Head of the Regional Office for Forensic, at a public meeting with the Regional Council Investigation Commission stated that none of the deceased at Kulikovo Pole were shot or

beaten to death, but that their death was caused by carbon-monoxide gas poisoning, some unidentified chemical substance or by burns. In addition, he disclosed personal private information regarding one deceased person without prior consent from the family. The Head of the Regional Office for Forensic has regularly refused to provide information regarding the cause of death, referring to the confidentiality of the investigation.

115. The Investigation Commission is in charge of investigating the actions of the Odesa Regional Emergency Service (fire brigade). The Head of the Emergency Unit was accused of negligence, due to improper performance of his official duties (i.e. delay in deploying the fire brigade to the Trade Union building). For the purposes of the internal investigation he was temporarily dismissed. The internal and criminal investigations remain on-going.
116. The Investigation Commission has provided internal investigation documentation to families who have requested information regarding their deceased relatives. Following meetings with victims, witnesses and relatives, the HRMMU has observed a growing dissatisfaction regarding the lengthy and non-transparent investigation process. In general, witnesses shared with the HRMMU their concern about revealing information regarding the incidents. On 11 June, several claims regarding the insufficient and lengthy investigation process were brought against the Government at the Kyiv District Administrative Court.

***General Prosecution Investigation Unit regarding police duty performance***

117. On 3 May the General Prosecution Investigation Unit launched a criminal case against police officials based on article 365 (Excess of authority or official powers) and, article 367 (Neglect of official duty) of the Criminal Code.
118. The Regional Prosecution Office confirmed the allegation regarding the inaccessibility of high ranking officials during the 2 May violence, noting that all were at the time attending a closed meeting at the request of the Deputy General Prosecutor.
119. The investigation process into 2 May violence is challenged by the fact that the main suspect, the former Deputy Head of the Regional MoI, is currently on a “wanted” list.

***Criminal investigation under the State Security Service of Ukraine (SBU)***

120. As of 15 July, the SBU had initiated several criminal investigations under article 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government), article 110 (Trespass against territorial integrity and inviolability of Ukraine), and article 258-2 (Public incitement to commit a terrorist act) of the Criminal Code. The SBU arrested at least 35 people allegedly engaged in the above-mentioned criminal activities, mostly activists and supporters of the “pro-Federalism” movement. The HRMMU attended 6 court hearings and tried to establish contacts with the SBU investigators. The HRMMU regretfully underlines the lack of working cooperation from the Regional office of the SBU at the local level.
121. The Penitentiary Services administration fully cooperated with the HRMMU and has been granting access to detainees recently arrested. The HRMMU has also met with detainees’ lawyers and relatives. The HRMMU has the following concerns about actions committed by the SBU in the investigation, including violations of legal guarantees and ill treatment during the investigation process, which are as follows: (a) excessive use of force during arrest and house searches contravening fundamental human rights; (b) the illegal practice of disclosing personal data in relation to arrested foreign citizens, which violates the presumption of innocence; (c) the obligation to immediately inform the arrested person, in detail and in a language he/she understands, of the reasons for his/her

arrest and any charges against him/her, as well as of the right to have the assistance of legal counsel, receive medical assistance free of charge, not to be compelled to testify against him/herself or confess guilt, inform promptly other persons about his/her arrest or detention and whereabouts, in accordance with the provisions of applicable international human rights law and the Ukrainian Criminal Procedure Code; (d) the failure to provide written notice of charges to the arrested person within 24 hours after the apprehension in accordance with article 278 of the Criminal Procedure Code; (e) the use of psychological intimidation and threats (in some case sexual threats) in order to obtain information.

#### ***Special Parliamentary Commission Group***

122. The Special Parliamentary Commission continues to investigate the facts of mass murder. As of 15 July, it had held 9 sessions. The Head of the Commission informed the HRMMU that the members met with witnesses, victims, relatives and doctors. In addition the commission received a written statement from the former Deputy Head of the Odesa Regional MoI, who remains at large. All the collected documentation has been shared with the Office of the General Prosecutor. In addition, the request for foreign experts was raised. The Commission plans to present its preliminary findings in September.

#### ***Ukrainian Parliament Commissioner for Human Rights (Ombudsperson Office)***

123. The Ombudsperson's Office has finalized its findings regarding the 2 May violence and concluded that the positive obligations of Ukraine to protect human rights (the rights to life and to liberty and security of the person and the freedom of peaceful assembly) were violated during the 2 May incidents. Moreover, the Ombudsperson concluded that the Head of the Regional MoI Odesa did not fulfil his mandatory duty to initiate the special police tactical plan "Khvyliya". This neglect resulted in a high number of victims. The Ombudsperson appealed to the Office of the General Prosecutor to investigate the law enforcement agencies performance of duty during 2-4 May, and launch a criminal investigation against responsible officials.

#### ***Independent Commission investigating the 2 May violence***

124. The Independent Commission including civil society activists, journalists and experts, continued to gather information on 2 May violence. Witnesses mentioned to the HRMMU that they feel more comfortable to share information with this Commission. Several conclusions of the Commission were already broadly publicised, including the chronology of the events in the city centre, which tend to counter numerous rumours and allegations. In the course of their investigation, the Commission members requested MoI, the State Agency on Emergency Situation and the Centre of Forensic Examination for information, with no success to date. The Commission intends to take legal action against these agencies: in accordance with the law "On access to public information" (2939-17, dated 2011), information has to be shared.

#### ***Temporary Oversight Commission on the 2 May violence of Odesa Regional Council***

125. The Temporary Oversight Commission on the 2 May violence has been working in close cooperation with the Special Parliamentary Commission Group. Since its establishment, this Commission held two hearings to monitor the criminal investigation process. Its conclusions were presented to the Odesa Regional Council. It deplored the fact that the SBU and the Regional Prosecution Office were not always fully cooperating. According to the statement of this Commission, based on the MoI criminal investigation there are four scenarios that triggered the 2 May violence: (1) actions committed by radical groups to destabilize the situation in the Odesa region and in other regions of Ukraine; (2) attempts by local authorities to discredit the Government; (3) uncontrolled

football fans and law enforcement negligence; (4) provocation by the “pro- Unity” movement in order to intimidate the “pro-Federalism” movement.

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

126. The Parliamentary Committee investigating the events in Odesa is also in charge of investigating the violence in Mariupol, which became the theatre of heavy fighting on 9 May. Nine people died when Ukrainian security forces fired into unarmed protesters and, earlier that day, tried to dislodge armed protesters from a police station<sup>87</sup>.
127. The head of the Committee told the HRMMU that after having listened to many witnesses it was now in possession of a very detailed factual description, including information about the time and sequence of events, names of individuals who allegedly gave specific orders or took key decisions that led to the tragic outcome. The Committee will interview the persons mentioned by the witnesses and transfer the information collected to the Investigative Department of the State Security Service of Ukraine. The deadline for the Parliamentary Committee report, initially planned to be issued on 15 June, was extended until 20 October 2014.

## **V. INTERNALLY DISPLACED PERSONS**

128. As of 15 July, UNHCR reports there are 86,609 internally displaced persons (IDPs) from Crimea and the eastern regions of Ukraine. The number of IDPs from the east has increased dramatically since mid-June with a change in the composition of the IDP population - 85% now coming from the east and 15% from Crimea. Given the large numbers of IDPs reported as having left the eastern regions, it appears that there is a significant gap in the registration of IDPs. The numbers may swell if these IDPs are registered in coming weeks. Though disaggregated statistics on the age and gender breakdown of the IDP population are not available, it is observed that the vast majority of IDPs appear to be women and children.
129. IDPs from eastern Ukraine have left home predominantly due to security concerns, including the risk of being caught in crossfire. Some IDPs express individual fear of persecution for their political views, ethnicity or fear of being forcibly recruited into the insurgent groups. IDPs also report having experienced or heard of incidents of abduction, extortion and harassment in their neighbourhoods, leading them to take preventive flight. Another reason that prompts people to flee is the material damage to housing and infrastructure in the region, where the water and electricity systems were no longer functioning. Given the insecurity in the region, delivery of basic goods is paralyzed to many towns, and IDPs say that food supplies are erratic and expensive, and medicines are frequently unavailable. With the breakdown in the banking system, many could not obtain the cash they needed to purchase basic goods, even if they did become available. Many IDPs are particularly vulnerable as they remain within the eastern regions, caught in the on-going fighting to which international humanitarian actors currently do not have access.
130. IDPs from the Donetsk and Luhansk regions report leaving the region with few personal belongings, sometimes without time for preparation, in order to disguise the purpose of their departure from the region, so they have few resources to establish

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<sup>87</sup> A description of the case is provided in the HRMMU Monthly Report of 15 June 2014.



themselves. IDPs who leave the eastern regions generally maintain a low profile, since they report fearing reprisals against family members who have remained at home. Many are psychologically traumatized, having witnessed violence. For example, children are afraid of loud noises and hide under furniture whenever they hear an airplane passing overhead.

131. IDPs from Crimea are mostly Tatars, but also include ethnic Ukrainians, ethnic Russians, mixed families, refugees and foreigners married to Ukrainians citizens. Many IDPs from Crimea are political activists and journalists who fear harassment, or those who have economic, professional or family ties within Ukraine, and, therefore, feel compelled to leave to other parts of Ukraine in order to continue a normal life. Many Crimean Tatars fear limitations on their religious and cultural expression. IDPs from Crimea live dispersed across the entire territory of the country, but with significant concentrations in Kyiv and Lviv. Ukrainian military from Crimea and their families are mainly staying in Odesa, Mykolaiv and Kherson.
132. The State's system to protect IDPs has significant gaps. Many IDPs leaving Donetsk and Luhansk regions report that they do not have information about where to go or which services are available. Despite the creation of governmental coordination mechanism, the law on IDPs has not been adopted yet and there is no central information gathering system or database on IDPs. The present registration mechanism system is ad hoc and rudimentary which does not provide the accurate number of IDPs in Ukraine or individual needs of those who approach the authorities for assistance. The government is currently developing a list of available accommodation facilities for IDPs, but, so far, has allocated financial resources only to cover the costs of accommodating those from Crimea. Owners of sanatoriums and summer camps accommodating IDPs from the Donetsk and Luhansk regions report being frustrated that they do not know when or if they will be compensated for the expenses they are incurring for taking in IDPs. Several administrative matters remain unresolved, hindering IDPs' ability to start their new lives: many IDPs cannot obtain residence registration, transfer employment record from places of displacement, register their business activities and access their personal savings in bank accounts. There are also the problems of access to day care, schools for the children and assistance for the elderly to enable women to seek employment. Also, Ukraine's legislation and policy of imposing taxes on humanitarian aid and personal income precludes tax-free provision of international aid to IDPs.
133. Many IDPs have exhausted the resources they had available. There are limited options for most IDPs to secure long-term housing arrangements, in particular those who are currently hosted by friends, family or volunteers, or placed in temporary accommodation centres provided by regional authorities. Many IDPs are temporarily housed in summer camps or hotels which are normally closed for the winter and therefore are not insulated or heated. These facilities are generally in rural areas far from schools. Thus, this accommodation is suitable only for the very short term; longer term planning is not yet underway. Furthermore, given the high cost of heating, it is likely that many temporary accommodation facilities will be unable to continue housing IDPs into the month of October unless they receive financial support. Plans should also be developed to cover shelter, clothing and heating needs, during the winter, in case a massive return to the areas currently under conflict does not materialize before or during the winter months.
134. The Government was slow to respond to the rapidly growing number of IDPs coming from the Donetsk and Luhansk regions. For many weeks the authorities relied totally on voluntary assistance and the goodwill of the receiving communities to respond to meeting the IDPs accommodation and other needs. Most IDPs were accommodated in

private homes, public sanatorium or in other voluntary arrangements. By early July, many local and regional authorities began to complain that they did not have the resources to cope with the numbers of IDPs arriving. Lack of coordination, planning and resources was coupled with growing concern about the need to provide social protection to the increasing number of local families who had members fighting with the Government military and security operation in the East. In Rivne, for example, as of 1 July there were 785 people mobilized from that region to serve in the Government's security operation, while it had received 584 IDPs.

135. In June the State Service for Emergency Situations was tasked with the responsibility for coordinating the accommodation and other needs of IDPs throughout Ukraine. However, because of the involvement of civil society, in the form of volunteer groups and a loose association of concerned individuals that has provided the bulk of assistance so far to IDPs, the authorities need to coordinate with them and work systematically together. The HRMMU has been working to facilitate this.
136. Odesa became the destination of choice for IDPs with disabilities because it has a sanatorium designed to accommodate persons with disabilities. However, much of the sanatorium was already occupied by soldiers and their families from Crimea. Nevertheless, Odesa has received more than 700 IDPs with disabilities. By early July, Odesa was reporting it had reached capacity with 3,000 IDPs plus an additional 500 military and their families, all housed in summer sanatorium. There were many other unregistered IDPs staying privately with friends or family who were not reflected in that figure. IDPs continue to arrive daily in Odesa.
137. Roma IDPs have faced unique problems. Roma families tend to be large and move in groups, sometimes as large as 50 people, including many children, all of whom need to be housed together. This is often impossible because of the lack of available collective housing. Therefore some Roma camp in public parks or privately owned camping grounds which has caused additional problems. For example, in the Kharkiv region, the owners of a camping ground in Visoky, initially agreed to let a group of about 40 Roma from Slovyansk stay, but then tried to evict them when, lacking any other means to cook, the Roma families built cooking fires out in the open. The police were called to evict them and the situation escalated: the Roma threatened to block the neighbouring road and the police reportedly threatened to 'plant narcotics' on the group to make their problems harder. The HRMMU intervened after being alerted to the situation by a volunteers' group, calling the Ombudsperson and some journalists. When the media showed interest in the situation, the police left and the Roma and the camp owners worked out an agreement that the Roma could stay until a more permanent solution is found. No suitable alternative accommodation has yet been found by local authorities for this group who continue to stay in the camp.
138. In addition to the practical problems, Roma also face negative attitudes from the public, stereotyping, and bias. For example, in June, an outbreak of measles in Kharkiv, mostly among unvaccinated people, caused public animosity towards Roma (expressed in social media and publications), who accounted for about 40% of the measles cases, and who were blamed by some people for spreading the disease. The Kharkiv Deputy Governor said that the regional authorities are now working with the Roma communities in the Kharkiv region to find a systematic solution of how to assist Roma IDPs.
139. Negative information of a more general nature about IDPs has also been spreading on social media and through the internet. In Lviv, the authorities said the misinformation about IDPs was deliberately planted to cause further divisions between people from the east and west. Some of this misinformation related to the notion that male IDPs were

shirking their military duty to serve back where they came from. In Rivne, the city council decided to no longer host IDP men of military conscription age. (Women make up two-thirds of all adult IDPs). On the other hand, regional authorities, as for example in Volyn, started checking male IDPs when they arrived in the west for fear that they might be ‘separatists’ posing as IDPs, and the local population was encouraged to report any suspicious person or object.

## **VI. FREEDOMS OF EXPRESSION, ASSOCIATION, PEACEFUL ASSEMBLY, MOVEMENT, RELIGION OR BELIEF**

### **A. Peaceful assembly**

140. Ukrainians with the exception of those living in the east were generally able to fully exercise their freedom to peaceful assembly in a variety of ways: by gathering in ‘flash mobs’, pickets, rallies, demonstrations and other groups to articulate publicly their concerns. Peaceful demonstrations must be permitted, as a matter of international human rights law, and also as a way for people to exercise their rights to the freedoms of expression and peaceful assembly which are the foundation for a free and democratic society. Mostly these gatherings were held without incident and without hindrance, although almost always with a large police presence.
141. In Odesa, the HRMMU noticed that since June, most of the assemblies were prohibited by court decisions. Generally the court referred to an alleged danger to public order which, in accordance with Ukrainian legislation, was among the grounds justifying interference with the right to peaceful assembly. In addition the court referred to the 2 May violence, and recent arrests of people allegedly planning terrorist acts, as grounds for the potential threat to public order.
142. No violence on the scale which occurred with the Maidan protests or in Odesa on 2 May has occurred at peaceful assemblies held during the reporting period. However, those seminal events continue to be a guiding concern for the authorities when approving demonstrations: they appeared to prefer to ban one rather than be blamed for any violence it triggered. In some places, public mass rallies were banned altogether, for example, in Odesa on 22 June, although two peaceful rallies went ahead anyway. In other places it was because the authorities thought the subject matter might incite violence. In Kyiv, for example, this justification appeared to be behind the eventual cancellation of an LGBT rights parade, to be held on 5 July, when police said they could not guarantee the safety of participants. It is the job of law enforcement officers to facilitate peaceful assemblies and to ensure the protection of the participants, irrespective of their political or other views. In order to be able to do this, law enforcement must receive adequate training to be able to handle rallies and protests, in line with international human rights standards.
143. Overall, law enforcement has managed to contain violent intent, although there have been incidents of serious damage to property and some injuries. There have also been more isolated scuffles and clashes that generally have been kept to a minimum by law enforcement. Police have been criticized for sometimes not doing enough to stop violent actions (as for example, when the trade unions meeting was violently disrupted in Kyiv on 26 June) and, conversely, for cracking down unnecessarily hard on demonstrators to prevent any kind of possible public disorder from the very beginning. This was the concern in Kharkiv on 22 June, when a large presence of law enforcement officers successfully kept opposing groups apart but was later criticized by one side for abuse of

power<sup>88</sup>. There remains a need to adopt legislation and other measures to clarify the role and responsibilities of law enforcement to ensure the principles of necessity, proportionality, non-discrimination and accountability underpin the management of peaceful assemblies.

144. Currently a chilling trend has been observed where groups with different political agendas have demanded the authorities not allow peaceful assemblies of people with opposing viewpoints to theirs. This illustrates once again, the need for national legislation in line with international norms and standards.
145. In Crimea, the authorities would not allow the Crimean Tatars to hold their normal celebration in the city centre of Flag Day on 26 June, but smaller gatherings took place elsewhere.
146. The subject matter of the peaceful assemblies held during the reporting period covered a broad spectrum of people's current concerns and included: protests against specific cases of alleged corruption; protesting the lack of consultation on the appointments of regional and local officials; families of soldiers protesting military service and conditions; against Russian-owned banks and business; for peace in the east; in observance of Crimean Tatar Flag Day and Constitution Day; and in support of both sides of the 'pro-Ukraine/pro-Federalism' debate (separate demonstrations). Since 8 June the Sunday 'viche' (people's assembly) has been held in Kyiv on Maidan and is now a regular weekly happening, having taken root in public consciousness as a watchdog for Government accountability.

## **B. Freedom of association**

147. Freedom of association is an essential condition for the effective exercise of the right to vote and must be fully protected. It includes the freedom to engage in political activity individually or through political parties and other organizations. In this regard, it is noted that on 8 July the Government filed a lawsuit to ban the Communist party of Ukraine.

## **C. Freedom of expression**

148. There were some worrying trends observed in the area of freedom of expression in both the eastern and western parts of the country. As the severity of the violence increased in the east and the crisis there dragged on, opinions became more polarized in Ukraine. As a result, the level of hate speech has escalated dramatically, especially on social media, but also in demonstrations and protests and even in Parliament<sup>89</sup>. Acts of hate speech must be publicly condemned and prohibited by law<sup>90</sup>. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech.<sup>91</sup> In an indicative action, some news sites in Ukraine have started blocking

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<sup>88</sup> The Prosecutor's office has started an investigation on possible criminal responsibility of the police during the two rallies held on 22 June in Kharkiv, for excessive use of force, under article 365 of the Criminal Code.

<sup>89</sup> During a parliamentary session on 20 June, MP Ivan Stoyko made the following statement: 'We are now at war with the Mongoloid race, fascist Russia, which climbs on Ukraine like a locust in order to destroy our country, our nation.' Verbatim report.

<sup>90</sup> Article 20 of the ICCPR; Article 4 of the ICERD.

<sup>91</sup> Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. A/HRC/22/17/Add.4., appendix.

comments to their stories because of the virulent comments people were posting. The increasing level of hate speech must be addressed by the country's political leaders, who have yet to speak out publicly against it.

149. There remains a need to combat intolerance and extremism and to prevent national, racial or religious hatred that constitutes incitement. As armed groups fighting in the east are no longer just local people wanting more regional autonomy or a separate autonomous state, but are being organized by professional fighters not Ukrainian citizens, there has been an increased 'anti-Russia' rhetoric with demonstrations targeting Russian-owned banks and business on the grounds that they are 'financing terrorists'. Some of these demonstrations have resulted in the defacement of property.
150. Given the rise in Ukraine of instances of hate speech and other forms of intolerance expressed through social media and the internet, it is worth noting here the report on racism, the internet and social media, recently issued by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance<sup>92</sup>. In it he says that while the internet serves as a formidable vehicle for the exercise of free speech, it also provides a powerful platform for the rapid dissemination of racist ideas, ideologies and incitement to hatred. A comprehensive, multi-stakeholder approach is necessary to effectively counter expressions of racism on the internet and social media.
151. Journalists, media professionals and human rights defenders need protection so that they are able to do their jobs. Harassment, intimidation, manipulation and abductions of journalists have continued to occur in the east, and at least five journalists have been killed since the fighting began in April. None of these journalists was using any personal safety equipment<sup>93</sup>. The circumstances around one of the latest cases were particularly horrifying. In an operation led by an armed group on 30 June as the 10-day curfew ended, a bus of civilians, including journalists and a group of women, was sent in the middle of the night to a besieged Ukrainian military base, endangering the lives of the civilians during an attack on the base. The journalists had been told that the women on the bus were mothers of soldiers and their presence would ensure that the Ukrainian soldiers in the base would surrender peacefully. However, one of the journalists on the bus reported later that he spoke with the women and was told that none of them was a mother of any soldier. Gunfire broke out as the bus approached the military base; the bus driver was wounded and one journalist killed. The armed group has evidently 'arrested' one of its own activists for organizing this staged provocation.
152. In the east, attempts at manipulation of the media have been especially egregious. Many journalists previously working in the east have already fled after being abducted, harassed, intimidated or otherwise threatened. Those that remain in Luhansk have been instructed by the armed groups on how they should report the news. Words such as 'separatist' and 'terrorist' should not be used, they were told, and each Monday there would be a meeting with the editors of local media to instruct them on what to cover and how. Media outlets were threatened that if they did not cover the activities of the armed

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<sup>92</sup> Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Available at: <http://www.ohchr.org/Documents/Issues/Racism/A-HRC-26-49.pdf>.

<sup>93</sup> On 3 June, the National Journalist Union announced that in cooperation with the OSCE, a special point was opened where journalists could rent flak jackets and other personal safety equipment. On 15 July, the Ukrainian NGO Institute of Mass Information informed the HRMMU that they collect and provide flak jackets to all accredited journalists who work in the east. The accreditation is granted by the Security Service of Ukraine. So far, all journalists who applied for accreditation have received it. The IMI is deeply concerned that many Russian journalists work in Donbas without any accreditation or proper documents and without even basic security training.

groups positively, their equipment would be destroyed and employees put in danger. In Donetsk, all media outlets are required to register with the armed groups' 'Ministry of Information and Communications'. This extends to online resources, including individual bloggers, as well as distributors of print media. Any outlet that does not register would be banned from all media activities. Ukrainian television channel ICTV and the local municipal TV channel 12 in Donetsk were replaced by Russian TV channel broadcasts. On the other hand, four Russian TV channels have already been banned from broadcasting in Ukraine and the process is underway to ban three more following complaints about their content in compliance with the national legislation, particularly related to the use of hate speech and media.

153. The polarization and hardening of attitudes in Ukraine has resulted in some people attempting to muzzle the press or intimidate media outlets in an attempt to influence their editorial policy that they consider contrary to their own viewpoint. For example, the newspaper offices of 'Vesti' in Kyiv were attacked twice within a week, on 28 June and again on 5 July. In Chernivtsi, the local chapter of the National Council of Journalists has appealed to the President and others concerning a number of recent judgments which the organization says will impair journalists' independence and force them to stop writing about important issues and which, in the organization's view, contravene European and Ukrainian law.

#### **D. Freedom of movement**

154. Restrictions on the freedom of movement are a daily experience in areas of the east. Roadblocks and ad hoc checkpoints manned by armed groups regularly stop people who are then searched and valuables stolen or destroyed. Women and girls feel especially vulnerable because of the violence and general lawlessness and, according to the testimony of IDPs, do not go out. The ability of men to freely move in and out of areas controlled by armed groups in the eastern regions is curtailed due to abductions, which at times, lead to forced mobilisation to armed groups.
155. Ukrainian citizens continue to face restrictions and long delays crossing from Ukraine mainland to Crimea and vice versa due to the Crimean border guards.

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

156. The freedom of religion or belief has come under increasing pressure in the last weeks. A disturbing number of incidents have been reported in the east and Crimea. The armed groups have declared that the main religion in Donetsk region was Orthodox Christianity (of the Moscow Patriarchate) and that sects were prohibited. This approach explains to a large extent, the increasing number of attacks on Protestant, Mormon, and Roman Catholic churches in the areas controlled by the armed groups. Religious leaders have been harassed, threatened and abducted.
157. There have been reports of incidents in other parts of the country. For example, in Odesa, law enforcement pre-emptively surrounded a synagogue that was to be a target of an anti-Jewish demonstration thereby deterring the protestors and no gathering occurred.
158. In Kyiv, on 22 June, a more violent protest targeted a religious group perceived as being affiliated with the Russian Federation. The demonstrators included men armed with baseball bats and hammers, some wearing bulletproof vests and clearly intending to do damage. However, once again a large law enforcement presence prevented any

violence. The demonstrators claimed the event, being held at the Orthodox Church, was an attempt by ‘separatists’ to form a ‘Kyiv People’s Republic’.

159. This trend is particularly disturbing as Ukraine until now has demonstrated a general tolerance for different beliefs and religions.

## **VII. ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

160. The full enjoyment of social and economic rights by everyone throughout Ukraine was one of the main aims of the civil society activists, experts and journalists who united after Maidan to lobby for the necessary reforms. However, the new society that they hoped would be created by the “reanimation package of reforms” is still far from reality.
161. The country’s economy remains in recession, with a consequent adverse impact on the right to work. Unemployment increased from 8% to almost 9% in the first 6 months of this year, the inflation rate has reached 16% and utility rates have increased by an average of 30%. Meanwhile salaries and social benefits have been frozen since December 2013. The majority of the registered unemployed are women (at 52.2%) and young people aged 15 to 35 (42.3%). According to the Federation of the Trade Unions of Ukraine, every third person is employed illegally without any social guarantees or protection. There is a need to align labour legislation with international standards<sup>94</sup>, in particular concerning the strengthening of inspections and the protection of public servants, whose mid-level salaries are 48% of the average salary in Ukraine and who lack guarantees of employment, often being the first to be fired when a new administration comes to power.<sup>95</sup>
162. The trade unions are warning that because of these factors, coupled with the lack of meaningful social dialogue or transparency in government, there may be major social unrest in autumn.
163. The Government has proposed that in order to finance the security operation against the armed groups in the east, as well as the repair and revitalization of the Donetsk and Luhansk regions, the Ukraine budget would be amended. Currently the Government estimates that repair of east Ukraine will cost 8 billion UAH (about 750 million USD). Social programmes would be cut by 4.6 billion (about 420 million USD) while the defence and security sectors would grow by 8 billion UAH (about 750 million USD). The budget cuts would include a reduction of 2 billion UAH (about 180 million USD) in unemployment and disability benefits; funding for education and health would also be cut. The salaries of State employees would not be adjusted to keep pace with inflation (currently at 16%).
164. The situation in the east is dire. As of now, 104 buildings remain seized by the armed groups. Of these 24 are military premises, 16 are administrative and local authorities’ buildings, 16 are buildings of the Ministry of the Interior, 7 are Security Service buildings, 5 are prosecutor offices, 4 are of the emergency service of Ukraine, 1 is a tax administration building, and 1 is a court. With banks, the Treasury and pensions funds closed because of the violence and robberies, salaries and social security benefits have not been paid regularly for more than two months. The situation has been especially critical in Slovyansk, Kramatorsk, Snizhne and Krasnyi Luch.

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<sup>94</sup> Labour Inspection Convention, 1947 (No. 81) (would strengthen the institution of inspectors and allow ad-hoc checks at enterprises) and Convention 151 - Labour Relations (Public Service) Convention (would protect rights of public servants).

<sup>95</sup> According to the Trade Union of public servants.

165. Women have been particularly affected in this situation. They make up about 80% of those employed by the government (teachers, doctors, public servants) and were therefore hard hit by the lack of government payments of salaries and social security benefits like child support. Economically women already face a wage gender gap and discrimination in the workplace. With a scarcity of money and food coupled with their responsibility for their households and families, women in the east were further burdened by the constant fear for their lives and security.
166. Negative impacts are also apparent on the right to health. Access to healthcare remains limited in the east, as many hospitals of the region are not operational or are working below their normal capacity, according to the Ministry of Health. The availability of health care staff has decreased, as doctors, especially specialists and surgeons have left. The lack of fuel means the Emergency Medical Service is not operating properly, especially in Slovyansk and Kramatorsk where medical help is mainly delivered by volunteer squads from Kharkiv. Delivery of medicines, including insulin and ARV therapy, has been often disrupted.
167. Due to threats and intimidation, many factories and businesses have had to shut down. For example, in the Luhansk region, four coal mines owned by the DTEK Mining Company were shut down on 10 July because of the risk to miner's lives. This followed an incident in which four miners were killed and 16 wounded, including women, when a bus they were travelling in came under fire. The company also closed its 2 coal enrichment factories. These closures affect 4,500 employees. Armed groups have also seized warehouses and factories, using the premises for such things as training camps or military repair shops. Companies that produce materials that can be used to make weapons have also been seized by the armed groups.
168. In addition, big industrial enterprises and mines are functioning under great risk of sudden power cuts, which can occur anytime as a result of damage caused by shelling. Especially in mines, such an emergency would result in miners being trapped under ground, threatening their lives and their right to safe and healthy work conditions. Numerous factories and other large enterprises use chemicals in their production and have large storage areas of containment. In situations of shelling, these could be damaged causing leakage of dangerous chemical substances, with a negative impact on the right to health and environmental safety for the residents.
169. Eastern Ukraine is the centre for the country's heavy industry. With the economic life of Donetsk and Luhansk now crippled, the impact on the rest of the country will be severe.
170. The rights to an adequate standard of living and the quality of life for residents in the east has been severely impacted and the damage to their towns and villages extensive. In some places this has reached critical levels. For example, as of 15 July, because of damage to the water systems, there was no water in Semenivka, Mykolaivka or Petrivka and residents of Slovyansk were relying on well water which was turbid and with sediment and reaching its limit. In Mykolaivka deliveries of water were being made daily but older persons and people with disabilities had no way to get into town to get the water. There were no water deliveries to Semenivka. In Luhansk, 28 villages were without electricity on 2 July; the power was also cut to 34 cities and villages in the Donetsk region on 4 July because of the fighting and repair work was in progress; according to the electricity company on 2 July, power to healthcare facilities in Kramatorsk was disrupted; 200 people were reported without gas when a gas pipe was damaged by shelling in the village of Vlasivka (Luhansk) on 3 July. Fuel was reportedly in short supply with only one petrol station remaining open to serve Kramatorsk and



Slovyansk (15 miles away) on 4 July. On 27 June, the Donetsk Mayor said the sewage pumping station was not operational in Slovyansk, causing all sewage to flow untreated into the river which is relied on by people in downstream towns for drinking water. Semenivka, in the suburbs of Slovyansk, has suffered so much damage from the fighting it likely will not be repaired.

171. In the Donetsk and Luhansk regions there have been at least 24 explosions of railway lines, bridges and freight trains since 19 June. There are concerns that these acts are part of the armed group's policy to control and raise corrupt profits from trade, as train transport is harder to control than trucks. Meanwhile, in mid-July residents of Donetsk were reported to be waiting for hours in order to catch a train to leave the area, anticipating the blockade around their city that the Government had warned it would impose. Damage to public transportation negatively affects the right to an adequate standard of living.
172. In Crimea, water supply through the North Crimean Canal was blocked by the Ukrainian Department of the North Crimean Canal on 12 May. As much as 80% of Crimea's water reserves used to come from mainland Ukraine. While this situation will not affect drinking water, the consequences of the decision to halt water supply have already started being felt on the harvest of crops, particularly rice and potatoes, which was lower than in the previous year.

## **VIII. MINORITY RIGHTS AND OTHER GROUPS FACING DISCRIMINATION**

173. Despite the escalation of violence in the east and the rise of hate speech, particularly in social media, incidents of actual harassments or violent attacks on minorities remain isolated and rare.<sup>96</sup> Representatives of ethnic and national groups who the HRMMU have spoken to, do not report any systematic negativism or discrimination against them.
174. A few individual cases of hostility and anti-minority acts were reported to the HRMMU. For example, on 25 June in Ivano-Frankivsk region, an activist of the Ukrainian Greek Ethnic and Cultural Society had his property defaced with the Russian and armed groups' flags. He believes it was done by the local Self Defence group who have threatened him previously for questioning the lawfulness of their activities. He also believes there is a connection to his Greek ethnic origin and perceives the situation as inciting hostile attitudes in the region. On 3 July, in Mykolaiv, a monument commemorating Holocaust victims was defaced with brilliant green dye.
175. Representatives of some ethnic communities raised specific concerns about intolerant attitudes towards them. For instance, Roma activist mentioned to the HRMMU that Roma IDPs are less likely to receive help, particularly accommodation; in several towns and villages, local authorities requested Roma families to leave; some local residents were also hostile. People belonging to the Chechen minority fear that because citizens of the Russian Federation from the Republic of Chechnya are known to have participated in the fighting in the eastern regions of Ukraine, people belonging to the Chechen minority in Ukraine might eventually face threats and discrimination.

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<sup>96</sup> In her visit to Ukraine in April, the Special Rapporteur on minority issues reported that the country had a history of harmonious inter-ethnic and inter-faith relations and a legislative, policy and social environment that is generally conducive to the protection of their rights, including cultural and linguistic rights. Nevertheless it was noted that some grievances do exist and that minority rights had become a highly politicized issue.

176. A few incidents of intolerance were based on sexual orientation and gender identity. On 8 June in Donetsk and on 6 July in Kyiv, LGBT clubs were attacked by armed men. The attackers insulted visitors on the basis of their sexual orientation. Although the LGBT rights parade ‘March of Equality’ planned for 5 July in Kyiv was cancelled, as reportedly police could not guarantee participants’ safety, the organisers of the event still received threats and numerous hate comments in social media.
177. In its previous recommendations, the HRMMU stressed the importance of ensuring inclusivity and equal participation of all in public affairs and political life. The law “On Minorities” adopted in 1992 is declarative and does not provide sufficient legal basis for the active participation of minorities in decision-making processes. Unfortunately, no particular efforts were made to develop a mechanism which could have facilitated participation of all minorities and indigenous peoples in the recent national unity round tables on the constitutional changes.
178. Among positive developments, on 18 June, the Cabinet of Ministers created a Commissioner on Ethno-National Policy. The mandate, defined by the Decree of the Cabinet of Ministers Nr. 164 as of 4 June, is to facilitate cooperation between authorities and civil society to “ensure protection of ethnic and national minorities and indigenous peoples, preserve inter-ethnic unity and concord in Ukrainian society”. The Commissioner should develop and present the Cabinet of Ministers with measures to improve ethno-national policy and to prevent inter-ethnic conflicts and acts of discrimination.

## **IX. POLITICAL RIGHTS**

179. In the past few weeks there has been growing frustration expressed by citizens in many different regions (e.g. Ivano-Frankivsk, Ternopil and Lviv) over the way regional and local appointments are made without regard to public opinion. In numerous demonstrations and meetings, people have demanded that they be consulted before such appointments are made and that senior officials, usually appointed by central government, should be of local origin and of people well trusted by the community. Sometimes these protests have been effective in stopping a particular appointment. However, the public lack of trust in political institutions and actors - the result of years of widespread corruption and mismanagement – needs to be systematically addressed, in particular at the regional, district and local levels. It remains to be seen if changes currently being drafted to the Constitution will sufficiently address this issue.
180. Recommendations made in the previous report concerning the conduct of the Presidential election held on 25 May and about the need for inclusive consultations, are pertinent to the anticipated Parliamentary election. This election must be free, fair and transparent. Equally important is the need for political parties and their supporters to refrain from intolerance and hate speech, as well as from harassment or physical attack on candidates, all of which were factors during the Presidential election. It is hoped that a new Parliament will reflect the new political and social reality of the country.
181. Women hold less than 10% of the parliamentary seats in Ukraine and only one woman has a Cabinet position. A draft law that provided for gender quotas, requiring political parties to ensure that women comprised 30% of their party lists of candidates, languished after the first reading last year.

182. There is also a need for inclusiveness and meaningful consultations with people from all components of society (national, ethnic, linguistic, religious and other minorities, women, indigenous people, representatives of civil society, all political parties and of the ‘peaceful population’ of the east) about important government decisions. As previously reported, this did not happen sufficiently in the development of the new constitutional amendments which were finally published on 2 July.
183. Concerning consultations with the peaceful population of the east referred to above, this is particularly meaningful since there appears to have been a lack of communication with central government due in large part to the fighting and the consequent disruption of regional and local government. This has been coupled with an increase in the level of fear, intimidation, rhetoric and propaganda aimed at the residents of the east by the armed groups that has escalated along with the fighting. As the Government regains control of areas in the east, it should make every effort to include representative voices from the peaceful population in decisions about the rebuilding and rehabilitation of their region. Only through such inclusive and participatory dialogue will there be a de-escalation of tensions and the restoration of law and order.

## **X. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

184. In the previous three reports, the HRMMU made 17 recommendations relating to the situation in Crimea, primarily addressed to the Russian Federation. They addressed ways the authorities could protect and enhance the enjoyment of human rights for all residents of Crimea. There has been no progress in implementing them. The HRMMU will continue monitoring the situation.
185. According to UNHCR, as of 15 July 13,381 people have moved from Crimea. A new Crimean Ombudsperson has been appointed, the first to occupy such a post. She was appointed after a majority vote in the Crimean Parliament/State Council of Crimea on 9 July. In Lviv, a Crimean NGO warned that there could be a new wave of IDPs during August-September. This would include business people who were having serious difficulties with continuing to operate their businesses in Crimea; lecturers and teachers because they fear they will be sacked at the beginning of the new academic year for holding Ukrainian nationality or because they are Crimean Tatar; and families with sons of military age who do not want to be called for service into the Russian Federation army.
186. In contravention of General Assembly resolution 68/262 on the territorial integrity of Ukraine, the Russian Federation applies laws and regulations of the Russian Federation to the people of this territory. This continues causing confusion, legal problems and jeopardizing the rights of the residents of this region, in particular those who do not hold Russian Federation citizenship. Prisoners in Crimea are facing specific challenges: they could not leave the peninsula after the March “referendum”, as other residents chose to do. In addition, the right to reject Russian citizenship within the specified timeframe of one month from 16 March until 18 April 2014, was hampered by their deprivation of liberty.
187. All the issues previously reported on remain concerns. This is particularly true of harassment and discrimination against ethnic Ukrainians, Crimean Tatars, representatives

of religious minorities, minority groups in general, and activists who opposed the 16 March 'referendum' in Crimea.<sup>97</sup>

188. The detention of Ukrainian filmmaker Oleg Sentsov, who was arrested in Crimea and transferred to the Russian Federation on terrorism charges, was extended until 11 October. Three other activists are also detained on the same grounds. Despite the fact that Sentsov is a citizen of Ukraine, Federal Security Service (FSB) of the Russian Federation allegedly wrote in the official investigation file that "Oleg Sentsov is a Russian citizen with a Ukrainian passport". According to Sentsov's lawyer, his client has never applied for Russian citizenship. It would appear that since Sentsov did not explicitly renounce Ukrainian citizenship within the deadline provided under Russian legislation, he is automatically considered to have become a Russian citizen<sup>98</sup>. The head of the Crimean centre of business and cultural cooperation "Ukrainian House", who currently lives in Kyiv, was informed by his neighbours that his apartment in Crimea was sealed by the self-defence forces. A madrasa (Islamic religious school) in the village of Kolchugino was searched on 24 June by men in camouflage uniforms who said they were officers of the "centre for combating extremism" of the Russian FSB. During the search, several doors and windows were broken. No reason was provided for the search.
189. Representatives of religious minorities are under pressure to leave Crimea. A pastor of the Protestant Church from Simferopol and his family decided to leave Crimea after he was told by FSB officers that he could 'disappear' like the three pro-Ukrainian activists who went missing in May 2014. According to the pastor, it became dangerous even to wear clerical cloths since the "Russian Cossacks" and representatives of other 'pro-Russian' groups were very aggressive. The Bishop of the Ukrainian Orthodox Church (from the Kyiv Patriarchate) in Crimea reported about increasing pressure on believers and the church property being under threat.
190. The whereabouts of three pro-Ukrainian activists who disappeared in May 2014 are still unknown. On 23 June, the director of a Crimean human rights organization was told by an investigating officer from Crimea that the three were neither in a pre-trial detention centre nor in an FSB facility. No less critical is the situation of people living with HIV/AIDS, particularly drug addict patients and prisoners who do not have access to the substitution maintenance therapy that they previously received; several patients have reportedly died since 10 June due to the lack of necessary medication.
191. Movement to and from Crimea continued to be strictly controlled, and in some cases, prohibitions have been imposed. Representatives of the Crimean Tatar community have been targeted who opposed the March 'referendum'. Thus, the authorities of Crimea have barred on 5 July the head of the Mejlis of the Crimean Tatar People, Refat Chubarov, from entering Crimea. A similar measure had been taken against the former head of the Mejlis, Mustafa Dzhemiliev, in May 2014. In both cases, the decision was justified by alleged 'extremist' statements having been made. The Ukrainian Foreign Ministry condemned the ban and the Ombudsperson of Ukraine said it infringed international law and violated fundamental rights and freedoms of the indigenous people of Crimea.
192. Restrictions continued to be placed on the exercise of the right to peaceful assembly. The authorities in Simferopol rejected three proposals submitted by the representatives of the Crimean Tatar community concerning the location to celebrate the Crimean Tatar Flag Day, a festive event celebrated since 2009. The authorities insisted that the event be

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<sup>97</sup> The UN General Assembly in Resolution 68/262 on 27 March, 2014, declared the 'referendum' held in Crimea on 16 March 2014 as having no validity.

<sup>98</sup> In its second and third public reports, the HRMMU raised concerns that unclear procedures of acquiring and renouncing citizenship would cause difficulties and violations of the right to citizenship.

held far from the city centre and in areas mainly populated by Crimean Tatars. The official celebration, with about 500 people, eventually took place on 26 June in the district of compact settlement of the Crimean Tatars instead of the central area of the capital of Crimea. The police controlled the perimeter of the gathering and people were searched. No significant incidents were reported. Several Ukrainian and Crimean Tatar media outlets are under threat of closing. The editor's office of "Krymskaya Svetlitsa", the only Ukrainian language newspaper in Crimea, received an order from the Crimean authorities to leave the premises which they have been renting for years. The distribution network refuses to distribute the newspaper in its newsstands and it has not been included in the subscription catalogue. New laws have been rapidly introduced, without any prior consultation or notice that may have significant implications for those affected. For example, for employment purposes, Ukrainian nationals resident in Crimea who rejected Russian citizenship are now considered foreigners, and may be employed only if their employer has a permit to employ foreigners. A quota system providing the number of foreigners who may be employed in Crimea is provided by the Russian Federation. Employers had very little notice of the need to apply for a permit by 15 July, and those without could be fined 800,000 RUB (more than 22,000 USD). The effects of this law on Crimean residents who are Ukrainian nationals have yet to be seen.<sup>99</sup>

193. Russia and Ukraine have reached agreement on the price of electric power supplies to Crimea but no official contacts have been established as regards water supply. The current impact of water restrictions in Crimea is described earlier<sup>100</sup>. The Ukrainian Ministry of Infrastructure announced the closure of its ports in Crimea (Evpatoria, Kerch, Sevastopol, Feodosia, and Yalta) for international shipping, effective 15 July.
194. On 7 July 2014, the International Civil Aviation Organization officially confirmed that the airspace over Crimea belongs to Ukraine and the organization denied that it had transferred the management of the airspace to the Russian Federation. The Ukrainian Ministry of Justice said it was seeking 1 million UAH per day (about 91,000 USD) compensation from the Russian Federation for illegally providing air navigation services over Crimea and its territorial waters (the 19-kilometer zone). Otherwise Ukraine will file a claim for the expulsion of the Russian Federation from the Convention on International Civil Aviation.
195. The situation of people living with HIV/AIDS is difficult, particularly for prisoners. Due to the differences in the approved schemes for HIV treatment in Ukraine and the Russian Federation, patients in Crimea have been forced to change their medications. Drug users have been put in a particularly vulnerable position, as they do not have access to the Opioid Substitution Therapy<sup>101</sup>, which is prohibited by legislation of the Russian Federation. Since 10 June, 20 patients have reportedly died due to the lack of necessary medication and some have allegedly returned to the usage of illegal drugs.

## **XI. CONCLUSIONS**

<sup>99</sup> In its second and third public reports, the HRMMU warned that imposed legislative changes over such a short period of time would inevitably have an adverse impact on the possibility of residents to exercise the full scope of their rights.

<sup>100</sup> See Chapter VII.

<sup>101</sup> World Health Organisation recognizes Opioid Substitution Therapy as one of the most effective harm reduction programmes, which are widely used to control HIV/AIDS and other infectious diseases among injecting drug users.

196. Notwithstanding the challenges the Government faces trying to restore law, order and security as well as combat armed groups in the east, it needs to address the wider systemic problems facing the country with respect to good governance, rule of law and human rights. This requires deep and badly needed reforms, especially as Ukraine seeks to fulfil its EU aspirations and establish a democratic and pluralistic society.
197. It is thus imperative for the Government to ensure priority attention to addressing comprehensively the recommendations made by international human rights mechanisms (UN treaty bodies, special procedures, and the UPR).
198. Annex 1 to this report contains recommendations from the UN Human Rights mechanisms and OHCHR based on the monitoring work of the HRMMU, which could form the basis of a multi-year national human rights action plan to be developed and implemented – with clear benchmarks and timelines – through a senior coordination mechanism led by the Government of Ukraine, with the participation of key Ministries, relevant State Institutions, including the Ombudsman, and civil society organisations. The international community and the UN system stand ready to support Ukraine in the implementation of such a plan, firmly convinced that it will be essential to ensuring the success and long-term sustainability of on-going peace, security and development efforts.

## Compilation of recommendations by the UN Human Rights Mechanism and the UN Human Rights Monitoring Mission in Ukraine

The following recommendations are a thematic compilation of recommendations from the UN Human Rights mechanisms – treaty bodies, special procedures and the universal periodic review (UPR) – as well as from the first three reports of the UN Human Rights Monitoring Mission in Ukraine (HRMMU).

*A glossary of acronyms is on the last page of this Annex.*

### Theme 1: Rule of law, accountability and administration of justice

#### *Treaty Bodies*

- CAT (2011) reiterated its recommendation that the reform of the Prosecutor's Office should ensure its independence and impartiality and separate the criminal prosecution functions from those of investigating alleged abuse. WGAD (2009) made similar observations.
- CRC urged the Government to put in place a juvenile justice system; ensure a restorative juvenile justice system promoting alternative measures to deprivation of liberty and strengthen the social support services. WGAD made similar recommendations.
- The HR Committee (2013) recommended the State party to take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body.
- The HR Committee urged the State party to adopt a law providing for clear procedures and objective criteria for the promotion, suspension and dismissal of judges.
- The HR Committee also noted that Government should ensure that prosecuting authorities are not involved in deciding on disciplinary actions against judges and that judicial disciplinary bodies are neither controlled by the executive branch nor affected by any political influence.

#### *Special Procedures*

- WGAD (2009) recommended that Ukraine provide the legal and operational framework for an independent and effective judiciary, including through appropriate recruitment.
- WGAD recommended that Ukraine amend the Criminal Procedure Code to the effect that convictions exclusively based on confessions are inadmissible.
- WGAD recommended that Ukraine: (a) ensure that in practice all detainees have recourse to lawyers from the moment of arrest and (b) legally enact a Bar Association with an independent and effective mandate.

#### *UPR recommendations (2012)*

- Speed up the work to bring the Criminal Procedure Code in line with European standards, as proposed by the Council of Europe.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to limit the powers of the Prosecutor General's office.
- Implement genuine measures ensuring truly independent judiciary, including establishing transparent procedures and criteria regarding the appointment and dismissal of judges and the use of disciplinary measures.
- Continue strengthening the independence and impartiality of the judiciary and guaranteeing greater transparency of legal procedures, through measures such as the review of the Criminal Code and of the Public Prosecutor's Office.
- Provide the legal and operational framework for an independent judiciary, inter alia, by establishing fair procedures and criteria regarding the appointment and dismissal of judges.

- Consider establishing enhanced procedures and transparent criteria regarding the appointment and dismissal of judges, and the application of disciplinary measures in order to dispel concerns of the international community regarding the independence of the judiciary.
- Provide the legal and operational framework for an independent and effective judiciary, and undertake reform of the Prosecutor's Office that ensures its independence and impartiality and separate the criminal prosecution functions from those investigating alleged abuse.
- Further strengthening of the judiciary by investigating all allegations of human rights violations by law enforcement officers and the police.
- Take concrete steps to improve the objectivity and independence of the criminal justice system by incorporating the recommendations of the Venice Commission, implementing the judgments of the European Court of Human Rights, and addressing concerns about selective justice.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to limit the powers of the Prosecutor General's office, and establish an impartial and independent criminal justice system, in line with Ukraine's obligations under the ICCPR.
- Full implementation of the new criminal procedure code, and that the independency of judges is strengthened, the role of the public prosecution is balanced and corruption in judiciary system is tackled.
- Continue to make efforts with regard to reform in criminal proceedings, including enhancing the independence and impartiality of the Prosecutor's Office, as well as the updating of pre-trial investigation procedures.
- Create an independent body to investigate cases of torture and guarantee compensation for victims. Additionally, bring conditions of detention in line with international standards and ensure respect for the judicial guarantees of detainees.
- Further pursue its effort to provide human rights training for police personnel to effectively fight hate crimes.
- Issue a comprehensive anti-discrimination law and update the national action plan in order to dedicate special attention to addressing the practices of law enforcement officials, as well as the legal and practical measures needed to combat incitement and hate crimes.
- Provide training for staff of law enforcement bodies on the rights of detainees.
- Take urgent measures to prevent cases of ill-treatment and torture by police officers.
- Protect and promote effectively the right to a fair trial in accordance with internationally established standards.
- Take the necessary steps to ensure that all allegations of mistreatment are impartially investigated.
- Ensure non-selective prosecutions on its territory and a fair trial for persons being prosecuted, in conformity with the standards as under article 14 of the ICCPR, including the right to appeal laid down in paragraph 5.
- Urgently address the problem of the acceptance by the courts of evidence obtained as a result of ill-treatment in detention.
- Consider stepping up efforts towards reform in juvenile justice.
- Strengthen and advance its efforts for establishing a juvenile justice system and promote alternative measures to deprivation of liberty for juvenile offenders.
- Ensure that the new Criminal Procedure Code respects the human rights of those held in custody, and that the statements informing migrants of the justification for their deportation is in one of the languages that the deportee understands.

*HRMMU 15 April 2014 Report*

- Ensure the institutional independence of the State Bureau of Investigation, under Article 216 of the new CCP, which provides for its creation within five years (as of 2012) to enable it to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. It will be very important to ensure that this new body is



independent from the Prosecutor's Office. Public accountability and sufficient resourcing is essential to enable it to function effectively, promptly, independently and impartially.

*HRMMU 15 May 2014 Report*

- The deterioration in the east of Ukraine – the unlawful activities of the armed groups, including the seizure and occupation of public and administrative buildings, and numerous human rights abuses, inter alia, unlawful detentions, killings, torture/ill-treatment and harassment of people – remain the major factor in causing a worsening situation for the protection of human rights. A prompt, impartial and comprehensive investigation should be undertaken into the events and violence in the east.
- The violent clashes in Odesa on 2 May resulted in the deaths of 46 people, with over 200 injured and 13 remaining missing. It appears to have hardened the resolve of those opposing the Government, and deepened division between communities. There is a need for an independent investigation into the violent events of that day. The perpetrators must be brought to justice in a fair and non-selective manner.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All gaps of legislation should be brought in line with the recommendations of the international human rights mechanisms (Treaty Bodies, Universal Periodic Review and Special Procedures); the Judiciary, Office of the Prosecutor General and the Bar Association should operate in line with relevant international norms and standards in order to ensure fair trial without which it is impossible to tackle corruption.
- The Constitutional Court should be enhanced – legal, social and all other guarantees need to be elaborated in order to ensure the genuine independence of the Constitutional Court.o the authorities in Crimea and the de facto governing authority of the Russian Federation:
- Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
- Ukrainian legislation should remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
- Criminal and administrative liability should not be used as a mechanism of intimidation against Crimean Tatars and other residents of Crimea, but used in line with international law.

Accountability and Rule of Law:

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Ensure accountability for all human rights violations committed during the period of unrest, through securing of evidence and thorough, independent, effective and impartial investigations, prosecutions and adequate sanctions of all those responsible for these violations; ensure remedies and adequate reparations for victims.
- Ensure that any lustration initiatives are pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.

To the authorities in Crimea:

- Act to re-establish the rule of law, including by the effective disbandment of any and all ‘self-defence forces’ and/or para-military groups. Reform the administration of justice system so that it functions independently, impartially and effectively; reform the security sector so as to ensure that it functions in full respect of international norms and standards; provide for full accountability for human rights violations.

- Strengthen rule of law institutions so that they fully comply with relevant international and regional human rights norms and recommendations of human rights mechanisms.

*HRMMU 15 May 2014 Report*

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

*HRMMU 15 June 2014 Report*

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

- Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.

Judiciary

*Treaty Bodies*

- HR Committee (2013) – urges the State party to ensure that judges are not subjected to any form of political influence in their decision-making and that the process of judicial administration is transparent. The State party should adopt a law providing for clear procedures and objective criteria for the promotion, suspension and dismissal of judges. It should ensure that prosecuting authorities are not involved in deciding on disciplinary actions against judges and that judicial disciplinary bodies are neither controlled by the executive branch nor affected by any political influence. The State party should ensure that prosecutions under article 365 of the Criminal Code fully comply with the requirements of the Covenant.

*UPR Recommendations (2012)*

- Take the necessary steps to ensure that all allegations of mistreatment are impartially investigated.
- Implement genuine measures ensuring truly independent judiciary, including establishing transparent procedures and criteria regarding the appointment and dismissal of judges and the use of disciplinary measures.
- Continue strengthening the independence and impartiality of the judiciary and guaranteeing greater transparency of legal procedures, through measures such as the review of the Criminal Code and of the Public Prosecutor's Office.
- Provide the legal and operational framework for an independent judiciary, inter alia by establishing fair procedures and criteria regarding the appointment and dismissal of judges.
- Consider establishing enhanced procedures and transparent criteria regarding the appointment and dismissal of judges, and the application of disciplinary measures in order to dispel concerns of the international community regarding the independence of the judiciary.
- Provide the legal and operational framework for an independent and effective judiciary, and undertake reform of the Prosecutor's Office that ensures its independence and impartiality and separate the criminal prosecution functions from those investigating alleged abuse.
- Take concrete steps to improve the objectivity and independence of the criminal justice system by incorporating the recommendations of the Venice Commission, implementing the judgments of the European Court of Human Rights, and addressing concerns about selective justice.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to establish an impartial and independent criminal justice system, in line with Ukraine's obligations under the ICCPR.
- Full implementation of the new Criminal Procedure Code, and that the independency of judges is strengthened, the role of the public prosecution is balanced and corruption in judiciary system is tackled.

- Continue to make efforts with regard to reform in criminal proceedings, including enhancing the independence and impartiality of the Prosecutor's Office as well as the updating of pre-trial investigation procedures.
- Urgently address the problem of the acceptance by the courts of evidence obtained as a result of ill-treatment in detention.

*HRMMU 15 May 2014 Report*

- The Law "On the restoration of the credibility of the judiciary in Ukraine" must be brought in line with international norms and standards.

Equality before the law, courts and tribunals

*UPR Recommendations (2012)*

- Fulfil its commitments on the use of minority language in justice, in both criminal and civil procedures.

Right to a fair trial

*UPR Recommendations (2012)*

- Protect and promote effectively the rights to a fair trial in accordance to the internationally established standards.
- Ensure a fair trial for persons being prosecuted, in conformity with the standards as under article 14 of the ICCPR, including the right to appeal laid down in paragraph 5.

*HRMMU 15 June Report*

To the Government of Ukraine and other stakeholders:

- The State Migration Service should propose amendments to bring the refugee law in line with international standards, and to allocate sufficient funds to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.

Impunity

*Treaty Bodies*

- HR Committee (2013) - The State party should take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body, that sentencing practices and disciplinary sanctions against those found responsible are not overly lenient, and that appropriate compensation is provided to families of victims.

*UPR Recommendations (2012)*

- Improve the legislation and its application in order to combat police impunity and to increase the number of criminal investigations of suspected perpetrators accused of police brutality.
- Take sincere efforts to hold accountable those police and law enforcement officers responsible for the torture and ill-treatment of detainees.
- Ensure police officers accountability for any criminal acts.

Juvenile justice

*UPR Recommendations (2012)*

- Consider stepping up efforts towards reform in juvenile justice.
- Strengthen and advance its efforts for establishing a juvenile justice system and promote alternative measures to deprivation of liberty for juvenile offenders.

Law Enforcement

*HRMMU 15 April 2014 Report*

- Ensure that policies, practices and instructions applicable to the management of peaceful assemblies are observed through rigorous training for the personnel involved. In particular, effective internal oversight mechanisms must be put in place in order to review all incidents of

injury or loss of life resulting from the use of force by law enforcement personnel as well as all cases of use of firearms during duty.

*HRMMU 15 May 2014 Report*

- Security and law enforcement operations must be in line with international standards and guarantee the protection of all individuals at all times. Law enforcement bodies must ensure that all detainees are registered and afforded legal review of the grounds of their detention.
- There is an increasing tendency in some critical urban areas for rallies of opposing groups to be held simultaneously, often leading to violent confrontations and clashes. This trend can be reverted by replacing incitement to hatred with the culture of tolerance and mutual respect for diverging views. Peaceful demonstrations must be permitted, as a matter of international law, and also as a way for people to express their opinion. Law enforcement agencies must facilitate peaceful assemblies, ensuring the protection of participants, irrespective of their political views. In this context, law enforcement officers must receive adequate training for handling rallies and protests in line with the international human rights standards.
- The law enforcement reform package should aim to reinforce the rule of law; to de-politicise, de-militarise, de-centralise and strengthen the structure of the law enforcement bodies through accountability, transparency, and closer cooperation with the public and local communities, as well as professionalising the staff.

**Theme 2: Right to life, liberty and security of the person, torture and ill treatment**

*Treaty Bodies*

- The HR Committee (2013) urged Ukraine to take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body.
- HR Committee recommended Ukraine to adopt a new legislation on prevention of domestic violence.
- CEDAW (2010) urged Ukraine to work towards a comprehensive approach to preventing and addressing all forms of violence against women; ensure effective penalties in cases of domestic violence and access of victims of domestic violence to shelters and social centres and to immediate means of redress and protection.
- CRC (2011) urged Ukraine to step up its efforts to prevent and combat all forms of abuse and neglect of children, adopt preventive measures and provide protection and services for their recovery.
- CRC urged Ukraine to end all forms of corporal punishment in the home and other settings by implementing the existing legislative prohibition.
- CRC urged Ukraine to eliminate exploitative child labour, in particular in the informal sector and ensure effective enforcement of applicable sanctions against persons violating legislation on child labour.
- CRC recommended that Ukraine develop a national strategy for the prevention of, support for and social reintegration of such children and increase the number and quality of shelters and psychosocial rehabilitation centres for children in street situations.
- CEDAW (2010) called upon Ukraine to address the root causes of trafficking, establish additional shelters for rehabilitation and social integration of victims and ensure systematic investigation, prosecution and punishment of traffickers. CRC also recommended that Ukraine seek technical assistance from UNICEF, IOM and other partners.

*Special Procedures*

- WGAD (2009) recommended that Ukraine ensure a policy of zero-tolerance of torture and that any related allegation is promptly and properly investigated. CRC made similar recommendations.

*UPR Recommendations (2012)*

- Establish an independent national preventive mechanism in accordance with its obligations under the OPCAT.
- Consider bringing national legislation relating to trafficking in and sale of children in line with the Optional Protocol to the CRC, on the sale of children, child prostitution and child pornography.
- In the realm of the new criminal procedure code, establish an independent mechanism for the investigation of alleged cases of torture by officers of law-enforcement agencies independent from the Ministry of the Interior and the Prosecutor's Office.
- Pay due attention to the recommendations made by the Special Rapporteur on torture.
- Take further measures to ensure systematically safeguards against occurrence of torture or ill-treatment in particular in prison and detention facilities, while implementing also recommendations of the European Committee for the Prevention of Torture.
- Create an independent body to investigate cases of torture and guarantee compensation for victims.
- Ensure that the right of victims of torture or other cruel, inhuman or degrading treatment to obtain reparation is respected.
- Continue to strengthen provisions to address domestic violence, and programmes to reinforce mechanisms for the protection of women and children;
- Respect the principles and standards provided by the Council of Europe Convention on preventing and combating violence against women and domestic violence, even prior to its ratification and entry into force.
- Allocate adequate resources to ensure the effective implementation of the Combatting Trafficking in Persons Act (2011).
- Step up the national efforts in the field of trafficking in persons through a victim-oriented approach that attaches special focus on the protection of children from abuse and sexual exploitation.
- Continue efforts in combating human trafficking and provide the necessary assistance to victims of trafficking.
- Redouble its efforts in regard to combating trafficking in persons, particularly in combating the trafficking of children for sexual and labour exploitation, including through addressing the root causes of trafficking, establishing additional shelters for rehabilitation and social integration of victims and ensuring systematic investigation, prosecution and punishment of traffickers.
- Give adequate training on the Law on combating trafficking in human beings to all those involved in the fight against human trafficking, especially border guards.
- Continue its efforts aimed at fighting trafficking in persons, particularly children and women, and at ensuring compensation and rehabilitation for trafficking victims.
- Improve the legislation and its application in order to combat police impunity and increase the number of criminal investigations of suspected perpetrators accused of police brutality, as well as provide training for staff of law-enforcement bodies on the rights of detainees.
- Ensure that the right of victims of torture or other cruel, inhuman or degrading treatment to obtain reparation is respected.
- Take sincere efforts to hold accountable those police and law enforcement officers responsible for the torture and ill-treatment of detainees.
- Take urgent measures to prevent cases of ill-treatment and torture by police officers and ensure their accountability for any criminal acts.
- Strengthen the effectiveness and the independence of the mechanisms to supervise the observance of human rights of inmates and persons under police custody with the aim of preventing ill-treatment.

#### *Treaty Bodies*

- HR Committee (2013) - The State party should reinforce its measures to eradicate torture and ill-treatment, ensure that such acts are promptly, thoroughly, and independently investigated,

that perpetrators of acts of torture and ill-treatment are prosecuted in a manner commensurate with the gravity of their acts, and that victims are provided with effective remedies, including appropriate compensation. As a matter of priority, the State party should establish a genuinely independent complaints mechanism to deal with cases of alleged torture or ill-treatment. It should also amend its Criminal Procedure Code to provide for mandatory video recording of interrogations, and pursue its efforts towards equipping places of deprivation of liberty with video recording devices with a view to discouraging any use of torture or ill-treatment.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All armed groups must immediately put an end to their violent activities and lay down their arms.

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

- Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security.

#### Right to life – excessive use of force

*UPR Recommendations (2012)*

- In the realm of the new Criminal Procedure Code, establish an independent mechanism for the investigation of alleged cases of torture by officers of law enforcement agencies independent from the Ministry of the Interior and the Prosecutor's Office.
- Further strengthening of the judiciary by investigating all allegations of human rights violations by law enforcement officers and the police.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- The Government must ensure that its armed forces refrain from using excessive force, and ensure that its on-going security operations are at all times in line with the relevant international standards applicable to different types of operations. In all circumstances, it must ensure the protection of those who are not involved in the fighting.

#### Arbitrary arrest and detention

*UPR Recommendations (2012)*

- Additionally, bring conditions of detention in line with international standards and ensure respect for the judicial guarantees of detainees.
- Strengthen the effectiveness and the independence of the mechanisms to supervise the observance of human rights of the inmates and the persons under police custody with the aim of preventing ill-treatment.
- Ensure non-selective prosecutions on its territory.
- Ensure that the new Criminal Procedure Code respects the human rights of those held in custody.

*HRMMU 15 April 2014 Report*

To the authorities in Crimea:

- Publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions.
- Take all measures to ensure that the human rights of Ukrainian soldiers based in Crimea are also fully respected.

- Take all needed measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to access to citizenship, right of residence, labour rights, property and land rights, access to health and education.

*HRMMU 15 May 2014 Report*

To the authorities in Crimea:

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

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All people detained in the context of the security operations should be treated in line with international norms and standards and guaranteed their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law. In order to protect its security personnel and persons not involved in the fighting, the Government should consider providing assurances that acts of abduction and detention by armed groups will not be prosecuted provided that they do not target people not involved in the fighting and the victims are treated humanely at all times.

### **Theme 3: Corruption**

*CESCR (2014)*

- The State party should, as a matter of priority, address the root causes of corruption and adopt all necessary legislative and policy measures to effectively combat corruption and related impunity and ensure that public affairs, in law and in practice, are conducted in a transparent manner. It also recommends that the State party make politicians, members of parliament and national and local government officials aware of the economic and social costs of corruption, and make judges, prosecutors and the police aware of the need for strict enforcement of the law.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Put in place, as a matter of priority, all legislative and policy measures needed to effectively eradicate corruption.

### **Theme 4: Equality and Non-Discrimination**

*Treaty Bodies*

- The HR Committee (2013) recommended the State party to further improve its anti-discrimination legislation to ensure adequate protection against discrimination in line with the Covenant and other international human rights standards. The Committee noted that Government should explicitly list sexual orientation and gender identity among the prohibited grounds for discrimination and provide victims of discrimination with effective and appropriate remedies.
- The HR Committee urged the Government to state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or trans-sexuality, or hate speech, discrimination or violence against persons because of their sexual orientation or gender identity.
- The HR Committee urged that State party to strengthen its efforts to combat hate speech and racist attacks, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also step up its

efforts to ensure that alleged hate crimes are thoroughly investigated, that perpetrators are prosecuted under article 161 of the Criminal Code and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated.

- CERD (2011) urged Ukraine to accelerate the adoption of an anti-discrimination act stipulating the definition of direct/indirect and de facto/de jure discrimination.
- CEDAW (2010) recommended that Ukraine implement temporary special measures, including quotas, to achieve gender equality in areas where women are underrepresented or disadvantaged and for women suffering from multiple forms of discrimination, such as Roma women.
- CEDAW called upon Ukraine to amend the Equal Rights and Opportunities Act to strengthen the complaints and sanctions mechanisms and to bring the definition of discrimination against women into conformity with the Convention, by encompassing both direct and indirect discrimination. CEDAW recommended that Ukraine strengthen the national mechanism for the advancement of women by raising its authority and provide it with adequate resources. CEDAW also encouraged Ukraine to adopt a national plan of action with a comprehensive approach to gender equality and to allocate sufficient resources for its implementation.
- Noting the adoption of the Plan of Action to Combat Xenophobia and Racial and Ethnic Discrimination (2010-2012), CERD (2011) recommended that Ukraine establish institutional mechanisms to counter racial discrimination and re-activate institutions which had ceased to be operational, particularly the Inter-departmental Working Group against Xenophobia and Ethnic and Racial Intolerance. Furthermore, it recommended that Ukraine mandate the Parliamentary Commissioner for Human Rights with specific competence in the field of racial discrimination, in particular to process complaints and take measures in response to the victims' concerns of racial discrimination and ensure their access to the Commissioner's Office at the regional, district and municipal levels.
- CERD recommended that Ukraine establish civil and administrative liability for racial discrimination, including hateful opinions spread by the media and guarantee remedies and compensation to victims. CERD urged Ukraine to: investigate hate crimes; ensure that the police do not engage in racial or ethnic profiling and bring perpetrators to justice.
- CERD strongly recommended that the State party closely monitor the activities of extremist organizations, and adopt legal and policy measures with the aim of preventing their registration and disbanding their activities, as necessary, and ensuring the protection of foreigners and members of "visible minorities" against all acts of violence.
- CRC (2011) urged Ukraine to ensure that all children enjoy their rights without discrimination on any ground.
- The HR Committee (2013) recommended the State party to strengthen its efforts to combat hate speech and racist attacks, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also step up its efforts to ensure that alleged hate crimes are thoroughly investigated, that perpetrators are prosecuted under article 161 of the Criminal Code and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated.

#### Anti-discrimination legal framework

##### *CESCR (2014)*

The State party should expedite the adoption of amendments to its anti-discrimination legislation to ensure adequate protection against discrimination in line with article 2(2) of the Covenant, taking also into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, inter alia by:

- (a) explicitly including all the prohibited grounds for discrimination listed in article 2(2) of the Covenant in its comprehensive anti-discrimination law;



- (b) bringing the definitions of direct and indirect discrimination in line with the State party's obligations under the Covenant;
- (c) prohibiting discrimination in both public and private spheres;
- (d) providing for a reversal of the burden of proof in civil proceedings;
- (e) adding provisions for access to redress in cases of discrimination, including through judicial and administrative procedures, and providing for effective and appropriate remedies for victims of discrimination.

#### Discrimination against Roma

The CESCR (2014) requests the State party to step up its efforts in combating discrimination against Roma with a view to giving full effect to their Covenant rights in practice and, to this end:

- (a) collect statistical data, on the basis of voluntary self-identification, on the number of Roma living in the country and on their situation in the areas of employment, social security, housing, healthcare and education with a view to formulating, implementing and monitoring targeted and co-ordinated programmes and policies at national and regional levels aimed at improving their socio-economic situation;
- (b) simplify the procedure and remove existing obstacles to ensure that all Roma are provided with personal documents, including birth certificates, which are necessary for the enjoyment of their rights under the Covenant;
- (c) ensure that the Action Plan for Roma provides for concrete measures aimed at addressing the problems faced by Roma in accessing employment, social security, housing, healthcare and education;
- (d) establish quantitative and qualitative indicators to monitor the implementation of the Action Plan nationwide and provide adequate financial resources for its effective implementation.

#### Discrimination against Crimean Tatars

- The State party should take measures to further improve the situation of Crimean Tatars and ensure their de facto access to employment, housing, health care, social services and education.

#### Gender pay gap

The CESCR recommends that the State party, taking into account the Committee's general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights:

- (a) take steps to eliminate the persistent gender pay gap by combating vertical and horizontal segregation in employment that results in women occupying lower paid jobs and facing obstacles in the enjoyment of career opportunities on an equal footing with men;
- (b) take measures to change society's perception of gender roles, including through awareness-raising campaigns on shared family responsibilities for men and women and about equal career opportunities as a result of education and training in fields other than those traditionally dominated by either sex.

#### *Special Procedures*

- The Special Rapporteur on freedom of expression (2008) urged Ukraine to take action to thwart the wave of racist violence.

#### UPR Recommendations (2012)

- Adopt a comprehensive anti-discrimination legislation that would include also a definition of direct and indirect discrimination and a comprehensive list of grounds for discrimination.
- Enact legislation which clearly prohibits child prostitution and other forms of sexual exploitation, consistently with the international obligations undertaken by the country, bearing

in mind that the Lanzarote Convention will enter into force as regards Ukraine on 1 December 2012.

- Adopt a comprehensive anti-discrimination law that addresses the worrying trend of incidents based on gender, sexual orientation, racial and ethnic discrimination.
- Step up efforts to strengthen the national mechanism for the advancement of women and to provide such mechanism with adequate resources.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- Continue the promotion of the rights of national minorities, as well as governmental policy on combating discrimination.
- Remove from the legislation discriminatory provisions based on race, sex or sexual orientation, and adopt comprehensive anti-discrimination legislation.
- Continue its effort to combat discrimination and promote equality in accordance with international treaties establishing guarantees of fundamental human rights and freedoms, and equality in the enjoyment of such rights, without privileges or restrictions based on race, colour, political, religious or other belief, gender, sexual orientation, ethnic or social origin, property status, place of residence, language or other grounds.
- Take more effective procedures to counter discrimination and xenophobia.
- Continue efforts to combat different forms of discrimination and ensure respect for the rights of ethnic minorities.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- In line with the observation made by CERD, ensure proper investigation and continue its actions to stop hate crimes.
- Continue its efforts to combat discrimination and ensure that manifestations of racial, ethnic and religious hatred are promptly investigated and acted upon accordingly; and in this regard, intensify its efforts in enacting anti-discrimination laws.
- Intensify its efforts to fight hate crimes and encourage senior State officials to take a clear position against these crimes and to publicly condemn racist acts of violence and other offences motivated by hatred.
- Further pursue its efforts to create appropriate institutional mechanisms to counter all forms of discrimination and further pursue its efforts to provide human rights training for police personnel to effectively fight hate crimes.
- Respect its international commitments on fundamental rights related to non-discrimination, prevent the adoption of a law prohibiting freedom of expression with regards to homosexuality and raise awareness of civil society on combating all forms of discrimination, including discrimination based on sexual orientation and gender identity.
- Study the possibility of expanding measures to combat discrimination, especially in the case of children with disabilities and HIV.
- In line with the observation made by the Committee on the Elimination of Racial Discrimination, ensure proper investigation and continue its actions to stop hate crimes.
- Intensify its efforts to fight hate crimes and encourage senior State officials to take a clear position against these crimes, and publicly condemn racist acts of violence and other offences motivated by hatred.

## **Theme 5: Minorities and Indigenous Peoples**

### *Treaty Bodies*

- CERD (2011) urged Ukraine to adopt special measures to preserve the language, culture, religious specificities and traditions of those communities.
- CERD recommended that Ukraine ensure the restoration of political, social and economic rights of Tatars in the Crimea, in particular the restitution of property.
- CERD recommended that Ukraine provide education to Roma children, and on Roma language and culture.
- CERD urged Ukraine to issue identification documents to all Roma to facilitate their access to the courts, legal aid, employment, housing, health care, social security, education and other public services. CRC made similar observations.
- CERD recommended that Ukraine respect the right of persons and peoples to self-identification and consider the issue of the Ruthenians' status, in consultation with their representatives.
- CERD urged Ukraine to adopt legislation to protect indigenous peoples and guarantee their economic, cultural and social development.

#### *CESCR (2014)*

##### Linguistic rights of national or ethnic minorities

- The Committee recommends that the State party ensure the meaningful and comprehensive participation of concerned minorities in the process of drafting the new language law with a view to giving expression to the linguistic diversity of different minorities. It should further ensure that the revised law conforms to the relevant international and regional standards for the protection of the linguistic rights of national or ethnic minorities.

##### Cultural rights of Crimean Tatars

- The Committee recommends that the State party, taking into account the Committee's general comment no. 21 (2009) on the right of everyone to take part in cultural life, strengthen the measures aimed at ensuring favourable conditions for Crimean Tatars to preserve, develop and promote their identity, language and culture, inter alia by providing adequate financial support to cultural organizations for their activities and creating more opportunities for Crimean Tatars to promote and use their mother tongue in education and daily life.

#### *UPR Recommendations (2012)*

- Continue efforts to combat different forms of discrimination and ensure respect for the rights of ethnic minorities.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- Continue the promotion of the rights of national minorities, as well as governmental policy on combating discrimination.
- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.
- That no effort be spared for the improvement of the current status and living conditions of the Crimean Tatars along with the other minorities.
- Take further action in ensuring and preserving the political, economic, social and cultural rights of the Crimean Tatars, which would also be conducive to better inter-communal relations.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.

- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Ensure that legislation on minorities, in particular on linguistic rights, is adopted following full consultation of all minorities concerned and according to relevant international and regional human rights standards.

To the authorities in Crimea:

- Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.

*HRMMU 15 May 2014 Report*

To the Government of Ukraine:

- The announced national consultations on the discussion of the amendments to the Constitution of Ukraine on the decentralization of state powers should be advanced in accordance with the principle of equal inclusion of all, including national minorities and representatives of civil society, and ensuring equal role for women. A system of checks and balances should be fully provided. If conducted in a broad, consultative and inclusive manner, this may be a positive step leading to the de-escalation of tensions and genuine national reconciliation.
- The adoption of measures, including making official public commitments on minority protection and ensuring participatory and inclusive processes in public and political life - reassuring all members of minorities regarding respect for their right to life, equality, political participation in public affairs and public life, as well as their cultural and linguistic rights would significantly ease tensions within the Ukrainian society.

To the authorities in Crimea:

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

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- A language law should be adopted in line with international standards that enable the promotion of the official national language as well as other languages.

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

- The promotion and protection of the rights of national minorities, including the Crimean Tatars and other indigenous peoples must be ensured, enabling them to participate fully and inclusively in public and political life.

## **Theme 6: Right to participate in public and political life**

*Treaty Bodies*

- CEDAW (2010) urged Ukraine to increase the representation of women in elected and appointed bodies through, inter alia, the implementation of temporary special measures.

*UPR Recommendations (2012)*

- Take appropriate measures aimed at increasing the number of women in decision-making positions as well as address the issue of a persisting wage gap between men and women;

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Ensure inclusivity and equal participation of all in public affairs and political life, including members of all minorities and indigenous peoples and establish a mechanism to facilitate their participation.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- There should be constitutional inclusive and meaningful consultations with all political parties, regardless of their ideology, as well as representatives of civil society and minority (national and ethnic, linguistic, religious and other) groups and indigenous peoples in order to embrace all components of society, including women in the dialogue for the new constitution, which will reflect the new reality of the country with a full-fledged system of checks and balances. The peaceful population of the east should participate in these consultations.

## **Theme 7: Freedom of expression, association, and peaceful assembly**

### *Treaty Bodies*

- Concerned about the lack of a domestic legal framework regulating peaceful events, the HR Committee (2013) urged Ukraine to adopt a law regulating freedom of assembly, imposing only restriction that are in compliance with the strict requirements of article 21 of the Covenant.
- HR Committee recommended that State party ensure that journalists, human rights defenders and individuals are able to freely exercise their right to freedom of expression, in accordance with article 19 of the Covenant and the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. Any restrictions on the exercise of freedom of expression should comply with the strict requirements of article 19, paragraph 3, of the Covenant. Furthermore, the State party should ensure that acts of aggression, threats and intimidation against journalists are investigated, prosecuted and punished and victims provided with appropriate remedies.
- HR Committee urged the State party to ensure that individuals fully enjoy their right to freedom of assembly. The State party should adopt a law regulating the freedom of assembly, imposing only restrictions that are in compliance with the strict requirements of article 21 of the Covenant.

### *Special Procedures*

- The Special Rapporteur on freedom of expression (2008) urged Ukraine to guarantee that crimes against media professionals and opinion-makers will not go unpunished. The Special Rapporteur also called for a broad and comprehensive revision of media legislation, especially on TV and radio broadcasting, to increase TV and radio broadcasting bodies' independence from political lobbies.
- The Special Rapporteur urged Ukraine to ensure that human rights defenders do not face harassment or discrimination and to create a safe environment conducive to their work.

### *UPR Recommendations (2012)*

- Further promote freedom and pluralism of the media as key elements for enabling the exercise of freedom of expression.
- Create an enabling environment for journalists and media professionals and ensure fully transparent and impartial investigation and prosecution in all cases of attacks against them.
- Further develop measures to fully guarantee freedom of expression, particularly the protection of the integrity of persons working in the media in the exercise of that right.
- Ensure better protection of journalists and combat abuse and violence to which they are subject.
- Pursue measures against State organs which attempt to limit media and journalists.

- Implement a law on freedom of assembly that complies with applicable standards under article 21 of the ICCPR.
- Adopt a law on bar association that recognizes the right of the bar to self-government and guarantees a proper representativeness by regular elections and regional representation.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Adopt legislation and other measures needed to ensure the right to peaceful assembly in compliance with the requirements of article 21 of the International Covenant on Civil and Political Rights. In particular, ensure that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management of peaceful assemblies.
- Prevent media manipulation by ensuring the dissemination of timely and accurate information. Take action against deliberate manipulation of information, in compliance with international standards of freedom of expression and in full respect of due process guarantees.
- Combat intolerance and extremism and take all measures needed to prevent advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and punish such incitement or acts of violence, which is of fundamental importance. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.
- Take resolute steps to prevent negative stereotyping of minority communities in the media, while fully respecting the freedom of the press. Efforts to train media professionals must be increased, including by further promoting the visibility and effectiveness of the work of the national union of journalists in this regard.
- Review legislation and policies applicable to the management of peaceful assemblies, and if necessary, modify them to ensure their compliance with human rights standards. In particular, these should specify that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management. In this regard, particular attention should be paid to the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

To the authorities in Crimea:

- Investigate all allegations of hate speech and media manipulation, and take appropriate measures to prevent them and take appropriate sanctions while fully ensuring and strengthening freedom of expression.

*HRMMU 15 May 2014 Report*

To the Government of Ukraine:

- Primarily as a result of the actions of organised armed groups, the continuation of the rhetoric of hatred and propaganda fuels the escalation of the crisis in Ukraine, with a potential of spiralling out of control. Acts of hate speech must be publicly condemned and deterred. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech.
- There are increasing reports of harassment and intimidation of journalists. These should be investigated and addressed in order to ensure accountability and protect fundamental human rights and freedoms. Freedom of expression must be ensured allowing journalists the space and security to carry out their work objectively.

To the authorities in Crimea:

- At variance with UN General Assembly resolution 68/262, the legislation of the Russian Federation is being enforced on the territory. In addition, its differences in comparison with

Ukrainian laws already have and will continue having serious implications for the enjoyment of human rights and fundamental freedoms, including freedom of expression and media as well as freedoms of peaceful assembly, association and religion.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All stakeholders should refrain from using messages of intolerance or expressions, which may incite hatred, violence, hostility, discrimination or radicalisation.

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

- Journalists, human rights defenders and individuals must be able to fully exercise their right to freedom of expression, in accordance with Article 19 of the International Covenant on Civil and Political Rights.

## **Theme 8: Freedom of Movement**

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- Normative acts to ensure freedom of movement for residents of Crimea should be enacted as soon as possible.

## **Theme 9: Freedom of Religion or Belief**

*HRMMU 15 June 2014 Report*

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

- All forms of intimidation and harassment of religious communities must be put to an end and all incidents, including those where there have been attacks on Ukrainian Orthodox Church, Greek Catholic Church and the Muslim community must be properly investigated, thus enabling the effective promotion and protection of the freedom of religion or belief.

## **Theme 10: Right to health**

*Treaty Bodies*

- CRC (2011) recommended that Ukraine develop specialized youth-friendly drug-dependence treatment and harm-reduction services, ensure that criminal laws do not impede access to such services and address root causes of substance use and abuse among children and youth.

*CESCR (2014)*

Health insurance system

- The State party should expedite the process of establishing a mandatory national health insurance system in the context of ensuring a sustainable public social security system without prejudice to maintaining the guaranteed universal health care services provided free of charge.

Health care system

The Committee recommends to the State party to:

- (a) progressively increase the health care expenditure as a proportion of gross domestic product (GDP) with a view to giving practical expression to its obligation in fulfilling the right to health under the Covenant and the State party's Constitution;
- (b) take measures to further improve the infrastructure of the primary health care system, including dental care;
- (c) take concrete measures to address the problem of the high health care costs, the shortage of certain drugs and the limited availability of health care services, especially in rural areas, in order

to ensure de facto access to affordable, quality and timely health care and medical treatment for all segments of the population, including disadvantaged and marginalized individuals and groups;

(d) reverse the current negative trend in vaccination coverage.

#### Mortality rates

- The Committee recommends that the State party step up its efforts with a view to further reducing the high rate of infant, child and maternal mortality, including by improving the quality, availability and accessibility of medical assistance throughout the country.

#### Access to emergency medical care for asylum-seekers

- The Committee recommends that the State party take all the necessary measures to guarantee that asylum-seekers have full access to free emergency medical assistance.

#### HIV/AIDS

The State party should continue its efforts to prevent and combat HIV/AIDS, including through the effective implementation of the National HIV/AIDS Programme 2014–2018, inter alia by:

- (a) enhancing its national preventive strategy, including its awareness-raising activities, taking into account the spread of HIV infection beyond the original risk groups and providing adequate funding for its prevention activities, including for needle and syringe exchange (NSE) programmes;
- (b) improving the coverage of adequate confidential testing throughout the country;
- (c) enhancing its counselling and referral services;
- (d) addressing shortages of antiretroviral drugs;
- (e) providing for access to adequate laboratory monitoring for HIV-infected persons;
- (f) progressively increasing the antiretroviral therapy coverage, including by considering the introduction of generic-based antiretroviral drugs.

#### Tuberculosis

The Committee recommends that the State party step up its measures with a view to improving its policies and strategies for disease prevention and detection, ensuring sufficiency and accessibility of specialized tuberculosis treatment and medication and adequate service delivery for patients at the primary health care level.

#### Drug use

The Committee recommends that the State party adopt a human rights-based approach in addressing the problem of drug use, including by:

- (a) conducting awareness-raising programmes about the serious health risks associated with drug use;
- (b) addressing the discrimination against drug dependent persons;
- (c) providing appropriate health-care, psychological support services and rehabilitation to such persons, including effective drug dependence treatment such as opioid substitution therapy (OST);
- (d) allocating financial resources for the proper operation of opioid substitution therapy (OST) and needle and syringe exchange (NSE) programmes and increasing their coverage, ensuring inter alia better access to such programmes in prison settings.

#### *UPR Recommendations (2012)*

- Continue to implement measures and programmes to promote and protect the rights of children, in particular the right to education and the right to health.



- Take effective measures to increase budgetary allocation to the health sector.
- Continue to develop the national health sector, with special focus on access to health for poorer segments of the population.
- Adopt effective measures to ensure access of all categories of citizens to treatment and prevention of HIV.
- Take steps to reverse the negative trend of the decrease in vaccination coverage in Ukraine.

## **Theme 11: Right to social security and to an adequate standard of living**

### *Treaty Bodies*

- CEDAW (2010) recommended that Ukraine use a gender-sensitive approach in all poverty alleviation programmes.
- CRC (2011) recommended that Ukraine ensure that poverty reduction reforms focus on social assistance and benefit to low-income families and on child protection. It urged Ukraine to address poverty in families with children in the Poverty Reduction and Prevention Programme.

### *CESCR (2014)*

#### Unemployment

The Committee recommends that the State party step up its efforts to further reduce unemployment, in particular youth unemployment and unemployment among persons with disabilities, Roma and Crimean Tatars, including by:

- (a) maintaining the incentives for employers who create new jobs for individuals who have been unemployed for at least two years, including persons who have difficulty competing on the job market, and ensuring that individuals so employed retain their jobs when such incentives are no longer offered;
- (b) reviewing the vocational education and training system to ensure it reflects the current labour market demands;
- (c) taking specifically targeted measures aimed at reducing youth unemployment;
- (d) ensuring effective compliance by public and private companies and institutions with the 4 per cent quota accorded to persons with disabilities, including by providing for dissuasive sanctions for employers in case of non-compliance;
- (e) ensuring equality of opportunity and treatment in employment for Roma and Crimean Tatars and providing for sustainable income-generating opportunities, including by enhancing their skills training.

#### Employment in the informal economy

- The Committee recommends that the State party take all appropriate measures with a view to achieving the progressive reduction of the level of informal employment and access of persons employed in the informal economy to basic services, social protection and other Covenant rights. It also recommends that the State party systematically include the informal sector in the operations of the labour inspection services, deal with regulatory obstacles to job creation in the formal economy, and raise public awareness of the fact that labour rights and social protection apply to the informal economy.

#### Wage arrears

The State party should step up measures to address the problem of wage arrears, including by:

- (a) ensuring effective monitoring of the payment of wages;
- (b) providing for appropriate and dissuasive sanctions in case of violations;
- (c) ensuring that a wage guarantee institution is in place in order for workers to secure payment of their wages when such payment cannot be made by the employer due to insolvency;

- (d) ensuring that mechanisms of redress provide not only for the full payment of the overdue amounts, but also for fair compensation for the losses incurred on account of delayed payment.

#### Social security

- The State party should take measures to progressively bring its State social standards in line with its core obligations under articles 7, 9 and 11 of the Covenant and progressively increase their amounts.

#### Poverty

- The Committee draws the State party's attention to its statement concerning Poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10) and recommends that the State party strengthen its efforts to combat poverty, with a particular focus on most disadvantaged and marginalized individuals and groups, and reduce the disparities between rural and urban areas. The State party should guarantee that its social assistance system is effectively targeting the poor and ensure that adequate financial resources are allocated for the effective implementation of poverty reduction programmes and that these are adjusted accordingly when measures taken do not bring the expected positive impact.

#### *UPR Recommendations (2012)*

- Further strengthen a gender-sensitive approach in all poverty alleviation programmes.
- Use a gender sensitive approach in all poverty alleviation programmes.

### **Theme 12: Right to adequate housing and right to food**

#### *Treaty Bodies*

#### *CESCR (2014)*

#### Right to adequate housing and right to food

The State party should, taking into account Committee's general comment no. 4 (1991) on the right to adequate housing, adopt all appropriate measures to ensure access to adequate housing for Roma, inter alia by ensuring that adequate resources are allocated to increase the supply of social housing units and by providing appropriate forms of financial support, such as rental subsidies. The Committee also recommends that the State party take steps to ensure that Roma communities are consulted throughout the eviction procedures, are afforded due process guarantees and are provided with alternative accommodation or compensation enabling them to acquire adequate accommodation, taking into account the guidelines adopted by the Committee in its general comment no. 7 (1997) on forced evictions. The Committee further recommends that the State party take effective measures to secure access to adequate housing and food for asylum-seekers.

### **Theme 13: Right to education**

#### *Treaty Bodies*

- CRC (2011) recommended that Ukraine ensure adequate funding for the public education system; improve availability, accessibility and the quality of general education in rural areas; and seek assistance from UNICEF and UNESCO.
- CRC urged Ukraine to develop a national plan of action for human rights education.

#### *CESCR (2014)*

#### Inclusive education for Roma

- The Committee recommends that the State party address the segregation of Roma children in schools and their overrepresentation in special education schools by ensuring the effective enforcement of its anti-discrimination legislation and by raising teachers' and the general public

awareness of these laws. It further recommends that the State party adopt an inclusive approach to the education of Roma children.

*UPR Recommendations (2012)*

- Continue to implement measures and programmes to promote and protect the rights of children, in particular the right to education and the right to health.
- Ensure adequate funding for the public education system and improve the availability, accessibility and quality of general education in rural areas.
- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.

**Theme 14: Cooperation with UN mechanisms**

*Treaty Bodies*

- HR Committee (2013). The State party should reconsider its position in relation to Views adopted by the Committee under the First Optional Protocol. It should take all necessary measures to establish mechanisms and appropriate procedures, including the possibility of reopening cases, reducing prison sentences and granting ex gratia compensation, to give full effect to the Committee's Views so as to guarantee an effective remedy when there has been a violation of the Covenant, in accordance with article 2, paragraph 3, of the Covenant.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Closely cooperate with the HRMMU and act upon its recommendations and steps needed to provide protection for persons at risk.
- Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.

To the authorities in Crimea:

- Actively resolve cases of missing persons, and grant access to places of detention, including the military facilities and offices in Simferopol and Sevastopol, to all international organisations requesting it.
- Grant access to independent and impartial human rights monitors, including by OHCHR.

*HRMMU 15 May 2014 Report*

To the Government of Ukraine:

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

To the authorities in Crimea:

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

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- Access for international organisations to the areas affected in eastern Ukraine by the security operations (urban areas in the epicentre of the fighting) should be facilitated so that the real needs of the population can be assessed and addressed.

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

- The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

## **Theme 15: Economic, Social and Cultural Rights**

### *Treaty Bodies*

#### *CESCR (2014)*

- The Committee reminds the State party of its obligation under the Covenant to respect, protect and fulfil economic, social and cultural rights progressively, using the maximum resources available to it. While acknowledging that certain adjustments are at times inevitable, the Committee draws the attention of the State party to its open letter on economic, social and cultural rights and austerity measures during economic and financial crisis, dated 16 May 2012, which outlines the requirements that any proposed policy change or adjustment by States parties in reaction to the economic crisis must meet. The State party should also ensure that any measures adopted with a view to stabilizing the current economic situation do not disproportionately affect the most disadvantaged and marginalized individuals and groups and do not lead to lowering the existing social protection standards below the minimum core content as well as that its obligations under the Covenant are duly taken into account when negotiating financial assistance projects and programmes, including with international financial institutions such as the International Monetary Fund.
- The Committee recommends that the State party establish a statistical data collection system to assess the enjoyment of economic, social and cultural rights situation by disadvantaged and marginalized individuals and groups, including but not limited to Crimean Tatars, persons with disabilities, persons living with HIV/AIDS and non-citizens, with due respect for the principles of confidentiality, informed consent and voluntary self-identification of persons as belonging to a particular group.

#### *HRMMU 15 April 2014 Report*

- Take concrete steps to redress disparities in standards of living and equal access to and quality of health, education, employment, and social support structures for all, including marginalised communities throughout the country.

#### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- A central authority should be established to respond to the humanitarian needs of IDPs, including by establishing a comprehensive registration system, formulation of legislative and regulatory acts to ease access to important social and economic rights, establishing public assistance programmes, mobilization and coordination of civil society-initiated relief efforts, and cooperation with international donors and technical assistance.

## **Theme 16: Additional Human Rights Instruments**

### *Treaty Bodies*

- The HR Committee (2013) recommends that the State party provide the Office of the Commissioner for Human Rights with additional financial and human resources commensurate with its expanded role, to ensure fulfilment of its current mandated activities and to enable it to carry out its new functions effectively. It should also establish regional offices of the Commissioner for Human Rights, as planned.

#### *CESCR Report 2014*

- The Committee encourages the State party to sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Committee also encourages the State party to consider signing and ratifying the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and the International Convention for the Protection of all Persons from Enforced Disappearance, as well as the individual complaint mechanisms under various core human rights treaties which the State party has not accepted with a view to further strengthening the protection of human rights by providing rights holders with additional opportunities to claim their rights at the international level when domestic remedies have been exhausted.
- The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials, members of the Verkhovna Rada and judicial authorities, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.
- The Committee invites the State party to submit its common core document in accordance with the harmonized guidelines on a common core document (HRI/GEN/2/Rev.6, chap. I).

*HRMMU 15 April 2014 Report*

- Ratify international human rights instruments to which Ukraine is not yet party. These include, the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.
- Implement recommendations of international human rights mechanisms. The recommendations and concerns expressed in the past few years by several human rights mechanisms continue to be of relevance and should be taken into account by the authorities when considering various reforms that will greatly impact on the protection of human rights for all people in Ukraine:
  - f. In particular, the UN Human Rights Committee issued several important recommendations in July 2013 when it considered the latest periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights;
  - g. The recommendations adopted by the UN Human Rights Council following the Universal Periodic Review of the human rights situation in Ukraine in October 2012 should also be taken into consideration.
  - h. The report of the UN Sub-Committee on the Prevention of Torture following its visit to Ukraine in 2011 should be made public immediately and taken into consideration by the authorities when considering issues related to torture, ill-treatment, and detention related matters.
  - i. Ukraine has issued a standing invitation to special procedures. It should accommodate requests for such visits.
- Encourage the development of a national human rights action plan, with clear timelines and benchmarks, addressing every recommendation resulting from the international and regional HR systems to be implemented within a certain time-frame - with the support of the international community, regional and bilateral actors, and the UN system.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- The role and position of the Ombudsperson and National Preventive Mechanism, as the main bodies / institutions working towards the strengthening of the national human rights system and the protection and guarantee of human rights for all, should be enhanced.

## **Theme 17: Elections**

### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- As a representative body of the country, the Parliament should reflect the new political and social reality of the country; therefore there is a need for new parliamentary elections.

## **Glossary**

CAT – Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CCP – Criminal Code Procedure

CEDAW – Committee on the Elimination of Discrimination Against Women

CERD – Committee on the Elimination of Racial Discrimination

CESCR – Committee on Economic, Social, and Cultural Rights

CRC – Committee on the Rights of the Child

HRC – Human Rights Council

HR Committee – Human Rights Committee

HRMMU – Human Rights Monitoring Mission in Ukraine

ICCPR – International Covenant on Civil and Political Rights

IOM – International Organization for Migration

OHCHR – Office of the High Commissioner for Human Rights

OPCAT – Optional Protocol on the Convention Against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment

UNESCO – United Nations Educational, Scientific, and Cultural Organization

UNICEF – United Nations Children's Fund

UPR – Universal Periodic Review

WGAD – Working Group on Arbitrary Detention

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# **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

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>102</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>103</sup> since the fighting began in mid-April.<sup>104</sup> At least 5,956 people have been wounded.

As previously noted,<sup>105</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>106</sup>

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.

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.

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>107</sup>

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.

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>102</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>103</sup> This is a very conservative estimate based on officially provided figures; the number of people killed or wounded may be considerably higher.

<sup>104</sup> This date marked the beginning of the armed groups’ occupation of public buildings in a coordinated fashion in areas of the east.

<sup>105</sup> See 4<sup>th</sup> monthly report of OHCHR on the human rights situation in Ukraine.

<sup>106</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>107</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.

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.

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.

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>108</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.

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>109</sup>

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>110</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.

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>111</sup>

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

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<sup>108</sup> Reported to HRMMU by a Ukrainian human rights organization on 30 July 2014.

<sup>109</sup> Statement by the UN High Commissioner for Human Rights, 28 July 2014.

<sup>110</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>111</sup> Report of the Working Group on Arbitrary Detentions, E/CN.4/2004/3.

deprived of their liberty – the latter being one of the key pre-conditions for establishing another ceasefire.<sup>112</sup> Some detainees were subsequently released but it is not known if this was a result of the Minsk agreement.

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>113</sup> In Slovyansk, the Ministry of Internal Affairs launched 86 criminal investigations into allegations of kidnapping and enforced disappearance.<sup>114</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>115</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>116</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.

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>117</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.

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>112</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>113</sup> According to the Ukraine Prosecutor General on 2 August.

<sup>114</sup> Reported to the HRMMU on 30-31 July 2014.

<sup>115</sup> As reported to HRMMU by the Ministry of Internal Affairs.

<sup>116</sup> Reported to the HRMMU on 30-31 July 2014.

<sup>117</sup> According to UNHCR, since early July.

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>118</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.

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.

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.

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>119</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.

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.

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.

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>118</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>119</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**

### **B. Casualties**

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.

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.

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.

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.

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.

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.

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>120</sup>

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>121</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.

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>122</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>123</sup>

### **C.Evacuation of civilians**

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.

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.

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.

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.

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 August,

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<sup>120</sup> The HRMMU tried to receive information about primary data behind this estimate, with no success.

<sup>121</sup> The breakdown of statistics is not available for the Luhansk region.

<sup>122</sup> According to the health department of the city council.

<sup>123</sup> Interviewed by the OSCE Special Monitoring Mission (SSM) on 11 August.

400 older persons were evacuated from the Veterans' House in the Kirovskiy 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 Semenivka 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.

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 injuries to five prisoners and two guards.

#### **D.Arbitrary and illegal detention<sup>124</sup> and enforced disappearances**

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

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).

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.

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.

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

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<sup>124</sup> United Nations Working Group on Arbitrary Detention regards as detention all forms of deprivation of liberty.



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 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>125</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.

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.

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.

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>126</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.

Mrs. Nelia Shtepa, the former mayor of Slovyansk, mentioned in the previous report,<sup>127</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>128</sup> despite alleged numerous violations of her rights invoked during the hearing.<sup>129</sup> The HRMMU is

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<sup>125</sup> As he informed the OSCE Special Monitoring Mission.

<sup>126</sup> As reported by human rights organizations at a roundtable in mid-August.

<sup>127</sup> See the 4<sup>th</sup> monthly report on the human rights situation in Ukraine paragraph 44.

<sup>128</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>129</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

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.

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 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*

D. 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.

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.

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>130</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.

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

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support of the 9 May “referendum”. She also said her arrest by SBU was “extremely brutal” with the officer beating her violently.

<sup>130</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.

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 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.

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.

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**

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***

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.

On 31 July, the NGO Institute of Mass Information (IMI), which monitors violations of journalists' rights in Ukraine, published<sup>131</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***

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.

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***

On 18 July, the central district court of Mykolaiv sentenced the editor of the local website “Nabat”<sup>132</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.

On the night of 22 July, a freelance journalist from the TV channel Russia Today<sup>133</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.

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.

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

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<sup>131</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>132</sup> The “Nabat” website is known for its pro-federalism views.

<sup>133</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”.

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

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.

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***

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.

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>134</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.

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”.

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>135</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.

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<sup>134</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>135</sup> For example, the volunteer initiative “Stop Fake” launched on 2 March 2014.

### ***Inflammatory speech***

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 symbol, slogan or poster associated with one side or the other,<sup>136</sup> including displays of the Ukrainian flag or of St. George ribbons,<sup>137</sup> has on many occasions sparked a negative, sometimes violent reaction.<sup>138</sup>

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.

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**

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>139</sup> held in Donetsk. However, because it is “unsanctioned” by DPR, its activists are regularly harassed, intimidated and abducted by the armed groups.

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.

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.

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<sup>136</sup> In Odesa, the two opposing sides are referred to as “pro-unity” or “pro-federalism” supporters.

<sup>137</sup> Saint George ribbons are associated with the pro-federalism movement

<sup>138</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>139</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.

In Kharkiv, parallel rallies<sup>140</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.

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.

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**

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.

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**

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

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.

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.

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

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<sup>140</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.

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.

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.

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.

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.

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.

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.

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.



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

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.

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***

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.

A law<sup>141</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***

The Office of the General Prosecutor is conducting an investigation into the circumstances of the death of 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.

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.

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>141</sup> The Law of Ukraine on Elimination of the Adverse Effects and Prevention of Prosecution or Punishment of Individuals with regard to Events which Took Place During peaceful assemblies, adopted on 13 December 2014, was repealed on 21 February 2014.

According to the Office of the General Prosecutor the case of a journalist who was severely beaten and shot by so-called “titushky”<sup>142</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.

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>143</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.

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.

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

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.

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.

Investigations into three cases of Volodymyr Rybak, Yuriy Popravko and Yuriy 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.

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 Donetsk and Luhansk regions (as it is their jurisdiction). However, when these crimes were

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<sup>142</sup> Organized groups of young men, sometimes armed, used to attack peaceful rallies or stage provocations; see first report.

<sup>143</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.

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**

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.

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.

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

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

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

So far Parliament has not considered the draft law<sup>144</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.

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***

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>145</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.

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.

#### ***Legislation***

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<sup>144</sup> No. 4178a

<sup>145</sup> The National Reform Council will be chaired by the President.

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.

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.

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>146</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>147</sup>

One law<sup>148</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).

In a second law,<sup>149</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.

The third law,<sup>150</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

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<sup>146</sup> As of 28 August all three laws entered into force.

<sup>147</sup> Report of the Working Group on Arbitrary Detention, E/CN.4/2004/3.

<sup>148</sup> Amendment to the Law of Ukraine “On Fighting Terrorism”.

<sup>149</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>150</sup> Amendment to the Law of Ukraine “On Police”

only be made when 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.

Parliament also adopted a law<sup>151</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.

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

#### ***Law enforcement***

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.

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***

On 3 July, a Temporary Special Commission<sup>152</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>153</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.

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

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<sup>151</sup> No. 4446a Amendments to the law "On prosecution".

<sup>152</sup> Established according to the Law on Restoration of Confidence in Judiciary in Ukraine.

<sup>153</sup> Law on Restoration of Confidence in Judiciary in Ukraine.

public hearings in September 2014. The mandate of the Commission will expire on 3 July 2015.

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***

The lustration<sup>154</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.

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>155</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>156</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.

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>157</sup>

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

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<sup>154</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>155</sup> A special local body created during the Maidan protests and authorized to represent the people's interests.

<sup>156</sup> <http://rv.lustration.co.ua/about>.

<sup>157</sup> Stated at a press conference of Kharkiv lustration activists, Kyiv 8 August 2014

dismissal within certain departments. There is no mechanism for replacing these officials that would guarantee that qualitatively different persons would occupy these posts.

## **VI. ECONOMIC AND SOCIAL RIGHTS**

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%.

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.

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.

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.

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.

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.

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.

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.

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 life-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.

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.

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.

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.

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.

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.

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.

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)**

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.

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.

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.

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.

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.

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.

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.

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>158</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.

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.

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.

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**

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.

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<sup>158</sup> The Government has announced that eligible IDPs are subject to the current partial mobilization.

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

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.

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.

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**

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.

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.

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.

Human rights organisations<sup>159</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>160</sup>

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>161</sup> since the March “referendum”.

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.

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<sup>159</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>160</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>161</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.

The whereabouts of three pro-Ukrainian activists who disappeared in May<sup>162</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-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.

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>163</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.

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 Ukrtelcom 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.

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>164</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.

Several institutions or bodies dealing with Crimea have been created by the Government of Ukraine. On 16 May, a department for Crimea and social adaption 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

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<sup>162</sup> See 15 May monthly report.

<sup>163</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>164</sup> In May, two other Crimean Tatar leaders had 5-year entry bans imposed on them by Crimean authorities.

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.

During its session from 12 to 14 August, the Parliament of Ukraine adopted a law that affects Crimean IDPs. According to the law<sup>165</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.

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**

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.

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.

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.

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

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<sup>165</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.

peaceful and democratic means, will be through accountability for violations and the full respect and guarantee of all human rights for all.

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

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.

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.

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