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Agenda item 10
Technical assistance and capacity-building

Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Ukraine*

(16 May to 15 August 2017)

* Reproduced as received.

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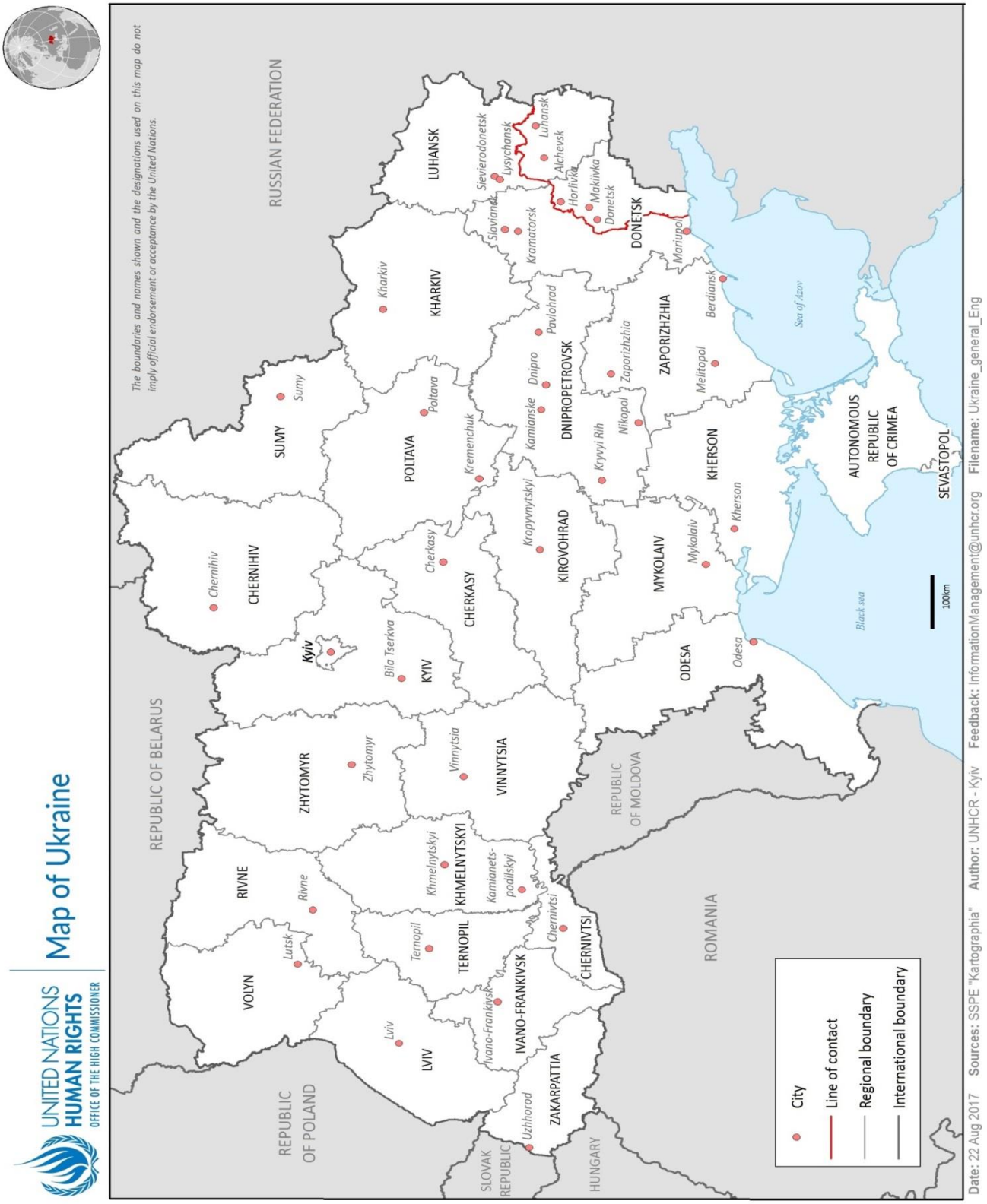
UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER
Map of Ukraine
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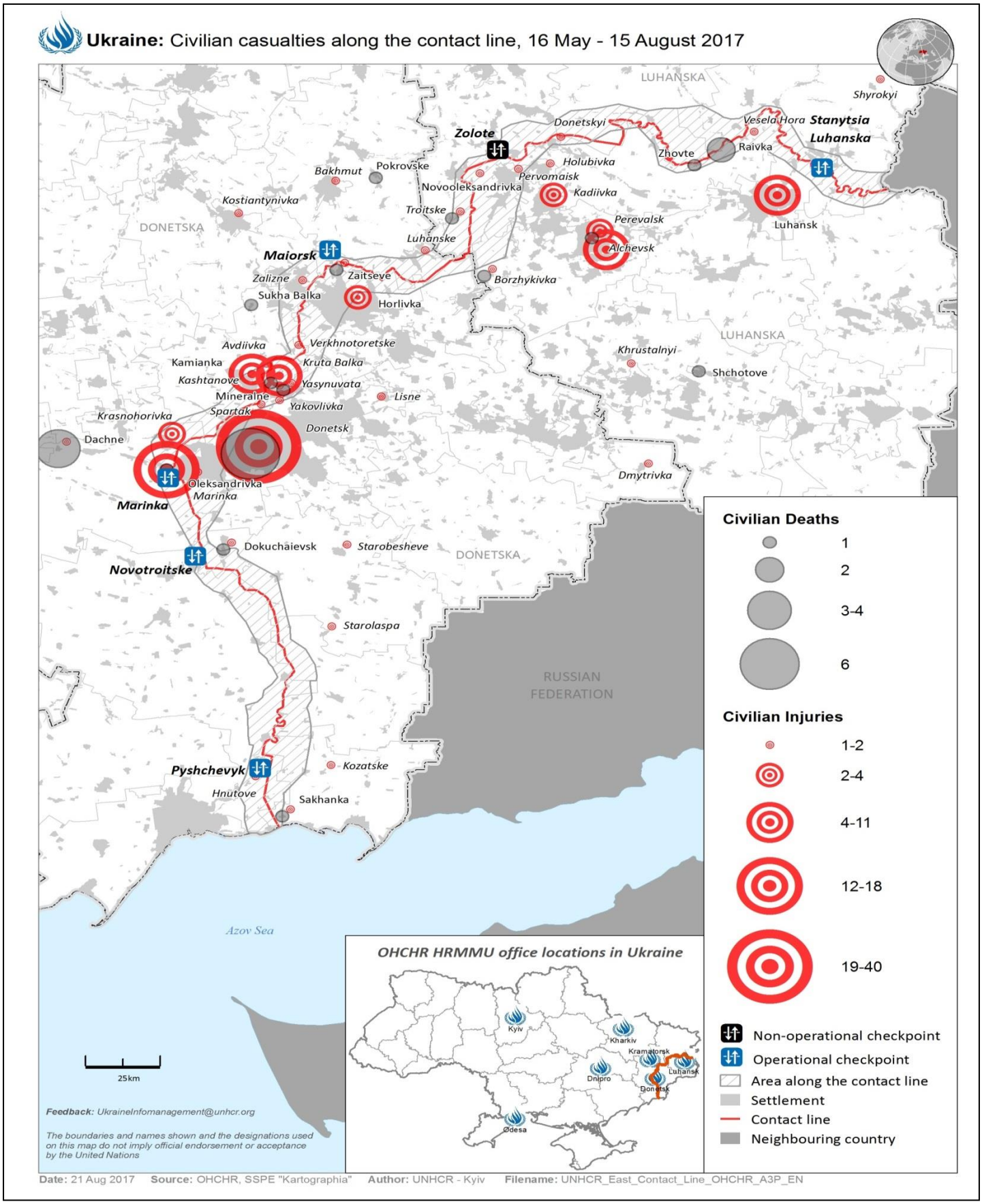
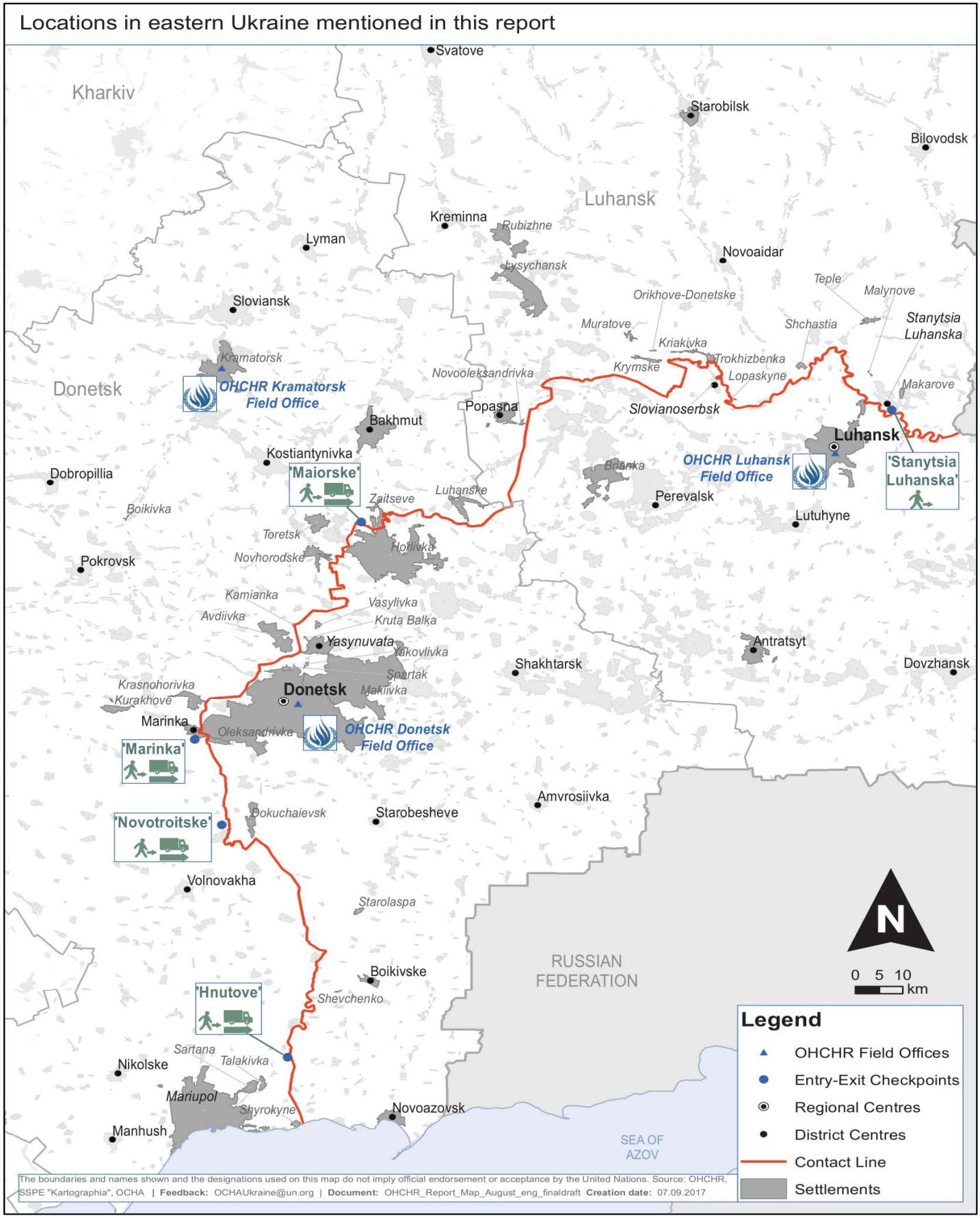
RUSSIAN FEDERATION
REPUBLIC OF BELARUS
REPUBLIC OF POLAND
SLOVAK REPUBLIC
HUNGARY
REPUBLIC OF MOLDOVA
ROMANIA
Black Sea
Sea of Azov
LUHANSK
Sievierodonetsk
Lysychansk
Luhansk
Alchevsk
Horlivka
Makiivka
Donetsk
Slovianisk
Kramatorsk
DONETSK
Mariupol
KHARKIV
Kharkiv
SUMY
Sumy
POLTAVA
Poltava
Kremenchuk
DNIPROPETROVSK
Pavlohrad
Dnipro
Kamianske
Kryvyi Rih
Nikopol
Zaporizhzhia
ZAPORIZHZHIA
Berdiansk
Melitopol
KHERSON
Kherson
AUTONOMOUS REPUBLIC OF CRIMEA
SEVASTOPOL
MYKOLAIV
Mykolaiv
KIROVOHRAD
Kropyvnytskyi
CHERKASY
Cherkasy
KYIV
Kyiv
Bila Tserkva
CHERNIHIV
Chernihiv
ZHYTOMYR
Zhytomyr
VINNYTSIA
Vinnytsia
RIVNE
Rivne
VOLYN
Lutsk
KHMELNYTSKYI
Khmelnytskyi
Kamianets-podilskyi
TERNOPIL
Ternopil
CHERNIVTSI
Chernivtsi
IVANO-FRANKIVSK
Ivano-Frankivsk
LVIV
Lviv
ZAKARPATTIA
Uzhhorod
ODESA
Odesa
100km
City
Line of contact
Regional boundary
International boundary
Date: 22 Aug 2017 Sources: SSPE "Kartographia" Author: UNHCR - Kyiv Feedback: InformationManagement@unhcr.org Filename: Ukraine_general_Eng


Ukraine: Civilian casualties along the contact line, 16 May - 15 August 2017
LUHANSKA
DONETSKA
RUSSIAN FEDERATION
Shyrokyi
Vesela Hora
Stanytsia Luhanska
Zolote
Donetskyi
Zhovte
Raivka
Holubivka
Pervomaisk
Novooleksandrivka
Kadiivka
Bakhmut
Pokrovske
Kostiantynivka
Troitske
Luhanske
Perevalsk
Alchevsk
Luhansk
Maiorsk
Zalizne
Zaitseve
Borzhykivka
Sukha Balka
Horlivka
Avdiivka
Verkhnotoretske
Kamianka
Kruta Balka
Kashtanove
Yasynuvata
Mineralne
Yakovlivka
Lisne
Krasnohorivka
Spartak
Donetsk
Dachne
Oleksandrivka
Marinka
Khrustalnyi
Shchotove
Dmytrivka
Dokuchaievsk
Starobesheve
Novotroitske
Starolaspa
Pyshchevyk
Kozatske
Hnutove
Sakhanka
Azov Sea
25km
Civilian Deaths
1
2
3-4
6
Civilian Injuries
1-2
2-4
4-11
12-18
19-40
Non-operational checkpoint
Operational checkpoint
Area along the contact line
Settlement
Contact line
Neighbouring country
OHCHR HRMMU office locations in Ukraine
Kyiv
Kharkiv
Kramatorsk
Luhansk
Donetsk
Dnipro
Odesa
Feedback: UkraineInfomanagement@unhcr.org
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations
Date: 21 Aug 2017 Source: OHCHR, SSPE "Kartographia" Author: UNHCR - Kyiv Filename: UNHCR_East_Contact_Line_OHCHR_A3P_EN


Locations in eastern Ukraine mentioned in this report
Svatove
Kharkiv
Starobilsk
Bilovodsk
Luhansk
Kreminna
Rubizhne
Lyman
Novoaidar
Lysychansk
Teple
Malynove
Orikhove-Donetske
Sloviansk
Muratove
Shchastia
Stanytsia Luhanska
Kramatorsk
Kriakivka
Trokhizbenka
Krymske
Novooleksandrivka
Lopaskyne
Donetsk
OHCHR Kramatorsk Field Office
Makarove
Popasna
Slovianoserbsk
Bakhmut
Luhansk
Kostiantynivka
OHCHR Luhansk Field Office
'Stanytsia Luhanska'
Dobropillia
'Maiorske'
Brianka
Zaitseve
Luhanske
Perevalsk
Boikivka
Lutuhyne
Toretsk
Horlivka
Pokrovsk
Novhorodske
Kamianka
Vasylivka
Avdiivka
Kruta Balka
Yasynuvata
Antratsyt
Yakovlivka
Shakhtarsk
Dovzhansk
Spartak
Krasnohorivka
Donetsk
Maklivka
Kurakhove
Marinka
Oleksandrivka
OHCHR Donetsk Field Office
'Marinka'
Amvrosiivka
Pokuchaievsk
Starobesheve
'Novotroitske'
Volnovakha
Starolaspa
RUSSIAN FEDERATION
Boikivske
'Hnutove'
Shevchenko
Sartana
Talakivka
Nikolske
Mariupol
Shyrokyne
Novoazovsk
Manhush
SEA OF AZOV
N
0 5 10
km
Legend
OHCHR Field Offices
Entry-Exit Checkpoints
Regional Centres
District Centres
Contact Line
Settlements
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations. Source: OHCHR, SSPE "Kartographia", OCHA | Feedback: OCHAUkraine@un.org | Document: OHCHR_Report_Map_August_eng_finaldraft Creation date: 07.09.2017

Contents

I. Executive summary

> *"We only see political ambitions on both sides. They are dividing something, but they forgot that there are people here."*
>
> - Resident of a village near the contact line

1. This nineteenth report on the situation of human rights in Ukraine by the United Nations High Commissioner for Human Rights (OHCHR) is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU)[1], and covers the period from 16 May to 15 August 2017.

2. The findings presented in this report are grounded on data collected by HRMMU through 293 in-depth interviews with witnesses and victims of human rights violations and abuses, as well as site visits in both government-controlled and armed group-controlled territory. HRMMU also carried out 264 specific follow-up activities to facilitate the protection of human rights connected with the cases documented, including trial monitoring, detention visits, referrals to State institutions, humanitarian organizations and non-governmental organizations (NGOs), and cooperation with United Nations human rights mechanisms.[2]

3. During the fourth summer of the conflict, armed hostilities persisted in eastern Ukraine in an unpredictable and fluctuating manner, endangering lives, damaging property and threatening the environment. Heavy weapons, such as explosive weapons with a wide impact area or the capacity to deliver multiple munitions over a wide area, continued to be frequently employed, including in residential areas and where critical civilian infrastructure is located, in disregard of commitments under the Minsk agreements to withdraw such weapons from the contact line.[3] The situation has been exacerbated since the beginning of the conflict by the presence of foreign fighters, and the supply of ammunition and heavy weaponry reportedly from the Russian Federation.[4] OHCHR continues to call on all parties to the conflict to immediately adhere to the ceasefire and to implement all other obligations committed to in the Minsk agreements, including the withdrawal of prohibited weapons and disengagement of forces and hardware.

4. From 16 May to 15 August 2017, OHCHR recorded 161 conflict-related civilian casualties (26 deaths and 135 injuries), slightly more than half of which were caused by shelling. The monthly totals of civilian casualties decreased from May to June and again

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

[2] United Nations Human Rights Council Special Procedures mandate holders and Human Rights Treaty Bodies.

[3] See daily and spot reports from the Special Monitoring Mission (SMM) of the Organization for Security and Co-operation in Europe (OSCE), available at http://www.osce.org/ukraine-smm/reports.

[4] OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2015, paras. 2 and 6; OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2015, paras. 2, 58-59; OHCHR Report on the human rights situation in Ukraine, 16 August to 15 November 2015, paras. 2 and 22 (see also fn. 128); OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2016, para 2.

from June to July, possibly attributable in part to the "harvest ceasefire" which commenced on 24 June. Nevertheless, the daily reality of sudden spikes and drops in armed hostilities, including shelling, continued to pose physical risks and psychological trauma.

5. The practice of placing military objectives near civilian objects and facilities necessary for the survival of the civilian population continued on both sides of the contact line, increasing the risk of shelling of such objects and facilities. Hospitals and schools were affected by shelling, as well as other types of infrastructure, which resulted in disruptions in the supply of water, electricity and gas.

6. OHCHR documented cases of summary executions, enforced disappearances, *incommunicado* detention, arbitrary deprivation of liberty, torture/ill-treatment and conflict-related sexual violence,[5] most of which occurred before but could only be documented during the reporting period. In particular, during the reporting period, individuals were subjected to enforced disappearances and held *incommunicado* in territory controlled by armed groups.

7. In government-controlled territory, OHCHR continued to enjoy cooperation with the authorities and access to official places of detention, allowing for confidential interviews of conflict-related detainees in line with international standards.

8. By contrast, OHCHR continued to be denied access to detainees and places of deprivation of liberty in the self-proclaimed 'Donetsk people's republic' and self-proclaimed 'Luhansk people's republic'[6], despite repeated requests, raising serious concerns regarding detention conditions, including possible further human rights abuses, such as torture and ill-treatment.

9. OHCHR was nevertheless able to document, on both sides of the contact line, the persisting practice of torture, ill-treatment and sexual violence involving conflict-related detainees, often to extract confessions. OHCHR also documented a new development linked to the arrest and detention of citizens by law enforcement under terrorism charges for conducting business and paying 'taxes' in territory controlled by armed groups.

10. The persistent lack of accountability for human rights violations and abuses contributed to the prevailing sense and state of impunity. For instance, little progress was achieved in bringing to justice those responsible for the killings of protesters at Maidan in 2014 and for the 2 May 2014 violence in Odesa.

11. Ukrainian authorities continued to fail to effectively investigate human rights violations perpetrated by members of the Ukrainian military or security forces. In cases against members of armed groups, however, prosecutions have begun to address specific human rights violations (such as unlawful detention, torture and ill-treatment) rather than relying on more general charges of terrorism.[7]

12. Credible accounts from persons apprehended and detained by parallel structures of 'administration of justice' in territory controlled by armed groups demonstrated a lack of guarantees or safeguards in place, leading to human rights abuses.

13. Restrictions on freedom of movement affected record numbers of people, with over one million registered occasions when people travelled across the contact line in May, in

[5] Not all incidents documented by OHCHR which occurred during the reporting period are reflected in this report in order to maintain the highest protection of individuals through strict adherence to principles of confidentiality and informed consent.

[6] Hereinafter 'Donetsk people's republic' and 'Luhansk people's republic'.

[7] See Accountability for human rights violations and abuses in the east below, and OHCHR report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 88, footnote 118.

June and in July. Despite increased operational hours at all entry-exit checkpoints (EECP), long queues continued to be observed. Civilians, in particular the elderly, persons with disabilities and other vulnerable persons, were exposed for protracted periods to very high summer temperatures, degrading physical conditions, inadequate sanitary conditions, and serious security risks due to the ongoing shelling and presence of mines, explosive remnants of war (ERWs) and unexploded ordnance (UXO) near the checkpoints. Additional control measures at 'internal' checkpoints operated by the National Police of Ukraine, targeting residents of territory controlled by armed groups, further restricted freedom of movement.

14. OHCHR observed a worrying trend in legislative initiatives which may negatively impact the enjoyment of freedoms of expression and association. In particular, a package of draft laws introduced would require public financial disclosures of civil society organisations reaching a low threshold of annual revenue and public reporting requirements which appear intrusive. In addition, in two high-profile cases, criminal convictions were handed down based on non-violent expressions of opinion. In territory controlled by armed groups, media representatives were hindered in their work and residents did not feel free to openly express views or opinions.

15. OHCHR also noted mixed developments pertaining to freedom of assembly. There was an overall decrease in judicial prohibitions of public assemblies and better policing of large public assemblies throughout Ukraine. Smaller demonstrations, however, received insufficient police protection, particularly those organized by persons belonging to minority groups or opposition political movements, with cases of participants attacked and injured by members of radical nationalistic groups.

16. The socio-economic situation in eastern Ukraine continued to deteriorate due to hardships caused by armed hostilities, measures hindering economic prosperity, and increased levels of poverty and unemployment. In addition to frequent shelling of water facilities in Donetsk region, financial deficits of the electricity enterprise in Luhansk region led to even further disruptions in public supply of water and electricity, impacting the right to an adequate standard of living. OHCHR is also concerned about health and possible environmental risks, posed either directly by the armed hostilities or as secondary consequences.

17. OHCHR documented further incidents of violence and discrimination against the Roma community, some involving local authorities, including the shooting to death of one Roma in Vilshany and the destruction of a Roma camp in Lviv. A notable lack of investigations into forced evictions and displacement of Roma prevented accountability for such human rights violations.

18. Restitution and rehabilitation of civilian property destroyed or damaged due to the conflict, or compensation, remain among the most pressing unaddressed socio-economic issues. OHCHR stresses the need for a property inventory and inspection procedures, including a mechanism for documentation and assessment of damages caused by the conflict. In the 'Donetsk people's republic', at least 109 private markets passed to 'state ownership' since April 2017, and procedures to remove property rights of owners of "abandoned" property commenced.

19. HRMMU continued monitoring the human rights situation in the Autonomous Republic Crimea and the city of Sevastopol[8] from its offices in mainland Ukraine on the basis of United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine and resolution 71/205 referring to Crimea as being occupied by the Russian

[8] Hereinafter "Crimea".

Federation. OHCHR recorded violations of due process guarantees and fair trial rights, as well as the disregard of the freedoms of expression, peaceful assembly, movement and religion or belief. Several Ukrainian citizens lacking Russian citizenship were deported from Crimea for violating immigration rules of the Russian Federation. Infringements on the right to property in Crimea may, in effect, amount to the confiscation of property without reparation.

20. Judicial reforms continued, with the adoption of a law on the Constitutional Court of Ukraine which introduced a new constitutional complaints mechanism. There remains a significant shortage of judges as a result of reforms initiated in 2016 and the situation has worsened as retirement, resignation and dismissal of judges outpaced the selection and appointment of new ones. Following the failure of the Parliament to hold a vote on a new Parliamentary Commissioner for Human Rights (Ombudsperson), OHCHR advocated that a new selection process be conducted according to a revised procedure that is transparent, merit-based and participatory.

21. OHCHR continued to engage in technical cooperation and capacity-building activities with the Government of Ukraine and civil society in order to strengthen the protection and promotion of human rights. One particular endeavour aimed at assisting the Government and partners with regards to the third Universal Periodic Review (UPR) of Ukraine by the United Nations Human Rights Council, through the preparation of an updated compilation of thematically clustered recommendations addressed to Ukraine by United Nations Human Rights mechanisms, and including recommendations made by HRMMU.

II. Right to life, liberty, security, and physical integrity

A. International humanitarian law in the conduct of hostilities

22. Hostilities in eastern Ukraine continued despite efforts by the Trilateral Contact Group (TCG) in Minsk and the Normandy Four (France, Germany, the Russian Federation and Ukraine) to ensure greater compliance of the parties with their commitments under the Minsk agreements. Local communities on both sides of the contact line, in anticipation of the surge in hostilities during August, and eager to bring in their crops safely, proposed a 'harvest ceasefire' from 24 June to the end of August, which was endorsed by the TCG on 21 June 2017.

23. Although this ceasefire never fully took hold, it may have contributed to an overall reduction in the number of daily ceasefire violations. Relatively calm periods were often interceded by abrupt increases and equally sudden drops in the number of ceasefire violations. The volatility and unpredictability of the security situation made daily life particularly risky for civilians residing near the contact line. In addition to the threat of shelling, civilians continued to be at risk from mines, unexploded ordnance and booby traps, as the parties to the conflict failed to systematically demine, or mark and fence contaminated areas highly frequented by civilians, such as crossing routes and residential areas.[9] OHCHR notes that placement of booby traps and trip wires in such areas can amount to the use of an indiscriminate weapon.

24. Heavy weapons, including explosive weapons with a wide impact area (such as artillery and mortars) or the capacity to deliver multiple munitions over a wide area (such as multiple launch rocket systems), continued to be present near the contact line and used

[9] See Civilian casualties below.

frequently, in disregard of the Minsk agreements.[10] Further, OHCHR recalls that the use of such weapons in civilian populated areas can be considered incompatible with the principle of distinction and may amount to a violation of international humanitarian law due to their likelihood of indiscriminate effects.

25. OHCHR remained concerned that placing military objectives in densely populated areas and near civilian objects and facilities necessary for the survival of the civilian population, and the resulting shelling of such areas, objects and facilities, remained a general pattern in the hostilities, suggesting that insufficient regard has been given to their protection.[11]

26. Firstly, the placement of military objectives in densely populated areas, through military occupation and use of civilian property, continued,[12] heightening the risk to civilian lives on both sides of the contact line.[13] In a reversal of a positive development previously reported,[14] OHCHR documented the return of Ukrainian Armed Forces to Kamianka village (Yasynuvata district of Donetsk region) and use of civilian property from April 2017. As a likely consequence of renewed military use, HRMMU noted increased shelling of the village in May, and the injury of a boy by shelling in June.[15] In Lopaskyne (Luhansk region), following advocacy by OHCHR, the Ukrainian Armed Forces vacated a private residential building, enabling its rightful owner to return.[16]

27. OHCHR noted the offer in late June of the Bakhmut Civil-Military Administration to relocate the remaining residents of Zhovanka, a government-controlled part of Zaitseve village, which is divided by the contact line, for their protection. This initiative, however, was largely unsuccessful, due to lack of adequate financial compensation, conditions of temporary accommodation, and fear of looting and damages to homes.[17] Where use of a locality is justified due to military necessity, parties must take measures for the protection of civilians residing nearby.[18] Where evacuation of civilians becomes necessary, it must be conducted in a voluntary manner that provides procedural safeguards and remedies,

[10] Under the Minsk agreements, the parties pledged to withdraw heavy weapons from the contact line.

[11] OHCHR notes that on 9 June 2017 the Ministry of Justice registered an Order of the Ministry of Defence, enforcing the instruction on the procedure for implementation of the rule of international humanitarian law within the Ukrainian Armed Forces (no. 704/30572).

[12] Military occupation or use of civilian property was documented by HRMMU in Donetsk region in Luhanske (23 May 2017), Avdiivka (20 June 2017), Zhovanka - government-controlled part of Zaitseve (21 June 2017), and in Luhansk region in Teple (17 May 2017), Muratove (18 May 2017), Orikhove-Donetske (18 May 2017), Kriakivka (18 May 2017), Lopaskyne (18 May 2017), Malynove (5 July 2017), Shchastia (6 July 2017), and Zolote (10 August 2017).

[13] See OHCHR Report on the human rights situation in Ukraine, 16 November 2016 to 15 February 2017, paras. 19-22; OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, paras. 21-22.

[14] OHCHR Report on the human rights situation in Ukraine, 16 November 2016 to 15 February 2017, paras. 18-27.

[15] HRMMU visit and interview, 20 June 2017.

[16] HRMMU visit, 18 May 2017.

[17] While some residents interviewed by HRMMU expressed willingness to seek secure refuge by purchasing property elsewhere, adequate financial compensation for property damaged/destroyed by shelling or uninhabitable due to security risks was not offered and they opted to stay in the remnants of their dwellings where they could grow food and keep poultry. Other residents stated they had declined the offer for relocation due to poor living conditions in the dormitory where authorities intended to temporarily accommodate them, limited livelihood possibilities, and the fear that their homes would be looted and destroyed if left unattended. At the time of the interviews, HRMMU observed signs of continued military occupation of the neighbourhood.

[18] Customary International Humanitarian Law rules no. 24, 131 and 133.

including the ability to register as an internally displaced person (IDP), even within the same locality, and the provision of adequate housing (accommodating the needs of persons with disabilities) and compensation.

28. Secondly, placing military objectives near civilian objects and facilities necessary for the survival of the civilian population put these objects and facilities at risk. Namely, hospitals and schools continued to be affected by shelling on both sides of the contact line. On 28 May 2017 in government-controlled Krasnohorivka, the central hospital (marked with a 4-metre red cross on its roof) and school no. 2 both sustained direct hits.[19] Boarding schools in the armed group-controlled Trudivski settlement of Petrovskyi district, Donetsk city, and in Yasynuvata town were affected by shelling on 15 and 17 June respectively.[20]

29. Also, during the second quarter of 2017, the severity of incidents affecting water supply facilities significantly increased.[21] In total, 24 incidents were documented by the WASH Cluster within the reporting period.[22] In one major series of incidents, shelling between 6 to 10 June forced the First Lift Pumping Station[23] of the South Donbas water pipeline to repeatedly halt operations, interrupting water supply to approximately 400,000 people on both sides of the contact line for up to 10 days. The Donetsk Filtration Station (DFS),[24] which processes water for approximately 345,000 people on both sides of the contact line, was de-energized due to shelling between 2 and 6 June, and between 30 June and 3 July. While welcoming the agreement reached in Minsk on 19 July on the establishment of safety zones around two water facilities in Donetsk region – the DFS and the First Lift Pumping Station – OHCHR regrets that actual disengagement has not commenced.[25]

30. OHCHR documented other cases when shelling damage of critical infrastructure caused water, electricity and gas shortages, including in government-controlled Krymske and Avdiivka, where residents have been left without gas supply since 5 and 7 June, respectively. In government-controlled Toretsk and surrounding villages, the water supply has been limited to one hour per day, while some neighbourhoods have not had access to running water at all due to huge water loss from a damaged water pipeline in 'no-man's land' between Toretsk and armed group-controlled Horlivka. This situation has been unresolved since January 2017, as the parties to the hostilities failed to negotiate a "window of silence" to allow for repairs on the pipe.

[19] HRMMU visit, 31 May 2017. While both the school and hospital were in use at the time of impact, no casualties were reported.

[20] HRMMU visit, 28 June 2017.

[21] If in the first quarter of 2017 an average incident would cause water to be stopped for 123,000 people, in April-June an average incident caused a 24-hour water stoppage for 287,000 people. WASH Cluster Ukraine Alert Bulletin, 1 May – 31 June 2017, Issue No. 9.

[22] Incident reports by WASH Cluster, 16 May to 15 August 2017.

[23] The First Lift Pumping Station is located between the armed group-controlled villages of Vasylivka and Kruta Balka, in immediate proximity to the contact line.

[24] DFS is located in 'no man's land', approximately 15 kilometres north of Donetsk city, between government-controlled Avdiivka and armed group-controlled Yasynuvata. From 1 January 2017, the DFS has had to stop operations 13 times.

[25] On 28 July, three projectiles hit the area of the First Lift Pumping Station. The DFS lost power due to shelling on 22 July, and was shelled again on 3 August. On 4 August, OSCE SMM members and their contracted workers were caught in small-arms fire at the DFS while installing a camera on its roof. On 9 August, the camera was shot and destroyed. See SMM spot reports available at http://www.osce.org/special-monitoring-mission-to-ukraine/334146 and http://www.osce.org/special-monitoring-mission-to-ukraine/335026.

31. OHCHR recalls that water and power supply, as well as heating in the winter period, are critical to the survival of the civilian population, and that placing military objectives in residential areas, particularly near hospitals, schools, or facilities necessary for the survival of the civilian population, may amount to a violation of international humanitarian law.

B. Civilian casualties

> *"A peaceful man was killed in this courtyard. Nobody will tell who is responsible for the shelling."*
>
> - Brother of a man killed by shelling

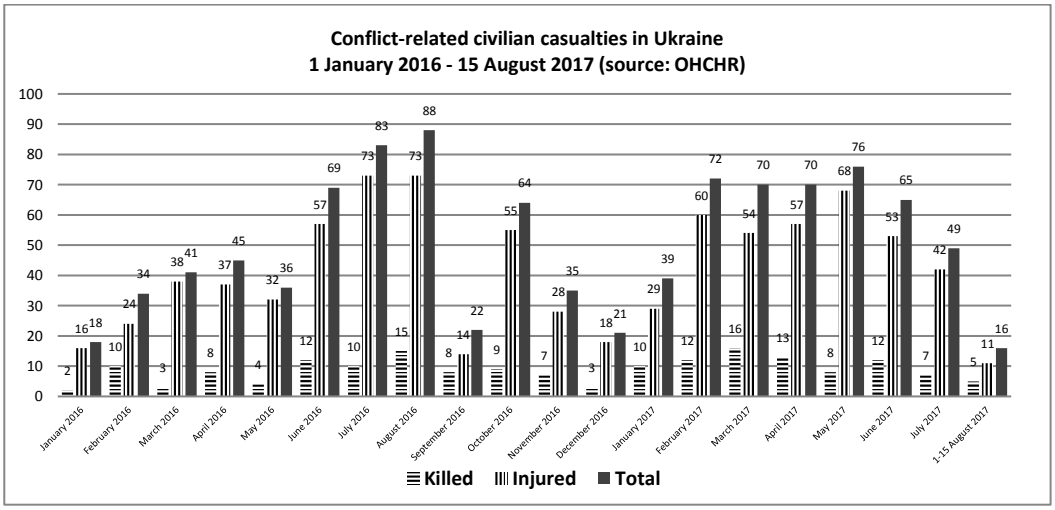
32. Between 16 May and 15 August 2017, OHCHR recorded 161 conflict-related civilian casualties: 26 deaths (11 women and 15 men) and 135 injuries (74 men, 46 women, 12 boys, 3 girls).[26] This is a 16 per cent decrease compared with the previous reporting period (16 February to 15 May 2017), when 193 civilian casualties were recorded, and a 14 per cent decrease from the same time period in 2016 (16 May to 15 August 2016), when 188 civilian casualties were recorded.

33. The feared increase in civilian casualties anticipated for August, based on the previous years of the conflict, did not materialize during the first two weeks of the month. The "harvest ceasefire", which commenced on 24 June, may have contributed to the decrease in civilian casualties caused by shelling in July and during the first half of August.

	Shelling (mortars, guns, howitzers, tanks, MLRS)			Small arms and light weapons			Mines, ERW, booby traps and IEDs		
	Killed	Injured	Total	Killed	Injured	Total	Killed	Injured	Total
Donetsk region (total)	9	70	79	1	12	13	8	20	28
Government-controlled	1	24	25		4	4	5	10	15
Armed group-controlled	8	46	54	1	8	9	2	10	12
'No man's land'							1		1
Luhansk region (total)		10	10		1	1	8	21	29
Government-controlled		2	2				2	2	4
Armed group-controlled		8	8		1	1	6	19	25
Kharkiv region								1	1
Grand total	**9**	**80**	**89**	**1**	**13**	**14**	**16**	**42**	**58**
Per cent of total			55.3			8.7			36

[26] OHCHR investigated reports of civilian casualties by consulting a broad range of sources and types of information which were evaluated for credibility and reliability. In undertaking documentation and analysis of each incident, OHCHR exercises due diligence to corroborate information on casualties from as wide a range of sources as possible, including OSCE public reports, accounts of witnesses, victims and other directly affected persons, military actors, community leaders, medical professionals, and other interlocutors. In some instances, investigations may take weeks or months before conclusions can be drawn, meaning that conclusions on civilian casualties may be revised as more information becomes available. OHCHR does not claim that the statistics presented in its reports are complete. It may be under-reporting civilian casualties given limitations inherent in the operating environment, including gaps in coverage of certain geographic areas and time periods.

34. During the entire conflict period, from 14 April 2014 to 15 August 2017, at least 2,505 civilians were killed: 1,382 men, 837 women, 90 boys and 47 girls, and 149 adults whose sex is unknown. An additional 298 civilians, including 80 children, were killed as a result of the MH17 plane crash on 17 July 2014. The total number of conflict-related civilian injuries is estimated to be between 7,000 and 9,000.



35. In total, from 14 April 2014 to 15 August 2017, OHCHR recorded 34,766 conflict-related casualties in Ukraine, among civilians, Ukrainian armed forces and members of the armed groups. This includes 10,225 people killed and 24,541 injured.[27]

36. More than three years after the beginning of the armed conflict, no national mechanism has been put in place by the Government of Ukraine to afford adequate, effective, prompt and appropriate remedies, including reparation, to civilian victims of the conflict, especially to those injured and to the families of those killed.[28]

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

[28] The United Nations **Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law require States to provide compensation** for economically assessable damage, as appropriate and proportional to the gravity of the violation and circumstances of each case resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as: (a) Physical or mental harm; (b) Lost opportunities, including employment, education and social benefits; (c) Material damages and loss of earnings, including loss of earning potential; (d) Moral damage; (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

C. Missing persons and recovery of human remains

37. During the reporting period, OHCHR observed no progress in establishing the whereabouts of hundreds of individuals who went missing in the context of the armed conflict.[29] The exact number of missing persons is unknown. In the absence of properly functioning coordination between Government bodies, and exchange of relevant information between the Government and armed groups, publicly available figures on the number of people missing in the conflict zone differ considerably. As of 15 August 2017, the public database of the National Police of Ukraine listed 1,476 individuals[30] who went missing in the conflict zone since mid-April 2014. According to the Main Department of the National Police in Donetsk region, 1,646 individuals have gone missing in the region since the beginning of the conflict. According to the 'ombudsperson' of the 'Donetsk people's republic', 509[31] individuals are registered as missing. OHCHR believes these figures reflect only the numbers of applications for the search of missing persons received by the various actors. Some people may be included in multiple lists while the whereabouts of others listed may have already been established.

38. OHCHR also believes that many of those reported as missing may be dead, with their bodies either not found or unidentified. Exchange of forensic data and other relevant information on missing persons between the Government of Ukraine, the 'Donetsk people's republic' and the 'Luhansk people's republic', would help identify some individuals whose remains are either stored in morgues or have been buried as unidentified. This would decrease the suffering of relatives caused by the uncertainty about the fate of their loved ones. DNA profiling was available in Ukraine prior to 2014, and has been conducted on government-controlled territory since the conflict began. On territory controlled by armed groups, DNA profiling of human remains and relatives of missing persons has started to be carried out in Donetsk city, but is not yet available in Luhansk city. Some individuals reported as missing may be alive and held in secret or *incommunicado* detention, either in government-controlled territory or in territory controlled by armed groups.

D. Summary executions, killings, deprivation of liberty, enforced disappearances, torture and ill-treatment, and conflict-related sexual violence

1. Summary executions and killings

39. OHCHR continued to receive allegations of killings and enforced disappearances which may have led to death and occurred before the reporting period, mainly in 2014. These allegations further attest to the complete collapse of law and order in the conflict zone at the initial stages of the conflict, and to the prevailing impunity for grave human rights violations and abuses. The following are examples of such cases.

40. On 17 July 2014, three men and a woman disappeared while travelling by car from government-controlled Krasnohorivka to armed group-controlled Makiivka (both in Donetsk region). The burned remains of their car were found near a checkpoint of Ukrainian forces. Some time later, the bodies of two men and a woman identified as three of the missing persons[32] reportedly underwent forensic examinations in government-controlled

[29] Mainly in 2014-2015, but also in 2016-2017.

[30] 1,243 men and 233 women.

[31] As of 21 July 2017.

[32] The bodies were never seen by the families of the victims, however were officially identified as the victims on a forensics document.

territory, which found that the cause of death for all the victims was bullet wounds to their heads.[33] The Donetsk regional department of the National Police launched a criminal investigation into the case, however with no progress.

41. In October 2014, a resident of Antratsyt, in Luhansk region (controlled by armed groups) was summoned to the local "commandant's office" where he was reportedly beaten to death. His body was found in a coal mine one year later.[34]

42. In June 2017, OHCHR documented a case which demonstrates the recurrent character of killings and enforced disappearances in the conflict zone. A young man who made his living carrying luggage for people travelling across the contact line in Stanytsia Luhanska left for work on 27 April 2017, and never returned. On 2 May, his family saw a media report stating that his body had been found by an ambulance in Zhovtnevyi district, in Luhansk city (controlled by armed groups) on 27 April. According to the death certificate, the man died of haemorrhagic shock linked to a complex trauma to his head, limbs, and body bones, and multiple injuries of internal organs. The 'police' in Luhansk did not provide his relatives with any information on the circumstances of his death. The Troitske police department of the National Police in Luhansk region launched a criminal investigation into the case. Earlier in 2015, the young man had been arbitrarily detained by the Tornado company[35] in the government-controlled territory, in Stanytsia Luhanska, and had spent several days in unofficial detention places.[36] The Military Prosecutor's Office is investigating this incident.

2. Unlawful/arbitrary deprivation of liberty, enforced disappearances and abductions

> *"I am afraid to go out to the street. People ask me 'What are you hoping for? They are dead.' My heart is cut in pieces when they say that. What I am hoping for?! For a miracle!"*
>
> - Mother of two sons whose whereabouts are unknown since July 2014

43. In government-controlled territory, OHCHR continued to enjoy cooperation with the authorities and access to official places of detention, and interviewed conflict-related detainees in pre-trial detention facilities in Bakhmut, Kharkiv, Kherson, Kyiv, Mariupol, Mykolaiv, Odesa, Poltava, Starobilsk and Zaporizhzhia.

44. OHCHR also continued documenting cases of members of the Ukrainian Armed Forces detaining individuals in relation to the conflict and keeping them *incommunicado* for approximately 24 hours before transferring them to an official detention facility. For example, in June 2017, four persons were held *incommunicado* for approximately 24 hours, during which time, at least one victim was hit and another threatened with physical violence, including electric shocks, in order to extract information.[37]

[33] HRMMU meeting, 13 July 2017.
[34] HRMMU interview, 9 August 2017.
[35] For more details on human rights violations by the battalion, please see OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2017, para 85.
[36] HRMMU interview, 14 June 2017.
[37] HRMMU interviews, 9 August 2017.

45. In territory controlled by armed groups, OHCHR continued to be denied access to detainees and places of deprivation of liberty, despite repeated requests, including in regard to specific individuals whose whereabouts are known. OHCHR was assured that all individuals deprived of their liberty in this territory were treated humanely, with due respect of their rights. First-hand information received by HRMMU coupled with this denial of access, however raise serious concern regarding their conditions and treatment, and suggest a high likelihood that grave human rights abuses may be occurring.

46. During the reporting period, OHCHR documented the arrests and detention by law enforcement of individuals under terrorism charges, allegedly for running businesses and paying 'taxes' in 'Donetsk people's republic'. For example, four entrepreneurs who left Donetsk after the conflict began were detained by the Security Service of Ukraine (SBU) under allegations of terrorism[38] for activities related with running businesses in territory controlled by armed groups.[39] As of 15 August 2017, all four individuals remained in pre-trial detention in Mariupol. OHCHR is concerned that more people may be detained under such charges.

47. OHCHR documented new cases during the reporting period in which individuals have been subjected to enforced disappearance, particularly in territory controlled by armed groups. In many cases, individuals were held *incommunicado* for at least a month. One interlocutor told HRMMU this was an established practice used by the 'ministry of state security' ('MGB') in 'Luhansk people's republic' in order to hold a suspect until there was enough evidence to bring a 'charge'.[40] Some emblematic cases are described below.

48. On 18 April 2017, a man was detained by 'police' in Luhansk city and reportedly released the same day, but went missing before reaching home. The following day, 'MGB' searched his house and seized some personal belongings. The victim was held *incommunicado* until 31 May, when his family was informed that he had been arrested by the 'border service' of 'MGB'. Accused of 'high treason', he remained in detention as of 15 August.[41]

49. On 3 June 2017, a blogger in Donetsk city known as Stanislav Vasin was detained by 'MGB' and held incommunicado for more than a month, despite inquiries by his family. On 15 July 2017, his mother was informed of his detention.[42] As of 15 August, he remained in detention.

50. OHCHR is concerned by this practice by armed groups, especially in the absence of access to detainees by international organizations. OHCHR notes that the prohibition of enforced disappearance is absolute under international human rights law.[43] As pointed out by the United Nations Special Rapporteur on torture, "torture is most frequently practiced during *incommunicado* detention".[44] Furthermore, *incommunicado* detention may, in itself, constitute a form of cruel, inhuman or degrading treatment or torture.[45]

[38] They were charged under article 258(3) (creation, participation or facilitation of a terrorist group) and 258(5) (financing a terrorist group) of the Criminal Code of Ukraine.

[39] HRMMU interviews, 21 June and 19 July 2017.

[40] HRMMU interview, 19 May 2017.

[41] HRMMU interview, 9 June 2017.

[42] The victim's mother was then allowed to see him in 'detention'. HRMMU interviews, 7 June 2017 and 15 July 2017.

[43] International Convention for the Protection of All Persons from Enforced Disappearance, Article 1.

[44] UN doc. E/CN.4/1995/34, Report of the Special Rapporteur on torture, para. 926(d).

[45] UN doc. E/CN.4/2004/56/Add.2, Theo van Boven, UN Special Rapporteur on the question of torture; Visit to Spain, paras. 34-41.

51. OHCHR also continued to document cases of individuals who disappeared between 2014 and 2016 and whose whereabouts remain unknown. For example, on 28 May 2014, a man known for his pro-Ukrainian views was apprehended by unidentified men in plain clothes in Stanytsia Luhanska, which was controlled by armed groups at that time. His sister witnessed his abduction.[46] In another case, on 12 July 2014, two men disappeared near government-controlled Plotyna. A witness saw them being abducted by men in black uniform without insignia.[47] In both cases, the families never heard from the victims again, although investigations were launched by the Luhansk regional department of the National Police.

3. Torture and ill-treatment

52. OHCHR continued to document allegations of torture and ill-treatment of conflict-related detainees, often for the purpose of extracting confessions or coercing suspects to "cooperate" with the investigative authorities.

53. In government-controlled territory, HRMMU recorded several cases of interrogation techniques which may amount to torture, including mock executions and electrical shocks. Such cases are often reported well after the violation, as victims often remain in detention, or do not report the violations due to fear of persecution or lack of trust in the justice system. OHCHR notes that the prohibition against torture and cruel, inhuman and degrading treatment is absolute, and no derogation is permitted,[48] even in times of public emergency, terrorism or armed conflict.[49]

54. Recent cases recorded by HRMMU show that such practices persisted. On 2 June 2017, a woman in Kramatorsk was abducted by unknown men dressed in black, without any insignia. She was threatened at gun point, and questioned about her family for approximately 90 minutes. The perpetrators demanded that she provide information about armed groups' military equipment. When she refused, she was violently grabbed by the hair, and threatened to be taken to the front line. She was then taken to a forest marked as a minefield and threatened to be made to walk through it. The perpetrators videotaped her "confession". She was then told to leave the city immediately and remain silent, or she would be killed.[50]

55. In May 2017, a woman in Mariupol was lured to an Azov battalion position, where she was blindfolded and transported to an unknown destination. She was hit in the knees with a rifle butt and threatened to be buried on the spot, and therefore forced to cooperate. After the perpetrators informed the police that they had caught a member of an armed group, the police interrogated her without a lawyer, and she signed the interrogation protocol, incriminating herself as a member of an armed group. The next day, her "confession" was filmed, and then she was brought to the Mariupol SBU building where she had to repeat her confession to two officers. After one of the officers left the room, the other one locked the door and ordered her to undress for a physical examination. He photographed her scars and tattoos without explanation, making her uncomfortable. OHCHR notes that forced nudity during such an examination, which was not conducted by

[46] HRMMU interview, 17 May 2017.

[47] HRMMU interview, 15 June 2017.

[48] Convention against Torture, Article 2(2). Also see General Comment No.2, 'Implementation of Article 2 by State Parties', UN Doc. CAT/C/GC/2/CRP/1/Rev.4 (2007), Advance Unedited Version at para.1.

[49] Interpretation of Torture in the Light of the Practice and Jurisprudence of International Bodies, United Nations Voluntary Fund for the Victims of Torture, available at http://www.ohchr.org/Documents/Issues/Torture/UNVFVT/Interpretation_torture_2011_EN.pdf.

[50] HRMMU interview, 19 July 2017.

a medical professional, may amount to sexual violence. The victim was then taken to her flat, which had been searched, and she was held there by two SBU officers for three days. She was then taken to court, where an SBU officer punched her twice in the stomach in the corridor, causing severe pain.[51] The Military Prosecutor's Office has launched an investigation into the conduct of the SBU.

56. Cases which occurred before the period under review, but which OHCHR was only able to document during the reporting period, demonstrated the long practice of torture and ill-treatment, as well as the difficulty in seeking accountability for such human rights violations.

57. In September 2016, three armed, masked soldiers of the Ukrainian Armed Forces stormed into a man's house near government-controlled Trokhizbenka. The victim was kicked, taken to another building, and beaten, purportedly because his children live in the Russian Federation. When he was released the next morning, the perpetrators threatened to shoot him and his wife if he complained. The beatings left bruises on the victim's chest and he was bedridden for a week.[52] He complained to authorities and was interviewed by a military prosecutor, but no official investigation was launched.

58. OHCHR documented the cases of eight individuals detained and tortured by SBU in Kharkiv in 2015.[53] For example, three of these individuals were arrested separately in May 2015, handcuffed and had bags placed over their heads. They were taken to the Kharkiv SBU building, where they were interrogated and tortured separately for hours by methods including suffocation with a gas mask[54], dislocation of joints[55], electric shock, and mock execution. The detainees also received death threats and threats of a sexual nature against their families. SBU officers forced these men to sign self-incriminating statements and refused them access to a lawyer. They were transferred to a hospital where a doctor refused to document visible injuries. In another example, also in May 2015, a man was arrested by SBU. On the way to the Kharkiv SBU building, the perpetrators stopped the vehicle and tortured him with electric current. Upon reaching the SBU building, the victim was further tortured until he "confessed" to planning terrorist acts.[56] As of 15 August 2017, all four of these victims remained in pre-trial detention. The Military Prosecutor's Office has launched an investigation into these allegations.

By armed groups

59. With no access to places of deprivation of liberty in territory controlled by armed groups, OHCHR cannot fully assess the conditions of detention. The continued denial of access of international observers to carry out interviews of detainees in line with international standards, together with first-hand information received, leads OHCHR to fear that those detained may be subject to torture and ill-treatment. In the absence of access to detainees in line with international standards, the likelihood that they are subjected to torture and ill-treatment is high.

60. Nevertheless, HRMMU was able to document cases of persons who were held in territory controlled by armed groups and subjected to treatment which could amount to torture or ill-treatment. These included both cases which occurred before and during the

[51] HRMMU interview, 19 July 2017.
[52] HRMMU interview, 18 May 2017.
[53] HRMMU interviews, 25 and 31 May, 7 June, and 13, 21 and 26 July 2017.
[54] Also known as "elephant".
[55] Also known as "swallow".
[56] HRMMU interview, 15 June 2017.

reporting period. Not all cases are reflected in this report in respect of confidentiality and in order to protect victims and their families.[57]

61. After nine months of detention by armed groups, a judge of the court of appeal of Luhansk region was released on 14 July 2017.[58] Detained at the Stanytsia Luhanska checkpoint in October 2016, he was held *incommunicado* by the 'ministry of state security' of the 'Luhansk people's republic'. He spent 48 days in solitary confinement. The conditions of detention were poor, including insufficient food, cold temperatures, limited space and sanitary conditions. OHCHR considers that these conditions may amount to ill-treatment. During his detention, the victim heard other detainees taken for 'interrogation', who were apparently subjected to beatings and electric shocks. He was forced to record a propaganda video against Ukraine. During his detention, OHCHR repeatedly requested access to him. Until the day of his release, when he was presented to HRMMU, the 'Luhansk people's republic' refused to provide any information about his whereabouts or fate.[59]

62. On 13 July 2017, a woman with a hearing disability, who had publicly criticized the 'Luhansk people's republic' on social media, was detained at a checkpoint controlled by armed groups at the Stanytsia Luhanska crossing route. She was held *incommunicado* for 16 days by the 'ministry of state security' of the 'Luhansk people's republic', during which time it consistently denied to her family that she was being detained. The woman was interrogated four times without legal representation. During one interrogation session, one of her fingers was dislocated with a pair of pliers. She was threatened to be moved to the basement with male detainees and told she would "have a fun night". On 29 July, she was brought back to the same checkpoint and told to cross to the government-controlled side.[60] An investigation into this case was launched by the Luhansk regional department of the National Police.

4 . Conflict-related sexual violence

> *"Then the officer told me, 'We will bring your family into the basement, and we will rape them in front of you'."*
>
> - A detainee

63. OHCHR continued to record allegations of conflict-related sexual violence, many of which occurred before the reporting period but were documented later when victims felt able to speak about their ordeal. OHCHR recalls that cases of sexual violence are generally under-reported due to unease about this issue, trauma suffered by the victims and the stigma associated with sexual violence, as well as fear of reprisals. In addition, due to its particular

[57] Not all new cases are reflected in this report, as OHCHR strives to maintain the highest protection of individuals through strict adherence to the principles of confidentiality and informed consent. Several victims and witnesses interviewed by OHCHR either did not want to share essential information, or did not consent to their accounts being publicly reported, for fear of reprisals.

[58] For more details, see para 42 of OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017.

[59] HRMMU interviews, 14 July and 17 August 2017.

[60] HRMMU interviews, 17 July and 11 August 2017.

nature, sexual violence often takes place with no witnesses or the only witnesses acting as accomplices.

64. As previously documented, sexual violence is most often used as a method of torture for conflict-related detainees. For example, a man detained in the Kharkiv SBU building in May 2015 was tortured for hours in an attempt to extract a confession. He broke down when a person claiming to be a doctor entered the room with a set of surgical tools and started pulling down his pants while threatening to cut off his testicles. SBU officers then took him to the investigator's office where he was compelled to sign several self-incriminating statements.[61] In another case, a woman arrested in April 2015 by Kharkiv SBU was subjected to various acts of torture, including threats that the SBU officers would hand her daughter over to the Right Sector or Aidar battalion, so she could "watch how they play with her".[62]

65. OHCHR commends efforts of the Government to investigate cases of sexual violence. It notes that the Military Prosecutor's Office launched an investigation into one of the cases of sexual violence allegedly committed by members of the Ukrainian forces and established the facts constituting the crimes.

By armed groups

66. OHCHR documented the case of a woman who was gang-raped in June 2014, when her village was under the control of an armed group. According to witness accounts, she was attacked by three men who sprayed something in her eyes to obscure her vision and then anally raped her. She was severely injured, underwent surgery and was hospitalized for three weeks, with medical costs partially covered by the commander of the armed group that was stationed in her village. Whilst in hospital, she was questioned by 'police' and a 'criminal investigation' was opened, however, she never received a forensic examination, and the case was reportedly closed shortly after.[63]

5. Exchanges of individuals deprived of liberty

67. During the reporting period, no progress was observed in the implementation of the 'all for all' exchange stipulated by the Minsk agreements.[64] The Working Group on Humanitarian Issues of the Trilateral Contact Group continued to discuss the issue in Minsk, meeting twice a month. As of 31 July 2017, the Government continued to urge for the release of 137 individuals whom it believes remain in captivity of the armed groups, while the latter acknowledged only 71 of those individuals. As of 11 August, the armed groups sought the release of 502 individuals from the Government, including some who are not held in custody. OHCHR considers it essential that within the exchanges, individuals are not relocated to the other side of the contact line against their will**.**

6. Transfer of pre-conflict prisoners to government-controlled territory

68. Since 14 April 2017, there were no transfers of pre-conflict prisoners from territory controlled by armed groups. During the reporting period, OHCHR received and followed

[61] HRMMU interview, 31 May 2017.

[62] HRMMU interview, 25 May 2017.

[63] HRMMU interviews, 25 May and 3 August 2017. There was never a criminal investigation of the incident by Ukrainian authorities due to lack of an official report filed by the victim.

[64] The Package of Measures for the Implementation of the Minsk Agreements of 12 February 2015, para 6 calls for "the release and exchange of all hostages and unlawfully detained persons based on the 'all for all' principle".

up on complaints from pre-conflict prisoners in four penal colonies[65] in territory controlled by 'Donetsk people's republic' that their requests to be transferred to government-controlled territory remain unsatisfied. Most reported having lost contact with families due to the conflict and the cumbersome procedures to cross the contact line for their relatives. Some prisoners stated they were subjected to forced labour; others worked voluntarily, but were not paid. They also indicated a lack of medication and insufficient food.[66]

III. Accountability and administration of justice

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

69. Accountability for human rights violations is a key element of the right to an effective remedy.[67] Failure to bring to account perpetrators of grave human rights violations such as torture or ill-treatment, summary execution or arbitrary killing, and enforced disappearance could give rise to a separate breach of the International Covenant on Civil and Political Rights. In addition, impunity for these violations largely contributes to their recurrence.[68]

70. Despite continued lack of access to territory controlled by armed groups, Ukrainian law enforcement agencies investigated some cases of human rights abuses perpetrated by members of armed groups. On 19 June 2017, the Office of the Prosecutor General reported that investigations based on the testimonies of over 900 persons formerly detained in armed group-controlled territory had led to the identification of 13 persons (captured Ukrainian soldiers and civilians) arbitrarily killed by armed groups and "military servicemen of the Russian Federation".[69]

71. With some exceptions,[70] HRMMU continued to observe that Ukrainian authorities have yet to effectively investigate human rights violations alleged to have been perpetrated by members of the Ukrainian military or security forces.[71] Emblematic cases include the enforced disappearance of a number of individuals believed to be affiliated with armed groups who were detained at the Kharkiv regional department of SBU and the alleged airstrike of the Luhansk regional state administration building on 2 June 2014. Similarly, other human rights violations, including torture and ill-treatment, allegedly perpetrated by

65 Penal colonies in: Yenakiieve No.52, Donetsk No. 124, Makiivka No. 32 and Michurine No.57.

66 HRMMU meetings, 7 July and 10 August 2017.

67 ICCPR, Article 2(3).

68 United Nations Human Rights Committee, General Comment no. 31, "The Nature of the General Legal Obligation Imposed on States Parties to the Covenant", para 18.

69 RBC Ukraine news agency, available at https://www.rbc.ua/ukr/news/svideteli-soobshchili-massovyh-kaznyah-sovershennyh-1497867366.html.

70 For example, the investigation into members of Tornado special police patrol company for arbitrary detention, abduction, torture and "unnatural gratification of sexual desire" which lead to some convictions on 7 April 2017 (see OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para. 85), and the investigation into the fatal shooting of a civilian at the Maiorsk EECP on 14 December 2016 by a military serviceman (see OHCHR Report on the human rights situation in Ukraine, 16 November 2016 to 15 February 2017, para 88).

71 See, e.g., the killings of Serhii Kostakov and Dmytro Shabratskyi (OHCHR thematic report on accountability for killings, Annex I, paras. 115-118); The enforced disappearance of Maksim Popov (OHCHR thematic report on accountability for killings, Annex I, paras. 106-108); And the killing of Roman Postolenko (OHCHR thematic report on accountability for killings, Annex I, paras. 11-14).

SBU elements, have not been effectively investigated.[72] Failure of the Government to hold perpetrators accountable sends the signal that they are immune to responsibility for human rights violations perpetrated against conflict-related detainees.

72. OHCHR has previously noted that human rights abuses perpetrated by members of armed groups are often neglected in the course of criminal investigations, with the vast majority of perpetrators prosecuted solely on charges of affiliation with armed groups.[73] While this practice has persisted,[74] it was notable that on 1 June 2017, the Slovianskyi town-district court of Donetsk region convicted a member of the armed groups of the 'Donetsk people's republic' for violating the rules and customs of war for the illegal capture, detention, torture and ill-treatment of Ukrainian servicemen and others at the former premises of the Donetsk regional department of SBU in 2014.[75] This was the first conviction of a member of an armed group since the beginning of the conflict for crimes committed, and not on affiliation to an armed group.

73. On a positive note, OHCHR welcomes a civil judgment of the Prymorskyi district court of Odesa[76] in an action brought by a victim of abduction, unlawful detention, and severe torture (including mutilation) by members of the Aidar battalion. The court ordered the Government to pay four million UAH in compensation for pain and suffering. A criminal investigation into these human rights violations is ongoing.

B. Fair trial rights

> *"We will let you free if you prove [that you are innocent]."*
>
> - Presiding judge in a criminal proceeding

74. In its monitoring of conflict-related criminal cases, HRMMU noted that fair trial rights and judicial guarantees were often disregarded.

75. In cases involving persons suspected of affiliation with armed groups, courts continued to rubberstamp prosecution motions to extend pre-trial detention based solely on abstract reference to article 176(5) of the Criminal Procedure Code.[77] When sanctioning

[72] HRMMU interview, 31 May 2017; HRMMU meeting with Military Prosecutor of Kharkiv garrison, 18 July 2017; HRMMU trial monitoring, 25 July 2017. See also OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 86.

[73] See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 88.

[74] This practice is especially concerning when it comes to persons whose 'position' within the armed groups confers greater ability to negatively impact the human rights of those living in territory controlled by the armed groups. For instance, on 19 June 2017, the 'deputy minister of state security' of 'Luhansk people's republic' was indicted in absentia for membership in a "terrorist organization", and on 12 June 2017, the Selidivskyi town court of Donetsk region acquitted in absentia the 'president' of the 'supreme court' of the 'Donetsk people's republic' of similar charges.

[75] For more details, see OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 88.

[76] Decision dated 15 June 2017, available at http://reyestr.court.gov.ua/Review/67397157.

[77] Article 176(5) states, "measures of restraint in the form of personal commitment, personal warranty, house arrest and bail may not be applied to persons suspected or accused of having committed the crimes specified by Articles 109-114-1, 258-258-5, 260, and 261 of the Criminal Code of Ukraine". During its trial monitoring, HRMMU observed numerous hearings during which detention was

and prolonging pre-trial detention, the courts ignored individual circumstances, including the defendant's social standing, family circumstances, health condition and the length of time already spent in detention. OHCHR recalls that the imposition of pre-trial detention must be based on an individualized determination of necessity and reasonableness thereof. Pre-trial detention must not be mandatory for all defendants charged with a particular crime without consideration of individual circumstances.[78]

76. OHCHR also observed undue delays in trials of conflict-related detainees while the accused remained in custody.[79] OHCHR recalls that individuals charged with criminal offences have the right to be tried without undue delay; persons who are not released pending trial must be tried as expeditiously as possible[80] or released from custody.[81] Further, prolonged pre-trial detention may jeopardize the presumption of innocence.[82]

77. Over the reporting period, OHCHR documented a number of cases where conflict-related detainees complained of being compelled to admit guilt by means of threats, torture and ill-treatment, and where such allegations were not sufficiently examined by the court.[83]

C. Human rights impact of armed group structures

78. OHCHR continued to monitor the development and impact of parallel structures of 'administration of justice' established by armed groups in territory under their control.

79. HRMMU continued collecting credible victim accounts that no guarantees or safeguards were in place for individuals apprehended and detained by the 'MGB' of 'Donetsk people's republic' or 'Luhansk people's republic', particularly when they were 'charged' with espionage, subversion or cooperation with Ukrainian forces. The 'MGB' denied holding the individuals in question, which is tantamount to enforced disappearance.[84] Furthermore, detainees were deprived of access to a lawyer or information regarding the grounds for their detention, and were forced to give self-incriminating statements.[85] OHCHR notes that 'MGB' 'investigations' and detentions are not subject to any forms of review.

80. In the absence of a functioning 'supreme court' in 'Luhansk people's republic', individuals 'convicted' by 'first instance courts' could not have their 'sentence' 'reviewed'. Those who 'appealed' their 'conviction' entered a judicial limbo while remaining imprisoned, as the first instance 'verdict' does not enter into force pending 'appeal', yet there is no possibility of the 'appeal' being heard. OHCHR received information that this situation negatively affects many people 'convicted'.[86]

extended based solely on this article, without consideration of specific risks or circumstances relevant to the individual case.

78 Human Rights Committee, General Comment no. 35 Article 9 (Liberty and security of person), para 38.

79 HRMMU trial monitoring, 12, 17, 19 and 20 July 2017; HRMMU interview, 25 May 2017.

80 Human Rights Committee, General Comment no. 35 Article 9 (Liberty and security of person), para 37.

81 ICCPR, Articles 9(3) and 14(3)(C).

82 Human Rights Committee, General Comment no. 35 Article 9 (Liberty and security of person), para 37.

83 HRMMU interviews, 2 June 2017, 21 and 26 July 2017.

84 See Unlawful/arbitrary deprivation of liberty, enforced disappearances and abductions above.

85 HRMMU interview, 11 August 2017.

86 HRMMU interview, 18 May 2017.

81. On 1 August 2017, the 'military tribunal' of the 'supreme court' of 'Donetsk people's republic' reported the 'conviction' of four individuals of "espionage", bringing the total number of such 'convictions' during 2016 and 2017 to eight.[87]

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

82. More than three years after the violent killings perpetrated during the Maidan protests in Kyiv and on 2 May 2014 in Odesa, little progress has been achieved in bringing perpetrators to account, and many suspects have fled Ukraine, contributing to impunity for these grave human rights violations and lack of justice for victims.

1. Accountability for the killings of protesters at Maidan

83. The Sviatoshynskyi district court of Kyiv continued holding hearings on the merits of the case of five former 'Berkut' servicemen accused of killing 48 protesters on 20 February 2014 in Kyiv. They remain in custody pending trial, which is still at the stage of collecting testimonies of victims and examination of case files.

84. On 21 July 2017, the Office of the Prosecutor General reported that the Russian Federation had denied its extradition request for 21 'Berkut' servicemen who had fled Ukraine and were also wanted for suspected involvement in the killing of the 48 protesters. Fifteen suspects have reportedly been granted Russian citizenship, and three temporary asylum. OHCHR is concerned that failure to ensure their appearance at trial contributes to the longstanding impunity of perpetrators, particularly more senior former officials suspected of organizing and ordering the killings of protesters.

85. On 29 July 2017, the alleged organizer of an abduction of two Maidan protesters (one of whom died),[88] was placed in detention for 60 days.[89] He is charged with organizing the abduction, torture and killing of a hostage in collusion with a group of people.

2. Accountability for the 2 May 2014 violence in Odesa

86. Equally little progress was observed in judicial proceedings to bring accountability for the killings that occurred in the city centre of Odesa and during the House of Trade Unions fire.

87. Following numerous recusals of judges in all four district courts of Odesa, and the subsequent inability to form a bench, on 26 May 2017, the court of appeal of Odesa region transferred the case of 20 'pro-federalism' activists accused of mass disorder to the Illichivskyi town court of Odesa region.[90] Five of the accused remained in pre-trial detention since May 2014. The first court hearing in this case was held on 27 November 2014.

88. The only 'pro-unity' activist accused of killing remained free pending trial, which has not yet commenced since his indictment more than two years. OHCHR notes the arbitrary approach of the courts dealing with the 2 May cases; while some of those accused of mass disorder have been detained for more than three years, a person accused of killing

[87] Reportedly, two defendants were local residents while the others were from other parts of Ukraine, the Russian Federation and Uzbekistan.

[88] See OHCHR report on accountability for killings from January 2014 to May 2016, Annex I, table 1.

[89] Ruling of the Pecherskyi district court of Kyiv, 29 July 2017, available at http://reyestr.court.gov.ua/Review/68090613.

[90] Ruling of the court of appeal of Odesa region, 26 May 2017, available at http://reyestr.court.gov.ua/Review/66724977.

enjoys his liberty. OHCHR notes that the nature and gravity of the alleged offence should be duly taken into account when assessing the proportionality of the measure of restraint.

89. On 25 July 2017, the Office of the Prosecutor General reported that the Russian Federation denied its request for extradition of the former Deputy Head of the Odesa regional police because the suspect had been granted Russian Federation citizenship. The suspect is charged with "Excess of Authority" and "Neglect of Official Duty" in relation to alleged failures to act to maintain public order and security during the 2 May 2014 violence and for his decision two days later to release 63 people from police custody who had been arrested for mass disorder.

IV. Fundamental freedoms

A. Freedom of movement

> *"I have my parents and relatives on the other side of the contact line. They receive information we don't, and we don't have information they have. The void between us is deepening. That terrifies me. We are losing connection with every day passing."*
>
> - IDP from Donetsk region

90. This reporting period saw a record increase in numbers of people travelling across the contact line. Over one million individual crossings were recorded each month in May, June and July, with the trend continuing at the beginning of August.[91] On average, 36,000 people travelled across the contact line each day, compared with 29,000 during the previous reporting period. OHCHR is concerned about security risks faced by civilians at or near checkpoints, including from shelling, land mines and other explosive devices. Eight incidents related to explosions of mines or shelling resulting in casualties or temporary closure of EECPs were recorded within the reporting period.[92]

91. Extreme heat, lack of cooling spaces, and inadequate physical and sanitary conditions at checkpoints exacerbated the already aggravated situation of people crossing and increased protection concerns, especially for persons with disabilities, the elderly, children and women. The situation was particularly alarming in Luhansk region, where Stanytsia Luhanska remains the only crossing route, accessible only by pedestrians, with

[91] Movement across the contact line continued to be boosted by Government requirements for IDPs entitled to pensions to undergo cumbersome identification procedures in person. See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, paras. 99, 123-125.

[92] For example, on 8 June 2017, a civilian resident of Trudivski neighbourhood in Donetsk was killed by an IED in the 'grey area' between Marinka and Trudivski neighbourhood; On 7 July, one person was killed and another injured by an explosive device on the side of the road in government-controlled territory between Zhovanka and the Maiorsk EECP; On 16 July, a man received a gunshot wound at the Marinka EECP. At least eight incidents of shelling near EECPs during operation hours were recorded during the reporting period, at least two of which resulted in the suspension of operations. State Border Guard Service of Ukraine, http://dpsu.gov.ua/ua/news. See also "UKRAINE: CHECKPOINTS - Humanitarian Snapshot (as of 26 July 2017)", available at https://www.humanitarianresponse.info/en/operations/ukraine/infographic/ukraine-checkpoints-humanitarian-snapshot-26-july-2017.

unsafe wooden ramps connecting the pieces of a destroyed bridge. OHCHR observed insufficient availability of wheelchairs on the government-controlled side of the bridge, and their complete absence on the side controlled by armed groups, despite the high demand for such assistance. Moreover, the poor conditions of the ramps pose a physical risk to pedestrians attempting to cross. On a single day, OSCE SMM monitors observed three pedestrians falling, 10 persons losing their footing, and a man with disabilities accidentally dropped by porters.[93] At crossing routes in Donetsk region, buses circulating between the 'zero checkpoint' and an EECP were not equipped for persons with disabilities. OHCHR is also concerned that ambulances were not regularly present at each checkpoint during operational hours.[94]

92. OHCHR documented incidents when unnecessary or disproportionate restrictions and inspections at checkpoints impeded not only freedom of movement, but also the enjoyment of the right to liberty and security.[95] For example, on 11 July 2017, at the Marinka checkpoint, SBU elements questioned about possible connections to armed groups for several hours a female volunteer from Donetsk who frequently crosses the contact line to visit her elderly mother in armed group-controlled territory and her grandchildren in Zaporizhzhia (government-controlled territory).[96]

93. OHCHR is concerned by impediments to freedom of movement at so-called 'internal' checkpoints which are unrelated to crossing routes and operated by the National Police of Ukraine. HRMMU documented cases of special profiling of individuals with residence registration in armed group-controlled territory, as well as of staff of humanitarian organizations, as well as cases of collection of cell phone IMEI codes. In one case, members of a Ukrainian TV crew were subjected to physical violence at an 'internal' checkpoint on the road between Kurakhove and Mariupol.[97] OHCHR was informed that armed groups also started collecting IMEI codes from civilians crossing at 'Maiorsk' checkpoint.[98]

94. Restrictions on freedom of movement continued to disproportionately affect civilians residing in the immediate vicinity of the contact line, impeding their access to medical, education, social, administrative and legal services.[99] Further, this artificial

[93] Daily report of the OSCE Special Monitoring Mission to Ukraine, 21 June 2017, available at http://www.osce.org/special-monitoring-mission-to-ukraine/324881.

[94] EECP checkpoints are open from 6:00 to 20:00 hrs, however ambulances are not stationed at EECPs during full operational hours. For example, an ambulance is present on the government-controlled side of Stanytsia Luhanska EECP from 10:00 to 14:00 hrs, and on the side controlled by armed groups from 8:00 to 17:00 hrs. On the government-controlled side of Marinka EECP, the first-aid point operates from 9:00 to 16:00 hrs. At Maiorsk EECP, NGO "Premiere Urgence" maintains a first aid tent which is open until 15:30 hrs. A military paramedic remains on duty at the EECP from 15:30 to 20:00 hrs. At Pyshchevyk/Hnutove (government-controlled side), Oktiabr and Olenivka (armed group-controlled) checkpoints, a paramedic is present during all hours, however, an ambulance will not go to Pyshchevyk. In case of emergency, servicemen take a person in need to Talakivka, where an ambulance would come from Mariupol. An ambulance will come to Oktiabr from Novoazovsk, which would take at least 30 minutes.

[95] HRMMU interviews, 28 June and 18 July 2017.

[96] HRMMU interview, 13 July 2017.

[97] Following an internal investigation of the incident by the Donetsk Regional Department of the National Police of Ukraine, the case is now with the Donetsk Regional Prosecutor's Office. HRMMU interview, 14 August 2017.

[98] HRMMU interview, 13 June 2017.

[99] On 18 May 2017, HRMMU visited Orikhove-Donetske village of Luhansk region (government-controlled) where 32 residents, mostly elderly, face a lack of public transportation and are subjected to arbitrary travel restrictions at checkpoints surrounding the village. Residents complained of

boundary, and the complicated procedure to cross it, divides families, causing hardships. HRMMU spoke with an 80-year-old man who must queue and walk across the Stanytsia Luhanska bridge every week to visit his wife in hospital.[100] OHCHR regrets that the provision introduced in April 2017 to the Temporary Order allowing for non-expiring permits (required to cross) has not been implemented.[101]

B. Freedoms of expression, peaceful assembly and association

> *"The first things we were hiding were the Ukrainian costumes and Ukrainian flag… It appeared that the Government of Ukraine does not care about us."*
>
> - Resident of a village near the contact line

95. OHCHR observed a worrying trend in legislative initiatives which, if adopted, would negatively impact the enjoyment of freedoms of expression and association, and may consequently, limit civil society space. On 10 July 2017, the President of Ukraine submitted a package of draft laws to Parliament[102] which may create undue burden for small civil society organisations as it requires public financial disclosures from those reaching a low threshold of annual revenue. The amendments also introduce additional public reporting requirements regarding donors, beneficiaries and staff which may affect the latter's rights to respect for privacy and confidentiality. Other Government policies may also unduly interfere with access to online information and communication. For instance, on 16 May 2017, the President signed a decree imposing sanctions on 468 companies, including blocking of popular social networks and an email service, and requiring Ukrainian internet

complications to access medical care and other essential social and administrative services available in Trokhizbenka. On 24 May, HRMMU visited Novooleksandrivka village, located in the 'no man's land' of Luhansk region, where mainly elderly residents remained. Freedom of movement is restricted by Government forces and armed groups: Residents can only access the village by foot or bicycle through a government-controlled checkpoint, and by motorbike through an armed group-controlled checkpoint. Elderly and disabled residents lack access to administrative services and social and pension payments, which would require a seven-kilometre walk through a swamp to Popasna, possibly exposing them to mines. Ambulances cannot enter Novooleksandrivka, further restricting access to medical care. OHCHR observed similar isolation of residents in Kamianka and Starolaspa, where there is no public transportation, grocery shops or pharmacy, and ambulances were sometimes denied entry.

[100] On 2 June 2017, at the Stanytsia Luhanska bridge, HRMMU spoke to a man travelling from (government-controlled) Makarove village to Luhansk in order to visit his wife being treated in a hospital. He had to cross the contact line on a weekly basis to go to hospital.

[101] Temporary Order on the control of movement of people across the contact line in Donetsk and Luhansk regions, available at https://ssu.gov.ua/ua/pages/32; see also OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para. 100.

[102] Draft laws no. 6674 and 6675 (proposing amendments to the Tax Code of Ukraine and other legislative acts) both purportedly aim at "enhancing the transparency of funding of public organizations and of the use of international technical assistance."

providers to restrict access to their sites.[103] While these measures may be lawful and follow a legitimate aim, there are concerns as to their proportionality.

96. OHCHR also noted an increase in online "troll" attacks and defamation campaigns on social media targeting activists and media professionals engaged in investigative journalism and promotion of accountability.[104] Physical and online attacks are often not investigated, or investigations are protracted.

97. A year after the killing of journalist Pavel Sheremet on 20 July 2016, little progress was observed in the investigation into this case. Following the release of an investigative documentary on this case, which revealed additional information, the journalists who made the documentary were included into the inter-agency investigation group, comprised of representatives of SBU, the National Police and the Office of the Prosecutor General. OHCHR welcomes this step and urges the authorities to ensure an effective investigation into the killing of Mr. Sheremet as a step towards ending to impunity for attacks and murders of journalists.

98. Criminal convictions based on expressions of opinion against mobilisation also raised concern. For instance, on 15 May 2017, the Henicheskyi district court of Kherson region sentenced Eduard Kovalenko to five years of imprisonment for expressing opposition to military mobilization during a public assembly in 2014. On 1 June 2017, the High Specialized Court of Ukraine for Civil and Criminal Cases annulled the acquittal of journalist and blogger Ruslan Kotsaba[105], charged with treason in connection with a video he posted online opposing mobilization and his perceived cooperation with Russian media.

99. On 7 July 2017, the National Police opened a criminal case[106] against the website "Myrotvorets", which, since August 2014, has been publicly posting personal data of thousands of people, including media professionals, NGO activists, labelling them as supporters of armed groups and "terrorism". OHCHR welcomes this development and urges the authorities to conduct the investigation in good faith and take measures to remove personal data from the website.

100. During the reporting period, OHCHR continued to observe improvement with regard to respect for freedom of peaceful assembly, as illustrated by a decrease in judicial prohibitions of public assemblies and better policing of large public assemblies throughout Ukraine.[107] Yet, OHCHR noted that smaller demonstrations continued to suffer from insufficient security and protection by police, particularly those organized by persons belonging to minority groups or opposition political movements.

101. On several occasions, demonstrations organized by such groups were attacked by radical nationalistic groups, resulting in bodily injuries of participants. The police were either not present to secure the assembly or were unable to provide adequate security. Further, the police have been reluctant to take effective measures to properly investigate such cases and bring those responsible to justice.

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[103] The presidential decree targeted "legal entities of the Russian Federation, the activity of which threatens information and cyber security of Ukraine" and included sanctions against social networks VK.com (VKontakte) and Odnoklassniki, search engine Yandex, and the Mail.ru email service.

[104] These include actions by anonymous online users posting false information about certain civil activists, anti-corruption workers and journalists, threats and intimidations, attempts to show the person in a bad light and publicly shaming or attacking their private accounts and email.

[105] Kotsaba was released on 14 July 2016 after 18 months in custody.

[106] For "Obstruction of the lawful professional activity of journalists", Article 171(1) of the Criminal Code of Ukraine.

[107] n 18 June 2017, police effectively provided security for participants of the KyivPride Equality March despite attempts by opponents to disrupt it by violence.

102. For example, on 17 May 2017, in Kharkiv, members of the Right Sector and other radical groups attacked participants of the peaceful rally "LGBT Rights are Human Rights". Police were present but unable to prevent violent skirmishes. They initially refused to classify the attack as a "hate crime", however following victims' appeals, and pursuant to an investigative judge's decision, on 2 August the case was registered under Article 161 of the Criminal Code (Violation of citizens' equality based on their race, nationality or religious preferences).[108] On 14 June, a group of young people forcibly prevented a demonstration against gender-based discrimination, sexism, violence and sexual harassment from taking place at the Kyiv Mohyla Academy. Although the police were called, they arrived 40 minutes later. On 16 June, a demonstration against the renaming of Vatutina Avenue, in Kyiv, organized by the Socialist Party of Ukraine was attacked by a group of young people[109], resulting in the hospitalization of some participants. While informed in advance of this event, the police failed to provide adequate security. A feminist demonstration planned in Kyiv for 21 June was cancelled due to threats of violence and the refusal of police to ensure security. On 9 July, a lecture on the rights of transgender people in Kyiv was disrupted by 10 youths wearing masks, reportedly affiliated with "Svoboda" nationalistic political party. The Odesa Pride Equality March on 13 August was forced to stop halfway through its planned 700-metre route by a counterdemonstration by nationalist far right wing organizations[110] whose participants engaged in hate speech including incitement to violence. The police failed to adequately secure the route of the march, and the one person arrested for violent behaviour was charged only with "minor hooliganism" and not a hate crime.

Territory controlled by armed groups

103. In territory controlled by armed groups, OHCHR continued to observe systematic attacks on civil society space severely hindering the work of media representatives. HRMMU documented cases of media professionals detained by armed groups[111] while some were subjected to intimidation and interference with their work. Journalists entering territory controlled by armed groups of 'Donetsk people's republic' must inform the 'press centre' of the 'ministry of defence' about their activities on a daily basis, are arbitrarily required to show their video footage at checkpoints,[112] and are accompanied by members of armed groups when travelling close to the contact line.

104. Due to restrictions on civil society and on the exercise of fundamental freedoms, citizens were less prone or simply afraid to openly express their views. Citizens openly expressing pro-Ukrainian views continued to experience intimidation or attacks.[113]

[108] Art. 161 prohibits "willful actions inciting national, racial or religious enmity and hatred, humiliation of national honor and dignity, or the insult of citizens' feelings in respect to their religious convictions, and also any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, color of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics.

[109] They were allegedly members of the C14, National Corps and Right Sector.

[110] Vulychnyi Front, Prava Molod, Svoboda and Sokil youth wing.

[111] See Unlawful/arbitrary deprivation of liberty, enforced disappearances and abductions above.

[112] A similar practise of journalists required to inform state agencies by journalists about their activities around the contact line as well as the checking of video footage, was also observed in government-controlled territory.

[113] See Torture and ill-treatment above.

Residents of territory controlled by armed groups feared "saying too much" when complaining of everyday realities.[114]

C. Freedom of religion or belief

105. During the reporting period, OHCHR noted a worrisome development of infringement on freedom of religion or belief against Jehovah's Witnesses. In government-controlled territory, Jehovah's Witnesses faced attacks on their religions buildings, and reluctance of law enforcement agencies to investigate such cases.[115]

106. In territory controlled by armed groups of the 'Donetsk people's republic', Jehovah's Witnesses were accused of extremism and subjected to harassment, arbitrary searches of religious buildings, and confiscation of religious literature.[116] Members of the Jehovah's Witness community were summoned to 'police' or 'prosecution offices' and informed they had to cease operations until their religion organization was 'registered'; however no procedure for obtaining such 'registration' was established. On 7 July 2017, the 'supreme court' of the 'Donetsk people's republic' declared two religious publications of the Jehovah's Witnesses as "extremist" and prohibited their dissemination.[117] Reportedly, since the beginning of the conflict, nine religious buildings of Jehovah's Witnesses have been seized by armed groups.[118]

V. Economic and social rights

> *"People are left without work and no pensions, with high prices for food. People have no rights. All have diseases and no money to get treatment. We live in constant fear and constant despair. We have no hope and no future. We are Ukrainian citizens and we have Ukrainian passports. We want this horror to end and live in a state with the rule of law, where human rights are above all."*
>
> - Resident of a village near the contact line

[114] HRMMU field teams generally hear this sentiment while engaged with the public, as well as specifically during formal interviews. HRMMU interviews, 18 May and 2 June 2017.

[115] For example, on 19 June 2017, several men forcibly entered a Kingdom Hall in Khust during a religious service, threatening to blow up the building and shoot the parishioners inside. Reportedly, the police ignored numerous calls and arrived 90 minutes after having received the first report of the ongoing crime. No investigation has been initiated into the case. See Jehovah's Witnesses: Report on Observance of Freedom of Religion in Ukraine by The Religious Center of Jehovah's Witnesses in Ukraine.

[116] HRMMU interviews, 21 and 22 August 2017.

[117] HRMMU interview, 21 August 2017.

[118] "Kingdom Halls" (religious buildings of Jehovah's Witnesses) were seized in Horlivka, Donetsk, Perevalsk, Khrustalnyi (formerly Krasnyi Luch), Boikivske (formerly Telmanove), Yenakiieve and Brianka. OHCHR report on the human rights situation in Ukraine, 16 February to 15 May 2015, para 90; OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2015, paras. 84 and 85; See also Jehovah's Witnesses: Report on Observance of Freedom of Religion "Certain Territories in the Donetsk and Luhansk Regions", Religious Center of Jehovah's Witnesses in Ukraine, April-June 2017.

107. Increased levels of poverty and unemployment coupled with record-high food prices[119] have affected the lives of 3.8 million people in the conflict zone, in addition to daily hardships caused by the armed hostilities and related policies[120] imposed by all sides. This situation has been further exacerbated by legislative measures that led to impeded access to social entitlements and pensions. OHCHR recalls that legislative measures should aim at progressively achieving the full realization of economic and social rights, not restricting them.[121] OHCHR further notes the Government's commitment to the Sustainable Development Goals contained in the 2030 Agenda, which are part of a consensus framework that applies to all countries, including those in a conflict situation. [122]

A. Right to an adequate standard of living

108. OHCHR observed a particularly dire situation in villages located in the immediate vicinity of the contact line.[123] In one emblematic example, for three years, residents of Spartak village (in territory controlled by 'Donetsk people's republic') have not had access to centralized supplies of electricity, water and gas, and have relied on wells and a generator which they rarely have money to fuel. There is no public transportation, grocery store, pharmacy or medical unit in the village. Ambulances do not come to the village due to security constraints. Due to the high intensity of shelling, residents often live in degrading conditions in basements.[124] The two children in the village walk 20 minutes to catch a bus to attend school in Yakovlivka village, also located close to the contact line (in territory controlled by 'Donetsk people's republic'). They are often forced to skip school due to the critical security situation. While this is a unique case, there are many such villages on both sides of the contact line whose residents experience similar daily hardships.

109. While shelling directly endangered staff and operations of critical civilian infrastructure,[125] the failure to introduce adequate normative frameworks regulating water and power supplies, as well as crisis management for key enterprises in Luhansk region[126] caused further interruptions in public water and power supplies.

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[119] Food Security and Livelihoods Cluster Food Security Assessment, data collection undertaken in June and July, 2017. Preliminary findings available at http://fscluster.org/sites/default/files/documents/fslc_dashboard_january_-_june_2017_final.pdf.

[120] For example, the cargo blockade and imposition of "temporary external management".

[121] Article 2 (1), International Covenant on Economic, Social and Cultural Rights.

[122] See in particular SDGs regarding the eradication of poverty (Goal 1), ensuring healthy lives and well-being (Goal 3), availability of clean water and sanitation (Goal 6), access to affordable, reliable, sustainable and modern energy (Goal 7), promoting sustained, inclusive and sustainable economic growth, productive employment and decent work (Goal 8), making cities and human settlements inclusive, safe, resilient and sustainable (Goal 11), ensuring sustainable consumption and production patterns (Goal 12). The Agenda is available at https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf.

[123] HRMMU teams visited Shevchenko and Boikivske on 17 May 2017, Zaitseve on 25 May, 21 June and 3 August, Kamianka on 20 June, Luhanske on 23 May, Novooleksandrivka on 24 May, Lopaskyne and Orikhove-Donetske on 18 May, Zolote-4 on 19 May, Starolaspa and Sartana on 5 June, Spartak on 3 July, and Oleksandrivka on 2 August.

[124] HRMMU visited one basement where five people, including an 11-year-old child, have been living since 2014, in degrading conditions: damp, with dim light and walls affected by fungus.

[125] See International humanitarian law in the conduct of hostilities above.

[126] Luhansk Energy Union (Luhanske Enerhetychne Obiednannia), a privately-owned enterprise, has accumulated more than five billion UAH (nearly 200 million USD) in debts to the state bulk-

110. In June, Luhansk Energy Union (LEU), the sole distributor of power in Luhansk region, informed OHCHR that it could not continue to distribute electricity or perform network maintenance due to delay of payments for electricity previously supplied on both sides of the contact line and the resulting accumulated debt to the state-owned electricity enterprise, Enerhorynok.[127] At least four water supply companies in Luhansk region accumulated large debts to LEU for electricity supplied.[128] The financial situation of LEU has been aggravated by the reported unauthorized and non-remunerated connection of military positions and objects to electricity lines.[129] As a result, LEU began cutting power to water facilities.[130] This crisis, coupled with frequent breakdown of old water pipes, has been limiting access to safe drinking water of approximately 220,000 people on both sides of the contact line.

111. In western parts of 'Luhansk people's republic', water supplies decreased threefold compared with pre-conflict time.[131] Residential households, hospitals and schools receive water irregularly, sometimes only once for a few hours in two days, and delivery of drinking water is sometimes sporadic. Persons with disabilities face additional difficulties in accessing water delivery points and carrying bottles home. In some villages, residents collect water from boreholes, heightening the risk of outbreak of infectious diseases. Since water filtration stations must frequently halt operations due to shelling, water quality has reportedly deteriorated. In Brianka, the water is red, brown or yellow.[132]

112. OHCHR is concerned that if the water supply issues are not resolved well before the winter, irreversible damage to infrastructure may be unavoidable on both sides of the contact line, as the centralized heating system requires uninterrupted water flow through the pipes.

B. Right to health

> *"I am not used to crying but I am crying now. It is so unjust. You come and go and I will stay here and have to survive. There is no help from the state."*
>
> - A man with disabilities

distributor of electricity. LEU was sanctioned and had its bank accounts frozen. LEU cut salaries and shortened the work week to three days, resulting in the resignation of 200 employees in 2017. The management claims the company has no money for petrol in order to send repair teams to fix the frequent damages to electricity networks along the contact line caused by the hostilities.

127 HRMMU interview, 15 June 2017.

128 Lysychansk, Popasna, Starobilsk and Rubizhne water companies.

129 On 14 June 2017, the LEU management sent a formal complaint to the Government, including at national level, detailing the company's financial losses caused by unremunerated use of electricity by military facilities in Luhansk region (HRMMU received a copy on 15 June). As of 15 August, the company had not received any substantive reply to this complaint.

130 On 11 July 2017, LEU cut the electricity supply to a number of pumps of the Lysychansk and Popasna Water Companies, as well as to the Popasniansky District Water Company. As of 20 July, water supply to Lysychansk was renewed but the debt remained unresolved, signalling that further cut offs may be imminent.

131 The decreases resulted from multiple factors, including old infrastructure and conflict-related damage to pipes.

132 HRMMU interview, 7 June 2017.

113. Frequent damage to critical infrastructure also poses environmental threats which could greatly impact the right to health. Shelling around a wastewater treatment plant near Dokuchaievsk and a phenolic plant in Novhorodske risks contaminating groundwater and the environment with sewage and toxic liquid waste.[133] Shelling damage to water facilities or power lines which causes water pumps to stop operating may result in the flooding of coal mines which, in this industrial region, may force toxic methane gas to the surface and into basements in residential areas.[134] In view of continued hostilities, failure by the parties to the conflict to respect and implement their agreement in principal on the creation of safety zones around key infrastructure,[135] or to efficiently negotiate "windows of silence" prevented necessary repairs and further aggravated the situation.

114. OHCHR continued to document limited access to and availability of health care in areas close to the contact line, on both sides, as some 130 facilities remain either partially or fully non-operational.[136] A number of places where residents had access to specialized doctors before the conflict now only have a paramedic available, usually only once a week.[137] In locations where public transportation ceased operating and/or the area is not accessible for ambulances due to the armed conflict, residents who are unable to drive must hire a taxi or walk to access medical care.[138]

115. These conditions render persons with disabilities in particular more vulnerable. Frequently in need of medical care, they face greater physical obstacles travelling and crossing checkpoints to receive specialized treatment, or simply fleeing from shelling. Many patients cross the contact line to continue with the treatment they were receiving before the conflict. For example, the hospital in Donetsk city is particularly renowned in treating cancer and continues to provide treatment for patients residing on both sides of the contact line.[139]

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133 On 11 July 2017, the waste water treatment plant near Dokuchaievsk ('Donetsk people's republic') came under shelling and its staff was evacuated. For 24 hours, wastewater from the town's population of over 24,000 was discharged into the environment. In Novhorodske, on the government-controlled side, a sludge collector of a phenolic plant was overfilled with toxic liquid waste. Due to ongoing hostilities and the lack of agreement on a local ceasefire, no repair works were conducted for the last two years. If the dam is damaged, toxic waste would contaminate the rivers of Kryvyi Torets and Siverskyi Donets, which are water sources for the whole Donbas region.

134 These concerns were voiced by the Joint Centre for Control and Co-ordination Ukrainian spokesperson, available at https://ua.112.ua/video/zatopleni-shakhty-poblyzu-toretska-v-donetskii-oblasti-zalyshaiutsia-tekhnohennoiu-zahrozoiu-stskk-240545.html. However, Toretsk local authorities rejected such allegations, claiming that all necessary maintenance work in the mines, at least in government-controlled territory, was being undertaken. HRMMU interview, 3 August 2017.

135 On 19 July 2017 at the Trilateral Contact Group meeting in Minsk, the parties expressed their commitment to create safety zones around the First Lift Pumping Station and Donetsk Filtration Station. See statement of the TCG Coordinator, available at http://www.osce.org/chairmanship/330961.

136 World Health Organization, http://www.euro.who.int/en/health-topics/emergencies/health-response-to-the-humanitarian-crisis-in-ukraine/news/news/2017/08/world-humanitarian-day-who-urges-more-health-aid-to-address-ukraines-humanitarian-crisis.

137 HRMMU visit to (government-controlled) Trokhizbenka, on 18 May 2017, Zaitseve, on 25 May, 21 June and 3 August 2017, and Luhanske, on 23 May 2017.

138 HRMMU visit to Starolaspa, on 5 June 2017, and Spartak, on 4 July 2017 (both in 'Donetsk people's republic'), and Novooleksandrivka, Luhansk region ('no man's land'), on 24 May 2017. On 13 June 2017, an injured woman in Avdiivka (government-controlled territory) had to walk over one kilometre because the ambulance could not access the area due to shelling. HRMMU interview, 20 June 2017.

139 HRMMU interview, 12 July 2017.

116. OHCHR welcomes the ongoing healthcare reform, which may not only resolve systemic issues, but also address certain conflict-related obstacles. If adopted, a draft law "On state financial guarantees for providing medical services" would allow IDPs to receive medical care throughout Ukraine, regardless of their residence or IDP registration.[140]

C. Right to social security and social protection

> *"My mother, 91, cannot get her pension since 2014. She is too old to travel to the government-controlled side. She worked for it all her life."*
>
> - Resident of a village near the contact line

117. Negative trends in the sphere of employment may be further aggravated should current conditions persist. In 2016, the unemployment rate in Luhansk region was more than double than in other regions of Ukraine.[141] A number of key enterprises in 'Luhansk people's republic' have stopped or reduced their operations since 2014, when the banking system stopped functioning and transportation of goods became difficult.[142] Due to the trade blockade introduced in 2017,[143] at least two large enterprises in 'Luhansk people's republic' lost access to raw materials and sales markets, resulting in the reduction of salaries by 50 to 70 per cent.[144] In both 'republics', the situation worsened after armed groups introduced "temporary external management"[145] of enterprises in territory under their control. OHCHR was informed that after coal mines closed in 'Donetsk people's republic', some miners joined armed groups to secure their livelihood, [146] a trend which had been previously identified by OHCHR.[147] Enterprises in government-controlled territory which previously depended on anthracite coal from territory now controlled by armed groups have taken further steps since the trade blockade to identify other sources. While they continued to operate, they have faced financial losses.[148]

118. Approximately 600,000 people with residence registration in armed group-controlled territory have been deprived of social entitlements, most significantly, payment of pensions, since the government's mandatory verification process.[149] This has a

[140] The text of the draft law is available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61566.

[141] According to the World Food Programme, before 2014, the unemployment rate was decreasing across the five eastern regions, however since 2014, it has been increasing drastically. In 2016, the unemployment rate in Luhansk region reached 16 per cent whereas the average across Ukraine was seven per cent.

[142] These conditions led to further economic hardships and job losses for up to 5,000 people. HRMMU interviews, 27 July, 8 and 10 August 2017.

[143] A blockade of trade across the contact line was initiated by former members of volunteer battalions in January 2017 and regularized by the Government on 15 March 2017. See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 120.

[144] HRMMU interviews, 19 May and 28 July 2017.

[145] See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 120.

[146] HRMMU interview, 14 August 2017.

[147] See OHCHR Report on the human rights situation in Ukraine, 16 November 2016 to 15 February 2017, para 110.

[148] HRMMU interviews, 1 and 3 August 2017.

[149] See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, paras. 117-119.

significant impact on the lives of thousands, as for many, pensions are the only source of income. OHCHR reiterates its recommendation to de-link the right to pension from IDP registration. OHCHR welcomes the proposed legislative amendments to the law on 'Mandatory state pensions insurance'[150] which would protect pension rights of citizens deprived of their liberty and citizens residing in areas not under the control of the Government. If adopted, the draft law would reinstate the right of all citizens to receive their pension, regardless of IDP registration or residence location.[151]

D. Housing, land, and property rights

119. The restitution and rehabilitation of destroyed or damaged property or compensation remain among the most pressing unaddressed socio-economic issues. Damage to property may stem from shelling and armed hostilities or from military occupation and use of civilian property. The conflict-affected population, including IDPs, continued to suffer from unregulated claim procedures[152] and lack of inventory of such property, making it hard to pursue related claims. OHCHR notes that only in a few instances claimants were able to win court cases, and thereby gain legal right to compensation for loss of property.[153]

120. On 31 May 2017, the Cabinet of Ministers adopted amendments[154] which would allow authorities to deny housing assistance (rent and utility subsidies) to IDPs if the IDP or a family member owns residential property or a part thereof in government-controlled territory. Moreover, these amendments aim to further narrow the eligibility criteria for such assistance. Only IDPs originating from settlements "where state authorities temporarily do not exercise their powers or located along the contact line", or those whose housing was destroyed or has become unsuitable for living as a result of the conflict are considered as eligible.

121. For over two years, IDPs from Shyrokyne have been denied access to their property due to security constraints. However, high officials accompanied by representatives of the international community regularly visit the village. During a field visit to Shyrokyne on 20 July, HRMMU was informed by a commander of the Ukrainian Armed Forces that the village remained unsafe because the security situation had prevented demining and only the main road had been cleared.[155] Residents complained that, based on photos and videos available online, private houses have been looted, supposedly by members of volunteer battalions present in the village.[156]

[150] Available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61678.

[151] The draft law also foresees that pensions will be paid in government-controlled territory retroactively and without any time limitations.

[152] The lack of regulation on documentation and assessment of damages caused by hostilities leaves it to local authorities to arbitrarily decide how to request a housing inventory and document a claim.

[153] For instance, on 27 June 2017, the Selydovskyi town court of Donetsk region decided to compensate from the state budget the cost (UAH 2,059,000, equivalent to USD 80,000) for the real estate of a resident of the town of Avdiivka which was destroyed by armed hostilities in 2015. The decision entered into force on 10 July.

[154] Cabinet of Ministers of Ukraine Resolution No.370 'On amendments to the Resolutions No.505 and No.646' of 31 May 2017.

[155] HRMMU site visit, 20 July 2017. During this visit, HRMMU observed that all of the houses appeared to have been damaged by the armed hostilities.

[156] HRMMU interview, 18 July 2017.

Territory controlled by armed groups

122. Parallel procedures that 'regulate' inheriting, selling and buying of property put in place by armed groups continued to create unnecessary hardship for the population. According to 'legislative initiatives',[157] all real estate transactions executed after 11 May 2014 must be registered with the 'Donetsk people's republic'. Such 'initiatives' result in additional financial burden due to the double registration of transactions that is required, considering that the Government of Ukraine does not recognize such 'registration' as valid.[158]

123. Military occupation and use of civilian housing by armed groups hindered the ability of displaced persons to return to their homes. OHCHR was informed about a woman who returned to Luhansk city and could no longer access her apartment because the lock had been changed.[159] Interlocutors from Luhansk alleged that apartments were being opened and given to armed groups.[160]

124. Armed groups further restricted the right to unimpeded use of privately-owned commercial premises or other business-related property.[161] On 5 July 2017, a member of the 'people's council' of the 'Donetsk people's republic' reported that 109 private markets had passed to 'state ownership' since April 2017.[162] The owner of a small market told HRMMU he had to pay additional money to the 'state management' to be allowed to continue managing a small shop there.[163]

125. On 4 July 2017, the 'fund of state property' of 'Donetsk people's republic' announced the filing of an appeal to the 'arbitration court' requesting declaration of property rights concerning "abandoned" property.[164] OHCHR is concerned that these developments may unlawfully interfere with property rights.

126. Legal experts operating in territory controlled by armed groups reported increased information requests concerning the ongoing process of mandatory 'registration' of vehicles under 'Donetsk people's republic' 'legislation'.[165] The process reportedly includes a special fee for 'registration', paid through the 'central republican bank'. Owners who failed to 'register' their vehicle would be fined between 340 to 510 roubles,[166] and their vehicles would be held until the fine was paid. Not only does this incur additional expenses for residents, it also places them in a difficult legal predicament, as any 'official' payments

[157] On 5 July 2017, a 'law' of 'DPR' on 'amendments' to the law "on state registration of real rights to immovable property and their restrictions (encumbrances)" entered into 'force'.

[158] HRMMU recalls that previous documents issued by notaries in territory controlled by armed groups were equally not considered as valid by the Government of Ukraine.

[159] HRMMU interview, 26 July 2017.

[160] HRMMU interview, 6 August 2017.

[161] See also OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 120.

[162] https://dan-news.info/obschestvo/v-gossobstvennost-dnr-s-aprelya-2016-goda-pereshlo-109-rynkov-po-vse-territorii-respubliki.html.

[163] HRMMU interview, 6 July 2017.

[164] Available at http://dnr-online.ru/fond-gosimushhestva-dnr-uvedomlyaet-o-podache-iskov-v-arbitrazhnyj-sud-dnr-na-predmet-priznaniya-prava-sobstvennosti-na-nedvizhimoe-imushhestvo-ryada-yuridicheskix-lic/.

[165] HRMMU meeting, 23 May 2017.

[166] http://smdnr.ru/gai-preduprezhdaet-ob-otvetstvennosti-za-narushenie-srokov-registracii-avtotransporta/.

of 'fees' into the 'budget' of the 'Donetsk people's republic' may be interpreted as funding of terrorism by law enforcement agencies of Ukraine.[167]

E. Human rights in humanitarian action

127. The space for humanitarian action continued to be restricted in territory controlled by armed groups, with very few humanitarian actors able to operate. Protection activities, including psycho-social support, education and mine action, remained difficult to implement, negatively impacting the most vulnerable.[168]

128. Access to quality psycho-social support in rural areas in government-controlled territory and in "no-man's land" also remained a concern due to a general lack of medical personnel. Most of the individual, *ad hoc* programmes implemented by non-governmental actors and international organizations are addressed short-term critical needs. There remains, however, a need to address long-term recovery and development solutions. The situation was especially dire in schools, where there were often no psychologists, speech therapists or defectologists despite the high need for psycho-social support for children living in the conflict zone.[169]

129. OHCHR observed a growing humanitarian need for both food and non-food items in territory controlled by armed groups. This resulted from, *inter alia*, the cargo blockade,[170] the prohibition of large humanitarian NGOs ("People in Need" and "Pomozhem" humanitarian centre of Rinat Akhmetov's Foundation) from operating in 'Donetsk people's republic'[171] and Government restrictions limiting access to pensions of residents living in armed group-controlled territory.

130. OHCHR notes an acute need to increase mine action, including mine-risk awareness activities, as many agricultural land plots remain contaminated with UXO, ERWs and landmines. Humanitarian workers expressed hesitation to scale up livelihoods programmes for fear of placing at risk civilians who would engage in agricultural activities, as well as the staff of the humanitarian organizations.[172]

VI. Discrimination against Roma

131. OHCHR observed the continuation of a worrisome trend of violence and discrimination against Roma people throughout Ukraine, in some cases involving local authorities.[173] Thus, on 16 May 2017, in a violent escalation of a dispute between a local leader and the Roma community in Vilshany village (Kharkiv region), a group of men led by a member of the Kharkiv regional council and the head of the Vilshany village council attacked a group of Roma, shooting and killing one and wounding three others. Following the incident, some representatives of local authorities engaged in hate speech and

[167] See Unlawful/arbitrary deprivation of liberty, enforced disappearances and abductions above.

[168] See, e.g., OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, paras. 132-135.

[169] The standard is one psychologist in a school with at least 300 students. For schools with less students, the psychologist would work part time. Ministry of Education Decree No. 616 'On the provision on psychological service in the education system of Ukraine', 2 July 2009.

[170] See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 120.

[171] See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para 133.

[172] NRC general coordination meeting, 2 June 2017.

[173] Incidents of hate speech were also noted, such as fliers depicting racial slurs and possible incitement to hatred against Roma which were posted in Odesa by a right-wing youth organization.

threatened to evict Roma families from the village.[174] On 21 July 2017, in Lviv, a Roma camp was set on fire, and another two smaller Roma camps were abandoned, following a statement by a member of the Lviv city council, on 20 July, urging local authorities to take more rigorous actions to "resolve" the Roma issue, including by evicting Roma from Lviv.[175] The police informed HRMMU that no investigation had been initiated into this incident, stating that "there were no victims".

132. OHCHR is concerned about the lack of investigations of crimes committed against members of the Roma community, particularly regarding the forced displacement of a Roma community in Kyiv, in April 2017, and the forced eviction of Roma families in Loshchynivka village, Odesa region, in August 2016.[176] On 28 July 2017, the Odesa regional prosecution closed the criminal investigation into police misconduct[177] during the forced eviction of Roma families in Loshchynivka village, Odesa region due to lack of *corpus delicti*.

VII. Human rights in the Autonomous Republic of Crimea and the city of Sevastopol

133. OHCHR has continued to seek access to Crimea in order to fulfil the mandate of HRMMU to monitor, document and report on the human rights situation throughout Ukraine, and to implement United Nations General Assembly resolution 71/205 which, *inter alia*, requests OHCHR to issue a report on the human rights situation in Crimea.[178] OHCHR continued to record violations of fair trial rights and fundamental freedoms. Further, a number of forced transfers and deportations of Ukrainians took place. In Sevastopol, the security of tenure of property owners has been compromised by judicial decisions confiscating land plots.

A. Administration of justice and fair trial rights

134. Administration of justice in Crimea continued to be tainted by concerns of political motivation. Legal proceedings involving people in opposition to the Russian Federation authorities in Crimea, or perceived to be, often failed to uphold due process and fair trial guarantees. In such cases, claims of abuse in detention were dismissed by courts without proper judicial review.

135. Two men arrested under accusations of being part of alleged Ukrainian sabotage groups sent to Crimea to commit terrorist acts were convicted of other charges and

[174] "IRF's Statement about violence against Roma in the village Vilshany", International Renaissance Foundation, 18 May 2017, available at http://www.irf.ua/en/allevents/news/roma_vilshany_irfstatement/.

[175] "Open statement concerning incident with Roma settlement in Lviv", Ukrainian Helsinki Human Rights Union, 27 July 2017, available at https://helsinki.org.ua/appeals/vidkryta-zayava-schodo-intsydentu-iz-romskym-poselennyam-u-lvovi/.

[176] See OHCHR Report on the human rights situation in Ukraine, 16 August to 15 November 2016, para 152.

[177] Based on article 367 of the Criminal Code, "Neglect of official duty".

[178] On 19 December 2016, the General Assembly adopted resolution 71/205 on the "situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol". Recalling General Assembly resolution 68/262 on the "Territorial integrity of Ukraine", it refers to Crimea as under "temporary occupation" and calls on the Russian Federation "as an occupying power" to bring an immediate end to abuses against residents of Crimea.

sentenced to prison terms. On 18 May 2017, one of the defendants was sentenced to three years of imprisonment on drug-related charges. He stated in court that he had been tortured in order to force a confession which was filmed and presented as evidence. He also complained that the drugs found in his car had been planted by the Federal Security Service (FSB). No investigations were conducted to verify his claims. Similarly, on 17 July, the other defendant was sentenced to three years and six months for weapons-related rather than terrorism charges. According to his wife, he was arrested at the Armiansk crossing point, detained overnight, and taken to Simferopol where he was "arrested" with a gun planted on him.[179]

136. On 4 August 2017, a court in Crimea sentenced a farmer and pro-Ukrainian activist to three years and seven months in prison for possession of weapons and explosives. On 29 November 2016, he had affixed a sign to his house that read "Heavenly Hundred Street" in reference to Maidan protesters who died in February 2014 in Kyiv. Ten days later, FSB officers searched his home and allegedly found bullets and explosives in the attic, for which he was arrested. The accused pleaded not guilty and claimed that the case against him was fabricated.

137. Lengthy legal proceedings marked the case of a deputy chairman of the Mejlis, who was arrested in January 2015 and whose detention has been repeatedly extended ever since.[180] OHCHR considers that the practice of automatic extension of pre-trial detention undermines the process of judicial review of lawfulness of detention.

B. Freedom of expression

138. The application of anti-extremism legislation to statements, articles or views expressing criticism or contravening an official position constricted the right to freedom of expression.

139. OHCHR noted for the first time the criminal sanctioning of a social media post on 7 July 2017. A Crimean Tatar from Sevastopol was sentenced to one year and three months imprisonment for "publicly **inciting hatred or enmity**". The conviction related to his Facebook posts in 2016, which mentioned the "oppression" of Crimean Tatars, referred to Crimea being "occupied" and "annexed", and quoted a Crimean Tatar leader who organized the food and trade blockade of Crimea in September 2015.

140. Trials involving a deputy chairman of the Crimean Tatar Mejlis and a Crimean journalist on separatism-related charges based on public statements made opposing the annexation of Crimea were underway as of 15 August 2017. If convicted, they could be imprisoned for up to five years.

C. Freedom of peaceful assembly and association

141. During the reporting period, unauthorized public events were prohibited, as were events involving the Crimean Tatar Mejlis, which was banned in September 2016.

142. Commemorative ceremonies were organized in mainland Ukraine and Crimea to mark the 73rd anniversary on 18 May 2017 of the 1944 deportation of 250,000 people,

[179] HRMMU interview, 8 May 2017.

[180] The Deputy Chairman is charged with organizing public disorder outside the Crimean parliament on 26 February 2014, when Crimean Tatars activists clashed with pro-Russian activists. His trial started in October 2016.

mostly Crimean Tatars, accused by Soviet authorities of collaborating with Nazi Germany. City authorities in Simferopol banned such commemorations in the central square and detained eight Crimean Tatars for conducting unauthorized actions by walking in the street while displaying a Crimean Tatar flag. In Bakhchysarai, five drivers of cars carrying Crimean Tatar flags were detained, and in Feodosiia, the police blocked access to a memorial stone where people were planning to lay flowers.

143. On 8 August, an elderly Crimean Tatar man was arrested for holding a one-person picket in support of prosecuted Crimean Tatars in front of the building of the Supreme Court of Crimea in Simferopol. He was charged with unauthorized public gathering and resisting police orders and sentenced to an administrative fine of 10,000 RUB and 10 days of detention. The man reportedly suffers from numerous health conditions, including Parkinson's disease.

144. The only functioning Ukrainian Cultural Centre in Crimea closed in June 2017 due to lack of funds.[181] The Centre had not applied for registration under Russian Federation law, and its members were regularly summoned by police or FSB and warned not to engage in "extremist activity". Public events organized by the Centre, which included paying tribute to Ukrainian literary or historic figures, were often prohibited. For example, on 7 March 2017, city authorities banned a public commemoration of Ukrainian poet Taras Shevchenko, claiming that the application to hold the commemoration had been improperly filed. In fact, since 2014, only one of the Centre's requests to organize a public event was granted while six were turned down.[182]

145. OHCHR recalls that restrictions to the exercise of the right to peaceful assembly may only be justified if they are necessary, in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.[183]

D. Freedom of movement

146. OHCHR continued monitoring freedom of movement at the Chonhar, Kalanchak and Chaplynka crossing points on the administrative boundary line (ABL) with Crimea. As in previous reporting periods, one of the most common complaints was the difficulty of transporting personal belongings to and from Crimea.

147. On 14 June 2017, the administrative court of appeal of Kyiv held that the ban on transportation of goods and personal belongings across the ABL between Crimea and mainland Ukraine was unlawful and invalid.[184] The ban had been denounced by Ukrainian human rights organizations as encouraging corruption and restricting freedom of movement.

148. Based on its monitoring at the ABL, HRMMU observed that the court decision was not consistently applied. In some cases, Ukrainian officers required travellers who were unaware of the decision to comply with the invalided Resolution. In other cases, particularly when they were shown a copy of the court decision, officers allowed

[181] According to its Head, the Centre does not have funds to pay rent for its premises in Simferopol.

[182] HRMMU interview, 14 June 2017.

[183] UN doc. A/HRC/31/66, Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and of the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, paras. 29 and 34.

[184] The ban was instituted by Government Resolution no. 1035 of 14 December 2015, which set up an exhaustive list of 23 types of goods allowed to be transported across the ABL.

unrestricted crossing. Moreover, as of 10 August 2017, the invalided Resolution was still displayed at the ABL crossing point "Chonhar".

149. In a positive development, foreign lawyers and human rights activists were added to the list of persons who may apply for a special permit for crossing the ABL. Prior to 29 July 2017, Ukrainian legislation only exempted from the general prohibition of foreigners crossing between Crimea and mainland Ukraine persons with family or religious reasons, journalists, and foreigners owning real estate in Crimea.[185]

E. Freedom of religion or belief

150. On 1 June 2017, all 22 congregations of Jehovah's Witnesses in Crimea were de-registered.[186] The decision was made pursuant to an April 2017 decision of the Supreme Court of the Russian Federation, which found that the group had violated the country's anti-extremism law. Without registration, a religious community may still congregate, however it cannot enter into contracts (for example to rent state-owned property or pay utility bills), employ people or invite foreigners to participate in religious activities and trainings. An estimated 8,000 believers in Crimea were affected by this development.

151. On 9 June, a Jehovah Witness was told at a military conscription center in Crimea that that he could not invoke his right to an alternative civilian service under Russian Federation legislation unless he renounced his faith and changed his religion.[187] On 27 June, the head of a local committee of Jehovah's Witnesses was summoned to court, charged with unlawful missionary activity.[188]

152. OHCHR stresses that limiting the right to freedom of religion or belief may amount to a violation of international human rights law. In addition, as the occupying power in Crimea as per General Assembly resolution 71/205, the Russian Federation is bound to respect individuals' religious convictions and practices.[189]

F. Forced transfers and deportations of protected persons

153. Among the most vulnerable groups of Crimean residents are those Ukrainian citizens who, at the time of start of the occupation, had no formal registration ("propiska") in Crimea and, therefore, did not qualify for the Russian Federation citizenship. Russian authorities in Crimea consider them "foreigners" and subject to Russian Federation immigration laws.

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185 The State Migration Service issues special permits to foreign citizens or stateless persons travelling to/from Crimea "with the purpose to provide legal aid to the victims of violations committed by unlawful public authorities and their agents", or as part of the independent human rights missions. Cabinet of Ministers Resolution No. 544 "On amendments to the procedure for entry to the temporarily occupied territory of Ukraine and exit from it", 19 July 2017.

186 Pursuant to Russian Federation legislation imposed in Crimea, public organizations, including religious communities, were obligated to re-register to order to obtain legal status.

187 http://khpg.org/en/index.php?id=1497831415. A central tenet of the Jehovah's Witness faith is opposition to serving in the military.

188 He was charged under Article 5.26 part 4 of the Code of Administrative Offenses of Russia (carrying out missionary activity in violation of the requirements of the law). The man reportedly died later that day of a heart attack. https://uawire.org/news/jehovah-s-witness-follower-in-the-crimea-dies-after-his-trial.

189 Article 27, Fourth Geneva Convention.

154. Several persons lacking Russian Federation citizenship were deported from Crimea to mainland Ukraine for violating immigration rules of the Russian Federation, which were imposed in Crimea in violation of General Assembly resolution 68/262 on the territorial integrity of Ukraine.

155. In January 2017, the Crimea-born chairman of an NGO providing free legal aid was convicted of "illegal stay" and ordered to be deported.[190] The court found him to be a foreigner who violated immigration rules by staying in Crimea beyond the authorized 90-day period. Following the ruling, he was transferred from Crimea to Krasnodar (Russian Federation), detained for 27 days, and then deported to mainland Ukraine where he currently lives as an IDP. He is banned from entering Crimea, where his wife and son live, until 19 December 2021.

156. This case illustrates the adverse effects stemming from the unlawful implementation of Russian Federation laws in Crimea. The forced transfer and deportation of this man contravene international humanitarian law rules applying to protected persons in situations of occupation.[191] The entry ban violates his freedom of movement and right to family life by separating him from his relatives.[192] OHCHR received information that 20-25 other Ukrainian citizens have been similarly deported from Crimea to mainland Ukraine.[193]

G. Right to property

157. During the reporting period, the issue of real estate acquired by private individuals from the city of Sevastopol prior to the occupation of Crimea became particularly acute. The owners of approximately 600 private properties acquired from the city of Sevastopol are at risk of being deprived of their right to property.

158. Several real estate owners received court decisions cancelling their purchase contracts, which were concluded before Crimea was occupied by the Russian Federation in 2014. The judgments stated that the transactions were illegally authorized by the city administration instead of the city council. They did not take into account the three-year statute of limitations invoked by several owners, nor did they provide for any financial compensation.[194]

159. The judgments, in effect, amount to the confiscation of property without reparation. HRMMU recalls that, according to international humanitarian law, private property, as well as the property of municipalities and institutions dedicated to religion, charity and education, the arts and science may not be confiscated.[195]

[190] HRMMU interview, 5 May 2017. The person's "propiska" had been cancelled in 2012 on procedural grounds, disqualifying him from the ability to obtain Russian Federation citizenship after March 2014.

[191] Article 49, Fourth Geneva Convention.

[192] See Article 16 of the Universal Declaration of Human Rights, Article 23 of the International Covenant on Civil and Political Rights, and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

[193] HRMMU interview, 26 May 2017.

[194] HRMMU interview, 29 May 2017.

[195] Hague Regulations, Articles 46 and 56.

VIII. Legal developments and institutional reforms

A. Derogation from international human rights obligations

160. June marked one year since the Government reviewed its derogation from certain human rights guarantees under the International Covenant on Civil and Political Rights and the European Convention on Human Rights in light of the security situation in the conflict area.[196] Since then, an inter-agency state commission was established on 19 April 2017 to review the scope, territorial application and necessity of these derogations. As of 15 August, information on the progress or results of the review had not been made available. OHCHR underlines the importance of a regular review of the necessity and proportionality of derogation measures by an independent mechanism so as to ensure the temporary nature and objectivity of the assessment.

B. Judicial reform

Constitutional Court

161. On 13 July 2017, the Parliament adopted a law on the Constitutional Court of Ukraine[197] pursuant to constitutional amendments in force since 30 September 2016.

162. One of the new provisions introduced a new constitutional complaints mechanism, enabling individuals and legal entities to appeal to the Constitutional Court when a law applied by an ordinary court in a final decision concerning their case is believed to contradict the Constitution. Prior to adoption of the law, 111 constitutional complaints had been lodged in accordance with the constitutional amendments but none had been processed due to the absence of a review procedure. The new law provides that the Court must decide on the opening of constitutional proceedings within one month of the assignment of a case to a judge rapporteur[198] and that a complaint shall be reviewed within six months.

163. The law also created legal conditions to fill vacant positions in the Constitutional Court. As of 15 August, five out of 18 positions of judges at the court were vacant and could not be filled due to the absence of a procedure for selection based on the constitutional amendments. According to the law, the selection of candidates shall be carried out by screening commissions functioning under each of the three authorities entrusted by the Constitution to appoint six judges, namely the President, Parliament and Congress of Judges.[199] The appointing authorities no longer have a role in the dismissal of judges, which can take place only by decision of at least two-thirds of the total number of judges of the Constitutional Court itself.

[196] The Government notified the United Nations Secretary-General of its derogation from these international instruments in June 2015. See OHCHR Report on the human rights situation in Ukraine, 16 May to 15 August 2016, paras. 15-17.

[197] Law 'On the Constitutional Court of Ukraine', No.2136-VIII of 13 July 2017 (entered into force on 3 August 2017).

[198] This term can be extended by the Grand Chamber.

[199] Screening by Parliament will be conducted by the Parliamentary Committee on Legal Policy and Justice; the Council of Judges of Ukraine will act as a screening commission under the Congress of Judges of Ukraine; and the President will establish a special screening commission.

164. OHCHR hopes that enactment of the new law will avert a crisis in the operation of the Court, which has a backlog of cases and has not issued any judgments in 2017.[200] It recalls, for example, that important pieces of legislation are pending review by the Court, including provisions of the 2014 lustration law, the 2012 law on language policy and the 2014 law on decommunization.

Staffing of courts

165. It would appear that resignations and dismissals of judges continued to occur at a higher pace than the selection and appointment of new ones. Ukrainian courts therefore experienced a further decrease in the number of judges, which started prior to the ongoing judicial reform and affects the duration of court proceedings and overall administration of justice.[201]

166. Following the entry into force, on 30 September 2016, of constitutional amendments and of the law 'On the judicial system and the status of judges', which aimed at 'cleansing' the judicial branch in order to restore public trust in the judicial institution, the number of judges employed further decreased from 6,614 to 6,063 between 15 November 2016 and 30 June 2017, leaving Ukraine short of one third of the judges needed to staff its courts.[202] The majority resigned while others were dismissed following disciplinary sanctions.[203] The number of judges authorized to administer justice is even lower, since the initial terms of 1,245 judges have ended. An additional 1,271 judges are now eligible to retire.[204] As of 30 June 2017, nine courts had no judges and did not operate[205] and 13 per cent of the courts were understaffed in respect of judges by over 50 per cent.[206]

167. To mitigate this situation, on 31 May 2017, the High Council of Justice temporarily transferred 32 judges to local courts facing the greatest staffing needs. In addition, between 1 January and 30 June 2017, the High Council of Justice appointed 199 new judges.

[200] The Constitutional Court issued seven judgments in 2016, five in 2015, and seven in 2014.

[201] HRMMU report on the human rights situation in Ukraine, 16 August to 15 November 2016, para 182.

[202] There are 765 courts in Ukraine, whose effective functioning requires 9,028 judges. Information provided by the High Qualification Commission of Judges on 14 July 2017 upon written request of HRMMU.

[203] From 1 January to 30 June 2017, the High Council of Justice dismissed 390 judges, of whom 222 resigned and 168 had faced disciplinary sanctions.

[204] Information reported by the Head of the State Judicial Administration at a meeting of heads of courts of appeal, held on 9 June 2017, at the High Specialized Court of Ukraine for Civil and Criminal Cases.

[205] Five courts did not operate due to the absence of hired judges: Yaremchanskyi town court of Ivano-Frankivsk region; Lokhvytskyi district court of Poltava region; Radyvylivskyi district court of Rivne region, Kulykovskyi district court of Chernihiv region, and Zhydachivskyi district court of Lviv region. Four courts did not operate because the judges were awaiting approval of their indefinite appointment upon termination of their initial five-year appointment: Karlivskyi district court of Poltava region, Novovodolazkyi district court of Kharkiv region, Skadovskyi district court of Kherson region, and Putylskyi district court of Chernivtsi region.

[206] The number does not include courts located in territory not controlled by the Government.

C. Draft law on restoring state sovereignty

168. A draft law207 aimed at restoring state sovereignty over certain areas of Luhansk and Donetsk regions was developed by the National Security and Defence Council (NSDC) upon request of the President of Ukraine, but not yet registered in Parliament.208 OHCHR calls on the Government to conduct broad consultations on this draft law, including with civil society. It needs to ensure that the proposed new framework for the security operation incorporates human rights guarantees in line with international standards.

D. National Human Rights Institution

169. On 17 July, OHCHR addressed a letter to the Chairman of the Parliament of Ukraine advocating for a new selection process for the position of Parliamentary Commissioner for Human Rights (Ombudsperson). This should follow a revision of the current procedure in conformity with the Paris Principles and the 2014 recommendations of the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions requiring transparent, merit based and participatory selection.[209]

170. This initiative came after Parliament failed to hold a vote on three candidates nominated by deputies within the prescribed 20-day deadline, but later adopted a new voting procedure for selection of the Ombudsperson (contained in above-mentioned law on the Constitutional Court of Ukraine). OHCHR is concerned that claims of irregularities and backdoor political deals surrounding the selection of a new Ombudsperson risk undermining public trust in the institution, and calls on the Government to protect the integrity and independence of the national human rights institution.

IX. Technical cooperation and capacity-building

171. OHCHR conducts technical cooperation and capacity-building activities to assist the Government of Ukraine in meeting its international obligations to protect and promote human rights. During the reporting period, HRMMU engaged with numerous prosecution offices, penitentiary staff, SBU, the Ombudsperson, and various government ministries, as well as civil society organizations, to provide guidance and assistance in addressing human rights issues.

172. Together with the United Nations High Commissioner for Refugees and other partners, including from civil society, HRMMU developed a broad advocacy campaign focused on ensuring access to pension payments by all entitled citizens. The campaign calls for the de-linking of the right to pension from IDP or residence registration, as this is an obstacle which hinders access to pensions, particularly for Ukrainians residing in territory controlled by armed groups. In this context, HRMMU held advocacy meetings with the Minister of Temporarily Occupied Territories and IDPs, the head of the Parliamentary Committee on Human Rights, as well as international partners, embassies, and other stakeholders. The campaign has already resulted in a few legislative initiatives, for instance

207 Draft law "On the aspects of the state policy on the restoration of Ukraine's sovereignty over the temporarily occupied territory of the Donetsk and Luhansk regions".

208 Three other draft laws on the temporarily occupied territories were pending in the Parliament as at 15 August 2017. See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, paras. 166-167.

209 OHCHR recommended such revision to the Parliament of Ukraine previously, see OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para. 186.

one that, if adopted, would reinstate the right of all citizens to receive their pension, regardless of IDP registration or residence location.[210]

173. In preparation for the third UPR cycle of Ukraine in November 2017, OHCHR encouraged the Government to use it as an opportunity to communicate their expectations for capacity-building and specific requests for technical assistance and support. HRMMU also updated its thematic compilation of recommendations made to Ukraine by United Nations human rights mechanisms (treaty bodies, special procedures and previous UPR cycles).

174. HRMMU continued to raise concerns regarding specific allegations of torture and ill-treatment of detainees and to support implementation of the Istanbul Protocol.[211] HRMMU provided human rights training to civil society monitors of the National Preventive Mechanism in May and to SBU officers in Odesa in July, focusing on means of preventing and addressing torture. In June and July, OHCHR held separate discussions in Kharkiv with the Regional Prosecutor, Military Prosecutors and the head of SBU on accountability for torture and ill-treatment of conflict-related detainees allegedly perpetrated by SBU officers in specific cases documented by HRMMU. On 30 June, OHCHR organized the presentation of the report of the United Nations Subcommittee on Prevention of Torture on its 2016 visit to Ukraine to representatives of the Office of the Prosecutor General, SBU, the Ministry of Foreign Affairs and various human rights NGOs, followed by a dialogue concerning best practices in documentation of torture, complaint and oversight mechanisms, and treatment of conflict-related detainees. HRMMU drew attention to persisting cases of torture, and reminded the Government of its obligation to develop a road map for the full implementation of the Subcommittee's recommendations. In July, HRMMU gave a presentation to deputy heads of penitentiary institutions on its key findings pertaining to torture and international obligations to prevent and address this practice.

175. Jointly with United Nations and NGOs, HRMMU helped develop guidelines for the inspection by special commissions of real estate damaged or destroyed during the armed conflict, as well as a draft inspection act for such damaged or destroyed property. The guidelines and act will soon be submitted to the Cabinet of Ministers as tools to assist the Government in addressing the impact of the conflict on civilians.

X. Conclusions and recommendations

176. **In eastern Ukraine, as the civilian population endured the fourth summer of the conflict, it faced continuing volatility of armed hostilities alongside a dearth of progress in efforts to resolve the conflict and bring about peace and reconciliation. The parties to the conflict repeatedly failed to honour commitments made under the Minsk agreements and subsequent renewed agreements to cease fire. Instead, they chose to perpetuate the conflict through the continued use of heavy weapons and laying of additional mines, as well as the implementation of measures which deepened the divide between communities on either side of the contact line. The resulting costs to civilian lives, health, family bonds and property have become a steady fixture of the conflict.**

[210] See Right to social security and social protection above.

[211] The Istanbul Protocol on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf.

177. **On both sides of the contact line, those most affected by the conflict are increasingly voicing anger and frustration at its continuation. This shared perspective should bode well as a basis for local level conflict resolution activities. More needs to be done to ensure that policies of discrimination and exclusion do not further the divide marked by an arbitrary boundary, that of the contact line; and that information provided to civilians promotes inclusion and a respect for individuals and their dignity.**

178. **Serious human rights violations and abuses, in particular enforced disappearances, *incommunicado* detention, torture, ill-treatment and sexual violence, perpetrated in connection with conflict-related suspects, compounded the suffering of the population and further fuelled an atmosphere of fear and distrust. At the same time, accountability for past and ongoing violations of human rights and international humanitarian law remained elusive, perpetuating a sense of impunity.**

179. **Against the background of a further deteriorating socio-economic environment, in particular in territory controlled by armed groups, the future looks bleak. Only a serious commitment to peace and reintegration by the parties to the conflict, translating into sincere action, can reverse this trend.**

180. **OHCHR remains concerned by human rights violations and violations of international humanitarian law applicable to the occupation of Crimea by the Russian Federation, particularly the impact on the Crimean Tatar population. HRMMU will continue to monitor and report on the human rights situation in Crimea, including with regard to compliance with provisional measures issued by the International Court of Justice.**[212]

181. **Most recommendations made in previous OHCHR reports on the human rights situation in Ukraine have not been implemented and remain pertinent and valid. OHCHR further reiterates or recommends the following:**

182. **To the Ukrainian authorities:**

a) **Government of Ukraine to develop a national mechanism to make adequate, effective, prompt and appropriate remedies, including reparation, available to civilian victims of the conflict, especially those injured and the families of those killed;**[213]

b) **Cabinet of Ministers to ensure the development and provision of timely, non-discriminatory and comprehensive assistance to all conflict-affected individuals, particularly injured civilians and victims of torture and conflict-related sexual violence, including medical, psycho-social and legal services, livelihood support, and other multi-sectoral services, such as housing, taking into account the specific needs of persons with disabilities;**

c) **Cabinet of Ministers to set up a property inventory and inspection procedures, including an effective and accessible mechanism for documentation and assessment of damages caused by the conflict;**[214]

[212] See OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017, para. 163.

[213] In line with the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

[214] In pursuance of paragraph 20 of the Comprehensive State Programme on Support, Social Adaptation and Reintegration of Citizens of Ukraine, Who Have Resettled from the Temporarily Occupied

d) **National Police and Office of the Prosecutor General to investigate, in a timely and impartial manner, allegations of human rights violations committed at so-called 'internal checkpoints' in the conflict zone, in particular, incidents involving the use of disproportionate and unnecessary force or violence by law enforcement;**

e) **General Staff of the Ukrainian Armed Forces to ensure that all personnel carrying out service, in particular those in the conflict area, are aware of the legal procedure of detention and adequately supervised to abide by it;**

f) **Parliamentary Commissioner for Human Rights to step up the work of the office's regional representatives in the ATO area to ensure their pro-active role in promoting human rights compliance, in particular during detention and trials of conflict-related detainees, and rights of persons passing through checkpoints;**

g) **Office of the Prosecutor General and other law enforcement agencies to classify appropriately, thoroughly investigate and prosecute hate crimes,[215] including any crimes committed on the basis of ethnicity, sexual orientation and gender identity;**

h) **National Police to promptly and effectively investigate alleged violations in connection to "Myrotvorets" website;**

i) **National Police to provide adequate security to public assemblies throughout Ukraine and provide personnel with methodological guidelines and training on the right to freedom of peaceful assembly;**

j) ***National Commission for State Regulation of Energy and Public Utilities Sector* to regulate power supply in Luhansk region, ensuring uninterrupted distribution of electricity;**

k) **State Fiscal Service to comply with the court decision invalidating the ban on transportation of personal and consumer goods across the ABL established by Government Resolution 1035;**

l) **Inter-agency commission to ensure regular periodic review of the necessity and proportionality of the Government's derogation measures and make public the results of such review; and lift the derogation as soon as it is no longer strictly required;**

m) **President to ensure that the National Security and Defence Council consults broadly with civil society in the development of the draft law "On the aspects of the state policy on the restoration of Ukraine's sovereignty over the temporarily occupied territory of the Donetsk and Luhansk regions", and that the proposed new framework for the security operation incorporates human rights guarantees in line with international standards;**

n) **Government, Parliament and other relevant State bodies to eliminate obstacles which prevent Ukrainian citizens from having equal access to pensions, regardless of place of residence or IDP registration;**

o) **Parliament to ensure that legislation is in place to support health care reform in a manner which guarantees accessibility and availability of quality health services for all Ukrainian citizens, without discrimination;**

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[215] As set out in Article 161 of the Criminal Code of Ukraine.

p) **Parliament to adopt legislation allowing for participation of civil society actors in the provision of psycho-social services to citizens of Ukraine;**

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

a) **Bring to an end the conflict by adhering to the ceasefire and implementing other obligations undertaken in the Minsk agreements, in particular regarding withdrawal of prohibited weapons and disengagement of forces and hardware, and until such implementation, agree on and fully respect "windows of silence" to allow for crucial repairs to civilian infrastructure in a timely manner;**

b) **Strictly respect agreed safety zones around Donetsk Filtration Station and the First Lift Pumping Station by refraining from shelling in the area and withdrawing all fighters and equipment;**

c) **Facilitate free and unimpeded passage by civilians across the contact line by increasing the number of crossing routes and entry-exit checkpoints, especially in Luhansk region;**

d) **Remove security risks infringing upon freedom of movement in settlements located close to the contact line, such as Shyrokyne, Novooleksandrivka and Starolaspa, by demining the area and adhering to the ceasefire agreements, so that access of humanitarian aid workers and the general public is not hindered;**

e) **Ensure unimpeded access of OHCHR and other independent international observers to all places of deprivation of liberty, including for private confidential interviews with detainees;**

f) **Immediately release all persons arbitrarily deprived of their liberty, particularly those subjected to *incommunicado* detention;**

g) **Take measures to ensure that persons with disabilities residing near the contact line have equal access to quality health services, including by facilitating freedom of movement and providing accessible transportation;**

h) **Armed groups of the 'Donetsk people's republic' and 'Luhansk people's republic' to respect and protect the right to freedom of expression, and to refrain from acts of infringement, including intimidation or harassment of media professionals or persons expressing "pro-Ukrainian" or other politically diverse views;**

i) **Armed groups of the 'Donetsk people's republic' and 'Luhansk people's republic' to refrain from creating parallel 'legislative' procedures for registration of real estate or property, including vehicles;**

j) **Armed groups of the 'Donetsk people's republic' and 'Luhansk people's republic' to halt the practice of seizing and placing under 'temporary external management' private or communal property such as private markets and real estate objects owned by churches or research institutions.**

184. **To the Government of the Russian Federation:**

a) **Implement General Assembly Resolution 71/205 of 19 December 2016, including by ensuring proper and unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea;**

b) **Uphold freedom of opinion and release all persons charged or sentenced for expressing critical or dissenting views, including about political events or the status of Crimea;**

c) **Refrain from forcible deportation and/or transfers of Ukrainian citizens lacking Russian Federation passports from Crimea;**

d) **Investigate all allegations of torture and ill-treatment made by individuals deprived of liberty in Crimea, including those accused of terrorism and separatism related charges;**

e) **Respect religious convictions and practices, including by providing alternative military service for conscientious objectors, and reverse the decision to de-register Jehovah's Witnesses congregations in Crimea.**

185. **To the international community:**

a) **Use all diplomatic channels to press all parties involved to end hostilities, emphasizing the effect the conflict has on the human rights situation, and call on them to strictly adhere to their commitments under the Minsk agreements, including an immediate and full ceasefire and the withdrawal of heavy weapons;**

b) **Continue to provide technical assistance to further develop the free legal aid system in line with international human rights standards, offering support aimed at increasing the quality of legal assistance and the quantity of defence lawyers offering services in eastern Ukraine, in particular in Luhansk region;**

c) **Consider funding NGO projects which provide free legal aid to affected civilians in cases of illegal expropriation of property by the Ukrainian military and armed groups and forced displacement of civilians;**

d) **Support the Government of Ukraine in developing a system of comprehensive, timely, and non-discriminatory assistance to all conflict-affected individuals, particularly injured civilians and victims of torture and conflict-related sexual violence, including medical, psycho-social and legal services, as well as livelihood support, taking into account the specific needs of persons with disabilities;**

e) **Support projects of civil society on trial monitoring of conflict-related cases to promote compliance with fair trial guarantees and to gather evidence for recommendations aimed at implementing ongoing legal and judicial reforms.**