Office of the United Nations High Commissioner
for Human Rights

Report on the human rights situation in Ukraine
16 May to 15 August 2016

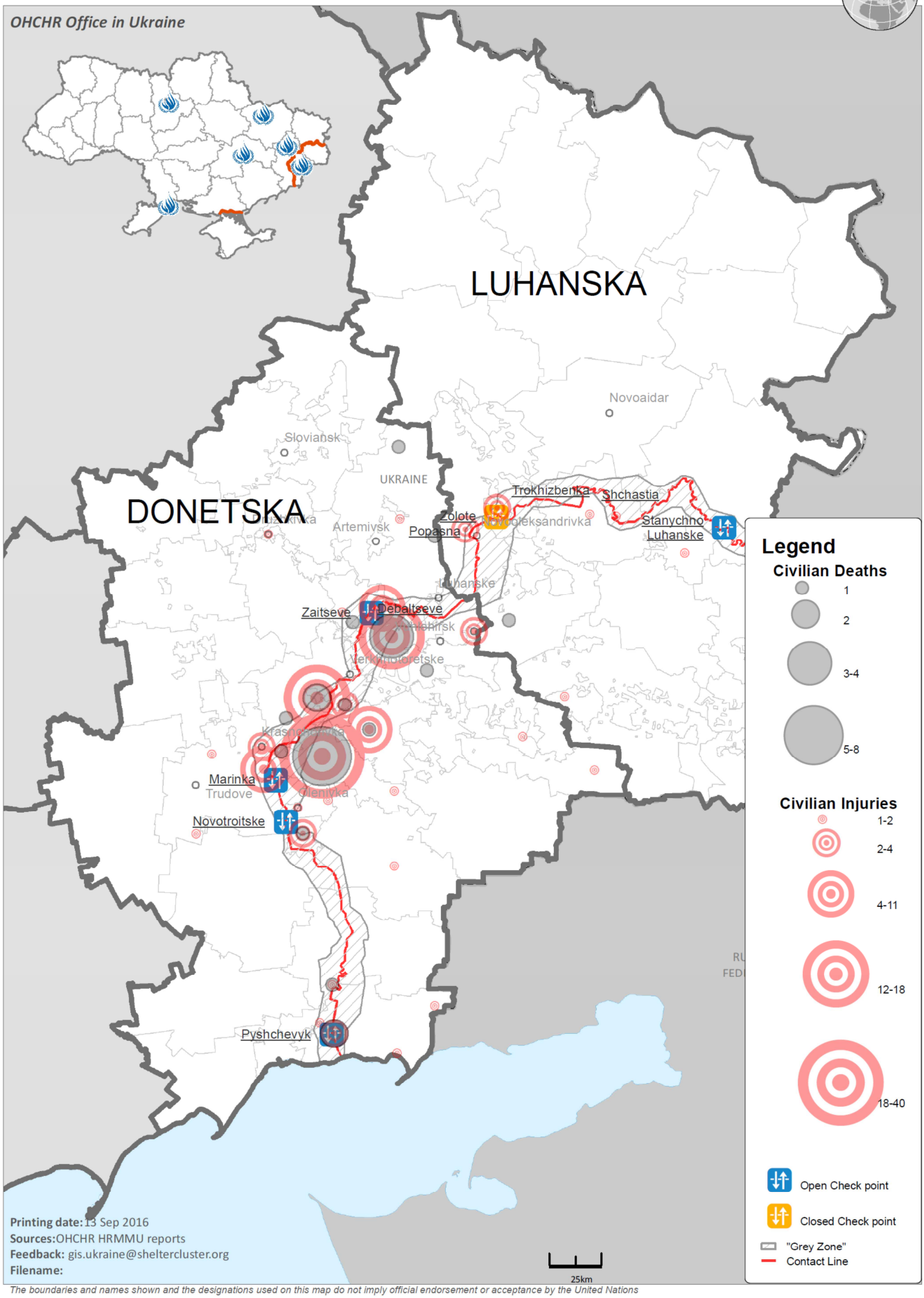
Contents

UKRAINE


Cities
Contact Line
Oblast Boundaries
International Boundary
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.
RUSSIAN FEDERATION
BELARUS
POLAND
SLOVAKIA
HUNGARY
ROMANIA
REPUBLIC OF MOLDOVA
LUHANS'KA
DONETS'KA
KHARKIVS'KA
SUMS'KA
POLTAVS'KA
DNIPROPETROVS'KA
ZAPORIZ'KA
KRYM
SEVASTOPOL
KHERSONS'KA
MYKOLAYIVS'KA
KIROVOHRADS'KA
CHERKAS'KA
CHERNIHIVS'KA
KYIVS'KA
KYIV CITY
ODES'KA
VINNYTS'KA
ZHYTOMYRS'KA
RIVNENS'KA
KHMEL'NYTS'KA
CHERNIVETS'KA
TERNOPIL'S'KA
IVANO-FRANKIVS'KA
VOLYNS'KA
L'VIVS'KA
ZAKARPATS'KA
Black Sea
100km
Printing date:29 Feb 2016
Sources:UNHCR
Feedback/mapping@unhcr.org
Filename:UNHCR_ArcGIS_Template_A4L-presence

Ukraine: Civilian Casualties along the contact lines, May 16 - August 15 2016

UNHCR - Kyiv



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations

I. Executive Summary

1. Based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU), the fifteenth report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine[1] covers the period from 16 May to 15 August 2016. The report also provides an update of recent developments on cases that occurred during previous reporting periods.

2. During the period under review, the Government of Ukraine continued institutional reforms and adopted constitutional amendments related to the judiciary, creating an opportunity to break with the past, to protect and enforce rights and replace the arbitrary use of power. At the same time, the Government has continued to derogate from certain obligations under the International Covenant on Civil and Political Rights (ICCPR), weakening human rights protections where they are needed most (See Chapter II on Legal developments and institutional reforms). The human rights situation in certain areas of Donetsk and Luhansk regions of eastern Ukraine has worsened on both sides of the contact line due to escalating hostilities and continued disregard for civilian protection by Government forces and armed groups. The conflict in the east continues to undermine any real progress that would lead to systemic changes in the promotion and protection of human rights for the whole of Ukraine.

3. In the east, the proximity between Government forces and armed groups at the contact line – some 300 to 500 metres apart in certain locations – contributed to rising in the intensity of the hostilities during the reporting period. The practice of Ukrainian armed forces, the self-proclaimed 'Donetsk people's republic'[2] and the self-proclaimed 'Luhansk people's republic'[3] to position their fighters and weapons in populated residential areas has heightened risks and harm to civilians. The inflow of ammunition, weaponry and fighters from the Russian Federation continues to fuel the conflict. OHCHR has serious concerns that the proliferation of arms and ammunition facilitates human rights violations or abuses and violations of international humanitarian law. OHCHR is further concerned by reports of the paramilitary DUK (Voluntary Ukrainian Corps 'Right Sector') members positioned close to the contact line, noting that this group remains outside of the chain of command of the Ministry of Defence. Developments during the period under review demonstrated that ceasefire violations have a clear human cost and highlighted the urgent need for the warring parties to fully withdraw from the contact line (See Chapter III on Rights to life, liberty, security and physical integrity).

4. Between 16 May and 15 August 2016, OHCHR recorded 188 conflict-related civilian casualties in certain areas of Donetsk and Luhansk regions of eastern Ukraine, marking a 66 per cent increase since the previous reporting period. More than half of all civilian casualties recorded in June and July were caused by shelling around the contact line, including allegedly through the use of weapons expressly prohibited by the Minsk Agreements. The number of civilians who died as a result of the secondary effects of violence, such as lack of access to food, water or medicine and healthcare, is unknown.

5. OHCHR has noted incremental improvements in access to places of deprivation of liberty. During the reporting period, OHCHR was able to meet in the presence of local authorities some pre-conflict prisoners held in penal colony No. 124 in Donetsk region under the control of the armed groups, as well as 31 men deprived of their liberty in the context of hostilities held in colony No. 97 in Makiivka, Donetsk region. The 'Donetsk people's republic' and 'Luhansk people's republic' continued to deny external observers unhindered access to all places of deprivation of liberty, raising concerns that cases of torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment), including sexual and

[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 paragraphs 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] Hereinafter 'Donetsk people's republic'.
[3] Hereinafter 'Luhansk people's republic'.

gender-based violence, may be greater than reported. Following the suspension of the visit of the Subcommittee on the Prevention of Torture (SPT) on 25 May 2016 due to obstruction and denial of access to some places of detention that are under the authority of the Security Service of Ukraine, the Government of Ukraine provided assurances that allowed the SPT to resume its visit in September. OHCHR notes that the Security Service of Ukraine (SBU) has undertaken trainings for its personnel on torture prevention[4]. Despite this positive development, OHCHR has continued to document cases of torture and ill-treatment by the Government and armed groups, once more underscoring the urgent need for regular access to places of deprivation of liberty, provision of medical care for victims, and accountability for documented violations and abuses.

6. Civilians living in the conflict-affected area continued to be deprived of much needed protection, access to basic services and humanitarian aid, aggravated by restrictions in freedom of movement. Those living in areas controlled by the armed groups are subject to arbitrary rule and various human rights abuses. Parallel structures developed by the armed groups affect the inalienable rights of people living under their control. There is no mechanism for victims of these structures to secure protection or redress. This is rarely articulated due to the lack of space for civil society actors and for people to exercise their rights to freedom of peaceful assembly, association, opinion and expression in armed group-controlled areas (See Chapter V on Fundamental Freedoms).

7. Journalists who have reported on the conflict or from armed group-controlled areas have found themselves as targets of online attacks carried out with the tacit consent – and at times declared support – of high-ranking Government officials. Freedom of expression has become a political issue, with the Deputy Information Policy Minister resigning on 3 August 2016 over the unwillingness of Government authorities to investigate abuses against journalists. Journalists report of harassment and intimidation, leading to self-censorship, when viewed as being critical of some particular Government policies and the conduct of the Ukrainian armed forces in the conflict.

8. Together with the Government of Ukraine, OHCHR continued to work towards ensuring that those responsible for human rights violations and abuses are held to account. Under international law, Ukraine is obliged to investigate, prosecute and punish the perpetrators of such violations and abuses, regardless of their allegiance. Such efforts must be prompt, independent, impartial, thorough and effective. This report highlights again that there has been little accountability for violations and abuses committed in the course of the armed conflict between Ukrainian security forces and a number of armed groups in eastern Ukraine. In cases where conflict-related cases have been prosecuted there have been serious concerns about due process and fair trial rights[5]. Based on extensive trial monitoring, OHCHR finds that mandatory pre-trial detention for all defendants charged with conflict-related crimes without regard to individual circumstances violates the prohibition on arbitrary detention (See Chapter IV on Accountability and administration of justice).

9. OHCHR has advocated for victims' access to their right to reparation, which includes restitution, rehabilitation and measures of satisfaction. Allegations of military use of residential property - a trend that has been on the rise during the reporting period in villages adjacent to the contact line - have illustrated the need for the return of property and compensation to those displaced and affected by such practices (See Chapter VI on Economic and social rights). The presence of Government forces and armed groups in residential areas increases the risk of sexual and gender-based violence and militarization of summer camps on both sides of the contact line.

[4] Ukrainian Parliament Commissioner for Human Rights, "Ombudsman jointly with the Swiss experts provides training on prevention of tortures in activities of the State Security Service of Ukraine," 28 July 2016 (http://www.ombudsman.gov.ua/en/all-news/pr/28716-mx-ombudsman-jointly-with-the-swiss-experts-provides-training-on-preventi/)

[5] See in particular Office of the United Nations High Commissioner for Human Rights, United Nations Human Rights Monitoring Mission in Ukraine, "Accountability for killings in Ukraine from January 2014 to May 2016," 14 July 2016.

10. In seeking to protect the rights of civilians affected by the conflict, OHCHR has also been vocal in advocating for facilitation of freedom of movement and resolution of the ongoing denial of social entitlements to people living in the conflict-affected area and internally displaced persons (IDPs). Approximately 85 per cent of IDPs interviewed by the NGO Right to Protection residing in Government-controlled areas indicated that they were severely or critically affected by suspensions of payments of social entitlements[6]. In armed group-controlled areas, this concerned 97 per cent of IDPs. Equal protection of all people affected by the conflict is crucial for the peaceful reconstruction of Ukrainian society.

11. Tensions in and around the Crimean peninsula spiked after Russia's security service (FSB) announced on 10 August that it had arrested a group of people near the northern Crimean city of Armyansk, allegedly sent by the Ukrainian intelligence service to commit terrorist acts, something the Ukrainian side officially denied, including during consultations at the UN Security Council called for by Ukraine. According to the FSB, armed clashes left two Russian Federation security officers dead, and at least three members of the alleged sabotage group were arrested. Security was reinforced on both sides of the Administrative Boundary Line. OHCHR has noted a continued deterioration of the human rights situation in Crimea with the further administrative integration into the Russian Federation's southern federal district, in violation of United Nations General Assembly Resolution 68/262 on the territorial integrity of Ukraine.

12. The right to peaceful assembly has been further curtailed in the Autonomous Republic of Crimea by the *de facto* authorities and people continued to be interrogated and harassed by law enforcement agents for expressing views that are considered as extremist. A deputy head of the Crimean Tatar Mejlis was ordered by a Crimean 'court' to undergo a "psychiatric assessment". The search for missing persons remains inconclusive and investigations have yielded no results. The absence of accountability and redress for victims nurtures impunity.

13. The findings in this report are grounded in data from in-depth interviews with 214 witnesses and victims of human rights violations and abuses during the period under review. In 60 per cent of cases documented, OHCHR carried out individual response follow-up actions to secure human rights protection.

14. OHCHR has been advising duty-bearers within the Government and the armed groups on the results of its findings, works with civil society partners on how to advocate on their implications, and raises awareness and support among others in order to respond and take action. OHCHR also engaged with the Government toward ensuring the rights of victims to justice, reparation, truth, and guarantees of non-recurrence[7]. Through providing technical cooperation to the Government and civil society in implementing legislative, policy and institutional reforms, OHCHR contributed to bringing about greater respect for the rule of law and at strengthening the protection of human rights.

II. Legal developments and institutional reforms

A. Notification on derogation from the International Covenant on Civil and Political Rights

15. On 6 July 2016, the Government of Ukraine notified the United Nations Secretary-General that following a review of the security situation in certain areas of Donetsk and Luhansk regions, it would maintain its derogation from certain obligations under the International Covenant on Civil and Political Rights (ICCPR) "until further notice"[8]. The

[6]Monitoring Report on the suspension of IDP certificates, social payments and pension payments for IDPs in Kharkiv, Donetsk, Luhansk, Zaporizhia, Dnipro regions, conducted by the NGO Right to Protection.

[7] See in particular General Assembly Resolution 60/147 on 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; Human Rights Council Resolution 18/7 on the creation of a Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; E/CN.4/2005/102/Add.1 (2005)

[8] In June 2015, the Government of Ukraine submitted a communication to the United Nations Secretary- General, notifying him of its derogation from the following rights under ICCPR: Effective remedy (paragraph 3, Article 2); freedom from arbitrary arrest and detention and related procedural rights (article 9); liberty of movement and

notification indicated that as of 14 June 2016, the territorial application of the derogation had not changed, covering the localities in Donetsk and Luhansk regions under the Government's total or partial control, including large towns and cities.

16. While welcoming this review of the derogation, OHCHR notes the importance of regular review, with a clear independent mechanism ensuring periodicity and objectivity. Moreover, OHCHR remains concerned as to the compliance of the derogation with the standards set by Article 4 of ICCPR. Article 4 requires the official proclamation of the existence of a public emergency threatening the life of the nation, and that the derogation measures must be proportionate and non-discriminatory. It also provides that their duration, geographic and material scope must be limited to the extent strictly required by the exigencies of the situation. The derogation must not be inconsistent with other obligations under international law, including applicable rules of international humanitarian law.

17. In the light of these principles, some derogation measures, particularly, the extension of the period of detention of individuals suspected of involvement in 'terrorist activities' from 72 hours to 30 days without any court decision[9] appear to be excessive even during an emergency. Other derogation measures grant prosecutors in the conflict area additional powers normally attributed to investigating judges, such as the authority to decide upon issues related to custodial measures, access to property, searches, and wiretapping. The derogation also allows the military and civil administrations established as temporary state bodies in Government-controlled areas of Donetsk and Luhansk regions to impose restrictions on freedom of movement (e.g. curfews), conduct security searches, checks and other measures allegedly to protect public safety. OHCHR notes that not all measures envisioned in the derogation are applied in practice[10].

B. Constitutional amendments concerning the judiciary

18. On 2 June, Parliament adopted amendments to the Constitution of Ukraine regarding the judiciary[11]. These amendments provide an opportunity to strengthen the independence of the judiciary and to build a system of governance based on the rule of law, essential for the restoration of public trust, promotion of accountability and achievement of justice.

19. The amendments give a central role and new powers to the High Council of Justice and guarantee its independence. They provide that the majority of Council members will be judges and will be empowered to make decisions on the selection, dismissal, transfer, sanctions, promotion and immunity of judges. Parliament and the President no longer have decisive roles in these processes, which limits potential interference from the legislature and executive in the judiciary. Judges are given life-long tenure, abolishing probationary periods that made judges vulnerable to pressure. A judge can no longer be dismissed for the vague offense of "breaching the oath"[12]. The amendments also abolish broad prosecutorial supervisory powers and institute an extended non-renewable term for the Prosecutor General.

20. The right to establish and abolish courts, formerly a presidential prerogative, has been transferred to Parliament, which has also been granted the competence to request opinions from the Constitutional Court on the constitutionality of international treaties. Upon the exhaustion of domestic remedies, an individual may also challenge the constitutionality of legislation as applied in court. Other positive aspects include the right to a hearing within a reasonable time and the obligation for courts to oversee the execution of judgments.

21. While the amendments generally form a solid basis for a reformed judiciary and administration of justice, OHCHR is concerned that some provisions of the law could be

freedom to choose one's residence (article 12); fair trial (article 14); privacy of personal life (article 17). See HRMMU report of 16 May - 15 August 2015, paragraphs 159-161.

[9] One of the derogation measures referred to in the notification and introduced into national legislation through amendments to the Law "On combatting terrorism."

[10] HRMMU meeting with Head of Donetsk Regional Police, 2 August 2016

[11] Law of Ukraine "On amendments to the Constitution of Ukraine (regarding the judiciary)", No. 1401-VII of 2 June 2016, which will enter into force on 30 September.

[12] A new formulation was introduced: "The commission of serious disciplinary offences, grave or systematic neglect of duties that is incompatible with the status of a judge or that revealed his/her unsuitability for the post."

restrictive. In particular, Parliament retains the competence to issue a no confidence vote to the Prosecutor General, which can affect prosecutorial independence. Constitutional Court judges will be subject to a lower level of anti-corruption scrutiny than ordinary judges.

22. In addition, some provisions will be implemented gradually following the amendments' entry into force; thus, the President will retain the right to decide on the transfer of judges for two years; Ukraine will be able to ratify the Rome Statute of the International Criminal Court after three years; and until the penitentiary service is reformed prosecutorial oversight of the execution of verdicts and custodial measures will remain.

C. Law on the judicial system and the status of judges

23. Also on 2 June, a law "On the judicial system and the status of judges"[13] was passed to facilitate the implementation of the amendments and regulate the structure of the judicial system. A procedural framework for reforming the judiciary has yet to be adopted. Moreover, it is envisioned that the High Council of Justice will be formed in two years, which will delay the reform process.

24. The law introduces a three-tier system of courts and leaves the Supreme Court as the highest judicial body with powers to rescind and quash lower court judgements. It also provides for civil society engagement in the selection and assessment processes through a new consultative body, the Public Integrity Council. The law allows anyone to initiate disciplinary proceedings against a judge before the High Council of Justice, and imposes anti-corruption measures on judges.

D. Legal framework for internally displaced persons

25. While noting improvements in the legal framework for IDPs OHCHR is concerned that amendments to Resolution No. 637 on social entitlements for IDPs may create undue obstacles to access such benefits on the basis of their place of origin, limit their choice of residence, freedom of movement and subject them to intrusive scrutiny.

26. On 8 June, the Government of Ukraine amended Resolution No.509[14] on IDP registration and Resolution No.637[15] on social benefits for IDPs to ensure their compliance with amendments to the Law on IDPs of December 2015[16] - the implementation of which was delayed for five months. The Government also adopted two regulations on allocating and controlling social payments and pensions to IDPs[17]. Amendments to Resolution No.509[18] are generally positive as they ease administrative burdens and increase protection for IDPs.

27. However, the Resolution No.637[19] amendments on social entitlements for IDPs do not reflect the provisions of the IDP law, supporting regulations or relevant international standards. The amendments retain the link between the payment of pensions and various social entitlements to IDP registration. OHCHR considers it essential to de-link the IDP situation from social entitlements, so that the loss of IDP status does not lead to denial of social entitlements.

28. Additionally, the amendments provide for inspections of "living conditions" at IDPs' place of residence every six months and on an *ad hoc* basis. If the IDP is absent at the

[13] Law of Ukraine "On the judicial system and the status of judges", No.1402-VIII of 2 June 2016.
[14] Resolution of the Cabinet of Ministers 'On amendments to the resolution of 1 October 2014 No. 509', No. 352 of 8 June 2016.
[15] Resolution of the Cabinet of Ministers 'Certain issues regarding the payment of social benefits to internally displaced persons' No. 365 of 8 June 2016.
[16] Law of Ukraine 'On amendments to certain legal acts concerning the enhancement of human rights guarantees for internally displaced persons', No. 921-VIII of 24 December 2015. See 13th HRMMU report covering 16 November 2015 to 15 February 2016, paragraph 175.
[17] Regulation 'On allocation (reinstatement) of social benefits to internally displaced persons' and Regulation 'On exercise of control over the payment of social benefits to internally displaced persons at the places of their factual residence' approved by the Resolution of the Cabinet of Ministers 'Certain issues regarding the payment of social benefits to internally displaced persons' No. 365 of 8 June 2016.
[18] Resolution of the Cabinet of Ministers 'On registration of internally displaced persons' No. 509 of 1 October 2014.
[19] Resolution of the Cabinet of Ministers 'On payment of social benefits to internally displaced persons', No. 637 of 5 November 2014.

moment of the inspection, he/she will be subject to residence verification and further administrative checks, with the risk of losing all social entitlements.

29. These provisions on verification impose significant restrictions on IDPs' right to freedom of movement, guaranteed by Article 12 of ICCPR and Principle 14 of the Guiding Principles on Internal Displacement. They also can be considered as discriminatory, as similar inspections are not foreseen on any other category of residents of Ukraine receiving social payments. The provisions could further violate the right to privacy and family life as prescribed in Article 17 of ICCPR. It should also be noted that the amended resolutions were not publicly discussed prior to their approval.

E. Implementation of the National Human Rights Action Plan

30. In June 2016, in the course of implementation of the National Human Rights Action Plan (NHRAP), adopted on 23 November 2015, the Ministry of Justice held a series of consultations involving civil society and international organizations, including OHCHR. The outcome of these consultations was reflected in draft amendments to the Action Plan prepared by the Ministry of Justice in July, which have to be approved by the Government. They include the establishment of the new Ministry on Temporary Occupied Territories and IDPs as an implementing authority; clarify some responsibilities and formulations, and postpone some activities.

III. Rights to life, liberty, security and physical integrity

> *"We do not know who shoots. The fire comes from both sides. We can only hear 'tiokh-tiokh-tiokh' - this is an automatic rifle, and then 'gukh-gukh-gukh' - these are grenade launchers."*
>
> - Resident of Zhovanka

A. Alleged violations of international humanitarian law in the conduct of hostilities

31. The military conduct of both Government forces and armed groups in recent months precipitated an escalation in hostilities in June and July, endangering civilians. According to civilians living on either side of the contact line, Ukrainian armed forces and armed groups have engaged in hostilities from residential areas, with civilians suffering the impact of return fire[20]. This is a widespread practice. In the reporting period, OHCHR has documented such dynamics in the Government-controlled towns of Avdiivka, Mariinka, Krasnohorivka, and Chermalyk, and in the territory controlled by the 'Donetsk people's republic' in Petrovskii, Kuibyshevskii, Kyivskyi districts of Donetsk, Makiivka, Dokuchaievsk, Horlivka, Kominternove, Zaitseve, Spartak, Sakhanka, and Yasunuvata.

32. A woman living in Stanytsia Luhanska showed OHCHR houses used by Ukrainian armed forces and described how soldiers would drive infantry fighting vehicles to the middle of the road and fire rounds in the direction of the military positions of the 'Luhansk people's republic.' Return fire would impact nearby residential homes[21]. Other residents of Stanytsia Luhanska complained of being used as "human shields."[22] While OHCHR is not able to confirm whether this was the intent of the warring parties, the risks of such practices for civilians are of utmost concern.

[20] Article 13(1) of Additional Protocol II to the Geneva Conventions stipulates that "the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations." This includes the obligation for each party to the conflict to avoid, to the extent feasible, locating military objectives within or near densely populated areas. Location military objectives in civilian areas runs counter to his obligations. Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 23.
[21] HRMMU interview, 28 June 2016
[22] HRMMU interview, 28 June 2016

33. In Bakhmutka, Donetsk region, remaining residents told OHCHR that Ukrainian soldiers were living in empty houses[23]. OHCHR observed soldiers in one house as well as six armoured personnel carriers nearby, some mounted with artillery guns. In Zhovanka, one resident alleged that Ukrainian armed forces had fired at night from his garden, after which fighters of the 'Donetsk people's republic' had shelled his neighbourhood[24]. In Lopaskine village, Luhansk region, OHCHR spoke to local residents who complained that since soldiers had moved into residential homes, exchanges of fire had increased and tensions among them and military had intensified "dramatically."[25] In Kryakivka village, in Novoaidar district, Luhansk region, members of the Government-affiliated 'Aidar' and 'Dnepr-1' battalions and soldiers of the Ukrainian army have used residential homes since January 2015, when members of the 'Aidar' battalion threatened civilians into surrendering their house keys[26]. One soldier, stationed in a private home in Lopaskine, told OHCHR that his unit had been ordered to position themselves in the village by their commander based in Trokhizbenka[27]..

34. OHCHR has observed a notable increase in damage to critical civilian infrastructure, often with cross-line implications. Residents of Zhovanka showed OHCHR a gas pipeline that was damaged in hostilities and noted that the water supply was periodically interrupted[28]. Moreover, a high voltage power line was reportedly damaged in recent hostilities, leaving Zhovanka, Bakhmutka and other villages without electricity.

35. It is also of particular concern that Ukrainian forces and armed group continue to disregard the protections afforded under international humanitarian law to schools as civilian objects used for educational purposes[29]. On the night of 9-10 July 2016, a school in Sakhanka, School No. 84 in Mykytivka in Horlivka, and School No. 7 in Horlivka were damaged by shelling. At the time, approximately 20 local residents were hiding in the basement of School No. 84 in Mykytivka. When visiting the schools in late July 2016, OHCHR did not observe any arms or fighters inside the buildings or in their vicinity.

36. Hospitals used for medical purposes have also been frequently hit by artillery fire, in violation of their protected status under international humanitarian law[30]. On 24 June 2016, the children's ward of a polyclinic on Biuriuzove Street in Donetsk city shelled, breaking windows, damaging doors and the heating system. On 23 July 2016, Hospital No. 21 in Kuibyshevskii district of Donetsk city was fired upon for two hours, while the hospital was attending to the medical needs of 60 patients. Two patient rooms and the surgical ward were severely damaged by mortar and automatic rifle fire, seriously affecting the hospital's capacity[31].

37. In some cases, Government forces and armed groups have used educational and health facilities for military purposes. For instance, in Zaitseve, armed groups of the 'Donetsk people's republic' are reportedly positioned in a local school and hospital, in the immediate vicinity of the contact line. As a result, local residents must travel to nearby towns to access medical services. The proximity of the contact line, with opposing military positions less than a street away, highlights the urgent need for military forces to fully withdraw from civilian areas and refrain from using educational or health facilities for military purposes. OHCHR has verified that in July 2016 a school in Pavlopil continued to be used by Ukrainian armed forces.

[23] HRMMU interview, 7 July 2016
[24] HMRMU interview, 7 July 2016
[25] HRMMU field visit, 28 July 2016
[26] HRMMU interview, 25 May 2016
[27] HRMMU interview, 27 June 2016
[28] HRMMU interview, 7 July 2016
[29] Article 13(1), Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 23.
[30] Article 11, Additional Protocol II to the four Geneva Conventions; Henckaerts, Doswald-Beck, Customary international humanitarian law, Volume I, Rule 22.
[31] World Health Organization, Situation Report, 1 August 2016

B. Casualties

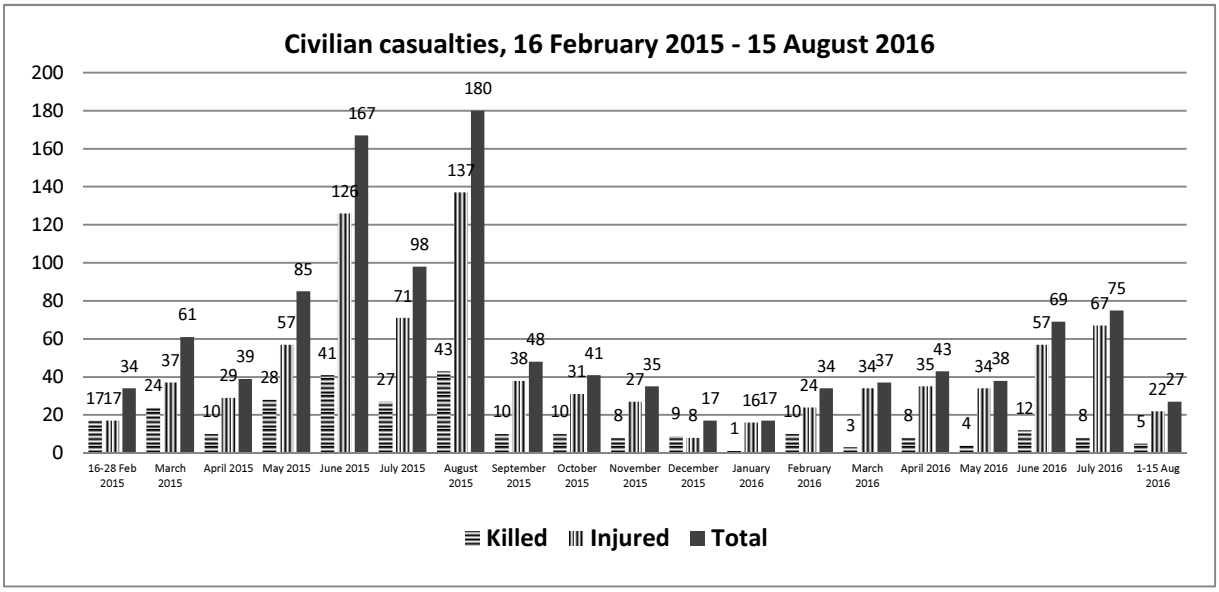
38. In total, from mid-April 2014 to 15 August 2016, OHCHR recorded 31,814 casualties in the conflict area in Donetsk and Luhansk regions in eastern Ukraine, among Ukrainian armed forces, civilians and members of the armed groups. This includes 9,578 people killed and 22,236 injured.[32] The number of civilians who died as a result of the secondary effects of violence, such as lack of access to food, water or medicine, is unknown.

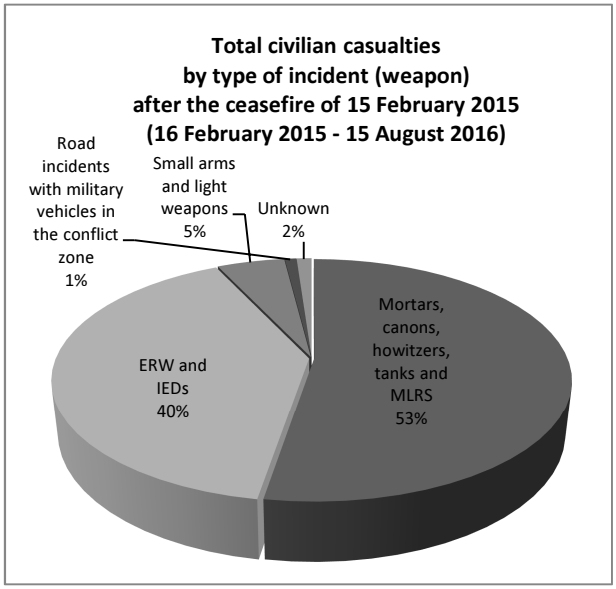
39. During the reporting period, an increase in ceasefire violations on both sides of the contact line led to a 66 percent increase in civilian casualties compared to the previous reporting period. Between 16 May and 15 August 2016, OHCHR recorded 188 conflict-related civilian casualties: 28 killed (three women and a girl, 20 men and four boys) and 160 injured (47 women and four girls, 97 men and ten boys, and two children whose sex is unknown), while between 16 February and 15 May 2016, 113 casualties were recorded (14 killed and 99 injured).

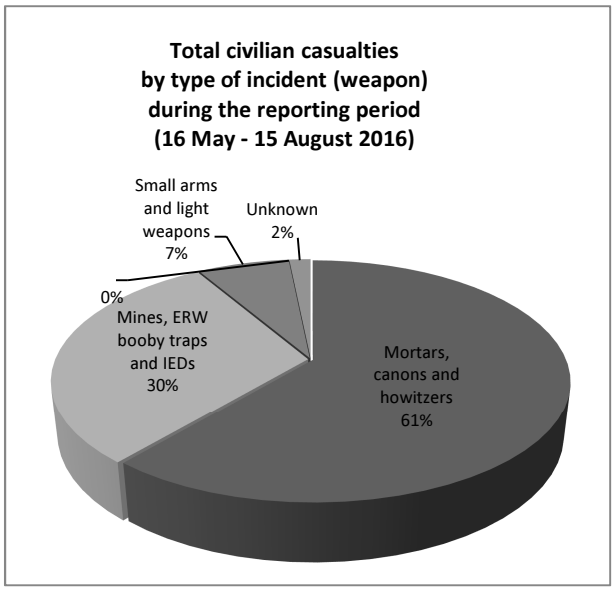
40. An increase in civilian casualties caused by shelling from various artillery systems was of particular concern. Between 16 May and 15 August 2016, OHCHR recorded 109 civilian casualties caused by shelling (11 killed and 98 injured). This is 60 per cent more than the number of casualties caused by shelling during the previous 8.5 months, between the ceasefire of 1 September 2015 and 15 May 2016, when 67 casualties from shelling were recorded (12 killed and 55 injured). Of those killed by shelling: two were women and nine were men. Besides, two boys were killed by electrocution after a power line was destroyed by shelling. Of those injured by shelling: 37 were women and three were girls, 54 were men and four were boys.

41. Mines, explosive remnants of war (ERW), booby traps and improvised explosive devices (IEDs) caused 13 deaths (a woman and a girl, nine men and two boys) and 41 injuries (five women and a girl, 29 men and four boys, and two children whose sex is unknown). Besides, seven civilians (a woman and six men) were injured by unidentified explosives (either by shelling or ERW or abandoned explosive ordnance). Exchanges of fire from small arms and light weapons and sniper shots accounted for 13 casualties: two civilians (both men) were killed and 11 (four women, five men and two boys) were injured. Three men were injured from unspecified firearms.

[32] This is a conservative estimate of OHCHR 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 territories controlled by the Government of Ukraine, as reported by local authorities and the regional departments of internal affairs of Donetsk and Luhansk regions; and casualties among civilians and members of the armed groups on the territories controlled by the 'Donetsk people's republic' and the 'Luhansk people's republic', as reported by the 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. 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.







C. Summary executions, disappearances, deprivation of liberty, and torture and ill-treatment

> *"I wake up, I go to bed, I walk constantly carrying this uncertainty on my mind. The day he was detained, time stopped."*
>
> \- Mother of a Ukrainian soldier detained by armed groups

42. On 14 July, OHCHR released a report on accountability for killings in Ukraine from January 2014 to May 2016[33], documenting over 60 cases and 115 victims of arbitrary deprivation of life, summary and extrajudicial executions and deaths in detention. During the reporting period, OHCHR continued to document cases of summary executions that occurred before May 2016 and for which there has been no accountability.

Ukrainian armed forces and law enforcement

43. In April 2016, a married couple was apprehended by SBU in Odesa, suspected of assisting the armed groups. They were held in the premises of the Odesa SBU building,

[33] Office of the United Nations High Commissioner for Human Rights, United Nations Human Rights Monitoring Mission in Ukraine, "Accountability for killings in Ukraine from January 2014 to May 2016," 14 July 2016.

where they were reportedly subjected to a night of sleep deprivation, interrogated without the presence of a lawyer, denied requests for legal counsel and subjected to threats. OHCHR is concerned that SBU recorded their detention 20 hours after the time of their arrest. During this period, they were held incommunicado[34]. They are currently held in pre-trial detention. The SBU confirmed to OHCHR that the two individuals were detained and subsequently charged with terrorism-related offenses under article 258-3 of the Criminal Code of Ukraine.

44. OHCHR continued to receive information about cases of secret detention by SBU in Kharkiv, Kramatorsk, Mariupol and Zaporizhzhia[35]. The families of the victims often approach OHCHR afraid and desperate for information about their relatives. The secrecy, the insecurity caused by the denial of contact with the outside world, and the fact that relatives have no knowledge of their whereabouts and fate contributes to the families' suffering.[36] OHCHR advocates with the authorities on individual cases calling for the immediate release of all persons in secret detention.

45. Over the reporting period, approximately 70 per cent of cases documented by OHCHR contained allegations of torture, ill-treatment, and incommunicado detention prior to transfer into the criminal justice system. The majority of allegations implicate SBU officials[37], police[38], and members of the paramilitary DUK 'Right Sector'[39]. OHCHR findings indicate that Ukrainian authorities have allowed the deprivation of liberty of individuals in secret for prolonged periods of time. OHCHR confirmed the release, on 25 July and 2 August, of thirteen individuals from the Kharkiv SBU who had been subject to enforced disappearances for periods of up to two years[40].

46. In April 2016, SBU allegedly detained a Russian Federation citizen after he was sentenced and released by a court in Berdiansk on 15 April. OHCHR received information that the man has since been held incommunicado in the Mariupol SBU basement[41]. The SBU denied this allegation.

47. In an emblematic case, armed men in camouflage bearing no insignia apprehended a man in his house in Government-controlled areas of Donetsk region in October 2015. He was handcuffed, blindfolded and taken to an indoor shooting range in the basement of the SBU building in Mariupol. There, he was beaten, suffocated with a plastic bag, submerged in cold water, and had his ribs broken by a man who jumped on his torso. He was forced to sign a confession, read it in front of a camera, and was subsequently charged under article 258-3 of the Criminal Code of Ukraine. Still in detention, he is afraid of reprisals and unwilling to complain about his ill-treatment to the authorities[42]. Four additional verified cases from 2015 corroborate the use of the Mariupol SBU basement indoor shooting range for incommunicado detention and torture[43].

48. OHCHR received new information that detainees had been subject to torture and ill-treatment to extract confessions at the Zaporizhzhia Regional SBU Department in 2014 and 2015. One man was beaten all over his body, leaving him with two fractured bones, and was suffocated with a gas mask. Another man described being severely beaten in the basement of the SBU building, with his ribs consequently broken[44]. The SBU acknowledges the detention of one of the men and alleges that his injuries were caused during attempts by officers to assert security and control over the detainee. The victims' accounts make clear that the

[34] HRMMU interview, 5 July 2016.
[35] HRMMU interviews, 27 May 2016, 31 May 2016, 13 June 2016, 23 June 2016, 29 June 2016, 11 July 2016, 12 July 2016, 5 August 2016, 11 August 2016.
[36] Report of the Working Group on Arbitrary Detention, 19 January 2011, A/HRC/16/47, para. 54.
[37] HRMMU interviews, 29 June 2016, 31 May 2016, 23 June 2016, 21 July 2016, 16 August 2016; 13 June 2016, 14 July 2016; 20 May 2016; 17 May 2016, 14 June 2016, 6 July 2016, 5 July 2016.
[38] HRMMU interviews, 23 May 2016, 31 May 2016, 9 June 2016, 2 July 2016, 4 July 2016.
[39] HRMMU interview, 31 May 2016, 15 July 2016, 15 August 2016.
[40] HRMMU interviews, 31 July 2016, 4 August 2016
[41] HRMMU interview, 18 June 2016.
[42] HRMMU interview, 11 May 2016.
[43] HRMMU interviews, 29 July 2016, 23 June 2016, 14 June 2016.
[44] HRMMU interviews, 20 June 2016, 6 July 2016.

serious harm suffered continues to affect their lives, their families and communities, and that there is an urgent need for recognition, medical care and rehabilitation of torture victims.

Armed groups

49. During the reporting period, OHCHR documented an increase in detentions and disappearances at checkpoints controlled by the 'Donetsk people's republic.' On 27 May 2016, a former armed group member went missing in Novoluhanske while travelling into the 'Donetsk people's republic' from Government-controlled territory where he had been deprived of his liberty. Following repeated inquiries, his mother found that he had been deprived of liberty at a 'Donetsk people's republic' checkpoint, transferred to Horlivka and then into 'police custody' in Donetsk. On 4 July, she was told that the 'police' no longer held her son. She has since been unable to ascertain his fate or whereabouts[45].

50. Members of the 'ministry of state security' of the 'Donetsk people's republic' continued to deprive individuals of their liberty and keep them incommunicado. While in some cases, relatives were allowed to deliver packages of food, medicine and clothing; none were able to visit the victims. Armed groups near Novoazovsk District Hospital apprehended a doctor from Pavlopil on 16 June 2015. The local 'police' told his wife that he was held by the 'ministry of state security', which the latter confirmed in writing. She has not heard from him since, but has been informed that his case will be 'examined' by the Novoazovsk 'court' of the 'Donetsk people's republic'.[46] OHCHR is concerned that deprivations of liberty are often accompanied by torture and other cruel, inhuman or degrading treatment or punishment, and may in itself constitute such treatment. OHCHR is concerned at the continuation of persons being deprived of their liberty and then held incommunicado in the 'Donetsk people's republic' and 'Luhansk people's republic', spreading fear among civilians, in particular because of the arbitrary nature of abductions. OHCHR notes that the Military Prosecutor's Office is investigating many of these cases.

51. Maria Varfolomeeva, a photojournalist, was detained by the 'Luhansk people's republic' on 9 January 2015 and released on 3 March 2016 to Government-controlled territory. She was deprived of her liberty after taking photos of residential houses used by the 'Vostok' battalion as their base. She reported having been beaten and held in poor conditions while in custody, naming the individuals responsible. The Military Prosecutor's Office is conducting an investigation into her detention and ill-treatment. The 'Luhansk people's republic' continues to deprive people of liberty in the basements of the former main department of the Ministry of Internal Affairs in Luhansk region on Polskogo Street No. 3, and the 'ministry of state security' of the 'Luhansk people's republic' on Gradusova Street No. 1a, according to victim accounts.

52. The 'Donetsk people's republic' and 'Luhansk people's republic' continue to hold individuals who were detained prior to the conflict. OHCHR has received allegations that such detainees are held in poor conditions of detention and have inadequate or no access to medical assistance. On 1 June 2016, the Assistant Secretary General for Human Rights was granted access to pre-conflict prisoners held in penal colony No. 124 in Donetsk region under the control of the armed groups. OHCHR welcomes the periodic transfer of pre-conflict prisoners to Government custody under the auspices of the Ombudsperson's Office as necessary to restore family access to detainees and ensure that persons arrested, tried or convicted are subject to a consistent legal framework in line with the principle of legality.

53. These allegations demonstrate the urgent need for the 'Donetsk people's republic' and 'Luhansk people's republic' to grant external observers unhindered access to all places of deprivation of liberty. On 6 August, OHCHR was able to meet 31 men deprived of their liberty in the context of hostilities held in colony No. 97 in Makiivka, Donetsk region in the presence of a 'Donetsk people's republic' 'official'. All had been held incommunicado for approximately two months, causing considerable suffering for their families. OHCHR has observed that many families whose fathers, husbands, or sons are in armed group detention

[45] HRMMU interview, 11 July 2016
[46] HRMMU interview, UKR/16/0514.

lack support networks and struggle alone as they face emotional distress and financial insecurity.

D. Sexual and gender-based violence

> *"They didn't beat me, only threatened from time to time to cut off my testicles or bury me in a forest".*
>
> – Conflict-related male detainee held in a Government prison

Ukrainian armed forces and law enforcement

54. OHCHR continued to document cases of sexual violence, amounting to torture, of conflict-related detainees, both men and women. It includes cases of rape[47], and threats of rape or other forms of sexual violence towards victims and/or their relatives.

55. In March 2016, a man[48] was apprehended by eight masked individuals in camouflage and taken to an abandoned building, where he was interrogated about the positions of the armed groups. As he could not provide any information, the perpetrators undressed him and tied his legs and arms behind his back to a metal cage. One of them took the ramrod and started inserting it into the man's urethra. He pulled it up and down, inflicting the victim severe pain. A second perpetrator filmed the torture on his mobile phone. While beating the victim, they threatened to upload the video on his social media page. He eventually signed documents admitting his guilt on all charges.

56. During the reporting period, OHCHR documented three cases following a similar pattern of women detained in 2015 in Government-controlled areas adjacent to the contact line and subjected to threats of sexual violence amounting to torture. All three cases took place in different locations but within the same geographic area. In one case, a woman[49] apprehended in her home on 19 January 2015 by 10 masked men wearing camouflage was kept for more than a week in the basement of an SBU building, where she was beaten and tortured with electric shocks and burning plastic. The perpetrators threatened to rape her daughter if she refused to confess to have supported the armed groups in 2014. In June 2015,[50] another woman was apprehended by 10 masked armed men in black uniforms without insignia and taken to the basement of an unfinished building, where she was handcuffed to a large pipe in a stress position. Two men kicked her head and body and beat her with their fists and a metal tube, threatening to rape and kill her. As of August 2016, she remained in pre-trial detention. In a third case, a woman was apprehended in her home by 10-12 armed masked men wearing military uniform without insignia. Her daughter, a minor, witnessed the arrest and search of the apartment. The victim was taken to a building in Bakhmut, where she was insulted, humiliated, and beaten. She was also threatened with being handed over to soldiers on the frontline and that her young daughter would be gang raped in front of her. After she agreed to cooperate, she was transferred to SBU premises for interrogation. The same threats continued until she recorded her confession[51]. As of July 2016, she remains in detention. An investigation into her allegations of torture and ill-treatment has been launched. Despite one of the victims giving testimony in court regarding being subject to sexual and gender-based violence, no charges were brought against the perpetrators. The SBU informed OHCHR that this was due to the absence of conclusive forensic evidence.

[47] Rome Statute, Article 8 (2) (e) (vi)-1, War crime of rape, whose elements are defined as: (1) The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body; (2) The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.
[48] HRMMU interview, 29 June 2016.
[49] HRMMU interview, 13 June 2016.
[50] HRMMU interview, 26 May 2016.
[51] HRMMU interview, 13 June 2016.

57. On 5 May 2016, SBU detained a man in one of the southern regions of Ukraine and transferred him to SBU building. Later, he was brought to an office, stripped naked and fastened to a heating battery. During the following two days, four SBU officers allegedly tortured him, making him kneel, insulting, humiliating and hitting him on the head, kidneys, groin, and applying electric shock to his tongue. Most of this time he had a plastic bag over his head, and did not receive either food or water.

58. OHCHR continued to follow the case of former member of the 'Tornado' special police patrol battalion. On 15 July, the Novopskovskyi District Court of Luhansk Region sentenced him to six years of imprisonment for torture and rape[52]. The court found that in June 2015, he had tortured, raped and threatened a woman with a hand grenade in Novopskovskyi district. OHCHR welcomes investigations into all allegations of conflict-related sexual violence.

Armed groups

59. During the period under review, it was not possible to obtain first-hand accounts regarding conflict-related sexual violence in the areas controlled by armed groups. One interlocutor reported being threatened by the 'authorities' if they disclosed information about the cases.

60. The incidents reported to OHCHR as second-hand accounts mostly took place in 2014-2015 and it has not been possible to contact the victims or direct witnesses. A 26-year-old woman was allegedly beaten and raped by three members of the armed groups in September - October 2015. She was deprived of her liberty while she was passing a checkpoint and could not present her passport[53]. The case was 'investigated' by the 'military prosecutor's office' of the 'Donetsk people's republic' and reportedly punitive steps were taken.

61. A man deprived of his liberty by armed groups[54] in March-April 2016 in 'Donetsk people's republic' reported about two women who were kept in a room next to him. According to him, they were reportedly abducted at a checkpoint when crossing the contact line from the Government-controlled side. He heard armed groups elements harassing them and attempting to rape them. They were reportedly taken away two days later; their identities and whereabouts were unknown to the interviewee.

62. A former armed group member told OHCHR about a well-known case within his unit where a commander of the 'Kalmius' brigade allegedly raped a civilian woman in Hryhorivka village, Donetsk region in late May 2015 and was consequently dismissed in September 2015[55].

IV. Accountability and the administration of justice

> *"People have no real access to justice."*
> – High-level judicial official in Government-controlled Luhansk region

A. Impunity for gross violations and abuses of human rights

63. Despite efforts by the Ukrainian authorities to bring perpetrators of human rights violations and abuses in the east to account, impunity for human rights violations and abuses prevails. OHCHR has documented extensive allegations of violations by armed groups and Government forces, and notes that accountability for acts such as executions by armed groups of Ukrainian soldiers is particularly lacking[56]. According to OHCHR trial monitoring,

[52] Articles of 127 (torture), 152 (rape), 153 (violent unnatural gratification of sexual desire) and 263 (illegal handling of munitions) of the Criminal Code.
[53] HRMMU interview, 15 July 2016.
[54] HRMMU interview, 8 July 2016.
[55] HRMMU interview, 29 June 2016.
[56] Office of the United Nations High Commissioner for Human Rights, United Nations Human Rights Monitoring Mission in Ukraine, "Accountability for killings in Ukraine from January 2014 to May 2016," 14 July 2016.
[56] HRMMU interview, 5 July 2016.

assessments of investigations and analysis of prosecutions, such impunity largely stems from pressure on the judiciary, inability and unwillingness of the Office of the Prosecutor General and Office of the Military Prosecutor to investigate gross violations and abuses of human rights perpetrated in the context of the armed conflict. OHCHR has been informed that the Office of the Military Prosecutor is carrying out pre-trial investigations into alleged cases of killing, torture and ill-treatment of Ukrainian soldiers and civilians by members of the armed groups of the 'Donetsk people's republic' and 'Luhansk people's republic', but notes that they have yet to yield any results.

64. OHCHR is particularly concerned by the lack of progress in investigations into the conduct of Ukrainian armed forces and SBU. In over two years, neither party to the conflict has taken responsibility for any civilian deaths caused by shelling. While noting significant investigative challenges, OHCHR urges the Government to take all possible steps to investigate civilian deaths that occurred during military operations.

65. OHCHR notes the absence of investigations into the 2 June 2014 aerial attack on the Luhansk Regional State Administration building in Luhansk, which resulted in the deaths of seven civilians[57]. According to the Office of the Prosecutor General, the date and location of the incident has been established but no subsequent investigations have been undertaken due to a lack of access to the crime scene[58]. OHCHR notes that military conduct can be investigated by, among others, interviewing witnesses including members of Ukrainian Armed Forces and through obtaining access to classified military information. OHCHR is also monitoring the ongoing civil suit brought by the wife of one of the victims killed in the attack. On 25 May, the Administrative Court of Appeal dismissed a claim[59] for pecuniary and non-pecuniary damages for the loss of life of her husband on the grounds that the court lacked relevant subject-matter jurisdiction.

66. Impunity also affects cases of enforced disappearances and of missing persons. In an emblematic case, on 12 July 2014, three men and a 17-year-old boy were detained by three soldiers at a checkpoint near Krasnoarmiisk and then allegedly handed over to an SBU officer, who took the four victims in an unknown direction. Their families have since had no information about their whereabouts and suspect that the police have been unwilling to investigate the disappearance due to pressure from SBU[60]. The Office of the General Prosecutor informed OHCHR that an investigation was ongoing into the detention of the 17-year-old boy but that they did not have any information regarding the apprehension and disappearance of the three men.

67. In a similar case, a man was detained by members of the 'Aidar' battalion on 21 July 2014 at a checkpoint near Varvarivka, Luhansk region, and disappeared. Although the police identified and arrested the perpetrators, the court released one of them later on the personal guarantee of a Ukrainian MP. The perpetrator absconded and the investigation into the disappearance has been suspended[61].

68. OHCHR continued to monitor the trial of two SBU officers accused of the torture and death of Oleksandr Agafonov on 14 November 2014. At a hearing on 10 August, the accused testified to their involvement in his interrogation but denied subjecting him to any physical violence. The Military Prosecutor's Office presented video footage showing Agafonov in clear physical distress following his interrogation. OHCHR will continue to monitor the trial[62].

[57] OHCHR recalls that persons affiliated with the 'Luhansk people's republic' who did not have a continuous combat function, retained their civilian status, such as Nataliya Arkhipova, the 'minister of health' of the 'Luhansk people's republic', who was killed in the attack.
[58] Meeting between HRMMU and Office of the General Prosecutor, 1 August 2016.
[59] Ruling of Kyiv Administrative Court of Appeals of 25 May 2016, available at: http://reyestr.court.gov.ua/Review/57925068.
[60] HRMMU interview, 25 May 2016.
[61] HRMMU interview, 25 May 2016, and HRMMU meeting, 25 May 2016, 27 July 2016. Office of the General Prosecutor confirmed to OHCHR that investigation has been stayed as suspect has absconded.
[62] HRMMU trial monitoring, 10 August 2016.

69. OHCHR observed continued pressure on the judiciary in high-profile cases. A hearing at the Kyiv City Court of Appeals on 3 July, on the extension of the pre-trial detention of a commander of the 'Aidar' battalion, arrested and charged with abduction and other violent crimes, illustrates the nature and extent of such pressure. A group of 'Aidar' battalion soldiers and members of Parliament attended the hearing and demanded the defendant be released from custody. The Prosecutor General also attended the hearing and expressed doubt that the investigation had sufficiently established the material facts of the case given that they took place "near the frontline." He supported the release of the detainee and stated that he expected Parliament to find a way to absolve soldiers from being subjected to civilian justice for acts committed in the course of their military duties. Such interventions by the Prosecutor General undermine the independence of investigations and the judiciary.

70. OHCHR welcomes efforts of the Government to prosecute members of the armed groups for alleged human rights abuses. OHCHR acknowledges that without access to areas controlled by the armed groups, Ukrainian law enforcement entities often do not have access to the crime scenes, witnesses, and material evidence.

71. However, some armed group members and commanders have been tried *in absentia*. OHCHR recalls that while trials *in absentia* are not prohibited under international law, they must adhere to international human rights standards, including the rights of the accused to be informed of the charges against them and the consequences of not appearing at trial[63]. This includes the obligation that sufficient steps be taken to notify the accused persons and that the notice be given sufficiently in advance to allow the preparation of a defence and presence at the hearing. *In absentia* proceedings against persons accused of being members of armed groups are increasingly frequent following the 12 May legislative amendments[64]. While OHCHR observes that steps are taken to apprehend or secure the appearance of the accused at trial, the *in absentia* procedure is not invoked consistently and recent changes in criminal procedure lack sufficient safeguards to protect due process and fair trial rights.

B. Amnesty law

72. Considering the general lack of accountability for human rights violations committed by the Ukrainian military or security forces, OHCHR is concerned about the 7 July law 'On amnesty in 2016'[65] which provides *inter alia* that individuals who received combatant status for participation in the 'security operation' in certain areas of Donetsk and Luhansk regions of eastern Ukraine will be absolved of criminal responsibility for non-grave crimes, except for crimes against life and health and certain military crimes[66] as well as sex offences, and crimes against peace[67].

73. OHCHR is alarmed that participation in the 'security operation' is considered as a ground for lesser charges, more lenient sentences[68] and amnesty. It is essential that the conduct of military and security forces personnel, acting in their official capacity and exercising authority over civilians, armed and tasked with carrying out hostilities or detention

[63] *Special Tribunal for Lebanon*, Trial Chamber, *Decision to Hold Trial In Absentia*, STL-11-01/I/TC, 1 February 2012

[64] See paragraph 173 of the 14th OHCHR public report, covering period from 16 February to 15 May 2016.

[65] Law of Ukraine 'On amnesty in 2016', Draft No. 4255 of 17 March 2016. The law is pending Presidential approval.

[66] Qualified crime of desertion (Article 408(2,3,4) of the Criminal Code of Ukraine) , appropriation, extortion or fraudulent obtaining of weapons, ammunitions, explosive or other warfare substances, vehicles, military or special enginery, or abuse of office, by a military serviceman (Article 410), and wilful destruction or damage of munitions (Article 411(2,3,4)).

[67] In total the law enlists some 98 articles of the Criminal Code of Ukraine, to which amnesty will not apply, such as terrorism-related offences (Articles 258 - 258-5), creation of criminal organisation (Article 255), crimes against peace (Articles 437, 439, 442, 443, 446, 447), including genocide and use of mercenaries, qualified military crimes (Articles 404-406, 408, 410, 411), sex offences (Articles 252-256), some corruption crimes (Articles 368 – 368-4, 369), threats, violence or trespass against life of a journalist (Article 345-1(3,4) and 348-1), a member of law enforcement (Articles 345(3,4), 348 and 349), or a judge (Articles 347 and 379).

[68] OHCHR is aware of at least one court decision in which a former soldier was not sentenced to imprisonment for the commission of a grave crime as participation in the security operation was viewed as a mitigating circumstance: *e.g.* verdict of Ivankivskyi district court of Kyiv region of 10 June 2016, available at: http://reyestr.court.gov.ua/Review/58249890.

operations, be subjected to stricter scrutiny. OHCHR reiterates that no amnesty can be given to any individual suspected of, accused of, or sentenced to war crimes, crimes against humanity, or gross violations of human rights, including gender-specific violations.

C. Due process and fair trial rights

74. Clear and consistent allegations documented by OHCHR suggest that conflict-related criminal investigations and prosecutions are characterized by an abuse of process. OHCHR continued to document a pattern of arbitrary detention by Government forces of civilians living near the contact line[69]. The victims[70] are usually apprehended and held for some time by unidentified armed men who, after extracting confessions under duress, bring them to local law enforcement or security forces. On 12 July, OHCHR raised concerns with SBU leadership regarding such practices[71]. The SBU stated that investigators had no choice but to detain people brought to them, and explained that injuries are caused in the course of arrest.

75. Moreover, the right to fair trial is frequently hampered by ineffective legal representation by lawyers from free legal aid centres. In numerous court proceedings, OHCHR has observed criminal defence lawyers decline to assist their clients in filing complaints about torture, ill-treatment and their conditions of detention[72]. On 20 May, OHCHR interviewed a conflict-related detainee, who claimed that he was subjected to torture by SBU during more than 48 hours; however no complaint was filed by his defence lawyer[73].

76. OHCHR received numerous allegations of false evidence planted by SBU investigators in conflict-related criminal cases. In particular, defendants allege that SBU officials plant grenades or small arms during house searches to justify their detention[74].

77. Government law enforcement and security forces use video and audio recordings of alleged confessions by persons accused of being members of or affiliated with armed groups to justify the arrest and detention of the accused. Various international and regional human rights bodies have recommended the installation of video and/or audio recording equipment in rooms where interrogations related to criminal investigations are undertaken, such as police stations. OHCHR recalls that the purpose of such recommendations is to effectively prevent instances of coerced confessions, torture and ill-treatment and to ensure that they will not be admitted as evidence in courts[75]. OHCHR has documented numerous instances when such confessions were extracted under duress, following torture and ill-treatment, without the presence of a lawyer. OHCHR is further alarmed by the practice of disseminating such video recordings online, either on the official SBU website or through leaks to media, often prior to trial. The publication of such material violates the presumption of innocence principle and the right to privacy of the suspect. The extensive scope and extent of this practice suggests that it is utilized as a war propaganda tactic. The vast majority of conflict-related detainees interviewed by OHCHR have had their 'confessions' filmed by the SBU and published on their website. These videos are often re-published by online and traditional broadcast media.

78. OHCHR has also observed undue delays in proceedings in apparent retaliation against those who oppose military misconduct. In Dnipro, the trial of a former member of the 'Dnipro-1' battalion for opposing the crimes of his commander has been repeatedly delayed. Since January 2015 only three co-defendants have been questioned and the trial has been postponed, suggesting deliberate denial of fair trial to a soldier who opposed his battalion commander[76].

[69] See 14th HRMMU report covering 16 February to 15 May 2016, para. 58.
[70] HRMMU interviews, 29 June 2016.
[71] 1 August 2016, OHCHR meeting with Deputy Head of Main Investigative Department of the Security Services of Ukraine
[72] HRMMU interview, 17 July 2016. According to the Head of Donetsk Regional State Legal Aid Service, appointed lawyers must assist their clients in preparing complaints about torture, ill-treatment and their conditions of detention. However, further legal representation is initiated by such complaints proceedings, requiring the appointment of a different lawyer from the State Legal Aid Centre.
[73] HRMMU interview, 20 May 2016.
[74] HRMMU interviews, 23 May 2016, 24 May 2016.
[75] Report of the Working Group on Arbitrary Detention, 16 February 2009, A/HRC/10/21, paras. 69-70.
[76] HRMMU interview, 14 July 2016.

79. OHCHR continued to observe patterns of pressure on the judiciary by 'pro-unity' activists and the authorities. The permissive attitude of the authorities, including the Office of the Prosecutor General, towards such interference in the judicial process risks eroding the rule of law. Notwithstanding numerous appeals sent by the Court of Appeal for Odesa Region and State Judicial Administration to the state authorities, the Ministry of Internal Affairs has not provided courts and judges with sufficient security. While police reform[77] envisions that the judiciary will have its own security units for ensuring safety and protection, OHCHR has not observed any progress in this area[78].

80. On 8 July, approximately 40 'pro-unity' activists at the Suvorovskyi District Court of Odesa disturbed the trial of paramilitary DUK 'Right Sector' members. According to the indictment, the Head of Odesa office of the 'Right Sector' and one of its members are charged with kidnapping, robbery and the illegal handling of weapons. During the preliminary hearing about 15 'pro-unity' activists entered the courtroom, 25 other activists stayed outside blocking the entrance, and seven police officers were posted near the courtroom and none inside. After brief deliberations, the judge, concerned by the overall aggressive atmosphere, ruled to send the case to the Court of Appeals for Odesa region to determine the relevant jurisdiction.

D. Arbitrary detention in conflict-related cases

81. OHCHR has documented a clear and consistent trend that human rights violations against persons charged with conflict-related or national security and 'terrorism'-related offenses[79] often begin with arbitrary pre-trial detention. According to the Code of Criminal Procedure, as amended in October 2014, pre-trial detention is mandatory for all conflict-related or national security and 'terrorism'-related cases[80]. According to the Minister of Justice, "custodial detention for separatist and terrorist crimes… increases the efficacy of a pre-trial investigation"[81].

82. OHCHR recalls that the prohibition of arbitrary detention[82] prescribes that detention in custody of persons awaiting trial must be exceptional, based on an individualized determination that it is reasonable and necessary in all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.[83] Such relevant factors should be specified in law,[84] and should not include vague and expansive standards such as "public security."[85] Critically, pre-trial detention should not be mandatory for all defendants charged with a particular crime, without regard to individual circumstances[86].

83. Through trial monitoring, OHCHR has observed that neither the prosecution nor the judges address the grounds for continued detention at review hearings. Courts rarely examine

[77] Law of Ukraine "On National Police".
[78] HRMMU interview, 30 May 2016.
[79] Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government), 110 (Trespass against territorial integrity and inviolability of Ukraine), 1102 (financing of actions committed with the aim to forceful change or overthrow of the constitutional order or take-over of government, territorial changes or state border of Ukraine), 111 (high treason), 112 (Trespass against life of a statesman or a public figure), 113 (subversion), 114 (espionage), 114^1 (interference with lawful activities of the Armed Forces of Ukraine and other military formations), 258 (terrorist act), 258^1 (involvement in commission of a terrorist act), 258^2 (Public incitement to commit a terrorist act), 258^3 (creation of a terrorist group or terrorist organization), 258^4 (Facilitation to commission of a terrorist act), 258^5 (financing of terrorism), 260 (Creation of unlawful paramilitary or armed formations) and 261 (Attacks on objects which contain any items of increased danger to the environment) of the Criminal Code of Ukraine.
[80] Paragraph 5 of article 176 of the Code of Criminal Procedure.
[81] Explanatory note to the draft law no. 4448a of 8 August 2014, introducing amendments to article 176 of the Code of Criminal Procedure.
[82] Human Rights Committee, 1128/2002, Marques de Morais v. Angola, paras. 6.1, 6.4.
[83] Human Rights Committee, 1502/2006, Marinich v. Belarus, para. 10.4; 1940/2010, Cedeño v. Venezuela, para. 7.10; Human Rights Committee, 1547/2007, Torobekov v. Kyrgyzstan, para. 6.3; 1887/2009, Peirano Basso v. Uruguay, para. 10.2.
[84] See Human Rights Committee Concluding observations Republic of Korea 1999, para. 141; Senegal 1997, para. 63; Armenia 1998, para. 107; Kyrgyzstan 2000, para. 393.
[85] See Human Rights Committee Concluding observations Bosnia and Herzegovina, 2006, para. 18.
[86] See Human Rights Committee Concluding observations Bolivia 1997, para. 208; Argentina 2000, para. 10; Sri Lanka 2003, para. 13.

alternatives to pre-trial detention, such as bail or other conditions to guarantee appearance for trial, which would render detention unnecessary in particular cases[87].

84. OHCHR finds that the relevant provisions of the Code of Criminal Procedure providing for mandatory pre-trial detention for accused charged with conflict-related or national security or terrorism offenses are contrary to international human rights standards and result in excessive and at times arbitrary detention. In May 2015, Ombudsperson filed an appeal with the Constitutional Court, challenging the constitutionality of the amendments citing the jurisprudence of the European Court of Human Rights. However, the Ombudsperson's Office withdrew the appeal, for unexplained reasons.

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

Maidan

85. OHCHR notes positive developments in pursuing accountability for human rights violations committed during the Maidan events. On 23 June 2016, the Prosecutor General's office reported that four members of the 'Berkut' special police battalion of Kharkiv region were detained in relation to the Maidan violence and charged with killing three protestors. They are accused of following illegal orders and replacing the rubber bullets with hunting ones thus killing three persons and inflicting bodily injuries to 35 persons on 18 February 2014. With this arrest, there are currently five 'Berkut' members charged with crimes against life perpetrated on 18 February at Maidan[88]. All have been placed in custody for 60 days pending the pre-trial investigation.

86. There has also been some progress in the investigation of the Maidan killings of 20 February 2014. On 21 June 2016, prosecutors presented evidence connecting two submachine guns to two Berkut servicemen arrested in April 2014[89]. According to the evidence, three people were killed and two injured with these weapons.

2 May 2014 violence in Odesa

87. There continued to be significant pressure on the judiciary regarding the 2 May 2014 violence case. OHCHR has closely monitored the judicial proceedings against one of the suspects – a "pro-federalism" activist - allegedly involved in the mass disorder in Odesa city centre. On 27 May 2016, the Malynovskyi District Court of Odesa ruled to release him from pre-trial detention and placed him under house arrest. OHCHR has since observed three instances in which 'pro-unity' activists have protested inside the courtroom, threatened the judges and defendant's lawyers with violence, and obstructed the course of justice. Such pressure resulted in arbitrary detention. On 27 May 2016, 'pro-unity' activists blocked the courtroom, trapping the 'pro-federalism' defendants, several of their lawyers, and searched all departing vehicles for passengers to prevent the release of the main defendant. Later that day, police charged him with threatening to kill a prosecution witness, despite the absence of probative evidence, and re-arrested him.[90]

88. On 7 June 2016, the Court of Appeals for the Odesa region was blocked by approximately 40 'pro-unity' activists after the judges released the defendant, finding that there were no grounds for his arrest. The activists accused the judges of treason, threatened them with violence and warned that the defendant would be "torn to ribbons" if released. After several hours of being blocked in the courtroom, police put the defendant into administrative detention as a sanction for allegedly using explicit language in the courtroom. None of the 'pro-unity' activists were arrested or sanctioned for the disorder they caused in the court. On 8 June 2016, the 'pro-unity' activists who blocked the courtroom were called as witnesses for the prosecution and testified against the defendant.

[87] Human Rights Committee,1178/2003, Smantser v. Belarus, para. 10.3; see Concluding observations Argentina 2010, para. 16; Panama 2008, para. 12.
[88] See 14th HRMMU report covering 16 February to 15 May 2016, paras. 72-74
[89] See 14th HRMMU report covering 16 February to 15 May 2016, paras. 74.
[90] Under Article 208 (Lawful apprehension by a competent official) of the Code of Criminal Procedure of Ukraine.

89. On 22 June, while the defendant's appeal was being heard, 'pro-unity' activists - some of whom were in military uniform - were present around the court and inside the courtroom. They openly threatened the defendant's lawyers and commented on their pleading before the judges. The latter refused to consider the evidence presented by the defence and, after about 10 minutes of deliberation, upheld the decision to extend the defendant's pre-trial detention. Police presence around the court and inside the courtroom was insufficient. On 1 August 2016, during a meeting with OHCHR, a high-level official from the Office of the Prosecutor General stated that the "initiative" of such activists is a critical bulwark against a biased and partial judiciary. OHCHR is concerned that such statements indicate the tacit consent of the prosecution in interference with the independence of the judiciary.

90. OHCHR is also deeply concerned about lack of progress in the trial of Serhii Khodiiak, an active member of 'pro-unity' movement, who has been identified and accused of killing one person in the city centre of Odesa on 2 May. On 31 May 2016, the Kyivskyi District Court of Odesa returned the indictment to the prosecution for revision. The court stressed that the indictment lacked critical information to justify the charges. The prosecution's appeal of the court decision is scheduled for September.

F. Parallel structures in armed group-controlled areas

91. Parallel structures, including 'courts', continued to develop and operate in the 'Donetsk people's republic' and 'Luhansk people's republic'. OHCHR reiterates that these structures have no legal status under Ukrainian legislation and contradict the spirit of Minsk Agreements. Furthermore, such structures affect the inalienable rights of people living in territories controlled by armed groups, function in an arbitrary manner and present no mechanism for victims of this system to get protection or redress.

92. The 'supreme court' of the 'Donetsk people's republic' reported that from 1 January to 1 June, 'courts of general jurisdiction' accepted 37,256 'cases', including 10,444 criminal ones. Also, according to the information reported by the 'prosecutor general's office' of the 'Luhansk people's republic' 2,215 individuals were sentenced to various types of punishment, including imprisonment in the first half of 2016. OHCHR has received regular complaints from relatives of people accused of alleged crimes committed before the outbreak of the armed conflict. Having spent several years in pre-trial detention without judgment, such detainees now face 'trial' by 'Donetsk people's republic' 'courts'.

93. OHCHR was informed that 'courts' of 'Donetsk people's republic' have heard or initiated proceedings in 29 criminal cases of rape against 33 accused. Nine criminal cases on espionage are under 'consideration' by the 'supreme court'.

94. The 'criminal code' of 'Donetsk people's republic' envisages death penalty as a sanction of last resort, however, according to the 'president' of the 'supreme court' of 'Donetsk people's republic'[91], in only one case did the 'supreme court' resorted to such punishment. The convict was 'found to be guilty of' a number of killings, participation in an armed gang and illegal handling and storage of weapons and ammunition. The 'sentence' has not yet been carried out.

95. All conflict-related detainees are under 'criminal investigation' for crimes against the 'Donetsk people's republic'. Having referred to principles and norms of international law which are guaranteed by the 'constitution' of the 'Donetsk people's republic', the 'president' of the 'supreme court' considered that the armed conflict, having a non-international character, does not envisage "prisoner of war" status for persons who directly participated in hostilities. He concluded that in these circumstances nothing prevents the 'prosecution' of individuals for their participation and conduct in hostilities.

96. The 'supreme court' of 'Donetsk people's republic' also reported initiating *in absentia* 'criminal proceedings' against judges, prosecutors and investigators working in various regions of Ukraine, based on provisions of the 'criminal code' of 'Donetsk people's republic'

[91] Information provided on 22 August 2016 to HRMMU. Although outside the reporting period, HRMMU believes it is important to mention these findings.

related to the 'intentional prosecution of an innocent person' and 'intentional passing of illegal judgement', in reprisal for decisions that may not have been favourable to members of the armed groups or in retaliation for the perceived political partiality of the judges.

97. As of 16 June, the 'military tribunal' of the 'Donetsk people's republic' - whose main function is described by the 'Donetsk people's republic' as the "administration of justice… for crimes committed by military servicemen" - had reportedly 'heard' 60 'criminal cases'. 41 'cases' were still being considered, nine had been transferred to 'general courts', while a 'decision' on 'exemption from criminal responsibility' had been issued in 12 'cases'. The 'military tribunal' rendered 18 'sentences' for various types of crimes, including murder.

98. The 'Luhansk people's republic' has adopted several 'legislative acts' that foresee the establishment of a 'supreme court', 'arbitration court', 'military court' and 18 district, city and city-district 'courts' in the territory under their control. Local interlocutors in Luhansk informed OHCHR that several 'first instance courts' were established and are operating. While there have been no developments in the establishment' of a 'supreme court', OHCHR was informed that there are persons 'accused' of grave crimes and deprived of their liberty in Luhansk awaiting 'trial' by the 'supreme court'.

V. Fundamental freedoms

> *"I cannot trust anyone. I came to talk to you because I know you. I am afraid to talk on the phone. Everyone says that all conversations are tapped. Isn't that prohibited?"*
>
> - A woman living in the 'Donetsk people's republic'

A. Violations and abuses of the freedom of movement

99. Civilians' freedom of movement across the contact line remained constrained. Since early June, parties to the conflict started moving closer to each other, violating the Minsk agreement. This resulted in a relocation of checkpoints on at least three transport corridors[92] (two in Donetsk and one in Luhansk region) and a shrinking of the "no-man's land" in between, which may reignite hostilities and endanger civilians. There are inadequate water, sanitary or medical facilities at the new entry-exit checkpoints. Areas around all transport corridors are mined, but not marked properly according to the International Mine Action Standards.

100. There were a number of security incidents at checkpoints, leading to the brief closure of Zaitseve and Stanytsia Luhanska transport corridors. On 16 June, an exchange of fire was reported at the Mariinka entry-exit crossing point, with one civilian consequently wounded. The checkpoint operations were suspended until the following morning.

101. Crossing the contact line remained arduous. With 26,000-32,000[93] people crossing the line daily, there were long queues at all five operational transport corridors. People waited for up to 36 hours, including overnight, with not or limited access to shade, latrines, water, medical aid, or shelter in case of shelling. As temperatures exceeded 30 degrees Celsius, some people, mostly elderly, lost consciousness while standing in line.

[92] On the Horlivka-Artemivsk transport corridor, the Government-controlled entry-exit checkpoint Zaitsevo was moved 800 meters towards the checkpoint controlled by 'Donetsk people's republic'. 'Donetsk people's republic' created a new 'military' checkpoint 600 meters towards Government-controlled side. The distance before was of about 2 kilometres. Now the distance is of approximately 600 meters. On the Donetsk- Mariupol transport corridor, the entry-exit checkpoint Novotroitske was moved three kilometres towards the checkpoint controlled by 'Donetsk people's republic'. The previous distance of four kilometres, now is reduced to 1 kilometre. On the pedestrian crossing of Stanytsia Luhanska, 'Luhansk people's republic' moved its checkpoint 450 meters towards that controlled by the Government of Ukraine.

[93] This is a conservative estimate of the average number of people crossing the contact line daily based on the data provided by the State Border Service. On some days, the number of people crossing exceeded 32,000 people.

There is a lack of availability of ambulance service in close radius to the contact line[94]. During the reporting period, three civilians died[95] at checkpoints due to delayed emergency medical assistance.

102. OHCHR received complaints regarding corruption at the Government-controlled checkpoints to ease passage, as well as reports of derogatory treatment, particularly at Zaitseve, Stanytsia Luhanska, and Mariinka checkpoints. While there is a Government hotline and a mechanism established by an NGO to receive complaints, people are often unaware of these mechanisms. On 29 June, a media professional informed OHCHR that at the end of May, while crossing Kurakhove checkpoint, she witnessed[96] one of the officers of the State Border Service verbally harassing civilians. After she complained that such remarks were unacceptable, the officer arbitrarily searched her personal belongings. Other officers present at the site did not intervene[97].

B. Violations and abuses of the freedom of peaceful assembly

103. While monitoring the 'Equality March' on 12 June and Orthodox Processions[98] held on 27-28 July, OHCHR noted significant progress made by the National Police of Ukraine in securing peaceful assemblies. Those who wanted to protest against the 'Equality March' were allowed to assemble. 57 individuals were temporarily detained and released after a few hours on administrative charges of minor hooliganism. A large police presence and high level of coordination between law-enforcement agencies was also observed during the Orthodox Procession. While no major incidents occurred, police effectively responded to several threats.

104. On the evening of 4 July 2016, more than 100 persons protested peacefully against the presence of military equipment in the centre of Toretsk, Donetsk region. Police arrested eight men and charged them with wilful disobedience[99], interrogated them without lawyers and did not bring them before court within three hours, as required by domestic law[100]. SBU officers threatened and intimidated the detainees and demanded access to their social media, interrogating them about their affiliation with the armed groups. The detainees spent the night sleeping on the floor of a small cell with only one mattress and a wooden bench. After the hearings, they were forcibly brought back to the police station although they had been officially released from custody. There, the Head of Police in Donetsk region allegedly insulted and threatened them. The Head confirmed to OHCHR that after the court hearings he ordered his subordinates to bring the eight men to him for a "disciplinary lecture."

Territories under the control of the armed groups

105. During the reporting period, OHCHR observed several rallies in the 'Donetsk people's republic'. While no incidents were reported, there are concerns as to whether participation was voluntary. On 10 June, OHCHR monitored a peaceful rally in Donetsk city against the deployment of an OSCE armed police mission to Donbas. Based on a range of accounts, it is evident that the gathering of about 12,000 – most of whom were employees of 'state-funded institutions" or students – was organized by the authorities of the 'Donetsk People's Republic'. OHCHR witnessed that people taking part in the protest were warned by 'volunteers' that if they would leave the site, their 'misbehaviour' would be reported to their superior or the 'authorities'.

[94] World Health Organization, Situation Report, 1 August 2016; OCHA Humanitarian Bulletin Ukraine Issue 13, 1-31 August 2016

[95] On 25 May, a man died of a heart attack while waiting for passage at the pedestrian crossing of Stanytsia Luhanska. On 13 June, an 82-year-old woman died of an epileptic attack at the same checkpoint. On 7 July, a 62-year-old man died at the Zaitseve checkpoint due to the deterioration of his health. Although first aid was provided, professional medical help was not available.

[96] HRMMU interview, 29 June 2016.

[97] HRMMU interview, 19 July 2016.

[98] The procession started on 3 July in Sviatohirsk Lavra in Donetsk region and on 9 July from Pochaiv, Ternopil oblast, and was dedicated to the day of Baptism of Rus (on 28 July 2016).

[99] Article 185 of the Code of Administrative Infractions.

[100] Article 263 of the Code of Administrative Infractions

C. Violations and abuses of the freedom of association

106. OHCHR continued to document repeated cases of harassment of Communist party members[101]. On 28 June, the apartment of a 68-year-old first secretary of the Kharkiv local branch of the Communist Party was searched and she was charged with trespassing the territorial integrity of Ukraine and bribing State officials[102]. On 30 June, a Kharkiv court ruled to place her in pre-trial detention. She informed OHCHR that her physical condition was stable but her health had deteriorated while in custody[103].

Territories under the control of the armed groups

107. OHCHR observed continued restrictions on civil society in the areas controlled by armed groups, limiting their ability to operate and deliver humanitarian aid. According to reports, due to the absence of a 'Donetsk people's republic' 'law' governing non-governmental organization (NGO) registration[104], the 'ministry of justice' informs NGOs operating in armed group-controlled areas that they cannot be registered.

108. On 21 July 2016, a co-founder of a humanitarian organization in Donetsk was deprived of her liberty by people who identified themselves as members of the 'ministry of state security' for the second time after her release at the end of February 2016[105]. On 9 August 2016, OHCHR was informed of her release.

109. While independent NGOs have been facing restrictions, OHCHR observed the growth of organizations created under the auspices of the 'Donetsk people's republic'. For example, the number of members of the civil society "Donetsk republic" organization has reached 140,000[106]. The NGO 'Peace to Luhansk Area', which reportedly aims at "fighting fascism and aspiring to the Russian world" has a membership of 72,500, compared to 11,500 in early 2016. Reportedly, membership is required for public sector employees[107]. There are serious concerns concerning the mandatory nature of membership, as well as data protection issues, as the lists of members are published online.

110. There is little to no space for free trade unions not affiliated with 'authorities'. OHCHR learnt[108] that only one trade union established by the 'Luhansk People's Republic' was allowed in Luhansk.

D. Violations and abuses of the freedom of opinion and expression

111. According to OHCHR interlocutors[109], Ukrainian media professionals have continued experiencing pressure from SBU or the Armed Forces when reporting on sensitive matters, such as military losses or unlawful conduct of Ukrainian soldiers. Some journalists also mentioned self-censorship when they feel that certain information could harm the Ukrainian Armed Forces or fear that Russian or armed groups media could exploit such information for propaganda purposes. In a notable increase in violence against journalists, OHCHR documented three incidents in Zaporizhzhia region and three in Kyiv. The cases appeared related to the professional activities of the journalists, intended to threaten them and stifle their reporting, and are being investigated by National Police of Ukraine.

112. On 8 July, the press centre of the 'Anti-Terrorism Operation Headquarters' (ATO HQ) requested SBU to suspend the accreditation of two Ukrainian and one Russian journalist reporting from Avdiivka, Donetsk region. After filming attacks that killed two Ukrainian soldiers[110], the journalists were requested by the Ukrainian armed forces to delay their publication by one day. The subsequent publication of the video was considered by the

[101] See 14th HRMMU report covering 16 February to 15 May 2016, para. 108.
[102] Articles 110 and 369 of the Criminal Code of Ukraine.
[103] HRMMU interview, 15 July 2016.
[104] HRMMU interview, 22 June 2016.
[105] See 14th HRMMU report covering 16 February to 15 May 2016, para. 111.
[106] As of 24 May 2016.
[107] HRMMU interview, 9 August 2016.
[108] HRMMU interview, 16 June 2016.
[109] HRMMU interview, 22 June 2016.
[110] HRMMU interview, 19 July 2016.

ATO HQ to be a violation of the rules of conduct of media professionals working in conflict areas[111] because the material disclosed the soldiers' faces, positions and weaponry. While the Government can introduce restrictions on journalists' activities along the contact line based on national security considerations, such restrictions must be provided by law, proportional and should not be arbitrarily applied. In this case, OHCHR considers that the response of the ATO HQ was disproportionate considering the measures taken by the journalists to comply with the requests of the Ukrainian armed forces.

113. On 31 May, the Presidential decree[112] on the enactment of the resolution of the National Security and Defence Council "on some personal sanctions" came into force, imposing sanctions[113] on 17 Russian journalists in addition to the previous sanction lists[114]. At the same time this decree lifted sanctions against 29 foreign journalists.

114. On 24 May, the website database *Myrotvorets*[115] published the names and contact details of an additional[116] 304 media professionals (300 international and 4 national), leading to adverse effects on people included in the list. Some media professionals have received offensive remarks or threats, and were labelled as 'separatists'. OHCHR interviewed several people who claim their bank accounts have been frozen due to their inclusion on the list or for anti-Maidan expressions.

115. On 14 July, journalist Ruslan Kotsaba, who had been sentenced[117] to three years and six months of imprisonment for having allegedly prevented activities of the Armed Forces of Ukraine, was declared innocent and released. The Ivano-Frankivsk regional court of Appeal overturned his conviction by the city court of 12 May 2016.

116. On 20 July, a prominent journalist, Pavel Sheremet working at *Ukrainska Pravda*, a popular Ukrainian online news outlet, was killed in a car bomb explosion in central Kyiv. The car he was driving belonged to one of the founding editors. The General Prosecutor stated that the incident was investigated as a murder.

Territories under the control of the armed groups

117. A media professional from Donetsk stated[118] that the analytical department of the 'ministry of information policy' of the 'Donetsk people's republic' thoroughly checks journalists' work and exercises strict oversight over publications, as a condition for accreditation. Media professionals in Donetsk reported that in recent months, most foreign journalists (except for Russian media professionals) were denied "accreditation" by the armed groups, leading to a drastic decrease of foreign journalists working in territories controlled by the armed groups.

118. On 21 June, the 'ministry of state security' of the 'Luhansk people's republic' 'published a video of a Ukrainian journalist deprived of her liberty, 'confessing' that she had

[111] Rules of conduct of media professionals working in the ATO zone. published by the State Committee of TV and Radio broadcasting: http://comin.kmu.gov.ua/control/uk/publish/article?art_id=129965&cat_id=114334

[112] Presidential Decree №224 / 2016 On the decision of the National Security and Defense of Ukraine of 20 May 2016 "On some special personal restrictive measures (sanctions)"

[113] Denial of issuance and cancellation of visas for residents of foreign States or other means of banning their entry into the territory of Ukraine.

[114] National Security and Defence Council decision of 2 September 2015 "On application of special personal economic and other restrictive measures (sanctions)", enacted by presidential decree of Ukraine from 16 September 2015 №549, containing a list of 388 individuals and 105 legal entities.

[115] The website includes personal data and information available on social media about people who are allegedly involved in activities of the 'Donetsk people's republic' and the 'Luhansk people's republic'. It is allegedly maintained by volunteers but has been actively used since 2014 by the Ukrainian forces at the checkpoints. As previously noted by OHCHR, it includes armed groups members as well as civil servants, who did not move to Government-controlled areas, as well as members of civil society who provide humanitarian assistance in the areas controlled by armed groups. See 14th HRMMU report covering 16 February to 15 May 2016, paragraph 87.

[116] On 10 May 2016 the Ukrainian website "*Myrotvorets"* published the personal data of 4068 Ukrainian and international journalists supposedly accredited to work in the 'Donetsk people's republic'.

[117] On 12 May 2016 the Ivano-Frankivsk city court sentenced the journalist Ruslan Kotsaba accused of treason and impeding the work of the Armed Forces of Ukraine, to 3 years and 6 months of imprisonment. See more details in 14th HRMMU report covering 16 February to 15 May 2016, paragraph 117

[118] HRMUU interview, 29 June 2016

been approached by SBU before travelling to Luhansk and requested to gather information about the members of a 'municipal council' and the armed groups. The 'Luhansk people's republic' stated she had been charged for 'espionage', which is punishable with up to 10 to 20 years of imprisonment under article 336 of the 'criminal code' of the 'Luhansk people's republic'.

119. In Donetsk, a blogger and activist from Kyiv remains deprived of his liberty by the 'ministry of state security' of the 'Donetsk people's republic' since January 2016 and charged with the unlawful possession of weapons[119]. On 27 June, there was reportedly a 'hearing' by a 'Donetsk people's republic' 'court', during which the blogger plead guilty and confirmed to have brought two grenades to the 'Donetsk people's republic'[120]. During the "hearing", he managed to give his father his sweater, which was covered with blood, raising concerns about possible ill-treatment by the 'Donetsk people's republic' 'investigators'.

120. On 1 June 2016, the 'head' of 'Donetsk people's republic' signed a decree 'On measures to protect state secret and official information"[121]. The 'decree' bans all 'Donetsk people's republic' 'civil servants' from using open communication channels, including Ukrainian mobile networks, email accounts and social media, when contacting anyone outside the 'Donetsk people's republic' (excluding the Russian Federation). The humanitarian community has noted the negative impact of such measures which, for instance, prohibit the sharing of necessary information on health care and social protection.

VI. Economic and social rights

> *"We sacrificed our lives working for this pension. Haven't we earned it?"*
>
> - Resident of Kuibyshevskii district of Donetsk city

A. Economic and social rights and early warning

121. The entire population of Ukraine continues to be affected by the deteriorating economic situation as a result of the conflict and instability in the east. In the first six months of 2016, prices increased by 4.9 per cent. Since 1 July, utility rates for heating increased by 75-90 per cent on average[122], whilst the average salary remained constant at UAH 4,934 (approximately USD 197). On 6 July, OHCHR monitored an all-Ukrainian demonstration organized by The Trade Union to demand an increase in the minimum wage[123] and a decrease in utility rates and rates for gas. While most demonstrators were working age men and women, there were also many older persons. Considering that 60 per cent of all pensioners receive between UAH 1,300 and 3,000 (USD 52 to 120), increased utility rates are a serious burden for most pensioners, despite Government subsidies to all households whose spending on utilities exceeds 15 per cent of their income.

122. According to the Ministry of Social Policy, 1,714,388 individuals were registered as IDPs as of 15 August 2016. Their integration has remained impeded by the absence of a State strategy and the consequent absence of allocation of financial resources, leading to the economic and social marginalisation of IDPs. Most communities hosting large numbers of IDPs have not received additional resources from the State and fully rely on humanitarian actors. Employment and accommodation are among IDPs' most pressing needs.

[119] On 16 August 2016, the 'central city district court' of Makiivka 'sentenced' him to two years of imprisonment for the 'illegal possession of weapons'.
[120] HRMMU interview, 12 July 2016
[121] Accessible online: http://old.dnr-online.ru/wp-content/uploads/2016/06/Ukaz_N155_01062016.pdf
[122] On 1 July 2016, the cost of utilities for heating and hot water doubled.
[123] Recognized as the economically minimum viable salary.

123. OHCHR has observed a worrisome trend of employers' refusing to hire former soldiers and members of volunteer battalions. Coupled with the lack of services for socio-economic rehabilitation, insufficient mental health support, proliferation of arms and substance abuse, this may destabilize communities and contribute to human rights violations. The International Labour Organisation's guidelines[124] on socio-economic rehabilitation of ex-combatants highlight the importance of creating employment opportunities for former soldiers, which are more sustainable and more effective than provision of short-term benefits.

Territories under the control of the armed groups

124. The increased hostilities during the reporting period have led to an isolation of some villages close to the contact line. For instance, in Yasne there is no public transportation, pharmacy, grocery store, medical facility, and phone reception has been very weak for more than a year. Yasne's residents have to use a taxi or walk to the closest town, Dokuchaievsk (some seven kilometres away) to buy groceries or access medical care[125].

125. Limited access to water remains one of the major concerns in the 'Luhansk people's republic'. In the period under review, the water supply on both sides of the contact line has been mostly affected by damage to electricity stations as a result of indiscriminate shelling, which then affects ability of water stations to operate. Continued exchanges of fire have on several occasions prevented repair teams from accessing damaged infrastructure, and have put the lives of their staff at risk. Negotiating 'windows of silence' to allow access and restore essential services has become more difficult as parties to the conflict continue to disregard humanitarian principles protecting vital civilian infrastructure. In addition, significant financial investment is required to rehabilitate water networks that have degraded due to a lack of continuous maintenance. Water utilities are reliant on humanitarian assistance to procure basic water treatment chemicals. There are increasingly frequent water supply interruptions as a result of continued conflict-related damage aggravating pre-existing vulnerabilities stemming from aging infrastructure, operational inefficiencies and unsustainable revenue streams. Overall, this affects the continuity and quality of water for the conflict-related population, particularly in the areas controlled by the armed groups.

126. Collective centres accommodating IDPs from the conflict-affected area are reportedly overcrowded. Many people therefore prefer staying in their sometimes heavily damaged apartments or insecure areas. With the intensification of shelling in recent months and increased damage to residential houses, more people are likely to need alternative accommodation. This may result in deteriorating conditions in collective centres, rise in the level of homelessness, and increased number of violations of housing, land and property rights.

127. Employment opportunities remain very limited. Before the conflict, the majority of the male population in Donetsk and Luhansk worked in coalmines, many of which have closed. OHCHR visited Trudovska mine, which employed 1,800 people prior to the conflict. Since closing in January 2015, 800 employees still registered at the coalmine have not received any salary and are not entitled to any social payments. In Zaitseve, armed groups are stationed in the local school and hospital, the chemical plant has closed down, and the coalmines either closed or are unable to pay salaries, thus leaving the majority of residents unemployed. The situation is similar in many other towns and villages. To tackle unemployment, in some towns, local 'authorities' have organized community works, for which residents receive a monthly salary of 2,500 RUB (nearly 40 USD) or food.

128. Many people in areas controlled by the armed groups continued to report that their relatives join the armed groups for financial reasons, as a last resort, unable to find other gainful employment[126].

[124] Available at:
http://www.ilo.org/wcmsp5/groups/public/@ed_emp/documents/instructionalmaterial/wcms_141276.pdf
[125] HRMMU interview, 16 June 2016.
[126] HRMMU interview, 16 June 2016.

B. Social security and protection of internally displaced persons

129. IDPs continued to face impediments to their economic and social rights. During the reporting period, OHCHR interviewed IDPs whose registration certificates were cancelled and payments suspended as a result of the verification procedure initiated in February 2016[127]. IDPs complained that they were not informed about the decision of local authorities to suspend payments, and described difficulties in reinstating their payments. A woman[128] from Perevalsk, Luhansk region, was accused by the Kharkiv Department of Social Protection of being a "cheater" and instructed to return her social entitlement payments to the State.

130. Approximately 85 per cent of IDPs residing in Government-controlled areas were severely or critically affected by such suspensions. In areas under the control of the armed groups, this concerned 97 per cent of IDPs. For the vast majority of IDPs (84 per cent) the procedure to renew IDP certificates and/or access social benefits and pensions was unclear, indicating a lack of or inadequate communication from the authorities[129].

131. The amendments adopted on 8 June 2016[130] have exacerbated the hardship experienced by IDPs, allowing automatic termination of benefits and proscribing two to six months for reinstatement, depending on the grounds for termination. OHCHR is concerned about the slow progress in the creation of special commissions for the verification of IDP residences.[131] For IDPs from Crimea, the situation is further aggravated by the fact that their IDP certificate is considered to be their only proof of residence in Government-controlled territory. Losing their IDP certificate leads to a loss of residency status.

132. While a recent study showed an overwhelmingly positive or neutral attitude of Ukraine's population towards IDPs[132], OHCHR has consistently observed cases[133] of discrimination against IDPs in accessing employment, accommodation or banking services based on the place of their origin. Checks of IDPs' 'living conditions' have contributed to the reluctance of landlords to rent housing to IDPs and to evictions. OHCHR also interviewed IDPs who were denied access to their bank deposits and credit.

133. Many IDPs believe that measures taken by the Government of Ukraine, against a backdrop of decreasing standards of living and limited social services throughout Ukraine, exacerbated by the mass cancellation of social entitlements[134], are aimed at forcing them to return to the armed group-controlled areas as a form of collective punishment. One woman told OHCHR that she travelled to the territories controlled by the armed groups to give birth as her payments had been suspended and she could not afford living in the Government-controlled areas anymore[135].

134. By depriving IDPs of their social entitlements, the Government is further deepening the socio-economic hardships of IDPs and their dependency on humanitarian aid. The deteriorating situation caused by the IDP laws may force the State authorities and international donors to reintroduce major humanitarian projects in the Government-controlled territories instead of focusing on integration and recovery programmes.

---

[127] See 14th HRMMU report covering 16 February to 15 May 2016, paras. 134-141. See also: http://www.reyestr.court.gov.ua/Review/58003597; http://www.reyestr.court.gov.ua/Review/57907662; http://www.reyestr.court.gov.ua/Review/57705871; http://www.reyestr.court.gov.ua/Review/57486306; http://www.reyestr.court.gov.ua/Review/57125552; http://www.reyestr.court.gov.ua/Review/58009943

[128] HRMMU interview, 29 June 2016.

[129] Monitoring Report on the suspension of IDP certificates, social payments and pension payments for IDPs in Kharkiv, Donetsk, Luhansk, Zaporizhia, Dnipro regions, conducted by the NGO Right to Protection.

[130] See paragraphs 26-30 in "Legal framework for internally displaced persons".

[131] See paragraphs 30-31 in 'Legal framework for internally displaced persons'.

[132] Kyiv International Institute of Sociology Studies, June 2016. The survey shows the following attitude towards IDPs across Ukraine: 43 per cent- positive, 47 per cent neutral, 6 per cent negative; and 58 per cent, 34 per cent and two per cent respectively in the five eastern regions.

[133] HRMMU interview 4 June 2016.

[134] R2P IDP monitoring report, VostokSOS monthly reports

[135] HRMMU interview, 17 July 2016.

135. Several legislative changes[136] have imposed undue and discriminatory obstacles for IDPs to access their social entitlements. As of 1 June 2016, IDP pensioners started receiving special bank cards (meant to also serve as identity documents) from the stated-owned 'Oshchadbank' bank. As of 1 July 2016, all social benefits and pensions must be paid to IDPs only via this bank, while all other recipients of social entitlements are free to use any other bank in Ukraine. IDP pensioners are also requested to undergo physical identification in Oshchadbank branches twice during the first year, followed by an annual visit. In case of failure to do so, all operations with the person's account will be suspended automatically by the bank until the IDP presents himself or herself. This provision imposes an additional burden on people with disabilities as well as for IDPs living in rural and remote areas. OHCHR also received information[137] that people receiving pension payments into their bank accounts cannot conduct online payments or purchases with their bank cards from the territories controlled by the armed groups. Allegedly, payments are only possible from Government-controlled territory.

C. Housing, land, and property rights

136. OHCHR has documented an increase in cases of people who are forced to pay high utility bills incurred by the use of their homes or apartments by either the Ukrainian armed forces or armed groups. Many of those affected have accumulated large debts that they cannot afford to pay. Some civil society organizations noted that this was a widespread issue in the Mariinskiy district and in areas adjacent to the Donetsk airport.

137. One woman reported how, despite repeated complaints to the Department of the National Police of Ukraine in Novoaidar District, soldiers continued to be stationed in her house during the reporting period, which was looted and damaged[138]. Another woman, whose house in Avdiivka was used by different groups of soldiers for over a year, received a high electricity bill in May 2016. As an ad hoc solution, she was provided a certificate by the local military commander's office and was able to appeal to the utility company[139]. OHCHR continued to follow a civil claim concerning destroyed property where a resident of Sloviansk successfully litigated the damages to her house inflicted in the course of the conflict[140]. OHCHR notes that the Ministry of Justice has appealed the decision. These cases show that there is no mechanism of complaint and remedy for civilians whose property has been used for military purposes or damaged in hostilities. OHCHR recalls that all IDPs have the right to restitution of their housing, land and/or property, of which they were arbitrarily or unlawfully deprived and to be compensated for any loss or damage[141].

138. OHCHR witnessed the use of private houses by members of Ukraine's armed forces, in Shchastia, Staryy Aidar, Lopaskine, Trokhizbenka, Bakhmutka, Nyzhnia Zhovanka, Verkhnia Zhovanka, Kriakivka in Donetsk and Luhansk regions. In Government-controlled areas, despite complaints from the affected population to local authorities, the National Police is often either reluctant to investigate such cases or unable to do so due to lack of access to areas near the contact line.

139. The lack of a mechanism to conduct inspections and assess damage to property – which is indispensable for future justice processes – hinders victims' ability to seek remedy in restoring their property rights. Although both the National Human Rights Action Plan and the Comprehensive IDP State programme[142] envisage the establishment of a compensation

[136] Cabinet of Ministers, Resolution No. 167 "On Introducing Changes to some Resolutions of the Cabinet of Ministers of Ukraine", March 2016. The Resolution amends three other Government acts regulating registration of IDPs and the provision of social benefits for IDPs.
[137] HRMMU interview, 7 July 2016.
[138] HRMMU Interview, 25 May 2016, 15 August 2016.
[139] HRMMU Interview, 6 July 2016, 23 July 2016.
[140] On 15 March 2016, the Donetsk Regional Court of Appeals in Bakhmut, ordered the State to compensate for the damage caused to a property as a result of shelling in June 2014.See 14th HRMMU report covering the period 16 February – 15 May 2016,
[141] Principles on Housing and Property Restitution for Refugees and Displaced Persons ("Pinheiro Principles"), Principle 2.
[142] Cabinet of Minister Resolution No. 1094 "On the approval of the Comprehensive state programme of support, social adaptation and reintegration of citizens of Ukraine who moved from the temporarily occupied territory of

mechanism for damaged and destroyed housing, land and property, no concrete steps have been taken in that regard. OHCHR is concerned that Ukrainian courts have continued to reject claims on the basis of insufficient evidence establishing individual responsibility.

140. OHCHR continued to observe the alarming accommodation situation for IDPs in collective centres across Ukraine. In Odesa, since December 2015, around 400 IDPs predominantly with disabilities (including 42 persons in wheelchairs) inhabiting Kuialnyk sanatorium have been subjected to threats of forced eviction due to outstanding debts for accommodation. In addition to constant threats of eviction, owners utilize electricity and water cuts as a means to pressure regional authorities to cover the accommodation costs of IDPs.

141. On 24 June 2016, a number of IDPs, together with a 'self-defence' group in Odesa, seized a communal building after numerous attempts at obtaining support from the regional authority to solve their housing problems.[143] OHCHR notes a worrying tendency to resolve pressing socio-economic and political issues with the help of voluntary battalions and paramilitary groups.

Territories under the control of the armed groups

142. Armed groups continued to loot and use civilian homes and other property for military purpose. During a monitoring visit to Kuibyshevskyi district in Donetsk, OHCHR observed that members of armed groups were present in the neighbourhood's bomb shelter[144]. Some residents mentioned having been expelled from this shelter by members of the armed groups and having nowhere to go when shelling takes place. Some also indicated that armed group members used to stay in residential apartments. Residents also claimed that armed group members had looted shops and apartments. Residents did not provide any details, noting that complaints to the armed groups tended to be followed by intimidation.

143. The vast majority of private houses, dormitories and apartment buildings in Kuibyshevskyi district have been damaged. During the reporting period, the area was further shelled. Due to the ongoing shelling and damage to civilian homes, the 'Donetsk people's republic' appears reluctant to provide funding for the restoration of damaged property. The few remaining residents reported that they did not leave their homes to protect their property from looting and armed group presence. Some informed OHCHR that despite a 'Donetsk people's republic' commission's visit to the area in May 2015 and their commitment to restore the damaged buildings, no action has been taken to date.

144. Armed group-controlled parallel property registration systems are being developed or already in force, negatively affecting persons owning, inheriting, selling or buying property. According to its 'internal regulations'[145], the 'Donetsk people's republic' recognizes only property registration documents issued by their 'structures'. As a result, people either residing in or owning property in areas controlled by the armed groups are forced to register it on both sides of the contact line, paying double taxes and administrative fees. Unresolved disputes over housing, land and property prevent durable solutions for returnees, may force returns by those seeking to defend their property rights, and threaten peace and stability prospects[146].

Ukraine and the areas of anti-terrorist operation in other regions of Ukraine for the period till 2017", 16 December 2015.

[143] HRMMU Interview, 8 July 2016.

[144] HRMMU interview, 19 May 2016.

[145] The 'cabinet of ministers' of the 'Donetsk people's republic', No. 17-3, 2 September 2015, prescribes that property documents issued between 11 May 2014 and 3 September 2015 by Ukrainian authorities must be legalized by the inter-agency commission at the 'ministry of justice' to be regarded as having legal force. On 12 July 2016 the 'Donetsk people's republic 'supreme court' issued an 'explanatory letter' providing that property registration documents have to be "legalized" according to this procedure.

[146] See Early Warning and Economic and Social Rights, paragraph 23.

D. Right to the highest attainable standard of physical and mental health

145. Former detainees, including victims of torture, continue to face difficulties in accessing medical care. Most military personnel who had been detained by armed groups can access free specialized medical services in military hospitals, including testing and treatment. However, despite legislation guaranteeing psycho-social rehabilitation of demobilized soldiers, there is no referral procedure and there is a lack of adequate service providers. Those who had been members of volunteer battalions are not entitled to free treatment. The absence of a comprehensive State rehabilitation programme does not allow for proper integration of demobilized soldiers and members of volunteer battalions into communities.

146. Civilian conflict-related detainees face even greater challenges. Upon their release, they are unrecognized and thus not entitled to any medical, psychological or social services and support. State entities often lack the skills and capacity to deal with these groups, which can lead to their re-victimization. Consequently, civilians released from captivity and the relatives of missing persons rely on the assistance of volunteers and civil society organizations.

147. Conflict-related detainees continue to have limited access to medical treatment in detention. OHCHR has noticed the deterioration of the medical state of several detainees at SIZO premises in Mariupol and Zaporizhzhia region. At the Vilniansk SIZO, as of 21 July, a conflict-related detainee was denied medical assistance despite a 5 April 2016 court decision mandating his transfer to a medical facility and treatment.

Territories under the control of the armed groups

148. In the areas controlled by the armed groups, OHCHR noted persistent difficulties with availability[147] and accessibility[148] of healthcare for civilians. Medical facilities and first aid are particularly limited along the contact line. In the village of Olenivka (near a checkpoint), controlled by the armed groups, the sole ambulance was reportedly[149] relocated to Dokuchaivsk (10 kilometres away), making it difficult for people to access first aid. The situation is worsened by the fact that telephone mobile networks barely function in Olenivka. In armed group-controlled Zaitseve, armed groups are positioned in the hospital (See: Alleged violations of international humanitarian law, para. 36) and the residents can only receive first aid in a polyclinic in Mykytivka (18 kilometres away); those injured can only be hospitalized in Horlivka hospital (20 kilometres away). OHCHR learned about a woman who died because the ambulance could not come to her assistance[150]. The residents of Kuibyshevskiy district reported similar problems.

149. In armed group-controlled Sakhanka village, 700 people (including 130 children) are without medical care or assistance. The village's only doctor left at the outbreak of the armed conflict, and a nurse resigned in early July 2016.

150. According to the chief doctor of one of the major hospitals in Donetsk city, there is shortage of nurses; approximately 80 per cent of them live in rural areas that are across or near the contact line, and are no longer able to get to the hospital.

151. Medical facilities in armed group-controlled areas still largely depend on humanitarian aid. Since humanitarian actors are not allowed to operate freely in the 'Donetsk people's republic', treatment for some groups of patients remains limited and often

[147] For the purpose of this report, availability means that functioning public health and health care facilities, goods and services must be available in sufficient quantity within a State.
[148] For the purpose of this report, accessibility means that facilities, goods and services must be accessible physically (in safe reach for all sections of the population, including children, adolescents, older persons, persons with disabilities and other vulnerable groups), as well as financially, and in a non-discriminatory manner. Accessibility also implies the right to seek, receive and impart health-related information in an accessible format (for all, including persons with disabilities).
[149] As reported by OSCE SMM monitors on 2 June 2016.
[150] HRMMU interview, 15 July 2016.

inaccessible. The wife of a man recently diagnosed with diabetes alleged[151] they could not receive insulin in two Donetsk hospitals and had to cross the contact line to purchase medication. While on 12 July 2016[152] the 'minister of health' of 'Donetsk people's republic' stated that there was sufficient supply of insulin, the type available is not suitable for all patients. He did add that overall only 20 per cent of medication required by hospitalised patients is available in the medical facilities under control of the 'Donetsk people's republic'.

152. The need for psycho-social support remained high and largely unmet. Residents in conflict-affected areas of Donetsk have complained about sleep deprivation due to exchanges of fire every night. Civil society and international organizations providing psycho-social support remain severely restricted by the 'Donetsk people's republic'.

VII. Human rights in the Autonomous Republic of Crimea[153]

> *"They put a gas mask with a hose on my head, opened the bottom valve and sprayed gas. I started vomiting and choking. Then, they removed the mask, gave me smelling salts, and started again."* - Genadii Afanasiev

A. Rights to life, liberty, security and physical integrity

153. Tensions between Ukraine and the Russian Federation rose after Russia's Federal Security Service (FSB) stated on 10 August that it had detained a group of saboteurs on Crimean territory, near the northern city of Armyansk, and had prevented terrorist acts on the peninsula organized by the Main Intelligence Department of the Ukrainian Defense Ministry. Twenty improvised explosive devices containing more than 40 kilograms of TNT equivalent, ammunition, mines and grenades were said to have been found. An FSB officer and a Russian serviceman were allegedly killed in armed clashes with the group of infiltrators on 6 and 7 August 2016. The Ukrainian General Staff denied any involvement, and Ukrainian President Poroshenko called the FSB claims "a provocation". On 11 and 13 August 2016, two alleged members of the group were arrested and remanded in custody for two months. A third suspect was reportedly arrested on 30 July 2016 in Simferopol airport.

154. On the night of 24 May 2016, a Crimean Tatar, Ervin Ibragimov went missing. His father found his car abandoned outside their home, with the doors open and the key left in the ignition. Ervin Ibragimov is a member of the Coordination Council of the World Congress of Crimean Tatars and of the Bakhchisaray regional Mejlis. Footage from a CCTV camera shows a group of men forcing him into a van and driving away. On 25 May 2016, Ervin Ibragimov's father went to the FSB in Simferopol to file a complaint and provide the CCTV footage. The FSB officers allegedly refused to file the complaint and told him to send it by post. The 'police' in Bakhchisaray opened an investigation into the incident. A week before he disappeared, Ibragimov had told his friends he had noticed a car waiting outside his house that later followed him during the day. On 25 May 2016, he was due to travel to the town of Sudak to attend the court hearing of a group of Crimean Tatars charged for holding an "unauthorized" gathering on 18 May 2016 to mark Crimean Tatar Deportation Remembrance Day. On 1 June 2016, Ervin Ibragimov's employment record book and passport were found near a bar in Bakhchisaray. This is the tenth case recorded by OHCHR

[151] HRMMU interview, 19 May 2016.
[152] Roundtable chaired by the head of the 'Donetsk people's republic' with the 'minister of health' and chief doctors of the hospitals, Donetsk city, 12 July.
[153] The Autonomous Republic of Crimea technically known as the Autonomous Republic of Crimea and the City of Sevastopol, in line with United Nations General Assembly Resolution 68/262 on the territorial integrity of Ukraine. OHCHR has not been granted access to Crimea and has no *in situ* presence there. It has been able to follow the human rights situation through contacts with Crimean residents on the peninsula and mainland Ukraine, and relying on a variety of interlocutors, including representatives of political, religious, civil society organizations, victims, relatives and witnesses of alleged human rights violations, members of the legal profession, journalists, entrepreneurs, teachers, doctors, social workers, human rights activists and other categories, including individuals with no specific affiliations. OHCHR has continued to seek access to Crimea.

since March 2014 – and the first in 2016 – of a person missing in circumstances, which could indicate the existence of political motivations.

155. On 21 June, OHCHR met Larisa Shaimardanova, the mother of Timur Shaimardanov, in Strilkove, Kherson region. Timur is one of the 10 people who went missing in Crimea in circumstances that appear to be politically motivated since March 2014. When the events in Crimea began in late February 2014, he took part in pro-Ukrainian rallies. After the March 2014 'referendum', he initiated the creation of 'Ukrainsky Dom' (Ukrainian house), a civic association promoting Ukrainian culture and language in Crimea. On the day of his disappearance, on 26 May 2014, Timur Shaimardanov called his parents, saying he had "important things to do" and would not be able to be in touch for a while. Three days later, his disappearance was reported to the police. Several seemingly unrelated facts were mentioned to OHCHR by his mother but none have proven to be decisive in shedding light on his disappearance. Timur Shaimardanov's latest job was to advise a local politician and businessman from Simferopol on financial issues; he allegedly converted to Islam; he was acquainted with Oleg Sentsov, Gennady Afanasiyev and Oleksandr Kolchenko who were arrested by the Crimean *de facto* authorities in May 2014 and sentenced for allegedly planning terrorist acts. In March 2014, Timur Shaimardanov was trying to organize a "resistance movement" in Crimea and was reportedly trying to establish contacts in Ukraine for that purpose.

156. Two individuals reportedly told Ms Shairmardanova that her son was alive and detained in Crimea, which could not be verified. She met with the Crimean investigators in charge of her son's case several times, but to no avail. Several hundred witnesses have allegedly been interrogated and the case file concerning Timur Shaimardanov contains 11 tomes of documents.

B. Due process and fair trial rights

157. On 10 June 2016, a Crimean court sentenced Andriy Kolomiyets, a resident of Kyiv region, to 10 years' imprisonment in a high-security prison. He was sentenced to six years for allegedly attacking a Ukrainian Berkut riot police officer in Kyiv during the Maidan events in February 2014, and to four years for possession of drugs. Kolomiyets was arrested in the Russian Federation on 15 May 2015 and transferred to Simferopol, where he has been held in custody since 13 August 2015. He is the second Maidan activist sentenced in Crimea, following Oleksandr Kostenko, who was sentenced on 15 May 2015. Both men were convicted on the basis of legislation introduced after the March 2014 'referendum' for acts that occurred prior to that date. This raises serious concerns about compliance with the principle of legality, particularly due to retroactive application of the law.

158. On 22 July 2016, OHCHR interviewed Genadii Afanasiev, a pro-Ukrainian activist, in Kyiv. He was arrested in Simferopol on 9 May 2014, and sentenced to seven years on terrorism charges, allegedly for plotting terrorist acts in Crimea together with film-maker Oleg Sentsov and Oleksandr Kolchenko. He was pardoned on 14 June 2016 and exchanged. During the interview he provided information on human rights violations relating to the right to life, and freedom from torture, as well as extensive violations of due process, procedural guarantees and fair trial rights.

159. Genadii Afanasiev stated he had not been involved in any political activities until 23 February 2014 when Russian Federation troops started blocking Ukrainian military units in Crimea. From that moment, he started organizing people to provide the Ukrainian military with humanitarian help and was an active participant of pro-Ukrainian rallies.

160. On 9 May 2014, armed men in civilian clothes abducted him on the street, pushing him into a car, putting a mask over his head and beating him on the stomach and head. He was asked to confess that he intended to blow up the Eternal Flame monument in Simferopol and knew Oleh Sentsov and Oleksandr Kolchenko, and threatened with summary execution. Ten days after a Crimean judge ordered him to be placed in remand detention, he was transferred on 19 May 2014 to an FSB prison facility in Moscow.

161. Various forms of torture – including beatings, electrical shocks, choking and threats of sexual violence – were regularly applied to him during the two years of his

detention, both in Crimea and the Russian Federation. He was forced to incriminate himself by confessing to intentions he did not have. Having entered a plea agreement, Genadii Afanasiev was sentenced on 24 December 2014 by the Moscow City Court to 7 years of imprisonment. Physically exhausted, he also agreed to testify against Sentsov and Kolchenko. However, on 31 July 2015, during a court hearing in the Military court in Rostov-on-Don, Afanasiev revoked his earlier testimony against Kolchenko and Sentsov, stating they were extracted under duress.

162. He was later sent to a strict regime colony in Syktyvkar, Republic of Komi, located 3,000 km from Crimea. During the months that preceded his exchange on 14 June 2016, he continued being subjected to abuses and ill-treatment: he was denied medical care for weeks, refused the right to attend religious service, repeatedly placed in isolation cells, regularly insulted, and prevented from filing complaints about his treatment to the prosecution and police.

C. Violations of the freedom of peaceful assembly

163. 18 May marked the Day of Remembrance of the victims of the Soviet deportation of Crimean Tatars. Peaceful gatherings, prayers, and requiems were organized throughout Ukraine.

164. In Crimea, a memorial complex dedicated to the victims of the deportation was inaugurated by the *de facto* authorities in the Bakhchysaray district, near the railway station that was used by Soviet authorities to deport Crimean Tatars. The complex is expected to be completed in 2019 on the 75th anniversary of the deportation. Initiatives from groups or individuals not affiliated with the *de facto* authorities were viewed with suspicion. The Crimean 'police' briefly detained and interrogated several people who had taken part in unauthorized motor rallies. 'Legal proceedings' were initiated against four Crimean Tatar men from Sudak. The 'court' eventually cleared them of the accusation that they had committed an administrative offense by taking part in an unauthorized motor rally during which they waved the Crimean Tatar flag. Representatives of the Mejlis could not organize any events as Crimea's 'supreme court' declared it an extremist organization and banned its activities on 26 April 2016.

165. On 4 July 2016, the *de facto* 'government' of Crimea amended a November 2014 resolution[154] listing all the places in the 'republic of Crimea' where public events can be organized. According to the 2014 resolution, notifications for public events could be made for 665 locations in 11 cities and 14 districts throughout the 'republic of Crimea'. The July 2016 amendments[155] reduce the number of locations to 366 – almost by half – without explaining the motives for the decision.

166. The city of Kerch, the second most populated city in Crimea, is the most affected with the number of locations for public events reduced by 80 per cent (from 15 to 3). In eight Crimean districts[156] and two cities[157] between 50 and 75 per cent of the places formerly designated for public gatherings can no longer be used for such purposes. In three cities[158] and three districts[159], the reduction involves from 10 to 50 per cent of the original locations. Four cities[160] and two districts[161] retain the same number of locations for public gatherings, and in one city[162] and one district[163], the number of places for public events has increased.

[154] See Resolution of the Cabinet of Ministers of the Republic of Crimea N 452 "On approving the list of places for the conduct of public events on the territory of the Republic of Crimea", 12 November 2014.
[155] See Resolution of the Cabinet of Ministers of the Republic of Crimea N 315 of 4 July 2016 "On Amending the Resolution of the Cabinet of Ministers of the Republic of Crimea N 452 of 12 November 2014".
[156] The districts of Bakhchisaray, Dzhankoy, Krasnogvardeisk, Lenin, Nizhnegorsk, Razdolnensk, Saki and Chernomorsk.
[157] The cities of Dzhankoy and Krasnoperekopsk.
[158] The cities of Armyansk, Evpatoria and Sudak.
[159] The districts of Kirov, Simferopol and Sovietkiy
[160] The cities of Simferopol, Alushta, Saki and Feodosiya.
[161] The districts of Belogorsk and Pervomaisk.
[162] The city of Yalta.

167. OHCHR notes that the July 2016 amendments further restrict the possibility of Crimean residents to organize and hold peaceful public events. They mention "specially designated places" for public gatherings. Such terminology implies that the exercise of the right to peaceful assembly applies within a reduced public space and by way of exception. The UN Human Rights Committee has noted that "the relation between right and restriction and between norm and exception must not be reversed[164]". In addition, blanket legal provisions which ban assemblies at specific times or in particular locations, require greater justification than restrictions on individual assemblies[165]. The imposed restrictions do not appear to be 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, and appear to be designed to dissuade the exercise of the right to freedom of assembly[166].

D. Violations of the freedom of opinion and expression

168. Pressure, in the form of questioning, house searches, and warnings, continued to be exercised on people by the 'police' and FSB for expressing their views or engaging in activities, abusively deemed 'extremist'.

169. On 30 May 2016, Lilia Budzhurova, deputy director of the Crimean Tatar channel ATR and a contributor to AFP, was warned by Crimean 'prosecutors' against expressing "extremist" views due to her criticism of the arrests of Crimean Tatars on social media.

170. On 18 July 2016, the head of the Ukrainian Cultural Centre in Simferopol, Leonid Kuzmin, was summoned for questioning by the 'police' in relation to his activities at the Centre. On the same day, a former Maidan activist from Yalta, Larisa Kitayskaya, was briefly detained and interrogated by the FSB and her home was searched. In both cases, the individuals are free and no charges have been pressed against them.

171. It is OHCHR view that the pattern, seen in other cases, of exposing individuals to police actions without any justification, can be considered as a form of harassment, which is often accompanied by interferences with privacy.

E. Violations of the freedom of movement

172. The three crossing points between Crimea and mainland Ukraine were closed on several occasions in early August, causing hardship and long queues for people who were prevented from freely moving across the administrative boundary. While there were rumours about unspecified 'military activity' inside Crimea, the situation remained unclear until the FSB declared on 10 August that a group of Ukrainian infiltrators preparing terrorist acts had been arrested. As of 15 August 2016, the movement of vehicles and people had fully resumed but was slowed by enhanced security measures, particularly in the direction of mainland Ukraine.

173. People from mainland Ukraine and Crimea complained to OHCHR of the difficulties of transporting personal belongings to and from Crimea. The issue became particularly acute following the adoption by the Ukrainian government of decree No. 1035 of 16 December 2015 prohibiting transportation of personal items, with the exception of property mentioned in a list of allowed items contained in Article 370 of the Custom Code of Ukraine. Affected people underlined to OHCHR that this feeds corrupt practices.

174. Crimean residents also faced challenges in their freedom of movement due to regulations on travel with children. In order to enter mainland Ukraine, Crimean children accompanied by one parent need to have the notarized approval of the other parent. However, 'notary acts' – or any other acts – issued in Crimea are not recognized by Ukraine. This means that parents must go to mainland Ukraine or the Russian Federation to obtain

[163] The district of Krasnoperekopsk.
[164] See General Comment No 34 of the Human Rights Committee, paragraph. 21 (12 September 2011).
[165] See A/HRC/31/66 para. 30, A/HRC/23/39 para. 63
[166] A/HRC/31/66 para. 29, 34.

notarized permission, which is time consuming and a financial burden. OHCHR interlocutors have stressed that legal and administrative barriers further isolate Crimeans from Ukraine.

175. A security issue was also noted by OHCHR at the Kalanchak and Chaplynka crossing points. It relates to the presence of insufficiently marked minefields on both sides of the road leading to the Administrative Boundary Line. The representatives of the State Border Service said they had no maps indicating mine locations near the crossing points. Although small triangular mine signs are visible, there is a real risk of accidentally walking into an ill-marked minefield.

F. Minority and indigenous peoples' rights

176. In an undated letter seen by OHCHR on 29 May, the 'vice prime minister of Crimea' informed the heads of local governments in Crimea that the Mejlis was found by the "supreme court" of Crimea to be an extremist organization. The letter mentions that all activities, rallies or gatherings conducted on behalf of the Mejlis are prohibited but claims this does not affect the rights of the Crimean Tatars. It further requires local officials to report to the 'prosecutor' of Crimea any violations committed by Mejlis members or activists.

177. OHCHR notes that on 25 May the Mejlis lodged an appeal to the Supreme Court of the Russian Federation against the Crimean court 'decision'. The letter thus appears to take no account of this fact or to anticipate a rejection of the appeal. Furthermore, the ban on the Mejlis, which is a self-government body with quasi-executive functions, appears to deny the Crimean Tatars – an indigenous people of Crimea – the right to choose their representative institutions.

178. A 'court' in Crimea has ruled on 11 August that Ilmi Umerov, one of three vice-chairmen of the Mejlis, must be placed in a psychiatric clinic for examination. The court decision was based on a motion filed by the investigators. Mr. Umerov was charged with separatism in May 2016 after he made public statements denying that Crimea was a part of the Russian Federation. He was allowed to stay home during investigations into his case. During the court hearing, Mr. Umerov's tension rose and he was hospitalized.

179. On 26 May, searches were conducted by the Crimean 'police' as part of an operation allegedly targeting illegal migration. Four Crimean Tatars running a joint business were detained and released after a few hours. In total, at least 20 people, including Crimean Tatars and citizens of Uzbekistan, were interrogated in this context. The first deputy head of the Mejlis criticized the "utter arbitrariness" of the actions of the *de facto* authorities. OHCHR is concerned that a series of police actions conducted since the beginning of 2016 seem to disproportionately target members of the Crimean Tatar community.

G. Rights of detainees

180. While Genadii Afanasiev is the first sentenced Crimean resident who has been transferred to mainland Ukraine, there is only fragmented information about the situation of detainees on the peninsula.

181. Crimea has one pre-trial detention centre (in Simferopol) and two penitentiary institutions, including a strict regime colony in Simferopol and a general regime colony in Kerch. There are no prisons for women in Crimea. Thus, all women sentenced to prison terms on the peninsula are transferred to penitentiary institutions in the Russian Federation. Between 18 March 2014 and 15 June 2016, 240 women convicted by Crimean 'courts' were sent to the Russian Federation to serve their sentences[167].

182. The Simferopol and Kerch prisons have between 600 and 700 male convicts each. According to the Crimean ombudsperson up to 380 convicts could be Ukrainian citizens with registration in mainland Ukraine. However, many have no documents and are believed to have purposefully 'lost' them in order to get Russian Federation citizenship.

[167] Information contained in a letter of the Russian Federal Penitentiary Service for the Republic of Crimea and the city of Sevastopol of 22 June 2016.

Sixteen Ukrainian citizens are said to be held in remand in the pre-trial detention centre in Simferopol. There is no confirmed information about the number of prisoners from Crimea who rejected Russian citizenship and filed petitions asking to be extradited to Ukraine.

183. A representative of the Ukrainian Ombudsperson's institution informed OHCHR that the Ukrainian and Russian Federation Ombudspersons agreed to cooperate on the issue of prisoners. A first list of 18 prisoners who wish to be transferred to Ukraine has reportedly been drawn up and agreed upon by both sides. All were sentenced in Crimea by Ukrainian Courts at a time when Ukraine still exercised full control over the peninsula. Both sides reportedly agreed to work to establish an *ad hoc* mechanism providing practical solutions, avoiding politically sensitive formulations and any references to international conventions, to facilitate the transfers.

VIII. Technical cooperation and capacity-building toward the promotion and protection of human rights in Ukraine

184. OHCHR is increasingly providing technical cooperation to and capacity-building of national and international partners in Ukraine. This is particularly relevant within the Constitutional reform framework. OHCHR advises duty-bearers within the Government and the armed groups on the results of its findings, works with civil society partners on how to advocate on their implications, and raises awareness and support among others in order to respond and take action.

185. OHCHR leads a UN human rights working group that supports the Government in a number of areas, including by providing technical cooperation and expertise for the implementation of the National Human Rights Action Plan. It has been facilitating preparations for a training session involving Government officials and UN agencies on applying a human rights-based approach to the development of the United Nations Development Assistance Framework (UNDAF). OHCHR with other UN agencies has also been supporting Ukraine to set its own development platform based on the Sustainable Development Goals (SDGs) agenda launched in September 2015, in particular by advocating for the platform to reflect international human rights instruments and standards. OHCHR has also engaged with the Government working group on judicial reform, whose work culminated in the constitutional amendments concerning the judiciary.

186. OHCHR advocated for amendments to the Law "On the civil service". The law adopted in December 2015 would deny the Ombudsperson the ability to select her staff. This situation could undermine the independence of the national human rights institution according to the 'Paris Principles'. A number of legislative initiatives are currently under discussion to address this situation.

187. OHCHR closely cooperated with the National Preventive Mechanism against torture, established by the Ombudsperson's Office in 2012 in accordance with Ukraine's obligations as a party to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In strategic cases, OHCHR has shared allegations leading to regular visits to high-risk places of detention and strengthened human rights protection. OHCHR also partnered with the Ombudsperson's Office and international NGO Physicians for Human Rights to prepare a consultative workshop on medical aspects of documenting torture to be held in early September 2016. The workshop will address challenges and technical cooperation needs in introducing the Istanbul Protocol in Ukraine. OHCHR also extended grant support to two national human rights NGOs to implement projects on recording human rights violations, advocacy and assistance to victims of the conflict in the east of Ukraine, and on comprehensive socio-psychological assistance to former conflict-related detainees, victims of torture and families of missing persons, respectively.

188. Through monitoring individual cases of IDPs requiring protection, OHCHR has noted that the absence of a State strategy and the consequent absence of allocation of financial resources have led to the economic and social marginalisation of IDPs. Working

together with Government organs at the State and local level, OHCHR has raised the importance of protecting IDP rights within an anti-discrimination framework.

189. Throughout the reporting period, OHCHR contributed actively and substantially to a number of UN advocacy documents on human rights concerns arising directly from the conflict. This included the 2 August 2016 statement by the High Commissioner on a significant increase in civilian casualties, issued at a critical moment to bring the attention of the international community to the human cost of ceasefire violations in eastern Ukraine.

190. During the reporting period, OHCHR has rigorously advocated with the Government to combat impunity. Through issuing a public thematic report on accountability for killings[168], OHCHR issued and engaged with relevant entities on a set of actionable recommendations toward effective investigations of violations committed in the context of the conflict in the east as well as during the Maidan and Odesa events in 2014, which fuelled instability.

191. Accountability is critical for stability, human rights and effective governance. It is also an important step for future reconciliation, and plays a role in achieving peace, justice, and strong institutions based on the rule of law as part of the Sustainable Development Goals, on which OHCHR will work with the Government and partners.

192. Documented cases of human rights violations and abuses and violations of international humanitarian law provide indicators of ongoing and developing trends, and their registration in a database in accordance with OHCHR best practices and methodology provides a concrete tool to support efforts toward accountability. Verification and follow-up of the violations and abuses documented in this report was undertaken through meetings with State officials at national and regional levels and members of the armed groups, to discuss, advocate and act where appropriate on these reported violations, including allegations of arbitrary detention, deprivation of liberty, torture and ill-treatment, disappearances, including enforced disappearances, and issues related to freedom of expression, association, and movement.

193. OHCHR findings on critical human rights and humanitarian challenges as well as broad sets of recommendations aim to de-escalate tensions and strengthen human rights protection. OHCHR is well positioned to carry out its mandate to monitor, report, and advocate on the human rights situation in Ukraine, as well as provide sustained technical cooperation to the Government, some State institutions, and civil society.

IX. Conclusions and recommendations

> *"I want us to live in peace. We always did. We are all brothers and sisters. For what and for whom is this war? Not for me. Not for them."*
>
> - Woman living in Ternopil, mother of a Ukrainian soldier

194. The escalation in hostilities and drastic increase in civilian casualties between 16 May and 15 August demonstrates the urgent need for Government forces and armed groups to recognize and act to prevent harm to civilians. OHCHR urges all parties to the conflict to take all necessary steps to protect civilians. This entails a full withdrawal of military personnel, fighters and weapons from the contact line, removing them from protected objects such as schools and specially protected facilities such as hospitals and medical centres, and refraining from using mortars and rockets in areas populated by civilians. All parties to the conflict should comply with a full ceasefire, in line with the Minsk Agreements.

[168] Office of the United Nations High Commissioner for Human Rights, United Nations Human Rights Monitoring Mission in Ukraine, "Accountability for killings in Ukraine from January 2014 to May 2016," 14 July 2016.

195. The continued inflow of ammunition, weaponry and fighters from the Russian Federation into armed group-controlled areas of Donetsk and Luhansk regions has fuelled hostilities leading to a protracted conflict. The human rights violations and abuses and violations of international humanitarian law documented by OHCHR highlight the legal – and moral – imperative that the supply of arms and ammunition to those responsible is brought to an end.

196. In addition to the importance of respecting the fundamental values and norms embodied in international human rights and humanitarian law to protect human rights and civilians in times of armed conflict, respecting those values in the context of the armed conflict in certain areas of Donetsk and Luhansk regions can also facilitate dialogue between the warring parties and ultimately the restoration of peace.

197. As the conflict in eastern Ukraine continues, people living near the contact line suffer the cumulative effects of the conflict. Residents have told OHCHR that the life-threatening reality that they have survived for over two years has led to constant concerns about security, shelter and livelihoods. The contact line continues to severely restrict civilian freedom of movement, as Government forces and armed groups have not taken measures to ensure safe passage for the 26,000 to 32,000 civilians who cross daily.

198. People living near the contact line in armed group-controlled areas are deprived of any certainty concerning the basics of day-to-day life, or endangered while moving to seek basic necessities, including food, water, medical care, and education. Parallel structures, including 'courts', play an increasingly active role in the lives of people living under armed group control, adversely impacting their inalienable human rights and running counter to the spirit of the Minsk Agreements.

199. In this context, it is particularly critical for Ukrainian authorities to ensure equal protection of law towards people living in armed group-controlled areas and IDPs. The creation of obstacles toward obtaining social entitlements, including through amendments to Resolution No. 637, places undue burdens on persons on the basis of their origin, limits their freedom of movement, and subjects them to intrusive scrutiny. By depriving IDPs of their social entitlements, the Government is further deepening the socio-economic hardships of IDPs, making them dependent on humanitarian aid. Moreover, continued lack of ensuring respect and fulfilment of certain rights of the ICCPR further deprives persons living under armed group control or near the contact line of their human rights and freedoms[169].

200. OHCHR monitoring of investigations into human rights violations and abuses has revealed entrenched impunity. OHCHR is concerned that without genuine investigations and effective prosecutions of persons responsible for gross human rights violations and abuses and violations of international humanitarian law committed in the context of the armed conflict, Government authorities will not be able to contribute to a real sense of justice or build the confidence of the people of Ukraine in the institutions of justice. The inability or unwillingness to prosecute perpetrators may lead to a perception of arbitrary or selective justice. OHCHR views this as wasting an important opportunity to transform Ukraine into a society with confidence in the rule of law and embrace a national political culture based on respect for human rights and accountability.

201. Victims and their families of the Maidan violence that precipitated the human rights crisis in Ukraine and the subsequent violence in Odesa continue to await justice. While there has been some progress in the complex investigation into the killings on Maidan, investigations and prosecutions of perpetrators involved in the violence in Odesa continue to be marred by interference in the independence of judges and the judicial process. The success or failure of the Ukrainian justice system to deliver accountability for victims of these events will serve as an indicator of the ability and willingness of the Government to combat impunity.

[169] General Comment 32, paras 6, 16 and 59; and Human Rights Committee, General Comment 29 (States of Emergency), UN Doc CCPR/C/21/Rev.1/Add.11 (2001), paras. 7, 15.

202. The gradual regression of fundamental freedoms in the Autonomous Republic of Crimea, whose status is defined by UN General Assembly Resolution 68/262 on the territorial integrity of Ukraine, is of serious concern. First-hand testimonies of widespread human rights abuses of detainees suggest that with increasing integration into the Russian Federation, there is a lack of accountability and redress for victims.

203. Despite incremental improvements in access to places of detention and the release of thirteen individuals subjected to enforced disappearances at the Kharkiv SBU, OHCHR continues to receive numerous allegations regarding conflict-related violations and abuses in detention perpetrated in 2014 and 2015. These accounts make clear that the serious harm suffered by persons deprived of their liberty, disappeared, tortured and ill-treated, in connection with the conflict continue to affect the lives of victims, their families and communities, and in some cases, violations have led to subsequent abuses, violations and harms, often within the criminal justice system.

204. It is thus critical that recent amendments to the Constitution of Ukraine be viewed as an opportunity to strengthen the independence of the judiciary and build a system of governance based on the rule of law. This is essential to restore public trust, achieve justice and promote accountability.

205. Through collecting and recording victim and witness accounts of human rights violations and abuses, and through documenting incidents and identifying actors bearing responsibility, OHCHR seeks to contribute to realizing the right to truth. OHCHR also reminds the Government of Ukraine that measures such as truth commissions, investigation panels, documentation of violations and the securing and declassification of archives are necessary to build a sustainable culture of accountability and rule of law.

206. In order for Ukraine to be in a position to adopt the amnesty provisions envisioned as part of the Minsk Package of Measures, it is critical for there to be an independent and robust judiciary, willing and able to prosecute war crimes, crimes against humanity or gross human rights violations and abuses, including gender-specific violations in national courts. Impunity and the inclusion of individuals responsible for serious violations in any positions of authority would directly undermine the credibility of all the parties to the conflict and the legitimate needs of Ukrainians. As human rights violations and abuses have been a problem in the conflict, so human rights protections must be part of its solution.

207. Most recommendations made in the previous OHCHR reports on the human rights situation in Ukraine have not been implemented, and remain valid. OHCHR calls upon all parties to implement the following recommendations:

208. **To the Government of Ukraine:**

a) Security Services of Ukraine, General Prosecutor's Office and Military Prosecutor's Office to recognize and take prompt actionto investigate and prosecute allegations of torture and ill-treatment, arbitrary and incommunicado detention, and sexual and gender-based violence;

b) Security Services of Ukraine to provide unhindered access to external monitors to all places where people may be detained, acting to ensure that no persons in SBU custody are held incommunicado, forcibly disappeared, or subject to torture or ill-treatment;

c) Ukrainian Armed Forces and Ministry of Social Affairs, in coordination with the Security Services of Ukraine, to provide support and assistance to the families of persons deprived of liberty by armed groups in connection with the conflict;

d) Security Services of Ukraine provide timely and adequate information to families of persons detained in connection with the conflict, refraining from withholding information;

e) Build capacity of lawyers appointed by Free Legal Aid Centres to guarantee the right to effective legal representation and counsel to conflict-related detainees and

improve mechanisms of free legal aid provision, ensuring continuity of representation;

f) National Police to take a pro-active role in securing the safety of courtrooms, and for all relevant Government organs including the Office of the General Prosecutor to ensure non-interference with the independence of the judiciary;

g) Parliament to remain seized with amending the 'Law on Civil Service' (No. 2490) in accordance with the 'Paris Principles';

h) Ombudsperson's Office to pursue its challenge of the constitutionality of Article 176(5) of the Code of Criminal Procedure as it leads to arbitrary detention;

i) Government to introduce respective legislative changes enabling persons to access justice, remedy and redress in housing, land and property matters;

j) Parliament to establish independent transparent and non-discriminatory procedures of documentation, investigation and verification of housing, land, and property ownership, and to establish a registry of lost and damaged property;

k) Cabinet of Ministers to de-link IDP registration from all social entitlements not related to the IDP situation, including pensions. Seek ways to ensure citizens of Ukraine living in territories controlled by armed groups have access to their pensions;

l) Government to change the recently introduced IDP residence verification system ensuring IDPs' right to freedom of movement and free choice of residence;

m) National Police to ensure transparency and effectiveness of the investigation of attacks on media professionals and other civil society representatives;

n) City administrations and courts to avoid using blanket bans of peaceful assemblies which are intrinsically disproportionate and discriminatory measures impacting all citizens seeking to exercise their freedom of peaceful assembly;

o) Ministry of Justice to ensure that the dissolution of associations is a last resort measure and ensure that the procedure of dissolution complies with international standards. Ensure that prosecution of members of political parties on 'terrorism' or 'separatism' charges are not politically motivated and are based on legally gathered evidence;

p) Ministry of Defense to ensure that the perimeter of the mined area near the Kalanchak and Chaplynka crossing points on the Ukrainian side of the Administrative Boundary Line is visible and well protected;

q) State Border Service to obtain from the Ministry of Defence of Ukraine maps indicating mine locations near the Administrative Boundary Line.

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

a) Ensure full implementation of the ceasefire, including full withdrawal of military forces and weapons from the contact line;

b) Respect international humanitarian law, particularly by complying with the principles of distinction, proportionality and precaution and, in any situation, refrain from indiscriminate shelling of populated areas, and refrain from locating military objectives within or near densely populated areas, including medical facilities and schools, and damaging objects indispensable to the survival of the civilian population (i.e. electricity and water filtration facilities);

c) Allow for regular and unhindered access to external monitors to all places of deprivation of liberty;

d) Facilitate civilians' freedom of movement across the contact line by creating additional transport corridors, equipping checkpoints with necessary facilities, simplifying procedures, taking effective measures to fight corruption, allowing access of independent monitors, taking into account the need to ensure the safety of civilians in situations of active hostilities;

e) To ensure that freedoms of expression, association and peaceful assembly are exercised freely and residents are not forced to involuntarily partake in demonstrations or organisations;

f) To refrain from the practice of blocking certain residential areas, restricting civilians to access their housing and other property, unless justified by the need to protect civilians from the effect of hostilities, as well as looting and using such property for military purposes;

g) Ensure that schools and hospitals are respected, including through removing any military personnel, fighters, or weapons from their territory and facilities;

h) Ensure free and unimpeded access for humanitarian actors to all areas as well as the rapid and non-discriminatory delivery of humanitarian assistance, while adhering to international norms and ensuring the protection of humanitarian actors.

210. **To the *de facto* authorities of Crimea and to the Russian Federation:**

a) Effectively investigate the abduction of Ervin Ibragimov and other cases of abductions and bring the perpetrators to justice;

b) Enable the unfettered exercise of the right to freedom of assembly and ensure that any restrictions are justified by legitimate aims prescribed by international human rights instruments, which should neither be supplemented by additional legal grounds nor loosely interpreted;

c) Uphold fair trial rights and procedural guarantees for all persons in detention and thoroughly investigate all claims of torture and ill-treatment;

d) End all intimidating practices, including questioning and the issuing of warnings by the 'police', aimed at deterring people from expressing their views;

e) Stop invoking the anti-extremism legislation to criminalize freedom of speech, including views, comments and opinions expressed publicly, via articles or social media;

f) Ensure necessary medical care to Ilmi Umerov and refrain from practices, such as forcible placement in a psychiatric hospital, which may amount to ill-treatment;

g) Collaborate with the authorities of Ukraine to set up a mechanism for the transfer of Ukrainian prisoners who wish to serve their sentence in mainland Ukraine and enable those transferred to the territory of the Russian Federation to be visited by Ukrainian consular authorities;

h) Provide OHCHR and other international human rights monitors with full access to the territory of the Autonomous Republic of Crimea and the City of Sevastopol.