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

**Accountability for killings in Ukraine  
from January 2014 to May 2016**



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## Executive Summary

Since its deployment on 14 March 2014<sup>1</sup>, the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU) has been gathering substantial information related to the arbitrary deprivation of life, one of the gravest human rights violations, notably during assemblies, in 2014 and 2015, as well as in the eastern areas affected by the ongoing conflict.

Violence during the Maidan protests in Kyiv and some other cities (November 2013 – February 2014) resulted in the death of 108 protestors and other individuals<sup>2</sup> and 13 law enforcement officers. On 26 February 2014, two people died as result of clashes in the city of Simferopol, Autonomous Republic of Crimea. On 14 March 2014, two people were killed during clashes between ‘pro-unity’ and ‘pro-federalism’ supporters in Kharkiv. In Odesa, 48 people were deprived of their lives in the violence of 2 May 2014. On 22 February 2015, four people were killed by a blast during the ‘March of Dignity’ in Kharkiv. On 31 August 2015, four law enforcement officers were killed during protests near the Parliament building in Kyiv.

The armed conflict in certain districts of Donetsk and Luhansk regions, which has been ongoing since mid-April 2014 and which is fuelled by the inflow of foreign fighters and weapons from the Russian Federation, including former servicemen and servicemen on leave, accounts for the majority of violations of the right to life in Ukraine over the last two years. OHCHR estimates that between mid-April 2014 and 31 May 2016, at least 9,404 people, of which up to 2,000 are civilians, have been killed as a result of the conflict. The vast majority of civilian casualties, recorded on the territories controlled by the Government of Ukraine and on those controlled by armed groups, were caused by the indiscriminate shelling of residential areas, in violation of the international humanitarian law principle of distinction.

OHCHR recorded executions of members of Ukrainian forces and elements of armed groups who had surrendered, or were otherwise *hors de combat*. These took place mainly in 2014 and during the first half of 2015. OHCHR also recorded a considerable number of alleged summary executions and killings of civilians who were not taking part in hostilities; for the most part in 2014 and in early 2015. In some cases, because of the prevailing insecurity, it was difficult to ascertain the cause of the killing.

OHCHR was able to establish incidents of arbitrary killings allegedly committed by armed groups, either under effective control of the self-proclaimed ‘Donetsk people’s republic’<sup>3</sup> or the self-proclaimed ‘Luhansk people’s republic’<sup>4</sup>, or by those which acted independently (such as Cossack groups). In some cases, presented in this report, members of the following armed groups were allegedly involved: ‘Brianka SSSR’, ‘International Piatnashki battalion’, ‘Kerch’, ‘Odessa’, ‘Rus’, ‘Somali’, ‘Sparta’, ‘Vostok’ and ‘Zaria’.

OHCHR also found acts of arbitrary deprivation of life allegedly committed by elements of Ukrainian armed forces and law enforcement. In some cases, described in this

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<sup>1</sup> OHCHR has been invited by the Government of Ukraine to monitor the human rights situation in the country, and to provide regular public reports on the human rights situation and emerging concerns and risks. HRMMU is also mandated to recommend concrete follow-up action to relevant authorities in Ukraine, the United Nations and the international community at large to address human rights concerns, prevent human rights violations and mitigate emerging risks.

<sup>2</sup> Investigative bodies of Ukraine have not yet established with certainty the link between the death of some individuals and Maidan events (see Annex I, footnotes 106-110).

<sup>3</sup> Hereinafter referred to as ‘Donetsk people’s republic’.

<sup>4</sup> Hereinafter referred to as ‘Luhansk people’s republic’.

report, the servicemen of the following units were allegedly involved: ‘Aidar’, ‘Azov’, ‘Dnipro-1’, DUK, ‘Harpun’, ‘Kyiv-2’, ‘Shakhtarsk’ (‘Tornado’), 25<sup>th</sup> Separate Airborne Brigade, and the Security Service of Ukraine (SBU).

In a number of cases, the alleged perpetrators could not be identified by the victims and witnesses, and their affiliation with a specific armed group or a unit of Government forces cannot therefore be sufficiently established. There are cases where the alleged perpetrators, despite their formal affiliation with a certain group or unit, may have acted on their own initiative or upon instruction, possibly of a supervisor, but this is hard to prove. OHCHR suggests, however, that all killings in the context of the armed conflict in eastern Ukraine described in the report were carried out by, at the behest of, or with the acquiescence of members of the armed groups or elements of Ukrainian military or law enforcement. OHCHR also considers that some of the executions or killings would not have occurred had those bearing command responsibility not failed to prevent them.

There has been no accountability for the vast majority of alleged summary executions and killings committed in the conflict zone. OHCHR welcomes the efforts of the Government of Ukraine to investigate some incidents, and notes that a number of perpetrators have been brought to justice. At the same time, OHCHR is concerned that in many cases, investigations and prosecution have been protracted, often reportedly due to the lack of evidence. It is therefore critical that forensic and other evidence related to such summary executions and killings is properly collected and preserved, notably mortal remains must be recovered in the conflict area and DNA samples collected. At all times, family members should be kept informed of the loss of their loved one.

Parallel ‘law enforcement’ entities set up in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ have reportedly ‘investigated’ some selected killings. These have focused mainly on acts committed by armed groups which have been disbanded or otherwise re-organized for their alleged lack of discipline or loyalty.

OHCHR considers that in devising an approach to implement the Minsk Agreements, it is essential for the Government of Ukraine to send a strong and consistent message to all those responsible for gross violations of human rights, some of which may amount to war crimes and/or crimes against humanity, that there will be no amnesty and that they will be held fully accountable for their acts.

In the Autonomous Republic of Crimea and the city of Sevastopol, the status of which is determined by the United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine, OHCHR recorded at least one alleged summary execution and ten cases of alleged disappearances, which may have resulted in deaths. These allegations are based on witness accounts, the profile of the disappeared and the fact that some disappearances appear to have resulted from abductions involving paramilitary groups often associated with the so-called Crimean ‘self-defence’. The cases need to be properly investigated and perpetrators brought to justice.

In light of the pervasive impunity, it is critical to mobilize the national and international criminal justice systems, especially in the context of the armed conflict in certain districts of Donetsk and Luhansk regions. OHCHR views this report as a tool to encourage and support investigations and prosecutions of killings, and to ensure that those responsible are held accountable.

## **I. Introduction**

1. The report covers the period from January 2014 to May 2016, and applies to the whole territory of Ukraine, including the Autonomous Republic of Crimea and the city of Sevastopol<sup>5</sup>, as per United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine. Special attention is paid to the east of Ukraine where an armed conflict has been ongoing since mid-April 2014, causing the highest number of fatalities.
2. The report is based on information that HRMMU collected through: interviews with witnesses, relatives of victims and their lawyers; analysis of corroborating material confidentially shared with HRMMU; official records; open-source documents and video, photo and audio materials (including some produced by alleged perpetrators); forensic reports; criminal investigation materials; court documents; and other relevant and reliable materials. OHCHR has exercised due diligence to corroborate the validity of information received, and detected a number of fabricated allegations disseminated through the internet and other media.
3. OHCHR is committed to the protection of its sources and therefore ensures the preservation of their confidentiality. OHCHR therefore does not disclose any information which may lead to the identification of sources, unless the latter have provided their informed consent to it. OHCHR also systematically assesses the potential risks of harm and retaliation against its sources.
4. Based on OHCHR fact-finding methodology, the standard of proof applied by HRMMU is that there are “reasonable grounds to believe” that a particular incident occurred or that a given pattern of violations prevailed.
5. Due to the scale and intensity of violence in the territories affected by the armed conflict, HRMMU did not have the capacity to examine all allegations of arbitrary deprivation of life brought to its attention. This report therefore presents a sample of cases (Annex I) that illustrate broader patterns and trends.

## **II. Legal framework**

### **A. Applicable international law**

#### **1. International human rights law**

6. The right to life is a fundamental human right from which all other human rights stem. It is recognized in a variety of widely ratified international and regional treaties and other instruments.<sup>6</sup> The right to life is non-derogable, and cannot be suspended even at times of public emergency, such as political instability.<sup>7</sup> Respect for the right to life is also a rule of customary international law<sup>8</sup> and has been described as part of *jus cogens*.
7. The right to life has two components: a material component whereby every person has a right to be free from the arbitrary deprivation of his / her life, which places limitations on the use of force; and a more procedural component, which requires prompt, independent

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<sup>5</sup> Hereinafter referred to as Crimea.

<sup>6</sup> African Charter on Human and Peoples’ Rights, Article 4; American Convention on Human Rights, Article 4; Arab Charter on Human Rights, Article 5; European Convention on the Protection of Human Rights and Fundamental Freedoms, Article 2; and ASEAN Human Rights Declaration, Article 11.

<sup>7</sup> International Covenant on Civil and Political Rights, Article 4.

<sup>8</sup> Moeckli et al. (eds.) *International Human Rights Law*, New York, Oxford University Press, 2010, p. 221.

and impartial investigations and accountability where there is reason to believe that an arbitrary deprivation of life may have taken place.<sup>9</sup>

8. International human rights law, in the form of ratified treaties and customary norms, applies throughout Ukraine for the whole period covered by this report.

9. On 21 May 2015, the Parliament of Ukraine adopted a resolution<sup>10</sup> requesting the Ministry of Foreign Affairs of Ukraine to notify the United Nations Secretary-General about the Government's derogation from some of its obligations under the International Covenant on Civil and Political Rights (ICCPR)<sup>11</sup>, namely with regard to the rights to liberty and security of the person; to a fair trial; to an effective remedy; to respect for private and family life; and to freedom of movement. On 5 June 2015, the Government of Ukraine formally notified the Secretary-General about its derogation, as per ICCPR provisions.<sup>12</sup> On 27 November 2015, the Government notified the Secretary-General of a list of localities under its partial or total control where it had decided to apply the derogation.<sup>13</sup>

10. In September 2015, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions expressed concern that the derogation applied to the right to an effective remedy and some elements of the right to a fair trial (such as the supervision by judicial bodies of the lawfulness of detention), recalling that the United Nations Human Rights Committee had interpreted these as non-derogable. Indeed, these elements of the derogation may facilitate *incommunicado* or secret detention, torture, ill-treatment, executions and disappearances.<sup>14</sup>

11. On 20 October 2015, the United Nations Secretary-General received communications from the Government of Ukraine in relation to 16 United Nations treaties, including the ICCPR and Convention against Torture, stating that concerning the territory of Ukraine "occupied and uncontrolled", the application and implementation by the Government of its obligations under these treaties was "limited" and "not guaranteed" until the complete restoration of Ukraine's sovereignty over its territory. The communications refer to treaty provisions concerning "direct communication or interaction". While there is no indication as to which precise treaty provisions are affected, it seems to imply that judicial cooperation and individual complaints procedures may not be considered as applicable to the Autonomous Republic of Crimea and the city of Sevastopol and the territories in the east of Ukraine controlled by armed groups.

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<sup>9</sup> Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/26/36, para 46.

<sup>10</sup> Resolution of the Parliament of Ukraine 'On derogation from certain obligations under the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms' of 21 May 2015.

<sup>11</sup> Ratified by Ukraine on 12 November 1973.

<sup>12</sup> The notification stated that "due to the annexation and temporary occupation by the Russian Federation... of the Autonomous Republic of Crimea and the city of Sevastopol as a result of an armed aggression against Ukraine, the Russian Federation is fully responsible for respect for human rights and implementation of the relevant treaties in the annexed and temporarily occupied territory of Ukraine".

<sup>13</sup> The notification provided a list of localities in the Donetsk and Luhansk regions to which the derogation applies. All these localities were under the partial or total control of the Government of Ukraine as of 1 October 2015. The notification reiterated that the Russian Federation "is occupying and exercising effective control over certain areas of the Donetsk and Luhansk regions" and that it "is fully responsible for the respect and protection of human rights in these territories under international humanitarian law and international human rights law".

<sup>14</sup> End-of-visit statement of the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, visit to Ukraine (September 2015).

12. While non-State actors, including armed groups, cannot become parties to international human rights instruments<sup>15</sup>, it is increasingly accepted that non-State actors exercising government-like functions and control over a territory must respect human rights standards when their conduct affects the human rights of individuals under their control.<sup>16</sup>

13. In regard to Ukraine, OHCHR has consistently affirmed that the ‘officials’ of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ are responsible and shall be held accountable for human rights abuses committed on territories under their control, including individuals bearing command responsibility for the actions of perpetrators.<sup>17</sup>

## **2. International humanitarian law**

14. International humanitarian law regulates the conduct of parties to the armed conflict by protecting those who do not or no longer directly participate in hostilities, and by regulating the means and methods of warfare with the aim of restricting the use of armed force “to the amount necessary to achieve the aim of the conflict, which – independently of the causes fought for – can only be to weaken the military potential of the enemy”.<sup>18</sup>

15. In situations of armed conflict, all parties to the conflict are bound by the applicable rules of international humanitarian law, whether customary or treaty based. Obligations of parties to the conflict in the conduct of hostilities are governed by the principles of distinction, proportionality and precaution, at all times. The concurrent application of international humanitarian law and international human rights law in situations of armed conflict means that the provisions of the two bodies of law should be read together and reconciled, as far as possible.

## **3. International criminal law**

16. Ukraine signed the Rome Statute of the International Criminal Court (ICC) in 2000, but has not ratified it. In 2001 the Constitutional Court found the Statute incompatible with

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<sup>15</sup> Except for Article 4 (1) of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict which directly applies to armed groups: “[a]rmed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years”.

<sup>16</sup> The United Nations Committee on the Elimination of Discrimination against Women considers that “under certain circumstances, in particular where an armed group with an identifiable political structure exercises significant control over territory and population, non-State actors are obliged to respect international human rights” (General Recommendation No 30, 2013). The United Nations Security Council strongly condemned “the continued violations of international humanitarian law and the widespread human rights violations and abuses, perpetrated by armed groups” in the Central African Republic (resolution 2127 (2013), para 17). In relation to the situation in the Democratic Republic of the Congo, it reminded all parties “in Uvira and in the area that they must abide by international humanitarian standards and ensure respect for human rights in the sectors they control” (statement by the President of the Council, S/PRST/2002/27(2002)), and indicated that “the RCD-GOMA must... ensure an end to all violations of human rights and to impunity in all areas under its control” (statement by the President of the Council, S/PRST/2002/22(2002)). See also, in relation to the situation in Gaza: A/HRC/16/71, para. 4, and in relation to the situation in Libya: A/HRC/17/45(2011), para. 20. See also Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, A/HRC/17/44, para 72; and Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka, 31 March 2011, para 188.

<sup>17</sup> See 10<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2015, paragraphs 9 and 129; and 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015, paragraphs 6 and 129.

<sup>18</sup> Sassòli, M., Bouvier, A., Quintin A. (eds), *How Does Law Protect in War?* (3rd edn., Geneva: ICRC, 2011), Vol. I, at 1.

the Constitution.<sup>19</sup> On 9 April 2014, however, the Government made a declaration recognising the jurisdiction of the ICC over alleged crimes committed on its territory from 21 November 2013 to 22 February 2014 (the Maidan events). On 8 September 2015, the Government accepted the ICC's jurisdiction with respect to alleged crimes committed on its territory since 20 February 2014. The related declarations were submitted under article 12(3) of the Rome Statute, which enables a State not party to the Statute to accept the exercise of jurisdiction of the Court.

17. On 25 April 2014, the ICC Prosecutor opened a preliminary examination into the Maidan events. The preliminary findings suggest that the crimes that occurred during those events may not fall under the ICC jurisdiction.<sup>20</sup> Following the second declaration of 8 September 2015, the on-going preliminary examination was extended to cover crimes committed after 20 February 2014, with no end date.

## **B. National legislation**

18. The right to life is guaranteed by Article 27 of the Constitution of Ukraine which states that no one may be arbitrarily deprived of his / her life and that it is a duty for the State to protect human life. Charges related to acts of arbitrary deprivation of life can be brought under a number of articles of the Criminal Code, especially where they are at the core of the offence.<sup>21</sup> The Code also contains articles which qualify the deprivation of life as the consequence of an offence and an aggravating circumstance.

## **III. Killings and violent deaths in the context of assemblies**

19. When a State actor employs lethal force, it must be exceptional, strictly necessary (for example, linked to a direct threat to their life or the life of others) and proportionate, with no other means available to neutralize the threat (such as warnings, capture or incapacitation).<sup>22</sup> In public order situations, lethal force may only be used if it is "strictly unavoidable in order to protect life".<sup>23</sup> In all other cases, the use of lethal force during law enforcement is arbitrary and constitutes a violation of the right to life. Any suspected arbitrary killings must give rise to immediate, impartial, independent and effective investigations and, where there is sufficient evidence, prosecution of the perpetrators. Relatives of victims of arbitrary killings are entitled to reparation, including adequate compensation, and the State must take measures to prevent further arbitrary killings.

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<sup>19</sup> On 2 June 2016, the Parliament of Ukraine adopted the amendments to the Constitution of Ukraine regarding the judiciary. The amendments (Article 124(6)) allow for ratification by Ukraine of the Rome Statute of the ICC, though the entry into force of this provision is postponed for three years. As of 13 June 2016, the amendments have not been signed by the President. After they are signed, the entry into force of the amendments is postponed for three months after their official publication.

<sup>20</sup> See International Criminal Court. Report on Preliminary Examination Activities (2015), para 97, 98 and 101.

<sup>21</sup> Articles 115 (intentional homicide as wilfully unlawfully inflicting death with aggravating factors, such as particular brutality, mercenary motives, in collusion, based on racial, national or religious intolerance); 116 (intentional homicide committed in a state of strong mental agitation and caused by unlawful violence, systematic harassment or grievous insult of the victim); 117 (infanticide); 118 (murder committed in excess of necessary defence or as a result of excessive use of force during the arrest of an offender), 119 (homicide by negligence); and 120 (driving a person to suicide with aggravating factors, including if the victim was a minor, or was financially or otherwise dependent on the perpetrator, or if there are multiple victims).

<sup>22</sup> United Nations Human Rights Committee, General Comment No 6, HRI/GEN/1/Rev.6 (1982), para 3; Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/14/24/Add.6 supra, para 32.

<sup>23</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, para 9.



## A. Violence of January-February 2014 during the Maidan events

20. From 21 November 2013 to 22 February 2014, large-scale protests erupted in Kyiv and other parts of Ukraine, triggered by the decision of then President Viktor Yanukovich not to sign the Association Agreement with the European Union. Underlying the protests was a widespread, deeply entrenched dissatisfaction with a system broadly perceived as corrupt and lacking accountability, with weak rule of law institutions. The protests were characterized by violence and excessive use of force by the police and other law enforcement agencies. Such incidents were particularly on Independence Square (Maidan) in Kyiv, and resulted in the death of 108 protestors and other individuals<sup>24</sup> and 13 law enforcement officers.<sup>25</sup> The deaths of 80 individuals and 13 law enforcement officers are investigated by the Department for Special Investigations of the Office of the Prosecutor General.

21. On 12 November 2015, the Office of the Prosecutor of the ICC released a legal analysis of the Maidan events, concluding that: “[w]hile some of the acts of violence appear to have been extemporaneous and incidental to the situation of unrest, the information available tends to indicate that the commission of violence against protestors, including the excessive use of force causing death and serious injury as well as other forms of ill-treatment, was actively promoted or encouraged by the Ukrainian authorities”.<sup>26</sup>

22. On 17 October 2015, the Prosecutor General of Ukraine reported that his Office had established the chronology of the violent events that had taken place during the Maidan protests, noting it had identified almost all individuals involved in the organization of the “unlawful crackdown” that resulted in the deaths of protestors. As of 1 June 2016, there have been 55 individuals charged in relation to the deaths of Maidan protestors: ten senior Government officials, 29 former commanders and servicemen of the ‘Berkut’ special police regiment, 10 ‘titushky’<sup>27</sup>, a Maidan protestor and five other persons.<sup>28</sup>

23. The Office of the Prosecutor General refers to the following impediments to bringing the alleged perpetrators to justice: fleeing of the majority of suspects from the country; loss of essential evidence due to the failure of the law enforcement to collect and/or preserve it immediately after the events; and overall complexity of the case. The Special Investigations Department, the key investigating actor, have reportedly conducted more than 9,500 investigative actions, interrogated almost six thousand witnesses and victims, and commissioned more than 1,800 expert assessments. The number of case files exceeds 2,300.

24. OHCHR is concerned that the investigation into the killings of 13 law enforcement agents has been hampered by the provisions of the law of 21 February 2014<sup>29</sup>, which provides that all people who participated in mass protests and are suspected or accused of crimes, including violence or killing of a law enforcement officer, between 21 November 2013 and 28 February 2014 are exempted from criminal responsibility. The law also

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<sup>24</sup> See Annex I, Table 1.

<sup>25</sup> See Annex I, Table 2.

<sup>26</sup> International Criminal Court. Report on Preliminary Examination Activities (2015), para 93.

<sup>27</sup> Armed civilians, sometimes wearing camouflage and masks, often having criminal record, engaged by the law enforcement to attack the protestors.

<sup>28</sup> Of ten senior Government officials: nine reportedly fled the country and are on a wanted list, and one is in pre-trial custody; of 29 ‘Berkut’ commanders and servicemen: eight were being tried in courts (seven kept in custody and one under house arrest), and 21 were on a wanted list having reportedly fled the country; of 10 ‘titushky’: nine were on a wanted list, and one was indicted and kept under house arrest; a Maidan protestor was exempt from criminal responsibility for killing another protestor; and of five persons indicted for a killing of Maidan protestor in April 2014: three were in custody and two were put on a wanted list.

<sup>29</sup> Law of Ukraine ‘On prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies and recognising the repeal of certain laws of Ukraine’.

requires the prosecution offices to close all the criminal proceedings where no one was charged<sup>30</sup>, and to destroy the existing case files. The Office of the Prosecutor General informed HRMMU that it, however, continues to investigate the killing of 13 law enforcement officers on 18-20 February 2014.

## **B. Violence of 2 May 2014 in Odesa**

25. On 2 May 2014 in Odesa, 48 people died<sup>31</sup> as a result of clashes between ‘pro-unity’ and ‘pro-federalism’ groups. Deliberate inaction in the face of the violence, ill-preparedness or negligence on the part of various authorities contributed to this death toll. First, the police did not intervene to prevent or stop the violence at Kulykove Pole square. Then the fire brigade, which is located very close to the House of Trade Unions where many protestors suffocated to death, received repeated urgent calls for intervention but responded with a fatal delay of 45 minutes.

26. While the ‘pro-unity’ and ‘pro-federalism’ groups both played a part in the escalation of violence, the subsequent criminal prosecutions for hooliganism or public disorder appear to have been initiated in a partial fashion. Only activists from the ‘pro-federalism’ camp have been prosecuted so far, while the majority of victims were supporters of ‘pro-federalism’ movement. Despite a large number of deaths during the 2 May 2014 violence, the trial of the only person to be accused of an act of killing in the city centre has not yet started. It is persistently transferred from one court to another court in Odesa. Judges have refused to try the accused, reportedly due to pressure from the ‘pro-unity’ camp.

27. OHCHR remains concerned that to date, the investigations into the violence have been affected by systemic institutional deficiencies and characterized by procedural irregularities, which appear to indicate an unwillingness to genuinely investigate and prosecute those responsible. There has also been direct and indirect political interference into the investigations, consisting of deliberate acts leading to the obstruction of, and the delay in, the judicial proceedings.<sup>32</sup>

## **C. Other assemblies marked by violent deaths**

28. On 26 February 2014, two people died as result of clashes in the city of Simferopol. In Kharkiv, two people were killed on 14 March 2014, during the clashes between ‘pro-unity’ and ‘pro-federalism’ supporters, and four people were killed by a blast during the ‘March of Dignity’ on 22 February 2015. On 31 August 2015, four servicemen were killed during protests near the Parliament building in Kyiv. As of 1 June 2016, accountability for all these deaths is pending.<sup>33</sup>

## **IV. Killings in the context of armed conflict in eastern Ukraine**

29. The protection of certain persons from arbitrary deprivation of life is closely related to the cardinal principle of international humanitarian law regulating the conduct of hostilities, which requires that parties to a conflict must at all times distinguish between civilians and fighters. International humanitarian law requires that “[a]ttacks may only be directed

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<sup>30</sup> By the time the law was adopted, no individuals were charged for killing a law enforcement official during the Maidan events.

<sup>31</sup> See Annex I, table 3.

<sup>32</sup> See 14<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016, paragraphs 76-80; 13<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 November 2015 to 15 February 2016, paragraphs 97-101; and 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 August to 15 November 2015, paragraphs 122-128.

<sup>33</sup> See Annex I, paragraphs 2-5.

against combatants. Attacks must not be directed against civilians”. Additional Protocol II to the 1949 Geneva Conventions requires that “[t]he civilian population as such, as well as individual civilians, shall not be the object of attack”. The jurisprudence of ICC<sup>34</sup> and the International Criminal Tribunal for the former Yugoslavia (ICTY)<sup>35</sup> confirms that the prohibition on directing attacks against civilians is customary in both international and non-international armed conflicts. Important rules of the conduct of hostilities are also prohibition of indiscriminate attacks<sup>36</sup>, proportionality<sup>37</sup> and precautionary measures.<sup>38</sup>

30. Murder may constitute a crime against humanity if committed as part of a widespread and systematic attack against any civilian population, with knowledge of the attack.<sup>39</sup> Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities is a war crime.<sup>40</sup> The murder of civilians, medical or religious personnel, or other persons taking no active part in hostilities or no longer doing so, is recognized as a war crime in an armed conflict.<sup>41</sup>

#### **A. Killings resulting from armed hostilities**

31. As of 31 May 2016, OHCHR has recorded 9,404 killed and 21,671 injured in the conflict zone of eastern Ukraine since the beginning of the armed conflict in mid-April 2014. This figure includes civilians, Ukrainian armed forces and members of the armed groups. This is a conservative estimate based on available data.

32. OHCHR estimates that up to 2,000 civilians may have been killed during the armed conflict period, with an additional 298 people killed in the crash of Malaysia Airlines flight MH17 on 17 July 2014.<sup>42</sup> About 85 to 90 per cent of these deaths, recorded by OHCHR both in the territories controlled by the Government and in the areas controlled by armed groups, are as a result of shelling of populated areas with mortars, canons, howitzers, tanks and multiple launch rocket systems.

33. None of the armed groups or the Government of Ukraine has taken responsibility for any civilian deaths caused by the conduct of hostilities. OHCHR is not aware of any cases where alleged perpetrators – either those who carried out attacks or those who bore command responsibility – have been brought to justice. As noted by the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, instead of responding to, investigating or prosecuting cases of indiscriminate shelling by their own military forces, “each side is dedicating its time to documenting in laudable detail the violations of the other side with a view to continuing their confrontation in national or international courtrooms”.<sup>43</sup>

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<sup>34</sup> International Court of Justice, Nuclear Weapons case, Advisory Opinion, para 179.

<sup>35</sup> ICTY, Kupreškić case, Judgment, para 180, and Kordić and Čerkez case, Decision on the Joint Defence Motion and Judgment, para 182.

<sup>36</sup> ICRC, *Database on customary international humanitarian law*, rules 11ff.

<sup>37</sup> ICRC, *Database on customary international humanitarian law*, rule 14.

<sup>38</sup> ICRC, *Database on customary international humanitarian law*, rules 15ff.

<sup>39</sup> Rome Statute, Article 7(1)(a).

<sup>40</sup> Rome Statute, Article 8(2)(b)(ia).

<sup>41</sup> Rome Statute, Article 8(2)(c)(i).

<sup>42</sup> On 13 October 2015, the Dutch Safety Board released the reports “Crash of Malaysia Airlines flight MH17”. It concluded that “[t]he aeroplane was struck by a 9N314M warhead as carried on a 9M38-series missile and launched by a Buk surface-to-air missile system... The area from which the possible flight paths of a 9N314M warhead carried on a 9M38-series missile as installed on the Buk surface-to-air missile system could have commenced measures about 320 square kilometres in the east of Ukraine. Further forensic research is required to determine the launch location”.

<sup>43</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Ukraine, A/HRC/32/39/Add.1, para 61.

34. This report focuses on cases of alleged killings of the civilian population or persons otherwise protected under international humanitarian law in the conflict zone while no armed hostilities were taking place in the immediate vicinity of the sites of the incidents.

## **B. Use of force by use of firearms**

35. At the outset of the armed conflict, a considerable segment of Ukrainian forces comprised hastily mobilized or volunteer soldiers, while the armed groups hastily assembled. The lack of discipline among the armed groups but also within Ukrainian forces was widespread. Besides, a significant number of persons who had served prison sentences or were known to be part of criminal networks joined the armed groups as well as some Ukrainian voluntary battalions.

36. All these factors summed led to an unbridled rule of the gun with armed men readily resorting to violence towards civilians, especially to those who “disobeyed” their orders. In some cases, civilians were killed or injured while in the proximity of military objects, military convoys or near check points in circumstances which do not allow the establishment of the wilful character of a killing with certainty. In many such cases, however, civilians did not appear to pose any danger to the alleged perpetrators. Details on five cases (with seven victims) annexed to the report<sup>44</sup> are far from being an exhaustive account of this type of incident. A conservative OHCHR estimate is that some dozens of individuals were killed in such incidents in the conflict zone, both in the territories controlled by armed groups and those controlled by the Government of Ukraine.

## **C. Execution of persons who surrendered or were otherwise *hors de combat***

37. During armed conflict, it is unlawful to kill any individual not, or no longer, taking part in hostilities. Thus it is prohibited to kill members of armed forces who have surrendered, or are otherwise *hors de combat*, such as injured or captured fighters.<sup>45</sup> States have an obligation to investigate all allegations of wilful killings or murder of persons who are *hors de combat*. Where there is sufficient evidence of the commission of an offence, States have a duty to prosecute those responsible. A State responsible for such violations must also ensure full reparation for the loss suffered.<sup>46</sup>

38. Since the beginning of the armed conflict in eastern Ukraine, HRMMU received numerous allegations of execution of persons who had surrendered or were otherwise *hors de combat*. These allegations incriminate both members of the armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, and the Ukrainian armed forces and law enforcement entities, including voluntary battalions. The real scale of this phenomenon is difficult to assess, but it is estimated to be dozens of incidents, particularly between June 2014 and February 2015 – the most intense period of the hostilities. Details of 10 cases concerning the execution of 16 individuals (all men) are annexed to the report. In most cases, the executions appeared to have been driven by either ideological motives<sup>47</sup>, or were seen by the alleged perpetrators as retaliation for killings or other atrocities

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<sup>44</sup> See Annex I, paragraphs 6-14.

<sup>45</sup> Additional Protocol II, Article 4(2)(a) and Common Article 3 to the Geneva Conventions.

<sup>46</sup> ICRC, Customary International Humanitarian Law: Volume 1: Rules, rule 158.

<sup>47</sup> See Kalynovskyi, Malashniak, Norenko and Vlasenko case (Annex I, paragraphs 20-21); Branovytskyi case (Annex I, paragraph 25); Sarukhanian, Sekh and Slisarenko case (Annex I, paragraphs 26-28); and Vuhlehirsk case (Annex I, paragraph 32).

believed to have been committed by the opposing side<sup>48</sup>, or by an unwillingness to extend medical aid to, and/or evacuate, those heavily injured.<sup>49</sup>

39. OHCHR was not able to corroborate over a dozen allegations that were brought to its attention of execution of persons who had surrendered or were otherwise *hors de combat* brought to its attention. This was due to a lack of access to information and witnesses. Such allegations were not included in the report. This particularly concerns allegations of summary executions of persons *hors de combat* committed by Ukrainian forces. OHCHR also assumes that there could be cases which are unknown due to the chaotic circumstances, absence of witnesses and unavailability of the bodies of victims.

40. Accountability for such acts is particularly lacking. OHCHR is not aware of any cases when members of the armed groups were brought to the responsibility by their commanders for executing captured Ukrainian servicemen, or when elements of Ukrainian forces were brought to account for executing members of the armed groups. OHCHR was informed that the Office of the Chief 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’. OHCHR is also aware that the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ collect evidence of alleged executions of members of the armed groups by Ukrainian forces.

#### **D. Arbitrary or summary executions**

41. States have an obligation to investigate all allegations of wilful killings or murders of civilians or other protected persons committed by their armed forces. The State is also responsible for violations committed by non-State actors operating in support, or as agents of State authorities. Where militias or paramilitary groups are used to guarantee security, States should bring them under an established chain of command and control, and must ensure they comply with human rights obligations, such as respect for the right to life.<sup>50</sup> The same obligation applies to armed groups. Where there is sufficient evidence of the commission of an offence, States have a duty to prosecute those responsible.<sup>51</sup>

42. OHCHR recorded a considerable number of alleged summary executions and killings of civilians, who were not taking part in hostilities, mostly in 2014 and in early 2015. Details of 24 cases concerning the execution of 58 individuals are annexed to the report.<sup>52</sup>

43. The armed groups started resorting to summary executions and killings as early as in April 2014.<sup>53</sup> They mainly executed individuals, who had vocal ‘pro-unity’ views or were believed to have such views, or provided or were believed to have provided support to Ukrainian forces.<sup>54</sup> Some of the executions were allegedly carried out upon the imposition

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<sup>48</sup> See Chepiha case (Annex I, paragraphs 15-16); Kudriavtsev case (Annex I, paragraphs 17-19); and Kapatsii case (Annex I, paragraphs 30-31).

<sup>49</sup> See Havryliuk case (Annex I, paragraphs 22-24), Vuhlehirsk case (Annex I, paragraph 29).

<sup>50</sup> Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Principle 2.

<sup>51</sup> ICRC, Customary International Humanitarian Law: Volume 1: Rules, rule 158.

<sup>52</sup> See Annex I, paragraphs 33-92.

<sup>53</sup> See Diakovskiy, Popravko and Rybak case (Annex I, paragraphs 33-36).

<sup>54</sup> See Bradarskyi, Albert and Ruvim Pavenko and Velichko case (Annex I, paragraphs 39-42); Kulish and Alekhin case (Annex I, paragraphs 51-53); the Bochnevychs case (Annex I, paragraphs 54-55); Chubenko case (Annex I, paragraphs 47-49); and Khitrenko case (Annex I, paragraph 50).

of a death sentence following the semblance of a judicial process.<sup>55</sup> In at least one case, the victims may have been executed out of racial hatred.<sup>56</sup>

44. The alleged summary executions or killings by Ukrainian forces recorded by OHCHR appear to have been mostly driven by either the alleged affiliation of a victim with the armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, or by his/her support to them<sup>57</sup>, or by the “separatist” or “pro-Russian” views of a victim.<sup>58</sup>

45. In some cases, because of the prevailing insecurity, it was difficult to ascertain whether an execution or murder was committed out of hatred, discrimination, reprisal, for material gain, or whether the killing may have been opportunistic.<sup>59</sup> Nevertheless, each of these killings was clearly linked to the armed conflict in eastern Ukraine.

46. The pattern of accountability for such acts is uneven. The Government has brought some perpetrators from the ranks of its military and security forces to account: they are either under investigation<sup>60</sup>, or being tried in courts<sup>61</sup>, or already sentenced.<sup>62</sup> In some cases, however, the progress in the investigation is slow and no suspects have been identified so far<sup>63</sup>, or the investigation is protracted beyond reasonable limits even when it is known who had physical custody of the victim at the time of his/her death.<sup>64</sup> In some cases, it appears that an investigation is protracted deliberately so that alleged perpetrators are provided with opportunities to escape justice.<sup>65</sup> Armed groups appear to ‘investigate’ some cases<sup>66</sup> with no information on the situation of alleged perpetrators made available to OHCHR.

## **E. Death during deprivation of liberty**

47. A death in custody constitutes a human rights violation if it results from unjustified or excessive use of force by public officials or others exercising State functions; torture or cruel, inhuman or degrading treatment or punishment by public officials or others exercising State functions; or failure by the detaining authorities to protect the life of a detained person, for example due to neglect or poor prison conditions, including failure to provide food or health care, or violence by fellow detainees if not adequately investigated. According to the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, “[s]tates have a heightened level of responsibility in protecting the rights of detained individuals. Indeed, when an individual dies in State custody, there is a presumption of State responsibility”.<sup>67</sup>

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<sup>55</sup> See Klymchuk case (Annex I, paragraphs 43-45); and Pichko case (Annex I, paragraph 46).

<sup>56</sup> See Lyana Vidak, Margarita Vidak and Marina Fedorenko case (Annex I, paragraphs 56-57).

<sup>57</sup> See Verenich and Verenich case (Annex I, paragraphs 61-62); Piven case (Annex I, paragraphs 63-65); Kolomyitsev and Tsarenko case (Annex I, paragraphs 66-70); and Agafonov case (Annex I, paragraphs 71-72).

<sup>58</sup> See Kulmatytskyi and Holota case (Annex I, paragraphs 75-77); and Buzyna case (Annex I, paragraphs 79-84).

<sup>59</sup> See, for example, Brianka case (Annex I, paragraphs 58-60).

<sup>60</sup> See Piven case (Annex I, paragraphs 63-65); and Buzyna case (Annex I, paragraphs 79-84).

<sup>61</sup> See Agafonov case (Annex I, paragraphs 71-72); and Bakulin, Plotnykov and Ustinov case (Annex I, paragraphs 83-84).

<sup>62</sup> See Verenich and Verenich case (Annex I, paragraphs 61-62); and Kulmatytskyi and Holota case (Annex I, paragraphs 79-84).

<sup>63</sup> See Dolhov case (Annex I, paragraphs 104-105); Bukreniov case (Annex I, paragraphs 73-74); Bobrov case (Annex I, paragraph 78); and Cherepnia case (Annex I, paragraphs 91-92).

<sup>64</sup> See Kazantsev case (Annex I, paragraphs 102-103); and Nazdrychkin case (Annex I, paragraphs 85-86).

<sup>65</sup> See Buzyna case (Annex I, paragraphs 79-84).

<sup>66</sup> See Chubenko case (Annex I, paragraphs 47-49); Kulish and Alekhin case (Annex I, paragraphs 51-53); and Brianka case (Annex I, paragraphs 58-60).

<sup>67</sup> Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/14/24, para 49.

48. Any death in custody must be fully and impartially investigated to determine its circumstances and any responsibility of public officials, and the next of kin needs to be immediately informed. States must ensure that those responsible for deaths in custody are prosecuted, regardless of whether they are public officials or private individuals. If public officials are responsible, authorities must provide reparation to victims' relatives, including adequate compensation within reasonable time.

49. *De facto* authorities must also protect the lives of persons they detain.<sup>68</sup>

50. OHCHR has observed that arbitrary deprivation of liberty has reached an unprecedented scale in the territories controlled by the armed groups, with a broad network of detention facilities – those existing before the conflict (SIZOs<sup>69</sup>, ITTs<sup>70</sup> and penal colonies) – as well as improvised ones (often referred to as “basements”). Thousands of persons deprived of their liberty have gone through these places since mid-April 2014, subjected to inhuman conditions of detention, torture and ill-treatment.<sup>71</sup> Dozens of them were executed or died in custody, as witnessed by people who were released.<sup>72</sup> In some cases, no witnesses of death were available, but circumstances in which bodies with signs of violent death were found indicate that victims were deprived of their lives while in detention.<sup>73</sup>

51. HRMMU has also received allegations concerning the death of people in custody of the Government or its constituent armed forces. The majority of these allegations pertain to the initial stages of the conflict, i.e. June 2014 – February 2015. They mostly concern individuals who had been members of the armed groups<sup>74</sup> or were suspected of affiliation with them.<sup>75</sup> Most often, the death of victims was allegedly caused by torture and ill-treatment, or by inadequate or absent medical aid.

## **F. Disappearances which may have led to death**

52. Everyone has the right to be protected from enforced disappearance<sup>76</sup>, including in times of emergency. Enforced disappearances violate or constitute a grave threat to the right to life. States should take specific and effective measures to prevent disappearances by establishing effective facilities and procedures to thoroughly investigate cases of missing

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<sup>68</sup> Communication No. 120/1998, *Elmi v. Australia*, Views adopted by the Committee against Torture, 14 May 1999, para 6-7.

<sup>69</sup> Pre-trial detention facilities.

<sup>70</sup> Temporary detention facilities.

<sup>71</sup> See 14<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 February to 15 May 2016, paragraph 12.

<sup>72</sup> See Donetsk case (Annex I, paragraph 93); Snizhne case (Annex I, paragraphs 96-97) and Slisenko case (Annex I, paragraphs 98-100). See also 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015, paragraphs 35-36; 11<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 May to 15 August 2015, paragraph 43; and 8<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 1 to 30 November 2014, paragraph 41.

<sup>73</sup> See *Asieiev and Pikalov* case (Annex I, paragraph 94) and *Yevtushenko* case (Annex I, paragraph 95).

<sup>74</sup> See *Niiesh Papa* case (Annex I, paragraph 101).

<sup>75</sup> See *Kazantsev* case (Annex I, paragraphs 102-103).

<sup>76</sup> An enforced disappearance is constituted by three elements: a person is detained or otherwise deprived of liberty; the deprivation of liberty is carried out by State agents, or by persons or groups of persons acting with their support or acquiescence; and those responsible refuse to acknowledge the detention, or conceal the concerned person's fate or whereabouts, placing him/her outside the protection of the law.

and disappeared persons, especially in circumstances which may involve a violation of the right to life.<sup>77</sup>

53. Hundreds of people remain missing in the conflict zone of eastern Ukraine as of 1 June 2016. Some might have been killed in armed hostilities and their mortal remains unidentified<sup>78</sup> or pending recovery. In some cases, OHCHR has reasons to believe that some of the missing persons could have been subjected to enforced disappearance and summary executions. Descriptions of four of such cases are annexed to this report. It appears that in many cases people were abducted and allegedly killed to seize their property (such as vehicles).<sup>79</sup> In one case, a person was disappeared because of his political views.<sup>80</sup>

#### **G. Killings within the armed groups and Governmental forces**

54. By early June 2016, the number of non-combat fatalities among Ukrainian servicemen had reached 1,294, according to the Chief Military Prosecutor, including 259 suicides and 121 case of “intentional homicide”. OHCHR is concerned that some deaths – such as those of servicemen who were whistle-blowers regarding misdeeds of Ukrainian forces in the conflict zone (corruption and looting) – have been investigated ineffectively.<sup>81</sup>

55. Armed groups have resorted to execution and killings as a punishment of their elements for the crimes of disciplinary misdeeds they committed.<sup>82</sup>

#### **H. Increase in deaths resulting from ordinary crime**

56. States’ obligation to protect the right to life, and prevent and punish murder (including by non-State actors) also includes putting in place an effective criminal justice system.<sup>83</sup>

57. Since the eruption of the armed conflict, law and order has collapsed in the territories of eastern Ukraine, which has been exacerbated by the easy availability of firearms and access thereto. This has contributed to increasing violent criminality. Dozens of cases of violent deaths were recorded by the police departments in conflict-affected districts during the summer of 2014. Exact statistics about the total number of deaths resulting from ordinary criminal acts in April-December 2014 in Donetsk and Luhansk regions is not available, but OHCHR believes that their level was considerably higher than during the pre-conflict period. A considerable number of criminal deeds, including killings, were perpetrated by members of the armed groups and by elements of Governmental forces.

### **V. Violations and abuses of the right to life in the Autonomous Republic of Crimea and the city of Sevastopol**

58. While not having access to the Autonomous Republic of Crimea and the city of Sevastopol, OHCHR was able to document several cases of missing persons and has reasons to believe that the victims were abducted or deprived of their liberty by the *de facto* authorities of Crimea, or with their authorization, support or acquiescence. These disappearances occurred in the days preceding the unrecognized March 2014 ‘referendum’

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<sup>77</sup> Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Principle 2.

<sup>78</sup> As of 1 June 2016, identification of up to 1,000 bodies in the Government-controlled territories (both in morgues and buried) was pending.

<sup>79</sup> See Popov case (Annex I, paragraphs 106-108); Minchonok case (Annex I, paragraphs 109-110); and Kutsenko case (Annex I, paragraphs 111-112).

<sup>80</sup> See Dolhov case (Annex I, paragraphs 104-105).

<sup>81</sup> See Kostakov case (Annex I, paragraphs 115-116); and Shabratskyi case (Annex I, paragraphs 117-118).

<sup>82</sup> See Annex I, paragraphs 113-114.

<sup>83</sup> United Nations Human Rights Committee, General Comment No 6, HRI/GEN/1/Rev.6 (1982), para 3.



on the status of Crimea and in the months that followed it. In one case, a person who had disappeared was found dead in circumstances resembling a summary execution.<sup>84</sup> The alleged victims were either ‘pro-unity’ supporters<sup>85</sup>, or Crimean Tatar activists.<sup>86</sup> The Office of the Prosecutor General of Ukraine has established a separate department dealing with the crimes committed on the territory of the peninsula. Within the National Police, crimes committed on the territory of Crimea are investigated by the Main Department in the Autonomous Republic of Crimea and the city of Sevastopol which is located in Odesa. However, due to lack of access thereto, no progress in the relevant investigations is observed.

## VI. Conclusions and recommendations

59. Killing has become a widespread phenomenon in Ukraine since January 2014, starting with the Maidan events and escalating as of April 2014 with the conflict in the east. While the majority of deaths were directly caused by the armed hostilities, OHCHR observes—along with intergovernmental organizations, international NGOs, NGOs from Ukraine and the Russian Federation, and other actors<sup>87</sup>—a persistent pattern of violations and abuses of the rights to life and to physical integrity in the country.

60. Impunity for killings remains rampant, encouraging their perpetuation and undermining prospects for justice. No one has yet been brought to account for the violent deaths during the mass assemblies of 2014 and 2015. Similarly, no perpetrators have been brought to justice for the deaths resulting from violations of international humanitarian law, as in the cases of the conduct of armed hostilities or executions of persons *hors de combat*. Accountability for the killing of civilians or for deaths during the deprivation of liberty is still rare.

61. OHCHR welcomes the efforts of the Government of Ukraine to bring perpetrators from its own ranks to justice. It also notes that the Office of the Chief 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 self-proclaimed ‘Donetsk people’s republic’ and the self-proclaimed ‘Luhansk people’s republic’. OHCHR acknowledges the difficulties in furthering accountability, including due to the lack of access to the territories where many of the alleged acts took place.

62. At the same time, OHCHR has observed an apparent lack of motivation to investigate some cases and a formalistic approach in the work of investigative bodies, especially when it concerns acts allegedly committed by Ukrainian forces. Cover-up and political bias are not uncommon, especially when alleged perpetrators belong to the ranks of the military and law enforcement. As a result, some perpetrators continue to enjoy impunity. Changes of measures of restraint often provide alleged perpetrators with opportunities to escape from justice. While, forensic experts do not always pay sufficient attention to documenting signs of torture on bodies recovered from the conflict zone, investigators also do not always task forensic experts to answer questions whether a body bears signs of torture. Material evidence related to a summary deprivation of life is often collected poorly and is not properly preserved.

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<sup>84</sup> See Ametov case (Annex I, paragraphs 119-121).

<sup>85</sup> See Bondarets and Vashchuk case (Annex I, paragraph 123); and Chernysh case (Annex I, paragraph 124).

<sup>86</sup> See Shaimardanov and Zinedinov case (Annex I, paragraph 125); Dzhepparov and Islyamov case (Annex I, paragraph 126); Usmanov case (Annex I, paragraph 127); Arislanov case (Annex I, paragraph 128), and Ibrahimov case (Annex I, paragraph 129).

<sup>87</sup> See Annex I, footnote 90.

63. Relatives of victims are often the ones urging authorities to initiate an investigation. In some cases law enforcement officials only register the case in the Unified Register of Pre-trial Investigations (ERDR). They barely carry out any investigative actions, citing various pretexts: in particular the lack of access to territories not under the control of the Government of Ukraine where suspects might be hiding; and the absence of the body of the alleged victim.

64. OHCHR notes that the National Human Rights Strategy<sup>88</sup> recognizes ineffective investigations into violent deaths as a systemic problem. One of the expected results of the National Human Rights Action Plan is the availability of legal remedies and mechanisms, including for effective investigation of violations of the right to life. It is stipulated that a draft law to be developed on amending legislative acts in order to create compensation mechanisms for those who become victims due to the drawn out and ineffective investigation in the deaths of their relatives.

65. Parallel ‘law enforcement’ entities, set up in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, have reportedly investigated some killings which occurred in the territories under their control. These entities do not have any legal status under Ukrainian law. Their ‘investigations’ appear to be selective, focusing exclusively on acts committed by armed groups which have been disbanded or otherwise re-organized for their alleged lack of discipline or loyalty. The ‘investigations’ appear to lack due process and fair trial guarantees.

66. All available accountability mechanisms – both national and international – must ensure that those responsible, directly or as superior, for killings and other violations, abuses and crimes are brought to justice.

67. The below recommendations include a number of immediate and medium-term measures to prevent arbitrary deprivation of life and ensure that perpetrators are held accountable. Some recommendations in previous OHCHR reports on the human rights situation in Ukraine are reiterated as they are particularly relevant for the prevention of acts of arbitrary deprivation of life.

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

- a) Ensure investigations into all alleged acts of arbitrary deprivation of life are prompt, independent, impartial and effective;
- b) Allocate necessary human and technical resources to the National Police and Security Service of Ukraine (SBU) investigative bodies and to the prosecutor’s offices investigating alleged cases of arbitrary deprivation of life, including in the conflict zone;
- c) Improve the collection of forensic and preservation of other material evidence related to acts of arbitrary deprivation of life in the conflict zone, including documenting signs of torture or ill-treatment in accordance with international standards;
- d) Systematically interview people who were deprived of their liberty by the armed groups to document cases of alleged acts or arbitrary deprivation of life which they may have witnessed;
- e) Ensure that no illegal armed formations are taking part in the hostilities on the side of Governmental forces;

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<sup>88</sup> See 11<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 May to 15 August 2015, paragraph 162.

- f) Strengthen internal and prosecutorial oversight of military and law enforcement bodies in the conflict zone, especially at check points and in settlements where an effective civilian administration is absent;
- g) Ensure that investigations into the violent deaths which occurred during assemblies in 2014 and 2015, such as during the Maidan events and Odesa events, are completed in accordance with international standards and without undue delay;
- h) Amend the Law of ‘On prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies and recognising the repeal of certain laws of Ukraine’ of 21 February 2014 so that it does not prevent the prosecution of the killings during the Maidan events;
- i) Ensure that judges, lawyers and other justice professionals are fully protected from threats, intimidation and other external pressures that seek to challenge and threaten their independence and impartiality;
- j) Ensure that families of victims are kept fully informed on the progress of investigations into the death of their relatives;
- k) Ensure that the ‘all for all’ release envisaged by the Minsk Agreements or any other forms of “exchanges” or “simultaneous releases of detainees” do not lead to impunity for those suspected of killings or other violations, abuses or crimes, either directly or as accomplices, or as superiors;
- l) Ensure that no impunity to perpetrators complicit with acts of arbitrary deprivation of life and other gross violations of human rights and serious violations of international humanitarian law shall take place in the context of amnesty and pardoning envisaged by the Minsk Agreements or any other amnesty or pardoning;
- m) Take measures to limit the direct or indirect negative impact of the derogations from certain of Ukraine’s obligations under international human rights instruments on the protection and promotion of human rights;
- n) Accede to the Rome Statute of the International Criminal Court;
- o) Closely cooperate with civil society actors which document killings and analyse relevant legislation and law enforcement practices;
- p) Actively cooperate with those international actors who can bring expertise to investigate killings, whether during assemblies, or in the context of armed conflict;
- q) Immediately terminate the practice of secret or incommunicado detention; keep all detainees in official places of detention; and allow access of family members, lawyers, judges and international monitors to all detainees;
- r) Ensure protection for witnesses and for members of the armed and security forces who act as whistle blowers by reporting on violations committed by their colleagues.

**69. 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) Take urgent measures to put an end to fighting and violence in the conflict zone, including by continuing to seek full implementation of the Package of Measures for Implementation of the Minsk Agreements, and fully observing the regime of “complete silence” along the contact line;
- b) Fully respect international humanitarian law obligations, including the principles of distinction, precaution and proportionality;

- c) Facilitate the investigation and prosecution by the competent authorities of any person allegedly responsible for human rights' violations or abuses and violations of international humanitarian law, including wilful killings and executions, notably by ensuring that relevant information and evidence are preserved;
- d) Immediately release all persons arbitrarily deprived of their liberty;
- e) Ensure unimpeded access of OHCHR and other international monitors to all places where people deprived of liberty are held;
- f) Provide effective access for OHCHR to witnesses and material evidence of alleged summary executions and killings.

70. **To the *de facto* authorities of Crimea<sup>89</sup> and to the Russian Federation:**

- a) Ensure the investigations into all allegations of disappearances and killings involving members of the security forces and the so-called Crimean 'self-defence';
- b) Ensure direct and unfettered access to the Crimean peninsula by OHCHR and other international human rights monitoring mechanisms to enable them to carry out their mandate in full conformity with General Assembly resolution 68/262.

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<sup>89</sup> The status of the Autonomous Republic of Crimea and the city of Sevastopol is determined by United Nations General Assembly resolution 68/262 on the territorial integrity of Ukraine.

## Annex I. Cases of violations or abuses of the right to life in Ukraine from January 2014 to May 2016

1. The cases presented in this Annex are not exhaustive. Some other cases were presented in the previous OHCHR reports on the human situation in Ukraine, and in the reports of intergovernmental organizations, international NGOs, NGOs from Ukraine and the Russian Federation, and other actors<sup>90</sup>, and some allegations were under OHCHR consideration as of 1 June 2016. Besides, OHCHR was unable to verify or corroborate many allegations of arbitrary deprivation of life it received since mid-April 2014. Some of these allegations were accounts of people who themselves did not witness the killing, but referred to the information received from actual witnesses or other sources; this information lacked details which would have enabled further verification. In many cases, there were no witnesses to the summary executions, killings and murders reported to OHCHR, and/or it was otherwise difficult for OHCHR to verify the alleged incident.

### I. Killings and violent deaths in the context of assemblies

#### A. Violence of January-February 2014 during the Maidan events

**Table 1. Deaths of protestors and other people during Maidan events**

Number of protestors died and circumstances of their death	Alleged perpetrators and accountability status
On 17 October 2015, the Office of the Prosecutor General reported that nine senior officials of the former Government <sup>91</sup> , involved in the “unlawful crackdown” that resulted in the death of protestors during the Maidan events, had been charged under various articles of the Criminal Code. As of 1 June 2016, none of them has been brought to trial as they all allegedly fled Ukraine on 20 February 2014 or shortly afterwards	
21 January 2014	
Mr Yurii Verbytskyi found dead on 22 January, in the forest near the village of	As of 1 June 2016, the pre-trial investigation is completed and two suspects are indicted. The investigation concerning 10 other suspects was on-going, and they were put on a wanted list.

<sup>90</sup> Reports of the International Advisory Panel of the Council of Europe on its review of the Maidan Investigations, published on 31 March 2015, and on its review of the investigations into the tragic events in Odesa of May 2014, published on 4 November 2015; “Summary Killings during the Conflict in Eastern Ukraine” and “Breaking Bodies: Torture and Summary Killings in Eastern Ukraine” by Amnesty International; “Fighting Impunity in Eastern Ukraine: Violations of International Humanitarian Law and International Crimes in Eastern Ukraine” by the International Partnership for Human Rights; “War Crimes of the Armed Forces and Security Forces of Ukraine: Torture and Inhumane Treatment” by the Foundation for the Study of Democracy, the Russian Public Council for International Cooperation and Public Diplomacy and the Russian Peace Foundation; “Russian War Crimes in Eastern Ukraine in 2014” by a group of volunteers commissioned by a member of the Polish Parliament Małgorzata Gosiewska; “Surviving Hell: Testimonies of Victims on Places of Illegal Detention in Donbas” by the Coalition of public organizations and initiatives ‘Justice for Peace in Donbas’; “Total Impunity in the ATO Area: Investigation of Killings and Disappearances” by the Ukrainian Helsinki Human Rights Union; and “Searching for Justice: Investigation of Crimes Related to Violations of Rights to Life, Freedom and Physical Integrity and to Freedom from Torture in the Anti-Terrorist Operation Zone – Deficiencies in the Work of Investigative Bodies and Recommendations of Human Rights Defenders” by the Centre for Civil Liberties under the auspices of the Coalition ‘Justice for Peace in Donbas’.

<sup>91</sup> Former President, former Prosecutor General, former Prime Minister, former Minister of Internal Affairs, former Head of the Security Service, former Deputy Minister of Internal Affairs, former Commander of the Internal Troops of the Ministry of Internal Affairs, former First Deputy Head of the SBU and former Head of Public Security Militia in Kyiv.

Hnidyn (Borospilskyi district of Kyiv region), after being abducted from the hospital on 21 January	
22 January 2014	
Mr Serhii Nihoian and Mr Mykhailo Zhyznievskiy were shot dead at Hrushevskoho Street in Kyiv; Mr Roman Senyk, died in hospital on 25 January after being shot at Hrushevskoho Street <sup>92</sup>	As of 1 June 2016, no perpetrators have been identified. Pre-trial investigation is ongoing
18-19 February 2014	
10 protestors (nine men <sup>93</sup> and a woman <sup>94</sup> ) sustained lethal bodily injuries at Instytutska Street, Hrushevskoho Street, Kriposnyi Lane and in Mariinskyi Park in central Kyiv as a result of the forceful dispersal of protestors who were trying to reach the Parliament during the so-called 'Peaceful advance'	<p>Pre-trial investigation established the involvement of three 'Berkut' servicemen in the forceful dispersal of protestors at Instytutska Street and Kriposnyi Lane, which resulted in grave consequences, including death of three individuals.<sup>95</sup></p> <p>On 12 November 2016, two of the three servicemen were indicted on the charges under articles 263 (unlawful handling of weapons), 340 (illegal interference with the organization or holding of assemblies, rallies, marches and demonstrations) and 365 (excess of authority or official powers) of the Criminal Code. On 31 March 2016, they were also indicted under articles 367 (neglect of official duty) and 371 (knowingly unlawful apprehension, taking into custody, arrest or detention). As of 1 June 2016, they remained under house arrest.</p> <p>On 16 October 2015, the third serviceman, former commander of 'Berkut' regiment from Kharkiv, was charged under articles 115 (intentional homicide) and 365 (excess of authority or official powers) of the Criminal Code for killing the three protestors. As of 1 June 2016, he remained under house arrest.</p> <p>On 12 March 2016, a Maidan protestor indicted on charges under articles 286 (violation of traffic rules) and 289 (unlawful appropriation of the vehicle) of the Criminal Code for killing another protestor<sup>96</sup>, was exempted from criminal responsibility by Pecherskyi District Court of Kyiv.<sup>97</sup> It was done pursuant to the law of 21 February 2014 (see paragraph 38 below). The Office of the Prosecutor General is challenging this decision</p>

<sup>92</sup> According to the Office of the Prosecutor General, Nihoian was killed with a hunting case shot which could have been fired from a pump-action gun, and Zhyznievskiy and Senyk were killed by bullets normally used by police to stop vehicles.

<sup>93</sup> Volodymyr Kishchuk (died a gunshot injury sustained at Kriposnyi Lane, on 18 January), Andrii Korchak (died of a chronic ischemic heart disease caused by a chest trauma he sustained at Hrushevskoho Street, on 18 February), Serhii Didych (died of a closed craniocerebral injury he sustained at Hrushevskoho Street as a result of being hit by a car, on 18 February), Serhii Shapoval (died of a gunshot injury he sustained at Instytutska Street, on 18 February), Ihor Serdiuk (died of a gunshot injury he sustained at Instytutska Street, on 18 February), Artem Mazur (died of open craniocerebral injury he sustained in Mariinskyi Park, on 3 March), Ivan Nakonechnyi (died of open craniocerebral injury he sustained at Instytutska Street, on 7 March), Anatolii Nechyporenko (died of closed craniocerebral injury he sustained at Instytutska Street, on 28 March) and Zurab Khurtsiia (died of cardiac failure at Instytutska Street, on 18 February).

<sup>94</sup> Ms Antonina Dvorianets (died of cardiac failure at Instytutska Street, on 18 February).

<sup>95</sup> Mr Serhii Shapoval, Mr Ihor Serdiuk and Mr Volodymyr Kishchuk.

<sup>96</sup> Mr Serhii Didych.

<sup>97</sup> Ruling of Pecherskyi District Court of Kyiv of 12 March 2016 in the case № 757/39355/15-к, available at: <http://reyestr.court.gov.ua/Review/56433235>.

<p>10 protestors (all men)<sup>98</sup> died of gunshot injuries sustained during the so-called “anti-terrorist operation” in central Kyiv from 7 p.m. on 18 February until 6 a.m. of 19 February; a man<sup>99</sup> was found dead at the crossing of Velyka Zhytomyrska and Volodymyrska Streets, another man<sup>100</sup> – at Triokhsvyatytelska Street, and four other protestors (all men)<sup>101</sup> died of other types of injuries they sustained during the “anti-terrorist operation”</p>	<p>Former Head of the Security Service, his former First Deputy and former Head of the Security Service for the city of Kyiv and Kyiv region have been charged under articles 255 (creation of a criminal organization), 340 (illegal interference with the organization or holding public assemblies, rallies, marches and demonstrations committed by a group of people upon prior collusion), 365 (abuse of power), 115 (intended grievous bodily injury, killing of two or more individuals in a way dangerous to the lives of many people, committed by a group of people upon prior collusion) and 408 (desertion) of the Criminal Code.</p> <p>On 9 April 2014, former Head of the Security Service and then on 26 January 2015, his former First Deputy were put on a wanted list after allegedly fleeing Ukraine.</p> <p>On 21 August 2015, the Pecherskyi District Court of Ukraine placed former Head of the Security Service for the city of Kyiv and Kyiv region under custody, where he currently remains. On 16 February 2016, he was indicted, pending trial</p>
<p>Mr Viacheslav Veremii, a journalist of a daily newspaper ‘Vesti’, beaten and shot dead after attempting to catch on video of a group of so-called ‘titushky’<sup>102</sup></p>	<p>Nine ‘titushky’ (all men) have been charged under article 115 (intentional homicide committed by a group upon prior collusion out of hooliganism) of the Criminal Code. All are on a wanted list. A man has been indicted on charges under article 296 (hooliganism act with the use of cold arms prepared in advance to cause bodily harm) of the Criminal Code, and kept under home arrest.</p> <p>As of 1 June 2016, the pre-trial investigation was ongoing</p>
<p>20 February 2014</p>	
<p>48 protestors (all men)<sup>103</sup> died of gunshot wounds in Instytutska street, in the morning, while attempting to reach certain areas up the street and to push back the ‘Berkut’ special police regiment from Zhovtnevyi</p>	<p>Commanders and servicemen of the ‘Berkut’ special police regiment (26 individuals<sup>104</sup>, all men).</p> <p>Five of these servicemen (two detained in early April 2014, two detained on 23 February 2014, and one detained on 26 June 2015) have been charged under articles 365 (abuse of power), 262 (illegal appropriation of weapons) and 115 (killing of two or more people in a way dangerous to the lives of many people committed by a group of people upon prior collusion) of the Criminal Code. As of</p>

<sup>98</sup> Eight protestors died immediately after having sustained the gunshot injuries: Volodymyr Boikiv, Valerii Berezdeniuk, Serhii Bondarev, Oleksandr Plekhanov, Vasyl Prokhorskyi, Andrii Chernenko, Viktor Shvets and Yurii Paskhalin; two others died later in the hospital: Viktor Orlenko (died on 3 June 2014) and Yurii Sydorhchuk (died on 28 June 2014).

<sup>99</sup> Vitalii Vasiltsov.

<sup>100</sup> Volodymyr Kulchytskyi.

<sup>101</sup> Dmytro Maksymov (died of blast trauma, on 18 February), Oleksandr Kapinos (died of open craniocerebral trauma, on 18 February) and Volodymyr Topii and Oleksandr Klitynskyi (both died in the fire in the House of Trade Unions, on 19 February).

<sup>102</sup> Armed civilians, sometimes wearing camouflage and masks, often having criminal record, engaged by the law enforcement to attack the protestors.

<sup>103</sup> Heorhii Arutiunian, Vasyl Aksenyin, Serhii Baidovskyi, Oleksandr Baliuk, Ivan Bliok, Serhii Bondarchuk, Oleksii Bratushka, Bohdan Vaida, Roman Varenysia, Nazarii Voitovych, Ustym Holodniuk, Eduard Hrynevych, Roman Huryk, Mykola Dziavulskyi, Andrii Dyhdalovych, Ihor Dmytriv, Anatolii Zhalovaha, Volodymyr Zherebnyi, Vladyslav Zubenko, Bohdan Ilkiv, Serhii Kemskyi, Anatolii Kornieiev, Ihor Kostenko, Yevhenii Kotliar, Vitalii Kotsiuba, Volodymyr Melnychuk, Andrii Movchan, Vasyl Moisei, Valerii Opanasiuk, Ivan Pantelieiev, Mykola Pankiv, Yurii Parashchuk, Ihor Pekhenko, Leonid Polianskyi, Andrii Saienko, Vitalii Smolenskyi, Bohdan Solchanyk, Ivan Tarasiuk, Ihor Tkachuk, Roman Tochyn, Oleh Ushnevych, Oleksandr Khrapachenko, Oleksandr Tsariok, Volodymyr Chaplinskyi, Viktor Chmilenko, Yosyp Shilinh, Maksym Shymko and Oleksandr Shcherbaniuk.

<sup>104</sup> Former commander of the ‘Berkut’ special police regiment, former commander of Kyiv ‘Berkut’ unit, his deputy and 23 other ‘Berkut’ servicemen.

Palats (Palace)	<p>1 June 2016, they remained in custody, pending trial.</p> <p>In early April 2014, a ‘Berkut’ commander was detained along with two of his subordinates (mentioned above). On 19 September 2014, the Pecherskyi District Court of Kyiv placed him under house arrest, with the obligation to stay at home from 11 p.m. until 7.00 a.m. On 3 October 2014, he did not appear at the court hearing. He had reportedly left his home in the morning and has since disappeared.</p> <p>On 16 January 2015, the Office of the Prosecutor General filed an indictment against two ‘Berkut’ servicemen detained in early April 2014. On 9 February 2016, the Office filed an indictment against the three other detained ‘Berkut’ servicemen with the Sviatoshynskyi District Court of Kyiv. On 16 February 2016, the Court consolidated these cases into one and started to hear the testimonies of victims.</p> <p>Twenty other Berkut servicemen, identified as being involved in the killing of the 48 protestors, are on a wanted list as they have reportedly fled the country<sup>105</sup></p>
22 December 2013 – 3 June 2015 <sup>106</sup>	
Five protesters <sup>107</sup> died in Kyiv and other places due to gunshot and other injuries they sustained in Kyiv and other places	<p>Three persons have been indicted for intentional homicide of Vasyl Serhiienko; two other suspects in this case were put on a wanted list.</p> <p>Office of the Prosecutor General conducts investigation into abuse of powers by the SBU servicemen which resulted in the killing of Dmytro Pahor and Liudmyla Sheremet.</p> <p>Pre-trial investigation into the killing of Andrii Pozniak is ongoing</p>
According to the Office of the Prosecutor General, the link between Government’s counteraction to the Maidan protests and the deaths of 17 persons (all men) <sup>108</sup> has not been established; death of	

<sup>105</sup> See paragraph 117 of the 12<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering period from 16 August to 15 November 2015.

<sup>106</sup> The individuals listed below were decorated by the President of Ukraine with title “Hero of Ukraine”, or their relatives were found eligible for social benefits by the Ministry of Social Policy due to loss of their lives during the Maidan events, or were reported as Maidan victims by human rights NGOs. According to the Office of the Prosecutor General, however, the circumstances of some deaths do not provide reasons to believe that they were related to the protests either in Kyiv or in other places.

<sup>107</sup> Mr Dmytro Pahor and Ms Liudmila Sheremet (died from gunshot injuries sustained in the city of Khmelnytskyi near the SBU building, on 19 and 22 February respectively); Mr Andrii Pozniak (died of a gunshot injury of the head sustained at Khreshchatyk Street in Kyiv, on 3 March); Mr Vasyl Serhiienko (abducted from his house in Korsun Shevchenkivskyi, Cherkasy region, on 4 April, and found dead, with signs of torture, in the forest the following day, 15 kilometres away from his house), and Mr Davyd Kipiani (died of chronic ischemic heart disease in Kyiv, in the night to 21 February, while in the ambulance).

<sup>108</sup> Andrii Tsepun (died of hypothermia, not related to protests, in Kyiv, on 21 February), Viktor Khomiak (committed suicide at Independence Square, in Kyiv, on 27 January); Taras Slobodian (disappeared in December 2013 and found dead in the forest in March 2014, in Sumy region; died of loss of blood caused by amputation of wrist; due to putrefaction of the body, date of his death has not been yet established); Serhii Synenko (found burned to death in his car, on a road between villages Ivan Horod and Chervonyi Yar, Zaporizhzhia region, on 13 February); Volodymyr Naumov (committed suicide, in Kyiv, on 18 February); Yakiv Zaiko (died of cardiac failure at Instytutska Street, on 18 February); Viktor Chernets (died in a car accident, in the village of Podibna, Cherkasy region, when he and other local residents were blocking the highway to prevent anti-Maidan groups from coming to Kyiv, on 19 February); Bohdan Kalyniak (died of pancreatonecrosis which was not related to bodily injuries, in Ivano Frankivsk, on 28 January); Ivan Horodniuk (died of septic bronchopneumonia, at his home in the village of Berezne, Rivne region, on 19 February); Vasyl Sheremet (died of chronic ischemic heart disease, in Kyiv, on 7 March); Pavlo Mazurenko (died of septic pneumonia, in Kyiv, on 22 December 2013); Petro Hadzha (died of acute cardiac failure, in Kyiv, on 22 March); Oleksandr Hrytsenko (died of chronic ischemic heart disease, after nine months



one person<sup>109</sup> is not investigated either by the Prosecutor's Office, or by police; and exact circumstances of the death of seven persons<sup>110</sup> and their relation to the Maidan events have not been established

**Table 2. Deaths among law enforcement officers during Maidan events**

Number of law enforcement officers killed and circumstances of their death	Alleged perpetrators and accountability status
18 February 2014	
Seven law enforcement officers (all men) <sup>111</sup> died after being shot in central Kyiv	As of 1 June 2016, no perpetrators were identified. The pre-trial investigation is ongoing
19 February 2014	
One Berkut serviceman <sup>112</sup> died after being shot in central Kyiv into the night of 19 February; and one serviceman died in hospital on 2 March from gunshot injuries sustained on 19 February <sup>113</sup>	As of 1 June 2016, no perpetrators were identified. The pre-trial investigation is ongoing
20 February 2014	
Four Berkut servicemen <sup>114</sup> died from gunshot injuries they sustained in central Kyiv	As of 1 June 2016, no perpetrators were identified. The pre-trial investigation is ongoing

## B. Violence of 2 May 2014 in Odesa

**Table 3. Deaths as a result of violence of 2 May 2014 in Odesa**

Number of victims and circumstances of their deaths	Alleged perpetrators and accountability status
Six people (all men) were killed (four <sup>115</sup> died on the spot and two <sup>116</sup> died on the way to or at the hospital) from firearms at Hretska Square (city centre). Four victims were 'pro-federalism'	A 'pro-unity' supporter is charged with murdering one of the victims, Mr Yevhen Losynskyi, a 'pro-federalism' activist; perpetrators responsible for the killing of the five other victims have not been identified. The trial of the accused, under articles 115 (intentional homicide) and 348 (trespass against life of a law enforcement officer) of the

spent in hospital due to craniocerebral trauma sustained at Maidan, on 9 December 2014); Anatolii Kurach (died of liver cirrhosis, in Rivne, on 21 February); Oleksandr Badera (died of chronic ischemic heart disease, in Kyiv, on 22 January); Volodymyr Zakharov (died in the fire in the Party of Regions' office, in Kyiv, on 18 February); and Viacheslav Vorona (died of bodily injuries sustained in a fight not related to the Maidan protests, in Kyiv, on 9 March).

<sup>109</sup> Mr Maksym Horoshyshyn died of an acute type of pneumonia, on 20 February.

<sup>110</sup> Mr Ihor Bachynskyi (died of chronic ischemic heart, in Boiarka, Kyiv region, on 25 February); Mr Yuri Nechyporuk (allegedly abducted from Kyiv and taken to the village of Hlevakha, some 30 km from Kyiv, where he was stabbed to death, on 18 February); Mr Oleksandr Trofymov (allegedly died in the fire at the House of Trade Unions, in Kyiv, on 19 February); Mr Mykhailo Kostyshyn (died in a car accident, on 26 February); Mr Oleksandr Podryhun (died of craniocerebral trauma and bodily injures on 23 February); Ms Olha Bura (died of anaphylactic shock caused by a painkiller injection to treat the cut of her hand sustained at Maidan field kitchen, on 10 March); and Mr Dmytro Cherniavskyi (died after being stabbed during participation in a 'pro-unity' rally, in Donetsk, on 13 March).

<sup>111</sup> Vasyl Bulitko, Dmytro Vlasenko, Vitalii Honcharov, Oleksii Ivanenko, Ivan Tepluk, Maksym Tretiak and Andrii Fediukin.

<sup>112</sup> Serhii Tsvyhun.

<sup>113</sup> Vitalii Zakharchenko.

<sup>114</sup> Volodymyr Zubok, Serhii Mykhailovych, Mykola Symysiuk and Serhii Spichak.

<sup>115</sup> Oleksandr Biriukov, Oleksandr Zhulkov, Hennadii Petrov and Mykola Yavorskyi.

<sup>116</sup> Yevhen Losynskyi and Ihor Ivanov.

<p>supporters while two were 'pro-unity' supporters</p>	<p>Criminal Code, has been transferred between all Odesa district courts.<sup>117</sup> On 31 May 2016, Kyivskiy District Court of Odesa returned the indictment to prosecution to fix the inaccuracies.</p> <p>The trial of the former Head of Odesa Regional Police Department under articles 135 (leaving in danger), 364 (abuse of authority or office) and 365 (excess of authority or official powers) of the Criminal Code started in February 2016<sup>118</sup></p>
<p>42 people (34 men<sup>119</sup>, seven women<sup>120</sup> and a 17-year-old boy<sup>121</sup>) died in a fire that erupted in the House of Trade Unions, at Kulykove Pole Square. All victims were either pro-federalism supporters or people who happened to be at the site of the incident. Thirty-two of the victims (26 men and six women) died of asphyxiation with carbon monoxide while trapped in the building; 10 people died as a result of injuries sustained after jumping out of the building (eight died on the spot – six men, a woman and a 17-year-old boy – and two men died in hospital)</p>	<p>Those who set fire to the House of Trade Unions have not been identified.</p> <p>The fire brigade and senior police officers<sup>122</sup> are under investigation for negligence in not taking appropriate actions to prevent or minimize the damage.</p> <p>On 15 January 2016, the Office of the Prosecutor General authorized the National Police of Odesa region to continue the pre-trial investigation into the death of people in the House of Trade Unions.<sup>123</sup> The investigation is conducted under articles 115 (intentional homicide), 194 (wilful destruction or damage of property), 294 (riots), 296 (hooliganism), 341 (seizure of government or public buildings or constructions) and 345 (threats or violence against a law enforcement officer) of the Criminal Code with 27 persons indicted. Thirteen pro-federalism supporters are on a wanted list being suspected of riots and mass disorder in Odesa.</p> <p>On 16 October 2014, the Office of the Prosecutor General opened an investigation into negligence by the senior management of the State Emergency Service (SES) for Odesa region under articles 135 (leaving in danger) and 367 (neglect of official duty) of the Criminal Code. The SES Head for Odesa region and one of his deputies are on a wanted list as they fled Ukraine on 1 March 2016, when three of his subordinates – SES Deputy Head for Odesa region, the Shift Head and the Assistant to the Shift Head – were placed in custody on the same day.</p> <p>As of 1 June 2016, the pre-trial investigation was on-going</p>

### C. Other assemblies marked by violent deaths

2. On 26 February 2014, Mejlis of Crimean Tatar People organized a rally near the building of the Supreme Council of the Autonomous Republic of Crimea. The head of Mejlis stated that the rally aimed at preventing the decision on accession of the

<sup>117</sup> See paragraph 77 of the 14<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016.

<sup>118</sup> He is accused of negligence in ensuring public safety in the city centre and at Kulykove Pole square.

<sup>119</sup> Oleksii Balaban, Leonid Berezovskyi, Andrii Brazhevskiy, Volodymyr Bryhar, Viktor Bullakh, Andrii Hnatenko, Yevhen Hnatenko, Ihor Zaiats, Dmytro Ivanov, Petro Kair, Anatolii Kalyn, Mykola Kovryha, Oleksandr Kononov, Serhii Kostiukhin, Hennadii Kushnariov, Ruslan Kushch, Ihor Lukas, Viacheslav Markin, Ivan Mylev, Yevhen Mytchuk, Serhii Mishyn, Vadym Nehaturov, Maksym Nykytenko, Dmytro Nykytiuk, Volodymyr Novytskyi, Ihor Ostorozhniuk, Viktor Poliovyi, Oleksandr Pryimak, Oleksandr Sadovnychyi, Viktor Stepanov, Taras Sharf, Mykhailo Shcherbynin, Yurii Karasev and Mykhailo Viacheslavov.

<sup>120</sup> Khrystyna Bezhanyska, Hanna Varenkyyna, Nina Lomakyna, Svitlana Pikalova, Hanna Poluliakh, Iryna Yakovenko and Liubov Halahanova.

<sup>121</sup> Vadym Papura.

<sup>122</sup> Former Head of the State Service on Emergency Situations in Odesa region; two his former deputies; head of duty shift of the fire station on 2 May 2014; assistant of the head of duty shift of the fire station on 2 May 2014; former Head of the Odesa Regional Police; and former Deputy Head of the Odesa Regional Police.

<sup>123</sup> The pre-trial investigation was suspended due to the reform of the Ministry of Internal Affairs and establishment of the National Police.

Autonomous Republic of Crimea to the Russian Federation. Clashes erupted between participants in the rally and a group of individuals who opposed the newly established interim Government of Ukraine and supported Crimea's accession to the Russian Federation. As a result, two individuals died – Mr Viktor Postnyi and Ms Valentyna Korenieva. Postnyi reportedly died of a heart attack, while Korenieva was trampled to death. Having no access to the peninsula, OHCHR has relied on the statements of the 'prosecution' and the lawyers of eight Crimean Tatars, including the Deputy Head of Mejlis, whom the *de facto* authorities detained in 2015 for their alleged role in organising the February 2014 protests.<sup>124</sup>

3. On 14 March 2014, clashes between activists of the 'pro-federalism' group 'Oplot' and of the 'pro-unity' group 'Patriots of Ukraine' erupted in the city of Kharkiv, at Rymarska Street. The violence resulted in the deaths of two 'Oplot' members<sup>125</sup> caused by the use of firearms. Two years after the incident, there has been no progress in the investigation into the case, with no alleged perpetrators identified. Information from SBU, the Ministry of Internal Affairs, and Kharkiv Regional Prosecutor's Office suggests that the majority of the members of 'Patriots of Ukraine' involved in the shooting subsequently served in the 'Azov' battalion in the conflict zone.

4. On 22 February 2015, an explosive device killed three participants<sup>126</sup> and one law enforcement officer<sup>127</sup> during the "March of Dignity" in Kharkiv. On 25 February 2015, three men were detained on charges under articles 258 (act of terrorism resulted in death) and 263 (illegal handling of weapons, ammunition or explosives) of the Criminal Code. As of 1 June 2016, all have been indicted, and the case was being heard by the Frunzenskyi District Court of Kharkiv.

5. On 31 August 2015, while the Parliament of Ukraine was to vote on the draft constitutional amendments foreseeing some "special order of self-governance for certain districts of Donetsk and Luhansk regions", several hundred people gathered outside the building to protest against the amendments. After the amendments were adopted, protestors started to confront police officers. One of the protestors launched a combat grenade which killed four<sup>128</sup> and injured over 80 police officers. A man suspected of launching the grenade was arrested on the same day and has since been in detention. As of 1 June 2016, the pre-trial investigation into the case was ongoing.

## **II. Killings in the context of armed conflict in eastern Ukraine**

### **A. Use of force by use of firearms**

#### **1. Territories controlled by armed groups**

##### *The Burykhins case*

6. On 9 May 2014, residents of the town of Antratsyt (Luhansk region) Mr Oleh Burykhin and Ms Iryna Burykhina were killed while driving in two jeeps from their home town to the Russian Federation. At approximately 2 a.m., near the village of Novoborovytsi (Sverdlovsk district of Luhansk region), they went under submachine gun fire by the armed groups. Reportedly, they thought that it was the Right Sector members who were driving the cars, though no presence of Ukrainian forces was observed in the area. According to the

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<sup>124</sup> See 14<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 February to 15 May 2016, para 182; and 13<sup>th</sup> OHCHR report on the human rights situation in Ukraine covering the period from 16 November 2015 to 15 February 2016, para 187.

<sup>125</sup> Mr Oleksii Sharov and Mr Artem Zhudov.

<sup>126</sup> Mr Danyla Didyk, Mr Mykola Melnychuk and Mr Ihor Tolmachov,

<sup>127</sup> Mr Vadym Rybalchenko.

<sup>128</sup> Mr Bohdan Datsiuk, Mr Ihor Debrin, Mr Oleksandr Kostin and Mr Dmytro Slastnykov.

forensic record, the cause of death of Burykhin was “trauma of the body with damage to bones”, and Burykhina died of a “gunshot wound of the heart”.

*Snizhne case*

7. In the evening of 9 May 2015, three women and a man (reportedly, a member of an armed group) fell under submachinegun fire while driving in the town of Snizhne (Donetsk region), which was under the control of the armed groups since May 2014. Two of the three women were killed. They reportedly did not stop at the request of members of the local ‘military commandant’s office’ of the ‘Donetsk people’s republic’.<sup>129</sup>

## **2. Territories controlled by Government**

*Volodymyr Lobach case*

8. On 8 May 2014, Mr Volodymyr Lobach was killed by members of ‘Azov’ battalion who were passing through the town of Reshetylivka (Poltava region) in a convoy. The victim was shot dead after a verbal confrontation with ‘Azov’ servicemen at the petrol station. When the Poltava Prosecutor, the Head of the Department of Internal Affairs and the Head of SBU Department arrived at the scene, they were threatened by ‘Azov’ battalion members and had to leave.<sup>130</sup> HRMMU learned that the convoy included more than 200 ‘Azov’ members who reportedly proceeded to the conflict zone.<sup>131</sup> The local police conducting the investigation had not identified any suspects as of 1 June 2016.

*Serhii Skrypnik case*

9. On 17 December 2014, at the Government checkpoint near the town of Kostiantynivka (Donetsk region), a police officer from Poltava, temporarily deployed to the security operation area, stopped a car with three civilians travelling to the then Government-controlled town of Vuhlehirsk. As the passengers did not have their passports, the police officer asked them to pull over. When one of them asked the way to Vuhlehirsk, he approached the front passenger seat and tried to open the door. As the door was closed, the police officer broke the window with the butt of his submachine gun and shot dead the passenger, Mr Serhii Skrypnik, and wounded the driver. He then ordered the latter to take the backseat and the other passenger to replace the driver and to leave. They obeyed, fearing for their lives.

10. No action was taken by the commander of the police officer and his colleagues who, at the time of the incident, stood some 10 meters away from the scene. They later claimed they had not heard or seen anything suspicious. In the course of the criminal investigation launched by police, the perpetrator maintained that the shot was accidentally triggered as he slipped on the uneven surface of the road. On 19 February 2016, the Kostiantynivskiy District Court of Donetsk region sentenced him to 12 years of imprisonment on charges of intentional homicide and negligent, grievous bodily injury as a result of abuse of power.

*Roman Postolenko case*

11. On 17 February 2015, Mr Roman Postolenko, a taxi driver from the Government-controlled town of Selydove (Donetsk region), was driving two armed servicemen of the Ukrainian Armed Forces to their military unit. At approximately 3 p.m., a patrol of the State Border Guard Service of Ukraine (SBGS) started pursuing Postolenko’s car, assuming he was attempting to escape. At some point, Postolenko stopped his car to discharge the soldiers who, while wearing civilian clothes, were carrying submachine guns.

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<sup>129</sup> [http://vlada.io/vlada\\_news/v-snezhnom-boeviki-dnr-ubili-na-trasse-dvuh-devushek-v-den-pobedy/](http://vlada.io/vlada_news/v-snezhnom-boeviki-dnr-ubili-na-trasse-dvuh-devushek-v-den-pobedy/)

<sup>130</sup> HRMMU interview of 10 November 2014.

<sup>131</sup> *Ibidem*.

12. According to the soldiers' version of the incident, as they stepped out of the taxi, one of them approached the driver to pay him while the other stayed behind the car. The soldiers claim that the SBGS patrol opened fire without warning. Both soldiers managed to hide behind the taxi; one of them sustained a gunshot wound and the other ran to the military unit for reinforcement.<sup>132</sup> According to the lawyer of the victim's wife, 10 bullets hit Postolenko. According to the death certificate, he died of numerous penetrating gunshot wounds of head, chest and right leg.

13. According to SBGS, their vehicles stopped some 30 metres away from the taxi, and a SBGS colonel ordered the soldiers to drop the arms on the ground and retreat from the car. According to the SBGS, the soldiers did not obey and opened fire at the patrol. The SBGS servicemen claim opened fire in response. They also stated they decided to leave when noticing two cars approaching the site of the incident.<sup>133</sup>

14. The same day, the Office of the Military Prosecutor initiated an investigation into the incident, which was closed in October 2015 due to lack of evidence. In February 2016, the Court of Appeal of Donetsk region cancelled the decision on the closure of the investigation. The SBGS servicemen involved in the incident have not been charged and enjoy witness status. An internal SBGS investigation concluded that the use of firearms in the circumstances of the case was permissible and shall not entail any repercussions for the servicemen.<sup>134</sup>

## **B. Execution of persons who surrendered or were otherwise *hors de combat***

### **1. Territories controlled by armed groups**

#### *Mykola Chepiha case*

15. On 17 June, a member of 24<sup>th</sup> territorial defence battalion 'Aidar', Mr Mykola Chepiha, was captured near the village of Metalist (Luhansk region), during a clash with the armed groups of the 'Luhansk people's republic'. He was kept for several days in the former premises of the regional military commissariat, in the city of Luhansk, and was eventually stabbed to death – allegedly in retaliation for the death of an armed group leader, Mr Serhii Niiesh Papa, who had died while in the Aidar battalion's captivity on the same day or several days before.<sup>135</sup> In March 2016, a former commander of an armed group of the 'Luhansk people's republic' stated publicly that one of two Ukrainian servicemen, captured on 17 June 2014 near the village of Metalist, had been executed.<sup>136</sup>

16. The body of Chepiha was thrown on Krasnodonskaia Street, in the city of Luhansk. It was then taken to the regional morgue in Luhansk where it was kept until early July, when it was delivered to the territory controlled by the Government.<sup>137</sup> According to forensic records obtained by OHCHR, "penetrating perforated injuries of the chest that injured the heart" caused Chepiha's death.

#### *Oleksii Kudriavtsev case*

17. On 14 July 2014, Mr Oleksii Kudriavtsev, a member of the special police patrol battalion 'Artemivsk', was captured by the armed groups near the city of Horlivka (Donetsk region). He was taken to the building of the former Horlivka city department to combat organized crime, where he was interrogated by an armed group commander. The interrogation was videotaped and appeared online the following day. On the video,

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<sup>132</sup> *Ibidem*.

<sup>133</sup> HRMMU interview of 4 March 2015.

<sup>134</sup> *Ibidem*.

<sup>135</sup> See paragraph 101 below.

<sup>136</sup> <https://meduza.io/feature/2016/03/21/ya-ee-vzyl-i-lichno-peredal-plotnitskomu>

<sup>137</sup> HRMMU interview of 25 September 2015.

Kudriavtsev admits that as a police officer, he had been engaged in illegal practices, including torturing and killing civilians suspected of membership in the armed groups. On the same video, the commander states Kudriavtsev had been executed for the crimes he had admitted. The body of Kudriavtsev has not been found.

18. On 13 August 2014, the Sloviansk police department opened a criminal investigation into the abduction and intentional homicide of Kudriavtsev. Having seen no progress in the investigation, the victim's father found and interviewed nine people who were deprived of their liberty by the armed group on 14 and 15 July 2014, when his son was interrogated and allegedly executed. One former detainee stated that he had seen Kudriavtsev alive on 14 July when he was being brought to the building of the former department to combat organized crime. According to him, on 15 July, he and two other detainees were sent to the second floor of the building, where he saw a corpse which he recognized as being Kudriavtsev. They reportedly packed the body in a garbage plastic bag and took it outside. The witness noticed a gunshot wound on the chest and that the scalp had been removed. The next day, he loaded the body onto a black Audi A6 without number plate but ignores where it was taken.<sup>138</sup>

19. On 10 November 2015, after numerous applications of the victim's father, in addition to previous charges under article 258 (terrorist act), the armed group commander was charged under articles 146 (illegal abduction) and 115 (killing of a person by a group of people upon their prior collusion) of the Criminal Code. At the time of publication of this report, he was alleged to be in the Russian Federation and was put on a wanted list by the Government of Ukraine. As of 1 June 2016, the investigation into the death of Kudriavtsev was ongoing.

*Pavlo Kalynovskyi, Andrii Malashniak, Andrii Norenko and Dmytro Vlasenko case*

20. HRMMU interviewed two Ukrainian soldiers who, on 5 September 2014, together with five other soldiers, were retreating through the corn fields around the villages of Kruta Hora, Raivka and Shyshkove (Slovianoserbskyi district, Luhansk region) after their unit was defeated by the armed groups. At approximately 7 or 8 p.m., the armed groups reportedly came across them and the group split. While the two witnesses and another soldier managed to hide in the grass, four others were captured – Mr Pavlo Kalynovskyi, Mr Andrii Malashniak (who had a shrapnel injury), Mr Andrii Norenko and Mr Dmytro Vlasenko. The witnesses heard members of the armed groups opening fire, ordering the four hidden soldiers to surrender. They also heard Kalynovskyi urging them not to shoot because one of the soldiers was wounded. The armed groups members reportedly said: 'let us put bags on their heads' and 'take them to the dam'. Shortly thereafter, the witnesses noticed a KamAZ truck leaving the area. The following day, they returned to the place and found none of their fellow servicemen, and assumed they had been captured alive.<sup>139</sup>

21. On 4 June 2015, the bodies of four men were recovered from a mass grave located some 500 metres to the east from the village of Kruta Hora, on the road to the village of Raivka. They were transferred to the Government-controlled territory and underwent forensic examination in Dnipropetrovsk. According to DNA tests, the bodies of Malashniak and Vlasenko were identified. To date, the other two bodies have not been identified. In March 2016, HRMMU obtained a video footage showing the bodies of four killed Ukrainian soldiers. The video was made by members of the armed groups, allegedly in the morning of 6 September 2014. One of the witnesses in the case identified the bodies as belonging to Kalynovskyi, Malashniak, Norenko and Vlasenko.<sup>140</sup>

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<sup>138</sup> HRMMU interview of 23 July 2015.

<sup>139</sup> HRMMU interview of 30 October 2015.

<sup>140</sup> Ibidem.

*Andrii Havryliuk case*

22. The Donetsk international airport, controlled by Ukrainian forces since May 2014, was under constant attacks by the armed groups of the ‘Donetsk people’s republic’. On 20 January 2015, a massive explosion in the basement of the new terminal resulted in the demolition of its second, third and fourth floors, and in the deaths and injuries of many of Ukrainian soldiers. Some of those injured died overnight; at least three of them survived, including Mr Andrii Havryliuk, who could not move as one of his arms and right leg were most probably fractured.

23. In the morning of 21 January, due to a lack of weapons, ammunition and medicine, one of the Ukrainian soldiers approached the armed groups to negotiate the evacuation of his injured colleagues. Sometime later, all Ukrainian military that remained in the building of the new terminal were captured by members of the so-called ‘Sparta’ battalion, loaded onto military trucks and taken to the ‘Sparta’ base in the city of Donetsk.<sup>141</sup> After extracting two less heavily injured soldiers from the building, members of the ‘Sparta’ went back to take Havryliuk. An injured Ukrainian soldier, who witnessed the scene from the truck, heard three single shots and saw armed group members exited the building shortly afterwards.<sup>142</sup>

24. On 5 February 2015, after his transfer to Government-controlled territory, the witness was shown a video footage of the bodies of Ukrainian servicemen in the demolished airport terminal and recognized Havryliuk among dead soldiers.<sup>143</sup> On the video, a gunshot wound is visible on the victim’s forehead. The body of Havryliuk was transferred to the Government-controlled territory by mid-February 2015. According to the forensic report obtained by HRMMU, the death of Havryliuk was caused by brain tunic haemorrhage and numerous open wounds of the head, including a penetrating gunshot.

*Ihor Branovytskyi case*

25. Mr Ihor Branovytskyi was among those Ukrainian soldiers who were captured and taken to the former military base used by the ‘Sparta’ battalion on 21 January 2015. All were reportedly lined up along a wall and beaten one after the other by some 20 people, for a few hours, with metal pipes, wooden batons and rifle butts. The perpetrators were reportedly looking for a machine gunner and when Branovytskyi said he was the one they were looking for, he was separated from the other detainees, beaten with a blunt object and sustained traumatic gunshot wounds, according to a forensic examination received by OHCHR. After Branovytskyi fainted, the commander of the battalion reportedly refused to call an ambulance and shot twice at the victim’s head. In addition to physical torture and ill-treatment, the other persons deprived of their liberty were subjected to mock executions.<sup>144</sup> An investigation into the execution of Branovytskyi has been carried out by the SBU since April 2015. On 12 August 2015, the alleged perpetrator was charged under article 115 (intentional homicide) of the Criminal Code and put on a wanted list.

*Albert Sarukhanian, Roman Sekh and Serhii Slisarenko case*

26. On 22 January 2015, the armed groups of the ‘Donetsk people’s republic’ claimed gaining control over the village of Krasnyi Partyzan (30km north of Donetsk). A video footage made by the armed groups was disseminated through social media and formed the basis of allegations that several Ukrainian soldiers captured in the village had been executed. In February and March 2015, nine Ukrainian soldiers who had been captured by

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<sup>141</sup> HRMMU interview of 16 December 2015.

<sup>142</sup> HRMMU interview of 21 December 2015.

<sup>143</sup> *Ibidem*.

<sup>144</sup> HRMMU interviews of 14 May 2015 and 7 October 2015.

the armed groups in the village on 22 January, were released. Three of them confirmed to OHCHR earlier allegations of the summary execution of three of their fellow soldiers – Mr Albert Sarukhanian, Mr Roman Sekh and Mr Serhii Slisarenko.<sup>145</sup>

27. On 22 January 2015, the armed groups of the ‘Donetsk people’s republic’ attacked an outpost of the Ukrainian Armed Forces in the village. A group of Ukrainian servicemen had to retreat to the two empty residential houses located nearby. After their surrender, four servicemen from one of the buildings were lined up along the wall of the neighbouring house. They were forced to sit on the ground and several members of the armed group approached them. A woman carrying a sniper rifle asked her fellow fighters if she could shoot, and made shot at Serhii Slisarenko several times, hitting his leg. As he was screaming with pain, another member of the armed group, shot him dead. The woman then reportedly fired two or three shots at Albert Sarukhanian, killing him, before shooting at Roman Sekh. Having injured another person deprived of his liberty, the members of the armed groups turned their attention to another group of seven Ukrainian military captured in the other building.<sup>146</sup>

28. A survivor of the events stated that the bloodshed ended when a member of the armed group asked his fellows to stop, adding “there would be plenty of time for this after securing the area”. The witness believes that the killings were carried out by members of the so-called ‘Vostok’ battalion, stating that those involved in this incident were subordinates of a ‘Vostok’ commander. After the latter arrived at the scene, they started loading two wounded soldiers and six other servicemen onto a truck, but not Roman Sekh, arguing that he was not going to survive.<sup>147</sup>

#### *A case in Vuhlehirsk*

29. In February 2015, seven Ukrainian soldiers, two of whom were injured, were captured by armed groups near the town on Vuhlehirsk (Donetsk region). Five of them were kept in a dug-out shelter, while one injured soldier was in the other dug-out shelter and the other injured – in a trench. The soldier interviewed by OHCHR heard several shots fired by the members of the armed groups. When passing by the places where injured soldiers had been, he saw them lying on the ground showing no sign of life. The remaining soldiers were forced into a hole, which was allegedly a shell crater, where they remained for some time, until members of the so-called ‘international Piatnashki battalion’ took one of them out. The interviewee heard a shot followed by a scream and a second shot shortly thereafter. As he and the three other soldiers were leaving the hole, the witness saw the soldier lying on the ground with blood on his back.<sup>148</sup>

#### *Roman Kapatsii case*

30. On 31 May 2015, a truck carrying six Ukrainian servicemen was attacked by armed groups near the village of Olenivka (Donetsk region).<sup>149</sup> The driver was shot dead and one of the soldiers, Mr Roman Kapatsii, was injured in the arm and leg and remained in the truck. Other soldiers jumped off the truck and hid behind the trees. When the attackers approached one of the soldiers (who was unarmed and injured), they told him to run to the truck if he wanted to live. Guarded by two armed groups’ members, he and Kapatsii, who was unconscious, were driven towards the city of Donetsk. On the road, as Kapatsii started regaining consciousness, a member of the armed group stabbed him in the chest. When the other soldier tried to intervene, he was forced to lie down, and stepped on the head and neck.

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<sup>145</sup> HRMMU interviews of 1 October 2015, 1 October 2015 and 7 October 2015.

<sup>146</sup> Ibidem.

<sup>147</sup> Ibid.

<sup>148</sup> HRMMU interview of 8 May 2015.

<sup>149</sup> HRMMU interview of 12 November 2015.



He could hear Kapatsii being stabbed. One of the armed groups' members suggested to shoot Kapatsii down and to throw him out.<sup>150</sup>

31. When they arrived at what seemed to be a military base near Donetsk, they were met by a man who introduced himself as a "major of the Russian army" and promised he would take care of them as they were injured and would guarantee their safety. Both were taken to the Donetsk regional trauma hospital where they received medical treatment. Medical documents of Kapatsii confirmed that he had multiple penetrating stab injuries to the chest and the abdominal area. While in Donetsk hospital, Kapatsii fell into a coma. His mother was notified that he was hospitalized in Donetsk and managed to reach him on 6 June.<sup>151</sup> On 2 July 2015, he was transferred to Government-controlled territory. On 11 December 2015, he died in the military hospital in Kyiv. The other soldier remained deprived of liberty by the armed groups in Donetsk until 20 February 2016.<sup>152</sup>

## **2. Territories controlled by Government**

*Alleged execution of a member of the armed groups near Vuhlehirsk*

32. According to a former Ukrainian serviceman, in early August 2014, soldiers of the 25<sup>th</sup> Separate Airborne Brigade of the Ukrainian Armed Forces killed a captured member of the armed groups, in early August 2014. According to him, servicemen of the brigade were patrolling in the outskirts of Debaltseve (Donetsk region) when they noticed a sabotage-reconnaissance group entering the town and attempted to capture its members. Two members of the group managed to escape and three were captured. One of them was shot to death.<sup>153</sup>

## **C. Arbitrary or summary executions**

### **1. Territories controlled by armed groups**

*Yurii Diakovskiy, Yurii Popravko and Volodymyr Rybak case*

33. On 18 April 2014, the bodies of Horlivka city councillor, Mr Volodymyr Rybak, and of a student and Maidan activist, Mr Yurii Popravko, were found in the river of Kazennyi Torets, near the settlement of Raigorodok (Sloviansk district, Donetsk region), bearing signs of torture. According to the forensic expertise, before his death, Rybak was tied; his abdomen ripped off, and he was thrown into the water. On 28 April, the body of a student and Maidan activist, Mr Yurii Diakovskiy, was recovered from the river at the same site, also bearing signs of torture.

34. Volodymyr Rybak was last seen alive on 17 April, at approximately 6 p.m., on Peremohy Avenue, in the city of Horlivka (Donetsk region), controlled by the armed groups. According to a witness, unidentified people forcefully took him to a car and drove away. Earlier on that day, he had reportedly tried to replace the flag of the self-proclaimed 'Donetsk people's republic' with the State flag of Ukraine near the building of the city council, but was rebuffed by supporters of the 'Donetsk people's republic'.

35. On 16 April 2014, Yurii Diakovskiy and Yurii Popravko were travelling to the nearby town of Sloviansk, which since 12 April 2014, was under the control of the armed groups of the 'Donetsk people's republic'. They were last seen alive at the border of Kharkiv and Donetsk regions, from which they reportedly continued their travel to Sloviansk on their

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<sup>150</sup> HRMMU interview of 5 April 2016.

<sup>151</sup> HRMMU interview of 12 November 2015.

<sup>152</sup> HRMMU interview of 5 April 2016.

<sup>153</sup> HRMMU interview of 29 March 2016.

own. According to the relatives of Diakovskiy, his last telephone call was at about 1.30 p.m., on 17 April 2014.

36. The Main Investigative Department of the Ministry of Internal Affairs established that all three men were kept at the premises of the SBU department of the town of Sloviansk. Two commanders of the armed groups allegedly involved in the death of the victims were charged and put on a wanted list. Three other individuals allegedly involved into the abduction, illegal deprivation of liberty and torture of the victims were charged under articles 146 (abduction) and 127 (torture) of the Criminal Code and put on a wanted list.

*Alleged summary executions in Luhansk region in summer 2014*

37. A considerable number of bodies bearing signs suggesting summary executions were found in the territories controlled by the armed groups during the summer of 2014. Because local police departments continued to partially perform their functions, they were able to record such cases but could not carry out the necessary investigations. For instance, on 1 July 2014, the local police of Luhansk region found the body of a man on the roadside, near the village of Uralo-Kavkaz (Krasnodon district of Luhansk region). He had gunshot wounds on the head and chest, and his hands were tied behind his back. On 11 July 2014, a local resident informed the police about the body of a man in civilian clothes, some 200 meters to the north of the village of Bashtevych (Antratsyt district of Luhansk region). The hands of the victim were tied behind his back with an electric cable, and he had a gunshot wound in the back of his head. On 15 July 2014, the police found the body of a resident of the town of Alchevsk (Luhansk region), in the forest belt near the village of Lozivskiy (Slovianoserbskiy district of Luhansk region). He had gunshot wounds on the forehead and behind the head, and his hands were handcuffed.

38. OHCHR obtained forensic data on some conflict-related deaths recorded in the town of Antratsyt (Luhansk region), when it was controlled by Cossack armed groups. Some of the records suggest arbitrary killings or summary executions. For instance, on 24 May 2014, a civilian male resident of the town died as a result of gunshot wound to his head. The circumstances of his death are described as “shot by Cossacks on the street”. On 28 June 2014, a civilian man died of a gunshot wound on his chest. He was “shot by militants in the commandant’s office”.

*Viktor Bradarskiy, Albert Pavenko, Ruvim Pavenko and Volodymyr Velichko case*

39. On 8 June 2014, in the town of Sloviansk then controlled by armed groups, the parishioners of the evangelical church ‘Transfiguration of Christ’ were holding the Sunday worship. By the end of the worship, armed men arrived at the church yard, designated four cars, and ordered their owners to come forward and have a talk with them.<sup>154</sup> The deacons, Mr Viktor Bradarskiy and Mr Volodymyr Velichko, and two sons of the church’s Head – Mr Albert Pavenko and Mr Ruvim Pavenko – came forward. The armed men forced them to get into their own cars and drove away.

40. In the morning of 9 June, local residents found a badly burnt body, allegedly that of Velichko, near a burnt car. The bodies of the Pavenko brothers were found next to the car on the same side, unburnt. Bradarskiy’s body was found in the reeds, about 20 metres away from the car. Those who found the bodies did not know the victims and took them to the local morgue, where they were stored until 10 June 2014, when electricity supply was cut. The bodies (allegedly together with some other bodies then stored in the morgue) were buried in a mass grave in the old Jewish cemetery of Sloviansk.

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<sup>154</sup> HRMMU interview of 31 July 2014.

41. On 5 July 2014, Ukrainian armed forces regained control of the town. On 24 July 2014, 14 bodies (13 men and one woman) were exhumed from the mass grave and transferred to the town morgue where photos of the bodies were taken and handed out to the local police department. The bodies of Viktor Bradarskyi, Albert Pavenko and Ruvim Pavenko were identified by their relatives. The body of Volodymyr Velichko could not be identified on the spot and was taken to Kharkiv forensic examination bureau. The bodies of Viktor Bradarskyi, Albert Pavenko and Ruvim Pavenko displayed multiple gunshot wounds and signs of torture. The other bodies belonged to victims of executions ordered by the ‘martial court’ of the ‘Donetsk people’s republic’ in Sloviansk and individuals who either died or was killed during the armed hostilities in the town.

42. Some executions were allegedly carried out by elements of armed groups, following a semblance of a judicial process and the imposition of a death sentence by armed groups. On 14 January 2016, in an interview with Komsomolskaya Pravda Radio<sup>155</sup>, former ‘minister of defence’ of the ‘Donetsk people’s republic’ stated the following regarding events that occurred in Sloviansk between April and July 2014: “[w]e had an acting martial court, and legislation of 1941 was introduced... And based on this legislation we judged, held courts, and we executed by shooting... In total, four people were executed by shooting during my presence in Sloviansk: two for looting among servicemen, one local resident for looting, and one for killing a serviceman, he was a committed *pravosek*”<sup>156</sup>. OHCHR obtained copies of the ‘judgements’ delivered by the ‘martial court’<sup>157</sup> which sentenced four individuals to death (cases of two of them are presented below).<sup>158</sup>

*Oleksandr Klymchuk case*

43. According to a ‘judgement’ of 22 June 2014, the ‘martial court’ found Mr Oleksandr Klymchuk ‘guilty’ of attacking two unidentified civilians, and of killing one and injuring the other with a knife, at the checkpoint of the armed groups in Kramatorsk (Donetsk region), on 2 June 2014. The ‘court’ ‘sentenced’ him to death through shooting. According to the transcript of the ‘hearing’, Klymchuk admitted guilty and repented all his deeds.

44. According to a person who, from 29 May to 15 June 2014, was held in the basement of the building of the former prosecutor’s office in Kramatorsk, then controlled by armed groups, an unknown man who, as he later learnt, was Oleksandr Klymchuk, was brought to his cell on 8 June 2014. Klymchuk stated he had been severely beaten and did not remember when exactly he had been captured by the armed groups. He only remembered that he had arrived at Kramatorsk after the Presidential election of 25 May 2014. He also said that members of the armed groups tried to convince him that he had killed someone.<sup>159</sup> Later, presumably on 10 June 2014, Klymchuk was apparently forced to ‘confess’ to a Russian journalist that he had killed a person and was taking drugs.<sup>160</sup> The witness was released on 15 June 2014 and was not aware of the fate of Klymchuk. On 10 November 2014, he identified Klymchuk on a photograph.

45. On 5 August 2014, the body of a man was exhumed from a grave at the Smolnyi cemetery, in the town of Sloviansk. According to the forensic examination, he died due to “an explosion which caused numerous fractures of the facial bones and severe damage to the brain”. On 28 January 2015, the State Criminalistics Research Centre established a probable relationship between Klymchuk’s mother and the examined body.

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<sup>155</sup> The audio file can be found at: <http://www.kp.ru/radio/stenography/142906/>

<sup>156</sup> A derogatory term referring to members of the Pravyi [Right] Sector.

<sup>157</sup> The ‘martial court’ comprised of ‘chair’ and ‘judges’, ‘prosecutor’, ‘defender’ and ‘secretary’.

<sup>158</sup> See two other cases in paragraphs 113-114 below.

<sup>159</sup> Protocol of the witness interrogation of 10 November 2014.

<sup>160</sup> The video file can be found at: <https://www.youtube.com/watch?v=hRuLnzqCum0>.

*Case of Oleksii Pichko*

46. On 17 June 2014, the ‘martial court’ ‘sentenced’ Mr Oleksii Pichko, a Sloviansk resident, to death for looting. On 14 June 2014, the victim reportedly illegally entered a civilian residence in Sloviansk and stole a pair of pants and two T-shirts. He was deprived of liberty the same night after being identified by local residents. Referring to the Decree of the Presidium of the Supreme Council of the USSR “On martial law” of 22 June 1941, Pichko was “sentenced” to execution by shooting. His body was exhumed on 12 August 2014. On 24 July 2014, a criminal investigation was initiated into his death under article 115 (intentional homicide) of the Criminal Code.

*Stepan Chubenko case*

47. In July 2014, Mr Stepan Chubenko, a 16-year-old resident of the Government-controlled town of Kramatorsk (Donetsk region), told his mother of his intention to go to Kyiv to see his friends. The last time he called her was on 23 July. On 25 July, a man who introduced himself as a ‘rebel’ from the ‘Donetsk people’s republic’ called his mother and said that Chubenko was deprived of liberty in Donetsk (controlled by armed groups) and sent to dig trenches. His body was found in early October 2014, in the outskirts of the village of Horbachevo Mykhailivka, near the trenches of armed groups. According to the victim’s mother, the body has partially decomposed and she was unable to identify her son; a DNA test later confirmed his identity.

48. Kramatorsk police established that on 27 or 28 July 2014, three members of the so-called ‘Kerch’ battalion of the ‘Donetsk people’s republic’ had taken Chubenko to a trench in the outskirts of the village and forced him on his knees. Two shot at his head while a third shot at him twice in the body. While the investigation falls short of providing a full account of the events, the pre-trial investigation is reportedly completed and the perpetrators are subject to trial *in absentia* as they are hiding.

49. One of the presumed perpetrators is allegedly deprived of liberty by the ‘ministry of state security’ of the ‘Donetsk people’s republic’ and awaits ‘trial’ in Donetsk for intentional homicide. The perpetrators reportedly executed Chubenko because they believed he was a member of the Right Sector and was complicit in the 2 May 2014 violence in Odesa.

*Hennadii Khitrenko case*

50. On 29 August 2014, Mr Hennadii Khitrenko, a retired policeman and a member of the village council of Krymske (Luhansk region), was murdered in his house. According to the forensic record, he died as a result of several gunshot wounds which caused damage to internal organs. According to the victims’ father, two local residents who had joined an armed group of the ‘Luhansk people’s republic’, came to his son’s house in the daytime, took him to the yard and shot him. The alleged perpetrators reportedly told the victim’s father not to do anything, threatening to otherwise massacre all his relatives in the village. According to the father, Khitrenko was killed because he was known to be a supporter of the territorial integrity of Ukraine. Several days before, he had gone to the military commissariat of the town of Lysychansk (Luhansk region) to volunteer into the National Guard of Ukraine.

*Olena Kulish and Volodymyr Alekhin case*

51. On 10 August 2014, at 4 a.m., in the village of Peremozhne (Lutuhynskyi district of Luhansk region) – then controlled by the ‘Luhansk people’s republic’ – eight armed men in camouflage broke into the house of Ms Olena Kulish and her husband Mr Volodymyr Alekhin. At that time, Alekhin, Kulish, her 75-year-old father and four neighbours’ children were hiding in the basement as the area was under heavy shelling. The armed men commanded Alekhin to get out saying that he was exactly who they needed. Both Alekhin and Kulish were delivering food to Ukrainian soldiers in the Luhansk airport and were

known for their ‘pro-unity’ views. Having searched the house, the armed men drove away the couple in Alekhin’s vehicle.

52. On 7 January 2015, the daughter of Kulish, who then resided in Kyiv, was informed by the ‘prosecutor’s office’ of the ‘Luhansk people’s republic’ that two bodies found near the village Piatyhorivka could be her parents. In March 2015, Alekhin’s mother and a friend of Kulish identified the bodies visually and the DNA expertise confirmed that the woman’s body was Kulish. According to the forensic expertise, both victims died of several gunshots to the head. Alekhin bore signs of beating with a dull object, while his wife had fractures of the cranium. In June 2015, the bodies were handed over to the family for burial.<sup>161</sup>

53. The perpetrators allegedly belonged to the so-called separate special brigade ‘Odessa’ of the ‘ministry of state security’ of the ‘Luhansk people’s republic’. According to the ‘prosecutor’s office’ of the ‘Luhansk people’s republic’, they have been deprived of liberty in connection with an ‘investigation’ of the other ‘case’, but indicated the burial site.

#### *The Bochnevychs case*

54. On 22 August 2014, four residents of the village of Peremozhne (Lutuhinskyi district of Luhansk region) controlled by the armed groups – Serhii, Viktoria, Kateryna and Hryhorii Bochnevych – were executed by the armed groups. According to the victims’ relatives, they intended to flee the village, fearing reprisals from the armed groups for providing food to the Ukrainian military deployed to the Luhansk airport. The day of the killing, a relative had gone to the victims’ house and noticed yellow cargo minivan in front of it. She also noticed armed men in the yard. Seven armed men were seen at the Bochnevychs’ house on 22 August 2014, reportedly coming from the nearby village of Pershozvanika.<sup>162</sup>

55. In the evening of 22 August 2014, Hryhorii’s brother came to the house and found four bodies. According to the forensic record obtained by OHCHR, Hryhorii Bochnevych was shot. According to a neighbour, Kateryna was shot in the head. Viktoria was still alive for some time and a local resident living nearby tried to provide first medical aid but the armed men soon returned and killed her. Serhii’s body was found in one of the outbuildings with bullet wounds.<sup>163</sup>

#### *Liana Vidak, Margarita Vidak and Marina Fedorenko case*

56. On 9 September 2014, Ms Margaryta Vidak, her six-year-old daughter Liana and her mother-in-law Maryna Fedorenko went to the village of Shchotove (Anratsyt district of Luhansk region) to check their property (they had left to the Russian Federation some time before). The same day, six armed Cossacks (most likely from the so-called ‘Rus’ armed group) arrived at the house, reportedly to check the local rumours that “those gypsies have gold hidden in their garden and that is why they keep coming back”. After the women got into an argument with the Cossacks, they (one of them with a call sign Pop) took them and the girl to the town of Anratsyt (then controlled by Cossacks) for “interrogation”. Reportedly, the ‘Rus’ commander was informed by phone about the deprivation of liberty of two Roma women and a girl who were “disobeying the authorities”, and ordered “to scare them well and let them go”.<sup>164</sup>

57. On 18 September 2014, their relative posted an announcement on a social network, VKontakte, with a request to provide any information about the disappeared.<sup>165</sup> In November

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<sup>161</sup> HRMMU interview of 18 August 2015.

<sup>162</sup> HRMMU interview of 4 April 2016.

<sup>163</sup> Ibidem.

<sup>164</sup> HRMMU interview of 8 April 2016.

<sup>165</sup> [https://vk.com/wall167364743\\_3775](https://vk.com/wall167364743_3775)

2014, their bodies were found in the forest belt near the village of Orikhivka (Lutuhinskyi district of Luhansk region). OHCHR obtained forensic data stating that the victims died on 10 September 2014 as a result of gunshot injuries to their heads. According to relatives of the victims, no action against the alleged perpetrators has been taken.<sup>166</sup>

#### *Brianka case*

58. In August 2015, 17 bodies were reportedly recovered in the town of Brianka (Luhansk region). The bodies were allegedly victims of the so-called 'Brianka SSSR' battalion, an armed group which has been controlling the town since April 2014.

59. According to a former member of the battalion who fled to the Russian Federation, fearing for her life, the battalion was stationed some four kilometres from the contact line, and was never involved in direct hostilities. It reportedly kept the entire town under terror as its members reportedly targeted everyone – civilians (for instance because they were drunk or violated curfew), members of other armed groups, or of their own fellows. There were reportedly no requirements set for recruiting new members in the battalion. Whoever was coming would receive meals and weapons. Members of the battalion reportedly committed grave human rights abuses, including executions, rapes, abductions, torture and ill-treatment.

60. In August 2015, the 'law enforcement' of the 'Luhansk people's republic' allegedly started to investigate killings, abductions and looting by members of the battalion. Its commander and his deputy were reportedly deprived of liberty.

## **2. Territories controlled by Government**

#### *Anton Verenich and Vasyl Verenich case*

61. On 31 July 2014, Mr Anton Verenich and Mr Vasyl Verenich were detained by Ukrainian military on suspicion that they were engaged in artillery spotting for the armed groups of the 'Luhansk people's republic'. They were taken to the unit of the Ukrainian Armed Forces then located in a recreational facility located near the village of Vesela Hora (Slovianoserbskyi district, Luhansk region). The men were held in a dry well with round concrete walls. A drunken soldier, reportedly convinced that they were involved in the death of a colleague, threw a combat grenade into the well, killing both men.

62. On 1 August 2014, the Office of the Military Prosecutor opened an investigation into the killing. On 29 March 2016, the alleged perpetrator was charged under article 115 (intentional homicide) of the Criminal Code. On 30 March 2016, the Novoaidarskyi district court of Luhansk region ruled on his custodial detention until 28 May 2016, pending investigation.

#### *Dmytro Piven case*

63. On 7 September 2014, Mr Dmytro Piven, a resident of the Government-controlled city of Mariupol (Donetsk region), was found dead in the forest belt, near the nearby village of Shevchenko. According to his mother, his face was in blood, there was a big wound on his head, and the body was covered with bruises and abrasions. According to the autopsy record, the death was caused by a blunt heavy trauma on the head and neck. A criminal investigation was initiated by the Pershotravnevyyi district police department of Mariupol under articles 146 (kidnapping) and 115 (intentional homicide) of the Criminal Code.

64. Based on the available security camera footage and numerous witness statements, the investigation established that on 6 September 2014, at approximately 6.45 p.m., Piven was handcuffed by a person in plain clothes near the entrance to the 'Amstor' shopping centre,

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<sup>166</sup> HRMMU interview of 8 April 2016.

where the victim was working for a charity foundation. The person had introduced himself as an SBU officer to the employees of the shopping centre who came to see what was happening, and showed a service ID. He asked them not to interfere, claiming the victim was a ‘terrorist’. By that time, several men in camouflage without insignia came out of the shopping centre. They sat in two cars, together with the SBU officer and Piven, and left the parking, heading to the city’s exit, presumably towards Mariupol airport. When the victim’s mother approached the checkpoint of the Ukrainian military at the entrance to the airport later that day, she was advised that no one had been brought to the airport.

65. Since 15 July 2015, the criminal investigation into the death of Piven was picked up by the Office of the Military Prosecutor of Donetsk garrison and, as of 13 April 2016, by the Office of Military Prosecutor of the Anti-Terrorist Operation Forces. The SBU officer suspected of detaining Piven has been terminated. Investigations to identify the other individuals involved in the death of Piven are ongoing.

*Mykyta Kolomyitsev and Serhii Tsarenko case*

66. On 23 September 2014, the ‘Donetsk people’s republic’ announced the discovery of mass graves in the vicinity of the village Nyzhnia Krynka, 35 km north east of Donetsk. One of these graves – located near the entrance to the village – contained five bodies, which were identified as members of the armed groups killed in action.

67. Two graves discovered on the territory of the ‘Komunarska No 22’ mine were exhumed between 23 and 26 September, each containing two bodies, according to the ‘office of the prosecutor general’ of the ‘Donetsk people’s republic’. The head of one victim was covered with a canvas bag, and his hands and feet were bound with tape. The men were killed by gunshots to the heads and chests. The ‘office of the prosecutor general’ estimated that they had died 10 to 14 days before the exhumation. According to the Makiivka ‘police department’, “witnesses claimed that the Dnipro-1 volunteer battalion was stationed at Mine 22, while Nyzhnia Krynka had been used as a base by the 25<sup>th</sup> Paratrooper Brigade from Dnipropetrovsk”.<sup>167</sup>

68. On 15 October 2014, HRMMU visited the three grave locations and interviewed the relatives of two victims whose bodies were reportedly identified – Mr Mykyta Kolomyitsev and Mr Serhii Tsarenko. According to Kolomyitsev’s relative, he used to help the armed groups by standing at their checkpoints and digging trenches. On 20 August 2014, he had come to the village of Komunar and stayed at his grandmother’s house. On the same day, he was crossing the main square in front of the “Palace of Culture” (DK) when Ukrainian servicemen allegedly detained him. When another relative of Kolomyitsev went to the DK to solicit his release, he was told by an officer that Kolomyitsev had been arrested on suspicion of separatism and transferred to Dnipropetrovsk in order to be exchanged.<sup>168</sup>

69. HRMMU was also informed that the other identified victim, Serhii Tsarenko, was a person with a disability at birth (mental disability), and was delivering humanitarian aid, mainly food, to elderly local residents. He also allegedly grew cannabis for sale. According to his relative, on 12 September 2014, he and another local resident were arrested by Ukrainian servicemen. The latter was soon released while Tsarenko was transferred to the DK. On 13 September 2014, Ukrainian servicemen came to question the relative and told him that Tsarenko had been arrested on suspicion of drug dealing.<sup>169</sup>

70. HRMMU is not aware of any progress in the ‘investigation’ carried out by the ‘Donetsk people’s republic’. According to the Office of the Prosecutor General, since 3

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<sup>167</sup> Amnesty International. Summary Killings during the Conflict in Eastern Ukraine, p. 13.

<sup>168</sup> HRMMU interview of 15 October 2014.

<sup>169</sup> Ibidem.

November 2014, Kramatorsk department of the National Police carries out pre-trial investigation into the death of nine persons found in the three mass graves.

*Oleksandr Agafonov case*

71. In the morning of 14 November 2014, a Donetsk resident Mr Oleksandr Agafonov was stopped at the Iziium checkpoint, in Kharkiv region, while driving to Donetsk with his wife and an infant. They were asked to go to the police station for an interview. Agafonov was not formally arrested, but from that time was detained by the police. At 6 p.m., a so-called ‘filtering group’ composed of two uniformed masked men and an SBU officer entered the police station and took Agafonov away. They brought him back at 9 p.m. Agafonov complained about not feeling well. An hour later, an ambulance called by the police declared his death. According to the forensic record, the death was caused by a shock and a closed blunt injury to the chest.

72. On 2 December 2014, OHCHR learnt that the identity of the SBU officer, who had taken Agafonov from the police station, had been established. However, the investigation found that he had not taken part in torturing Agafonov, and was therefore neither arrested, nor suspended from his duties. In October 2015, two SBU officers were charged under articles 146 (kidnapping) and 365 (abuse of authority) of the Criminal Code in relation to the Agafonov’s death. On 28 October 2015, the Dzerzhynskyi District court of Kharkiv released both officers on bail. In May 2016, the Office of the Prosecutor of the Anti-Terrorist Operation indicted the suspects on charges under articles 127 (torture committed by a group of persons upon prior conspiracy), 135 (leaving in danger which resulted in death of a person) and 365 (excess of authority or powers by a law enforcement officer which caused grave consequences) of the Criminal Code. The investigation established that the suspects tortured the victim in the premises of Iziium SBU (beating and electrocuting) to force him to confess of his affiliation with the armed groups. The preliminary court hearings in the case were to start in June 2016.

*Volodymyr Bukreniov case*

73. On 17 January 2015, Mr Volodymyr Bukreniov, a resident of the Government-controlled town of Toretsk (then Dzerzhynsk; Donetsk region), was returning home by car from the village of Ocheretyne, with his brother and a friend. They stopped on a roadside some 700 metres after the village in order to let the military convoy moving from the opposite direction pass by. When one of the vehicles from the convoy – identified by witnesses as a KRAZ light armoured vehicle of white-grey colour – approached Bukreniov’s car, two armed men in camouflage stepped out and ordered the three men to leave the car and lay face down on the ground. While one of them was searching the car for “blocks” (probably explosives), others called Volodymyr and his friends “terrorists”, asking who they were and where they were coming from. As Volodymyr tried to talk to them in a friendly manner, an armed man hit him on the back with a rifle butt. Another pointed at him, saying “finish off this one”. The witness then heard a submachine gun burst. The armed men then grabbed two of the witnesses and forced them to run into the forest belt nearby. One armed man fired several shots at the Bukreniov’s car before proceeding towards the village of Ocheretyne with the other armed man.<sup>170</sup>

74. When the armoured vehicle left, Volodymyr’s companions put him into the car and took him to Dzerzhynsk; he died before they arrived at hospital. According to the medical certificate, Bukreniov died of acute bleeding caused by multiple bullet wounds to his face, chest and lungs.<sup>171</sup> The Dzerzhynsk Department of Internal Affairs opened a criminal

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<sup>170</sup> HRMMU interview of 2 March 2016.

<sup>171</sup> *Ibidem*.



investigation into the case, which was then transmitted to the Druzhkivskyi Police Department. The investigation is ongoing, with no alleged perpetrators identified as of 1 June 2016.

*Volodymyr Kulmatytskyi and Hennadii Holota case*

75. On 28 January 2015, Mr Volodymyr Kulmatytskyi and his driver Mr Hennadii Holota were abducted in the Government-controlled town of Sloviansk (Donetsk region). On 31 January 2015, their bodies were found in Kharkiv region with gunshot wounds to their heads. As former deputy mayor of the town of Sloviansk (from 2011 to July 2014), Kulmatytskyi was an important witness in the high profile case of former mayor of Sloviansk Ms Nelia Shtepa.<sup>172</sup>

76. Following a criminal investigation, three servicemen of the special patrol police battalion 'Dinpro-1' were arrested, charged under articles 146 (illegal confinement or abduction of a person) and 263 (unlawful handling of weapons, ammunition or explosives) of the Criminal Code in relation to the death of Kulmatytskyi and Holota. The criminal proceeding against a fourth serviceman and the only suspect in the murders was suspended after he died in unclear circumstances (either killed or having committed suicide during his arrest). On 21 September 2015, after a one-day court hearing in Dnipropetrovsk, the three men were sentenced to four years of imprisonment, with a three-year probation period, and were immediately released from custody.

77. A friend of Kulmatytskyi who was able to see some materials of the criminal investigation informed HRMMU that he suspected the abduction and murder may have been contracted. According to the document he saw, one of the perpetrators stated that before being killed, the victims were offering large sums of money to their abductors, and one of them (the one who was killed or committed suicide during his arrest), made a phone call seeking instructions.<sup>173</sup>

*Vadim Bobrov case*

78. On 18 September 2014, Mr Vadim Bobrov was killed in his apartment in the Government-controlled town of Shchastia (Luhansk region). According to his neighbours, four men in military uniform came to her son's apartment, asked who was living there and closed the door. Some neighbours heard Bobrov screaming as well as a gunshot. When his body was found, his hands were reportedly tied with tape.<sup>174</sup> The criminal investigation initiated into his death has been ongoing since 22 September 2014. According to the Sievierodonetsk Prosecutor's Office, as of 23 May 2016, the identities of persons complicit in the death of Bobrov have not yet been established.

*Oles Buzyna case*

79. On 16 April 2015, Mr Oles Buzyna, a journalist, writer and former chief editor of the 'Segodnia' newspaper, was killed close to his home in Kyiv. He died of gunshot wounds to his head and chest. Reportedly, two masked men shot him from a car. The police initiated investigation into the incident under article 115 (intentional homicide) of the Criminal Code. Buzyna was known for his criticism of the Government, particularly in relation to the Maidan events and the conflict in the east.

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<sup>172</sup> Nelia Shtepa has been accused under articles 110 (trespass against territorial integrity) and 258-3 (creation of a terrorist group or terrorist organisation) of the Criminal Code for alleged facilitation of seizure of the town by the armed groups in April 2014.

<sup>173</sup> HRMMU interview of 14 September 2015.

<sup>174</sup> HRMMU interview of 3 March 2016.

80. On 18 June 2015, the police detained two suspects in the case. On the same day, the Minister of Internal Affairs announced that the investigation had revealed direct evidence (including DNA match) of the suspects' involvement. The defence claimed that when Buzyna was killed, the suspects were not in Kyiv but in the security operation area: one – in the ranks of the Right Sector Voluntary Corps (DUK), and the other – in the special patrol police battalion 'Harpun'.

81. On 9 December 2015, the Pecherskyi District Court of Kyiv changed the measure of restraint for one of the suspects from being held on bail to a 24-hour house arrest, based on a request of the prosecution which considered that the grounds for holding him in custody had become irrelevant. On 3 February 2016, the court, on its own discretion changed the measure of restraint to prohibition to leave his place of habitual residence from 10 p.m. to 6 a.m. despite a request of the prosecution to extend the previous measure of restraint. On 25 March 2016, the Pecherskyi District Court rejected the prosecution's motion on extension of a measure of restraint and decided to release him for personal obligations.

82. On 31 December 2015, Kyiv City Court of Appeals changed the measure of restraint for the second suspect from custodial detention to a 24-hour house arrest. On 28 January 2016, the Pecherskyi District Court changed this measure to a prohibition to leave his apartment from 7 p.m. to 8 a.m., considering "the specific circumstances of the case, information of the suspected person, his appropriate behaviour during pre-trial investigation and fulfilment of procedural obligations imposed on him during previously ruled measures of restraint".

*Bakulin, Plotnykov and Ustinov case*

83. On 3 November 2014, Mr M. Ustynov, Mr S. Bakulin and Mr A. Plotnykov were abducted by a group of unidentified armed men in camouflage from a restaurant in Sievierodonetsk (Luhansk region). On 7 November, police inspecting a residential house in Starobilsk (Luhansk region) after the explosion of a grenade, found the bodies of the three men in the basement with signs of torture. The house was occupied by armed men who called themselves "commandant's office of 'Aidar' battalion". In the course of investigations carried out by the Office of the Military Prosecutor, four persons were arrested under charges of abduction followed by homicide. None of the Governmental armed formations has acknowledged three of them as their servicemen while one had a document suggesting that he was a serviceman of 24<sup>th</sup> territorial defence battalion 'Aidar'.

84. As of 1 June 2016, 10 servicemen of 'Aidar' battalion were tried by Leninskyi District Court of Kharkiv for the case of Bakulin, Plotnykov and Ustinov. Eight have been accused of abduction, and two of them also face charges under article 115 (intentional homicide committed by a group of persons upon their prior collusion) of the Criminal Code. The court hearings were widely attended by supporters of the accused, who often violated order in the court room, expressing disagreement with prosecution or the court. On 18 March 2016, following the prosecutor's motion to hear the case in a closed-door session so as to ensure the security of the parties, he was attacked by supporters of the accused.<sup>175</sup> As of 1 June 2016, the accused remain in custody.

*Volodymyr Nazdrychkin case*

85. On 18 February 2015, a former sergeant of the special police battalion 'Kyiv-2' sent an open letter to the Prosecutor General, requesting the opening of a criminal investigation into the incident which occurred during the night of 20 to 21 November 2014 at the traffic police check point 'Buhas', near the Government-controlled town of Volnovakha (Donetsk region). He claimed that on 20 November 2014, at approximately 7 p.m., servicemen of his

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<sup>175</sup> Ruling of the Leninskyi District Court of Kharkiv of 18 March 2016 (available at: <http://revestr.court.gov.ua/Review/56569556>).

battalion stopped a car some 300 metres away from the check point. The driver, Mr Volodymyr Nazdrychkin, was allegedly intoxicated with alcohol. Two servicemen of the battalion reportedly handcuffed him to a tree and beaten him for a long time. He was then reportedly brought to the premises of the check point and chained to a radiator. From approximately 1.00 a.m. to 2.00 a.m. on 21 November, he was allegedly beaten by the commander of 'Kyiv-2' battalion and then driven to an unknown destination. At approximately 2.30, Nazdrychkin's car was reportedly exploded upon the commander's instruction. According to the latter, Nazdrychkin was attempting to explode his car near the checkpoint and escaped into the field after his car was stopped by the gunfire of 'Kyiv-2' servicemen. After searching the car, servicemen reportedly found explosives in the trunk and decided to blow up the car, arguing it could have detonated at any moment. The former sergeant claimed that the car was exploded in order to stage an attack on the check point.

86. On 22 November 2014, the Volnovakha police department received information that near the village of Dmytrivka (Volnovakha district of Donetsk region), by the forest belt, a body was found. It was identified as belonging to Nazdrychkin. A criminal investigation was initiated into his death, with no tangible results so far. OHCHR learned from the legal counsel of the victim party that despite availability of direct evidence about the involvement of commanders of the 'Kyiv-2' battalion, no measures were taken to verify these.<sup>176</sup> Despite the availability of witnesses, no suspect has been identified. Ukrainian human rights defenders believe that the local police, who investigated the case, feared reprisals from members of the battalion which is located in the same town.<sup>177</sup>

#### *Denys Fomenko case*

87. On 18 June 2015, Mr Denys Fomenko disappeared near the Government-controlled checkpoint in Yasynuvata district while trying to cross the contact line to the Government-controlled areas. Fomenko was travelling on a bus which passed the first Government check point in Verkhniotoretske. All passengers then had to get off the bus and walk for three km till the next check point at Fenolna station.<sup>178</sup> Reportedly, on that day, the checkpoint was operated by the 53<sup>rd</sup> brigade of the Ukrainian Armed Forces with the presence of SBU officers. All passengers had permit to cross the contact line, except for Fomenko. He had his Ukrainian passport for travelling abroad with a stamp from a recent visit to the Russian Federation.<sup>179</sup> Reportedly, Fomenko was not allowed to pass the second check point at Fenolna station and was seen by other passengers returning back to the first check point.

88. At 9.17 a.m. Fomenko reportedly called his mother, explaining that he was not let through and was returning. Nineteen minutes later he answered his mother's call, saying he had been injured by a mine (or a booby trap) and required help; he said he was presumably near the village of Novobahmutivka (23 kilometres to the west from the road between the check points). Immediately after the call, his mother started to search for him with the help of volunteers from that area. On 24 June 2015, she filed an application with the Ukrainian police and SBU. On 9 July 2015, the police department in Druzhkivka (Donetsk region)

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<sup>176</sup> HRMMU interview of 12 April 2016.

<sup>177</sup> "Searching for Justice: Investigation of Crimes Related to Violations of Rights to Life, Freedom and Physical Integrity and to Freedom from Torture in the Anti-Terrorist Operation Zone – Deficiencies in the Work of Investigative Bodies and Recommendations of Human Rights Defenders" by the Centre for Civil Liberties, p. 40.

<sup>178</sup> The distance between the two check points is approximately 15 kilometres.

<sup>179</sup> From 26 July 2014 till 8 May 2015, he has been in the Russian Federation (Arkhangelsk region) visiting his grandmother. According to his mother, he was neither politically, nor military active in the territories controlled by the armed groups.

opened a criminal investigation into the death of Fomenko under article 119 (negligent homicide) of the Criminal Code.

89. On 14 July 2015, Fomenko's mother was invited to identify the body of a man in the morgue of Druzhkivka. The body was found on 11 July 2015 near the village Novhorodske (400 meters from the Fenolna station check point). While she recognized her son's personal belongings, she refused to confirm the identity without a DNA test as the body was in a very bad condition.

90. On 6 October 2015, she notified HRMMU that the DNA test confirmed that the body belonged to her son. As of 1 June 2016, there had been no development in the investigation into Fomenko's death. His mother was not given an opportunity to familiarize herself with the materials of the case or see the forensic report; in that regard, the investigator invoked the secrecy of the investigation and stated that the report was not ready. She was told that her son died of injuries caused by the explosion of a booby trap which is indicated in the death certificate.

#### *Volodymyr Cherepnia case*

91. On 27 December 2015, Mr Volodymyr Cherepnia, a resident of the city of Mariupol (Donetsk region), went by car to his country house in the nearby village of Vodiane, which is located on Government-controlled territory, near the contact line. Having passed three check points of Ukrainian forces, he called his wife informing her that he was driving to the village. This was the last call he gave to his family, and nobody managed to contact him thereafter.

92. On 2 January 2016, the police of Mariupol found the burnt car of Cherepnia in Zhovtnevyi district in Mariupol. On 10 January 2016, his body was found in the river, in Hnutove settlement. The police initiated a criminal case into his death and the car arson. The investigation reportedly established that on 27 January 2015, Cherepnia was detained by servicemen of the Ukrainian Armed Forces deployed in the village, and that his house had been looted.<sup>180</sup>

## **D. Death during deprivation of liberty**

### **1. Territories controlled by armed groups**

#### *A death in Donetsk (May 2014)*

93. A woman, who had been kidnapped on 22 May 2014 and deprived of liberty for five days by the 'traffic police' and members of the armed groups of 'Donetsk people's republic' for assisting the Ukrainian armed forces, claimed that her captors beat another detainee to death in her presence.<sup>181</sup>

#### *Oleksandr Asieiev and Dmytro Pikalov case*

94. On 22 July 2014, Ukrainian forces regained control of the town of Sievierodonetsk (Luhansk region), which had been controlled by the armed groups since 7 July 2014. According to the then head of Luhansk Regional Department of Internal Affairs, the bodies of two men, whose identities were established as those of Mr Oleksandr Asieiev and Mr Dmytro Pikalov, with gunshot wounds on their heads were found in the building of town's ITT. On 23 July 2014, the investigative department of Sievierodonetsk police opened a criminal case under article 115 (intentional homicide) of the Criminal Code. According to the Office of the Prosecutor General, the identity of the alleged perpetrator was established; since he was reportedly killed in action, the criminal investigation was closed.

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<sup>180</sup> HRMMU interview of 24 February 2016.

<sup>181</sup> HRMMU interview of 5 May 2015.

*Oleksandr Yevtushenko case*

95. On 30 July 2014, the Ukrainian armed forces regained control over the town of Avdiivka (Donetsk region). During the tour around the fortified positions of the armed groups, they found a garage with handcuffs, 5.45 mm shells and blood traces on the wall and the floor. A dozen meters away, they found the body of a person with an injured knee and a gunshot wound in the chest.<sup>182</sup> The victim was identified as Mr Oleksandr Yevtushenko. On 2 August 2014, a criminal investigation into his death was initiated under article 115 (intentional homicide) of the Criminal Code with no suspects identified as of 1 June 2016.

*Execution in Snizhne (September 2014)*

96. A Ukrainian serviceman, who was deprived of liberty for several weeks by the armed groups in August and September 2014, was kept with his fellow soldiers in a cell at the former ITT in the town of Snizhne (Donetsk region) then controlled by the armed groups. On 4 or 5 September 2014, an UAZ vehicle with an open cabin and a detachable canvas roof was parked in the yard of the ITT. The witness saw a man younger than 30 in underpants sitting in rear bodywork of the UAZ. His hands were handcuffed to handles above the doors. His body was blue and his back particularly badly injured.<sup>183</sup>

97. The man was allegedly a local civilian accused of looting by the armed groups. Guards strictly forbade anybody to give him food or water. The witness saw him sitting in UAZ in the same crooked pose (as there were no seats) for four to five days; his fellow soldiers told him that the man was held in UAZ for more than a week. He was not provided with any food, water or medical aid. At day-time he suffered from heat and the sun, and at night he would reportedly howl in agony because of cold. At about 12.00 on 13 September 2014 he reportedly passed away. Members of the armed groups put his body into a black plastic bag and took him away.<sup>184</sup>

*Mykhailo Slisenko case*

98. On 5 September 2014, while passing through the checkpoint on the Shchastia – Metalist road, 1.5 km away from the village of Tsvitni Pisky (Luhansk region), a group of 23 servicemen of the voluntary ‘Aidar’ battalion were ambushed by members of the armed groups (allegedly of the so-called battalions ‘Zaria’ and ‘Rusichi’). After a fight that lasted approximately 15 minutes, two ‘Aidar’ servicemen escaped while the others were killed or captured. Mr Mykhailo Slisenko was one of those captured. A video footage shows him sitting on the backseat of a car and interviewed by a journalist. He introduces himself as Slisenko, a serviceman of the ‘Aidar’ battalion. He appears to be calm, speaks freely, with no signs of violence. The video then shows him being convoyed by members of the armed groups.<sup>185</sup> His whereabouts have since been unknown.

99. Two men reportedly saw Slisenko on 5 or 6 September 2014 while being deprived of liberty by the ‘Zaria’ battalion in the building of the military commissariat in Luhansk. One of them, a Ukrainian soldier, stated he had seen him being beaten to death by 20 members of an armed group while he was handcuffed to a crossbar. The handcuffs were allegedly released after some 15 minutes of beating and he then reportedly was thrown on the floor

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<sup>182</sup> Video footage is available at: <http://inforesist.org/zverstva-dnr-v-avdeevke-shokiruyushhie-kadry-18/>

<sup>183</sup> HRMMU interview of 21 April 2016

<sup>184</sup> *Ibidem*.

<sup>185</sup> [https://www.youtube.com/watch?v=FQv0sP7lxyw&oref=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DFQv0sP7lxyw&has\\_verified=1](https://www.youtube.com/watch?v=FQv0sP7lxyw&oref=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DFQv0sP7lxyw&has_verified=1)

showing no sign of life. Twenty minutes later, a so-called ‘black doctor’ entered the room, examined the body and established the death, indicating it resulted from a heart attack.<sup>186</sup>

100. Slisenko’s death was confirmed by a chaplain of the ‘Aidar’ battalion, who had first met the victim in June 2014. He reportedly saw his dead body, along with another, on 7 September, in the premises of the former Luhansk military commissariat, when he was being taken out to the exercise ground, near the toilets. The chaplain heard members of the ‘Zaria’ battalion talking about the disposal of the bodies at the dump, as they were beginning “to smell and attract flies”.<sup>187</sup>

## **2. Territories controlled by Government**

### *Serhii Niiesh Papa case*

101. On 13 June 2014, the volunteer ‘Aidar’ battalion detained Mr Serhii Niiesh Papa (call sign Batya), the leader of the ‘local self-defence of the town of Shchastia (Luhansk region) called the ‘9<sup>th</sup> Company’. His legs were broken and he was kept in the basement of the sausage production facility in the village of Polovinkino (Shchastia district of Luhansk region) where the ‘Aidar’ battalion has been based since May 2014. The man died due to gangrene, reportedly for not receiving medical aid. He was buried nearby.<sup>188</sup> On 26 March 2015, following the application of a relative of Niiesh Papa about his disappearance, a criminal case under article 115 (intentional homicide) of the Criminal Code was initiated with no progress as to identification of his whereabouts and alleged perpetrators achieved as of 1 June 2016.

### *Viacheslav Kazantsev case*

102. On 18 December 2014, Mr Viacheslav Kazantsev was detained by SBU in the town of Artemivsk (Donetsk region), on charges under article 258 (terrorism) of the Criminal Code. On 19 December 2015, at 00.35, he was taken to the Mariupol ITT with a medical certificate from the city’s emergency hospital, with hematomas on the face. On 20 December 2014, the Zhovtnevyi district court of the city of Mariupol detained him for 60 days. On 23 December 2015, he was transferred to Mariupol SIZO where he underwent a medical examination which established that he had numerous hematomas on his face and body as well as several broken ribs. According to the SIZO record, Kazantsev said he suffered these injuries from falling down on his own. On 25 December, an SBU convoy took him from SIZO for carrying out investigative actions. The same day, he was delivered to the emergency department with bodily injuries and died there.

103. On 14 January 2015, a criminal investigation was initiated into his death, allegedly caused by SBU officers, under article 121 (intended grievous bodily injury which caused death) of the Criminal Code. As of 1 June 2016, OHCHR was not aware of any progress in the investigation.

## **E. Disappearances which may have led to death**

### *Serhii Dolhov case*

104. In June 2014, the ‘Azov’ battalion (together with ‘Dnipro-1’ battalion) was deployed to the Government-controlled city of Mariupol (Donetsk region). On 18 June 2014, six armed men wearing balaclavas entered the premises of the ‘Vestnik Piazovia’ newspaper whose editor-in-chief, Mr Serhii Dolhov, was known for his ‘pro-federalism’ sympathies. According to an eyewitness, the armed men beat him. Then they took him away. Local

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<sup>186</sup> HRMMU interview of 2 October 2015.

<sup>187</sup> Ibidem.

<sup>188</sup> HRMMU interview of 25 September 2015.

residents saw Dolhov being forced into the trunk of a car. Neither local police who arrived to the scene, nor the local prosecutor had any information about him and referred to “other forces present in the city”.

105. On 15 September 2015, during a meeting with the Head of Donetsk Regional State Administration, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions raised the case of Dolhov. On 12 October 2015, HRMMU received a response from the Main Department of the Ministry of Internal Affairs in Donetsk region, stating that on 21 June 2014, the Zhovtnevyi district department of the Ministry of Internal Affairs in Mariupol had opened criminal proceedings into the killing of Dolhov under article 115 (intentional homicide) of the Criminal Code. As of 1 June 2016, Dolhov’s DNA profile did not match profiles of any of the unidentified bodies found since the time of his disappearance, and no progress was achieved in establishing his whereabouts.

*Maksim Popov case*

106. On 12 August 2014, Mr Maksim Popov, a citizen of the Russian Federation, disappeared in Donetsk region on his way to the city of Nalchik (the Russian Federation) where he was travelling alone in his car from the town of Kakhovka. The last time he contacted his family he texted them he had been arrested by the Ukrainian military as he was approaching the ‘Novoazovsk’ border crossing point. Two days later, his wife went through the same route, looking for him. At all checkpoints, Ukrainian forces remembered having seen Popov’s car and confirmed that had let him pass. It is only at ‘Novoazovsk’ check point that she did not receive any information, and she was threatened with a gun by Ukrainian soldiers manning the check point.

107. On 16 August 2014, Mrs Popov contacted the deputy commander of the then ‘Shakhtarsk’ voluntary special police patrol battalion (currently ‘Tornado’ special police patrol company), who, by phone, confirmed Popov’s detention and agreed to release him upon payment of a certain sum of money. On 17 August, after apparently unsuccessful negotiations between a friend of Popov and the deputy commander of the battalion, the latter informed Popov’s wife her husband had escaped after injuring his guards.

108. On 24 February 2015, Mykolaivskiyi police department opened a criminal investigation into Popov’s disappearance under article 115 (intentional homicide) of the Criminal Code. As of 1 June 2016, his whereabouts remained unknown. Residents of the Government-controlled town of Sievierodonetsk (Luhansk region) told his wife that as of April 2015, the deputy commander of ‘Tornado’ company was using a Hummer H2 car which she recognised as her husband’s, according to the descriptions. In the 62<sup>nd</sup> episode of a TV programme “Classified materials”, an unidentified participant in the security operation confirmed the detention of a “Russian who has a Hummer car”. “This Hummer he [then deputy commander of Shakhtarsk battalion] seized it. Until now, he drives this Hummer”, he said.<sup>189</sup>

*Oleksandr Minchonok case*

109. On 21 July 2014, a resident of the town of Lysychansk (Luhansk region) Mr Oleksandr Minchonok was detained by a group of armed men, while he was driving his grandmother to hospital in Kharkiv. They took his grandmother to the hospital in the village of Rubizhne, while Minchonok and his car were taken to some other place. HRMMU received an account of a former member of ‘Aidar’ battalion, who stated that his fellow servicemen had stopped Minchonok’s car seeking an automatic gearbox for the instructor of their battalion. The victim was reportedly killed<sup>190</sup>; his body has not been recovered.

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<sup>189</sup> Can be accessed at: [https://www.youtube.com/watch?v=Ppb0\\_-tHU90](https://www.youtube.com/watch?v=Ppb0_-tHU90).

<sup>190</sup> HRMMU interview of 25 September 2015.

110. On 25 June 2015, the instructor was arrested in Kyiv on charges under articles 146 (illegal confinement or abduction of a person) and 289 (unlawful appropriation of a vehicle) of the Criminal Code. The investigation established that along with other members of ‘Aidar’ battalion, he illegally seized the victim’s car. He was placed in custody, but further to pressure by the so-called ‘patriotic’ groups on the court, his measure of restraint was changed to a non-custodial one; he was released and reportedly fled Ukraine.

*Serhii Kutsenko case*

111. On 24 July 2015, Mr Serhii Kutsenko drove to the Government-controlled town of Krasnohorivka (Donetsk region), where he was to have a meeting. In the evening, his brother called their mother to alert her that he had seen Kutsenko’s car driving past him with two men wearing military uniform. He noticed the windshield was broken. As she was unable to contact her son, Ms Kutsenko went to all check points in the area in search for him. At a check point, a serviceman told her he had seen her son driving from Krasnohorivka but he later saw two military men driving the car back.

112. Sometime after, Ms Kutsenko and her younger son saw Kutsenko’s car, decided to follow it and called the police. The police questioned the men who were in the car. The following day, SBU found the mobile phone of Kutsenko on the side of the road leading to Kurakhove. On 26 July 2015, a criminal case into his disappearance was initiated under article 115 (intentional homicide) of the Criminal Code, and on 25 May 2016, a suspect in the case was detained. As of 1 June 2016, the pre-trial investigation was on-going.

## **F. Killings within the armed groups and Governmental forces**

### **1. Within the armed groups**

113. On 24 May 2014, a ‘company commander’ of the ‘militia’ of the ‘Donetsk people’s republic’ Mr Dmitry Slavov (call sign Bolgar) and a ‘platoon commander’ Mr Nikolai Lukyanov (call sign Luka) were sentenced to death by a ‘martial court’ in Sloviansk). The ‘order’ announcing their execution is dated 26 May 2014 and was signed by the ‘commander of DPR militia’.<sup>191</sup> The two men were incriminated for “looting, armed robbery, abduction of a person, leaving the military positions and concealing committed crimes”.

114. A man, deprived of liberty for being drunk during the curfew by members of the armed groups in Donetsk, was punished with 21 days of compulsory labour for the so-called ‘Somali’ battalion. He was taken to the Donetsk airport, part of which was controlled by the armed groups, where he spent several days. On 9 or 10 November 2014, he witnessed two members of the so-called ‘Somali’ battalion being caught drunk while on guard. The man heard battalion commander ordering their execution by shooting. They were beaten; their chevrons were torn off, they were undressed and taken somewhere. The witness did not see them after the incident.<sup>192</sup>

### **2. Within Governmental forces**

*Serhii Kostakov case*

115. On 22 November 2014, Mr Serhii Kostakov, a serviceman of the 72<sup>nd</sup> separate mechanised brigade of the Armed Forces, went missing in the Government-controlled town of Volnovakha (Donetsk region). He was last seen during the night of 23 November at the checkpoint ‘Bugas’ manned by the ‘Kyiv-2’ special police patrol battalion. He was alive but had reportedly been beaten and handcuffed to a radiator inside the checkpoint building.<sup>193</sup> Only half a year later, on 2 June 2015, his body was found near the village of

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<sup>191</sup> [http://lb.ua/news/2014/05/26/267846\\_seti\\_poyavilsya\\_prikaz\\_strelka.html](http://lb.ua/news/2014/05/26/267846_seti_poyavilsya_prikaz_strelka.html)

<sup>192</sup> HRMMU interview of 8 April 2014.

<sup>193</sup> HRMMU interview of 12 April 2016.



Prokhorivka (Volnovakhskyi district of Donetsk region). According to the victim's lawyer, he sustained a number of gunshot wounds in the head and his hands were cuffed.

116. The victim was known for his public statements exposing the illegal activities of his commanders which, according to his lawyer, could have been the cause for his death. The investigation into his death was conducted by the police, with the Office of the Military Prosecutor not taking procedural control of the investigation, despite the high probability that the crime may have involved military elements.<sup>194</sup>

*Dmytro Shabratskyi case*

117. On 26 March 2015, Mr Dmytro Shabratskyi, a commander of the 3<sup>rd</sup> reconnaissance and sabotage squad of the 'Aidar' battalion, was found dead on the territory of the military unit in the town of Lysychansk (Luhansk region). According to the forensic report, he died as a result of a penetrating gunshot injury in the head and a mine-blast trauma. The victim also reportedly sustained an open gunshot fracture of the left thighbone. Despite the nature of the injuries, the National Police, who investigated the case, concluded that it was a suicide.

118. According to the victim's lawyer, the investigation failed to take reasonable steps to investigate the case. For example, they were no ballistic tests. The lawyer collected accounts of the victim's co-servicemen, who said that he had a conflict with the commanders of the battalion. No internal investigation was conducted by the military authorities, despite the statements by the victim's parents that two servicemen of the battalion had reportedly threatened their son on several occasions. On 30 March 2016, the National Police closed the investigation into the death of Shabratskyi invoking the absence of elements of a crime. The victim's lawyer has filed an appeal to challenge the decision.<sup>195</sup>

### **III. Violations and abuses of the right to life in the Autonomous Republic of Crimea and the city of Sevastopol**

#### **A. Summary executions**

*Reshat Ametov case*

119. On 3 March 2014, Mr Reshat Ametov, a pro-Ukrainian activist, disappeared after staging a one-man picket in front of Crimea's government building in Simferopol. He was allegedly led away by three men in military-style jackets. Footage of the incident was shown on the Crimean Tatar television channel ATR.

120. The following day, the victim's family reported him as missing to the local police and disseminated information about his disappearance through social networks. They did not receive any detailed information about his fate or whereabouts from their police contact who alleged that Ametov had been briefly deprived of liberty by 'self-defence' groups and subsequently released. Reportedly, a local representative of the 'self-defence' groups informed the family that he was only taken away from the square but was not held "in custody" by 'self-defence' forces.

121. On 15 March 2014, Ametov's body was found 67km east of Simferopol, in the village of Zemlyanichne (Bilohirsk district), bearing signs of torture. He was hand-cuffed, with adhesive tape over his mouth. Criminal proceedings were opened by the Crimean 'police' under article 105 (murder) of the Criminal Code of the Russian Federation. Reportedly, more than 270 witnesses have been questioned and over 50 forensic analyses

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<sup>194</sup> Ibidem.

<sup>195</sup> Ibid.

conducted into this case.<sup>196</sup> However, no perpetrator has been identified. OHCHR is not aware of whether the video recordings purportedly showing Ametov being taken from the site of the 3 March protest was subject to expert analysis and whether any steps were taken to identify and find the three men shown in the videos.

## **B. Disappearances which may have led to death**

122. Since March 2014, OHCHR identified ten cases (all men) of people who went missing in Crimea under circumstances which could suggest a criminal intent and political motivations. These circumstances include witness accounts, the profile of the victims and the fact that some disappearances appear to have resulted from abductions involving paramilitary groups often associated with the so-called Crimean ‘self-defence’. Once reported, the disappearances are investigated by the ‘Crimean police’, but so far they have not yielded any concrete results.

123. On 7 March 2014, Mr Ivan Bondarets and Mr Vladyslav Vashchuk, both Maidan activists from Rivne (western Ukraine), went missing after arriving at the Simferopol railways station from Kyiv. At 7.30 a.m., Vashchuk had called his sister to inform her of their arrival and complained he had been searched and had undergone identity checks upon arrival at the station. Their trace has since been lost.

124. On 15 March 2014, Mr Vasyl Chernysh, an Automaidan activist and a former SBU member, who lived in Sevastopol, went missing. Before he disappeared, he had posted messages on his Facebook page criticizing former SBU colleagues for continuing to work after the Russian flag was hoisted on the SBU building in Sevastopol. HRMMU is not aware of any request addressed to the Crimean ‘police’ to investigate this case.

125. On 26 May 2014, Mr Timur Shaimardanov left his home in Simferopol and has since gone missing. On 30 May, Mr Seiran Zinedinov, an acquaintance of Shaimardanov, who had been coordinating efforts to find him, also went missing. Both men belonged to the pro-unity political movement ‘Ukrainian House’. On 9 July 2014, the Crimean ‘police’ opened criminal proceedings in connection with the disappearances of Shaimardanov and Zinedinov. Relatives of the two men have been questioned by the ‘police’ and other investigative work has been conducted. However, both are still reported as missing.

126. On 27 September 2014, two men in black uniform were allegedly seen by witnesses forcing Mr Isliam Dzhapparov and his cousin, Mr Dzhevdet Islyamov, into a dark blue Volkswagen minibus outside the village of Sary-Su near Bilohirsk (central Crimea). Both men were observant Muslims. In 2013, Dzhevdet Islyamov allegedly spent several months in Syria. None of them was known to have participated in anti-Russian rallies. Dzhapparov’s father, Abdureshyt, stated that the version of the ‘police’ was that the abduction was linked to his political activism and squabbles over land rights on the peninsula. Until 2013, Abdureshyt Dzhapparov was deputy chairman of the Mejlis, and was involved in allocating land to Crimean Tatars returnees. The ‘police’ opened criminal proceedings into the case but the whereabouts of the two men remain unknown.

127. On 23 October 2014, Mr Ernest Usmanov, a Crimean Tatar from Simferopol, disappeared after the ‘police’ conducted a search of his apartment.

128. On 27 August 2015, Mr Mukhtar Arislanov, a Crimean Tatar, disappeared in the city Simferopol. A witness allegedly saw two men in police uniform forcing him into a minivan.

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<sup>196</sup> See “List of issues in relation to the seventh periodic report of the Russian Federation to the United Nations Human Rights Committee. Replies to additional questions by members of the Committee concerning the seventh periodic report of the Russian Federation on its implementation of the International Covenant on Civil and Political Rights”; Human Rights Committee, 18 December 2014, p. 26, paragraph 173.

On 3 September 2015, the Investigative Committee of the Russian Federation in Crimea opened criminal proceedings. On 10 September 2015, Crimean ‘police’ officers searched Arislanov’s house without providing any explanation to his wife. After the search, his wife was summoned for an interrogation.

129. On 25 May 2016, Mr. Ervin Ibrahimov, member of the Coordination Council of the World Congress of the Crimean Tatars and member of the Bakhchysarai Regional Mejlis went missing. The Investigative Committee of the Russian Federation initiated a criminal case into his disappearance. As of 1 June 2016, his whereabouts were unknown.

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