

REPORT ON THE HUMAN RIGHTS SITUATION IN UKRAINE

1 AUGUST 2020 – 31 JANUARY 2021



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HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

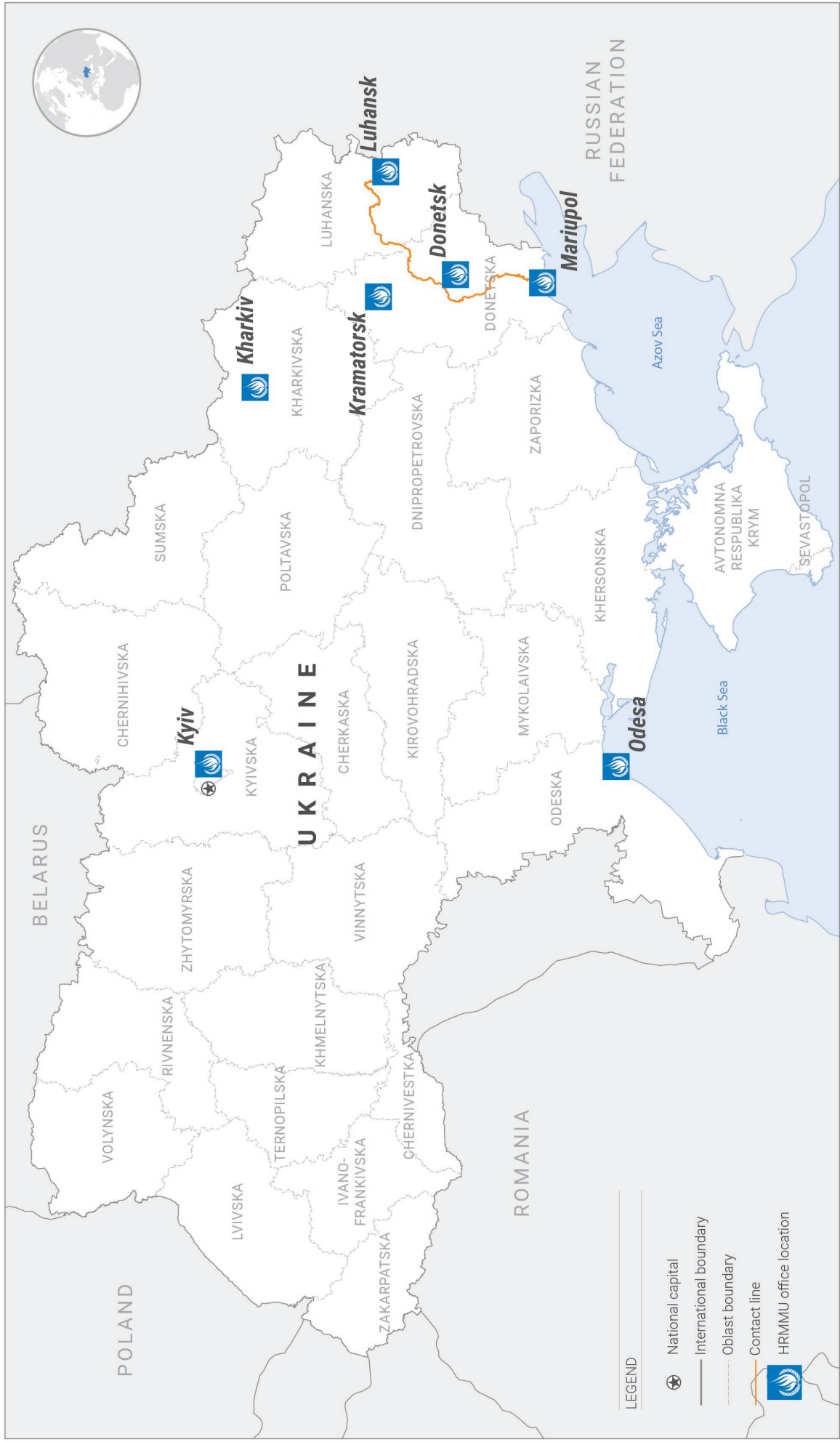
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Human Rights Monitoring Mission in Ukraine Presence

as of 15 February 2021

February 2021



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Created: 15 February 2021 Source: HRMMU, OHCHR Contact: imsupport@ohchr.org ohchr.org standup4humanrights.org

I. Executive summary

1. This thirty-first report by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the human rights situation in Ukraine covers the period from 1 August 2020 to 31 January 2021. It is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU).¹
2. The security situation significantly improved compared to the previous reporting period, following the agreement on measures to strengthen the ceasefire that took effect on 27 July 2020. Active hostilities caused injuries to three civilians by light weapons and small arms fire, while 36 civilian casualties (eight killed and 28 injured) were caused by mines and explosive remnants of war. Since the beginning of the conflict, OHCHR has recorded a total of 3,375 conflict-related civilian deaths. The number of injured civilians is estimated to exceed 7,000.
3. Four attacks affecting civilian objects, notably water and sanitation facilities, occurred during the reporting period. While this is much lower than the previous period, OHCHR is concerned that attacks continued to put workers at these facilities at risk.
4. Freedom of movement in the conflict zone was severely restricted due to COVID-19 measures, which negatively impacted the civilian population's rights to family life, health, work, social security, and an adequate standard of living. Improving freedom of movement would contribute to maintaining inter-connectivity across the contact line, strengthen social and family links and decrease the negative impact of the conflict on the civilian population.
5. While the number of cases of conflict-related torture and ill-treatment, notably those alleged to be perpetrated by the Security Service of Ukraine (SBU), has decreased in recent years, OHCHR identified a persistent pattern of torture and ill-treatment by law enforcement officials in cases unrelated to the conflict, particularly due to police violence. The lack of accountability in such cases is concerning.
6. In territory controlled by self-proclaimed 'Donetsk people's republic',² OHCHR documented 12 cases of conflict-related arbitrary detention, in most cases by the 'ministry of state security'. In territory controlled by self-proclaimed 'Luhansk people's republic',³ OHCHR documented eight cases of arbitrary incommunicado detention by the 'ministry of state security' or 'police'. While OHCHR enjoyed unimpeded access to places of detention in territory controlled by the Government, OHCHR operations in territory controlled by self-proclaimed 'republics' have been severely restricted since June 2018. The continued denial of access to detention facilities, despite repeated requests, prevents OHCHR from monitoring the treatment of detainees and detention conditions. This is particularly concerning given the widespread credible allegations of torture and ill-treatment of both conflict and non-conflict related detainees. OHCHR reiterates its call for independent international observers, including OHCHR, to have unimpeded, confidential access to places of detention and detainees. Additional restrictions on OHCHR operations in territory controlled by 'Luhansk people's republic' enforced during the reporting period should be also lifted.
7. OHCHR continues to identify flaws in the administration of justice in conflict-related cases, including the absence of possibility for a full retrial for those tried *in absentia*. OHCHR is also concerned about developments with the Constitutional Court of Ukraine (CCU) and how this may negatively affect the rule of law and the human rights situation in Ukraine, since its

¹ HRMMU was deployed on 14 March 2014 to monitor and report on the human rights situation throughout Ukraine, with particular attention to the Autonomous Republic of Crimea, eastern and southern regions of Ukraine, and to propose recommendations to the Government and other actors to address human rights concerns. For more information, see UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine*, 19 September 2014, A/HRC/27/75, paras. 7-8, available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-75_en.pdf.

² Hereinafter 'Donetsk people's republic'.

³ Hereinafter 'Luhansk people's republic'. For brevity, 'Donetsk people's republic' and 'Luhansk people's republic' are collectively referred to as self-proclaimed 'republics'.

October 2020 decision finding unconstitutional certain regulations relating to officials' financial declarations.

8. Over the reporting period, OHCHR documented 18 new attacks against journalists and other media workers, human rights defenders, civil and political activists, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons or their supporters, members of national minorities, and political actors from opposition political parties considered "pro-Russian". Lack of accountability for past attacks was also concerning. While the police largely successfully protected peaceful assemblies, OHCHR notes that COVID-19 restrictions were selectively applied.

9. Four of the attacks documented by OHCHR targeted women human rights defenders (WHRD)⁴ and environmental activists due to their public activities, one of which occurred in territory controlled by 'Donetsk people's republic'. Media workers, journalists and bloggers, notably working on corruption or on pandemic prevention measures, also suffered threats and attacks. In territory controlled by self-proclaimed 'republics', armed groups arbitrarily detained individuals for their social media publications.

10. Several religious communities in territory controlled by armed groups continued to face limitations on the enjoyment of their freedom of religion or belief.

11. In Government-controlled territory, OHCHR noted incidents of hate speech against national minorities, including those speaking Russian and Hungarian, Roma, and foreign students.

12. Noting the entry into force of certain provisions of the Law on State Language on 16 January 2021 and related incidents, OHCHR recommends the swift adoption of a law on the protection of national minorities that will specifically protect their language rights.

13. The first round of nationwide local elections took place on 25 October 2020, with the exception of 18 newly-established communities in Donetsk and Luhansk regions where it was deemed too dangerous by the Central Electoral Commission, and in the Autonomous Republic of Crimea, and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation⁵ (hereinafter Crimea) and armed group-controlled territory. The lack of clarity as to authorities in place in Donetsk and Luhansk regions may negatively impact the provision of social, administrative and other essential services to local residents.

14. The COVID-19 crisis continued to exacerbate existing inequalities, discrimination and social exclusion in Ukraine, notably of homeless people. OHCHR also examined the situation of the more than forty thousand persons with intellectual and psychosocial disabilities who are deprived of legal capacity, denying them the enjoyment of basic rights.

15. OHCHR is concerned that the right to education may be impacted by the decision to introduce Russian as the 'official' language in education 'institutions' in territory controlled by self-proclaimed 'republics'.

16. In Crimea, freedom of religion, notably that of the Orthodox Church of Ukraine and Jehovah's Witnesses, was affected by the unlawful application of Russian Federation legislation by the occupation authorities of the Russian Federation⁶ in the occupied territory. Courts continued to issue deportation and forcible transfer orders against Ukrainian citizens considered by the Russian Federation as not holding residency rights in Crimea. OHCHR also documented human rights violations in relation to detention conditions and treatment of Ukrainian citizens held in places of detention in Crimea and the Russian Federation.

⁴ The term refers to women and girls who act to promote or protect human rights, as well as people of all genders who defend the human rights of women or work to advance rights related to gender equality, as defined in the Report of the Special Rapporteur on the situation of human rights defenders, 20 December 2010, A/HRC/16/44.

⁵ General Assembly resolution 73/263, *Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine*, A/RES/73/263 (22 December 2018), para. 11.

⁶ In line with General Assembly resolution 75/192, *Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine*, A/RES/75/192 para. 12, bodies of the Russian Federation and their representatives in Crimea shall be considered as "occupation authorities of the Russian Federation". All reference to organs and officials of the Russian Federation in Crimea in this report is to be understood as referring to the occupation authorities of the Russian Federation.

17. OHCHR worked to increase Ukraine's capacity to strengthen human rights standards in governance, including through advocacy for implementation of its previous recommendations related to the impact of COVID-19 and on the administration of justice in conflict-related cases. OHCHR's technical expertise was also provided to a variety of national actors, such as ministries, the Parliament, courts, the Ombudsperson institution, the military and law enforcement, and civil society including human rights defenders.

II. OHCHR methodology

18. The report is based on information gathering during 91 field visits, seven visits to places of detention, 56 trial hearings, 37 assemblies and 1108 interviews with victims and witnesses of human rights violations,⁷ as well as relatives of victims and their lawyers, Government representatives, members of civil society and other interlocutors. It also draws from information obtained from court documents, official records, open sources and other relevant material. Findings are based on verified information collected from primary and secondary sources that are assessed as credible and reliable. Findings are included in the report where the "reasonable grounds to believe" standard of proof is met, namely where, based on a body of verified information, an ordinarily prudent observer would have reasonable grounds to believe that the facts took place as described and where legal conclusions are drawn, that these facts meet all the elements of a violation. While OHCHR cannot provide an exhaustive account of all human rights violations committed throughout Ukraine, it obtains and verifies information through a variety of means in line with its methodology, and bases its conclusions on verified individual cases.

19. OHCHR applies the same standard of proof when documenting conflict-related civilian casualties.⁸ In some instances, documenting conflict-related civilian casualties may take time before conclusions can be drawn, meaning that numbers of civilian casualties are revised as more information becomes available.

20. Information in this report is used in full respect of informed consent by all sources as to its use as well as OHCHR's assessment of any risk of harm that such use may cause. This may entail removing identifying details to ensure the confidentiality of sources.

21. The report also draws on engagements undertaken by Ukraine to implement the Sustainable Development Goals (SDGs) stemming from the UN Sustainable Development Summit in September 2015 (see image below).

⁷ With 513 men and 577 women.

⁸ See OHCHR, *Report on the human rights situation in Ukraine, 16 February to 15 May 2019*, para. 20, available at www.ohchr.org/Documents/Countries/UA/ReportUkraine16Feb-15May2019_EN.pdf.

**Sustainable Development Goals (SDGs) stemming from the UN
Sustainable Development Summit in September 2015**





UKRAINE: CIVILIAN CASUALTIES CAUSED BY ACTIVE HOSTILITIES IN 2020



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

Creation Date: 25 February 2021 Author: OHCHR ERS Source: OHCHR HRMMU Contact: imsupport@ohchr.org

III. Impact of hostilities

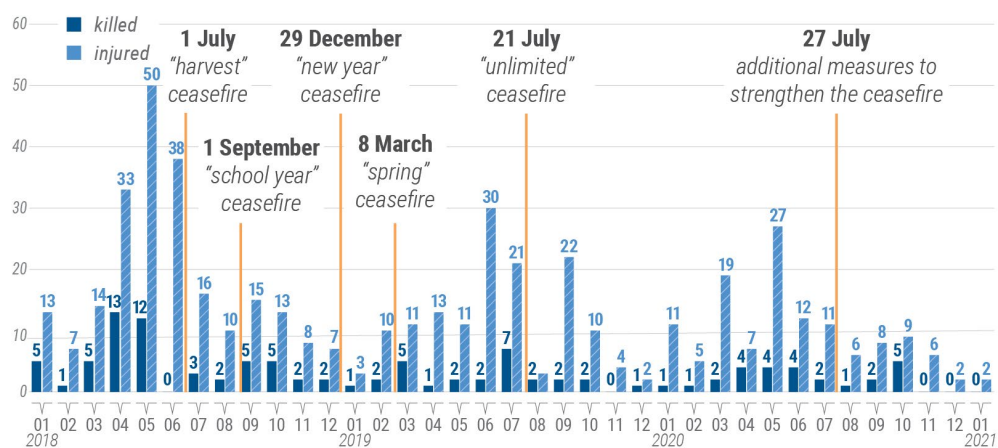
“Everyone asks us ‘how can you live here?’ My answer is always the same – where else could we go?”

– The head of a school in a contact line settlement.

A. Conduct of hostilities and civilian casualties



TIMELINE OF CIVILIAN CASUALTIES from 1 January 2018 to 31 January 2021



Creation Date: 24 February 2021 Source: OHCHR HRMMU

22. Following the agreement on measures to strengthen the ceasefire by the Trilateral Contact Group which took effect on 27 July 2020, the security situation in the conflict zone in Donetsk and Luhansk regions has improved significantly.⁹ During the reporting period, the number of ceasefire violations, as reported by the OSCE Special Monitoring Mission (SMM) to Ukraine, was 93 per cent lower than during the preceding six months (from 116,900 to 8,484). This resulted in dramatic decreases in the number of civilian casualties caused by active hostilities, as well as in damages to civilian objects.

23. However, it has been difficult for OHCHR to monitor the impact of the conflict in territory controlled by ‘Luhansk people’s republic’, due to increased restrictions on OHCHR operations there. Armed groups of ‘Luhansk people’s republic’ should lift restrictions on OHCHR operations in territory they control.

1. Civilian casualties

24. From 1 August 2020 to 31 January 2021, OHCHR recorded 41 civilian casualties: eight killed (seven men and one woman) and 33 injured (24 men, five boys, three women, and one girl), a 58.2 per cent decrease compared with preceding six months (17 killed and 81 injured).

25. Active hostilities¹⁰ caused three civilian injuries (all in armed group-controlled Oleksandrivka in Donetsk region): on 12 November 2020, two men were injured after their house was directly hit by light weapons fire; and on 30 January 2021, a man was injured when a bullet struck his leg as he was walking to visit his parents.

26. Thirty-six civilian casualties resulted from mine-related incidents and handling of explosive remnants of war: eight killed (seven men and one woman) and 28 injured (20 men, five boys, and three women). Two other civilian casualties (one injured man and one injured girl) were caused by a road incident with a military vehicle.

⁹ Heidi Grau, Special Representative of the Organization for Security and Co-operation in Europe Chairperson-in-Office in Ukraine and in the Trilateral Contact Group (TCG), “Press Statement of Special Representative Grau after the regular Meeting of Trilateral Contact Group on 22 July 2020”, Kyiv, 23 July 2020, available at www.osce.org/chairmanship/457885.

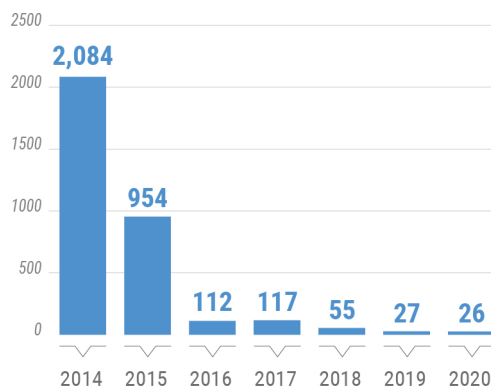
¹⁰ Shelling, unmanned aerial vehicles (UAV) strikes, and small arms and light weapons fire.

27. For example, on 3 January 2021, a 16-year old boy was injured when an explosive he was trying to dismantle detonated in his house in Government-controlled Blahodatne (Donetsk region). On 6 October 2020, two boys (aged 15 and 16) were injured by a hand grenade that detonated when they handled it near a school in armed group-controlled Makiivka (Donetsk region). On 20 December 2020, a man was injured when the tractor he was operating tripped a mine or unexploded ordnance near Government-controlled Kamianka (Luhansk region). On 17 October 2020, a male resident of armed group-controlled territory was severely injured and died of blood loss in a landmine incident in a forested area near Government-controlled Trokhizbenka (Luhansk region) while trying to cross the contact line outside of entry-exit crossing points (EECPs).

2. Civilian casualties during the entire conflict period

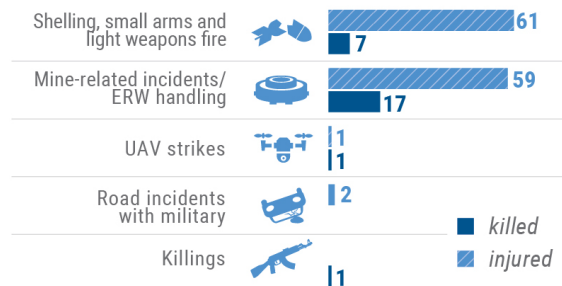
28. During the entire conflict period, from 14 April 2014 to 31 January 2021, OHCHR recorded a total of 3,077 conflict-related civilian deaths (1,828 men, 1,064 women, 99 boys, 49 girls, and 37 adults whose sex is unknown). Taking into account the 298 deaths on board Malaysian Airlines flight MH17 on 17 July 2014, the total death toll of the conflict on civilians has reached at least 3,375. The number of injured civilians is estimated to exceed 7,000.

CONFLICT-RELATED CIVILIAN DEATHS
from 2014 to 2020



Creation Date: 24 February 2021 Source: OHCHR HRMMU

CAUSES OF CIVILIAN CASUALTIES FROM
1 JANUARY TO 31 DECEMBER 2020



Creation Date: 24 February 2021 Source: OHCHR HRMMU

3. Attacks on civilian objects

29. During the reporting period, OHCHR continued to systematically record incidents affecting civilian objects (excluding civilian housing). In comparison to the preceding six-month period, there were fewer attacks affecting civilian objects, from 72 incidents (of which 40 resulted in damage to civilian water and sanitation facilities) from 1 February to 31 July 2020, to four incidents between 1 August 2020 to 31 January 2021, none of which resulted in damage.

30. Of the incidents which occurred at or near water and sanitation facilities, three involved shelling: twice in November at the Donetsk Filter Station in armed group-controlled Yasynuvata (Donetsk region); and once in December at the Holmivskiy Water Treatment Plant in armed group-controlled Horlivka (Donetsk region). The fourth incident happened in January 2021 when small arms fire occurred near workers repairing a damaged clean water pipeline that distributes water from the Holmivskiy Water Treatment Plant.

31. Although the incidents did not result in any injuries or damage, the attacks put the lives of workers in water and sanitation facilities at risk, and threatened the civilian population's water supply. In addition, the January incident violated a 'window of silence' that had been agreed specifically for the repair work and delayed the provision of clean water to around 45,000 residents in the region.

B. Impact of the conflict and COVID-19 on the population in the conflict zone



“The UAF gave me five minutes to pack and leave my home as they wanted to use it for their purposes... I left with a pillow, a blanket, and other small items... My grandson said that he would come back in a month but I knew that the conflict was here to stay and he would not come back any time soon.”

– A woman in her 80s living in a village along the contact line.

1. Remedy and reparation for civilian victims of the conflict

32. OHCHR regrets that no comprehensive State policy and mechanism for remedy and reparation to civilian victims of the conflict has been adopted since the beginning of the armed conflict. In this regard, OHCHR welcomes the development of the “State Policy Concepts on the Protection and Restitution of Human Rights and Fundamental Freedoms in the Context of the Armed Conflict on the Territory of Ukraine and on Overcoming Its Consequences” that the Legal Reform Commission submitted to the Office of the President in September 2020. OHCHR finds the provisions related to remedy and reparation generally in line with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,¹¹ and looks forward to the adoption and implementation of the Concept.¹²

33. OHCHR is concerned that the Law “On State Budget of Ukraine for 2021” does not envisage funding for the Government’s payment of compensation following court decisions.¹³ This may affect civilians seeking remedy and reparation for conflict-related human rights violations, as well as other types of court decisions.

Right to life and right to health

34. By 31 January 2021, an Inter-Agency Commission to establish the nexus between disability and conflict-related injuries¹⁴ had granted 122 civilians with disabilities (63 men and 59 women) the same social benefits as war veterans. However, the process of obtaining this continued to be cumbersome and placed an excessive burden on applicants.

35. OHCHR noted with interest that the Supreme Court, in the process of consideration of a case related to compensation for a conflict-related civilian death,¹⁵ decided to transfer the case to its Grand Chamber for consideration and to develop a legal position for all courts on such cases. On 25 November 2020, the Grand Chamber started proceedings in the case, which are expected to be completed during the first half of 2021.¹⁶

¹¹ Available at www.ohchr.org/en/professionalinterest/pages/remedyandrepairation.aspx.

¹² OHCHR also notes the efforts of the Ministry for Reintegration of Temporary Occupied Territories to elaborate, in an inclusive manner, a comprehensive draft law aiming at regulating and systematizing State policy for the transitional period and at outlining the essential elements of its transitional justice policy (draft law “On the State policy of the transition period”). OHCHR stresses that, in designing a transitional justice policy, the Government should take into account all its components, which include the rights to truth, justice, reparation, as well as guarantees of non-recurrence of violations. Moreover, a transitional justice policy should be designed following inclusive consultations with victims and conflict-affected communities.

¹³ The Law of Ukraine No. 1158-IX on the “State Budget of Ukraine for 2021” is available at <https://zakon.rada.gov.ua/laws/show/1082-IX#Text>.

¹⁴ OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020*, para 35, available at www.ohchr.org/Documents/Countries/UA/29thReportUkraine_EN.pdf.

¹⁵ See ruling of the Cassation Civil Court of the Supreme Court in case No. 635/6172/17 of 18 November 2020, available in Ukrainian at <https://reyestr.court.gov.ua/Review/92997183>.

¹⁶ See ruling of the Grand Chamber of the Supreme Court in case No. 635/6172/17 of 25 November 2020, available in Ukrainian at <https://reyestr.court.gov.ua/Review/93302478>.

Compensation for loss of housing and property

36. On 2 September 2020, the Cabinet of Ministers amended Resolution No. 947 on compensation for destroyed housing.¹⁷ The amendments set out regulations for the compensatory mechanism for civilians whose housing in Government-controlled territory was destroyed by hostilities. Thanks to the amendments, UAH 20 million (approx. \$700,000) was made available for this purpose in the 2020 State budget.¹⁸ According to the Ministry for Reintegration of Temporarily Occupied Territories, almost all of the money allocated has been paid out in amounts varying from UAH 230,000 to 300,000 (\$8,300 to \$10,800) to some 74 civilians. OHCHR welcomes this positive development, as well as the fact that the State budget for 2021 envisages the allocation of UAH 114 million (approx. \$4 million) for compensation to be paid out to at least 380 affected civilians under the Resolution. However, regional and local authorities lack clarity as to how the Resolution will be implemented. In addition, due to a lack of ownership documents and awareness of the compensation process, some of those affected do not enjoy their right to compensation and peaceful possession of property.

2. Freedom of movement in the context of COVID-19

37. During the reporting period, civilians continued facing severe restrictions of the right to freedom of movement in the conflict zone. From 1 August 2020 to 31 January 2021, the number of crossings of the contact line in both directions decreased by 96 per cent compared with the same period in 2019-2020 (294,000 and 7,117,000 crossings, respectively). Women and older persons, who comprised the majority of those crossing before the COVID-19 lockdown, were particularly affected. According to the NGO “Donbas SOS”, which operates a hotline to address questions from the conflict-affected population and internally displaced persons (IDPs), requests for information on crossing procedures represented the most frequent issue raised, by more than 30 per cent of callers.

38. From 15 October to 10 November 2020, the Government suspended the operation of ‘Stanytsia Luhanska’, the only EECP operating in Luhansk region. As of 31 January 2021, two additional EECPs in Luhansk region – in Shchastia and Zolote – had not opened, despite agreement to do so on 10 November 2020. In Donetsk region, only a limited number of people were able to cross the contact line due to restrictions imposed by ‘Donetsk people’s republic’. Those leaving territory controlled by the self-proclaimed ‘republic’ continued to be forced to sign a paper stating they cannot return until the epidemiological situation improves.¹⁹ Such restrictions continued to negatively affect the civilian population and to impact their rights to family life, health, work, social security, and an adequate standard of living. OHCHR stresses the need for all EECPs in Donetsk region to reopen, with clear measures in place to reduce the spread of COVID-19. This would contribute to maintaining inter-connectivity across the contact line, strengthening social and family links and decreasing the negative impact of the conflict on the civilian population.

39. OHCHR welcomes amendments to Cabinet of Ministers Resolution No. 815, establishing humanitarian grounds for crossing through EECPs in Donetsk and Luhansk regions.²⁰ Another positive development was the Government’s commitment to ensure the availability of express immunofluorescence assay (IFA) tests at all EECPs, free-of-charge. However, OHCHR notes that so far, IFA tests have only been available at the ‘Novotroitske’ EECP and only a small number of people have been tested due to limited supply and medical staff. At the same time, no IFA tests were available at the Stanytsia Luhanska and the polymerase chain reaction (PCR) test costs UAH 1,250 (\$45).²¹

¹⁷ Available at <https://zakon.rada.gov.ua/laws/show/767-2020-%D0%BF#Text>.

¹⁸ For more information, see <https://mtot.gov.ua/ua/u-2020-roci-74-gromadjan-otrimali-kompensacijuzazrunovane-jitlo-v-donecki-ta-luganski-oblastjah>.

¹⁹ See OHCHR, *Impact of COVID-19 on human rights in Ukraine, December 2020*, paras. 20-21, available at www.ohchr.org/Documents/Countries/UA/Ukraine_COVID-19_HR_impact_EN.pdf.

²⁰ See Cabinet of Ministers Resolution No. 1161 of 25 November 2020, para. 22.2 available at <https://zakon.rada.gov.ua/laws/show/1161-2020-%D0%BF#n36> which amended Cabinet of Ministers’ Resolution No. 815 available at <https://zakon.rada.gov.ua/laws/show/815-2019-%D0%BF#Text>.

²¹ COVID-19 express testing is also available at the two crossing points (Kalanchak and Chonhar) at the administrative boundary line (ABL) with Crimea.

40. OHCHR also welcomes the 23 December 2020 ruling of the Donetsk Circuit Administrative Court.²² The court ruled in favour of an individual who was denied entry to Government-controlled territory from armed group-controlled territory due to his inability to install the COVID-19 tracking mobile application “Dii vdoma”.²³ The court acknowledged that the measures applied in this situation were not proportionate to the purpose intended, and violated the individual’s fundamental rights. The court ordered the State Border Guards Service to compensate the plaintiff for non-pecuniary damages in the amount of UAH 10,000 (approx. \$350).

3. Right to social security

41. Despite advocacy efforts by international and national organizations aimed at de-linking the payment of pensions from IDP registration, and the 2018 “exemplary” judgement of the Supreme Court restoring the pension rights of an IDP whose pension payments had been terminated based on the verification requirements,²⁴ pensioners registered as residing in armed group-controlled territory still had to register as IDPs to be able to receive their pensions.

42. OHCHR welcomes the decision of Oshchadbank to prolong the validity of IDP pensioners’ bank cards until 1 March 2021 in the context of the COVID-19 pandemic, thus freeing IDP pensioners from the obligation of confirming their IDP registration on a regular basis. This meant that those who reside in armed group-controlled territory did not have to cross the contact line for identification, and were not exposed to the hardships of crossing conditions, including COVID-19-related crossing restrictions. OHCHR notes, however, this is a temporary measure, while the general approach towards the payment of pensions has not changed.

43. OHCHR is concerned that the State-owned Privatbank refused to serve civilians with residence registration in armed group-controlled territory who were unable to present an IDP certificate.²⁵ This requirement was first reported in 2019, but more people have reported this happening in 2020. According to Donbas SOS, in 2020, at least 54 persons were denied services by the bank, forcing them to register as IDPs. OHCHR notes this may amount to discrimination as IDPs shall enjoy their rights equally with other citizens or habitual residents of the country, including in regard to equal access to banking services.

Birth registration

44. OHCHR remains concerned that the Government did not establish an administrative procedure for birth registration for children born in armed group-controlled territory, and that such certificates can only be obtained through court proceedings. In 2020, 8,524 children (4,446 boys and 4,078 girls) were reportedly born in territory controlled by ‘Donetsk people’s republic’, and 5,444 in territory controlled by ‘Luhansk people’s republic’.²⁶ Government authorities only issued 2,220 birth certificates to children born in territory controlled by ‘Donetsk people’s republic’, and to 1,429 born in territory controlled by ‘Luhansk people’s republic’ in 2020 following court rulings. This places an additional financial burden on families who are forced to cross the contact line and submit a claim to court. As a result, up to 65,000²⁷ children do not have Ukrainian State-issued birth certificates, which may impede their access

²² Case number No. 200/8028/20-a available at <https://reyestr.court.gov.ua/Review/93743723>. The NGO “Right to Protection” is providing legal assistance to the applicant on this case.

²³ The plaintiff spent three days, from 24 to 26 June 2020, at ‘Novotroitske’ EECF. Additionally, the State Border Guards Service denied several other individuals access to Government-controlled territory from territory controlled by armed groups, referring to an internal order of the Commander of the Joint Forces Operations. The reason for not allowing the civilians to cross was their inability to install the mobile application. The issue was only partially resolved after several human rights and humanitarian organizations intervened.

²⁴ An “exemplary case” is a decision taken by the Supreme Court aiming to provide a model judgement in order to standardize case law where multiple similar cases have been submitted to courts. For more on the judgement, see OHCHR, *Report on the human rights situation in Ukraine, 16 August – 15 November 2018*, para. 38, available at www.ohchr.org/Documents/Countries/UA/24thReportUkraineAugust_November2018_EN.pdf.

²⁵ More information on this issue published by Donbas SOS, is available at www.donbasssos.org/privat-spravka-vpo/?fbclid=IwAR0nXuaOrjoJyx9-f7ABCAtQVfjpHrDDWDyMt-aQsTqMCb9Qz_A-D0y1KM0.

²⁶ Sex-disaggregated data was not available.

²⁷ UNHCR estimate.

to a number of rights, notably social and economic rights, as they would not be eligible for State services, such as recommended early childhood vaccines.

4. Missing persons

45. On 11 November 2020, the President of Ukraine tasked the Cabinet of Ministers to develop a comprehensive action plan to ensure the rights of missing persons and their families, in particular, to ensure the effective functioning of the Commission on Persons Missing due to Special Circumstances, established in April 2019, and the register on missing persons.²⁸ However, as of 31 January,²⁹ despite the renewal of the composition of the Commission,³⁰ its work is stalled and the secretariat and relevant funding of the Commission have not been provided yet.

IV. Right to liberty and security of persons

“I may end up receiving my husband’s dead body, and they [armed groups] will claim he died of COVID-19.”

- The wife of a man held in incommunicado detention by the armed groups with a pre-existing medical condition.

A. Access to places of detention



46. During the reporting period, OHCHR continued to enjoy unimpeded access to official places of detention in Government-controlled territory, allowing for confidential interviews with detainees, while respecting COVID-19 prevention measures. From 1 August 2020 to 31 January 2021, OHCHR interviewed 17 detainees and prisoners (16 men and one woman) in pre-trial detention facilities in Dnipro, Kherson, Mariupol, Odesa, Starobilsk, and Vilniansk.

47. In territory controlled by self-proclaimed ‘republics’, OHCHR continued to be denied access to detainees and places of deprivation of liberty despite repeated requests. This is particularly concerning given the widespread and credible allegations of torture and ill-treatment in a number of facilities, as well as of detention conditions that do not meet international human rights standards.

B. Arbitrary detention, torture and ill-treatment



1. Government-controlled territory

48. Individuals believed to be linked or affiliated with self-proclaimed ‘republics’ continued to be arrested contrary to the procedure set out in the Criminal Procedure Code (CPC).³¹ Instead of obtaining court authorization for arrests, law enforcement agencies wrongfully invoked the *in flagrante* exception³² against individuals who allegedly committed the crime of joining self-proclaimed ‘republics’ long ago.³³ Even though this practice may constitute a crime under article 371 of the Criminal Code,³⁴ it has persisted, with eight such

²⁸ Cabinet of Ministers Resolution No. 726 “On approval of the regulation on the management of a single State register of persons who went missing under special circumstances” of 14 August 2019.

²⁹ See OHCHR, *Report on the human rights situation in Ukraine, 16 February to 15 May 2019*, para. 55.

³⁰ The Cabinet of Ministers of Ukraine issued decisions (regulation No. 915 of 22 July 2020 and regulation No. 1545-p of 9 December 2020) to expand the composition of the Commission from 16 to 22 members and to introduce senior officials to the Commission (deputy Minister of Reintegration and Temporary Occupied Territories) and representatives of the Ombudsperson.

³¹ See OHCHR, *Human Rights in the Administration of Justice in Conflict-Related Criminal Cases in Ukraine from April 2014 to April 2020*, paras. 36-39, available at www.ohchr.org/Documents/Countries/UA/Ukraine-admin-justice-conflict-related-cases-en.pdf.

³² According to article 208.1.1 of the CPC, a person can be arrested without a court ruling if caught while committing a crime (*in flagrante delicto*) to prevent or stop a crime.

³³ OHCHR interview, 20 October 2020.

³⁴ Article 371 of the Criminal Code of Ukraine criminalizes deliberate unlawful arrest, home arrest or detention.

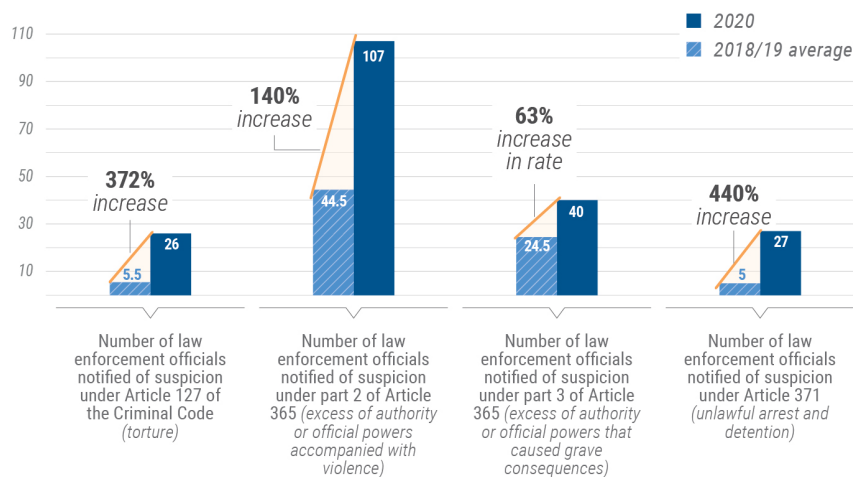
arrests reported by the SBU, National Police and State Border Guard Service over the reporting period. In this regard, OHCHR notes that on 17 September 2020, the European Court of Human Rights (ECtHR) found this practice arbitrary and referred to OHCHR’s findings in a conflict-related criminal case brought before the Court.³⁵

49. In addition, OHCHR documented cases where men believed to be linked or affiliated with self-proclaimed ‘republics’ were detained by the SBU in unofficial places of detention (e.g. hostels, hotels or offices) for a short period of time (typically overnight) before being brought to court. Such detention placed these individuals outside the protection of the law and deprived them of their right to access to a lawyer.

50. Noting an overall decrease in the number of cases of conflict-related torture and ill-treatment in recent years, which is believed to be linked to the decrease in conflict-related detentions,³⁶ OHCHR remains concerned about a persistent pattern of torture and ill-treatment by law enforcement officials in cases that are not related to the conflict, and in particular, police violence. For example, on the evening of 14 January 2021, two cars drew up alongside two men (aged 18 and 19) walking along a road in Zhytomyr region. Approximately ten unidentified individuals in plain clothes stepped out of the cars, one of whom announced he was an undercover police officer. The group began beating the two men, demanding information about a car stolen earlier that day and demanding money. Shortly after, a police car arrived, and a police officer approached one of the men, who was lying on the ground, pressed a pistol (which, unknown to the man, was unloaded) to the man’s forehead and pulled the trigger. The police officer then hit the man with the pistol and kicked him in the head. The two victims were taken to the local police department where they were forced to confess to car theft.³⁷

51. More positively, OHCHR notes that, with the creation of the Department for Procedural Oversight of Criminal Cases of Torture and Other Serious Violations by Law Enforcement at the Prosecutor-General’s Office in October 2019, investigation and prosecution of torture and ill-treatment by law enforcement officials has increased considerably compared with previous years.

INVESTIGATION AND PROSECUTION OF TORTURE AND ILL-TREATMENT BY LAW ENFORCEMENT OFFICIALS IN 2018-2020



Creation Date: 24 February 2021 Source: Prosecutor-General's Office

2. Territory controlled by self-proclaimed ‘republics’

52. In territory controlled by ‘Donetsk people’s republic’, OHCHR documented 12 cases of conflict-related arbitrary detention, in most cases carried out by the ‘ministry of state security’.³⁸ Detained individuals were ‘charged’ with ‘espionage’, ‘high treason’, ‘organization of illegal armed group or participation in it’ or ‘hooliganism’. During one house search, armed men, who did not identify themselves, held the wife and daughter of a detainee in a car for

³⁵ See ECtHR Judgment in the case of Grubnyk v. Ukraine, 17 September 2020, paras. 57, 74-86, available at <http://hudoc.echr.coe.int/eng/?i=001-204604>.

³⁶ See statistics from the Prosecutor General’s Office, available at <https://www.gp.gov.ua/ua/1stat>.

³⁷ OHCHR interview, 29 January 2021.

³⁸ OHCHR interviews, 17 November, 21 December 2020 and 20 January 2021.

several hours in order to pressure the man to incriminate himself.³⁹ In another case, a man was held in a temporary detention facility (IVS) not intended for long-term detention for more than two years, despite numerous requests from his defence lawyers to transfer him to the Donetsk pre-trial detention facility (SIZO).⁴⁰

53. OHCHR is concerned about the fate and well-being of the ‘deputy head’ of the department of Novoazovskiy district ‘ministry of state security’ who was detained and ‘charged’ with ‘high treason’ on 26 February 2020. He was held at the ‘ministry of state security’ premises at 26 Shevchenko Street in Donetsk for two months before being moved to the ‘Izoliatsiia’ detention facility⁴¹ where he was reportedly tortured and ill-treated in order to force him to confess he was a traitor. During the first two months following his apprehension, his family enquired about his whereabouts, and received replies from the ‘head’ of ‘Donetsk people’s republic’, the ‘ombudsperson’s office’ and the ‘minister of justice’ stating that he was not detained, although ‘officers’ of the ‘ministry of state security’ had taken his documents, including passport, birth certificate and diplomas. His family still cannot send him parcels or visit him.⁴²

54. OHCHR is further concerned about the fate and well-being of a man and his daughter who, on 23 October 2018, went to the ‘ministry of state security’ to tell them that the SBU had pressured the daughter to cooperate and provide information about armed groups of ‘Donetsk people’s republic’. ‘Officers’ of the ‘ministry of state security’ took notes and asked them to return later. When they returned on 25 October 2018, they were arrested and charged with ‘espionage’ and ‘cooperation with foreign secret services’. The family has not had any contact with either person since their arrest, although parcels for the man have been accepted at the premises of the ‘ministry of state security’. The family believes he is held in Makiivka penal colony No. 97 and his daughter is held in the ‘Izoliatsiia’ detention facility. The family had hired and paid two defence lawyers, but the ‘ministry of state security’ pressured the lawyers, who then refused to defend them. Two other defence lawyers were later appointed by ‘investigators’ of ‘ministry of state security’.⁴³

55. In territory controlled by self-proclaimed ‘Luhansk people’s republic’, OHCHR documented eight cases of arbitrary incommunicado detention by the ‘ministry of state security’ and ‘police’.⁴⁴ For example, on 5 January 2021, two men were apprehended at their apartment in Sverdlovsk by unidentified individuals. Their female relative filed a complaint with ‘police’ and the ‘ministry of state security’ in Luhansk, neither of which provided her with information. A ‘police investigator’ informally told her that her relatives had been detained by the ‘ministry of state security’. On 15 January, a representative of the ‘ministry of state security’ told her that she had to wait 30 days for an official answer to her complaint. As of 31 January 2021, the whereabouts of her relatives remained unknown.⁴⁵ OHCHR notes that prolonged incommunicado detention is regarded as a form of torture and inhuman treatment and may amount to an enforced disappearance.⁴⁶

56. Conflict-related deprivation of liberty constitutes just a small fraction of detentions in territory controlled by self-proclaimed ‘republics’. On 15 January 2021, the ‘ministry of internal affairs’ of ‘Donetsk people’s republic’ reported that since the beginning of 2020, more than 350 people suspected of committing ‘crimes’ and ‘offenses’ had been detained and taken to the ‘police departments’. For violation of the curfew⁴⁷ in 2020, the ‘police’ detained more than

³⁹ OHCHR interview, 21 December 2020.

⁴⁰ OHCHR interview, 17 November 2020.

⁴¹ For more information on this facility, see OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020*, Annex I.

⁴² OHCHR interview, 17 November 2020.

⁴³ OHCHR interview, 30 November 2020.

⁴⁴ OHCHR interviews, 23 September, 19 October, 1 December 2020, 6 and 20 January 2021.

⁴⁵ OHCHR interview, 20 January 2021. It was only at the beginning of February that their relatives were informed about their detention under the ‘preventive arrest’ procedure.

⁴⁶ UNCHR, *Report of the Working Group on enforced or involuntary disappearances*, 25 February 2003, E/CN.4/2003/70, p. 3, available at https://ap.ohchr.org/documents/alldocs.aspx?doc_id=3360.

⁴⁷ A curfew was introduced by armed groups in 2014.

3,900 individuals, who were taken to ‘police stations’.⁴⁸ OHCHR has reasons to believe that these detainees are at risk of ill-treatment, as well as of other violations of their rights.

Transfers of pre-conflict prisoners

57. No transfers of pre-conflict prisoners to the Government-controlled territory took place during the reporting period,⁴⁹ while prisoners and their relatives continued to urge for their resumption.⁵⁰ OHCHR therefore welcomes the commitment made in December 2020 that such transfers from territory controlled by ‘Donetsk people’s republic’ will resume after the COVID-19-related lockdown ends.⁵¹

V. Administration of justice and accountability

A. Administration of justice



1. Administration of justice in conflict-related cases

58. OHCHR continued to follow trials in conflict-related criminal cases. The infographic below provides an overview of findings concerning the verdicts in these cases. During the reporting period, Ukrainian courts delivered seven verdicts *in absentia*. OHCHR notes that the CPC does not provide for a full retrial for those tried *in absentia* as required by international human rights law. The right to a retrial is guaranteed only for those who become available for trial before the verdict is delivered. As a result of this incompatibility with international standards, there is a risk that other States may refuse to extradite individuals convicted by Ukrainian courts *in absentia*,⁵² thus preventing the enforcement of verdicts and hampering the right to an effective remedy and justice for victims of the crimes.

⁴⁸ Website of ‘ministry of internal affairs’, available at www.mvddnr.ru/news/rukovodstvo-ugsvo-mvd-dnr-provelo-vyezdnoe-soveshchanie-po-rezultatam-raboty-za-2020-god. Relevant information about detention in territory controlled by ‘Luhansk people’s republic’ is not available.

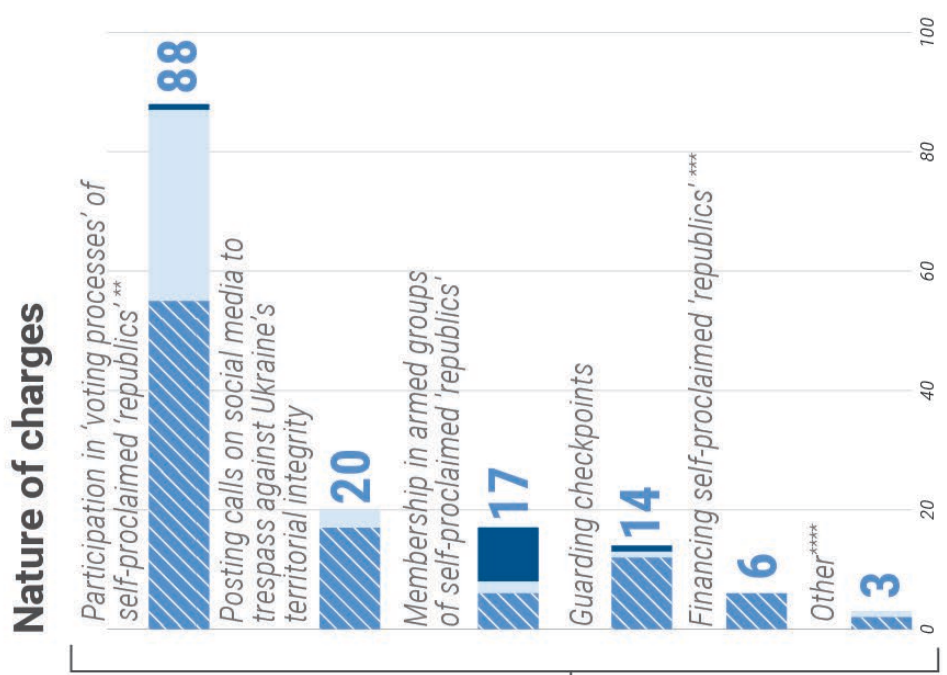
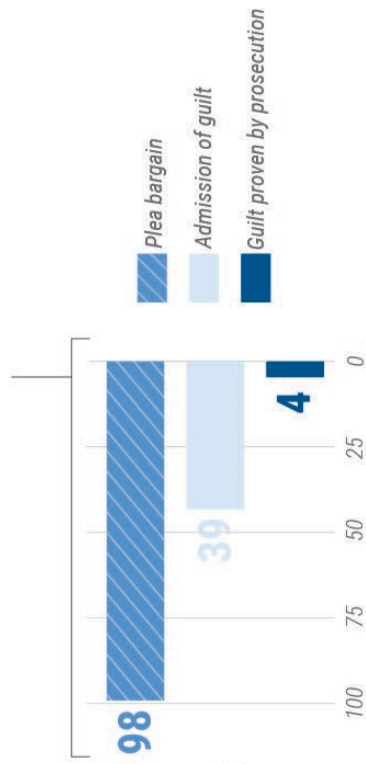
⁴⁹ The previous transfer from territory controlled by ‘Donetsk people’s republic’ took place in December 2018, and from territory controlled by ‘Luhansk people’s republic’ in September 2019.

⁵⁰ OHCHR interview 8 December 2020.

⁵¹ Ukrainian Parliament Commissioner for Human Rights, ‘Ombudsman reached an agreement for the transfer of 300 prisoners from prisons of self-proclaimed ‘Donetsk people’s republic’ to Ukraine-controlled territory’ [Уповноважений домовилася про переведення 300 засуджених з в’язниць «ДНР» на підконтрольну Україні територію та обговорила процес подальшого звільнення цивільних осіб та військовополонених] and discussed the process of further release of civilians and prisoners of war’, available at www.ombudsman.gov.ua/ua/all-news/pr/upovnovazhenij-domovilasya-pro-perevedennya-300-zasudzhenix-z-vyaznicz-dnr-na-p%D1%96dkontrolnu-ukra%D1%97n%D1%96-teritor%D1%96yu-ta-obgovorila-proczes-podalshogo-zv%D1%96lnennya-cziv%D1%96lnix-os%D1%96b-ta-v%D1%96jskovopolonenix.

⁵² According to article 3 of the Second Additional Protocol to the European Convention on Extradition of 17 March 1978, the requested Party may refuse to extradite a person convicted in absentia if the requesting Party cannot guarantee the person’s right to a retrial.

VERDICTS OF TRIAL COURTS IN CONFLICT-RELATED CRIMINAL CASES from 1 August 2020 to 31 January 2021



Creation Date: 15 February 2021
Source: OHCHR HRMMU

* Against 80 women and 70 men
** Working in 'election commissions' or calling for participation in 'referendums' or 'elections'
*** Doing business, paying 'taxes', transferring goods or assisting with the cashing of social payments in territory controlled by self-proclaimed 'republics'
**** In these three cases individuals were found guilty of making calls against Ukraine's territorial integrity at a public assembly, gathering information for the armed groups or using military radio frequencies

59. OHCHR remains concerned about the lack of progress in investigating and prosecuting grave human rights violations allegedly perpetrated by Ukrainian military and law enforcement personnel in the context of the armed conflict. During the reporting period, OHCHR monitored five criminal proceedings in which the investigations or trials have barely progressed. In one emblematic trial against five members of a volunteer battalion charged with a series of crimes against civilians,⁵³ the court has failed to hold any hearings on the merits since the introduction of COVID-19 quarantine measures in March 2020. The trial has been ongoing since 2016.

60. On 11 December 2020, the CCU decision to annul criminal liability of judges for delivering of “deliberately unjust decisions” entered into force.⁵⁴ OHCHR is concerned about legislative initiatives to reintroduce this provision. As of 31 January 2021, at least three draft laws are pending before Parliament. OHCHR reiterates its call to refrain from introducing liability of judges for the decisions they deliver, as this may jeopardize their independence.

2. Impact of COVID-19 on the administration of justice

61. The impact of the COVID-19 pandemic on the justice system resulted in violations of the right to trial without undue delay (see above paragraph 59). In addition, OHCHR is concerned about lack of funding for courts for measures to prevent the spread of COVID-19, which jeopardizes the safety of judges and court staff. Judges from three courts near the contact line complained to OHCHR about the lack of face masks and hand sanitizers, lack of funding for disinfection of premises, and low internet bandwidth, which affected the ability of courts to hold hearings via videoconference and may contribute to delays in trials.

3. Constitutional crisis and the rule of law

62. On 27 October 2020, the CCU found unconstitutional certain regulations relating to officials’ financial declarations, a requirement under anti-corruption legislation.⁵⁵ Civil society representatives, as well as senior Government officials, including the Head of the National Anti-Corruption Bureau and President Zelenskyy, raised concerns that the decision was not valid, as four CCU judges had potential conflicts of interest because they reportedly failed to make due declarations of their own financial situations required by the same legislation they had assessed.⁵⁶

63. On 28 December 2020, the Office of the Prosecutor General notified the Chairperson of the CCU that he had been placed under investigation for interfering with a witness in a criminal case against the former Chairperson of the High Commercial Court. The next day, President Zelenskyy suspended the CCU Chairperson under the procedure for officials appointed by the President, pending investigation. On 5 January 2021, however, the plenary of the CCU decided not to execute the President’s order, arguing that the procedure invoked by the President is not applicable to CCU judges.⁵⁷ On 19 January, the State Security Administration, a special law enforcement agency subordinate to the President of Ukraine, which *inter alia* ensures security of the CCU, did not allow the CCU Chairperson to enter the court premises.⁵⁸

⁵³ In June 2016, the defendants were indicted with illegal possession of weapons, brigandage, robbery, abduction of civilians, extortion and carjacking.

⁵⁴ See Decision of the Constitutional Court of 11 June 2020 No. 7-p/2020, available in Ukrainian at <https://zakon.rada.gov.ua/laws/show/v007p710-20#Text>.

⁵⁵ CCU decision No. 13-p/2020, 27 October 2020. OHCHR notes that Parliament covered the respective legislative gap on 4 December 2020 by adopting Law No. 1074-IX.

⁵⁶ See, e.g., European Commission for Democracy through Law, *Urgent Opinion on the Reform of the Constitutional Court*, 11 December 2020, para. 8.

⁵⁷ The President referred to article 154.3 of the CPC as a legal ground for the suspension of the Chairperson of the CCU. The general rule of paragraph 1 of the article allows for the suspension of an official suspected of, or charged with, a criminal offence. The special rule of paragraph 3 of the article states that the suspension of officials appointed by the President of Ukraine shall be made by the President of Ukraine upon submission from a prosecutor. The CCU Chairperson was appointed by the President, but the CCU argues that the special law on CCU judges is silent about the possibility of suspension, and that this special status is afforded to all CCU judges regardless of who appointed them.

⁵⁸ See the CCU, *Information for media*, 19 January 2021, available at www.ccu.gov.ua/novyna/povidomlennya-dlya-zmi-4.

64. OHCHR is concerned that the actions of both sides involved in the case may negatively impact the rule of law in Ukraine, such as the CCU judges' alleged disregard of the legal provisions on recusal and the potential violation of the legislation to suspend the CCU Chairperson.⁵⁹ While it is important and necessary to investigate alleged abuses and offences committed by judicial officers, OHCHR emphasizes that this should be done in full compliance with constitutional and criminal procedures as well as international norms and standards on the independence of the judiciary to avoid jeopardizing the independence of judges of the Constitutional Court.⁶⁰

B. Accountability for human rights violations



65. OHCHR has observed some progress in criminal proceedings related to killings and violent deaths in the context of the Maidan protests and violent clashes in Odesa on 2 May 2014.

1. Accountability for killings and violent deaths during the Maidan protests

66. On 15 December 2020, the State Bureau of Investigation (SBI) pressed charges of intentional killing against a journalist who participated in the Maidan protests. She is accused of setting the building of the then-ruling Party of Regions on fire, leading to the death of Volodymyr Zakharov, an office worker.

67. On 17 December 2020, the prosecution reported the completion of an *in absentia* investigation against two members of a 'titushky'⁶¹ group, suspected *inter alia* of abducting and killing Yurii Verbytskyi in January 2014, and indicted them. On 28 December, two other members of the 'titushky' group detained in March 2020 were charged with his abduction and torture. One of them also faced a charge of killing. OHCHR also notes that the European Court of Human Rights found that no effective investigation had been conducted into the abduction, ill-treatment and murder of Yurii Verbytskyi.⁶²

2. Accountability for killings and violent deaths in Odesa on 2 May 2014

68. There was no visible progress in criminal proceedings related to the violence of 2 May 2014. OHCHR is concerned that the case against 19 'pro-federalism' activists accused of mass disorder which led to the death of six people has been stalled pending the location of ten of the accused who have systematically failed to appear for court hearings for almost three years.⁶³ This has significantly delayed the proceeding, which was assigned for appeal in 2018. Other cases related to the 2 May 2014 violence have not visibly progressed.⁶⁴

3. Accountability for grave human rights violations perpetrated in the context of armed conflict

69. OHCHR commends the approval by Parliament, on 17 September 2020, of draft law No. 2689 "On amendments to certain legislative acts of Ukraine concerning the implementation of provisions of international criminal law and humanitarian law" in its first reading. The draft law significantly expands on definitions of international crimes in line with the Rome Statute. It also includes important provisions on command responsibility, on the non-applicability of statutory limitations for international crimes, as well as on universal jurisdiction for the prosecution of international crimes. Including such provisions in the draft law, which aims to bring criminal liability for genocide, crimes against humanity, war crimes and the crime of aggression, would ensure it is in line not only with the Rome Statute and the general principles of international criminal law, but also with international best practices.

⁵⁹ See European Commission for Democracy through Law, Ukraine – Urgent Opinion on the Reform of the Constitutional Court no. 1012/2020, 11 December 2020, paras. 14 and 57.

⁶⁰ Ibid, para 100.

⁶¹ "Titushky" is a term used to refer to armed civilians, sometimes wearing camouflage and masks, often with criminal records, who were recruited and equipped by law enforcement agencies to attack protestors.

⁶² European Court of Human Rights, Judgment in the case of Lutsenko and Verbytskyi v. Ukraine, 21 January 2021, para. 73.

⁶³ Ruling of Mykolaivskyi court of appeal, 25 September 2020, available at <https://reyestr.court.gov.ua/Review/91838037>.

⁶⁴ HRMMU, *Accountability for Killings and Violent Deaths on 2 May 2014 in Odesa*, available at <https://ukraine.un.org/en/download/49488/90435>.

70. The adoption of the draft law would be a positive step towards ensuring accountability for international crimes.

VI. Civic space and fundamental freedoms

“The Constitution doesn’t apply at the moment.”

- A police officer onsite at a planned assembly in Kyiv at which participants were apprehended based on quarantine restrictions.

71. Over the reporting period, OHCHR documented 18 cases of threats and attacks against journalists and other media workers, human rights defenders, civil and political activists, LGBTI persons or their supporters, and members of national minorities.

A. Freedom of peaceful assembly and association



72. In the lead up to local elections in October 2020, OHCHR observed a wave of attacks against members and staff of political parties, mainly targeting two opposition parties considered by many to be “pro-Russian”. Law enforcement agencies often failed to effectively protect victims and prevent violence, and most perpetrators have not been held to account. Members of extreme right-wing groups were identified amongst the perpetrators in several of the incidents.

73. OHCHR also observed violence used against participants in peaceful assemblies, including rallies in front of courts considering high-profile cases and events organized by LGBTI persons and their supporters. The equality marches in Kharkiv, Odesa and Zaporizhzhia were mainly held peacefully, although there were some security incidents, to which law enforcement agencies generally responded appropriately. In Odesa, representatives of extreme right-wing groups attacked a police officer and participants of the Pride event. Although law enforcement agencies prevented further violence, the organizers of the Pride were unable to continue with the assembly.

74. Government regulations limiting mass gatherings during the COVID-19 lockdown⁶⁵ were selectively applied to peaceful assemblies. While a series of protests of entrepreneurs against changes in tax laws and rallies against increases in utility charges in January 2021 were largely tolerated by the authorities, police interfered in attempts to hold several other events. On 19 January 2021, two rallies in Kyiv focused on raising awareness about right-wing violence were stopped following intervention by police. Participants of the first rally were apprehended for violating lockdown rules and later released,⁶⁶ and the second event was cancelled to avoid similar arrests. The police action prompted questions from organizers and supporters about police bias in favour of extreme right-wing groups. Representatives of these groups praised the police on social media and claimed to be in “coalition” with them, a claim that the police did not comment on.

B. Freedom of opinion and expression



75. Of the eighteen incidents documented by OHCHR, four consisted of attacks, reprisals, and harassment against human rights defenders (three men and one woman), including WHRD and environmental activists due to their public activities. One incident occurred in territory controlled by ‘Donetsk people’s republic’, where the investigative ‘authorities’ apprehended an LGBTI activist and questioned him regarding his activities without granting him access to a defense lawyer.⁶⁷

⁶⁵ Cabinet of Ministers Resolutions No. 641 of 22 July 2020 and No. 1236 of 9 December 2020 limited the number of participants that could attend mass gatherings in different manners at different times (one person to 5 m², 50 participants or 20 participants).

⁶⁶ OHCHR interview, 19 January 2021.

⁶⁷ OHCHR interview, 17 October 2020.

76. OHCHR documented eight cases of threats and attacks targeting media workers, journalists and bloggers. Most of the recorded cases related to reporting on anti-corruption or anti-pandemic measures introduced by the Government.

77. In one case on 30 October 2020, a journalist was brutally beaten with baseball bats by unknown individuals near his home in Volnovakha. It is believed that the attack was connected to an article he published in March 2020, which accused local officials and parliamentarians of corruption.

78. OHCHR remains concerned about arbitrary detention by armed groups of individuals for their social media posts. In one case, a blogger was reportedly detained⁶⁸ for his articles on arbitrary detention and torture by members of armed groups in territory controlled by ‘Donetsk people’s republic’, the content of which the ‘authorities’ of ‘Donetsk people’s republic’ referred to as ‘extremist’. In another case, a person was charged with ‘crimes’ for his social media posts, and released only after spending nine months in detention following a court hearing in which the ‘judge’ found him guilty and issued a fine.

C. Freedom of religion or belief



79. OHCHR notes with concern new obstacles to the right to conscientious objection. Since June 2020, local authorities in Rivne region have failed to provide access to alternative military service to a group of parishioners of one evangelical Christian denomination, referring to a “lack of vacant positions”. This resulted in the inability of these individuals to fulfill their legal obligations under conscription, which has led to fear of prosecution.⁶⁹

80. Several religious communities in territory controlled by armed groups continued to face limitations on their enjoyment of freedom of religion or belief. The enforcement of ‘legislation’ in territory controlled by self-proclaimed ‘republics’ discriminates against a number of religious organizations. Representatives of religious communities who had earlier communicated with OHCHR refused to continue their interactions with the Office, fearing possible persecution.

D. Discrimination, violence, and manifestations of intolerance



“We will fix your Russian-speaking mouth!”

- Threats made by unknown individuals to a person who was critical of the application of the new provision of the Law on State Language.

81. During the reporting period, OHCHR documented three new attacks against LGBTI people, their supporters and people perceived to be LGBTI, and one attack based on the victim’s ethnicity. In particular, on 17 December 2020, a group of young people used homophobic slurs while beating a 16-year old boy in Kyiv. The criminal proceedings have not progressed, while the victim continues to receive online threats.⁷⁰

82. In addition, OHCHR is concerned that police continue to fail to take into account motives for attacks, which may be based on a victim’s identity, when classifying crimes.

83. OHCHR also documented a number of attacks against property of LGBTI-friendly community centres run by civil society and hate speech, in Kharkiv (where the centre also works on women’s rights),⁷¹ Odesa,⁷² and Mykolaiv.⁷³ In addition, OHCHR received complaints from

⁶⁸ OHCHR interview, 20 January 2021.

⁶⁹ OHCHR interviews, 20 January, 21 January, and 11 February 2021. The right to conscientious objection is set out in ICCPR article 18 and Human Rights Committee, *General Comment No. 22*, para. 11.

⁷⁰ OHCHR interview, 22 December 2020.

⁷¹ OHCHR interview, 11 November 2020.

⁷² OHCHR interview, 21 January 2021.

⁷³ OHCHR interviews, 29 December 2020, 21 January 2021.

a member of a local city council in Poltava region⁷⁴ and a professor of a State university in Kharkiv of workplace harassment due to their open support of LGBTI persons.⁷⁵

84. During the reporting period, OHCHR noted incidents of hate speech and threats against national minorities, including Hungarians,⁷⁶ and foreign students,⁷⁷ as well as persons perceived as pro-Russian due to their use of the Russian language or critical opinions about the Law on State Language.⁷⁸

85. Amongst national minorities, Roma people continued to be the most targeted by hate speech online, leading in some cases to violence.⁷⁹ For example, in November 2020, several media outlets in Ivano-Frankivsk published articles depicting Roma people through harmful stereotypes that caused a wave of hate speech and calls for violence on social media.

86. The reporting period saw little or no progress in the majority of previously-documented attacks against Roma, in particular, the 2016 attack in Loshchynivka (Odesa region)⁸⁰ where local residents forcefully evicted the Roma community; the 2017 attack in Vilshany (Kharkiv region)⁸¹ where a Roma man was killed; and the wave of attacks against informal Roma settlements in 2018, including the murder of David Pap in Lviv.⁸² The perpetrators of David Pap's murder are currently on trial, charged with hooliganism and murder. However, the defendants are not facing charges that include the element of hate crimes, despite evidence of a motive of bias.

E. Right to participate in public affairs



“The Head of the civil-military administration is rude to us and doesn't care about our problems. He has not been to our village for three weeks already.”

– A resident from one of the 18 communities where elections could not be held in October 2020.

87. The first round of local elections took place on 25 October 2020 across Ukraine, with the exception of 18 territorial communities in Donetsk and Luhansk regions, Crimea and armed group-controlled territory.⁸³ On 16 January 2021, the decision on the impossibility of holding local elections in the 18 territorial communities under Government control in March 2021 was confirmed, due to security concerns related to the ongoing conflict in the east and a threat of terrorist acts. These would have been the first local elections for these communities, which were recently established in line with the decentralization process.⁸⁴ OHCHR notes the findings of the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for

⁷⁴ OHCHR interview, 12 January 2021.

⁷⁵ OHCHR interview, 18 September 2020.

⁷⁶ After the news about the singing of the Hungarian anthem by the newly elected members of the Siurte local council in Zakarpattia region was published, unknown perpetrators issued a video inciting to violence against the Hungarian minority.

⁷⁷ An extreme right-wing group published a Facebook post calling for violence against foreign students studying in Zakarpattia in reaction to a media article discussing the alleged rape of a woman by foreigners.

⁷⁸ See section on language rights below.

⁷⁹ See HRMMU, *Update on the Human Rights Situation in Ukraine, 1 August – 31 October 2020*, para. 5, available at www.ohchr.org/Documents/Countries/UA/HRMMU_Update_2020-11-01_EN.pdf.

⁸⁰ See OHCHR, *Report on the human rights situation in Ukraine 16 August to 15 November 2016*, para. 152, available at www.ohchr.org/Documents/Countries/UA/UARreport16th_EN.pdf.

⁸¹ See OHCHR, *Report on the human rights situation in Ukraine 17 May to 15 August 2017*, para. 131, available at www.ohchr.org/Documents/Countries/UA/UARreport19th_EN.pdf. With the exception of the case against one of the perpetrators of the attack, which was closed on 29 January 2021 due to the lack of *corpus delicti*.

⁸² See OHCHR, *Report on the human rights situation in Ukraine 16 May to 15 August 2018*, para. 91, available at www.ohchr.org/Documents/Countries/UA/ReportUkraineMay-August2018_EN.pdf.

⁸³ For more information, see HRMMU, *Update on the Human Rights Situation in Ukraine, 1 August – 31 October 2020*, p. 4.

⁸⁴ On 12 June 2020, in continuation of the decentralization reform the Cabinet of Ministers adopted decisions to review the composition and borders of amalgamated territorial communities. As a result, a number of new amalgamated territorial communities were established.

Security and Cooperation in Europe (OSCE) that “the legal framework for the decisions to not hold elections in these communities lacked transparent criteria and did not provide sufficient safeguards for suffrage rights, which undermined public trust [in the process]”.⁸⁵

88. The lack of local elections in these territorial communities resulted in challenges in the adoption and distribution of local budgets for these communities for 2021, which negatively impacted the provision of social, administrative and other essential services to local residents.

89. OHCHR notes the adoption by Parliament of legislative amendments, which allow the establishment of military-civil administrations in the territorial communities where local elections did not take place.⁸⁶ However, as of 31 January 2021, the new military-civil administrations had not been established, generating confusion about the authority in charge.⁸⁷ OHCHR encourages the Government to ensure the constitutional right of local residents to participate in public affairs by holding local elections in the 18 territorial communities in October 2021.⁸⁸

F. Language rights



90. OHCHR notes the establishment by the parliamentary committee on human rights of a working group charged with drafting a law on the protection of national minorities, following delays in elaborating such a law as required by the Law on State Language.⁸⁹

91. OHCHR recommends that the draft law specifically protect the language rights of national minorities, including through provisions amending the laws on State Language,⁹⁰ on Education,⁹¹ and on Secondary Education,⁹² as required by international human rights standards and recommended by the European Commission for Democracy through Law (Venice Commission).⁹³ OHCHR further recommends the law be elaborated in a consultative and inclusive manner, ensuring the participation of the different linguistic minorities and a gender-balanced representation.

92. Since 16 January 2021, OHCHR has observed threats and hatred towards individuals who openly criticize the Law on State Language, or express positive views about the Russian language. The authorities have not publicly condemned these incidents, and in some cases, investigations were not initiated despite threats being reported in the media and not being removed from online platforms.

⁸⁵ ODIHR, *Ukraine, Local Elections, 25 October 2020: Statement of Preliminary Findings and Conclusions*, 26 October 2020, available at <https://www.osce.org/odihr/elections/468249>.

⁸⁶ Law No. 1120-IX “On amending certain laws of Ukraine on the establishment of military-civil administrations” adopted by the Parliament on 17 December 2020. The law came into force on 14 January 2021.

⁸⁷ In certain localities where local elections did not take place in 2020, local councils previously elected remained in charge. However, given the provisions of the law on military-civil administrations (MCAs), MCAs can replace local authorities at any moment, leading to a lack of transparency and predictable working conditions for local authorities.

⁸⁸ The Election Code of Ukraine allows for the holding of local elections in newly-created communities every March or October.

⁸⁹ Article 8.3 of the final and transitional provisions of the Law “On ensuring the functioning of Ukrainian as the State language” specifically requested the Cabinet of Ministers to elaborate a draft law on the realization of the rights of indigenous peoples and national minorities by January 2020, to address issues which are not covered by the law and to ensure the protection of the language rights of national minorities and indigenous people.

⁹⁰ Law No. 2704-VIII “On ensuring the functioning of Ukrainian as the State language” of 25 April 2019.

⁹¹ Law No. 2145-VIII “On Education” of 5 September 2017.

⁹² Law No. 463-IX “On full general secondary education” of 16 January 2020.

⁹³ Venice Commission, *Opinion on the Law on Supporting the Functioning of the Ukrainian Language as the State Language*, 9 December 2019, available at [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)032-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)032-e); *Opinion on the provisions of the law on education of 5 September 2017*, 11 December 2017, available at [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)030-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)030-e).

VII. Leave no one behind – economic and social rights

93. The COVID-19 crisis has exacerbated existing inequalities, discrimination and social exclusion in Ukraine, and groups that are marginalised and in situations of vulnerability are at increased risk of being left behind. The recent OHCHR report on the impact of COVID-19 on human rights in Ukraine highlighted the disproportionately negative impact of the pandemic on those who already faced limited enjoyment of the rights to health, work, education, social protection and an adequate standard of living before the pandemic, such as women, Roma, homeless persons, persons with disabilities and older persons, especially those in institutions.⁹⁴ Women among these groups are often particularly marginalized. The crisis also revealed vulnerabilities among healthcare workers, 83 per cent of whom are women,⁹⁵ who are on the frontline of the COVID-19 response.

A. Homeless persons



“The health reform has left homeless people behind. Many of them can’t access basic health services because of their lack of identification documents.”

– The head of a homeless shelter.

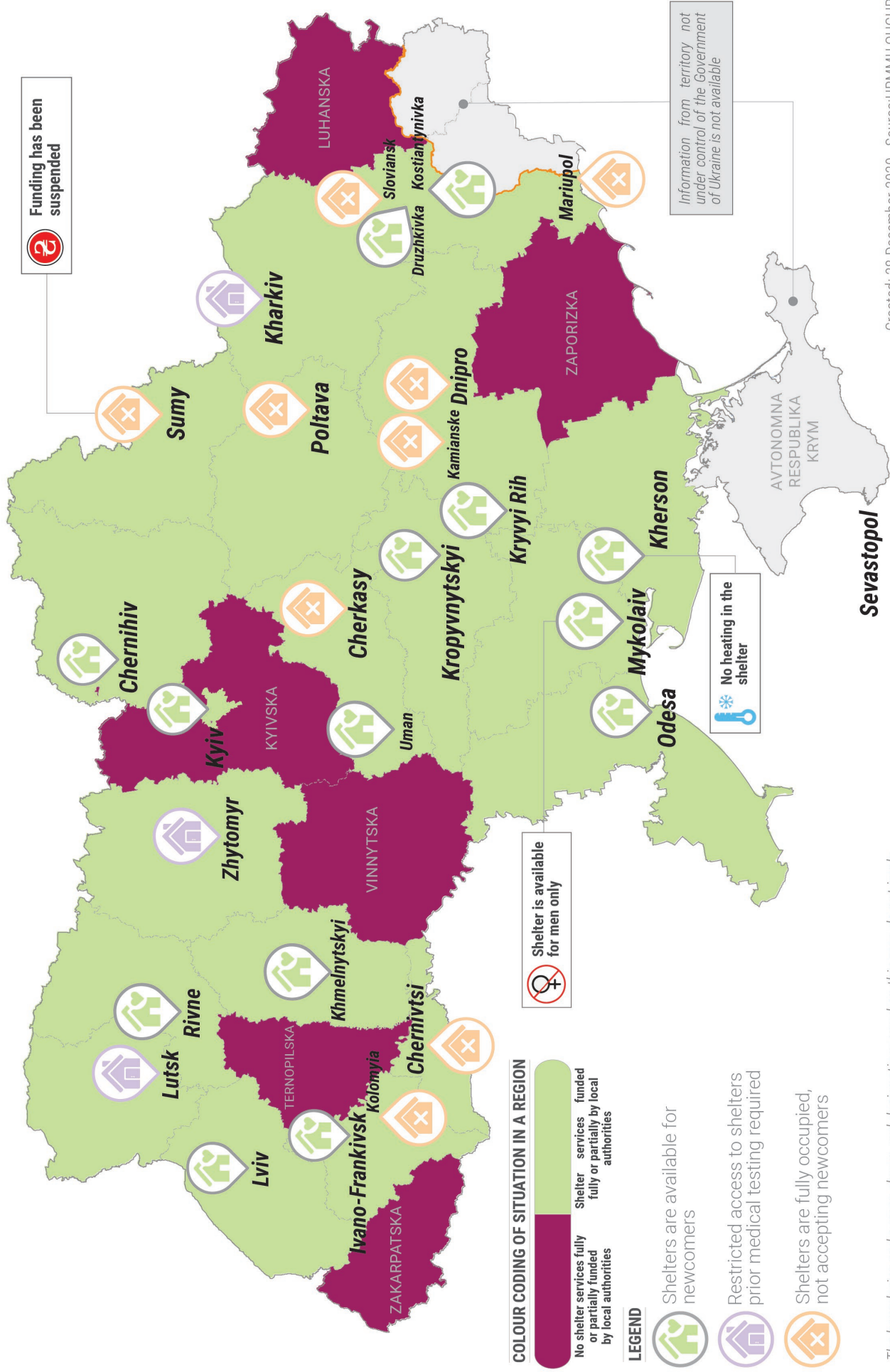
94. In addition to being disproportionately affected by COVID-19,⁹⁶ homeless persons in Ukraine also face a risk of cold-related injuries and hypothermia because existing shelter services cannot meet the increased need in winter. Six regions of Ukraine still lack any municipal shelters for homeless persons. In twelve cities in other regions, access to shelter services is restricted either because they are full and cannot accommodate all those in need or because they have additional obstacles for access, such as the requirement to provide a negative COVID-19 test result. Moreover, shelter directors interviewed by OHCHR continued to complain about homeless persons’ impeded access to healthcare, including testing and treatment, due to their lack of identity documents. In addition, in Mykolaiv region, the municipal shelter accepts only homeless men, excluding women, which further exposes them to sexual and gender-based violence, and in Kherson, the municipal shelter does not have heating due to an unresolved funding issue. OHCHR is further concerned about the practice in many cities not to open up heating points where homeless persons can keep warm until the outside temperature falls below -10°C. Further details about the availability of municipal shelters is available in the following infographic.

⁹⁴ OHCHR, *Impact of COVID-19 on Human Rights in Ukraine*, December 2020.

⁹⁵ State Statistics Service, *Жінки і чоловіки в Україні. Статистичний збірник [Women and men in Ukraine. Statistical Collection]*, Kyiv, 2019, p. 61, available at https://ukrstat.org/uk/druk/publicat/kat_u/2019/zb/09/zb_gch2018.pdf.

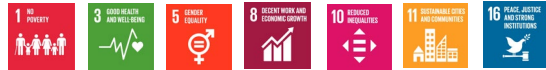
⁹⁶ See the section on homeless persons in OHCHR, *Impact of COVID-19 on Human Rights in Ukraine*, December 2020.

Information about shelters available for homeless people in the regions of Ukraine during the COVID-19 pandemic as of December 2020



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

B. Persons with intellectual and psychosocial disabilities



“People with disabilities in Ukraine live out their years, but they don’t really live their lives. The state’s only goal is to ensure these people [with disabilities] stay safe, but they can’t expect anything more.”

- A social entrepreneur describing the reality of the lives of persons with disabilities in Ukraine.

95. Ukraine’s legislation does not comply with Article 12 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) guaranteeing equal recognition before the law of persons with disabilities. Over forty thousand persons with intellectual and psychosocial disabilities continue to be deprived of legal capacity in Ukraine, denying them the enjoyment of basic rights, including the rights to vote, to choose their place of residence, to dispose property, to marry and to work.⁹⁷ OHCHR notes that deprivation of legal capacity amounts to a violation of article 12 of the CRPD, and the Government has not yet put forward any plans or programs for the implementation of related standards, including in the national action plan for implementation of the CRPD.⁹⁸

96. In 2017, legislative amendments enabled persons deprived of legal capacity to apply to court for its restoration.⁹⁹ However, OHCHR’s analysis of case law and interviews with persons with disabilities and human rights defenders show that very few people have been able to restore their legal capacity. In 2020, only 25 persons with disabilities had their legal capacity restored through court proceedings. Despite the legislative amendments, persons with intellectual and psychosocial disabilities face obstacles preventing them from successfully restoring their legal capacity through court proceedings, including lack of access to legal aid due to the absence of information provided in forms accessible to them; the limited competence of some judges to deal with such cases; and inadequate methodologies for forensic psychiatry exams.

97. The lack of accessible and affordable housing is another obstacle preventing persons with intellectual and psychosocial disabilities from living independently and in the community. No social housing is provided to meet their needs, including for those raised in children’s institutions. Services for supported living arrangements, social support and inclusive education are available only to a limited number of people in a few communities, despite being provided for in legislation adopted more than a year ago.¹⁰⁰ Persons with intellectual and psychosocial disabilities are still placed in long-term care facilities, which date back to the Soviet Union.¹⁰¹ As a result, most long-term care facilities for persons with intellectual and psychosocial disabilities are located in rural areas, effectively limiting access to medical care and other services outside of the facilities. According to reports of the National Preventive Mechanism, persons with intellectual and psychosocial disabilities in facilities suffer from ill-treatment, including due to medical and physical means of restraint used, and violations of freedom of movement.

98. Civil society organizations providing services to persons with intellectual and psychosocial disabilities complained to OHCHR that they had no state or local government

⁹⁷ According to the Government of Ukraine, as of 1 January 2020 there were 40,327 incapacitated persons and 1,357 persons with limited civil capacity.

⁹⁸ See Resolution of the Cabinet of Ministers On Approving the State Target Program “National Action Plan on the Implementation of the Convention on the Rights of Persons with Disabilities” for a period up to 2020, available in Ukrainian at <https://zakon.rada.gov.ua/laws/show/706-2012-%D0%BF#Text>.

⁹⁹ Article 300.4, Civil Procedure Code of Ukraine as of 3 October 2017, available in Ukrainian at <https://zakon.rada.gov.ua/laws/show/1618-15#Text>.

¹⁰⁰ See Law of Ukraine “On Social Services” No. 2671-VIII of 17 October 2019, available in Ukrainian at <https://zakon.rada.gov.ua/laws/show/2671-19#Text>.

¹⁰¹ According to the Government of Ukraine, as of 1 January 2020, 31,200 persons with disabilities, of which 46.5 per cent were women, resided in long-term care institutions in Ukraine.

support. Furthermore, the Government has yet to develop a strategy for the de-institutionalization of adults with disabilities.¹⁰²

99. OHCHR interviewed a woman who was subjected to involuntary admission to a psychiatric hospital three times between October 2019 and July 2020, each time for one to two weeks, in violation of article 14 of the CRPD.¹⁰³ Once she was tied to a stretcher and left in a ward with other patients, one of whom jumped on her. Hospital staff did not react to her calls for help. Staff forced her to take medication without informing her of what she was being given, in violation of article 17 of the CRPD. Staff also did not allow her to contact a lawyer or the Ombudsperson's Office. During her third forced hospitalisation, on 17 July 2020, she participated in a court hearing on her involuntary admission remotely from the hospital; however, she was not provided access to legal counsel. The court authorized her involuntary admission. During her stays at the hospital, she witnessed patients being beaten by staff and the lack of healthcare for sick older patients. OHCHR is concerned that Ukraine's legislation does not envisage free legal aid centres being informed in case of an involuntary admission, which creates a barrier for persons to access free legal aid in such cases.¹⁰⁴ OHCHR also notes with concern past allegations of sexual violence committed against residents of facilities for persons with intellectual and psychosocial disabilities, such as forced nudity.¹⁰⁵

C. Right to education



100. OHCHR is concerned that on 6 March 2020, the 'people's council' of 'Donetsk people's republic' amended the 'law' on education, establishing Russian as the 'official' language in educational 'institutions' in territory they control. These changes were already in place for the 2020-2021 academic year. Similarly, in June 2020, the same approach to the Russian language in education 'institutions' was introduced in territory controlled by 'Luhansk people's republic'. Armed groups of self-proclaimed 'republics' should refrain from taking any measures that prevent study of Ukrainian and minority languages.

¹⁰² The Government has a strategy on deinstitutionalisation of children. See Cabinet of Ministers of Ukraine, Order "On the National Strategy for Reforming the System of Institutional Care and Upbringing of Children for 2017-2026 and the Action Plan for the Implementation of its First Stage" of 9 August 2017, No 526-p, available at <https://zakon.rada.gov.ua/laws/show/526-2017-%D1%80#Text>.

¹⁰³ OHCHR interview, 23 December 2020.

¹⁰⁴ According to Cabinet of Ministers Resolution No. 1363 of 28 December 2011, government bodies are obliged to immediately inform the Coordination Center for Legal Aid Provision of all arrests and detentions. However, the Resolution is silent about involuntary admission despite these constituting a form of deprivation of liberty.

¹⁰⁵ See Zmina, "Голі чоловіки, жінки та діти в зачиненій кімнаті: як живуть в інтернаті на Вінниччині [Naked women, men and children in a locked room: how they live in a care home in Vinnychna]", 30 October 2019, available at <https://zmina.info/news/goli-choloviky-zhinky-ta-dity-v-zachynenij-kimnati-yak-zhyvut-v-internati-na-vinnychchyni/> and Ukrainian Parliament Commissioner For Human Rights, Special Report of Ukrainian Parliament Commissioner for Human Rights. State of Implementation of National Preventive Mechanism in 2019, p. 70, available at http://www.ombudsman.gov.ua/files/marina!/zvrit_eng_web.pdf.

VIII. Human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation¹⁰⁶

“My church cannot get approval for its registration by the Russian Federation authorities in Crimea because they cannot allow anything pro-Ukrainian to remain on the peninsula. They are squeezing any expression of pro-Ukrainian positions out of Crimea.”

– The Archbishop of the Orthodox Church of Ukraine in Crimea.

A. Freedom of religion or belief



101. Under growing pressure, the Orthodox Church of Ukraine¹⁰⁷ (the Church) has been facing the loss of its two largest places of worship in Crimea. In 2019-2020, the Church repeatedly sought official recognition and registration under Russian Federation laws on religious organisations. The occupying Power consistently denied registration based on procedural grounds contained in Russian Federation legislation, that is being applied in Crimea in violation of international humanitarian law, including that the Church had missed the deadline for re-registration. These denials persisted despite the finding of the Ministry of Culture of Crimea that the documentation prepared by the Church met the requirements for registration. Attempts to register a new religious organization, rather than re-register the Church, have also been unsuccessful. The archbishop of the Church in Crimea views the denial of registration as retaliation for his and his parishioners' pro-Ukrainian position.¹⁰⁸

102. The occupation authorities of the Russian Federation also claimed that property owned or rented by the Church must be returned to the state, based on the fact that the Church lacked registration as a religious organization.¹⁰⁹ Two legal actions in Simferopol and Yevpatoria resulted in final court decisions from the judicial institutions of the occupying Power with orders to evict the parish in Simferopol (250 parishioners)¹¹⁰ and demolish the place of worship in Yevpatoria (100 parishioners).¹¹¹ These events unfolded against the background of the earlier losses of parishes and court proceedings throughout Crimea.¹¹² Overall, in comparison with the

¹⁰⁶ See also, *Report of the Secretary-General on the Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine*, A/HRC/44/2 (19 June 2020), available at www.undocs.org/en/A/hrc/44/21. Note that any reference to organs and officials of the Russian Federation in Crimea made in this report is to be understood as referring to the occupation authorities of the Russian Federation.

¹⁰⁷ Prior to the Orthodox church reform in Ukraine in 2018-2019, the church was known as the Ukrainian Orthodox Church of the Kyiv Patriarchate.

¹⁰⁸ In 2018, police apprehended the archbishop twice in one day as he was on the way to visit a Ukrainian detainee. Police detained him for a few hours at the police station and released him without pressing any formal charges.

¹⁰⁹ At the early stages of the occupation, however, the authorities did not challenge the Church's legal personality or the validity of the rental contract regarding the main cathedral in Simferopol. In 2014, the State Council of Crimea issued a resolution explicitly recognizing the rent agreement with the Church and confirming its validity until 2050.

¹¹⁰ On 6 August 2020, the Supreme Court of Crimea confirmed the decision of lower courts ordering the eviction. Previously, Crimean courts had ordered the eviction of the Church from the first floor of the building in Simferopol. The 2019-2020 case concerned the remaining parts of the buildings still occupied by the Ukrainian Orthodox Church.

¹¹¹ On 17 December 2019, a local court in Crimea dismissed the appeal for review of the earlier demolition order of the Church's premises in Yevpatoria. As of 31 December 2020, to the best of OHCHR's knowledge, neither of the judgments have been fully executed. The Church has submitted applications to the European Court of Human Rights and the UN Human Rights Committee to halt the eviction and dismantling processes.

¹¹² See OHCHR, *Situation of human rights in temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)*, 25 September 2017, paras. 140 and 145, available at www.ohchr.org/Documents/Countries/UA/Crimea2014_2017_EN.pdf and *Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine*, 10

pre-occupation period, the number of parishes has decreased from 49 to only five in 2020, and the number of priests working on the peninsula from 22 to four.¹¹³

103. Individual Jehovah's Witnesses continued to face extremism-related criminal charges and prosecution for practicing their faith. As of 31 December 2020, at least two Jehovah's Witnesses (both men) from Crimea were serving prison sentences.¹¹⁴ Both were deported from Crimea to a prison in the Russian Federation during the summer of 2020.¹¹⁵ This has made visitation by family and friends, already complicated by COVID-19 restrictions, even more difficult.¹¹⁶ In October, Russian law enforcement occupation authorities conducted at least nine searches in homes of Jehovah's Witnesses in Sevastopol and, as a result, detained and charged four believers (all men).¹¹⁷ As of 31 December 2020, all four men were detained in the Simferopol SIZO. The detainees' attempts to challenge their pre-trial detention were unsuccessful. The arrests happened against a background of 19 reported searches in dwellings belonging to Jehovah's Witnesses in 2020. This equates to a third of all house searches (54) documented in Crimea during the year.¹¹⁸

B. Forcible transfers and deportations



104. In 2020, courts in Crimea issued deportation and forcible transfer orders against at least 178 individuals considered foreigners under Russian Federation immigration law, including 105 Ukrainian citizens (93 men and 12 women). Those Ukrainian citizens who were ordered to leave Crimea either did not possess Russian Federation passports, had registration or "propyska" in mainland Ukraine, or failed to apply for or to obtain Russian residence permits, and were thus considered as not having residency rights in Crimea. OHCHR notes that this represents a decrease in deportation and transfer orders in comparison with previous years.¹¹⁹ This may be partly explained by the increasing issuance of monetary fines in immigration-related cases,¹²⁰ the growing number of Russian Federation passports issued to Crimean residents¹²¹, and the temporary ban on deportations in the form of forcible removals imposed from 15 March 2020 to 15 June 2021 in response to COVID-19.¹²²

105. In at least two cases, Ukrainian citizens suspected of using drugs were ordered to pay a fine of RUB 4,000 (approximately \$53) and leave Crimea after refusing to undergo a drug test.¹²³ In another case, a court in Dzhankoi issued a transfer order against a Ukrainian citizen who had lost his passport in Crimea and, therefore, could not legally cross the ABL and return to mainland Ukraine.¹²⁴ Despite her attempts to obtain legal status in Crimea, a woman from

September 2018, para. 41 available at www.ohchr.org/Documents/Countries/UA/CrimeaThematicReport10Sept2018_EN.pdf.

¹¹³ The numbers are based on HRMMU's interviews conducted in September 2020.

¹¹⁴ Criminal proceedings against other believers were also progressing but had not yet resulted in convictions by 31 December 2020.

¹¹⁵ In violation article 76 of the Fourth Geneva Convention.

¹¹⁶ Rule 59 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) states "prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation".

¹¹⁷ Five persons were apprehended initially, but one woman was released.

¹¹⁸ In 2019, only 12 per cent of recorded house searches concerned Jehovah's Witnesses (nine searches out of 75).

¹¹⁹ See OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 – 15 February 2020*, para. 116.

¹²⁰ At least 416 individuals were ordered to pay monetary fines instead of transferred or deported, 292 of whom were Ukrainian citizens.

¹²¹ During 2020, 14,586 individuals considered as foreigners acquired Russian Federation citizenship in Crimea (an almost 16 per cent increase compared with 2019), Report of the Ministry of Internal Affairs of the Russian Federation, available at <https://media.mvd.ru/files/application/2042243>. In the last six years, the Russian Federation granted its citizenship to 41,208 individuals considered as foreigners in Crimea.

¹²² Decree of President of the Russian Federation No. 274 of 18 April 2020.

¹²³ Judgment of the Gagarinskiy district court of Sevastopol, 15 September 2020, case 5-849/20; Judgment of the Yalta city court, 3 August 2020, case 5-1307/2020.

¹²⁴ Judgment of the Dzhankoi district court, 7 July 2020, case 5-603/2020.

Yalta received an order to leave Crimea after a local court found that she had overstayed a 90-day period of allowed travel to the Russian Federation.¹²⁵

106. OHCHR recalls that international humanitarian law prohibits individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the occupying Power or to that of any other country, regardless of the motive.¹²⁶

C. Rights of detainees



107. Current and former detainees (all men) from Crimea complained to OHCHR about their treatment and conditions in detention in Crimea and the Russian Federation, where they had been deported to serve their sentences. They complained *inter alia* of insufficient personal living space in prison cells, poor hygiene conditions, inadequate heat, lack of ventilation and inadequate nutrition. At least eight detainees deported from Crimea to the SIZO in Novochoerkassk, Rostov region of the Russian Federation, alleged that they were not provided with blankets despite low temperatures, and had to cover themselves with their coats while sleeping. In at least two cases, prison guards forcefully transported sick detainees to courts in order for them to participate in scheduled hearings despite their critical health condition and repeated requests to consult a doctor.¹²⁷

108. In one emblematic case, Teimur Rza-ogly Abdullaiev, a Ukrainian citizen from Crimea sentenced to 16 and a half years in prison for alleged membership in a banned religious organization, *Hizb ut-Tahrir*, was subjected to prolonged solitary confinement on arbitrary grounds¹²⁸ at Colony No. 2 of the Federal Penitentiary Service of the Russian Federation in the city of Salavat. According to available information, since he was admitted to the colony in March 2020, the victim has spent at least 139 days in solitary confinement. On an unspecified date, one of the colony's officers informed Mr. Abdullaiev that his placement in the disciplinary cell would end only if he agreed to cooperate and provide incriminating information on other alleged followers of *Hizb ut-Tahrir* in Crimea. When he refused, the officer said: "*You will rot in the SHIZO¹²⁹ then*". During his first month in the disciplinary cell, he was required to remain inside his cell for 24 hours per day, except for one hour a week when he could exercise in the yard. Starting from April 2020, Mr. Abdullaiev was permitted to exercise daily for 40 minutes. At all times while in the disciplinary cell, he was required to maintain a standing position and was not allowed to sit or lay down on a bed during the day.¹³⁰

109. During his solitary confinement, Mr. Abdullaiev was completely isolated from the outside world and other detainees. His family members were unable to visit due to the remote location of the detention center. He received only two letters from his family while nearly 20 other letters addressed to him were blocked by the colony's administration. Between March and May 2020, he was not allowed to make phone calls to relatives.¹³¹ OHCHR recalls that incommunicado detention, which deprives the inmate of any contact with the outside world, in particular with medical doctors, lawyers and relatives, has repeatedly been recognized as a form of torture.¹³²

¹²⁵ Judgment of the Yalta city court, 28 August 2020, case 5-1349/2020.

¹²⁶ Fourth Geneva Convention, art. 49.

¹²⁷ OHCHR interview, 20 January 2021.

¹²⁸ Responding to an enquiry from United Nations Special Procedures, the Russian Federation admitted the use of disciplinary cells in Mr. Abdullaiev's case for the following offences: having an unmade bed; refusal to greet a representative of the colony administration; covering the lens of the video surveillance camera; inter-cell communication with other prisoners; failure to appear before a Federal Penal Service official in the proper manner; non-compliance with the dress code; and curtaining off his bed and getting into it outside of authorized hours. See HRC/NONE/2020/SP/74, p. 3.

¹²⁹ A disciplinary cell.

¹³⁰ OHCHR interviews, 6 August 2020, 15 October 2020.

¹³¹ OHCHR interviews, 20 and 26 November 2020.

¹³² A/HRC/13/42, paras. 28 and 32; Inter-American Court of Human Rights, *Velásquez Rodríguez v. Honduras*, Judgement, 29 July 1988, para. 187; CCPR/C/51/D/458/1991, annex, para. 9.4; and CCPR/C/61/D/577/1994, para. 8.4.

IX. Technical cooperation and capacity-building

110. Over the reporting period, OHCHR worked to increase Ukraine's capacity in the administration of justice in conflict-related cases. A report¹³³ covering the issue was launched online on 2 September 2020, containing recommendations to Ukrainian authorities and others. Advocacy on these recommendations continues, with OHCHR having held seven meetings with courts and law enforcement agencies, including with the Supreme Court, Constitutional Court and Prosecutor General's Office. HRMMU also shared analytical papers on arrest procedures and on the independence of judges.¹³⁴

111. OHCHR also continued to work to ensure that Ukraine applies a human rights-based approach in its response to the COVID-19 pandemic, including by issuing a public report on the impact of COVID-19 on human rights in Ukraine.¹³⁵ Presented to the United Nations Human Rights Council on 18 December 2020, the report contains recommendations addressed to the authorities and others.¹³⁶ A briefing note on the impact of the COVID-19 pandemic on persons with disabilities was also shared on 11 November 2020 with representatives from various ministries, the Government's and the President's Commissioners on the Rights of Persons with Disabilities, representatives of Ombudsperson's Office and civil society organizations focused on persons with disabilities.¹³⁷ OHCHR also issued an infographic emphasizing the lack of shelters for homeless persons (see above, para. 94), and contributed to the establishment of a coordination council of the Kyiv City State Administration involving organizations assisting homeless persons in Kyiv.

112. OHCHR provided further technical assistance on a variety of topics, such as torture prevention, protection of civilians, right to remedy and reparation, freedom of expression and of movement, non-discrimination, and prevention of hate speech. It also distributed recommendations drawn from its monitoring of the human rights situation in the country through mainstream and social media.

113. It engaged its prevention mandate by seeking the intervention of the authorities to prevent violent acts against Roma. It continued to support the development of Ukraine's National Human Rights Action Plan for 2021-2023 on behalf of the United Nations Country Team (UNCT), and submitted joint comments with UN Women on the new Roma Integration Strategy and Action Plan to the State Service of Ukraine for Ethnic Affairs and Freedom of Conscience. OHCHR also represented the UNCT in the parliamentary working group drafting the law on national minorities and shared two analytical notes with the working group recommending compliance with international human rights standards.

114. OHCHR also trained law students from the Military Academy on international humanitarian and human rights law (five men).

X. Conclusions and recommendations

115. The holding of the renewed ceasefire since July, and the accompanying low levels of civilian casualties due to active hostilities has been encouraging. However, the hardship of people living in the conflict zone continued, particularly given ongoing restrictions on freedom of movement notably due to COVID-19 restrictions.

116. Added to the hardships caused by the ongoing pandemic and related restrictions, human rights violations continued to be committed across the entirety of Ukraine, in

¹³³ OHCHR, *Human Rights in the Administration of Justice in Conflict-Related Criminal Cases in Ukraine*, April 2014–April 2020, available at www.ohchr.org/Documents/Countries/UA/Ukraine-admin-justice-conflict-related-cases-en.pdf.

¹³⁴ See para. 58 for more information on this issue. See also OHCHR *Human Rights in the Administration of Justice in Conflict-Related Criminal Cases in Ukraine from April 2014 to April 2020*, para. 72-75.

¹³⁵ OHCHR, *Impact of COVID-19 on human rights in Ukraine*, December 2020.

¹³⁶ *Ibid.*, para. 20-21.

¹³⁷ HRMMU, Briefing Note on the Impact of the COVID-19 pandemic on persons with disabilities in Ukraine, available at <https://ukraine.un.org/en/99869-briefing-note-impact-covid-19-pandemic-persons-disabilities-ukraine>.

Government-controlled territory, territory controlled by self-proclaimed ‘republics’, and Crimea.

117. In Government-controlled territory, key issues include continued cases of torture and ill-treatment, notably due to police violence, as well as a general lack of accountability. The administration of justice continued to be flawed, while national minorities, notably Roma, and LGBTI persons, were subjected to hate speech. Human rights defenders, including women human rights defenders, continued to be targeted, notably by extreme right-wing groups, who also harassed and attacked those considered to be “pro-Russian”, for example members of political parties. Much more needs to be done to ensure the population’s economic and social rights, notably those of the most vulnerable, such as homeless persons and persons with intellectual disabilities who are deprived of legal capacity.

118. In territory controlled by self-proclaimed ‘republics’, OHCHR noted allegations of arbitrary arrests and incommunicado detentions, lack of freedom of opinion and expression, and of religion and belief, as well as harassment of human rights defenders. Shocking testimonies of torture and ill-treatment in the ‘Izolatzia’ detention centre continued, while access was not granted to OHCHR or other international monitors.

119. In Crimea, violations of international humanitarian law and international human rights law were committed by the occupying Power, including violations of the right to freedom of religion and belief, unlawful deportations and forced transfers, including of detainees, as well as deplorable treatment and conditions in detention.

120. Based on its findings from the current reporting period, OHCHR urges the implementation of the following recommendations:

121. To the Ukrainian authorities:

To the Parliament and the Cabinet of Ministers:

- a) **Ensure the continued provision of administrative and other services in territorial communities where local elections did not take place including through the timely establishment of military-civilian administrations;**
- b) **Ensure that bank services provided to individuals, notably those of Privatbank, are equally available to all, regardless of their place of residence or IDP status.**
- c) **Amend the Criminal Procedure Code to allow a full retrial in criminal proceedings conducted *in absentia*, including after a verdict has been delivered, upon the request of the accused who has become available for trial in person;**
- d) **Reject any draft law reintroducing liability of judges for the decisions they deliver (to replace article 375 of the Criminal Code annulled by the Constitutional Court on 11 June 2020);**
- e) **In consultation with a gender-balanced representation of civil society, amend the national legislation on legal capacity of persons with intellectual and psychosocial disabilities to bring it in line with article 12 of the CRPD;**
- f) **Strengthen efforts towards deinstitutionalization reform and increasing access of persons with intellectual and psychosocial disabilities to social housing and supported residential facilities, as well as a range of in-home, residential and other community support services;**
- g) **Secure funding for face masks, sanitizers, and disinfection of premises to ensure the safety of court staff and enable access to justice amidst the COVID-19 pandemic;**
- h) **Ensure that the Commission on Persons Missing due to Special Circumstances is operational;**
- i) **Elaborate, without delay and in close consultations with a gender-balanced representation of national minorities, a draft law on the**

protection of national minorities and particularly of their language rights;

- j) Swiftly adopt law No. 2689 “On amendments to certain legislative acts of Ukraine concerning the implementation of provisions of international criminal law and humanitarian law” maintaining provisions on command responsibility, the non-applicability of statutory limitations for international crimes, and universal jurisdiction for prosecuting international crimes;
- k) Provide clear instructions to the commissions assessing the value of destroyed property and commissions deciding on the attribution of compensation under Resolution No. 767 regulating compensation for housing destroyed due to hostilities; ensure that lack of ownership papers does not hinder access to compensation; and undertake an awareness-raising campaign about the compensation mechanism;
- l) Delink access to pensions from IDP registration requirement;
- m) Establish an administrative procedure for registration of births and deaths occurring in territory controlled by self-proclaimed ‘republics’ and in Crimea that is practical and responsive to the circumstances of families living there.

To state and local authorities:

- n) Promptly and publicly condemn all instances of hate speech, incitement to violence, and discrimination against any group, expressed online and during public events, and ensure effective, prompt and impartial investigations of all hate crimes, taking into consideration criminal motives and other aggravating circumstances;
- o) Publicly condemn all violent attacks, threats, and intimidation targeting human rights defenders, including women human rights defenders, anti-corruption and environmental activists, and those holding alternative opinions, and systematically support law enforcement agencies to ensure prompt, impartial and effective investigations of relevant crimes and to bring perpetrators to account;
- p) Implement the recommendations made in HRMMU’s Briefing Note on the impact of the COVID-19 pandemic on homeless persons in Ukraine,¹³⁸ and in particular, by increasing funding to shelters to expand their capacity and establishing shelters in cities and regions where there are none and ensure that women are not discriminated against in accessing shelters.

To law enforcement agencies, investigative bodies and courts:

- q) Halt the practice of applying a broad interpretation of the *in flagrante* exception defined in the national legislation to justify arbitrary and unlawful arrests and detentions of individuals believed to be affiliated or linked with armed groups;
- r) Ensure timely and effective investigations into all allegations of human rights violations perpetrated by military and law enforcement agents, including torture and ill-treatment, and ensure alleged perpetrators are duly prosecuted, including persons in positions of command.

To the Ministry of Justice:

- s) Amend the notification procedure to introduce an obligation for psychiatric hospitals to inform free legal aid centres of all involuntary admissions in order to enable persons subjected to such measures to access legal aid.

¹³⁸ HRMMU, *Briefing Note on the Impact of COVID-19 and its prevention measures on homeless people in Ukraine*, available at <https://ukraine.un.org/en/106574-briefing-note-impact-covid-19-and-its-prevention-measures-homeless-people-ukraine>.

To the Joint Forces Operation:

- t) **Take concrete steps towards ensuring a secure environment in the 18 communities of Donetsk and Luhansk regions where elections did not take place in 2020, to facilitate the holding of local elections in October 2021.**

122. To all parties involved in the hostilities in Donetsk and Luhansk regions, including Joint Forces Operation of Ukraine and armed groups of self-proclaimed 'Donetsk people's republic' and self-proclaimed 'Luhansk people's republic':

- a) **Strictly implement measures to strengthen the ceasefire agreed within the Trilateral Contact Group in Minsk and enacted from midnight of 27 July 2020;**
- b) **Ensure the safe re-opening of all entry-exit crossing points (EECPs) and open two additional EECPs in Luhansk region;**
- c) **At all EECPs, ensure the availability of COVID-19 tests, hygiene and sanitation facilities, water, and medical assistance for civilians crossing on both sides of the contact line, with special attention to those forced to wait for extended periods at or near EECPs due to COVID-19-related restrictions.**

123. To self-proclaimed 'Donetsk people's republic' and self-proclaimed 'Luhansk people's republic':

- a) **Provide unimpeded and confidential access by OHCHR and other independent international monitors to all detainees and places of deprivation of liberty;**
- b) **Treat all persons deprived of their liberty humanely, including those held in connection with the conflict, and ensure conditions of detention are in accordance with international norms and standards; Provide information on the whereabouts of all detainees to their families and lawyers;**
- c) **Ensure protection of detainees and prisoners from COVID-19 in line with relevant OHCHR and WHO recommendations;**
- d) **Enable and facilitate the voluntary transfer of all pre-conflict detainees to Government-controlled territory, regardless of their registered place of residence, in order to enable contact with their families;**
- e) **Take all necessary steps to ensure that freedoms of expression, peaceful assembly, association, religion or belief can be exercised by all, without discrimination on any grounds.**

124. To self-proclaimed 'Donetsk people's republic':

- a) **Cancel the requirement of a residence registration in a specific territory as a condition for being allowed to cross the contact line, stop obliging people to sign a paper stating they cannot return to the territory until the epidemiological situation improves, and decrease the cost of COVID-19 tests at the EECP, or accept results of tests taken in Government-controlled territory.**

125. To the international community, including the Government of the Russian Federation:

- a) **Use all available channels to influence the self-proclaimed 'republics' to comply with international human rights law and international humanitarian law norms and standards and, in particular, to implement the recommendations in paragraphs 123 and 124 above.**

126. In the context of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation, to the Government of the Russian Federation:

- a) **Uphold obligations as a duty bearer under international human rights law in Crimea and respect obligations as an occupying Power pursuant to international humanitarian law;**

- b) Ensure unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea, pursuant to United Nations General Assembly resolutions 71/205, 72/190, 73/263, 74/168 and 75/192;**
- c) Lift discriminatory regulatory barriers prohibiting or limiting the activities of religious groups in Crimea, including Jehovah's Witnesses and the Orthodox Church of Ukraine;**
- d) Refrain from deporting detainees to serve prison sentences in the Russian Federation and return to Crimea those who were previously deported;**
- e) Ensure that persons deprived of their liberty are treated in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and have access to adequate medical care.**