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14 September–2 October 2020

Agenda item 10

Technical assistance and capacity-building

**Situation of human rights in Ukraine
(16 February – 31 July 2020)***


Office of the United Nations High Commissioner for Human Rights

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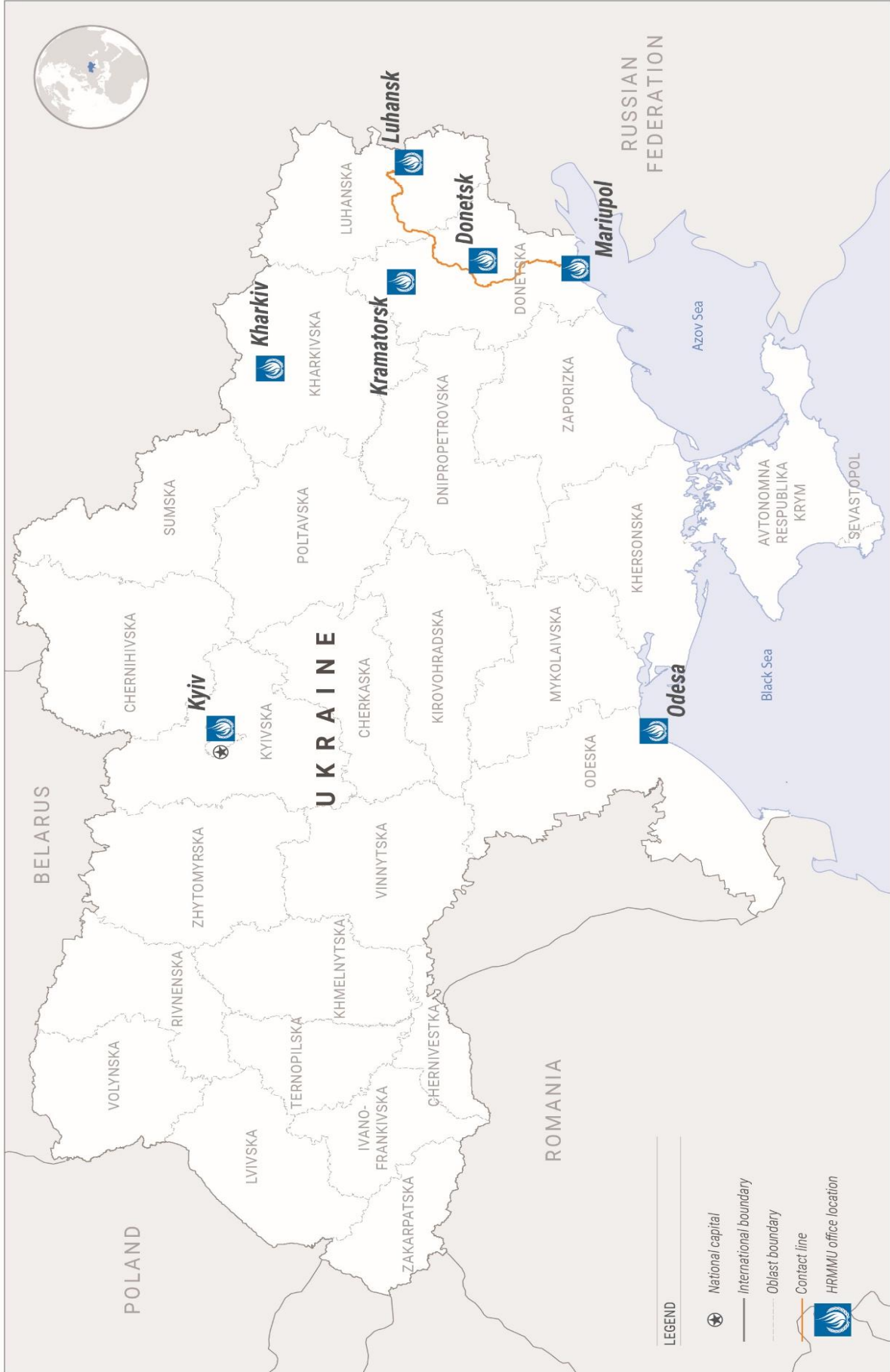
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Human Rights Monitoring Mission in Ukraine Presence as of 7 September 2020

September 2020



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Created: 7 September 2020 Source: HRMMU, OHCHR Contact: msupport@ohchr.org ohchr.org standup4humanrights.org

I. Executive summary

1. This thirtieth 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 16 February to 31 July 2020. It is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU).¹
2. Ukraine introduced quarantine restrictions on 16 March, following its first confirmed COVID-19 case on 29 February. OHCHR remained fully operational during the reporting period, adjusting its work to minimize the risk of spreading the virus, carrying out its activities in person only when possible to do so safely, and remotely when there was no alternative.
3. During the reporting period, several spikes in hostilities, most notably in March and May, brought the number of civilian casualties during the first seven months of 2020 to 107 (18 killed² and 89 injured³), a ten per cent decrease compared with the same period in 2019. Hostilities also resulted in at least 75 incidents of damage to civilian objects (excluding civilian housing). Following the agreement reached by the Trilateral Contact Group on 22 July, the Joint Forces Operation of Ukraine and armed groups of self-proclaimed 'Donetsk people's republic' and self-proclaimed 'Luhansk people's republic'⁴ enacted a package of additional measures to strengthen the ceasefire that took effect on 27 July. It is hoped this will contribute to a progressive decrease in civilian casualties, which by 31 July 2020 totaled at least 3,367 killed and more than 7,000 injured since the beginning of the conflict.
4. No tangible progress was achieved in establishing a mechanism of remedy and reparation for civilian victims of the conflict.⁵ The hardships and deprivations faced by the conflict-affected population for more than six years, were further exacerbated by COVID-19-related restrictions on freedom of movement and by the overall impact of the pandemic on the enjoyment of economic and social rights.
5. The closure of all five entry-exit crossing points (EECPs) from late March to mid-June resulted in the decrease of monthly crossings of the contact line from 1.3 million to a few hundred. As a result, thousands of people found themselves separated from their families, and lost access to quality healthcare, pensions and jobs. From mid-June, when crossings partially resumed through two EECPs, until 31 July, the total number in Donetsk and Luhansk regions comprised 43,000 crossings, which was substantially lower than during the pre-COVID-19 period, and particularly low in the Donetsk region. Thousands of people with pressing humanitarian needs remain unable to cross.
6. Following the simultaneous release of detainees under the Minsk agreements on 16 April 2020, OHCHR interviewed eight men released by self-proclaimed 'republics'. Their testimonies confirmed patterns of torture and ill-treatment, as previously identified by OHCHR. This once again underscores the need for access by independent international monitors, including OHCHR, to detainees and places of detention in territory controlled by self-proclaimed 'republics'.

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 Ten men, seven women and one boy.

³ Forty-nine men, 30 women, six girls and four boys.

⁴ Hereinafter 'Donetsk people's republic' and 'Luhansk people's republic' respectively. For brevity, they are collectively referred to as self-proclaimed 'republics'.

⁵ As set out in UN General Assembly resolution 60/147, *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*, 21 March 2006, A/RES/60/147, available at www.undocs.org/en/A/RES/60/147.

7. Torture and ill-treatment by law enforcement officials remained a systemic problem in Government-controlled territory. OHCHR notes that though the number of investigations into acts of torture or ill-treatment has increased, their effectiveness remains very low, with less than two percent of investigations resulting in criminal charges.

8. OHCHR welcomes the Constitutional Court's ruling on the unconstitutionality of article 375 of the Criminal Code, which provides for criminal liability of judges for rendering "deliberately unjust" decisions. However, concerns persisted that conflict-related criminal trials are delayed due to the lack of judges resulting *inter alia* from the dissolution of the High Qualification Commission of Judges in October 2019. Delays have also continued in criminal proceedings related to accountability for grave human rights violations. Fair trial rights were further affected by quarantine measures introduced to prevent the spread of COVID-19, as it led to the exclusion of observers from courtrooms.

9. While law enforcement bodies continued to adequately secure assemblies, they sometimes applied quarantine measures arbitrarily to prevent a variety of protests. OHCHR is also concerned that attacks by extreme right-wing groups (ERWG) against assemblies and offices of political parties and political activists and their homes have increased, in the context of upcoming local elections in October. In territory controlled by self-proclaimed 'republics', coal miners were reportedly arrested after protesting delays in salary payments.

10. OHCHR documented seven incidents affecting four female and five male media workers, including those undertaking investigations in relation to COVID-19. In territory controlled by 'Luhansk people's republic', OHCHR observed that fewer critical views were published on social media following amendments to 'regulations' introduced in December 2019. OHCHR also received information that indicates some employees of 'public institutions' of 'Luhansk people's republic' holding Russian Federation citizenship were asked to justify their failure to participate in the referendum on amendments to the Constitution of the Russian Federation.

11. OHCHR documented five attacks against lesbian, gay, bisexual, transgender and intersex (LGBTI) people and feminist activists, including by ERWG. OHCHR is also concerned by hate speech directed against LGBTI people, notably online and against individuals in the street. Roma have also been subjected to hate speech by the authorities and in the media.

12. The lack of progress in elaborating a law on the realisation of the rights of indigenous people and national minorities continues to be of concern.

13. OHCHR welcomes the adoption of a procedure to facilitate voting by internally displaced people (IDPs) and internal labour migrants, although the Parliament's recent adoption of amendments to the Electoral Code, which entered into force less than 100 days before local elections, gives little time to authorities and voters to adjust to the new regulations.

14. OHCHR monitored the impact of COVID-19 on the economic and social rights of those most affected by the pandemic. Groups that are in particularly vulnerable situations include Roma communities; older persons and persons with disabilities living in long-term care facilities; persons with disabilities living in the community; and persons living in homelessness. The rights most affected were the rights to health, work, education and an adequate standard of living. Women were also disproportionately affected by the pandemic.

15. In the Autonomous Republic of Crimea, and the city of Sevastopol, temporarily occupied by the Russian Federation⁶ (hereinafter Crimea), courts continued to pass judgments in apparent disregard of fair trial guarantees. Freedom of religion of different religious groups, notably Jehovah's Witnesses, was also affected by the application of Russian Federation legislation in the occupied territory, contrary to international humanitarian law.

⁶ 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.

16. During the reporting period, OHCHR worked to increase Ukraine's capacity to ensure a human-rights based approach to mitigating the impact of the pandemic. OHCHR also continued its technical cooperation efforts with various national actors, such as ministries, the Parliament, courts, the Ombudsperson institution, the military and law enforcement, and civil society including human rights defenders.

17. While OHCHR enjoyed unimpeded access to places of detention in territory controlled by the Government, OHCHR operations in territory controlled by the self-proclaimed 'republics' have been severely restricted since June 2018 despite ongoing discussions. 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 nature of credible allegations of torture and ill-treatment. OHCHR reiterates its call for independent international observers, including OHCHR, to have unimpeded, confidential access to places of detention and detainees.

18. The report concludes with targeted recommendations aimed at improving the overall human rights situation in Ukraine.

II. OHCHR methodology

19. The report is based on information gathering during 128 field visits, five visits to places of detention, 77 trial hearings, 58 assemblies and 906⁷ interviews with victims and witnesses of human rights violations, 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. They 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.

20. 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. OHCHR applies the "reasonable grounds to believe" standard in attributing a civilian casualty to a particular party based on the geographic location where it occurred, the direction of fire, and the overall context surrounding the incident.

21. 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.

22. 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 439 men and 467 women. This number is significantly higher than previous reporting periods as it covers six months of HRMMU work rather than three months, and includes interviews conducted in the context of COVID-19, which led HRMMU to cover new issues related to economic and social rights in an intensive manner.

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: IMPACT OF HOSTILITIES ON CIVILIANS RESIDING ALONG THE CONTACT LINE
 from 1 January to 31 July 2020



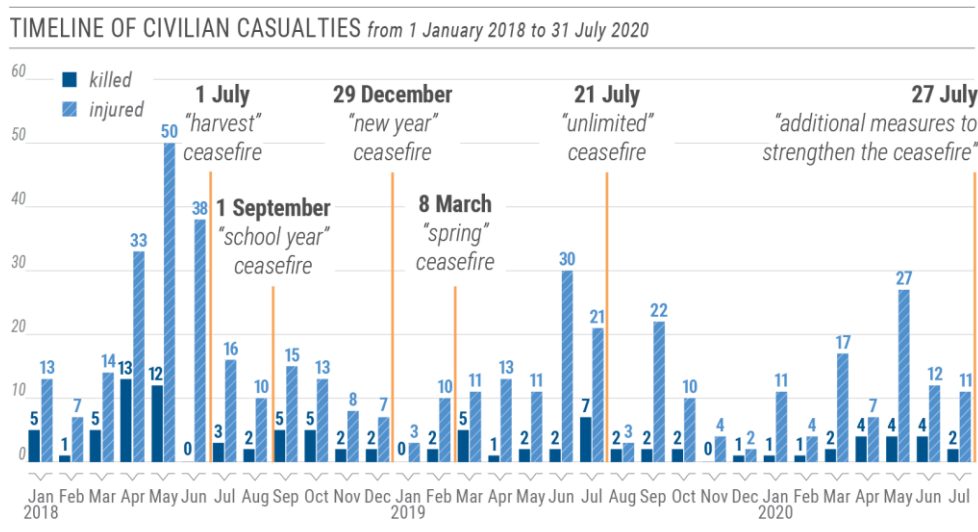
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III. Impact of hostilities

“As soon as HRMMU left the village, the military brought back their heavy weaponry and resumed shooting near my house. Which, as usual, resulted in return fire – a shell landed just a few metres from my house.”

– A resident of a settlement near the contact line.

23. During the reporting period, the security situation in the conflict zone in eastern Ukraine remained volatile with spikes in hostilities in March and May. Following the agreement reached by the Trilateral Contact Group on 22 July 2020, the Joint Forces Operation of Ukraine (JFO) and armed groups of self-proclaimed ‘republics’ issued and enacted orders on measures to strengthen the ceasefire from midnight on 27 July. The package of additional measures⁹ aims to make the ceasefire comprehensive, sustainable and unlimited, and if implemented would contribute to a significant decrease in new conflict-related civilian casualties.

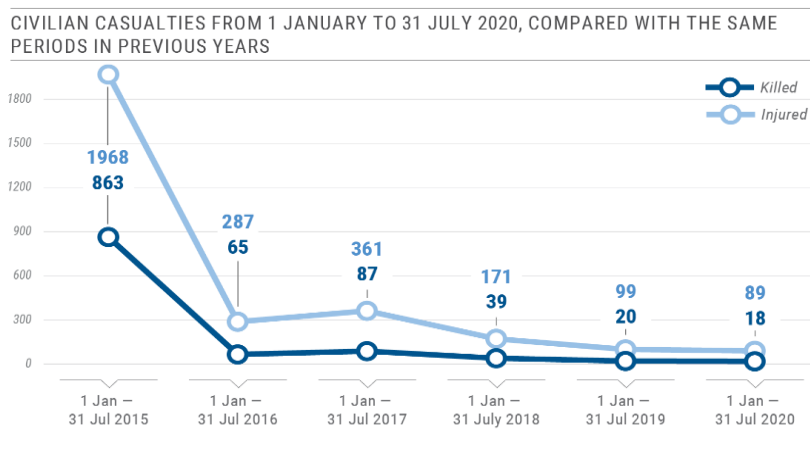


Creation Date: 26 August 2020 Source: OHCHR HRMMU

A. Civilian casualties



Civilian casualties in 2020



Creation Date: 26 August 2020 Source: OHCHR HRMMU

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.

24. From 1 January to 31 July 2020, OHCHR recorded 107 civilian casualties: 18 killed (ten men, seven women and one boy) and 89 injured (49 men, 30 women, six girls and four boys), a ten per cent decrease compared with the same period of 2019 (20 killed and 99 injured).

25. Shelling, SALW¹⁰ fire and UAV¹¹ strikes caused 67 civilian casualties: eight killed (five women and three men) and 59 injured (27 men, 23 women, six girls and three boys). Of these: 85.3 per cent (seven killed and 51 injured) were recorded in armed group-controlled territory (five killed and 36 injured in territory controlled by ‘Donetsk people’s republic’, and two killed and 15 injured in territory controlled by ‘Luhansk people’s republic’), and 14.7 per cent (two killed and eight injured) in Government-controlled territory.

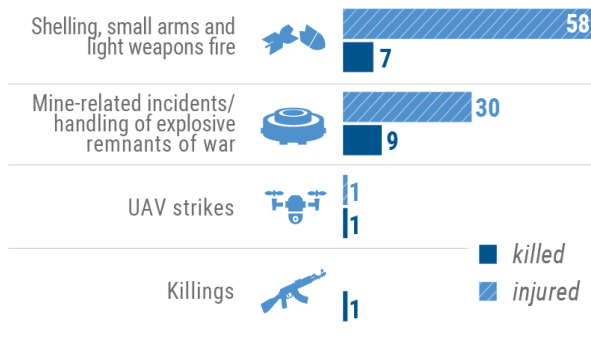
26. For example, on 9 April, a woman was killed and a man was injured by an explosive dropped from an UAV when they visited an uninhabited house in armed group-controlled Shyroka Balka (Donetsk region). On 4 May, three girls were injured by light weapons fire while playing at home in armed group-controlled Oleksandrivka (Donetsk region). On 3 July, a woman was killed by mortar shelling while working in the yard of her house in the Government-controlled part of Zaitseve (Donetsk region).

27. Thirty-nine civilian casualties resulted from mine-related incidents and ERW¹² handling: nine killed (seven men, one woman and one boy) and 30 injured (22 men, seven women and one boy).

28. For example, on 1 March, a man and a woman were injured in a mine-related incident walking near Sieverskyi Donets River (in armed group-controlled territory of Luhansk region). On 20 June, a man and a woman were killed after handling a hand grenade at a home in Government-controlled Stanytsia Luhanska (Luhansk region). On 5 July, a boy who handled an ERW was killed in armed group-controlled Makiivka (Donetsk region).

Civilian casualties during the entire conflict period

CAUSES OF CIVILIAN CASUALTIES FROM 1 JANUARY TO 31 JULY 2020



Creation Date: 26 August 2020 Source: OHCHR HRMMU

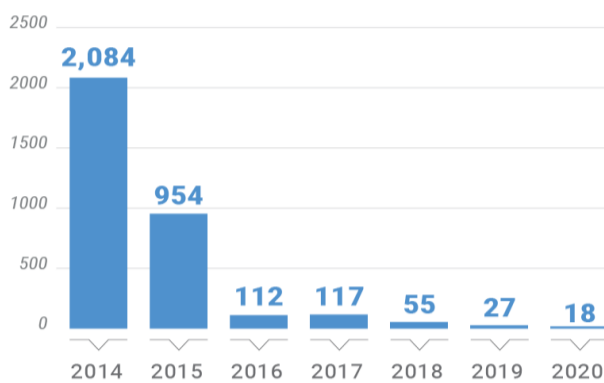
¹⁰ Small arms and light weapons.

¹¹ Unmanned aerial vehicles.

¹² Explosive remnants of war.

29. From 14 April 2014 to 31 July 2020, OHCHR has recorded a total of 3,069 conflict-related civilian deaths (1,821 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 3,367. The number of injured civilians is estimated to exceed 7,000.

CONFLICT-RELATED CIVILIAN DEATHS
from 2014 to 2020



Creation:  26 August 2020 Source: OHCHR HRMMU

B. Attacks on civilian objects

30. During the reporting period, OHCHR started to systematically record incidents that affected civilian objects (excluding civilian housing). From 1 January to 31 July 2020, OHCHR recorded 75 such incidents, including 41 that resulted in damage to civilian objects:

INCIDENTS IN WHICH CIVILIAN OBJECTS (EXCLUDING CIVILIAN HOUSING) WERE AFFECTED BY HOSTILITIES (from 1 January to 31 July 2020, per type of object, territory of control and functional status)

	Armed group-controlled territory	Government-controlled territory	Total ^[1]
Medical facilities	0	0	0
Educational facilities	13	4	17 (12 operational)
Water and sanitation facilities/pipes	43 ^[2]	3	46 (45 operational)
Electrical power facilities/lines	6	2	8 (6 operational)
Gas facilities/lines	1	0	1 (1 operational)
Public buildings	0	1	1 (1 operational)
Shops and markets	2	0	2 (1 operational)
Total	65	10	75 (66 operational)
<i>Per cent</i>	86.7%	13.3%	100.0%

[1] Including the number of incidents affecting facilities which were operational at the time they were affected.

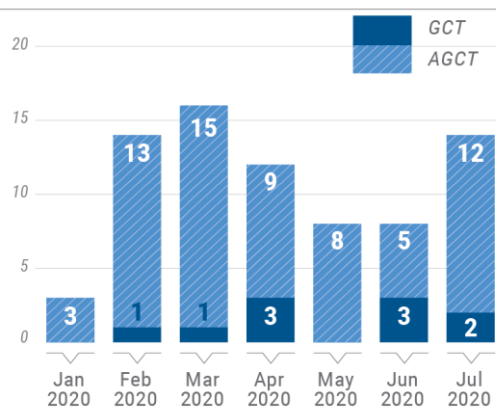
[2] Including 34 incidents that affected seven water and sewage stations with no physical damage caused to them. The stations were operating during the attacks and their personnel had to seek shelter because of shelling or SALW fire.

31. International humanitarian law protects civilian objects, requiring all parties to an armed conflict to distinguish between civilian objects and military objectives, and to refrain from targeting civilian objects.¹³

Educational facilities

32. Between 1 January and 31 July 2020, 13 schools and kindergartens were damaged or affected by shelling and SALW fire.¹⁴ Of 17 incidents recorded by OHCHR, 13 occurred in territory controlled by ‘Donetsk people’s republic’, and four in Government-controlled territory (three in Luhansk region and one in Donetsk region).

INCIDENTS IN WHICH CIVILIAN OBJECTS (EXCLUDING CIVILIAN HOUSING) WERE AFFECTED IN 2020



Creation Date: 26 August 2020 Source: OHCHR HRMMU

33. The vast majority of incidents occurred in the morning or evening, when neither children nor personnel were present. The only exception was the incident of 21 March, in which a girl was injured by light weapons fire in a yard of a functioning school in armed group-controlled Oleksandrivka (Donetsk region).

34. In most cases, damage was moderate, with walls and windows being hit by shrapnel or stray bullets. For instance, on 30 April, shrapnel from shelling damaged the window glass of a school in Government-controlled Zolote-4 (Luhansk region). On 27 June, the windows, walls and floor of a school in Petrovskiyi district of armed group-controlled Donetsk were damaged as a result of light weapons fire. On 16 July, the facade of the same school was damaged by mortar shelling.

Water and sanitation facilities/pipes

35. From 1 January to 31 July 2020, OHCHR recorded 46 incidents affecting 16 water and sanitation facilities¹⁵: 43 incidents in territory controlled by ‘Donetsk people’s republic’ (including 34 in which no physical damage was caused¹⁶), and three in Government-controlled territory of Donetsk region.

36. For example, on 26 February, while workers of the South Donbas Waterway were repairing a pipeline in armed group-controlled territory of Donetsk region, several shells exploded 400-700 meters from them. On 20 May, fourteen dayshift workers of the 1st Lift Pumping Station of the South Donbas Waterway sought cover in a bomb shelter due to shelling in the vicinity. On 9 July, a worker of Popasnianskiy Waterway was injured by shelling while his team was repairing a pipeline near Government-controlled Novotoshkivske (Luhansk region).

¹³ Customary international humanitarian law, Rule 7.

¹⁴ School No. 10 in Horlivka and the secondary school in Oleksandrivka were hit twice, and school No. 116 in Donetsk was hit three times.

¹⁵ Of particular concern, the 1st Lift Pumping Station of the South Donbas Waterway was affected ten times, Horlivka City Wastewater Treatment Plant (WTP) was affected five times, Donetsk Filter Station was affected eight times, and Holmovskiyi WTP and Sewage Pumping Station No. 2 were affected ten and two times, respectively.

¹⁶ Thirty-three of these incidents were due to shelling, and one incident was due to SALW fire. In all but one of these 34 incidents (which did not cause any damage), one or more workers were present and had to interrupt their tasks to take cover in a bomb shelter. Of the 34 incidents, shelling or SALW fire was reported by the facility as taking place “at” (nine times), “very close to” (18 times) or “close to” (seven times) the facilities. For example, on 28 February, workers at the Donetsk Filter Station reported hearing bullets pass over their heads while working in multiple locations, such as in the boiler room, main pumping station, and chlorine storage.

Electrical power facilities/lines

37. During the reporting period, OHCHR recorded eight incidents of damage to electrical infrastructure: six in armed group-controlled territory (four in territory controlled by ‘Donetsk people’s republic’ and two in territory controlled by ‘Luhansk people’s republic’), and two in Government-controlled territory of Donetsk region.

38. For example, on 7 April, an electric substation in armed group-controlled Ozerianivka (Donetsk region) was hit during shelling, resulting in several hours of power cuts to water and sanitation facilities in Donetsk, Horlivka and Makiivka that services thousands of people in the area. On 20 June, a power line was damaged by shelling near Government-controlled Pivdenne (Donetsk region) affecting water supply in the area.

39. OHCHR recalls that international humanitarian law prohibits attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population.

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



“I don’t need humanitarian aid; I want it all [the conflict] to end.”

– A resident of Lopaskyne.

40. During the reporting period, hardships faced by the conflict-affected population were further exacerbated in the context of COVID-19, impacting freedom of movement and the enjoyment of economic and social rights. Access to quality healthcare, sources of livelihoods, including pensions, and family links were of particular concern.

1. Remedy and reparation to civilian victims of the conflict

Loss of life and health

41. During the reporting period, draft law No. 1115 ‘On the status and social protection of civilians who suffered as a result of hostilities and armed conflicts’ continued to be developed.¹⁷ As of 31 July 2020, the draft was not ready to be tabled in Parliament.

42. By 31 July, an Inter-Agency Commission to establish the nexus between disability and conflict-related injuries¹⁸ had granted 106 civilians with disabilities (53 men and 53 women) the same social benefits as war veterans. However, the process of obtaining this is cumbersome and places an excessive burden on applicants. As a result, many civilians with conflict-related disabilities have not yet submitted or re-submitted their applications to the Commission.

43. OHCHR is also concerned about unreasonable delays in civil lawsuits seeking compensation for damages related to the conflict. One woman filed a case against the Cabinet of Ministers in February 2018 demanding compensation for the death of her father who was killed by shelling in the Government-controlled town of Kurakhove (Donetsk region) in February 2015. In 2020, the court proceedings were frequently postponed, with the next hearing scheduled for 10 September.

Loss of housing and property

44. OHCHR welcomes the progressive development, during the reporting period, of a draft law that would establish a comprehensive compensatory mechanism for the loss of housing and other property by civilians affected by the conflict¹⁹. However, OHCHR regrets

¹⁷ See OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020*, para. 32-34, available at www.ohchr.org/Documents/Countries/UA/29thReportUkraine_EN.pdf

¹⁸ See OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020*, para 35.

¹⁹ See OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020*, paras. 32-34.

that the Government's commitment to address shortcomings in Cabinet of Ministers Resolution No. 947 on compensation for civilian housing destroyed by the conflict has not yet been fulfilled.²⁰ OHCHR also regrets that the 2020 budget allocation to implement the Resolution was reduced from UAH 40.2 million (approx. \$1.4 million) to UAH 20.1 million (approx. \$700,000).

Military use of civilian property

45. The Government is yet to adopt legislation that would oblige the military to properly document its use of civilian property and to cover related expenses and any damage caused.²¹ During the reporting period, OHCHR continued to document cases of military use of civilian property with no lease agreements with owners or tenants.²² As a result, civilians continued to face difficulties obtaining compensation for utility bills accumulated by the military, and damage they have caused to private property.

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

"It is like a nightmare, we are in the 'grey zone', and sleep in a bus stop, there is no food nor water, when will this end? I want to wake up and forget everything."

A pregnant woman stuck in the grey zone and unable to cross to armed group-controlled territory via 'Novotroitske' EECF. EECF.

46. From 16 March, the JFO began to apply restrictive measures on movements through the EECFs at the contact line, and allowed only exceptional crossings on humanitarian grounds. The self-proclaimed 'republics' established similar restrictions on 21 March.

47. From late March to mid-June, the number of monthly crossings decreased from 1.3 million in both directions to a few hundred (mostly in Luhansk region with virtually no crossings in Donetsk region). As a result, thousands of people were separated from their families, lost access to quality healthcare, pensions, social protection and work places. Women and older persons who comprised the majority of those crossing before the COVID-19 lockdown, were particularly affected.

48. On 10 June, the Government re-opened 'Stanytsia Luhanska' (Luhansk region) and 'Marinka' (Donetsk region) EECFs. On 19 June, 'Luhansk people's republic' re-opened the 'Stanytsia Luhanska' EECF for crossing to Government-controlled territory, and for crossings in the opposite direction based on residence registration in territory controlled by armed groups. 'Donetsk people's republic' first re-opened 'Novotroitske' EECF on 25 June; in July, the EECF was open for 2-3 days per week on the armed group-controlled side, and permanently open on the Government-controlled side.²³ From 19 June to 31 July, the total number of crossings in Donetsk and Luhansk regions comprised 43,000 (in both directions), which was much lower than during pre-COVID-19 period, and particularly low in Donetsk region (2,300 in both directions).

49. Since the end of June, to enter territory controlled by 'Donetsk people's republic' through the EECF, civilians must have permission from the 'operational headquarters to combat COVID-19 spread' of 'Donetsk people's republic' and be registered on that territory. To leave territory controlled by 'Donetsk people's republic' to Government-controlled territory through the EECF, civilians must be registered in Government-controlled territory. Additionally, those entering Government-controlled territory were required to install the 'Act at Home' mobile application which effectively discriminated against those who could not

²⁰ See OHCHR, *Report on the human rights situation in Ukraine, 16 May to 15 August 2019*, paras. 34-36.

²¹ Currently regulated by the Ministry of Defence order No. 380 of 31 July 2018, which entered into force on 16 October 2018, available at: <https://zakon.rada.gov.ua/laws/show/z1020-18#Text>.

²² OHCHR interviews, 26 May 2020 and 23 July 2020.

²³ The Government also re-opened other EECFs in Hnutove, Maiorske and Marinka, but all three EECFs leading to territory controlled by 'Donetsk people's republic' remained closed on the armed group-controlled side.

afford smartphones. Because those seeking to cross could not always comply with the various requirements and the ‘operational headquarters’ issued a very limited number of permissions, dozens of people were forced to spend nights in the open air in front of, or near, EECs, and thousands of other people with pressing humanitarian needs, especially those without registration in Government-controlled territory, were prevented from crossing. An additional concern was an obligation, imposed by representatives of ‘Donetsk people’s republic’, for those crossing to Government-controlled territory to sign a document saying that they would not return until the epidemiological situation improves. Those who signed have been unable to return to armed group-controlled territory, forcing them to remain on Government-controlled territory without certainty as to when they will be able to return.

50. Since mid-April, OHCHR together with other UN agencies and international and national partners has been advocating with the Government and self-proclaimed ‘republics’ for the safe and progressive easing of movement restrictions, and on the facilitation of quick, safe and dignified crossings of the contact line by those with pressing humanitarian needs until the epidemiological situation allows for the full re-opening of EECs.

51. OHCHR is also concerned that the cancellation of local public transport during the strict quarantine rendered access to basic services by residents along the contact line more difficult. For example, residents of Government-controlled Hnutove and Pyshevyk villages (Donetsk region) had to walk about seven kilometres to access food shops and healthcare in other villages.²⁴

3. Right to social security

52. OHCHR regrets that the law to de-link payment of pensions from IDP registration,²⁵ is yet to be adopted. At the same time, OHCHR notes with appreciation that, in the context of the COVID-19 pandemic, the Government did not oblige IDP pensioners to undergo identification checks every second month (as normally required) to be able to receive their pensions, and that pension arrears are accumulated in pensioners’ bank accounts. OHCHR also welcomes a decision by the Supreme Court recognizing the right of an individual residing in territory controlled by self-proclaimed ‘republics’ to a pension.²⁶

IV. Right to liberty and security of persons



“I don’t ask anything for myself; just help my father, who is detained by the armed groups. I have no idea of his whereabouts.”

A female IDP from Odesa whose father was detained in territory controlled by ‘Donetsk people’s republic’ in December 2019.

A. Access to places of detention

53. 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. From 16 February to 31 July 2020, OHCHR interviewed 27 detainees (26 men and one woman) in detention facilities in Bakhmut, Mariupol, Starobilsk and Zaporizhzhia.

54. In territory controlled by self-proclaimed ‘republics’, OHCHR continued to be denied access to detainees and places of deprivation of liberty. This was 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 standards.

²⁴ OHCHR field visit, 13 May 2020.

²⁵ See OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020*, para. 39.

²⁶ Available at www.reyestr.court.gov.ua/Review/88245473.

B. Arbitrary detention, torture, ill-treatment and sexual violence



By the Government of Ukraine

55. Torture and ill-treatment by law enforcement officials remains systemic in Ukraine. During the reporting period, it was exemplified by a highly publicised case in Kaharlyk police department (Kyiv region). In the evening of 23 May, a woman was summoned to the police department as a witness to testify about a theft. She was held there until 4.00 a.m. the next day. One police officer suffocated her with a gas mask, beat her on the head and body, shot a gun over her head, and threatened her with a stun gun. Another officer raped the woman several times. The same officers beat the man suspected of the theft on the head with truncheons, suffocated him with a gas mask, fired a gun over his head and threatened him with rape. Following the incident, ten officers of the department were suspended, and the two alleged perpetrators were detained and charged under articles 127 (torture) and 152 (rape) of the Criminal Code. During the investigation, two other officers of the same department were notified of suspicion of torture of other detainees. Following this, a coordination meeting of heads of law enforcement agencies was organized on 4 June by the Prosecutor-General of Ukraine. The participants declared zero tolerance to torture and ill-treatment by law enforcement officials and agreed on a number of specific measures.

56. According to the State Bureau of Investigation (SBI), from 1 January to 31 August 2020, pre-trial investigations were launched into 1,066 allegations of torture and ill-treatment by law enforcements officers, including 22 under article 127 (torture) of the Criminal Code. In total, by the end of August 2020, the SBI had opened 1,948 pre-trial investigations related to the use of torture and ill-treatment, including 71 under article 127 of the Criminal Code. Since the end of 2018, 75 cases have been sent to court against 155 people, including seven cases against 19 people under article 127 of the Criminal Code.²⁷ OHCHR is concerned that the majority of investigations into acts of torture or ill-treatment are carried out under article 365 (excess of authority or official powers) of the Criminal Code. OHCHR hopes that the long-standing UN recommendation to bring article 127 of the Criminal Code fully in line with the UN Convention against Torture will be implemented.

57. OHCHR did not document cases of conflict-related torture or ill-treatment by Government actors that occurred during the reporting period. OHCHR continued, however, to document and follow cases that occurred before 16 February 2020 for which there was still no accountability. For example, in December 2014, a man was apprehended by unknown men in balaclavas and taken with a bag on his head to a forest area near the Government-controlled city of Mariupol (Donetsk region). He was kicked all over his body and subjected to a mock execution: the perpetrators put him on his knees and shot over his head with a machine gun. He was then taken to the basement of the Security Service of Ukraine (SBU) in Mariupol, where he was beaten over the next few days until he agreed to sign a confession that he was a member of armed groups of ‘Donetsk people’s republic’. In March 2015, following a court ruling to release him on bail, he was brought to the Kharkiv SBU and held incommunicado until his release in 2016 as part of one of the simultaneous releases agreed under the Minsk agreements.²⁸

By self-proclaimed ‘republics’

58. During the reporting period, OHCHR continued to document cases of arbitrary and incommunicado detention, and torture and ill-treatment, including sexual violence, in territory controlled by ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’.

59. On 16 April, a simultaneous release of detainees under the Minsk agreements occurred. The Government released 17 individuals (all men), of whom ten were handed over to representatives of ‘Donetsk people’s republic’, and four to ‘Luhansk people’s republic’.²⁹ The self-proclaimed ‘republics’ released 20 detainees: nine detainees (all men) from

²⁷ The information provided above is based on statistics provided by the SBI to HRMMU on 2 September. It includes data updated to 31 August 2020.

²⁸ OHCHR interview, 13 April 2020.

²⁹ The remaining three, pardoned by the President, decided, at the last minute, not to travel to territory controlled by armed groups.

‘Donetsk people’s republic’, and 11 detainees (ten men and one woman) from ‘Luhansk people’s republic’.

60. OHCHR interviewed eight of the detainees (all men) released by self-proclaimed ‘republics’. Their testimonies confirmed patterns of arbitrary and incommunicado detention, and torture and ill-treatment of conflict-related detainees that had been previously identified by OHCHR.³⁰

61. Individuals interviewed by OHCHR were apprehended by a ‘police unit for combating organized crime’ or by the ‘ministry of state security’ in territory controlled by ‘Luhansk people’s republic’, or by a ‘police unit for combating organized crime’ in territory controlled by ‘Donetsk people’s republic’. Seven detainees informed OHCHR of being tortured or ill-treated, with reported incidents taking place from 2015 to 2018.³¹ Methods of torture and ill-treatment included beatings on different parts of the body, dry asphyxiation, electric shocks, sexual violence, including blows and electric shocks to the genitals, positional torture, prolonged solitary confinement, deprivation of water, food, sleep or access to toilets and threats of physical violence to detainees and their families.

62. One detainee told OHCHR that after his apprehension in Luhansk in June 2018, he was locked in a rubbish bin with a lid for three days. He was not allowed out to use the toilet and was not given any food, only water.³² Another detainee told OHCHR that on one day in November 2016 on the premises of the ‘department for combating organized crime’ in Donetsk, a masked individual beat him with rubber stick on the torso, hips, and kidneys. When he fell to the floor, the man kicked him, placed him on his knees on a chair and beat him on his heels. Another day, the man was forced to hold a chair with outstretched arms and was beaten after letting the chair fall.³³ A third detainee told OHCHR that one day on the premises of the ‘department for combating organized crime’ in Luhansk in April 2018, while handcuffed, a gas mask was placed on his head and an unidentified gas was pumped through the mask, which made him lose consciousness. Another day, his arms and legs were stretched out and tied up, and an ‘officer’ from the ‘department of combating organized crime’ kicked his genitals, after which the man fainted due to the pain.³⁴

63. Torture and ill-treatment were used to coerce victims to confess, provide information, agree to be filmed or otherwise cooperate with ‘investigation’. For example, one detainee told OHCHR that on one day in June 2018, ‘officers’ of the ‘ministry of state security’ in Luhansk connected wires from a military field telephone to his genitals and administered electric shocks to coerce him to record a video “against Ukraine”.³⁵ Another detainee in Donetsk was told “to sign everything on the page or we’ll continue to torture you”³⁶.

C. COVID-19 in the penitentiary system



64. In mid-March 2020, the State Penitentiary Service of Ukraine adopted a set of measures to prevent the spread of COVID-19 in places of detention in line with several WHO recommendations.³⁷ The Parliamentary Commissioner for Human Rights whose Office had been monitoring COVID-19 compliance in the penitentiary since April, noted on 7 May, that in penitentiary institutions, temperature screening of personnel and prisoners was not systematically carried out, they were insufficiently provided with personal protective

³⁰ See Annex I to OHCHR, *Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020*.

³¹ OHCHR interviews, 6 and 7 May 2020.

³² OHCHR interview, 6 May 2020.

³³ OHCHR interview, 7 May 2020.

³⁴ OHCHR interview, 6 May 2020.

³⁵ OHCHR interview, 6 May 2020.

³⁶ OHCHR interview, 7 May 2020.

³⁷ WHO Regional Office for Europe, *Preparedness, prevention and control of COVID-19 in prisons and other places of detention*, 15 March 2020, available at www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf?ua=1.

equipment, and the premises were not disinfected.³⁸ On 17 June, she found COVID-19 prevention measures in the penitentiary were improving, and said the prevalence of COVID-19 was lower than it could be.³⁹

65. As of 31 July, 784 COVID-19 tests had been carried out in the penitentiary system⁴⁰, and as of 31 July, 57 COVID-19 cases had been detected (among 42 penitentiary staff, nine medical personnel, four prisoners, and two pre-trial detainees), of which 40 people had recovered and one had died. OHCHR notes that the actual number of COVID-19 cases may be underreported due to low rates of testing. OHCHR also remains concerned that due to quarantine restrictions, detainees in need of specialized medical treatment (not related to COVID-19) faced difficulties being transferred to medical facilities.

66. Without access to places of detention in territory controlled by self-proclaimed ‘republics’, OHCHR received only fragmented information on COVID-19 prevention measures and rates of compliance with such measures there. For example, in penal colony No. 97 in Makiivka and in Donetsk SIZO, staff did not wear masks. Also in Donetsk SIZO, cells and surfaces were not disinfected. In territory controlled by ‘Luhansk people’s republic’, visits and parcels were temporarily suspended in penal colonies, while in Luhansk SIZO, detainees could receive parcels and hold meetings in specially adapted rooms through a glass partition.⁴¹

V. Administration of justice and accountability



“It all began with a simple administrative case... and then we found ourselves in the middle of all this.”

A judge who refused to take a bribe, which led to her systematic persecution in Poltava and eventually to an attempt on her life.

A. Fair trial rights



1. Administration of justice in conflict related cases

67. OHCHR monitored developments in conflict-related criminal cases. The infographic below provides an overview of the findings concerning the verdicts in these cases.

³⁸ Facebook post by the Ukrainian Parliament Commissioner for Human Rights, 7 May 2020, available at www.facebook.com/denisovaombudsman/posts/3740181919387863.

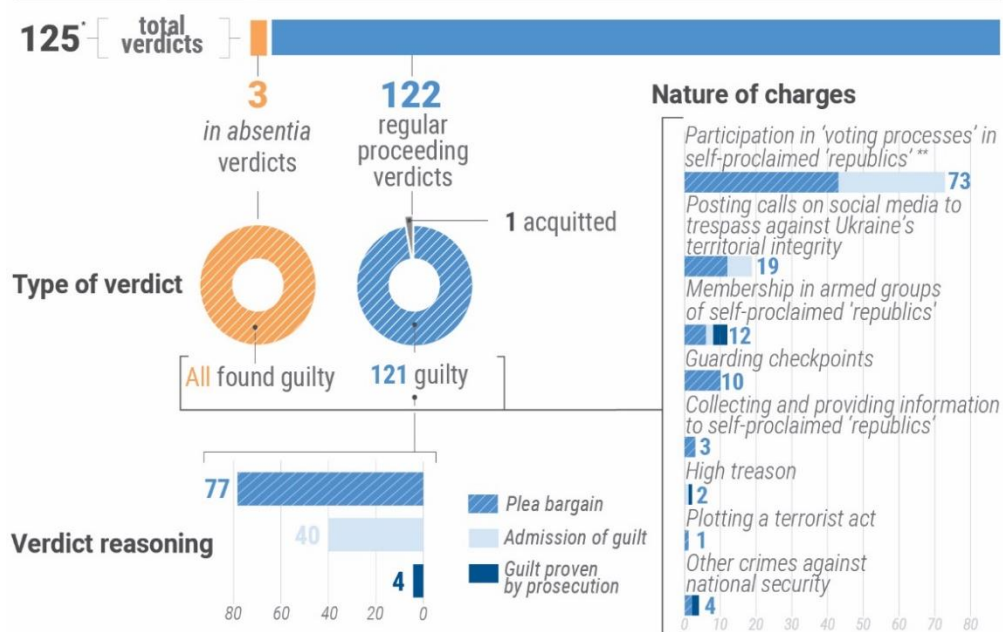
³⁹ “Денісова заявила про поліпшення ситуації із COVID-19 у тюрмах” [Denisova said the situation with COVID-19 in prisons had improved], *Ukrinform*, 17 June 2020, available at www.ukrinform.ua/rubric-regions/3046620-denisova-zaavila-pro-polipsenna-situacii-iz-covid19-uturmah.html.

⁴⁰ According to the Ministry of Justice, as of 6 August 2020, 51,341 prisoners and detainees were held in penitentiary facilities (31,799 in 99 penal colonies, correctional centres and juvenile correctional facilities, and 19,542 in 30 pre-trial detention facilities).

⁴¹ OHCHR interviews, 7 and 14 July 2020.

VERDICTS OF TRIAL COURTS IN CONFLICT-RELATED CRIMINAL CASES

from 16 February to 31 July 2020



Creation Date: 7 September 2020
Source: OHCHR HRMMU

* These 125 verdicts were rendered against 128 individuals (64 men and 64 women).
** Working in so-called 'election commissions' or calling for participation in so-called 'referendums' or 'elections'.

68. On 11 June 2020, the Constitutional Court of Ukraine found unconstitutional article 375 of the Criminal Code, which imposed criminal liability on judges for rendering “deliberately unjust decisions”.⁴² The court concluded that the vagueness of the article enhanced the risk of judges being subjected to interference in their decision making. OHCHR welcomes this decision, having previously found that this article was used by the prosecution in conflict-related criminal cases to interfere with the independence of judges.⁴³

69. OHCHR continued to observe delays in conflict-related criminal cases, caused by the lack of judges, with more than 40 per cent of existing judicial positions vacant as of May 2020.⁴⁴ OHCHR notes that the situation worsened following the dissolution of the High Qualification Commission of Judges in October 2019 and the failure to constitute a new Commission.⁴⁵ This judicial governance body is responsible for selecting new judges and conducting qualification assessments of active judges appointed before 2016. OHCHR recalls that international human rights standards require States to organize their judiciary in a way that allows for expeditious trials in all instances.⁴⁶

2. Impact of COVID-19 on fair trial rights

70. During the reporting period, OHCHR monitored the impact of COVID-19 quarantine restrictions on access to justice and fair trial rights.⁴⁷ According to an OHCHR survey

⁴² Decision of the Constitutional Court of 11 June 2020 No 7-p/2020. Available at www.ccu.gov.ua/sites/default/files/docs/7_p_2020.pdf. The article is to be annulled in six months from the adoption of the decision.

⁴³ OHCHR, *Report on the human rights situation in Ukraine 16 May to 15 August 2018*, para. 66, available at www.ohchr.org/Documents/Countries/UA/ReportUkraineMay-August2018_EN.pdf.

⁴⁴ According to the Head of the Council of Judges. See www.rsu.gov.ua/ua/news/golova-radi-suddiv-ukraini-bogdan-monic-vzav-ucast-u-zasidanni-plenumu-verhovnogo-sudu.

⁴⁵ See the Law of Ukraine No. 193-IX of 16 October 2019.

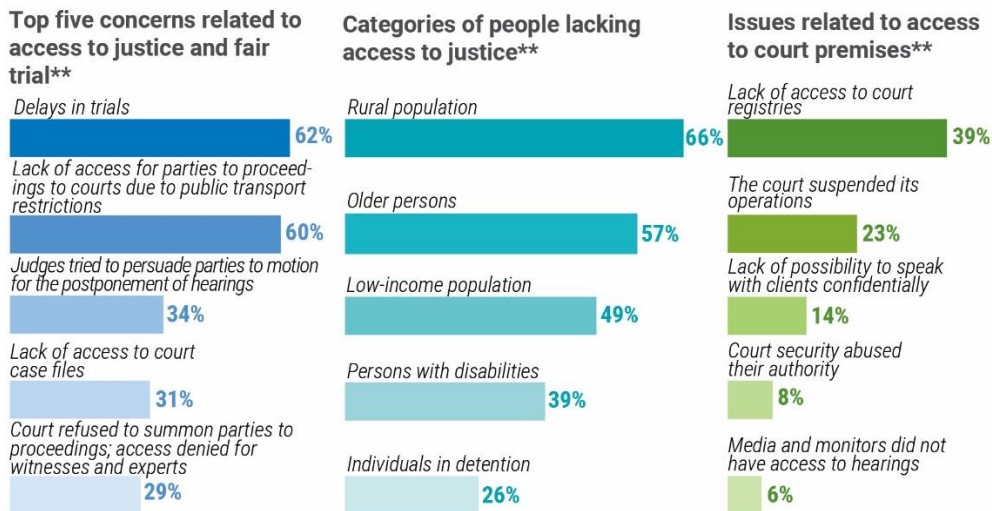
⁴⁶ See Human Rights Committee, General Comment No. 32, Article 14, Right to equality before courts and tribunals and to fair trial, para. 27, 23 August 2007, CCPR/C/GC/32, available at www.undocs.org/en/CCPR/C/GC/32.

⁴⁷ On 27 March 2020 the High Council of Justice recommended courts to limit access to courts of individuals who are not party to any proceedings and to shift to receiving documents in digital form. On 30 March 2020, the Parliament adopted the law No. 731-IX allowing courts to hold hearings in camera during the quarantine period to minimize threat to life and health of individuals.

amongst 121 lawyers,⁴⁸ COVID-19 restrictions made it more difficult to access court registries, to hold confidential meetings with clients held in detention and increased delays in trials (see below).

ACCESS TO JUSTICE IN THE CONTEXT OF COVID-19 QUARANTINE RESTRICTIONS

Fair trial rights concerns as indicated by lawyers*



Creation Date: 7 September 2020
Source: OHCHR HRMMU

* Total of 121 lawyers practicing in eight different regions of Ukraine participated in online survey conducted by HRMMU, of which 77 provided secondary free legal aid.
** Data represents those respondents who experienced or observed the concern/issue.

71. Journalists complained⁴⁹ to OHCHR that after the Government partially lifted quarantine restrictions in May 2020, many courts continued to ban the presence of observers in courtrooms, even in cases where conditions allowed for safe physical distancing.

B. Accountability for killings and violent deaths



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

72. During the reporting period, OHCHR observed almost no progress in criminal proceedings related to accountability for grave human rights violations allegedly perpetrated by members of Ukrainian forces.

73. In this regard, OHCHR notes a court decision on compensation for non-pecuniary damage for the killing of a civilian on 22 October 2014 in Mariupol.⁵⁰ While establishing that the perpetrators belonged to a special police regiment, the investigation into the killing failed to identify specific responsible individuals. After almost five years of ineffective investigation, the mother of the victim filed a civil claim against the Ministry of Interior as the body responsible for the actions of the regiment. The court awarded the victim 250 000 UAH (approx. \$9 500) for non-pecuniary damage caused by the violation of her right to an effective remedy due to the ineffective investigation. At the same time, the court rejected her claims for compensation for damages caused by the killing of her son, concluding that it could not be ordered in any type of proceedings pending the conclusion of the investigation. OHCHR reiterates its call for the Government to ensure effective investigation into all cases of grave human rights violations, irrespective of the affiliation of the perpetrators.

⁴⁸ The survey was conducted in May 2020 and the respondents described the situation mainly during the period of late March – early May 2020, when the most severe quarantine restrictions were in force.

⁴⁹ OHCHR interviews, 26 June 2020, 8, 9 and 16 July 2020.

⁵⁰ Decision of the Pecherskyi district court in Kyiv of 7 May 2020 in case No. 757/33629/19-11.

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

74. While related trials continued to be delayed, the pre-trial investigations into four of the killings during the Maidan protests progressed, leading to the identification of five alleged perpetrators (four men and one woman).

75. On 18 February 2020, the Prosecutor General's Office reported the arrest of an Internal Troops soldier in relation to the killing of a protester on 20 February 2014. After two months of house arrest, on 16 April 2020, he was released on bail.

76. On 18 June 2020, as part of *in absentia* proceedings, the SBI charged a former officer from the Berkut riot police unit in relation to the killing of 48 and attempted killing of 80 protesters on 20 February 2014. On 22 June, a court in Kyiv ordered pre-trial detention of the suspect *in absentia*.⁵¹

77. On 10 March 2020, the SBI arrested and charged a member of a criminal gang responsible for the abduction and torture of two Maidan protesters, which led to the death of one. On 12 March, another member of the gang was arrested. The court placed both men in detention, where they remained as of 31 July 2020.

78. On 10 April 2020, the SBI charged a Maidan protester with the intentional killing of a man in the office of the Party of Regions, which was set on fire amidst escalating violence in central Kyiv on 18 February 2014. On 16 April, the court placed her under round-the-clock house arrest.

79. OHCHR also notes that the Pecherskyi district court of Kyiv authorized the arrest of then President Yanukovich in criminal proceedings related to killings and violent deaths of protesters in Kyiv on 18 and 20 February 2014.⁵² The court also authorized the arrest of former members of his cabinet – the Minister of Defense and two heads of law enforcement agencies. According to the prosecution, this step should facilitate their extradition.

80. No progress was observed in the investigation of the killings of 13 police officers on 18 and 20 February 2014 in Kyiv. OHCHR notes that members of Parliament brought the so-called 'immunity law' before the Constitutional Court, claiming its unconstitutionality.⁵³ OHCHR has recommended repeal of the law, as it hinders the investigation of the killings of the 13 law enforcement officers and prevents accountability for grave human rights violations.⁵⁴

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

81. There has been no significant progress in investigations of killings and violent deaths on 2 May 2014 in Odesa since HRMMU released the update to its briefing note in May 2020 on the state of accountability proceedings in these cases.⁵⁵ Trial delays were exacerbated due to pandemic-related restrictions.

⁵¹ See Ruling of Pecherskyi district court of Kyiv of 22 June 2020 in case No. 757/25609/20-к.

⁵² See Ruling of Pecherskyi district court of Kyiv of 12 May 2020 in case No. 757/16624/20-к.

⁵³ The 'Law on prevention of prosecution and punishment of individuals in respect of events, which have taken place during peaceful assemblies and recognising the repeal of certain laws of Ukraine', adopted by the Parliament on 21 February 2014, available at <https://zakon.rada.gov.ua/laws/show/743-18>.

⁵⁴ See HRMMU, *Briefing note on Accountability for Killings and Violent Deaths during the Maidan protests, 19 February 2019*, para. 63, available at: www.un.org.ua/images/documents/4700/Accountability%20for%20Killings%20and%20Violent%20Deaths%20During%20the%20Maidan%20Protest_2.pdf.

⁵⁵ See HRMMU, *Briefing note on Accountability for Killings and Violent Deaths on 2 May in Odesa, 2019*, available at www.un.org.ua/images/documents/4671/Accountability%20for%20Killings%20and%20Violent%20Deaths%20on%202%20May%202014%20in%20Odesa_1.pdf. For the most recent update on the investigations, see also HRMMU, *Accountability for Killings and Violent Deaths on 2 May 2014 in Odesa, 2020*, available at www.un.org.ua/images/documents/4889/2%20May%202020%20ENG.pdf.

VI. Civic space and fundamental freedoms

“There are more and more attacks [by extreme right-wing groups] because of the upcoming local elections.”

Head of the branch of a political party in Zaporizhzhia commenting recent attacks on political activists.

A. Freedom of peaceful assembly and association



82. OHCHR monitored twelve assemblies on site and 43 remotely. In most cases, the authorities sufficiently mitigated risks of violence and responded adequately to security incidents.

83. However, OHCHR is concerned that law enforcement arbitrarily applied COVID-19 quarantine restrictions, and several assemblies were dispersed, or organizers faced administrative or criminal proceedings, while other assemblies occurred without obstacles. For example, the police referred to quarantine restrictions when dissolving an LGBTI event in Kyiv on 25 June 2020.

84. OHCHR documented attacks against peaceful gatherings of opposition political parties, as well as against political party offices and political activists by ERWG and reportedly affiliated individuals, raising concerns as Ukraine approaches local elections in October 2020. For example, on 25 June 2020, a political party activist was violently attacked near his home in Kharkiv, an hour after he filed a complaint with the National Police about threats received from members of ERWG.⁵⁶ In some cases, the police failed to prevent attacks, and failed to investigate victims' complaints, allowing attackers to evade accountability.⁵⁷ For example, on 17 June 2020 in Kyiv, members of a political party were injured after being beaten and sprayed with pepper spray during and after a peaceful rally.⁵⁸ Law enforcement officers failed to detain the attackers, and discouraged the victims from submitting complaints. The failure of authorities to prosecute perpetrators of a wave of similar attacks in 2018-2019 has contributed to an environment in which such attacks can continue.⁵⁹

85. OHCHR is also concerned about potential limitations on the right to freedom of assembly in the work place and the right to freedom of expression⁶⁰ should proposed draft laws on trade unions⁶¹ and strikes and lockouts⁶² be adopted. Contrary to International Labour Organization (ILO) conventions,⁶³ these draft laws would limit workers' rights to establish more than two trade unions, within the same workplace, increase the minimum number of members of trade unions, and eliminate collective bargaining.⁶⁴

⁵⁶ OHCHR interview, 25 June 2020.

⁵⁷ OHCHR interviews, 19 June 2020, 25 June 2020. Facebook post by the Communications Department of Poltava Police, available at www.facebook.com/police.polt/posts/2643070989128506?__tn__=-.

⁵⁸ OHCHR interviews, 18-19 June 2020.

⁵⁹ For example, on 12 December 2018, a group allegedly tied to an ERWG stormed the office of a political party in Kyiv, beating at least two political activists.

⁶⁰ The Special Rapporteur on the rights to freedom of peaceful assembly and of association expressed his concern on the draft laws in his Communication to the Government of Ukraine of 17 July 2020 (OL UKR 2/2020); available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25408>.

⁶¹ Draft law “On amending certain legislative acts of Ukraine (on certain issues concerning trade unions)” No. 2681 of 27 December 2019.

⁶² Draft law “On strikes and lockouts” No. 2682 of 27 December 2019.

⁶³ See International Labour Organization, Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

⁶⁴ In March 2020, the UN Committee on Economic, Social and Cultural Rights (CESCR) stated that these draft laws would weaken the powers of trade unions, including the right to strike, resulting in violations of article 8 of the International Covenant on Economic, Social and Cultural Rights and

86. OHCHR remains concerned about the lack of freedom of peaceful assembly in territory controlled by self-proclaimed ‘republics’. Protests by coal miners against salary delays reportedly resulted in a series of arrests of participants.⁶⁵ OHCHR was also informed of cases when some employees of ‘public’ institutions of ‘Luhansk people’s republic’ holding Russian Federation citizenship were asked by their management to justify their failure to participate in the referendum on amendments to the Constitution of the Russian Federation in June 2020.⁶⁶

B. Freedom of opinion and expression and of the media



87. OHCHR continued to document attacks and threats against media workers in relation to their work, made both in person and online. During the reporting period, OHCHR recorded seven incidents of physical attacks combined with verbal threats, affecting four female and five male victims. A significant number of incidents targeted journalists whose work focused on the authorities’ response to COVID-19. On 29 April 2020, a well-known journalist and his cameraman were attacked by law enforcement officials, after they refused to leave the site from where they were filming a COVID-19-related rally near the Cabinet of Ministers building in Kyiv.

88. On 24 March 2020, a TV journalist was physically attacked in Krasyliv (Khmelnyskyi region) while filming an investigative report about local suppliers of personal protective equipment (PPEs). The attack was appropriately classified by police as intentional bodily injury of a journalist in relation to their professional activities. The investigators, however, attempted to close the case referring to lack of *corpus delicti*, which may amount to a failure to investigate.⁶⁷

89. OHCHR is also concerned about other threats received by investigative journalists in relation to their work. Starting from 5 July until the end of the reporting period, an investigative journalist was repeatedly threatened online by individuals allegedly affiliated with ERWG after she exposed possible links of such groups with a fact-checking organization.⁶⁸ Another journalist received anonymous threats after she published an article about Telegram channels popular amongst members of Parliament that she alleged were administered in the Russian Federation.⁶⁹ In both cases the perpetrators had not been identified as of 31 July 2020.

90. OHCHR continued to observe further shrinking of civic space in territory controlled by self-proclaimed ‘republics’, including through the enforcement of new ‘regulations’ limiting freedom of expression online. While social media was the only platform available for some expression of critical voices, following administrative restrictions imposed in December 2019,⁷⁰ OHCHR observed fewer critical views published on social media.

urged Ukraine to review the draft laws with a view to ensuring the effectiveness of collective bargaining and of the right to union representation, CESCR, *Concluding Observations* (E/C.12/UKR/CO/7), paras. 27, 28.

⁶⁵ OHCHR interviews, 10 June 2020, 24 July 2020.

⁶⁶ OHCHR interviews, 30 June 2020, 7 July 2020.

⁶⁷ OHCHR interview, 21 July 2020.

⁶⁸ OHCHR interview, 30 July 2020.

⁶⁹ OHCHR interview, 17 August 2020.

⁷⁰ In December, ‘Luhansk people’s republic’ expanded the list of ‘administrative offences’ to include dissemination, including online, of information offending human dignity or public morals and explicit disrespect to ‘authorities’. See OHCHR, *Report on the human rights situation in Ukraine 16 November 2019 to 15 February 2020*, para. 99.

C. Discrimination, violence and manifestations of intolerance



“As long as you are here and you look like this, these type of things will continue happening.”

A female medical worker to a transphobic attack survivor while she treated her broken nose.

91. During the reporting period, OHCHR documented five new attacks against LGBTI people and people perceived to be LGBTI, for example on the basis of their clothing and style which do not conform to community-based gender norms, and noted the failure of law enforcement authorities to effectively investigate previous attacks.

92. On 24 April 2020, three attackers broke the nose of a transgender woman in Kharkiv’s city centre, threatening and verbally harassing her with homophobic and transphobic expressions. On 30 April 2020 in Zhytomyr, a transgender person was severely beaten, sexually assaulted and robbed by a group of people who used homophobic slurs. In both cases, the investigations were delayed and the police refused to apply Article 161 of the Criminal Code (hate crimes). In the second case, the charge was added following a decision by an investigative judge.

93. OHCHR is concerned about reports of violence against feminist activists by members of ERWGs.⁷¹ For example, on 15 June 2020, members of an ERWG attacked two feminist activists who were removing posters containing homophobic phrases which had been put up by the group.⁷² A police investigation into the attack was launched, but had made no progress by 31 July.

94. OHCHR is further concerned about hate speech and slurs against members or those perceived to be members of the LGBTI community on social media⁷³ and in the street. In March 2020, the former Head of the Ukrainian Orthodox Church (Kyiv Patriarchate) Patriarch Filaret blamed same-sex marriage and “gender ideology” for the COVID-19 pandemic.⁷⁴

95. OHCHR noted incidents of discriminatory language and hate speech against Roma by State and local authorities, members of public formations⁷⁵ and the media. For example, on 8 April 2020, International Roma Day, the head of the Kyiv Municipal Guard published a video on his Facebook account showing him aggressively interrogating and harassing a woman in Kyiv, referring to her supposed Roma identity. On 21 April 2020, the mayor of Ivano-Frankivsk openly called on law enforcement to apprehend and evict a group of Roma who refused to leave voluntarily, using derogatory language, for which he later apologized.

D. Language rights



96. OHCHR notes there has been no progress in elaborating a law on the realisation of the rights of indigenous people and national minorities,⁷⁶ and calls for the Cabinet of

⁷¹ OHCHR interview, 16 June 2020.

⁷² OHCHR interview, 16 June 2020.

⁷³ For example, editors chose to remove an article about the life of a gay man after multiple homophobic comments were left on a Kramatorsk newspaper’s webpage.

⁷⁴ Ukrainska Pravda, “Filaret called the cause of the pandemic semi-sex marriages”, 22 March 2020, available at www.pravda.com.ua/news/2020/03/22/7244637.

⁷⁵ Notably the Kyiv Municipal Guard, a non-governmental entity founded in February 2017 by Kyiv-based Anti-Terrorism Operation (ATO) veterans. The leader of the group and a number of other participants are known to be active members of C14, an ERWG. In March, the group was tasked by a commission of the city authorities to assist in enforcing public order in Kyiv during the quarantine.

⁷⁶ Article 8, paragraph 3 of the final and transitional provisions of the law ‘On ensuring the functioning of Ukrainian as the State language’ instructs the Cabinet of Ministers to submit to the Parliament a draft law on the procedure for the exercise of rights of indigenous peoples and national minorities by 16 January 2020.

Ministers and Parliament to develop this law promptly, through inclusive consultations with representatives of national minorities and indigenous people.⁷⁷

E. Right to vote



97. OHCHR welcomes the adoption of a procedure to manage individual requests to change voting addresses.⁷⁸ The procedure allows voters, including IDPs and internal labour migrants, to change their voting address and exercise their right to vote in all types of elections. However, OHCHR notes with concern that, on 16 July 2020, Parliament approved a law which brings about significant changes to the electoral process.⁷⁹ The law, which entered into force on 23 July, approximately 100 days prior to local elections gives little time to authorities and voters to adjust to the new regulations, and may undermine electors' right to vote.⁸⁰

VII. Leave no one behind – economic and social rights

A. Introduction



98. Persons belonging to groups that are marginalised and in situations of vulnerability are at increased risk of being left behind during the COVID-19 crisis, as the pandemic often exacerbates existing inequalities and vulnerabilities. Those who already faced limited enjoyment of the rights to health, work, education and an adequate standard of living before the pandemic, have been disproportionately affected by COVID-19. Women have also been disproportionately affected by the pandemic, including due to an increase in domestic violence.⁸¹

99. When addressing the needs of those most at risk, it is critical that effective interventions aim to address structural inequalities and combat systemic and intersecting forms of discrimination.

B. Impact of COVID-19 on Roma



⁷⁷ See OHCHR, *Report on the human rights situation in Ukraine, 16 February to 15 May 2019*, paras. 80-81; *16 May to 15 August 2019*, paras. 98-100, available at www.ohchr.org/Documents/Countries/UA/ReportUkraine16May-15Aug2019_EN.pdf; *16 August to 15 November 2019*, paras. 87-88, available at www.ohchr.org/Documents/Countries/UA/28thReportUkraine_EN.pdf; *16 November 2019 to 15 February 2020*, para. 110.

⁷⁸ On 18 May, in line with OHCHR recommendations, the Central Election Commission adopted Resolution No. 88 “On the procedure of considering a voter's appeal on the change of the electoral address in accordance with paragraph 3 article 8 of the Law of Ukraine ‘On State Register of Voters’”. This enables local registry authorities to accept documents such as IDP registration certificates to link voters' electoral addresses to their current place of residence.

⁷⁹ On 16 July, Parliament adopted draft law No. 3485 applicable to local elections scheduled for 25 October 2020 which significantly changed the election law. *Inter alia*, the amendments changed the election procedure to local councils in communities with 10,000 to 90,000 residents from a majoritarian to a proportional electoral system.

⁸⁰ See the Venice Commission's Interpretative Declaration on the Stability of the Electoral Law (CDLAD(2005)043), para. 4 and 5, available at [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2005\)043-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2005)043-e).

⁸¹ See UN Women, *Rapid gender assessment of the situation and needs of women in the context of COVID-19 in Ukraine*, May 2020, available at www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2020/06/rapid%20gender%20assessment_en-g-min.pdf?la=en&vs=3646.

“The Roma community is perplexed, they don't know what is happening, or what's coming next, because the markets on which they depend so much are closed.”

The leader of a non-governmental organization in Sumy, referring to the period when markets were closed from 13 March to 10 May.

100. Prior to the pandemic, Roma communities in Ukraine faced endemic discrimination and social exclusion, including lack of access to adequate healthcare, water and sanitation, food security and education. Their human rights situation further deteriorated following the enforcement of anti-pandemic measures.⁸² Many Roma individuals employed in the informal sector, markets and seasonal work, both in Ukraine and abroad, lost their livelihood. The lack of access to social security and loss of income caused by quarantine measures may lead to further marginalization and stigmatization of Roma, especially those without personal identification documents who do not have access to formal employment, pensions, social benefits and healthcare. Roma women and girls was additionally marginalized owing to intersectional discrimination.⁸³

101. Thousands of Roma families live in informal settlements, which often lack access to on-site water and sanitation, and are over-crowded, increasing the risk of COVID-19. Past attacks and threats against Roma settlements across the country have left residents in fear of being evicted. They have also faced negative attitudes and hostility from members of local communities. For example, on 30 April 2020, unknown perpetrators attacked the tent of one Roma family used as shelter in Kyiv. The incident is being investigated by the police with initial classification as a hate crime.

C. Impact of COVID-19 on older persons and persons with disabilities in institutions



102. Older persons and persons with disabilities in long-term care facilities are particularly vulnerable to COVID-19, as their security and well-being depend on those who run and support these facilities, and it is difficult for carers and residents to practice social distancing. OHCHR is particularly concerned about reports of the spread of COVID-19 in a number of public and private facilities for older persons and persons with disabilities, resulting in 1385 confirmed COVID-19 cases among clients and staff in public facilities, including 13 deaths and 248 ongoing infections, as of 28 August 2020, according to the Ministry of Social Policy's data.⁸⁴ OHCHR notes that the Government does not collect any disaggregated data on COVID-19 infections in public facilities, nor any data at all in private facilities. OHCHR is also concerned about the lack of access to medical care for older persons with non-COVID-19-related health issues. Finally OHCHR notes the lack of additional assistance (financial or otherwise) for staff who stay in care facilities for extended periods to decrease residents and staff members' families' potential exposure to COVID-19.⁸⁵ Numerous facilities also reported shortages of PPE and sanitiser, and a lack of COVID-19 tests.

⁸² For more details, see HRMMU *Briefing Note on the Impact of COVID-19 Pandemic on Roma communities in Ukraine*, Kyiv, 15 May 2020, available at www.un.org.ua/images/documents/4932/BN%20C19%20Roma%20ENG.pdf.

⁸³ See UN Women, *Rapid gender assessment of the situation and needs of women in the context of COVID-19 in Ukraine*, May 2020, p. 58.

⁸⁴ According to the data provided by the Ministry to HRMMU. This includes data from after the reporting period.

⁸⁵ Between 11 April and 1 May 2020, HRMMU conducted 30 interviews with staff working in residential facilities for older persons and people with disabilities, as well as in charities and NGOs working with older persons. In July 2020, HRMMU also conducted an online questionnaire of persons who represent organizations uniting persons with disabilities or working with them, including long term care institutions, to which 119 responses were received.

D. Impact of COVID-19 on persons with disabilities



“Going to a shop now is a horror for persons with disabilities.”

A woman working on the rights of people with disabilities.

103. Persons with disabilities living in the community faced increased barriers to access healthcare, rehabilitation services, food and education, and an insufficient supply of social services to meet their growing needs during the quarantine.⁸⁶ Pre-pandemic, public infrastructure was largely inaccessible for persons with disabilities, creating barriers to social services. COVID-19 response measures exacerbated difficulties for persons with disabilities to access social services. Women with disabilities, single mothers who have children with disabilities,⁸⁷ families with several members with disabilities, internally displaced families with persons with disabilities, persons with disabilities living near the contact line and those living in homelessness were particularly vulnerable.

104. Distance learning was ineffective for children with intellectual and psychosocial disabilities due to their need for face-to-face contact with teachers, and the lack of guidance for teachers and parents. Many families also had no access to online learning because they lack the necessary technology and finances.

105. People with intellectual and psychosocial disabilities were already highly vulnerable and marginalised before the pandemic. Their situation is particularly worrisome due to the suspension of day care services and physical and psychosocial rehabilitation programmes as well as their imminent release from psychiatric facilities without proposed alternative forms of support following cuts in public funding.

E. Impact of COVID-19 on people living in homelessness



“Before they were grateful for our food-aid, but now I see that they can’t stop eating. I’ve never seen them so hungry before.”

A woman supporting homeless people in Kyiv with meals and other food items.

106. Men and women living in homelessness face a higher risk of contracting COVID-19, and have been disproportionately affected by COVID-19 response measures. Homeless women are particularly vulnerable due to intersectional discrimination. The pandemic has further limited homeless men and women’s access to healthcare services.⁸⁸ Often, their access to COVID-19 testing and treatment, face masks and sanitizers has been limited. Because of the quarantine, persons living in homelessness have lost their already limited access to shelter, food, water, hygiene, which will have a particularly negative impact on women and their menstrual needs. Sources of income have also diminished due to the closure of railway and bus stations, markets, waste recycling facilities and other places of business.

⁸⁶ Based on 57 interviews with organizations uniting persons with disabilities or working with them conducted between 2 April and 31 July 2020 and an online questionnaire with 119 respondents.

⁸⁷ UN Women, *Rapid gender assessment of the situation and needs of women in the context of COVID-19 in Ukraine*, May 2020, p. 59.

⁸⁸ See HRMMU *Briefing Note on the Impact of COVID-19 and its prevention measures on homeless people in Ukraine*, 16 June 2020, available at www.un.org.ua/images/documents/4970/Briefing_Note_Homeless_People_ENG.pdf.

107. OHCHR is further concerned that social services for homeless persons are unevenly spread across Ukraine because they depend on the good will and funding of local authorities. While six regions lack municipal shelters for homeless persons, other regions only open their shelters in winter, or have not accepted new people due to the quarantine. In one region, the municipal shelter accepts only homeless men, excluding women. Although the shelters have taken measures to prevent the spread of COVID-19, they often lack the space needed to enable new arrivals to self-isolate.

VIII. Human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation⁸⁹

A. Administration of justice and fair trial rights



108. During the reporting period, OHCHR documented a pattern of reprisals against Crimean residents who resisted pressure from Russian Federation law enforcement authorities and courts in Crimea to incriminate or “sell out” third parties. Courts also continued to pass judgments in apparent disregard of fair trial guarantees.⁹⁰

109. In one emblematic case, on 11 June 2020, a former witness in a Hizb ut-Tahrir trial was arrested by the Federal Security Service of the Russian Federation (FSB) near Sevastopol and charged with providing ‘false testimony’, a criminal offence under Russian law.⁹¹ In August 2019, during a court hearing in Rostov-on-Don, he had retracted his pre-trial statements against a man accused of membership in a terrorist organization and complained that FSB officers had ill-treated him in their office during the interrogation to obtain testimony against the defendant. Despite credible allegations of ill-treatment, the court dismissed the witness’s retraction of his previous testimony, stating that it was intended to assist the defendant in avoiding criminal liability. The witness is currently facing five years in prison. No proper investigation of his complaint of ill-treatment has occurred.⁹²

B. Freedom of religion and belief



110. International human rights law protects the right to have or to adopt a religion or belief of one’s choice and the freedom, either individually or in community with others, and in public or private, to manifest one’s religion or belief in worship, observance, practice and teaching.⁹³

111. During the reporting period, the occupying Power in Crimea continued to apply Russian Federation anti-extremist laws, commonly referred to as the “Yarovaya package”⁹⁴, to the exercise of religious practices.⁹⁵ These provisions limit the manifestation of one’s

⁸⁹ For more information on the human rights situation in Crimea, see 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 from www.undocs.org/en/A/hrc/44/21.

⁹⁰ See 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.

⁹¹ On the same day he was released under an obligation not to abscond from justice.

⁹² HRMMU interviews, 24 June and 22 July 2020.

⁹³ International Covenant on Civil and Political Rights, art.18.

⁹⁴ Charges are pressed under paragraph 4 (illegal missionary activities) and paragraph 3 (conduct of activities by religious organizations without indication of the full name, including production of printed and digital content) of article 5.26 of the Code of Administrative Offenses.

⁹⁵ It is recalled that the Russian Federation made wholesale changes to the legal system that was in place in Crimea before the beginning of the occupation, including by applying the entirety of its criminal legislation to Crimea. By doing so, the Russian Federation acted in violation of international humanitarian law (Hague Regulations, art. 43) which requires the occupying Power to take all measures in its power to restore, and ensure, as far as possible, public order and safety, while

religion by prescribing sanctions for “missionary activities” and by application of formalistic rules related, amongst others, to the use of places of worship and production of printed and digital content. During the reporting period, OHCHR recorded 26 cases against religious organizations or individuals for proselytism-related offenses,⁹⁶ including Protestants, Muslims, Messianic Jews, and Hare Krishna. Groups and individuals have been punished for posting religious content on social media, organizing meditations in parks, and leading Quran study groups and religious dinners on private property without signalling the full registered name of the religious organization. For example, a woman from Sevastopol was convicted of proselytism for her social media posts on the activities of a Protestant organization. The court found that these posts constituted “illegal missionary activities” because the woman had failed to accompany her posts with formal details of the decision of her religious organization’s general assembly to authorize her to proselytize and ordered her to pay a 5,000 Russian rubles (approx. \$67) fine.

112. In the first half of 2020, OHCHR noted a worrisome trend of proselytism-related charges being pressed against leaders of Muslim communities without affiliation to the Spiritual Administration of Muslims of Crimea. Before the occupation, the local authorities either granted permissions for the permanent use of mosques or issued long-term leases but these decisions were overturned by the Council of Ministers of Crimea after occupation, interfering with these communities’ use of mosques.⁹⁷ For example, in June 2020, Yusuf Ashyrov, the imam of the Muslim community in Alushta, was convicted of “illegal missionary activities” and given a fine (5000 RUB – approx. \$65) for delivering his usual Friday sermon in the mosque, in use by the community since 1994. The finding of “illegality” of that sermon stemmed from the local authorities’ refusal to recognise the community’s right to use the mosque, which it had been granted “for indefinite use” prior to the occupation.⁹⁸ Community members have also been summoned to the Prosecutor’s Office as a means of intimidation. In these cases, OHCHR is concerned that freedom of religion has been restricted through an arbitrary application of an overly broad definition of proselytism.⁹⁹

113. The reporting period was also marked by criminal convictions of two Jehovah’s Witnesses.¹⁰⁰ In 2017, this religious group was classified an “extremist organization” by the occupying Power, and prohibited from congregating.¹⁰¹ In March 2020, a court in Yalta convicted Artem Herasymov of managing an extremist organization, based on his religious practice as a Jehovah’s Witness, including facilitation of discussions of Jehovah’s Witnesses’ religious doctrine and study groups of religious texts. The court found these elements of Mr. Herasymov’s religious practice wholly extremist in nature. He was originally convicted and

respecting, unless absolutely prevented, the laws in force in the country. With regards to penal laws of the occupied territory, international humanitarian law provides that they should remain in force while allowing limited changes needed, when these laws represent a threat to the security of the occupying power or an obstacle to the application of the Fourth Geneva Convention (Geneva Convention IV, art. 64).

⁹⁶ Of this number, three cases occurred during the reporting period. The rest took place in 2019. The period between pressing of the charges and conviction can last several months. Judgments in the Russian Federation court registry are published with a significant delay.

⁹⁷ In the documented cases, the unconditional lease was granted for 50 years or indefinitely.

⁹⁸ Despite the fact that the community had already registered as a religious organization under Russian Federation legislation, after occupation, the authorities decided to allocate the building “on balance” to DUMK, the Spiritual Administration of Muslims of Crimea.

⁹⁹ According to the Special Rapporteur on freedom of religion or belief, religious manifestation includes the right to try to convert others through non-coercive persuasion. See *Report of the Special Rapporteur on freedom of religion or belief*, A/67/303, paras. 44-47.

¹⁰⁰ OHCHR also has information about two other ongoing criminal cases against Jehovah’s Witnesses.

¹⁰¹ A number of cases are pending before the European Court of Human Rights which concern the decision of the Supreme Court of the Russian Federation in 2017 to ban all Jehovah’s Witnesses organizations in the country. See *Administrative Centre of Jehovah’s Witnesses in Russia and Kalin v. Russia* (application No. 10188/17), communicated on 1 December 2017; and *GLAZOV LRO and others v. Russia* (application No. 3215/18), communicated on 7 May 2018. Prior to the Supreme Court’s decision, the European Court of Human Rights had previously found the Russian Federation in violation of the European Convention on Human Rights for closing the Moscow branch of the Jehovah’s Witnesses and refusing to allow the group to re-register. See *Case of Jehovah’s Witnesses of Moscow and Others v. Russia* (application No. 302/02) Judgment 22 November 2010.

fined but, on appeal in June 2020, the Supreme Court of Crimea changed his sentence to six years in prison. Another Jehovah's Witness from Dzhankoi was convicted and sentenced to a term in prison (see box below).

114. Military draft offices in Crimea denied the requests of male Jehovah's Witnesses to carry out alternative civilian service in place of military service in exercise of their right to conscientious objection. In one case, a 17-year-old boy from Dzhankoi received a conscription notice during the spring 2020 conscription campaign, despite his application for alternative civilian service. The military draft commission considered the application during a pro-forma four-minute-long hearing and concluded that the applicant "*failed to demonstrate sufficient reasons that his moral and ethical beliefs are incompatible with military service*", without any explanation of their reasoning.¹⁰²

115. The UN Human Rights Committee has held that article 18 of the International Covenant on Civil and Political Rights entails the right to conscientious objection for persons whose religious beliefs are incompatible with military service.¹⁰³ The European Court of Human Rights has ruled that Jehovah's Witnesses enjoy the right to conscientious objection to military service.¹⁰⁴ Under international humanitarian law, military conscription of protected persons is prohibited.¹⁰⁵

The first imprisonment of a Jehovah's Witness in Crimea

Serhii Filatov, a resident of Dzhankoi, became the first Jehovah's Witness in Crimea to be sentenced to a prison term for manifesting his religious beliefs. The FSB accused him of running an extremist organization after searching his house on 15 November 2018. Mr. Filatov's son had been taken from a friend's house by a large group of law enforcement officers without any explanation. One officer hit his son on the head for trying to film his actions on camera. Another later voiced a threat of a sexual nature. The officers drove Mr. Filatov's son to his home, handcuffed him inside until the arrival of his parents, and searched the house. The law enforcement officers ignored his son's requests to call a lawyer.

The FSB charged Mr. Filatov with holding a religious gathering at his home with other Jehovah's Witnesses, including his own family, during which they studied and discussed the Bible and other religious texts, sang religious songs, and prayed. On 5 March 2020, the court found Mr. Filatov guilty of extremism, sentenced him to six years in prison and placed restrictions on him expressing his opinions, including through social media, speaking in public and publishing material in the media. The court endorsed the opinions of religious and linguistic experts who analysed the content of Mr. Filatov's conversations and concluded that "Jehovah's Witnesses" were referred to "in a positive light," without going into further detail. The court made no attempt to independently assess the extremist nature of religious practices by Mr. Filatov or evaluate how the alleged criminal activity correlates with freedom of religion guaranteed under Russian Federation laws applied in Crimea.

Since his arrest on 5 March, Mr. Filatov's family were only allowed to visit him in detention once,¹⁰⁶ due to the blanket prohibition on family visits imposed in the Simferopol SIZO as a COVID-19 prevention measure. After an unsuccessful appeal in June 2020, Mr. Filatov was deported to the Russian Federation to serve his sentence. The authorities did not inform the family of

¹⁰² As of 20 July, the applicant was not yet conscripted into the military service and planned to challenge the refusal.

¹⁰³ Human Rights Committee, *Yeo-Bum Yoon v. Republic of Korea*, CCPR/C/88/D/1321-1322/2004, 23 January 2007, para. 8.4.

¹⁰⁴ European Court of Human Rights, *Bayatyan v. Armenia*, application No. 23459/03, judgment of 7 July 2011, para. 111.

¹⁰⁵ Geneva Convention IV, art. 51.

¹⁰⁶ As of 23 July.

the details of the transfer. OHCHR recalls that Mr. Filatov's deportation is a violation of international humanitarian law.¹⁰⁷

IX. Technical cooperation and capacity-building

116. The introduction of remote working methods due to the pandemic, including online meetings and webinars, has allowed OHCHR to reach partners across Ukraine and internationally that would not have been possible through in-person activities.

117. OHCHR worked to increase Ukraine's capacity to ensure a human-rights based approach to management of the pandemic. It published two briefing notes, with recommendations to mitigate the impact of the pandemic on groups in vulnerable situations (Roma and people in situations of homelessness), translated and shared international standards with State bodies, held meetings with Ministries, the Ombudsperson of Ukraine, Parliament, civil society and international partners, organized online presentations and provided advice and support in online expert consultations. OHCHR also contributed to the United Nations Country Team's assessment of the economic and social impact of the pandemic in Ukraine.

118. OHCHR also provided technical cooperation on other topics, including reform of the justice system, torture prevention, protection of civilians, right to housing, right to remedy and reparation, freedom of movement, prevention of conflict-related sexual violence, rights of persons with disabilities, non-discrimination and prevention of hate speech. It provided support to the Ministry of Social Policy on the National Action Plan on Women, Peace and Security and to the Ministry of Justice on design of a new National Human Rights Strategy. OHCHR produced three analytical papers on draft legislation and shared them with Parliament and other State bodies. It prepared an analytical note on the law on State language, which it shared with the Constitutional Court. OHCHR provided five trainings to State bodies, and regularly provided briefings and information sessions to State bodies and civil society. It provided advice and recommendations during round tables and technical meetings, as well as during high-level meetings with Ministries and other State bodies. OHCHR also sent 25 letters with recommendations to local, regional and national authorities. Throughout the reporting period, it also distributed recommendations through mainstream and social media.

X. Conclusions and recommendations

119. The additional measures to strengthen the ceasefire agreed to by the Trilateral Contact Group on 22 July 2020 presents an opportunity to reduce the suffering of people living in the eastern conflict area, and OHCHR urges parties to the conflict to fully respect it. It was particularly timely following the increase in civilian casualties recorded by OHCHR in the spring.

120. Over the current reporting period, Ukraine and the world have faced an unprecedented global pandemic, affecting the lives of the Ukrainian population in a myriad of ways. Not only has the pandemic underlined the interconnectedness of Ukrainians, demonstrated, for example, by the distress caused by restrictions on movement across the contact line, it also served to expose pre-existing vulnerabilities such as poverty and exclusion of Roma communities, the situation of older persons and persons with disabilities living in long-term care facilities, and persons with disabilities living in the community, as well as those living in situations of homelessness.

121. However, the pandemic also presents an opportunity to build back better. OHCHR, along with the rest of the United Nations in Ukraine, have undertaken a number of assessments to measure the impact of COVID-19 and measures taken to prevent and mitigate

¹⁰⁷ Geneva Convention IV, article 76.

the pandemic. This will serve to inform Ukraine and its partners of what needs to be done to ensure we leave no one behind.

122. Looking forward, OHCHR urges all stakeholders to respect democratic space and fundamental freedoms in the country, including the situation pertaining to freedoms of opinion and expression, peaceful assembly and association, particularly in the upcoming period prior to local elections, scheduled for October. The Government must not tolerate acts of intolerance or discrimination based on any grounds, including political opinion, and must ensure equality before the law for all individuals regardless of their political views.

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

124. To the Ukrainian authorities:

To the Parliament and the Cabinet of Ministers:

(a) **Bring the definition of torture as contained in Article 127 of the Criminal Code into full conformity with Article 1 of the UN Convention against Torture;**

(b) **Prioritise the development of draft laws on the status and social protection of civilian victims of the conflict, and on restitution and compensation for housing, land and property lost due to the armed conflict and occupation of Crimea;**

(c) **Harmonize the legislative acts and by-laws regulating freedom of movement of civilians in the conflict zone, including those owing to COVID-19 restrictions, with respect to their dignity and rights;**

(d) **Ensure that EECPs are fully equipped with shelter, water, medical assistance, and hygiene and sanitation facilities for all persons crossing, and especially for those forced to wait for extended periods at or near EECPs because of COVID-19-related restrictions;**

(e) **Prioritise adoption of the law enabling access to a pension for all individuals, including those residing in territory controlled by self-proclaimed ‘republics’ and IDPs;**

(f) **Elaborate, without delay and in consultation with gender-balanced representation of national minorities and indigenous people, a gender-sensitive draft law on the realisation of the rights of national minorities and indigenous people of Ukraine;**

(g) **Expedite the qualification evaluation of judges and selection of new judges to address the understaffing of courts, in particular by amending legislation on the High Qualification Commission of Judges and ensuring the appointment of its members without unnecessary delays;**

(h) **Ensure that any legislation regarding criminal responsibility of judges corresponds to international standards guaranteeing their independence through functional immunity. Provisions that criminalize misconduct of judges should be formulated precisely enough to guarantee judicial independence and functional immunity in interpretation of the law, assessment of facts and weighing of evidence;**

To State and local authorities:

(i) **Publicly and systematically condemn all acts of violence, calls for violence, and hate speech directed at groups or individuals on the basis of race, sex, religion, language, national or ethnic origin, political or social opinion, sexual orientation, gender identity, place of residence, or any other prohibited grounds. Promptly, impartially and efficiently investigate all cases of violent attacks and threats against groups at risk (such as media professionals, human rights defenders, members of the LGBTI community, national minorities, political parties and any others), and bring perpetrators to account regardless of their affiliation. Crimes charged should be appropriately classified to take into account motives and aggravating circumstances;**

(j) **Ensure security for public assemblies, including smaller assemblies and events organized by representatives of groups at risk; take action to immediately**

prevent and stop all acts of violence, while facilitating the exercise of freedom of peaceful assembly without discrimination. Avoid the arbitrary enforcement of COVID-19 restrictions ;

(k) Create adequate fiscal space, including through progressive taxation, recalibration of the budget, and use of loans, to mitigate the impact of COVID-19 and increase investments in the health and social protection sectors;

(l) Collaborate and systematically consult with civil society organizations when designing and implementing COVID-19 response and socio-economic recovery measures, and gather disaggregated data, including by sex, ethnicity, age, and disability on the situation of the social and economic rights of groups for which there is no currently reliable data, such as homeless persons, residents of informal settlements, and older persons. Declare municipal and charitable organizations that work with homeless people, people with disabilities, older persons and other persons in situations of vulnerability as essential so they may continue their operations during the quarantine and increase their funding;

(m) Introduce regular COVID-19 testing for first responders, including social workers and others providing support to groups in vulnerable situations. React rapidly to suspected COVID-19 cases by testing staff and residents of institutions;

(n) Remove existing barriers and combat any discrimination in access to health services on the ground of disability, age, race, ethnicity, gender, sexual orientation and gender identity, social status or other grounds. Provide information about COVID-19, its prevention and treatment in the language and form accessible for representatives of groups in vulnerable situations;

(o) Mitigate the impact of COVID-19 on Roma by implementing the recommendations set out in the HRMMU briefing note on the impact of the COVID-19 pandemic on the rights of Roma in Ukraine;

(p) Mitigate the impact of the COVID-19 pandemic on homeless people by implementing all recommendations contained in HRMMU briefing note on the impact of the COVID-19 pandemic on homeless people in Ukraine;

(q) Support older persons, persons with disabilities and others in long-term care institutions by:

(i) Elaborating specific instructions that are rooted in a human rights-based, gender-sensitive approach for COVID-19 prevention and mitigation measures in private and public facilities, including psychiatric facilities and rehabilitation centres, with reference to World Health Organization (WHO) recommendations, and establishing a mechanism to supervise compliance with these measures;

(ii) Ensuring that health and social care workers employed in these institutions receive adequate protection and support to enable them to continue caregiving work while minimizing potential exposure to the virus for themselves, those they care for, and their families;

(iii) Providing adequate support and resources to ensure on-going access to integrated health and social care services that are designed to respond to individual needs, with a gender-sensitive approach, of older persons and persons with disabilities while promoting their autonomy and independence.

(r) Support persons with disabilities living in local communities by:

(i) Ensuring they have full access to necessary health services during the quarantine, including physical and psychosocial rehabilitation programmes, sexual and reproductive health services, and life-saving medication;

(ii) Adopting policy measures to provide support to persons with disabilities during the COVID-19 pandemic and beyond to ensure that

they can live in the community, out of institutionalized settings. Such policy measures should take into account that family members and caregivers may also require social protection, work-related adjustments and other necessary accommodations.

To the Office of the Prosecutor-General and State Bureau of Investigation:

(s) Ensure effective investigations into all allegations of torture and ill-treatment by law enforcement officials, and that alleged perpetrators are duly prosecuted, including persons in position of command and those who provided legal cover for torture;

(t) Ensure independent and impartial investigation into all killings perpetrated during the Maidan protests, including the killings of law enforcement officers, and during the 2 May 2014 violence in Odesa irrespective of the affiliation of the victims.

To the Ministry of Justice and State Penitentiary Service:

(u) Ensure protection of detainees and prisoners from COVID-19 in line with relevant OHCHR and WHO recommendations.

To the Constitutional Court of Ukraine:

(v) When assessing the issue of constitutionality of the so-called ‘immunity law’, consider its impact on the right to effective remedy of the families of those who lost their lives during the Maidan protests.

125. 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.

126. 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, including those held in connection with the conflict, humanely in all circumstances and ensure conditions of detention are in accordance with international standards;

(c) Stop the practice of torture and ill-treatment, including sexual violence, of detainees, including those held in connection with the conflict;

(d) Cease the practices of ‘preventive detention’ and ‘administrative arrest’ and provide information on the whereabouts of all detainees to their families and lawyers;

(e) Ensure protection of detainees and prisoners from COVID-19 in line with relevant OHCHR and WHO recommendations;

(f) Ensure freedom of movement of the civilian population without a linkage to individuals’ places of residence and with full consideration of their humanitarian needs in the context of the COVID-19 pandemic;

(g) Refrain from implementing regulations and practices that unduly restrict the exercise of freedom of expression.

127. 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 and humanitarian law standards and, in particular, to implement the recommendations in paragraph 126 above.

128. 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 its obligations as duty bearer under international human rights law in Crimea and respect its obligations as an occupying Power pursuant to international humanitarian law;**

(b) **Ensure proper and unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea, pursuant to General Assembly resolutions 71/205, 72/190, 73/263, and 74/168;**

(c) **Put an end to prosecutions and other reprisals against individuals who refused to provide Russian law enforcement authorities with testimony which may incriminate third parties;**

(d) **Ensure that the right to freedom of religion or belief can be exercised by any individual and group in Crimea without discrimination on any grounds and unjustified regulatory barriers; end criminal and administrative prosecution of Crimean residents for peaceful manifestation of their religious beliefs, including proselytizing.**

(e) **Refrain from deporting detainees to serve prison sentences in the Russian Federation; return all those already deported;**

(f) **Stop conscripting Crimean residents into the armed forces of the Russian Federation.**
