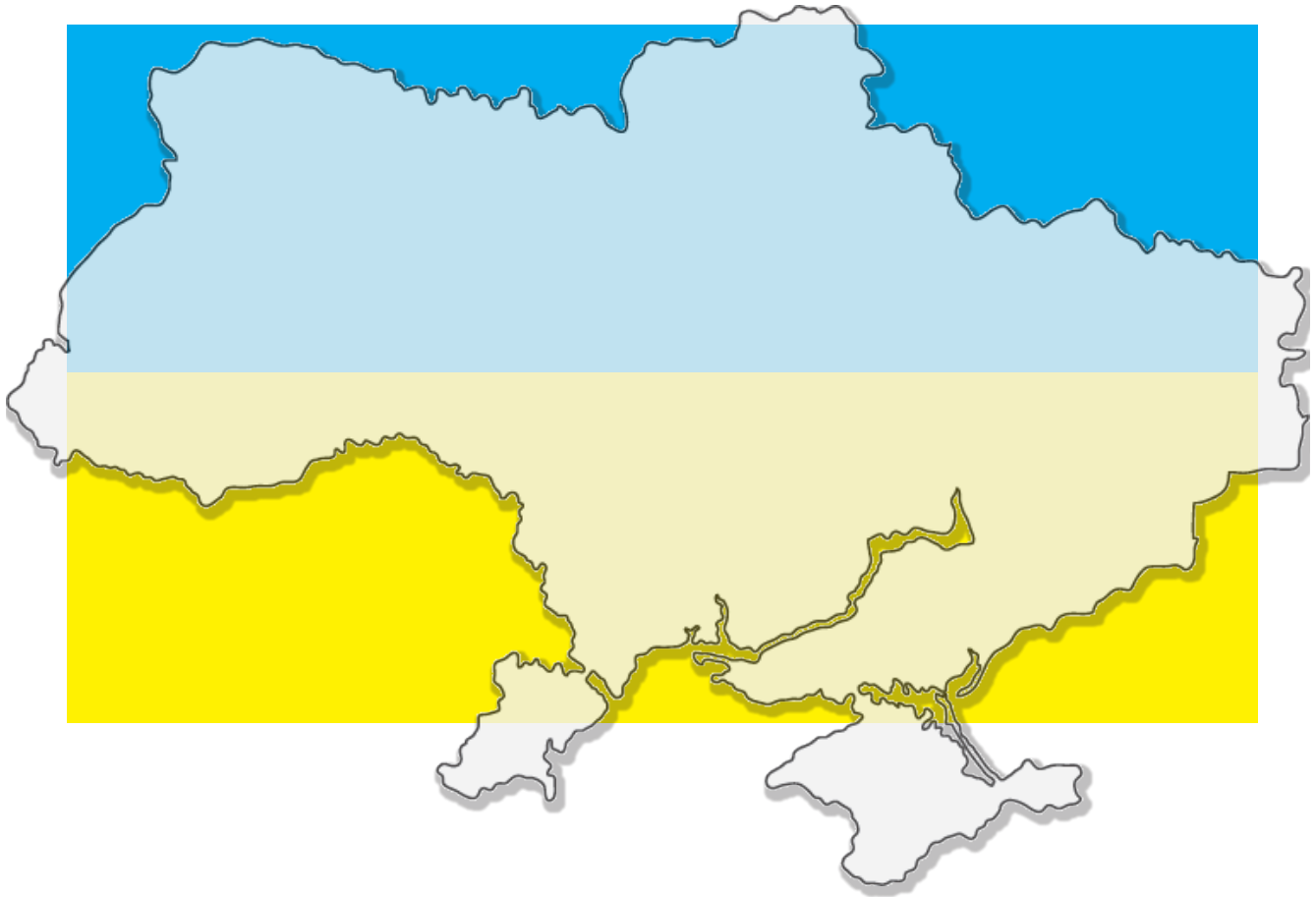


FACT FINDING MISSION REPORT

UKRAINE



May 2017



BFA

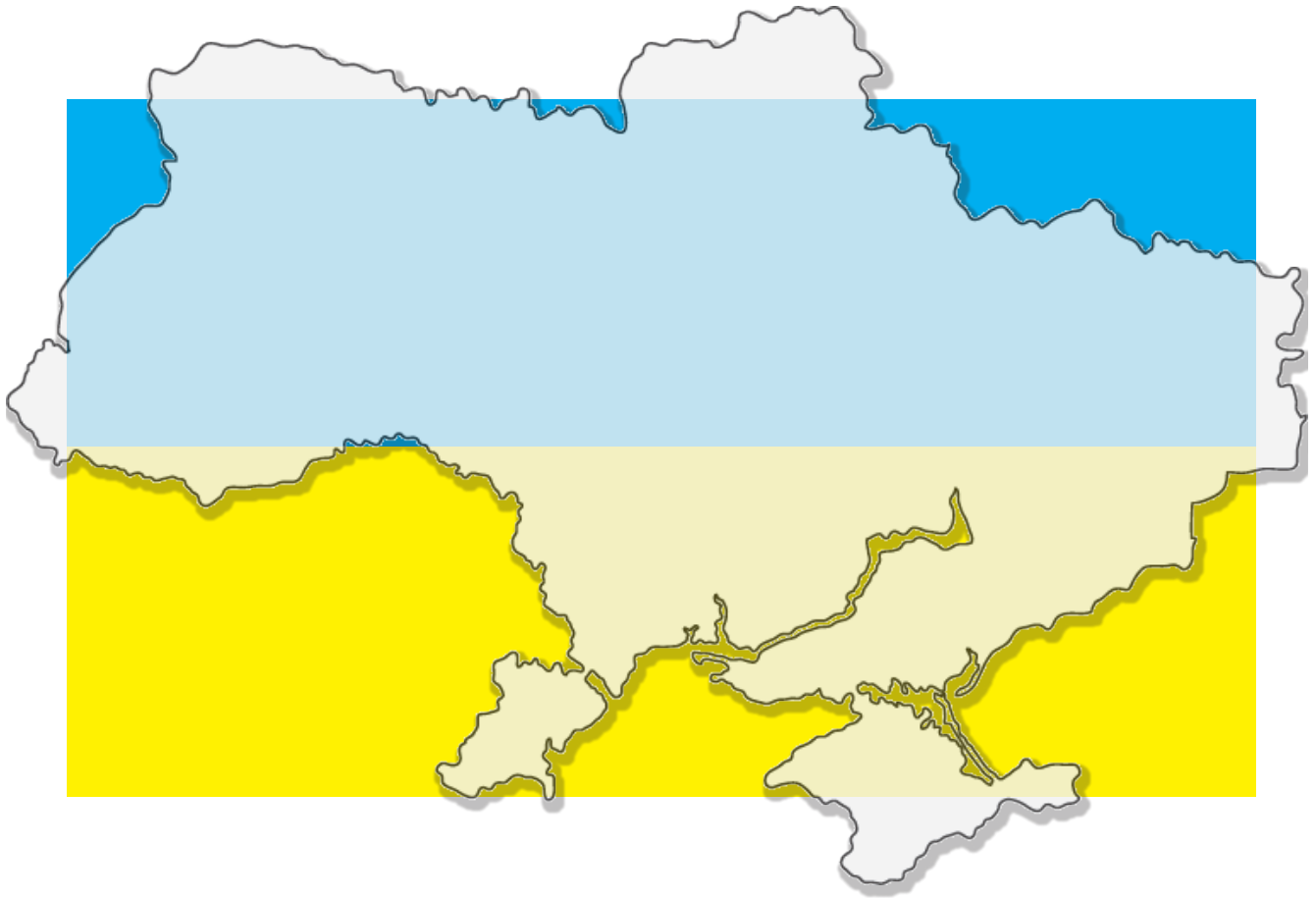


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Introduction and methodology

This report is the product of a joint fact-finding mission conducted by the Country of Origin Information Department (Staatendokumentation) of the Austrian Federal Office for Immigration and Asylum (BFA) and the Information, Documentation and Research Division (DIDR) of the French Office for the Protection of Refugees and Stateless Persons (OFPRA), to Ukraine, from 12 June to 19 June 2016.

The need for a mission to Ukraine arose due to the rising number of asylum seekers of Ukrainian origin in France as well as in Austria. Both countries consequently saw a need for updated information on a number of issues that have been recurring in cases regarding Ukrainian asylum seekers. This report focuses on the various issues that in recent years have been substantial in the caseload concerning Ukrainian asylum seekers, namely Internally Displaced Persons (IDP), military conscription and mobilization and questions related to police and justice reforms. Additionally, the report provides information on the situation in Government Controlled Areas (GCA) and Non-Government Controlled Areas (NGCA) of the Donbass region.

In the scope of compiling this report, during the mission the delegation consulted around 30 sources, including representatives from international organizations, Ukrainian authorities, NGOs, Ukrainian political parties, as well as a journalist and other sources. A complete list of sources consulted can be found at the end of this report. Interviews were conducted in Kyiv as well as in and around Kramatorsk (Eastern Ukraine).

All interviews were conducted orally; only in a few instances a translator was used. They were carried out in a semi-structured manner, and were recorded in writing by the delegation. The sources consulted were informed about the purpose of the mission and that their statements would be included in a public report.

In this report, the authors took great care to accurately reflect, to the extent possible, the information communicated to the delegation in the various meetings. To this end, the information retrieved during the interviews was put in an overall context by completing it with secondary sources. The different chapters of this report were written by either BFA (Chapters 1, 2, 5) or OFPRA (Chapters 3, 4) and peer-reviewed by the other partner respectively.

The report does however not contain any opinions or policies held by the Austrian Federal Office for Immigration and Asylum (BFA) or the French Office for the Protection of Refugees and Stateless Persons (OFPRA). It does not purport to be a detailed or comprehensive survey of all issues covered.

This report was compiled in accordance with the common EU Guidelines for the processing of information on countries of origin (EU Quality Guidelines, April 2008¹). The EU common guidelines on (Joint) Fact Finding Missions were applied to the Fact Finding Mission (EU common guidelines on (Joint) Fact Finding Missions, November 2010²), as well as the Austrian guidelines on Fact Finding Missions (BAA FFM guidelines, June 2010³) and the Methodology of the Staatendokumentation (Methodologie der Staatendokumentation, December 2013⁴).

¹ https://www.ecoi.net/blog/wp-content/uploads/2012/07/coi_common_guidelines-2008-04-en.pdf

² http://www.ecoi.net/file_upload/90_1292230919_20101118-ecs-ffm-guidelines-final-version.pdf

³ www.staatendokumentation.at/baa-ffm-guidelines-2010-06-22.pdf

⁴ <http://www.staatendokumentation.at/methodologie-der-staatendokumentation.doc>

Chapter 1. Reform of the Judiciary

1. Judicial Reform

Ukraine has recently been in focus of international attention, mostly because of the conflict in the country's east. It is sometimes ignored that the country has initiated an ambitious reform process in various fields. But while e.g. Ukrainian economic reforms are widely praised, the pace and implementation of judicial reforms have usually given cause for concern. Ukrainian legislation is openly accessible on the website of the Verkhovna Rada (Ukrainian Parliament). According to the German institute for Foreign and Security Issues SWP (Stiftung Wissenschaft und Politik), its formulations are generally clear but at the same time often vague or contradictory, stemming from a mixture of lack of professionalism or haste in drafting and adoption of laws (since Rada has been elected in October 2014, 69% of all laws were passed in a shortened procedure) or bare intent on certain lawmaker's side (because it might fit the interests of certain groups of influence). Even more problematic is the implementation of laws. A core problem of the Ukrainian judiciary has always been the lack of independence of judges which are partly *de jure*, but all the more *de facto* subordinated to the executive branch. The Poroshenko administration tried to tackle these problems ever since, with various results.⁵

Euromaidan protesters have listed judiciary reform at the top of their agenda. 94% of respondents to a survey conducted by the Democratic Initiatives Foundation of Ilko Kucheriv named corruption among judges being the key issue undermining confidence in the judicial system of Ukraine. Other issues identified by respondents were dependence of judges upon politicians (81%) and oligarchs (80%); bought court decisions (77%); and prevalence of collective responsibility in the judicial system (73%). Therefore, in order to address the problems of the judiciary in Ukraine and to satisfy popular demand to restructure the judicial branch, three major laws have been adopted as a part of post-Euromaidan judicial reform: the Law on Restoring Confidence in Ukraine's Judicial Authority, the Law on Lustration and the Law on Assuring the Right to Fair Trial. These laws on judiciary are not yet fully implemented and according to some sources, they are not yet sufficient to structurally change the judicial system in Ukraine.⁶

A constitutional commission established by President Poroshenko in March 2015, approved a draft law designed to protect judicial independence already in September the same year⁷.

On 02 June 2016, the Parliament of Ukraine adopted two laws important for judicial reform, namely the Law 'On amendments to the Constitution of Ukraine', No. 3524, and the Law 'On Judicial System and the Status of Judges', No. 4734, which both entered into force on 30 September 2016.⁸ The Law on Amendments to the Constitution, among other things, changes the status of judges, amends their responsibility, limits their immunity and introduces the mechanism of a constitutional complaint. The Law on the Judicial System is the first of a number of implementing laws required to transpose the constitutional amendments.⁹ They not only significantly transform the structure of the judicial system but also contain provisions aimed at the increase of professional standards for judges and their compensation, the introduction of effective responsibility of judges, the improvement of the judicial self-government, etc. The new rules re-organize the court system from four levels of courts to a three-tier court system (see Chart 1). This is expected to improve the efficiency of the entire litigation process in terms of time, service and quality. The amendments create a unified court system under

⁵ Stiftung Wissenschaft und Politik/Deutsches Institut für Internationale Politik und Sicherheit (SWP), Die heutige Ukraine und der Rechtsstaat. Weitgehendes Elitenversagen stellt die Reformen in Frage, 03/01/2016.

⁶ Euromaidan Press (EP): Pursuit of judicial reform in Ukraine, 29/06/2016.

⁷ Stiftung Wissenschaft und Politik/Deutsches Institut für Internationale Politik und Sicherheit (SWP), Die heutige Ukraine und der Rechtsstaat. Weitgehendes Elitenversagen stellt die Reformen in Frage, 03/01/2016.

⁸ Ukrainian Information Agency (UNIAN), Judicial Reform Launched in Ukraine, 30/09/2016.

⁹ Kyiv Post, What's next for judicial reform in Ukraine?, 27/06/2016.

the Supreme Court of Ukraine consisting of one chamber and four courts of cassation and thus replace the three parallel independent superior specialized courts. This is expected to eliminate inconsistencies in the application of the law, forum shopping and corruption inherent to the old system. Furthermore, two new courts are established: the High Specialized Court on Intellectual Property and the High Specialized Anti-corruption Court. It should be noted that the jurisdiction of these courts itself has not been defined in the law yet, but is subject to amendments to Ukrainian procedural laws. The authority to set up, re-organize and liquidate courts is transferred from the President to the Rada, starting in 2017.¹⁰

Furthermore the amendments provide for the establishment of a new constitutional body – the Supreme Council of Justice – to replace the Supreme Judicial Council. This body shall consist mostly of judges and shall be responsible for the nomination of judges (their appointment will be within the competence of the President), the dismissal of judges (which before was within the competence of Parliament and President), and the suspension of judges. The initial 5-year-probation period before a judge was appointed for an indefinite term was eliminated and salaries have substantially increased. On the other hand, eligibility requirements for judges were tightened and existing judges have to undergo a testing procedure. Anti-corruption rules have been tightened and judicial immunity has been limited to functional immunity (prosecution for offenses not related to their work is possible). Judges unable to prove the legitimate origin of their wealth shall be dismissed. The Constitutional Court was stripped of its possibility to provide official interpretation of parliamentary laws. All these amendments are designed to strengthen the independence of judges.¹¹

2. Reform of the Prosecutor General's Office (PGO)

Another important topic pivotal for reform of the Ukrainian judiciary is the reform of the Prosecutor General's Office (PGO). To this end, a law limiting prosecutorial powers was adopted in October 2014 and entered into force in April 2015 but its implementation remained sluggish.¹² The reform of the prosecutor's Office, was indeed overdue since 1995 and several of our interview-partners voiced hope that it would now -finally- be tackled by the new Prosecutor general, Yuriy Lutsenko¹³, who was appointed on 12 May 2016.¹⁴

The Law on Amendments to the Constitution also limits the functions of the Prosecutor's Office.¹⁵ The Prosecutor's Office shall be responsible for the organization of the pre-trial investigation and classic indictment in court. It will no longer have competences to represent individuals in court, supervise the execution of court decisions, etc. The independence of the General Prosecutor is strengthened. The Rada can no longer impeach him. He can only be dismissed by the President on grounds defined by law and his term has been increased from 5 to 6 years.¹⁶ The new legislation also established the General Inspection, a body supposed to supervise the legality of actions of the prosecutors and investigators of the entire system.

¹⁰ CMS Law Now, Amendments to the Constitution of Ukraine passed. Ukraine takes a major step towards a European System of Justice, 09/06/2016; Nobles, Legal Alert: Constitutional Judicial Reform in Ukraine, 07/06/2016; Lexicology, Overview of the Judicial Reform Launched in Ukraine, 02/07/2016.

¹¹ CMS Law Now, Amendments to the Constitution of Ukraine passed. Ukraine takes a major step towards a European System of Justice, 09/06/2016; Nobles, Legal Alert: Constitutional Judicial Reform in Ukraine, 07/06/2016

¹² Stiftung Wissenschaft und Politik/Deutsches Institut für Internationale Politik und Sicherheit (SWP), Die heutige Ukraine und der Rechtsstaat. Weitgehendes Elitenversagen stellt die Reformen in Frage, 03/01/2016.

¹³ Lutsenko, by then head of the Petro Poroshenko Bloc's parliamentary faction, was proposed by Ukrainian President Poroshenko in May 2016 for the post of Prosecutor General and backed by Ukrainian Parliament. To allow Lutsenko taking office, the Rada had only before passed amendments to the Law „On Prosecutor's Office“, allowing a person without a law degree to be elected Prosecutor General. Ukrainian Information Agency (UNIAN), Lutsenko appointed prosecutor general in Ukraine, 12/05/2016.

¹⁴ Interview with representatives of the office of the Ombudsman, Kyiv, 15/06/2016; Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016.

¹⁵ Kyiv Post, What's next for judicial reform in Ukraine?, 27/06/2016.

¹⁶ CMS Law Now, Amendments to the Constitution of Ukraine passed. Ukraine takes a major step towards a European System of Justice, 09/06/2016; Nobles, Legal Alert: Constitutional Judicial Reform in Ukraine, 07/06/2016; Lexicology, Overview of the Judicial Reform Launched in Ukraine, 02/07/2016.

The wages of the employees of the General Inspection will be more than twice as high as the wages of employees of bodies of the Prosecutor's Office.¹⁷

3. Criticism

Of course there is not only praise for the recent reform steps. Some activists criticize that reforming the judiciary would be possible without amending the Constitution. Others have doubts that the Constitution can be changed during times of war.¹⁸ Some state that the new legislation contains numerous shortcomings and that the new Public Council for Professional Integrity of judges does not have enough power and might be used as a loophole for the old guard to protect corrupt judges and allows heads and the deputy heads of courts appointed during the presidency of former President Victor Yanukovich to keep their offices for another six years. Also, some critics perceive a lack of sustainable anti-corruption measures¹⁹ or are concerned that the president might have too much influence on courts. There are also fears that the array of rights for the attorneys provide them with a lot of power while at the same time their obligations are less clearly defined than their competences. On the other hand, positively perceived aspects of the recent reform are the open competition for the jobs within the judiciary and the fact that judges and their family members will have to submit prove of the lawfulness of their incomes. There is consensus that the ability of Ukraine to proceed with other reforms depends on the success of judicial reform. But clearly the next steps will be crucial because the recent Constitutional amendments created gaps which are to be filled by a variety of accompanying legislation. Thus, the new order of the judiciary will largely depend on this new legislation.²⁰

On the other hand, all the steps which are taken to clear the courts from the old guard of corrupt judges raise a new question: who will substitute them? Ukraine does not have a lot of professionals with the required experience to replace them.²¹ Just a few days before the stepping into force of judicial reform on 30 September 2016, the Rada approved the dismissal of about 400 judges who voluntarily submitted their resignation. Critics say they were trying to escape prosecution, since after 30 September 2016 they would have had to explain the origin of their wealth.²²

But this problem doesn't only affect judges, with prosecutors the situation is similar. As stated above, reform of the prosecutorial role was overdue since 1995. Since then there were several tries in this direction, the last one being a law from 2014. President Poroshenko tackled this issue by ordering a re-organization of the prosecutorial service. Before this reform there used to be 18.000 prosecutors in Ukraine. They had a lot of functions which means there were also lots of temptations to take bribes. Therefore, reform measures were taken, especially on the local level. Now there are 11.000 prosecutors in the country on raion level, oblast level and in the general Prosecutor's Office. And most of them were in the prosecutorial service before, which led to heavy criticism by the public. The problem was that mainly former prosecutors applied for the jobs. The low wages might have discouraged other interested persons. Before the reform a prosecutor had earned 1.000 USD a month, now they earn 190 USD.²³ The selection process of the new prosecutors was open and transparent. There was a computerized general skills test and interview by a selection commission for every candidate. 10.000 applicants (mostly former prosecutors) took part in the process and out of that pool 400 heads and deputy heads of courts and 3.000 prosecutors were appointed. The result was

¹⁷ Prosecutor General's Office of Ukraine (PGO), The Prosecutor General of Ukraine Yuriy Lutsenko signed a decree on the recruitment General inspection, 09/08/2016 ; Ukrainian Information Agency (UNIAN), Rada adopts bill allowing Lutsenko to be nominated Prosecutor General, 12/05/2016.

¹⁸ Euromaidan Press (EP): Pursuit of judicial reform in Ukraine, 29/06/2016.

¹⁹ Kyiv Post, What's next for judicial reform in Ukraine?, 27/06/2016.

²⁰ Euromaidan Press (EP): Pursuit of judicial reform in Ukraine, 29/06/2016.

²¹ Euromaidan Press (EP): Pursuit of judicial reform in Ukraine, 29/06/2016.

²² Kyiv Post, Parliament fails to fire judges implicated in corruption, 26/09/2016.

²³ Interview with a legal expert of the European Union, Kyiv, 13/06/2016.

inevitably that most of the selected candidates had been in the service before, but they were chosen in an objective process. Only 22 candidates for prosecutors from outside the system were appointed²⁴. Delicately, some of the 3.000 prosecutors have already quit again, because of the low wages. 600 posts were vacant in mid-June of 2016.²⁵ The amendments to the law on the Prosecutor's Office which entered into force on 30 September 2016²⁶ are therefore viewed as very promising, because of the General Inspection to be implemented directly under the Prosecutor General in December, with new staff. Salaries of prosecutors are not raised in practice. Just the Anti-Corruption prosecutor and the National Anti-Corruption Commission receive higher salaries, notwithstanding the fact that according to the law, wages should be higher for all the prosecutors.²⁷ Before the Prosecutor General's Office was perceived as the main obstacle to legal reforms, but the new prosecutor is in favor of putting an end to these practices.²⁸

The Prosecutor General of Ukraine is selected by the president, but the Rada is able to vote on confidence of candidates. Since 2013 the Prosecutor General was changed 5 times, which hampers reform. There has always been criticism demanding the post's de-politization. The other big topic was of course corruption but there is no evidence of a single case of corruption in the prosecutorial service of Ukraine. On the other hand wages are so low, that experts find it generally hard to imagine that anyone in the service can make a living without taking bribes. It is conceded that generally prosecutors do not ask for bribes from people who don't have money – but from wealthy parties, companies and so on, nonofficial cash flows are highly likely.²⁹ But the problem has a much deeper rooted aspect, as in Ukraine you can even acquire your law diploma by means of corruption. The main job of a lawyer in Ukraine is – or at least was – to corrupt judges and prosecutors for his client, not to go to court. On the upside of things there are legal aid centers for citizens now, so things are at least at the beginning of gradually changing.³⁰ The situation concerning corruption as a whole is described as being much better now. The National Anti-Corruption Bureau is partly installed and starts to operate soon and there is now the newly established Anti-Corruption prosecutor.³¹

During our interviews we also heard voices, admitting that there are improvements in criminal justice. A new Criminal Procedure Code has been adopted, providing for equality of arms. But it is not yet fully implemented.³² And the law prescribing that every day spent in pre-trial detention has to be counted as two days of the actual sentence, is already used in practice and has led to a reduction of the number of inmates by 50.000. The new Prosecutor General Lutsenko has a deputy with NGO-background in charge for the monitoring of human rights in the prosecution service.³³ But expectations in society regarding judicial reform are huge. The judiciary has an extremely bad reputation. There still isn't prosecution e.g. on the Maidan shooters. People are also very aware of how pivotal rule of law is for investors.³⁴

²⁴ Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016.

²⁵ Interview with a legal expert of the European Union, Kyiv, 13/06/2016.

²⁶ Ukrainian Information Agency (UNIAN), Judicial Reform Launched in Ukraine, 30/09/2016.

²⁷ Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016.

²⁸ Interview with representatives of the Ukrainian Helsinki Human Rights Union (UHHRU), Kyiv, 16/06/2016.

²⁹ Interview with a legal expert of the European Union, Kyiv, 13/06/2016.

³⁰ Interview with a legal expert of the European Union, Kyiv, 13/06/2016.

³¹ Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016.

³² Interview with representatives of the office of the Ombudsman, Kyiv, 15/06/2016.

³³ Interview with representatives of the Ukrainian Helsinki Human Rights Union (UHHRU), Kyiv, 13/06/2016.

³⁴ Interview with representatives of Gorshenin Institute, Kyiv, 16/06/2016.

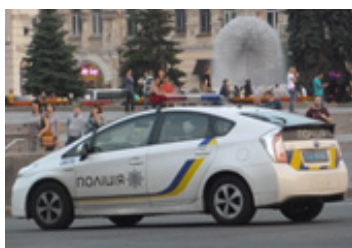
Chapter 2. Reform of the Police

1. From “Militsiya” to National Police

Police Reform is probably the most visible single reform the post-Maidan government in Kyiv has tackled in the last years. No institution of the state has been closer to the Ukrainian people and at the same time more corrupted than the old-style police, the “militsiya”.³⁵ This national law enforcement body of Ukraine had been established in the 1950s under Soviet rule³⁶ as an internal army to protect the regime and repress the citizens. In the post-Soviet period, corruption became the big issue. When the citizens of most post-Soviet countries speak about corruption, they have in mind pictures of traffic cops demanding bribes for anything. In the specific case of Ukraine the public image of the militsiya was additionally burdened by the events on the so-called Euromaidan, where the standoff between protesters and militsiya culminated in the killing of more than 100 opponents of then-President Viktor Yanukovich.³⁷ In this situation popular approval of the militsiya was dwindling to about 5% in Kyiv.³⁸



The new government acted quickly and radically. The new Minister of the Interior Arsen Avakov came into office on 23 February 2014.³⁹ The police reform process began in March the same year. A police development strategy was created with participation of the public, national and international experts. This strategy was adopted on 22 October 2014. A national platform entitled ‘Reforming the Police: Transparency and Accountability’ was created to draw up an Action Plan on the basis of the Strategy and to carry out its various components. Nine working groups, each of which was made up of police



Patrol Police in Kyiv

³⁵ Foreign Policy (FP), The Cops Who Would Save a Country, 08/09/2015.

³⁶ 112 (UA News Agency), Ukrainian law enforcement sector needs \$6.5 mln for National Police, 14/09/2015.

³⁷ Foreign Policy (FP), The Cops Who Would Save a Country, 08/09/2015; SZ-Süddeutsche Zeitung, Tödliche Schüsse aus verschiedenen Richtungen, 07/10/2014.

³⁸ National Police of Ukraine (NPU), Arsen Avakov told about procedure of transformation of old militia into new police, 28/09/2015.

³⁹ National Police of Ukraine (NPU), Arsen Avakov: „I think that by the end of spring 2016 the Ministry of Internal Affairs will have entirely new structure“, 06/11/2015.

officers, civic and foreign experts, drew up and carried out various parts of the Action Plan. The national platform's work was supported by the International Renaissance Foundation and the EU Consultative Mission (EUAM). The resulting ideas were tested in various steps during 2014 and 2015, like a pilot scheme for the new police in Lviv oblast; as well as merging the police patrol service and traffic police into a single patrol in Khmelnytsky (the results of which were used to introduce a new patrol police in regional (oblast) centres and other large cities, as well as swift reaction units in rural areas and small towns, supplementary to the patrol police in the big cities); or a new model for local police stations in Sambir. Public opinion on these experiments was very promising.⁴⁰ The new National Police Force was supposed to become corruption-free, less militaristic and more service oriented.⁴¹

2. Legislation and Reform Measures

In May 2015 a package of draft laws was presented to the Verkhovna Rada, its most important law being the draft law „On National Police“⁴², which was approved by the Rada on 2 July 2015.⁴³ This legal package aimed at the eradication of corruption, optimization of resources and construction of an efficient structure of the National Police and the Interior Ministry. It describes the National Police as a policing body subordinate to the Ministry of Internal Affairs, which is explicitly defined as a civil ministry. Among other measures, it introduces the model of „community policing“, envisages the enhancement of human rights standards and moves the national law-enforcement legislative framework much closer to the EU's legal system.⁴⁴ It is notable that the law “On National Police” for the first time in Ukrainian legislation describes all possible types of police measures - including coercive measures and special means used - in the law itself instead of leaving this to lower level regulations (by-laws). This is seen as a positive move, avoiding ‘elastic’ interpretation of the law because of inadequate or missing by-laws.⁴⁵ Due to political infighting the law “On National Police” was officially signed by the president not earlier than 4 August 2015⁴⁶ to enter into force on 7 November 2015.⁴⁷ So the new police, in the first months of its existence, had to adhere to the old law.⁴⁸

Already on 4 July 2015 the first 2.000 new patrol police officers took the oath of allegiance to the people of Ukraine publicly in Kyiv and started to perform their duties right away. Neither of them had been in the old militsiya or had previous law enforcement experience. They had spent the previous three months in an intensive course of special training and President Poroshenko noted in his speech that it was their task not only to uphold the law but „also to make people believe that reforms are inevitable“.⁴⁹

⁴⁰ Kharkiv Human Rights Protection Group (KHPG), Police Reform, 14/09/2016; European Union Advisory Mission (EUAM), Progress in Reform, EUAM achievements and progress in reform, n.d.

⁴¹ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁴² Other laws in that package worth mentioning were the draft law „On Internal Affairs Bodies“ and the draft law „On Amendment Some Ukrainian Legislative Acts Concerning Improvement of Regulatory Framework for Road Safety“.

⁴³ National Police of Ukraine (NPU), Verkhovna Rada approved bills aimed at reforming MIA, 22/05/2015.

⁴⁴ National Police of Ukraine (NPU), The President of Ukraine Petro Poroshenko signed a law „On the National Police“, 04/08/2015.

⁴⁵ The finalized versions of these draft laws took into account comments and proposals from human rights activists, scholars and authorities in jurisprudence, international experts from the Council of Europe, EU Advisory Mission and USA. According to the law, the National Police consists of criminal and patrol police, security police (protection of private buildings, commercial enterprises, etc.), special police (protection of military objects, important infrastructure objects, et cetera) and the special police force (KORD - Corps of Prompt Immediate Action). The police's main tasks include preventive activities, investigating and detecting crime and administrative offenses and providing help to persons who need it. For transparency reasons representatives of civil society will be included in the police commissions for staff recruitment and in the disciplinary commissions. All these measures aim to enhance the level of trust into law-enforcement in Ukraine. National Police of Ukraine (NPU), Verkhovna Rada approved bills aimed at reforming MIA, 22/05/2015.

⁴⁶ National Police of Ukraine (NPU), Verkhovna Rada approved bills aimed at reforming MIA, 22/05/2015.

⁴⁷ National Police of Ukraine (NPU), The President of Ukraine Petro Poroshenko signed a law „On the National Police“, 04/08/2015.

⁴⁸ Ukrainian Information Agency (UNIAN), Law on police to come into force in three months, 06/08/2015.

⁴⁹ Yahoo News, Ukraine launches Western-style police force to set a marker for reform, 06/07/2015.

⁵⁰ National Police of Ukraine (NPU), The President of Ukraine Petro Poroshenko signed a law „On the National Police“, 04/08/2015.

Deputy interior minister Eka Zguladze-Glucksmann, a native from Georgia, and several other officials from Georgia and Baltic states were given senior posts in Ukraine's new administration tasked to build the new force. Zguladze had carried out similar reforms in Georgia under that country's former pro-Western president Mikhail Saakashvili.⁵⁰ Eka Zguladze-Glucksmann had been granted Ukrainian citizenship in December 2014 by President Poroshenko.⁵¹ Another Georgian, Khatia Dekanoidze, was appointed head of the National Police of Ukraine.⁵²

It was planned that after implementation in Kyiv, the new police was to be gradually established in other big cities, including Odessa, Kharkiv and Lviv⁵³ and in the end across the whole country.⁵⁴ By now the National Police has a manpower of 12.000 in 32 cities (oblast capitals) all across the country. In June 2016 the police was scheduled to be patrolling the highways soon.⁵⁵ The National Police is also operational in the eastern oblasts under Ukrainian governmental control, like in Kharkiv and in towns like Kramatorsk and Slavyansk. So the National Police is functioning normal in the government controlled areas of Eastern Ukraine.⁵⁶ But during the Fact Finding Mission we also heard that the police chiefs in the East of Ukraine are from the Western part of the country and are thus viewed with a certain amount of distrust by the locals. This is something we were not able to corroborate.⁵⁷ Other interview partners pointed out that the new police is especially welcome in the east of the country⁵⁸ and is now and was always made up by locals, as it is indeed hardly possible to get people who aren't local to serve in the police force.⁵⁹ The criminal situation in the east was also described as fairly normal.⁶⁰

The recruitment of the new policemen and women was a special challenge. Within one month more than 34,000 people had applied to join up in Kyiv. A series of tests, including general assessment, fitness, and physical exams, a personality test, and an interview, were passed by more than 2,000 people, more than a quarter of them women. They received ten weeks of training -- a fraction of the more than four years officers of the old militsiya received. This fact led to heavy criticism,⁶¹ all the more as the new officers were not intended to go out patrolling with more experienced officers. Any connection to the old militsiya had to be strictly avoided, to make the change credible to the public. So when the first 2,000 cadets completed the training program in Kyiv, Zguladze-Glucksmann ordered the militsiya off the streets of the city altogether. They are present only at precincts and administrative offices, but all patrolling, on foot or by car, is done by the young men and women in the new navy-blue uniforms.⁶² Criticism regarding youth and lack of experience of the new police officers was an accepted side effect of the reform. It was considered more important to change the attitude of Ukrainians towards the police.⁶³ The whole program was heavily supported by western partners: the USA, Canada, Japan and the EU had provided the necessary assistance.⁶⁴ The three months intensive training was provided by U.S. and Canadian forces.⁶⁵ The US donated uniforms. Japan provided 1,568 modern cars with hybrid engines. Australia provided first-aid medical kits. Furthermore, important help was provided by OSCE Representatives and

⁵⁰ InterAksyon News Portal, Ukraine tackles graft with new US-style police force, 04/07/2015.

⁵¹ Foreign Policy (FP), The Cops Who Would Save a Country, 08/09/2015.

⁵² National Police of Ukraine (NPU), The Ukrainian government appointed Hatiya Dekanoidze to be a head of the National Police, 05/11/2015.

⁵³ InterAksyon News Portal, Ukraine tackles graft with new US-style police force, 04/07/2015.

⁵⁴ Yahoo News, Ukraine launches Western-style police force to set a marker for reform, 06/07/2015.

⁵⁵ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁵⁶ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016; National Police of Ukraine (NPU), The new Kharkiv police swore allegiance to the Ukrainian people, 26/09/2015; National Police of Ukraine (NPU), This morning in Kramatorsk and Slavyansk were received about 400 application forms from the candidates to the new patrol police, 26/09/2015

⁵⁷ Interview with an MP of the "Opposition Bloc" faction of the Supreme Rada of Ukraine, Kyiv, 15/06/2016.

⁵⁸ Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

⁵⁹ Interview with a representative of Ilko Kucheriv Democratic Initiatives Foundation, Kyiv, 16/06/2016.

⁶⁰ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁶¹ Interview with an MP of the "Opposition Bloc" faction of the Supreme Rada of Ukraine, Kyiv, 15/06/2016.

⁶² Foreign Policy (FP), The Cops Who Would Save a Country, 08/09/2015.

⁶³ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁶⁴ InterAksyon News Portal, Ukraine tackles graft with new US-style police force, 04/07/2015

⁶⁵ Yahoo News, Ukraine launches Western-style police force to set a marker for reform, 06/07/2015.

„Vozrozhdeniye“ (Revival) Foundation.⁶⁶ High wages foreseen for the new police officers are also intended as a measure against corruption.⁶⁷ A policeman receives a basic wage of UAH 1,700 while a militiaman got UAH 500. The service grade allowance for the rank of police sergeant is 800 UAH, while a militia sergeant received UAH 45. All in all a junior rank police officer from the start receives UAH 6,163, with a yearly increase.⁶⁸

Despite all separation of new patrol police and militsiya, the two have to interact constantly. The former is tasked with patrolling the streets, and the latter has been instructed to stay in the precincts. But when officers of the Patrol Police detain someone, they have to take him to the militsiya-staffed precincts. Because the Patrol Police includes only patrolmen and all the existing investigative staff remains part of the militsiya, all crimes must be investigated by the militsiya before they can be prosecuted. In fact, for the time being, the Patrol Police cannot take any measures against people suspected of committing a criminal offense.⁶⁹ Reforming the criminal investigation unit, the riot police, and so on remains to be tackled in the next steps⁷⁰ and is supposed to be the real test for police reform.⁷¹ This affects about 150.000 law enforcement officers in all of Ukraine, which will take much longer than the creation of the new patrol force. One of our interlocutors estimated, besides the reform being a process that will never stop, that in about 3 years the first new police officers were expected to become detectives.⁷²

The strict separation between police and militia also means that it is difficult - though not impossible – for militia-members to switch to the police. There is explicitly no automatic transfer. The re-certification of militia-staff began a few months after formation of the police.⁷³ Technically any militia staff is able to pass to the National police if he/she is ready and willing to serve in the new police force and meets the necessary requirements. Militiamen who apply for service in the National Police and to whom the internal security service has no questions are allowed to take part in the certification competition for positions in the National Police.⁷⁴ The process of re-certification includes three main stages: GST test (general skills test - test of logical and verbal skills, the capacity to process information and draw conclusions and to analyze the data), the professional skills test and interview with certification commission (with participation of the civil society representatives). At the end of 2015 18,044 members of the militsiya were allowed to enter the certification process and about 62% of them passed the first two stages of testing.⁷⁵ EUAM is acting as an observer in the re-attestation process of the Ukrainian police, whereby officers need to pass exams in order to meet adequate professional standards.⁷⁶

The first months of service of the National Police are viewed as a success. In the first four days Kyiv's 2,000 new police officers responded to 4,418 incidents, roughly twice as many as the old militsiya had handled over the course of three days a week earlier. Response time had gone down despite the increase in the number of calls.⁷⁷ Until the end of September 2015

⁶⁶ National Police of Ukraine (NPU), Arenyiy Yatsenyuk and Arsen Avakov presented the first group of the new patrol policemen with certificates of training, 02/07/2015.

⁶⁷ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁶⁸ National Police of Ukraine (NPU), What is the cost for a police without corruption, 05/12/2015

⁶⁹ Foreign Policy (FP), The Cops Who Would Save a Country, 08/09/2015.

⁷⁰ InterAksyon News Portal, Ukraine tackles graft with new US-style police force, 04/07/2015; Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016. Interview with representatives of the office of the Ombudsman, Kyiv, 15/06/2016; Interview representatives of the Ukrainian Helsinki Human Rights Union (UHHRU), Kyiv, 16/06/2016.

⁷¹ Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

⁷² Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁷³ National Police of Ukraine (NPU), 2000 new patrol police officers took the oath of allegiance to Ukraine, 05/07/2015.

⁷⁴ National Police of Ukraine (NPU), Arsen Avakov told about procedure of transformation of old militia into new police, 28/09/2015; National Police of Ukraine (NPU), The head of MIA told what part of the now working militia employees will be allowed to pass re-certification, 04/11/2015.

⁷⁵ National Police of Ukraine (NPU), Arsen Avakov: One third of former militiamen from Kyiv region did not pass re-certification, 28/11/2015.

⁷⁶ European Union Advisory Mission (EUAM), Progress in Reform, EUAM achievements and progress in reform, n.d.

⁷⁷ Foreign Policy (FP), The Cops Who Would Save a Country, 08/09/2015.

the number of emergency calls had quadrupled.⁷⁸ This increase is regarded as a proof of the growing citizen's trust towards the police.⁷⁹ After two months in Kyiv, 28 of the new policemen were dismissed, but only two were fired for corruption, revealed by the internal monitoring service.⁸⁰ In 2016 the General Inspection responsible to fight corruption had investigated about 600 cases of corruption on all levels until mid-June, 150 of which led to convictions.⁸¹ According to sociological research, the level of credibility of the National Police in the population was 85%, opposed to the 5% the old militia had. According to the Minister of Internal Affairs the new patrol services in Odessa, Lviv and Kharkiv demonstrate approximately the same level of performance.⁸² There is the overall perception that people put more trust into the new police and that the situation has improved.⁸³

The reported rise in criminality (plus 20% in Kyiv from 2014 to 2015⁸⁴) is, in the view of one of our interlocutors not to blame on the inexperience of the police. According to a representative of the Ukrainian National Police, it is the war in the east and the difficult economic situation that facilitate crime, as well as the presence of a lot of IDPs.⁸⁵ Contrary to that, another interview partner, an MP of the "Opposition Bloc", suggested that the inexperience of the new officers, due to just 10 weeks of training, was indeed a factor favoring the rise in crime.⁸⁶ Other interview partners also attest that the presence of about one million people who moved into Kyiv from the east of the country resulted into more street crime.⁸⁷ But it might also be a factor that under the new rules of the police, there is strictly no covering up of criminal cases to palliate criminal statistics.⁸⁸ The increase in reported crimes can also be interpreted as a sign of increasing trust in the police.⁸⁹ The connection between the ongoing conflict in the east and the rise in illegal weapons-related crimes in 2015 seems to be evident.⁹⁰

3. Criticism

The Ukrainian government has taken positive steps towards reform and clearly outlined its reform priorities in areas such as anti-corruption, the police, etc. According to a public opinion survey conducted by Kyiv International Institute of Sociology for EUAM in September 2015, 45% of respondents considered the reform of law-enforcement agencies to have progressed the most. However, the same survey showed that only 18% of respondents considered the reform in general to be progressing – low levels of public trust in the political, law-enforcement and judicial systems is evidence that much more needs to be done before the expectations of the Ukrainian public are met.⁹¹

Despite all the achievements, police reformers were not able to remove all the military and paramilitary forces (various local police forces, traffic police, National Guard, several Special Forces and the Border Guard) from the jurisdiction of the Interior ministry. Also they were not able to eliminate the military ranks (a source of much of the militsiya's corruption, as the higher

⁷⁸ British Broadcasting Corporation (BBC), New-style police have key role in Ukraine, 25/09/2015.

⁷⁹ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016; Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016.

⁸⁰ National Police of Ukraine (NPU), The level of confidence in the new patrol police is 85%, 03/10/2015.

⁸¹ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁸² National Police of Ukraine (NPU), The level of confidence in the new patrol police is 85%, 03/10/2015

⁸³ Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016.

⁸⁴ US Department of State - Overseas Security Advisory Council (OSAC), Ukraine 2016 Crime and Safety Report, 28/03/2016.

⁸⁵ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁸⁶ Interview with an MP of the "Opposition Bloc" faction of the Supreme Rada of Ukraine, Kyiv, 15/06/2016.

⁸⁷ Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016; Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

⁸⁸ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁸⁹ Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016.

⁹⁰ US Department of State - Overseas Security Advisory Council (OSAC), Ukraine 2016 Crime and Safety Report, 28/03/2016; Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016; Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

⁹¹ European Union Advisory Mission (EUAM), Progress in Reform, EUAM achievements and progress in reform, n.d.

ranks were bought and sold) in favor for only a few ranks like in American police forces.⁹² But the changes are widely received as positive, like the creation of a Human Rights Department within the National Police. The next stages in reform will involve deepening the changes to the National Police and restructuring the work of the crime bloc.⁹³ According to Interior Minister Arsen Avakov, the Ministry of Internal Affairs ceased to be a „ministry of militia“, instead becoming a European style civilian ministry. In the process of further reforms, the National Police will get rid of all functions that are not purely policing but used to be heavily burdened by corruption, like issuing of driving licenses, license plates, various certificates, passports etc.⁹⁴

Khatia Dekanoidze resigned from her post as National Police chief on 14 November 2016 just days after her ally and former president of Georgia, Mikheil Saakashvili, had stepped down from his post as governor of Odessa oblast. Dekanoidze listed her achievements in terms of police reform at a news briefing and said she had laid the foundation of a western-style police force. But she added that she had not had enough powers to carry out a more radical reform. She also said that the police reform would only work if the courts and prosecution service were reformed too. Dekanoidze's exit was preceded by that of other Georgian-born police reformers, like ex-Deputy Interior Minister Ekaterina Zguladze-Glucksmann. There are critical voices fearing for the future of the reform project.⁹⁵

⁹² Foreign Policy (FP), The Cops Who Would Save a Country, 08/09/2015.

⁹³ Kharkiv Human Rights Protection Group (KHPG), Police Reform, 14/09/2016.

⁹⁴ National Police of Ukraine (NPU), Arsen Avakov: „I think that by the end of spring 2016 the Ministry of Internal Affairs will have entirely new structure, 06/11/2015.

⁹⁵ Kyiv Post, Update: Saakashvili allies Marushevskya, Dekanoidze resign, 14/11/2016.

Chapter 3. Military Service: Conscription and Mobilization

1. Military service

According to article 1.3 of the Law of Ukraine on Military Duty and Military Service⁹⁶, military duty includes⁹⁷:

- The preparation of citizens for military service;
- The registration of citizens at enlistment offices;
- The enlistment on a voluntary (contract) basis and conscription to the military service;
- The performance of military service;
- The performance of the military duty in the reserves;
- Observation of the rules of military registration.

According to article 1, "Military duty does not apply to foreigners or stateless persons who reside in Ukraine". It is carried out by citizens of Ukraine and subdivided into the following categories⁹⁸:

- Pre-conscripts – persons subject to registration with enlistment offices;
- Conscripts – persons registered with enlistment offices;
- Servicemen – persons carrying out military service;
- Persons liable for military service – persons in the reserve manning the armed forces and other military formations during a special period as well as in order to perform other tasks relating to the defense of the state;
- Reservists – persons liable for military service who, on a voluntary basis, carry out military service in the reserve of the armed forces and other military formations.

1.1. Conscripts

Ukraine has for a long time been looking to move from conscription to a full professional army⁹⁹. In 2013, mandatory conscription was suspended by the Defense ministry in order to switch to a volunteer contract-based service¹⁰⁰. Yet, in 2014, as the Defense forces of Ukraine appeared unable to face the deteriorating security in the east and the "further aggravation of the socio-political situation" in its eastern and southern parts, military conscription was made compulsory again¹⁰¹.

On September 2nd 2014, a new law was signed, "regulating the procedure for military recruitment of personnel on contracts and simplifying the conscription procedure"¹⁰².

1.1.1. Enlistment

According to Part III, Article 14, of the Law on Military Duty and Military Service, "Registration of male citizens of Ukraine with enlistment offices is carried out with the purpose of listing citizens in the military register, determining available conscription resources, assessing educational

⁹⁶ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; Centre for Army, Conversion and Disarmament (DCAF), The Security Sector Legislation of Ukraine, 2013.

⁹⁷ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

⁹⁸ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

⁹⁹ Global Security, Military Personnel, n.d.

¹⁰⁰ Radio Free Europe, Radio Liberty (RFE/RL), Ukraine to End Compulsory Military Service in 2013, 30/12/2012; Global Security, Military Personnel, n.d.

¹⁰¹ British Broadcasting Corporation (BBC), Ukraine reinstates conscription as crisis deepens, 02/05/2014; Global Security, Military Personnel; War Resisters' International (WRI), Propaganda, Ukrainian desertion and conscription in Lithuania, 03/03/2015.

¹⁰² Global Security, Military Personnel, n.d.; Ukrinform, Poroshenko signs new law regulating conscription procedure, 02/09/2014.

backgrounds, acquired specialties or professions, as well as levels of physical fitness and personal qualities”¹⁰³.

Within deadlines established by the Cabinet of Ministers of Ukraine, heads of business institutions, organizations and educational establishments have to submit, on an annual basis, a list of citizens subject to registration with enlistment offices to the relevant regional or city military commissariats¹⁰⁴.

The Law on Military Duty and Military Service, Part III, Article 14, provides that: “Pre-conscripts, who have turned 17 at the time of registration, are registered with enlistment offices from January to March each year”. It lays down that “Registration is carried out by regional (city) commissariats close to conscripts’ places of residence”. “In order to register with an enlistment office, citizens of Ukraine are obliged to report in person to a military regional (city) commissariat by a date specified in call-up papers and present necessary documents, a list of which is established by the Ministry of Defense of Ukraine”¹⁰⁵.

In June 2016, the Military advisor of the European Union Delegation¹⁰⁶ asserted that call-up papers were sent by mail or could be delivered personally to the future conscripts who were picked from all the different regions of Ukraine on a percentage basis¹⁰⁷.

According to Article 18, Part IV, of the Law of Ukraine on Military Duty and Military Service, “conscripts and citizens liable for military service are prohibited “to change their place of residence without prior notification to the appropriate military registration and enlistment office”¹⁰⁸”.

1.1.2. Postponement of Call-up

According to Part I, article 2, of the Law of Ukraine on Military Duty and Military Service, “Military service is carried out with the observance of the Constitutional requirement of the separation of church, religious organizations and the state”¹⁰⁹. Article 35 of the 1996 Constitution of Ukraine stipulates that “If performance of military service is contrary to the religious beliefs of a citizen, the performance of this duty shall be replaced by alternative (non-military) duty” (cf. part 4)¹¹⁰. Moreover, according to Part III, Article 14, of the Law of Ukraine on Military Duty and Military Service, “citizens of Ukraine, who serve sentences in penitentiaries or receive compulsory medical treatment, are not subject to registration”¹¹¹.

The Law of Ukraine on Military Duty and Military Service, Part I, article 17, also lists different reasons, based on family, educational and professional grounds, which can lead to the postponement of call-up for conscription.

¹⁰³ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹⁰⁴ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service, DCAF, The Security Sector Legislation of Ukraine, 2013.

¹⁰⁵ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹⁰⁶ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016; Interview with the Military advisor of the European Union Delegation, 15/06/2016.

¹⁰⁷ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹⁰⁸ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹⁰⁹ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹¹⁰ Constitution of Ukraine with the amendments and supplements borne by the Law of Ukraine from December, 8, 2004 N 2222-IV; International fellowship of reconciliation (IFOR), Conscience and peace tax international (CPTI), Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

¹¹¹ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

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At his request, a conscript can be granted the postponement of his call-up for family reasons if : He is the only family support for invalid or underage kin or siblings, for invalid parents, or a single father or mother ; If he is a single parent responsible for providing for two or more minors until the eldest of them reaches adulthood; If he is the father of a child less than three years old or of a child of more than three years who is raised without a mother, be she deceased or be it in case of a court decision ; If he is the father of two or more children. Postponement of a call-up can also be granted to a conscript if he has an invalid child, an invalid wife or a pregnant wife, or if he is orphaned¹¹².

According to Part I, Article 17 of The Law of Ukraine on Military Duty and Military Service, in the case of a family having two or more sons, out of whom one is carrying out regular military service, the postponement of a call-up for family reasons can also be granted to one of the sons until his brother has carried out his military service. “In cases where several sons from the same family are simultaneously called up for military service, postponement can be granted to one son on request and taking into account his parent’s considerations”¹¹³.

Postponement of a call-up for regular military service is also granted to conscripts who wish to further their education on a full-time basis in higher education establishments, secondary and higher religious education establishments, and to those pursuing post-graduate or doctorate degrees. It also applies to citizens of Ukraine who “in the framework of international agreements are studying in education establishments in other states”¹¹⁴.

Part I, Article 17, of the Law of Ukraine on Military Duty and Military Service provides that postponement of a call-up for regular military service “is granted once during the whole period of study”¹¹⁵. By October 1st of each year, conscripts who benefit from postponements are obliged to present documents to the regional (city) military commissariats confirming that they are still entitled to it. In case they “discontinue their studies on their own initiative”, or “fail to complete a study program” outside of “health or family reasons”, they lose their right¹¹⁶.

According to part I, Article 17, of the Law of Ukraine on Military Duty and Military Service, postponement of a call-up for regular military service is also granted for professional reasons to: “Pedagogical workers who have completed higher education, whose main place of employment is in a secondary education establishment – for the duration of their full-time work”; “Medical personnel – for the duration of their full-time work in the countryside”; “Graduates of education establishments and postgraduates assigned to work in the institutions of the National Academy of Sciences of Ukraine – for the whole period of work”; “Graduates of vocational schools under the condition that their employment is in an acquired profession in state-owned enterprises, institutions or organizations – for one year from the time of graduation”.

It also applies to “Clergymen who graduated from higher or secondary religious education establishments and hold posts in one of the religious orders that act according to the statutes (regulations) registered in accordance with established procedures – for the duration of work”; “Candidates running for office as a People’s Deputy of Ukraine registered in accordance with the established procedure – at their request – until the publication of election results”; “The heads of village and or city administrations and deputies of local councils – for the duration of their time in office”; “Persons who are involved in farming, both independently or with their parents, – for a period of no more than one year from the moment a land plot for this activity

¹¹² Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹¹³ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹¹⁴ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹¹⁵ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹¹⁶ DCAF, The Security Sector Legislation of Ukraine, 2013.

is received”¹¹⁷.

1.1.3. Conscription

In June 2016, representatives of the Defense Ministry of Ukraine recalled that in a move to increase the amount of military personnel, on 15th January 2015, the Ukrainian parliament had extended “the compulsory draft age for male citizens from 18 to 20 years”, and upgraded its upper limit from 20 to 27 years¹¹⁸.

According to the Law on Military Duty and Military Service, “‘Ukrainian male citizens who are physically qualified for military service, over 18 years old and older, but who have not reached the age of 27, and who have no right for exemption from military service’ will be conscripted”¹¹⁹. At the same time, the duration of conscription has been extended to 18 months for regular conscripts and 12 months for specialists or holders of master degrees¹²⁰.

In June 2016, representatives of the Defense ministry of Ukraine specified that Internally Displaced Persons (IDPs) who are eligible for conscription are also conscripted. However, if they are not registered, the Ministry would not consider mobilizing them a top priority: “we cannot force the people to fight their own relatives or neighbors, but counterintelligence is needed”¹²¹.

According to Part I, Article 1, of the Law of Ukraine on Military Duty and Military Service, when they are summoned by the regional (city) military commissariat, citizens of Ukraine, who are registered with enlistment offices, are obliged to report to the commissariat to obtain their registration documents. They are required to pass a medical examination and a military and professional training. Passing of medical examination and treatment in medical establishments is done in accordance with the decision of the registration commission, conscription commission or military medical commission of the regional (city) military commissariat¹²². In June 2016, representatives of the Defense ministry of Ukraine added that “medical examination procedure has been simplified”¹²³.

According to Part I, Article 15, of the Law of Ukraine on Military Duty and Military Service, “the number of citizens of Ukraine liable for call-up for regular military service and the total expenditure required for the subsequent conscription are determined by the Cabinet of Ministers of Ukraine”¹²⁴. In June 2016, the Military advisor of the European Union Delegation held that “the conscription system was quite equal and really working”, but only a small number of conscripts were called up at once (from 16,000 to 20,000)¹²⁵. According to the Globalsecurity.org website¹²⁶, conscription plans are de facto “not always easy to fulfill, as many draftees face health problems, administrative or criminal prosecution, but also lack of basic secondary education, etc.”¹²⁷

Part 1, Article 18, of the Law on Military Duty and Military Service specifies those who are

¹¹⁷ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹¹⁸ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹¹⁹ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; Global Security, Military Personnel.

¹²⁰ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹²¹ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹²² Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹²³ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹²⁴ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹²⁵ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹²⁶ Ndlr : Global security.org was founded in 2000 by John Pike, a leading expert on defense, space and intelligence policy.

¹²⁷ Global Security, Military Personnel, n.d.

exempted from conscription during peace time: “Those recognized as unfit for military service in peacetime for health reasons”; “Those who turn 25 years old on the day of conscription to regular military service”; “Those whose father, mother or (kin or not kin) siblings have perished, died or became invalid during the performance of military service or during training for persons liable to military service”.

Are also exempted: “Those who before becoming citizens of Ukraine carried out military service in other states”; “Those who were previously sentenced for committing a crime to a deprivation of liberty, a restriction of liberty, an arrest or correctional labour, including liberation from serving the sentence” ; “Those who after graduation from higher education establishments have been conferred the military (special) rank of an officer (commanders)”¹²⁸. Out of the 15,429 young men summoned to undergo medical checks during the 2013 spring conscription campaign, only 750 conscripts carried their constitutional duty¹²⁹. Moreover, in August 2015, according to Ukrainian Deputy Defense Minister Peter Mehed, “Ukraine’s Ministry of Defense only managed to recruit about half of the 25,000 conscripts it was hoping for”¹³⁰.

In June 2016, the Military advisor of the European Union Delegation in Ukraine asserted that conscripts mainly serve in supporting roles in backward positions and that sending conscripts to combat zones is against the law. Many conscripts are actually drafted into the Navy and the Air Force, but only few into the Army and the National Guard (the latter is mostly guarding public buildings)¹³¹. Representatives of the Ministry of Defense of Ukraine specified that, in anti-terrorist operation (ATO) zones, conscripts could however still work in arsenals¹³². Indeed, the law provides that in the ATO zone, conscripts would not be involved in military tasks¹³³.

1.2. Contractors

The Law on Military Duty and Military Service and its further amendments¹³⁴ lay down different types of military service : “Regular military service”; “Military service on a contractual basis for soldiers, sergeants and sergeant-majors”; “Military service (training) for cadets (students) at higher military educational establishments as well as at higher education establishments with military institutes, military training facilities and departments for military training (hereinafter, higher military education establishments and departments for military training at higher education establishments)” and “Military service for officers on a contractual basis¹³⁵”.

In December 2014, the Ukrainian Defense Minister Stepan Poltorak announced that by 2015 the strength of the Ukrainian Armed Forces would be increased from 130,000 to 250,000¹³⁶. In order to stimulate military recruitments on contract, since 2012 a salary for army “contractor” has been established¹³⁷. According to the White Book 2014 published by the Ministry of Defense of Ukraine, at the end of 2014, the average allowance of privates and non-commissioned officers (NCOs) under contract amounted to 3,453 hryvnia¹³⁸ (UAH)¹³⁹. In June 2016 representatives of the Defense Ministry of Ukraine pointed out the average salary in the armed forces was increased again in 2016 to reach UAH 7,000¹⁴⁰ ¹⁴¹. Recruitment posters in the streets of the

¹²⁸ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹²⁹ Global Security, Military Personnel, n.d.

¹³⁰ Jaroslaw ADAMOWSKI, Ukraine Conscription Falls Short by Half, Defensenews.com, 26/08/2015.

¹³¹ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹³² Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 15/06/2016.

¹³³ Global Security, Military Personnel, n.d.

¹³⁴ DCAF, The Security Sector Legislation of Ukraine, 2013.

¹³⁵ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹³⁶ Global Security, Military Personnel, n.d.

¹³⁷ Global Security, Military Personnel, n.d.

¹³⁸ Author’s Note: Approximately 125 euros.

¹³⁹ Ministry of Defense of Ukraine, White Book 2014, The Armed forces of Ukraine, 2015.

¹⁴⁰ Author’s Note: Approximately 254 euros.

¹⁴¹ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

capital Kyiv confirm this.



Recruitment posters for the Armed Forces in the streets of Kyiv

The White Book of the Ministry of Defense of Ukraine underlines the creation of a flexible contract system in 2014 and the introduction of short-term contracts¹⁴². In 2015, according to the Ministry of Defense of Ukraine, 8,200 people had chosen the latter¹⁴³. In June 2016, representatives of the Ministry asserted that conscripts were encouraged to sign contracts with the Army¹⁴⁴ and that retired officers can become contractors more easily¹⁴⁵. Trained and experienced mobilized servicemen were also asked to continue military service on a contractual basis¹⁴⁶. According to the White Book of the Ministry of Defense of Ukraine, in 2015 the system had enabled concluding contracts with 16,100 persons, of which 11,500 (71,4%) had been young civilians, 711 (4,4%) conscripted servicemen, and 3,800 (24,2%) mobilized servicemen¹⁴⁷.

In June 2016, representatives of the Defense Ministry of Ukraine asserted that altogether 32,100 people had signed a contract with the Army during the year 2016, the highest figures ever¹⁴⁸. According to them, the rise in salary for contractors up to UAH 7,000 had led to a sweep in conscriptions. During the 2014-2016 period, Ukrainian Armed Forces consisted of 40-60% contractors, 50% mobilized soldiers and 10% conscripts¹⁴⁹. On September 27th 2016, the Ministry of Defense announced that around 53,000 military personnel had signed contracts with the Ukrainian Army since the beginning of the year, out of whom more than 6,000 officers, and about 6,000 contract soldiers were integrated into the Armed Forces of Ukraine monthly. Given this trend, according to the Ministry, “15 to 18 thousand contract soldiers are planned to be enrolled in the Army” by the end of 2016¹⁵⁰.

“According to the legislation, men liable for military service aged from 18 to 60 years and women liable for military duty aged from 20 to 50 years may be recruited in the army”¹⁵¹. Service men who join the army on a voluntary basis take an oath of allegiance to the people of Ukraine¹⁵². In June 2016, the Military advisor of the European Union Delegation in Ukraine asserts that recruits on contract basis get 2 or 3 months training, followed by Anti-Terrorist Operation (ATO)

¹⁴² Ministry of Defense of Ukraine, White Book 2014, The Armed forces of Ukraine, 2015.

¹⁴³ Ministry of Defense of Ukraine, White Book 2015, The Armed forces of Ukraine, 2016.

¹⁴⁴ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁴⁵ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁴⁶ Ministry of Defense of Ukraine, President of Ukraine signed Decree on demobilization of the servicemen of the sixth wave of partial mobilization, 27/09/2016.

¹⁴⁷ Ministry of Defense of Ukraine, White Book 2015, The Armed forces of Ukraine, 2016.

¹⁴⁸ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁴⁹ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁵⁰ Ministry of Defense of Ukraine, President of Ukraine signed Decree on demobilization of the servicemen of the sixth wave of partial mobilization, 27/09/2016

¹⁵¹ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; Global Security, Military Personnel.

¹⁵² Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, “The Security Sector Legislation of Ukraine”, 2013.

training, and can be deployed to the ATO zone after a minimum of 3 months¹⁵³.

1.3. Mobilization

1.3.1. Legal framework

According to Part II, Article 4, of the Law on Mobilization Preparation and Mobilization of 1993, "General mobilization is conducted simultaneously on the entire territory of Ukraine and applies to the national economy, the organs of the Executive, Local Self-Government, the Armed Forces, and other military formations, the civil protection forces, enterprises, institutions and organizations". The law lays down that "Partial mobilization can be conducted in particular areas of the State, as well as applied to a particular part of the national economy, the Armed Forces, and other military formations, the Civil protection forces, enterprises, institutions and organizations". From the moment of an announcement of mobilization, citizens registered for military duty are prohibited to change their place of residence without the consent of a military commissar¹⁵⁴.

"The type, size, procedure and terms of mobilization are determined by a Presidential decision" and "The decision on conducting open mobilization is to be immediately promulgated through the mass media"¹⁵⁵. Those who are drafted receive a draft notice and must come to the military enlistment office¹⁵⁶. According to Part IV, Article 22, of the Law of Ukraine on Mobilisation Preparation and Mobilisation, "In case of mobilization, citizens predisposed for military service (excluding those, who serve in military reserve) are obliged to report to assembly points within specified deadlines by order of mobilization documents (mobilization mandates, drafting orders or directives by military commissars (servicemen of Security Service of Ukraine – by the heads of units where they are registered) or by military commissars. Reservists must report to military units in time, established by commanders of military units, where they serve in military reserve"¹⁵⁷.

In an article translated into English and published by Euromaidan Press, an online newspaper founded in 2014 and registered as an NGO in Ukraine, Roman Chernyshev, the correspondent of Legal Information and communication platform LIGABusinessInform¹⁵⁸, identifies four different levels of partial mobilization, depending of the level of escalation of a conflict¹⁵⁹. At the lowest and first stage, are summoned to the army: "volunteers; reserve officers and sergeants that served in the army or other force structures and who have military specialties that are currently in demand; as well as reserve regular soldiers with wartime experience". Are summoned during the second stage: "reserve officers and sergeants of all military specialties are summoned; the regular reserve army of all military specializations with military experiences; the higher officers of all military specialties"; during third stage: "18-year-old soldiers, women who may serve (field doctors, nurses, technical specialists); as well as those who have not served but have no "white ticket" are mobilized. The fourth and last stage, which can only be implemented if fierce war has been underway for a long time, amounts to full mobilization, with all those capable of holding weapons joining the army"¹⁶⁰.

An article posted on the website lexicology.com by Ilyashev & Partners, one of the most

¹⁵³ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹⁵⁴ Law of Ukraine from October 21, 1993 of No. 3543-XII About mobilization preparation and mobilization; Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

¹⁵⁵ Law of Ukraine from October 21, 1993 of No. 3543-XII About mobilization preparation and mobilization; DCAF, "The Security Sector Legislation of Ukraine, 2013.

¹⁵⁶ Ilyashev & Partners, Ukraine : Mobilization: medical contraindications and legal reservations, 04/07/2016.

¹⁵⁷ Law of Ukraine from October 21, 1993 of No. 3543-XII About mobilization preparation and mobilization; DCAF, The Security Sector Legislation of Ukraine, 2013.

¹⁵⁸ Legal Information and communication platform (LIGA), Новая мобілізація: чому вона потрібна і кому ждати повісток, 27/07/2014.

¹⁵⁹ Euromaidan Press, 23/07/2014.

¹⁶⁰ Euromaidan Press, 23/07/2014.

prominent and authoritative law firms of Ukraine, states that: “in execution of the Presidential Decrees, the chief enlistment officer at the District Enlistment Office (DEO) announces partial mobilization in the particular district and distributes draft notices to the persons subject to mobilization calling them to appear for Military Physical Commission (MPC)”. Depending on the results of the health examination, a person may be declared fit, unfit, or partially fit for military service or mobilization¹⁶¹. According to Article 23 of the Law of Ukraine Concerning Mobilization Preparation and Mobilization, a person can be recognized unfit for military service on grounds of health, for a period of maximum six months after which he shall be checked up again¹⁶². When a person is declared fit, he is informed of his obligation “to appear at a certain time at the collection center” in order to be sent to the military base concerned¹⁶³. Decisions taken by the MPC may be appealed through the court¹⁶⁴.

Article 23 of the Law also provides that the following categories will not be subject to a call up during mobilization: those among the persons predisposed for military service who are “reserved for a period of mobilization and wartime for the Executive, Local Self-Government, as well as for companies, institutions and organizations in accordance with the procedure established by the Cabinet”; “Men with five or more children younger than 16 years old (these men can volunteer for call up and shall serve near their household)” ; “Women with children younger than 16 years old (these women can volunteer for call up and shall serve near their household)” ; “Citizens who take care of persons requiring constant care according to the legislation of Ukraine – in case there is no substitution for them”; “Citizens who are Deputies of the Verkhovna Rada of Ukraine and the Verkhovna Rada of the Autonomous Republic of Crimea”; “Other persons predisposed”¹⁶⁵.

On 24 July 2015, the relevant legislation was amended to include “full-time students and students pursuing postgraduate degrees, teaching and research staff at universities and scientific institutions who have post-graduate degrees and teaching staff at other educational institutions such as high school teachers”¹⁶⁶. Failing to appear without valid reasons is considered as draft evasion and punishable as a crime, in application of Article 336 of the Criminal Code of Ukraine (cf. Part 4)¹⁶⁷. Contrary to regular conscription, conscientious objection and alternative service is not foreseen by the Ukrainian legal framework for individuals drafted through emergency mobilization¹⁶⁸.

According to article 119 of the Code of Laws on Labor, anyone who is mobilized “saves its former places of employment, position and average salary at the enterprise, establishment, organization, farmers’ enterprise, agricultural cooperative regardless of the form of its subordination and ownership form, as well as at the companies of individual entrepreneurs”. According to the Law of Ukraine on Social and Legal Protection of military servicemen and members of their families, he receives monetary compensation at the expense of the State budget of Ukraine and is supposed to be granted the average salary he would have received in his company or organization¹⁶⁹.

Depending on their position in the Armed Forces, mobilized reservists are paid 2,100-4,500 hryvnia¹⁷⁰ (UAH) a month, an amount which is doubled when they are on active duty in the

¹⁶¹ Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

¹⁶² Law of Ukraine from October 21, 1993 of No. 3543-XII About mobilization preparation and mobilization.

¹⁶³ Law of Ukraine from October 21, 1993 of No. 3543-XII About mobilization preparation and mobilization; Ilyashev & Partners, Mobilization: contraindications and legal reservations”, 04/07/2016.

¹⁶⁴ Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

¹⁶⁵ Law of Ukraine from October 21, 1993 of No. 3543-XII About mobilization preparation and mobilization.

¹⁶⁶ UN High Commissioner for Refugees (UNHCR), International Protection Considerations Related to the Developments in Ukraine – Update III, September 2015.

¹⁶⁷ Criminal Code of Ukraine; Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

¹⁶⁸ UN High Commissioner for Refugees (UNHCR), International Protection Considerations Related to the Developments in Ukraine – Update III, September 2015.

¹⁶⁹ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

¹⁷⁰ Author’s Note: Approximately 76-163 euros.

ATO zone. Moreover, soldiers are regularly sent home, to look after “social and domestic matters”, on a sequenced rotation that covers up to 30 percent of units at a time. Many are also “being deeded small parcels of land by their local governments”. If a soldier is wounded, compensation is provided, in line with the individual’s disability. In case he is killed, his family is given a one-time 609,000 hryvnia (UAH) benefit. These provisions apply to the citizens of Ukraine who were drafted to the military service starting from March 18th 2014, in appliance of the decree of the president of Ukraine on partial mobilization¹⁷¹.

1.3.2. 2014 and 2015 drafts

Altogether six waves of partial mobilization have been conducted since the beginning of the conflict in 2014¹⁷². In 2014, three decrees on “partial mobilization” were passed by Ukrainian President Petro Poroshenko, respectively on March 17th, May 6th and July 21st¹⁷³. Partial mobilization was conducted over a period of 45 days¹⁷⁴. In June 2016, the military advisor of the European Union Delegation in Ukraine pointed out that among these six waves, the 4th was the largest with approximately 150,000 persons summoned; but hardly half of them were taken in after medical checks¹⁷⁵.

The objective of the mobilization was to bring “additional qualified personnel into the army”¹⁷⁶ and enable the rotation of troops¹⁷⁷. On August 21st 2014, Ukrainian President Petro Poroshenko however restrained the mobilization to reservists with military specialties¹⁷⁸. According to the secretary National Security and Defense Council of Ukraine (NSDC), Andriy Parubiy, are summoned to serve: “those who have already undergone military service – reserve officers and people with military experience. And only those that have specialties that individual units need¹⁷⁹”. Among the specialists needed, UNHCR position paper states: “paratroopers, grenade launchers, and specialists in artillery, logistical support, and other personnel (including physicians, electricians, mechanics and drivers)”¹⁸⁰.

In June 2016, the Military advisor of the European Union Delegation in Ukraine asserted that persons with combat experience were preferred: “Initially they took people who were militarily skilled then specialists, like tank drivers artillerymen, anti-aircraft personnel, etc.; that was what they were looking for, but not infantry”¹⁸¹. According to representatives of the Ministry of Defense of Ukraine, 8% of the mobilized personnel were women, most of them medics, or with specialties in communication, signals, etc.¹⁸².

In June 2016, both representatives of the Ministry of Defense of Ukraine and the military advisor of the European Union Delegation in Ukraine asserted that people from 25 to 46 years of age could be mobilized¹⁸³. 18-year-old boys and breadwinners from low-income families

¹⁷¹ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

¹⁷² Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016; Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹⁷³ Euromaidan Press, Partial mobilization: why is it necessary and who should await summons, 23/07/2014; Verkhovna Rada of Ukraine, The Verkhovna Rada of Ukraine, adopted the Law “On approval of the Decree of the President of Ukraine “On Partial Mobilization”, 22/07/2014.

¹⁷⁴ UN High Commissioner for Refugees (UNHCR), International Protection Considerations related to developments in Ukraine – Update II, January 2015.

¹⁷⁵ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹⁷⁶ UN High Commissioner for Refugees (UNHCR), International Protection Considerations related to developments in Ukraine – Update II, January 2015.

¹⁷⁷ Euromaidan Press, Partial mobilization: why is it necessary and who should await summons, 23/07/2014.

¹⁷⁸ Russia Beyond the Headlines, Poroshenko signs decree on partial demobilization in July-September, 13/06/2015.

¹⁷⁹ LIGA, Новая мобилизация: зачем она нужна и кому ждать повесток, 27/07/2014; Euromaidan Press, Partial mobilization: why is it necessary and who should await summons, 23/07/2014.

¹⁸⁰ UN High Commissioner for Refugees (UNHCR), International Protection Considerations related to developments in Ukraine – Update II, January 2015.

¹⁸¹ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹⁸² Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁸³ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 15/06/2016; Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

will not be mobilized¹⁸⁴. According to the military advisor of the European Union Delegation, the mobilization order would at first be sent by mail. Then they would try to deliver the order personally. “the mobilization call would be made by mail. They will come and will leave the mail at the concierge who will hand it to the draftee in exchange for his signature”; “mobilized servicemen receive 3 months of training before they are sent to ATO-zone”¹⁸⁵.

In 2014, however, on the ground things seem to have sometimes worked out differently. In an article published by Ukrainian Week in April 2015, a reservist asserts that in March 2014 he had been awakened at 06:00 by a phone call of Darnytsia district recruitment office (DRO), ordering him to appear at his DRO at 09:00 am. He states there was no draft notice and no physical test, adding that some mobilized servicemen were infected with tuberculosis and some even suffered from epilepsy. According to his testimony, the same evening, he was driven by bus to the First Separate National Guard Tank Brigade in Chernihiv Oblast, where he was issued uniforms, boots and camouflage and had to sleep on bare hardcase beds without any pillow, blanket or mattress. He asserts “Getting the battalion combat-ready took less than three weeks, after which we were dispersed with substandard equipment to a number of checkpoints. Some were sent directly into the conflict zone...”¹⁸⁶

In June 2016, both representatives of the Ministry of Defense of Ukraine and the military advisor of the European Union Delegation asserted that fake messages, provided by Russia, were posted on the internet and in the mass media concerning ATO, in order to try to disrupt the mobilization process¹⁸⁷. Other hardships appeared as some military commissariats were set on fire and some army families on Ukrainian territory received threats in their postal boxes, but they were resolved. This was tackled at a legislative level¹⁸⁸.

In 2014, according to representatives of the Ministry of Defense of Ukraine and the military advisor of the European Union Delegation, “a number of amendments were also introduced into the legislation to overcome certain complications with the mobilization process, expand the role of forces in the Anti-Terrorist Operation (ATO), improve logistics as well as social, financial, and legal support of servicemen and their families”¹⁸⁹. Additionally protection of jobs and pensions for mobilizers was introduced, as well as a system of bonuses for activity¹⁹⁰.

In 2015, following a new presidential decree, another three waves of mobilization were approved by the Ukrainian parliament to take place in January, April, and June 2015, throughout the entire territory of Ukraine (including the city of Kyiv) with the exception of the Autonomous Republic of Crimea (and the city of Sevastopol)¹⁹¹. According to Oleksandr Turchynov, Secretary of the Ukrainian National Security and Defense Council (NSDC), the first wave lasted for 90 days, whereas the second lasted for only 60 days¹⁹².

In June 2016, both representatives of the Ministry of Defense of Ukraine and the military advisor of the European Union Delegation stressed that people mobilized during 2015 eventually “helped to create new combat units and to rotate those who were mobilized in

¹⁸⁴ Reuters, Ukraine to call up 10,000 soldiers in new mobilization drive, 22/03/2016; LIGA, Новая мобилизация: зачем она нужна и кому ждать повесток, 27/07/2014; Euromaidan Press, Partial mobilization: why is it necessary and who should await summons, 23/07/2014.

¹⁸⁵ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹⁸⁶ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

¹⁸⁷ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016; Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁸⁸ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁸⁹ Interview with the Military advisor of the European Union Delegation, 15/06/2016; Ministry of Defense of Ukraine, White Book 2014, The Armed forces of Ukraine, 2015.

¹⁹⁰ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016; Interview with the Military advisor of the European Union Delegation, 15/06/2016.

¹⁹¹ Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Gender Dimensions of SMM's Monitoring: One Year of Progress, 22/06/2015; UN High Commissioner for Refugees (UNHCR), International Protection Considerations related to developments in Ukraine – Update II, January 2015.

¹⁹² Interfax Ukraine, Ukraine to see three waves of mobilization in 2015 - in January, April and June – Turchynov, 22/12/2014.

2014”¹⁹³. According to Oleksandr Turchynov, the aim of the 2015 mobilization was to provide personnel for the Ukrainian Armed Forces, the National Guard, and the State Border Service¹⁹⁴.

During this new mobilization campaign, poor training and equipment, at work during the 2014 mobilization campaign, had been overcome. According to an article in the Ukrainian Week, those who were called up were no longer sent directly to military bases, but went “to boot camp in Yavoriv, Rivne, Desna, and other places for basic trainings” and those who were mobilized generally didn’t go directly or quickly to the ATO zone. Equipment had also improved, men getting “contemporary camouflage clothes, Canadian boots, and completely different quality ammunition” compared to the previous year¹⁹⁵. In June 2016, representatives of the Ministry of Defense of Ukraine stated that the difficulties which had appeared concerning mobilization had been overcome¹⁹⁶.

According to the same source, on May 14th 2016 a decree has also been passed to grant money to people during mobilization periods¹⁹⁷. At the end of 2015, however, the Minister of social policy, Pavel Rozenko, made a declaration during a press-conference about the absence of resources in the state budget for paying compensation of salaries of mobilized employees of the enterprises, establishments and organizations. “The State used to allocate big amounts for this program and now, in 2016, the State has no additional two billion hryvnias to continue financing this program from its budget”, said the Minister¹⁹⁸.

In June 2016, representatives of the Ministry of Defense of Ukraine stated that among the persons subject to the partial mobilization draft, “31% had only graduated elementary school; 70% from high school and 40% were college-educated”; “58% lived in urban areas and 42% in villages”¹⁹⁹.

1.3.3. Demobilization

Starting from 2015, various decrees were signed by Ukrainian President Petro Poroshenko to partially demobilize servicemen who had been summoned during the six successive mobilization campaigns.

In 2015, three decrees were signed to demobilize those drafted during the three mobilization campaigns of 2014. In January, a first decree provided for the demobilization of troops called up by virtue of the presidential decree of March 17th 2014, in a period from March 18th to May 1st 2015²⁰⁰. On May 6th, finally, a second decree provided for the demobilization, in May-June 2015, of those mobilized in compliance with the Presidential Decree of May 6th 2014²⁰¹. On June 12th, finally, another decree stipulated the demobilization in July-September 2015 of those summoned during the mobilization campaign of July 21st 2014²⁰².

This was followed by a second row of presidential decrees in 2016, providing for the demobilization of servicemen mobilized during the 4th, 5th and 6th waves of mobilizations in 2015. In March, a decree was signed by the President providing for the demobilization of soldiers mobilized in compliance with the Presidential Decree of January 14th 2015²⁰³. In

¹⁹³ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016; Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

¹⁹⁴ Interfax Ukraine, Ukraine to see three waves of mobilization in 2015 - in January, April and June – Turchynov, 22/12/2014.

¹⁹⁵ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

¹⁹⁶ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁹⁷ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

¹⁹⁸ Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

¹⁹⁹ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

²⁰⁰ Ukraine under Attack, Demobilization of Soldiers Having Served a Year Started In Ukraine, 18/03/2015.

²⁰¹ Ministry of Defense of Ukraine, President signed Decree on Demobilization of servicemen mobilized in compliance with Decree of May 06, 2014, 07/05/2015.

²⁰² Russia Beyond the Headlines, Poroshenko signs decree on partial demobilization in July-September, 13/06/2015.

²⁰³ President of Ukraine, President signed Decree on demobilization, 25/03/2016.

June, another decree ordered the demobilization in August-September 2016 of servicemen conscripted during the fifth wave of mobilization of April 2015²⁰⁴. Finally; a last decree on partial demobilization was signed at the end of September 2016 by Ukrainian President Petro Poroshenko, providing for the demobilization of servicemen conscripted during the sixth draft wave of mobilization²⁰⁵.

In a statement posted on Facebook, the President announced that: „Before the end of October, the defenders of our Homeland, who were enlisted in the so-called „sixth wave“ last year, will return to their homes and families”²⁰⁶. Demobilization should be carried out for all persons within 10 days of having served a one year term²⁰⁷. In June 2016, both representatives of the Ministry of Defense of Ukraine and the military advisor of the European Union Delegation confirmed that mobilized servicemen were dismissed after one year²⁰⁸.

On November 2016, Ukrainian President Petro Poroshenko stated that the demobilization was de facto over, all servicemen of the sixth wave of mobilization having been released, with the exception of those who were undergoing medical treatment or who were under internal investigation²⁰⁹. In April 2016, he suspended indefinitely any new call for mobilization, stating that a sharp increase in the number of volunteers willing to sign military service contracts with the Army had made this possible²¹⁰. At one point, a seventh wave of mobilization, without a defined exact date, was indeed announced by the Ukrainian General Staff²¹¹, but, in an interview with Ukrainian TV channels, Petro Poroshenko announced that he will do his “best to postpone [mobilization] as long as possible”²¹².

Termination of the seventh call-up for partial mobilization was confirmed in June 2016 by representatives of the Ministry of Defense of Ukraine²¹³. The military advisor of the European Union Delegation linked the absence of need for mobilization to the rise of salaries of contract military, which had led to an increased number of people joining the Army²¹⁴. In November 2016, Ukrainian President Petro Poroshenko asserted that following the last demobilization move, “there will not be a single mobilized serviceman on the frontline in the ATO zone”²¹⁵.

1.4. Reserve

According to Part I, Article 1, of the Law on Military Duty and Military Service and its further amendments, “Citizens of Ukraine can perform military service in the reserve of the Armed Forces formations on a voluntary basis”. “Military duty in the reserve involves the observation by persons who are liable for military service of the procedures and regulations of military registration, as well as participation in periodic training with the purpose of preserving and improving the knowledge and skills which are necessary for the performance of military service during a special period”²¹⁶.

The same legislation framework provides that: “Women with military-related specialties, the

²⁰⁴ Ukraine Today, Poroshenko to sign decree on demobilization of fifth wave's military, 25/06/2016.

²⁰⁵ Ukrainian Information Agency (UNIAN), Poroshenko signs decree on demobilization of sixth wave of Ukraine troops, 26/09/2016.

²⁰⁶ Ukrainian Information Agency (UNIAN), Poroshenko signs decree on demobilization of sixth wave of Ukraine troops, 26/09/2016.

²⁰⁷ Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Gender Dimensions of SMM's Monitoring: One Year of Progress, 22/06/2015.

²⁰⁸ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

²⁰⁹ Kyiv Post, Poroshenko says 6th wave of demobilization is over and calls for contract soldiers, 02/11/2016.

²¹⁰ Interfax Ukraine, Poroshenko suspends seventh wave of mobilization, 25/04/2016.

²¹¹ Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

²¹² Interfax Ukraine, Poroshenko suspends seventh wave of mobilization, 25/04/2016.

²¹³ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

²¹⁴ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

²¹⁵ Kyiv Post, Poroshenko says 6th wave of demobilization is over and calls for contract soldiers, 02/11/2016.

²¹⁶ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

list of which is adopted by the Cabinet of Ministers of Ukraine, and who are fit for military service in terms of health, age and family status are included in the list of registered persons liable for military service". "In wartime, women registered with enlistment offices can be called into military service or involved in activities relating to the defense of the state. In peacetime, women can undertake active military service or service in military reserve only on a voluntary (contractual) basis"²¹⁷.

"The personnel structure of the military reserve is established by the Ministry of Defense of Ukraine and approved by the Cabinet of Ministers of Ukraine"²¹⁸.

Part IV, Article 22, of the Law on Mobilization Preparation and Mobilization provides that: "Citizens who are in the reserve are pre-registered with military units (appointed) to carry out military service in wartime or are employed in the Armed Forces or other military formations"²¹⁹. According to the White Book 2015 of the Ministry of Defense of Ukraine, reservists are posted to the positions in those military units where they served²²⁰.

In June 2016 representatives of the Ministry of Defense of Ukraine asserted that the French military provided expertise for setting up the procedure for reserve service. They pointed out that "it was a pity to see a great number of men with combat experience leaving the armed forces" and that "people with good experience and good reputation were enlisted in the reserve"; according to them, the latter will be the first to be mobilized in case of hard times²²¹.

According to the military advisor of the European Union Delegation in Ukraine, "mobilized personnel who were dismissed from the mobilization go back to the reserves"; those "with experience and good conduct are enlisted in the first line of the reserves, which means that, in case of need, they would be the first ones to be mobilized again"²²².

According to Part IV, Article 22, of the Law of Ukraine on Mobilization Preparation and Mobilization, "During mobilization and wartime, those who "have the reserve status and were not called for military duty, can be recruited for the execution of defense work"²²³.

2. Alternative service

Part I, article 2, of the Law of Ukraine on Military Duty and Military Service and its further amendments provide that "Military service in Ukraine is carried out with the observance of the Constitutional requirement of the separation of church, religious organizations and the state"²²⁴.

2.1. Legal Framework

Article 35 of the Constitution of Ukraine stipulates that "If performance of military service is contrary to the religious beliefs of a citizen, the performance of this duty shall be replaced by alternative (non-military) duty"²²⁵. According to Article 2 of The Law of Ukraine on Alternative

²¹⁷ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

²¹⁸ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

²¹⁹ Law of Ukraine from October 21, 1993 of No. 3543-XII About mobilization preparation and mobilization; DCAF, The Security Sector Legislation of Ukraine, 2013.

²²⁰ Ministry of Defense of Ukraine, White Book 2015, The Armed forces of Ukraine, 2016.

²²¹ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

²²² Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

²²³ DCAF, The Security Sector Legislation of Ukraine, 2013.

²²⁴ Law of Ukraine from March 25, 1992 of No. 2232-XII About the military duty and the military service; DCAF, The Security Sector Legislation of Ukraine, 2013.

²²⁵ Constitution of Ukraine with the amendments and supplements borne by the Law of Ukraine from December, 8, 2004 N 2222-IV.

(Non-Military) Service, adopted in 1992 and amended in 1999²²⁶, “Citizens of Ukraine shall be eligible for the alternative service, if the exercise of the military duty contradicts their religious convictions, and the said citizens are affiliated with religious organizations operating in accordance with the legislation of Ukraine, whose creed prohibits the use of weapons²²⁷.”

A list of the latter is provided by the Cabinet of Ministers decision No. 2066 of 10 November 1999²²⁸. It consists of:

- (a) Adventist-Reformists;
- (b) Seventh Day Adventists;
- (c) Evangelical Christians;
- (d) Evangelical Christians – Baptists;
- (e) “The Penitents” or Slavic Church of the Holy Ghost;
- (f) Jehovah’s Witnesses;
- (g) Charismatic Christian Churches (and churches assimilated to them according to registered statutes);
- (h) Union of Christians of the Evangelical Faith – Pentecostals (and churches assimilated to them according to registered statutes);
- (i) Christians of Evangelical Faith;
- (j) Society for Krishna Consciousness.

The Institute for Religious Freedom (IRF), a human rights non-governmental organization dedicated to the promotion of the realization of the right to freedom of conscience, religion, opinion and other related human rights in Ukraine, deplores however that this list of religious organizations has never been reviewed²²⁹. The need to improve the procedure of state registration of religious organizations was outlined in the Order of the President of Ukraine on Approval of the National strategy in the Sphere of Human Rights” (dated 25.08.2015) and in the Plan of action for its implementation approved by the Order of the Cabinet of Ministers of Ukraine on November 23rd 2015, but nothing has changed since²³⁰.

Asked if there were any provision in the legal framework pertaining to LGBT people, in an interview conducted in June 2016 with the Austrian and French asylum COI experts on Ukraine, the Ministry of Defense of Ukraine asserted that there is nothing in the laws²³¹.

Since the revision of 1999, the Ministry of Labour and Social Policy is in charge of processing the applications for recognition of conscientious objector status; the administration of alternative service works under its supervision²³². However, in a recommendation paper, revised in 2013 and submitted to the 108th Session of the United Nations Human Rights Committee, the International Fellowship of Reconciliation (IFOR), Conscience and Peace Tax International (CPTI) and the Center for Civil Liberties, Kyiv, stress that “the precise composition of the district alternative service commissions who decide on individual applications does not seem to be specified in the Law”. Moreover, according to the same source it appeared on investigation that some commissions “at least prove to contain a majority of military personnel, which is not compatible with the processes being under civilian control”²³³.

²²⁶ IFOR, CPTI, Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

²²⁷ IFOR, CPTI, Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

²²⁸ IFOR, CPTI, Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

²²⁹ Institute for Religious Freedom (IRF), Freedom of thought, conscience and religion in Ukraine — Human Rights Report 2015, 22/06/2016.

²³⁰ Institute for Religious Freedom (IRF), Freedom of thought, conscience and religion in Ukraine — Human Rights Report 2015, 22/06/2016.

²³¹ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

²³² International fellowship of reconciliation (IFOR), Conscience and peace tax international (CPTI), Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

²³³ International fellowship of reconciliation (IFOR), Conscience and peace tax international (CPTI), Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

In June 2016, representatives of the ministry of Defense of Ukraine stated that for “people who, according to their moral or religious beliefs, did not wish to handle weapons, it was the responsibility of their religious institutions to ask for civil service”. In order to do so, though, the religious institutions should be registered in Ukraine and have all the registration to make a plea for a person²³⁴. The military advisor of the European Union Delegation confirmed that there was an alternative service open for all members of any religious organization. According to him, it was the responsibility of the organization to provide a letter for the concerned member so that he could apply for alternative service²³⁵.

Since an amendment of 18th May 2004, the length of alternative service, provided by Article 6 of the Law on Alternative Service, has been reduced. According to the legislation, it is equal to one-and-a-half times that of the military service which would be otherwise required from the person concerned. In a recommendation paper revised in 2013 and submitted to the 108th Session of the United Nations Human Rights Committee, this duration of alternative service is considered as discriminatory by the International Fellowship of Reconciliation (IFOR), Conscience and Peace Tax International (CPTI) and the Center for civil liberties, Kyiv²³⁶.

According to Article 13 of the Law of Ukraine on Alternative (Non-Military) Service, “those who apply to perform alternative service have no choice as to which placement they are assigned to”, and the list of eligible institutions is unduly limited²³⁷. Part II, Article 5, of the Law on the Armed Forces of Ukraine, provides that “some positions in the Armed Forces can be manned by citizens carrying out alternative service”²³⁸. Contrary to regular conscription however, there is however no clear provision in the legal framework concerning conscientious objection and alternative service for those who are drafted through emergency mobilization²³⁹.

2.2. Enforcement

In June 2016, the military advisor of the European Union Delegation in Ukraine pointed out that he had neither heard of people being deprived of their rights to alternative service nor heard of violations of human rights²⁴⁰. The Institute for Religious Freedom (IRF) observes that in a decision dated June 11th 2015, the Kharkiv County Administrative Court confirmed the right to alternative service of a religious plaintiff whose call-up wasn’t declared in the context of mobilization. In this case, the Court specified that the norms of the Constitution should be used as norms of direct application²⁴¹.

Still, in a recommendation paper revised in 2013 and submitted to the 108th Session of the United Nations Human Rights Committee, the International fellowship of reconciliation (IFOR), Conscience and peace tax international (CPTI) and the Center for civil liberties, Kyiv quoted a past Secretary of the Alternative Service Committee responsible for considering applications, as saying that “Since it is impossible to have a board of experts verify one’s true beliefs”, it is provided by law that “these beliefs can be put to the test”. The same source also quotes unverifiable reports of bribes being demanded after application for conscientious objector status²⁴².

According to IFOR, CPTI and the Center for civil liberties, Kyiv, Article 8 of the Law of Ukraine

²³⁴ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016

²³⁵ Interview with the Military advisor of the European Union Delegation, 15/06/2016.

²³⁶ IFOR, CPTI, Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

²³⁷ IFOR, CPTI, Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

²³⁸ DCAF, The Security Sector Legislation of Ukraine, 2013.

²³⁹ Institute for Religious Freedom (IRF), Freedom of thought, conscience and religion in Ukraine — Human Rights Report 2015, 22/06/2016.

²⁴⁰ Interview with the Military advisor of the European Union Delegation, Kyiv, June 15th 2016.

²⁴¹ Institute for Religious Freedom (IRF), Freedom of thought, conscience and religion in Ukraine — Human Rights Report 2015, 22/06/2016.

²⁴² IFOR, CPTI, Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

on Alternative (Non-Military) Service also provides “a list of disciplinary offences in the performance of alternative service (including participation in strikes) for which the recognition of conscientious objector status may be completely inappropriately withdrawn, and the military service requirement reinstated”. And, “while Article 9 allows for the possibility of releasing a conscript who converts to one of the recognized denominations after recruitment, in all other cases it stipulates a very tight time window for lodging the application”²⁴³.

Regarding mobilized servicemen, the Institute for Religious Freedom (IRF) asserts that “the religious beliefs of conscientious objectors summoned in the course of the waves of emergency mobilization are usually ignored”. As an example, IRF quotes different court decisions according to which the rights of the mobilized religious person to alternative service was denied. Among them, it quotes a decision of the Court of Appeal of Rivne region (dated 17.11.2015), and another decision of the Terny District Court, in the city of Kryvyi Rig (dated 10.09.2015), sentencing a religious person, who “refused being mobilized due to the fact that he is not allowed to hold weapon based on his religious beliefs” to 2 years in prison with probation period²⁴⁴.

Conversely, however, IRF also lists a decision of Rivne County Administrative Court (dated 14.04.2015) concluding in the right to exemption from military service of a religious person at the time of mobilization due to his religious beliefs. According to IRF, the Court pointed out that “analysis of the applicable legislation gives reasons to state that military service at the time of mobilization can be substituted with an alternative (non-military) service for religious citizens, who told about inability to do military service due to their religious beliefs”²⁴⁵.

3. Draft evasion and desertion

3.1. Practices

Different sources assert evasion and desertion from military service have been practices since the beginning of the conflict. Their scope has however been regularly challenged by Russian and Ukrainian politicians, the latter accusing the former of inflating figures to incite people to resist the mobilization draft²⁴⁶. At the beginning of the conflict, in 2014, the Ukrainian government however confessed it was “a problem”²⁴⁷.

According to an anonymous source from the Kyiv Municipal Recruitment Office registration and mobilization department, “in March-April 2014, 70 percent of reservists in Kyiv ignored the call to show up at their recruitment office”. The same source asserts that “80 percent ignored the second round, whereas 90 percent did not show up at the third round and 95 percent at the fourth one”²⁴⁸. The website Global security.org asserts: “potential recruits dodged conscription officials” and “hundreds of Ukrainian men fled the country in order to escape enrollment”²⁴⁹. According to the Ukrainian military in 2014, 85,792 people summoned during partial mobilizations didn’t report to their draft offices whereas 9,969 were proven to be illegally avoiding service²⁵⁰.

Some evaders have purposely been hiding to avoid military service, but there might also be

²⁴³ IFOR, CPTI, Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

²⁴⁴ Institute for Religious Freedom (IRF), Freedom of thought, conscience and religion in Ukraine — Human Rights Report 2015, 22/06/2016.

²⁴⁵ Institute for Religious Freedom (IRF), Freedom of thought, conscience and religion in Ukraine — Human Rights Report 2015, 22/06/2016.

²⁴⁶ War Resisters’ International (WRI), Propaganda, Ukrainian desertion and conscription in Lithuania, 03/03/2015.

²⁴⁷ Global Security, Military Personnel, n.d.

²⁴⁸ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

²⁴⁹ Global Security, Military Personnel, n.d.

²⁵⁰ Foreign Policy, The Draft Dodgers of Ukraine, 18/02/2015.

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other reasons for them not to show up, like living at a different address, being on a trip, etc.²⁵¹ In June 2016, the military advisor of the European Union Delegation in Ukraine asserted that there were de facto many ways to avoid military service, among which “corruption”: “you can pay to avoid going to the front”²⁵². According to Global Security.org, “military commissioners, appointed by the General Staff, were “massively infected with corruption and incompetence”²⁵³.

In June 2016, the military advisor of the European Union Delegation in Ukraine asserted that “Some private companies had also been able to pay their way off”²⁵⁴. This assertion seems to be confirmed by an article of the Ukrainian Week, dated April 2015, according to which business owners, local officials and residential services made actually poor efforts to deliver draft notices, akin to sabotage²⁵⁵. In February 2015, an example of military evasion was given by the American magazine Foreign Policy which reports the story of a longtime political activist and accountant from Lviv, in western Ukraine, who, no longer lives at his parents’ house where he is registered to avoid mobilization²⁵⁶.

The young man states that as he wasn’t there, when the local draft board came to deliver his mobilization draft notice, his father refused to sign; but he says he eventually relented after the head of the village threatened to call the police²⁵⁷. In Kyiv, according to Ukrainian Week, as soon as a new round of mobilization goes on, district recruitment offices (DROs) get endless letters of denunciation from residents alleging that a neighbor is avoiding the draft, while this other “alkie/druggie/hooligan needs to get a call-up notice, go to war and straighten out his life or at least do penance”²⁵⁸.

In 2012, according to an article of the Ukrainian newspaper “Segodnya” (Today), the “going rate” for to be exempted from the spring 2012 call-up draft amounted to between 4,000 and 6,000 hryvnia²⁵⁹ (UAH), draftees having notably “perfected the art of having call-up postponed for health reasons”²⁶⁰. In 2014, moreover, according to the White Book of the Ministry of Defense of Ukraine, in the anti-terrorist operation (ATO) zone, up to 30 percent of soldiers abandoned their post due to unpreparedness, poor training and insufficient mental stability²⁶¹.

According to the Ministry of Defense, these points were however eventually tackled and the number of people who refused to take part in ATO later dropped to less than 1 percent²⁶². Still, in June 2016, the military advisor of the European Union Delegation in Ukraine asserted that in August 2015: “mobilization was not very much liked”, “people trying to avoid it”. According to him, those who had to sign that they received a mobilization order mostly “pretended they had left”. De facto, many categories are dispensed and even if you haven’t got the proper document to do so “it is very easy to avoid mobilization even inside Ukraine”²⁶³.

The same conclusion was drawn in June 2016, by a representative of the International Organization for Migrations (IOM). According to him, “everyone is doing everything to escape mobilization and going to the East”; “increased number of marriages with Europeans attests to it”. For IOM it is a real issue; there are some cases of Ukrainians stranded in Sri Lanka to avoid mobilization²⁶⁴.

²⁵¹ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

²⁵² Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

²⁵³ Global Security, Military Personnel, n.d.

²⁵⁴ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

²⁵⁵ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

²⁵⁶ Foreign Policy, The Draft Dodgers of Ukraine, 18/02/2015.

²⁵⁷ Foreign Policy, The Draft Dodgers of Ukraine, 18/02/2015.

²⁵⁸ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

²⁵⁹ Approximately 145 to 217 euros.

²⁶⁰ IFOR, CPTI, Center for civil liberties (Kyiv), Ukraine: Military service, conscientious objection and related issues, 06/2013.

²⁶¹ Ministry of Defense of Ukraine, White Book 2014, The Armed forces of Ukraine, 2015.

²⁶² Ministry of Defense of Ukraine, White Book 2014, The Armed forces of Ukraine, 2015.

²⁶³ Interview with the Military advisor of the European Union Delegation, Kyiv, June 15th 2016.

²⁶⁴ Interview with a representative of the International Organization for Migrations (IOM), Kyiv, 14/06/2016.

Among the evaders, some are disturbed by the prospect of fighting their own countrymen, others are against the war in principle, but some of them are just afraid²⁶⁵. In September 2015, the Organization for Security and Co-operation in Europe (OSCE) reported that many men of military age avoided registering as internally displaced persons “for fear of being mobilized”; they also “refrained from applying for the government’s special entry/exit permit needed to move across the contact line, due to the belief that these permits are issued together with military draft notices”²⁶⁶.

In Western Ukraine, this move has potentially angered mothers and wives of soldiers who argued that IDP men residing in their regions should “be in combat in the East” instead of their husbands and sons²⁶⁷. Iryna Vereshchuk, the mayor of Rava-Ruska, a town of the Lviv oblast, said attitudes have hardened after “locals who went to fight returned in coffins”. According to her, in February 2015, only six mobilization call-up papers out of the about 100 to be distributed had been effectively given out. In the other cases, men had been hiding or could not be found²⁶⁸. In June 2016, the military advisor of the European Union Delegation in Ukraine asserted that “probably the will of people from the west of Ukraine was less to join the army”²⁶⁹. According to the mayor of a small town in western Ukraine, “People don’t understand what they are fighting against”²⁷⁰, a type of assertion which has been widely exploited in the Russian state media, in support of Ukrainian draft evasion²⁷¹.

In places like Zaporizhia, near the Donetsk region and close to the rebel-controlled areas, small had taken place. Moreover, in 2015, Russia’s Federal Migration Service alleged that 20,000 Ukrainian men eligible for conscription in Ukraine had entered Russia in just one week, and 1,193,000 remain in Russia (which has been de facto a traditional country of migration for Ukrainians in search of jobs). In February 2015, Russian president Vladimir Putin even ordered a change in the legislation so that Ukrainian citizens can stay in the country longer than the allowed period of 30 days and escape being “sent under the bullets again”²⁷².

According to an article in the Ukrainian Week of April 2015, too many Ukrainians still perceived “the Army as a penal system, meting out punishment, not to distant Russian militants, but to those being called up to serve”²⁷³. In June 2016, a representative of the NGO Ilko Kucheriv Democratic Initiatives Foundation (DIF) however argued that the attitude towards the Army had improved, the Army being better governed and more disciplined²⁷⁴.

In 2015, the effectiveness of mobilization deteriorated so significantly that recruitment offices had to issue nearly 40,000 calls to mobilize 1,000 men, a number they had, according to them, “no means of vetting, realistically”²⁷⁵. As a result, according to an article in the Ukrainian Week, “recruitment offices had to take “whoever wasn’t hiding” and had normal physical results²⁷⁶. Moreover, according to Global Security.org, “by early 2015, in most regions of Ukraine, 50 percent of the heads of district and regional administrations in charge of mobilization had not been appointed. There was also no system of accounting recruits or of accounting reserve military service, all the records in the military enlistment offices being on paper”²⁷⁷.

²⁶⁵ Foreign Policy, The Draft Dodgers of Ukraine, 18/02/2015.

²⁶⁶ Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Gender Dimensions of SMM’s Monitoring: One Year of Progress, 22/06/2015.

²⁶⁷ Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Gender Dimensions of SMM’s Monitoring: One Year of Progress, 22/06/2015.

²⁶⁸ The Guardian, Ukraine: draft dodgers face jail as Kyiv struggles to find new fighters, 10/02/2015.

²⁶⁹ Interview with the Military advisor of the European Union Delegation, Kyiv, 15/06/2016.

²⁷⁰ War Resisters’ International (WRI), Propaganda, Ukrainian desertion and conscription in Lithuania, 03/03/2015.

²⁷¹ War Resisters’ International (WRI), Propaganda, Ukrainian desertion and conscription in Lithuania, 03/03/2015.

²⁷² Foreign Policy, The Draft Dodgers of Ukraine, 18/02/2015.

²⁷³ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

²⁷⁴ Interview with a representative of Ilko Kucheriv Democratic Initiatives Foundation (DIF), Kyiv, 16/06/2016.

²⁷⁵ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

²⁷⁶ Ukrainian Week, Fear of Mobilization: Myths and Reality, 17/04/2015.

²⁷⁷ Global Security, Military Personnel, n.d.

3.2. Legal Framework

According to Article 65 of the Constitution of Ukraine, Defense of Homeland, its independence and territorial integrity, it is a constitutional obligation for the citizens of Ukraine²⁷⁸. Non-fulfillment of this obligation constitutes a criminal offense²⁷⁹.

Avoidance of conscription, mobilization, military registration or special assemblies, is punishable by law. According to article 335 of the Criminal Code of Ukraine, "Avoidance of conscription for active military service, - shall be punishable by restraint of liberty for a term up to three years". Article 336 provides that "avoidance of mobilization - shall be punishable by imprisonment for a term two to five years", whereas Article 337 lays down that: "(§1) avoidance of military registration by a person bound to military service after notification by an appropriate military commissariat - shall be punishable by a fine up to 50 tax-free minimum incomes, or correctional labor for a term up to two years, or arrest for a term up to six months" and "(§2) avoidance of military training or special assemblies by a person bound to military service, - shall be punishable by a fine up to 70 tax-free minimum incomes, or arrest for a term up to six months"²⁸⁰.

Article 408 of the Criminal Code of Ukraine provides that "Desertion, that is the absence from a military unit or place of duty without leave for the purpose of avoiding the military service, or failure to report for duty upon appointment or reassignment, after a detached service, vacation or treatment in a medical facility for the same purpose, shall be punishable by imprisonment for a term of two to five years"; "(§2) Desertion with weapons or of a group of persons upon their prior conspiracy, shall be punishable by imprisonment for a term of five to ten years"; "(§3) Any such act as provided for by paragraph 1 or 2 of this Article, if committed in state of martial law or in a battle, shall be punishable by imprisonment for a term of five to twelve years"²⁸¹.

According to Article 409 of the Criminal Code of Ukraine "(§1) Evasion of military service by a military serviceman by way of self-maiming or malingering, or forgery of documents, or any other deceit, shall be punishable by custody in a penal battalion for a term up to two years, or imprisonment for the same term"; "(§2) Refusal to comply with the duties of military service, shall be punishable by imprisonment for a term of two to five years"; "(§3) Any such acts as provided for by paragraph 1 or 2, if committed in state of martial law or in a battle, shall be punishable by imprisonment for a term of five to ten years"²⁸².

Since January 30th 2015, a new government decree on Additional Measures to Ensure the Holding of Partial Mobilization in 2015 (#40/2015), regulates foreign travel for those subject to mobilization²⁸³. In order to travel abroad, citizens of Ukraine, at the age for being conscripted, must show a document issued by a military commissariat²⁸⁴. According to War Resisters' International (WRI), a global pacifist and anti-militarist network with over 80 affiliated groups in 40 countries, those guilty of draft-dodging could be arrested and face up to five years in prison. WRI asserts that a database has been set up by the military to keep track of offenders²⁸⁵. Moreover, According to article 210 of the Code of Ukraine on Administrative Offenses, dodging of reservists from mobilization for service in the Anti-Terrorist Operation zone constitutes an offense²⁸⁶.

²⁷⁸ Constitution of Ukraine with the amendments and supplements borne by the Law of Ukraine from December, 8, 2004 N 2222-IV.

²⁷⁹ Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

²⁸⁰ Criminal Code of Ukraine.

²⁸¹ Criminal Code of Ukraine.

²⁸² Criminal Code of Ukraine.

²⁸³ The Guardian, Ukraine: draft dodgers face jail as Kyiv struggles to find new fighters, 10/02/2015; War Resisters' International (WRI), Propaganda, Ukrainian desertion and conscription in Lithuania, 03/03/2015.

²⁸⁴ Global Security, Military Personnel, n.d.

²⁸⁵ War Resisters' International (WRI), Propaganda, Ukrainian desertion and conscription in Lithuania, 03/03/2015.

²⁸⁶ Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

On February 5th 2015, Ukraine's parliament passed new a law authorizing the use of physical force against defectors by military commanders. According to the new article 22(1), which was added to the charter regulating service in the armed forces of Ukraine, commanders "have the right to personally use physical force, special means, and weapons when in combat" against soldiers who commit "criminal acts", the latter being described as "disobedience, resistance or threat to use force against the commander, voluntary abandonment of military positions and certain locations of military units in areas of combat missions". In an explanatory note attached to the document "mass violations of military discipline, in particular, desertion from units and drinking alcohol, as well failure to execute commanders' orders" are said to have been observed²⁸⁷.

3.3. Law Enforcement

According to the White Book 2014 of the Ministry of Defense of Ukraine, 8,490 soldiers were prosecuted for evasion of military service. 2,287 criminal investigations were launched in appliance of article 407 of the Criminal Code of Ukraine for "unauthorized abandonment of a military unit"; 4,880 soldiers were prosecuted for "desertion", according to article 408 of the same code, and another 1,323, came under investigations in appliance of article 409, for "evasion of military Service by selfmutilation or other means"²⁸⁸.

In February 2015, a reporter for the French radio "Radio France Internationale (RFI)" observed that unlike previous waves of mobilization, recalcitrant research was rigorous: on the road, at border crossings and even the workplace. At one of the entry routes in the great city of Lviv, a police patrol, accompanied by an officer of the National Guard, systematically stopped the cars driven by young drivers in order to seek citizens fleeing to the mobilization. Vasyl Mazyar, member of the National Guard asserted he compared the driver's documents with a list of wanted persons²⁸⁹.

On 17 April 2015, according to the Chief Military Prosecutor of Ukraine 7,560 criminal investigations were launched into crimes committed by the Ukrainian soldiers since the beginning of the year²⁹⁰. Among these figures, 1,964 criminal proceedings were conducted under article 407 (absence without leave from a military unit or place of service), 948 under article 408 (desertion) and 107 under article 409 (evasion from military service) of the Criminal Code of Ukraine²⁹¹.

In 2015, the Starobilsk district Court, in Luhansk region, also sentenced a 40-years old resident of Starobilsk who evaded a mobilization draft after having been noticed twice, to 3 years of imprisonment in appliance of article 336 of the Criminal code; the sentence came into effect²⁹². This decision was taken after the arrest, in February the same year, of the Ukrainian journalist and blogger Ruslan Kotsaba, after he had addressed video on Youtube, to the Ukrainian president , in which he appealed to "all reasonable adequate people to denounce [this] mobilization, because this hell, this horror, must be stopped"²⁹³.

Accused of having obstructed the lawful activities of the Armed Forces, Ruslan Kotsaba was charged with State treason under articles 111 §1 and 114.1 §1 of the Ukrainian Criminal Code. On May 12th 2016, he was sentenced to three and a half years of imprisonment, by the Ivano-Frankivsk City Court, for obstructing the legitimate activities of the Ukrainian Armed Forces of

²⁸⁷ Global Security, Military Personnel, n.d.

²⁸⁸ Ministry of Defense of Ukraine, White Book 2014, The Armed forces of Ukraine, 2015.

²⁸⁹ Radio France Internationale (RFI), Ukraine: la conscription critiquée, les contrôles renforcés, 17/02/2015.

²⁹⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine 16 February to 15 May 2015.

²⁹¹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine 16 February to 15 May 2015.

²⁹² Security Service of Ukraine (SBU), The resident of Luhansk region for draft evasion was imprisoned for 3 years, July 2015.

²⁹³ War Resisters' International (WRI), Propaganda, Ukrainian desertion and conscription in Lithuania, 03/03/2015.

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Ukraine²⁹⁴. In June 2016, a representative of the NGO Ukrainian Helsinki Human Rights Union (UHHRU) asserted that he was sentenced in compliance of an article of the Criminal Code added as an amendment of the Code of 2014, which was often used, especially in Donetsk and Luhansk against people who took to the streets to block the progress of the armed forces. But in the case of Ruslan Kostaba, the NGO observed that there was no physical blockage²⁹⁵. Ruslan Kotsaba, who was acquitted of the charge of 'state treason'²⁹⁶, was declared a prisoner of conscience by Amnesty International²⁹⁷. He was finally released by a decision of the Ivano-Frankivsk Court of Appeal of July 14th 2016, which revoked the original conviction, considering the charges were unwarranted²⁹⁸.

In 2016, several other criminal investigations were also launched concerning supposed draft evaders. Among them, a man, declared liable and fit for the military service, was sentenced to a deprivation of liberty for declining military draft under mobilization in a written statement in his application to the military commissar of Gorodishchenskyi district military commissariat (DMC). However, according to the Ukrainian Law Firm Ilyashev & Partners, "in each concrete case the court defines the degree of the person's guilt under the actual circumstances and, if the person cooperates with the investigation authorities, the court applies more subtle type of punishment without isolation of a person from society"²⁹⁹.

²⁹⁴ Kharkiv Human Rights Protection Group (KHPG), Controversial Ukrainian blogger / journalist Kotsaba freed after 18 months in prison, 15/07/2016.

²⁹⁵ Interview with a representative of Ukrainian Helsinki Human Rights Union (UHHRU), 16/06/2016.

²⁹⁶ Kharkiv Human Rights Protection Group (KHPG), Controversial Ukrainian blogger / journalist Kotsaba freed after 18 months in prison, 15/07/2016.

²⁹⁷ Amnesty International, Annual Report Ukraine, 2015/2016.

²⁹⁸ Kharkiv Human Rights Protection Group (KHPG), Controversial Ukrainian blogger / journalist Kotsaba freed after 18 months in prison, 15/07/2016.

²⁹⁹ Ilyashev & Partners, Mobilization: medical contraindications and legal reservations, 04/07/2016.

Chapter 4. Situation in Government Controlled Areas (GCA) and Non-Government Controlled Areas (NGCA) of the Donbass region

1. Security situation

1.1. Hotspots

As of June 2016 interlocutors unanimously agreed that the security situation in the Donbass region had drastically changed since the beginning of the conflict in 2014. According to a representative of the Organization for Security and Co-operation in Europe (OSCE), the full scale military conflict which prevailed from mid-May to the end of August 2014 was no more³⁰⁰. Various interlocutors described the conflict as frozen³⁰¹. Nevertheless, according to the International Organization for Migration (IOM), peace remained very fragile and violence was mounting³⁰².



Remaining signs of the War (Periphery of Kramatorsk)

The OSCE asserted that in the East the situation remained highly volatile and that there had never been a genuine ceasefire despite the Minsk agreements³⁰³. Since mid-January 2016, the conflict had even started to re-escalate³⁰⁴. According to OSCE observers, since March 2016 hotspots have popped up again, and in June 2016 flare ups have sharply increased compared to the previous months³⁰⁵. The organization asserted that fighting occurred on a daily basis, but mainly involved small arms, even though mortars were being used again³⁰⁶.

According to representatives of the OSCE, fighting did not usually mean belligerents crossing the contact line, but repositioning within their own territory, moving nearer to the contact line³⁰⁷. According to representatives of the ministry of Defense of Ukraine, the line of contact had therefore not changed since the closing of the Debaltseve pocket by the separatists in February 2015³⁰⁸. Yet, the buffer zone on both sides of the contact line was dangerously shrinking³⁰⁹.

³⁰⁰ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁰¹ Interview with representatives of the French NGO "Triangle Génération humaine", Kyiv, 13/06/2016; Interview with the International Organization for Migration (IOM), Kyiv, 14/06/2016.

³⁰² Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

³⁰³ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁰⁴ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.; Interview with the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

³⁰⁵ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

³⁰⁶ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁰⁷ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁰⁸ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

³⁰⁹ Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016

Government Controlled Areas (GCA) and Non-Government Controlled Areas (NGCA)

In June 2016, representatives of the ministry of Defense of Ukraine described the conflict in the ATO zone as being of low intensity³¹⁰. According to the OSCE, “hotspots remained, where you could have intense fighting, but their area was very limited”³¹¹. The International Organization for Migration (IOM) confirmed that shootings were localized³¹².

According to the French NGO “Triangle Génération Humaine”³¹³, “in the buffer zone the situation was still difficult as fighting was going on from time to time, generating a lot of stress for the people”. But the French NGO asserted that security problems were restricted to the frontline only³¹⁴. The Akhmetov Foundation³¹⁵ corroborated this assessment: “people living near the contact line and regular hotspots of conflict (both in GCA and NGCA) are the most at risk, as skirmishes are increasing”³¹⁶.

In June 2016, a representative of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) described the main hotspots in the Non-Government Control Area/NGCA, as being “the western and northern suburbs of Donetsk, the area of the Donetsk airport, Staromykhailivka, Horlivka, Ozerianivka, Zaitseve, Yasynuvata, Spartak, Dokuchaievsk, Zaichenko, Kominternove, Sakhanka, Leninske”; and in the Government Controlled Area/GCA: “Novotroitske, Avdiivka, Marinka, Stanytsia Luhanska, Trokhizbenka and Debaltseve”³¹⁷.

In June 2016, representatives of the OSCE Special Monitoring Mission to Ukraine (SMM) pointed out that the highest number of ceasefire violations was concentrated around Donetsk airport, the Yasynuvata-Avdiivka area, and on the Svitlodarsk-Debaltseve road³¹⁸. Yet, according to the same source, from June 18th to 21st, there had been a notable decrease in violence³¹⁹. As of June 2016, according to the OSCE, “fighting was mainly limited to an area of a maximum diameter of 5 km, covering the area between Avdiivka (a city located 17km north of Donetsk) and Donetsk airport”; there was “no more risk outside this zone”³²⁰.

In June 2016, the OSCE asserted that moving around Avdiivka remained very tense, with ceasefire violations taking place also at daytime, which was generally not the case elsewhere³²¹. But according to H. Nemyria, member of the Batkivshyna Party and President of the Human Rights Commission of Ukraine, Maryinka, a locality south-west of Donetsk, was probably the place where most indiscriminate shelling was going on³²².

1.2. Casualties

As of May 31st 2016, according to representatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR), in eastern Ukraine 9,404 persons have been killed and 21,671 injured since the beginning of the conflict³²³. Relatively similar figures were

³¹⁰ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

³¹¹ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³¹² Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

³¹³ Author's Note: the NGO operates in 27 villages along the contact line in Government Control Area (GCA).

³¹⁴ Interview with representatives of the French NGO “Triangle Génération humaine”, Kyiv, 13/06/2016.

³¹⁵ Author's Note: the Akhmedov Foundation is the biggest provider in humanitarian aid and works on the two side of the contact line.

³¹⁶ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

³¹⁷ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

³¹⁸ Organization for Security and Co-operation in Europe (OSCE), Status Report as of 22 June 2016; Organization for Security and Co-operation in Europe (OSCE), Status Report as of 8 June 2016.

³¹⁹ Organization for Security and Co-operation in Europe (OSCE), Status Report as of 22 June 2016.

³²⁰ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³²¹ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

³²² Interview with an MP of the All-Ukrainian Union „Fatherland” (Batkivshchyna), Kyiv, 16/06/2016.

³²³ Office of the United Nations High Commissioner for Human Rights (OHCHR), Accountability for killings in Ukraine, from January 2014 to May 2016.

Government Controlled Areas (GCA) and Non-Government Controlled Areas (NGCA)

reported by OCHA in June 2016, with 9,470 people killed and 21,880 injured, among which up to 2,000 civilian fatalities³²⁴.

According to representatives of the OSCE, two-thirds of the casualties occurred in NGCA and one-third in GCA³²⁵, which is mainly due to the fact that the two sides of the line of contact are very diversely populated. While the NGCA side is heavily populated, while on the GCA side there are mainly fields. Therefore, according to OSCE, if “Ukrainian armed forces miss their targets in NGCA, they will hit population; on the contrary if separatists miss their target, it might end up in potato fields”³²⁶.

However, according to OHCHR, since the official ceasefire of September 2015, the overall trend of civilian casualties remains relatively low³²⁷. From February 16th to May 15th 2016, the UN Agency recorded the monthly lowest average of civilian casualties since the beginning of the conflict³²⁸. Yet, according to UN sources, in June 2016 the mounting violence resulted in the highest number of monthly civilian casualties since August 2015³²⁹. In June 2016, members of the Gorshenin Institute³³⁰ asserted that 658 people had been killed since the beginning of the year³³¹.

According to representatives of OSCE, the rise in casualties resulted from direct and indirect fire, but also from landmines, unexploded ordnance (UXO) and criminal activities involving arms. In June 2016, the organization strongly advised mission members not to travel more than 20 kilometers near the contact line, due to the heavy presence of people with firearms, sometimes under influence of alcohol and with issues among themselves³³².

According to Norwegian Refugee Council (NRC), at least 30,000 hectares of land in eastern Ukraine could be contaminated with mines³³³. The French NGO “Triangle Génération Humaine” asserted that even if de-mining had already started, it was impossible to know which stage it has reached and anyhow it could not be effective during war time³³⁴. According to OHCHR, in the period from February 16th to May 15th 2016, the majority of civilian casualties resulted from explosive remnants of war (ERW) and improvised explosive devices (IEDs); however, the casualties resulting from shelling were on the rise³³⁵.

In June 2016, the UN agency recorded 69 conflict-related civilian casualties (12 fatalities and 57 injuries), the majority of which (four fatalities and 37 injuries) were caused by shelling³³⁶. According to OCHA, in June 2016, “19 casualties (five killed and 14 injured) were caused

³²⁴ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

³²⁵ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

³²⁶ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³²⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

³²⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

³²⁹ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016; UN News Center, “UN warns of escalating tension in eastern Ukraine as casualties hit highest since last August”, 03/08/2016.

³³⁰ Author’s Note: an institute dealing with political research and communication.

³³¹ Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

³³² Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³³³ Norwegian Refugee Council (NRC), Housing, Land and Property Rights of displaced and conflict-affected communities in Eastern Ukraine, January 2016.

³³⁴ Interview with representatives of the French NGO “Triangle Génération humaine”, Kyiv, 13/06/2016.

³³⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

³³⁶ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016; UN News Center, “UN warns of escalating tension in eastern Ukraine as casualties hit highest since last August”, 03/08/2016.

by mines, explosive remnants of war and improvised explosive devices”; “Six civilians were injured by small arms including sniper fire across the ‘contact line’”; “Two boys were killed by electrocution from a power line downed by shelling”³³⁷.

1.3. Crossing points

As of June 2016, OCHA asserted that shelling “frequently occurred at and in the vicinity of checkpoints, adding to the risks faced by thousands of people crossing the ‘contact line’ every day”³³⁸. A similar situation was described by the OSCE, which stressed the existence of a very limited number of crossing points³³⁹. According to the United Nations High Commissioner for Human Rights (OHCHR) and the Ukrainian Charitable Foundation „East-SOS”³⁴⁰, five traffic corridors operated via the contact line, among which four were situated in the Donetsk³⁴¹ region and one in Luhansk³⁴², the latter being restricted to pedestrians³⁴³. There were no functioning official vehicle crossings between GCA and NGCA in the Luhansk region³⁴⁴.

In June 2016, according to OSCE³⁴⁵, the crossing point located near Olenivka³⁴⁶, south of Donetsk, remained generally the most quiet one³⁴⁷, despite the death of four civilians due to shelling on April 27th³⁴⁸. Potential combat could however still occur in the Donetsk airport area as well as in the southwest of Donetsk, like in Marinka and Alexandrinka, potentially affecting the crossing point tangent to the road between Donetsk and Dnepropetrovsk³⁴⁹. According to Office of the United Nations High Commissioner for Human Rights (OHCHR), on June 16th 2016 a civilian was allegedly wounded following an exchange of fire at Marinka crossing point. The checkpoint activities were therefore suspended until the following morning³⁵⁰. To avoid long queues of vehicles these crossing points are indeed very often closed during fighting³⁵¹.

In June 2016, according to OSCE, the crossing point situated in Mayorsk³⁵², in the northern periphery of Horlivka³⁵³ was another hotspot. In June 2016, the fact finding mission met with IDPs recently displaced from this locality because of heavy shelling³⁵⁴. According to representatives

³³⁷ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

³³⁸ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine - Issue 11, 1-30 June 2016.

³³⁹ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁴⁰ Charitable Foundation „East-SOS”, Freedom of movement in Eastern Ukraine. Crossing the contact line in Donetsk and Luhansk regions, 2016.

³⁴¹ “Zaitseve, in the corridor Horlivka–Bakhmut (“zero” checkpoint “Mayorsk”); “Maryinka”, in the corridor Donetsk–Kurakhove (“zero” checkpoint “Oleksandrivka”); “Novotroitske”, in the corridor Donetsk–Mariupol (“zero” checkpoint “Berezove”); “Hnutove,” in the corridor Novoazovsk–Mariupol (Pyshchevyk).

³⁴² “Stanytsia Luhanska”, in the corridor Luhansk–Stanytsia Luhanska.

³⁴³ Interview with the (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁴⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016; OHCHR, Report on the human rights situation in Ukraine, 16 February to 15 May 2016; Charitable Foundation „East-SOS”, Freedom of movement in Eastern Ukraine. Crossing the contact line in Donetsk and Luhansk regions, 2016.

³⁴⁵ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁴⁶ Author’s Note : at Novotroisk.

³⁴⁷ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁴⁸ Organization for Security and Co-operation in Europe (OSCE), Status Report as of 11 May 2016; Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

³⁴⁹ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁵⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

³⁵¹ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁵² Author’s Note: At Zaitseve.

³⁵³ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁵⁴ Interview with IDPs, IDP Collective Centre, Sviatohirsk, 17/06/2016

of the OSCE, the situation in the Luhansk Oblast was more quiet³⁵⁵, even though the crossing point situated at Stanystia Luhanska was kept under close monitoring as, in June 2016, armed “LPR” members and Ukrainian Armed Forces had punctually moved their positions forward across the contact line³⁵⁶. The two other crossing points, situated in Schastya and Zolote, in the Luhansk Oblast, were closed due to occasional fighting³⁵⁷.

Despite the increased violence, in June 2016, OCHA pointed out that the number of people crossing the contact line had also increased³⁵⁸. According to the International Organization of Migration (IOM), there were however no additional mass displacements, at least not in such numbers as in 2014 and 2015³⁵⁹. In June 2016, representatives of the ministry of Defense of Ukraine claimed an increase in the number of refugees from NGCA, their numbers amounting to 40 or 50 percent of the local population before the conflict³⁶⁰. However, according to OSCE, it was not possible to assess if there was an increase or decrease in the numbers of internally displaced persons³⁶¹.

According to representatives of the OSCE, even though the situation was not good, the cease fire agreement of September 2014 had encouraged a certain number of IDPs to go back to their place of origin, although there are no means to assess how many³⁶². In June 2016 a representative of IOM estimated that half of the internally displaced persons might have returned, but he admitted there were no figures³⁶³. The French NGO “Triangle Génération Humaine” confirmed that people were going back, but concurred that there were no figures³⁶⁴.

According to representatives of the OSCE, economic difficulties could have pushed people to return³⁶⁵. In June 2016, the French NGO “Triangle Génération Humaine” asserted that nothing had changed since last year but “people had got used to the situation, which was stable at a very low level but had become a new normal”; at local levels, “councils tried to get better organized and people started to get involved in repairing”³⁶⁶.

2. Humanitarian situation

2.1. Employment and social benefits

In June 2016, a number of interlocutors insisted on the degraded economic situation in the Donbass region. Some of them described the situation in GCA as improving, like in the city of Kramatorsk where business activities seemed to have started again with renewed dynamism; but some of them agreed that this remained primarily a perception³⁶⁷. In these areas, the situation of internally displaced persons had not changed, especially in collective centers where life had become quite difficult³⁶⁸, whereas in Kramatorsk apartments prices were rather

³⁵⁵ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁵⁶ Organization for Security and Co-operation in Europe (OSCE), Status Report as of 22 June 2016.

³⁵⁷ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁵⁸ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

³⁵⁹ Interview with representatives of the International Organization for Migrations (IOM), Kyiv, 14/06/2016.

³⁶⁰ Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

³⁶¹ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁶² Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁶³ Interview with representatives of the International Organization for Migrations (IOM), Kyiv, 14/06/2016.

³⁶⁴ Interview with representatives of the French NGO “Triangle Génération humaine”, Kyiv, 13/06/2016.

³⁶⁵ Interview with representatives of the (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁶⁶ Interview with representatives of the French NGO “Triangle Génération humaine”, Kyiv, 13/06/2016.

³⁶⁷ Interview with representatives of the French NGO “Triangle Génération humaine”, Kyiv, 13/06/2016; Interview with Ilko Kucheriv Democratic Initiatives Foundation (DIF), Kyiv, 16/06/2016.

³⁶⁸ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016; Interview with the French NGO “Triangle Génération humaine”, Kyiv,

high³⁶⁹.

In June 2016, people in charge of a collective IDP-center located in Sviatohirsk, in the Sloviansk Municipality, reported serious problems with heating during the winter, and deplored poor planning on the side of the government. In June 2016, the center had already used the entire amount of available coal and had only received three deliveries of coal since (26 tons each time). During winter the center needs 75 tons per month for heating and hot water. People in charge of the Center said it was not possible to buy coal directly from mines, as it requires paying in advance, which was not possible for financial reasons³⁷⁰. According to a representative of the World Food Programme (WFP), in June 2016 supply of coal was also a problem in Luhansk, where coal for only 90 days was left³⁷¹. A member of the Chamber of Commerce of Ukraine asserted that in NGCA coal mines were still working³⁷².

The Donbass region is affected by a high level of unemployment³⁷³. In June 2016, a member of the Chamber of Commerce of Ukraine asserted that in NGCA large companies (mainly in mines and metal industries) were still functioning, but it was almost impossible for small and medium-sized companies to engage in cross-line business with GCA, as their activities were limited by administrative boundaries. According to the same source, it was virtually impossible to export from NGCA to GCA, and exporting to the Russian Federation was also complicated as it was necessary for a company to be registered in Ukraine to be considered as legal from the international point of view. According to that source, the only cross-line business remaining was smuggling of goods³⁷⁴.

In NGCA, service activities and small and medium businesses were restricted to local people, and companies faced difficulties in the procurement of raw materials and the selling of their products. They were also confronted with a tax problem, as they usually had to pay on both sides of the line³⁷⁵. Questioned about rumors of customs being collected between the Luhansk People's Republic (LPR or LNR) and the Donetsk People's Republic (DNR), in June 2016, a member of the Chamber of Commerce of Ukraine asserted that in NGCA every man with a gun is his own customs now "anybody could make his own tax anywhere"³⁷⁶.

The economic situation in Donbass is further affected by the decrease of remittances from people working abroad³⁷⁷. According to Yuri BOIKO, leader of the "Opposition Bloc faction", out of the two and a half million people who worked in Russia, the majority came from NGCA³⁷⁸. In separatist controlled areas, the adoption of resolution 637, which gives the Security Service of Ukraine (SBU) the power to check if internally displaced persons really live under their declared place of residence and to potentially cut their social and pension payments, also drastically hampered the life of those relying on social benefits or pensions to make a living³⁷⁹. Still, according to a representative of the World Food Program (WFP), the degraded conditions of living in the area did not necessarily result from the war, since thirty percent of the people were already in need before the conflict. WFP claimed that 60 percent of people lived on social benefits³⁸⁰.

13/06/2016.

³⁶⁹ Interview with a representative of Ilko Kucheriv Democratic Initiatives Foundation (DIF), Kyiv, 16/06/2016.

³⁷⁰ Interview with IDPs and representatives of IDPs at Sviatohirsk IDP Center, Sviatohirsk, 17/06/2016.

³⁷¹ Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016.

³⁷² Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

³⁷³ Interview with a representative of Ilko Kucheriv Democratic Initiatives Foundation (DIF), Kyiv, 16/06/2016; Interview with World Food Programme (WFP), Kyiv, 13/06/2016.

³⁷⁴ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 13/06/2016.

³⁷⁵ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

³⁷⁶ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

³⁷⁷ Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016.

³⁷⁸ Interview with an MP of the "Opposition Bloc" faction of the Supreme Rada of Ukraine, Kyiv, 15/06/2016.

³⁷⁹ Interview with representatives of Ukrainian Helsinki Human Rights Union (UHHRU), Kyiv, 16/06/2016.

³⁸⁰ Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016.

In June 2016, according to the Akhmetov Foundation, the humanitarian situation was worst for those living near the contact line and regular hotspots of conflict, as many were unemployed or elderly and lacking funds to leave³⁸¹. In some settlements, people also had to cross the frontline to go to work or engage in agricultural activities, which hampered their activities³⁸². According to an interview with a member of the Chamber of Commerce of Ukraine, the same applied to people holding bank accounts with Ukrainian banks, who had to cross to GCA to withdraw their money; moreover, according to the same source, if a bank noticed that a person comes from NGCA, access to bank accounts could be blocked, whereas assets left in deposit banks on NGCA side could not be recovered³⁸³.

In June 2016, according to a member of the Chamber of commerce of Ukraine, the only positive point in NGCA was the transport system, with the existence of a unified ticket for people to benefit from transport assistance. According to him, in the field of transport, some had managed to benefit from widespread difficulties, and in NGCA transport was better organized. It was therefore always possible to find a vehicle, even though it could not be affordable for everyone. According to him, in NGCA, internet and all types of communications were also working³⁸⁴.

2.2. Food and medical aid

In June 2016, both the Akhmetov Foundation and members of the Chamber of Commerce of Ukraine asserted that in NGCA economy was “ruble-ized”; according to them, in separatist controlled areas, banks delivered rubles but shops still accepted hryvnia (UAH)³⁸⁵.

The Akhmedov Foundation asserted that in NGCA food was available but not always affordable as prices were three or four times higher than in GCA³⁸⁶. In March 2016, according to UNHCR, in separatist controlled areas food was approximately 20 percent more expensive³⁸⁷. Since July 2016 however, according to the World Food Programme (WFP), the NGCA authorities have implemented a policy of price control with basic foodstuffs becoming cheaper. According to the same source, most of the supply came from Russia and Belarus and the quality of food remained very low, especially for baby food. A black market was still running with goods from GCA, but cities like Donetsk and Luhansk were affected by food insecurity. In rural areas, however, people survived better as they could grow their own crops³⁸⁸.

Several NGOs are involved in humanitarian operations in the Donbass region, but only three of them, (International Committee of the Red Cross/ICRC, Akhmetov Foundation and People in Need) are directly operating in NGCA; others work through NGO partners³⁸⁹. Among those involved in humanitarian operations are the French NGO “Triangle Génération Humaine”, the First United Nations Emergency Force (UNEF), the International Committee of the Red Cross (ICRC) and World Food Program (WFP). WFP estimates that there are 300,000 people really in need³⁹⁰.

The Akhmetov Foundation maintains a database of people who, if they meet the criteria, will receive electronic messages telling them where and when the next distribution of aid will take place. With the exception of those living in deep-conflict areas, where mobile units will just go

³⁸¹ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

³⁸² Interview with representatives of UN Agencies, Kramatorsk, 17/06/2016.

³⁸³ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

³⁸⁴ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

³⁸⁵ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016; Interview with the Akhmetov Foundation, Kyiv, 15/06/2016.

³⁸⁶ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

³⁸⁷ UNHCR Global Hub/Service Centre, Factsheet, Donetsk, March 2016.

³⁸⁸ Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016.

³⁸⁹ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

³⁹⁰ Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016.

and distribute aid, it is however up to people to register³⁹¹. The First United Nations Emergency Force (UNEF) has operated in Ukraine since April 2015; it works on the frontline where it distributes chickens, grains, seeds, etc.³⁹² WFP leads emergency operations targeting specific populations. Depending on the location, it delivers aid through three modalities: in GCA and NGCA, food parcels are distributed but in specific areas aid can take the form of vouchers to be used in shops; in other areas, like in the buffer zone where there are no shops or where people face difficulties to move around, cash is provided³⁹³.

In June 2016, the Akhmetov Foundation also reported concerns about irregular power and water supply and lack of medical care, mostly in rural areas of both GCA and NGCA³⁹⁴. The OSCE confirms that pipelines and waterlines have been damaged and that many people do not have access to basic facilities³⁹⁵. On June 8th, the organization asserted in its reports that on both sides of the contact line, in the Berezove-Dokuchaievsk area, eight thousand people had no access to potable water since 15th of April. In the same area, “repair work required to fix electricity lines downed by shelling had been made impossible due to the heavy presence of mines”³⁹⁶.

According to the Akhmetov Foundation, in NGCA, pharmacies and hospitals also lacked medicine; no medical aid entered the occupied territories, leaving around 60,000 cancer patients with no access to treatment, and the mortality rate was very high³⁹⁷. In June 2016, the Ukrainian Helsinki Human Rights Union (UHHRU) claimed it has been alerted by partner organizations about people dying of hunger in the Donetsk region; yet the NGO cannot confirm this³⁹⁸. At the same date, a member of the Chamber of Commerce of Ukraine, who travels regularly to NGCA, testified that despite apparent order and maintained streets, an atmosphere of generalized depression and total despair prevailed in the region³⁹⁹.

3. Human rights situation

According to the OSCE, in June 2016, approximately 2,5 million people lived in NGCA⁴⁰⁰. However, the majority of interlocutors agreed that monitoring the situation prevailing in the region was arduous⁴⁰¹. Several of them asserted they have very little or no contact with local officials and describe the system as very vertical, hampering monitoring⁴⁰². NGCA are sometimes described as “black zones”⁴⁰³, led by a “Soviet-nostalgic military apparatus”, “organizing the paranoia and controlling the media”⁴⁰⁴. In June 2016, the International Organization for Migrations (IOM) claimed it did not return anyone to the separatist controlled zone as it had no

³⁹¹ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

³⁹² Interview with representatives of UN Agencies, Kramatorsk, 17/06/2016.

³⁹³ Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016.

³⁹⁴ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

³⁹⁵ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

³⁹⁶ Organization for Security and Co-operation in Europe (OSCE), Status Report as of 8 June 2016

³⁹⁷ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

³⁹⁸ Interview with representatives of the Ukrainian Helsinki Human Rights Union (UHHRU), Kyiv, 16/06/2016.

³⁹⁹ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016

⁴⁰⁰ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

⁴⁰¹ Interview with representatives and members of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016; Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016; Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016; Interview with representatives of International Organization for Migrations (IOM), Kyiv, 14/06/2016; Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016.

⁴⁰² Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016; Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016; Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016; Interview with representatives of the International Organization for Migrations (IOM), Kyiv, 14/06/2016.

⁴⁰³ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

⁴⁰⁴ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

access to it and considers it was dangerous⁴⁰⁵.

In June 2016, the OSCE affirmed that in GCA Ukrainian law prevailed, but the heavy presence of military along the contact line yet prevented the prevalence of normality. The presence of people in arms was a real concern for the population on both sides of the lines, and more specifically in the grey zone, where there were no police authorities⁴⁰⁶. Violations of human rights, and cases of torture were regularly reported⁴⁰⁷ and on October 25th 2015 local elections could not be held in the districts located near the contact line⁴⁰⁸.

3.1. Freedom of expression

In June 2016, a French journalist who spent nearly one year in the ATO zone in 2015 asserted that media coverage of the conflict was initially not a priority of the Ukrainian authorities. As a journalist, it was therefore very hard to work embedded with the Ukrainian army. Working with volunteer battalions was however very easy. According to the same source, until fall 2015, there was no problem for journalists to obtain proper accreditations to enter DNR, even though it would have been dangerous to enter without one⁴⁰⁹. Since then however, the NGCA authorities have hired a number of press advisers, among them foreigners from European countries, monitoring media coverage on the DNR/LNR and denying accreditation to journalists who wrote improperly in the separatist's view. Especially writing about the presence of regular Russian forces in the NGCA is considered a no-go. Accordingly very few accreditations have been delivered since⁴¹⁰.

According to the World Food Programme (WFP), in Luhansk Oblast, NGOs encountered great difficulties in obtaining working accreditation especially due to allegations of spying. It was however easier to work in the Donetsk Oblast, where some NGOs have been authorized to monitor. In this region, they had sometimes been confronted with problems between local and higher authorities, but since late fall 2015, the situation seemed to have improved⁴¹¹.

A French journalist based in Ukraine had the impression that a majority of the approximately 8,000 inhabitants living in Ukrainian controlled places near the frontline would probably support the separatists, whereas in the NGCA side people would generally rather go back to the old times of former President Viktor Yanoukovytch⁴¹². According to him, speaking about political opinions was however something impossible in the Donbass region⁴¹³. Members of the Gorshenin Institute estimated that people with pro Ukrainian sentiments would have probably moved to GCA while others would have stayed in NGCA. According to the Institute, however correct figures were not accessible, especially in NGCA where polls haven't been held and pressure was high⁴¹⁴.

In June 2016, the Ilko Kucheriv Democratic Initiatives Foundation (DIF) referred to a survey conducted in Kramatorsk and Slavyansk according to which in GCA anti- and pro-Ukrainian sentiments coexisted but varied from place to place. In the study referred to, Kramatorsk appeared to be more pro-Ukrainian whereas anti-Ukrainian sentiments dominated in Slavyansk⁴¹⁵. A representative of the OSCE pointed out that people in Kramatorsk were

⁴⁰⁵ Interview with representatives of the International Organization for Migrations (IOM), Kyiv, 15/06/2016.

⁴⁰⁶ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

⁴⁰⁷ Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016.

⁴⁰⁸ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

⁴⁰⁹ Interview with a French journalist based in Ukraine, Kyiv, 13/06/2016.

⁴¹⁰ Interview with a French journalist based in Ukraine, Kyiv, 13/06/2016.

⁴¹¹ Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016.

⁴¹² Interview with a French journalist based in Ukraine, Kyiv, 13/06/2016.

⁴¹³ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

⁴¹⁴ Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

⁴¹⁵ Interview with a representative of the Ilko Kucheriv Democratic Initiatives Foundation (DIF), Kyiv, 16/06/2016.

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more pro-Ukrainian, but those living near the line of contact were more pro-Russian. But this remained a mere perception⁴¹⁶.

A French journalist based in Ukraine underlined that it was de facto very difficult to assess the reality as people were generally afraid to talk⁴¹⁷. In June 2016, the fear of phone-tapping – by Ukrainian authorities as well as by separatists - was also expressed by different interlocutors⁴¹⁸. Internally displaced persons alleged that they that it was dangerous to talk on the phone with relatives from NGCA. For one reason because conversations were allegedly tapped by the separatists ; for another reason because they believed that it could have grave consequence if Ukrainian soldiers notice that you are in contact with somebody from the “other side” – but none of them had first-hand knowledge of any such cases⁴¹⁹. Allegations of Ukrainian security services tapping telephones or emails were also reported to various UN agencies. According to the latter, this process could have been facilitated by the gathering of information at crossing points, such as phone numbers or email addresses⁴²⁰. UN agencies argued that new bank cards could also be vulnerable to taping, as they lacked basic data protection⁴²¹. A representative of the OSCE added that denunciation of neighbors was also encouraged, further hampering freedom of expression⁴²².

According to the OSCE, in the area of Kramatorsk there were around 10 civilians charged with terrorist activities, among whom a majority of men under thirty years who have allegedly in some way supported separatists, either on the phone (eg. telling friends that they had seen Ukrainian forces), or by bringing food, or in one case even for having manned a DPR-checkpoint⁴²³.

3.2. Freedom of movement

In 2016, most sources agreed that freedom of movement between NGCA and GCA has become more difficult since January 2015 and the implementation of the Temporary Order on Movement by the Government of Ukraine, which requires anyone to obtain a pass to cross the line of contact toward GCA⁴²⁴. Entry permits are issued by the counter-terrorist operation and by Security Service of Ukraine (SSU), an institution that enjoys “great power” and which, according to UNHCR, was “often impenetrable for civilians” and “difficult to negotiate with”⁴²⁵. Since July 2015, however, UNHCR asserts that with the introduction of an electronic processing system, the pass system has improved⁴²⁶. A member of the Chamber of Commerce of Ukraine, who regularly crosses the administrative line, confirmed that people from NGCA willing to enter CGA need to be in possession of an electronic “propusk⁴²⁷” issued by the Ukrainian authorities⁴²⁸.

According to the State Border Guard Service of Ukraine, the same procedure is applied at at crossing points with DNR/LNR and Crimea, as at external borders⁴²⁹. According to

⁴¹⁶ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

⁴¹⁷ Interview with a French journalist based in Ukraine, Kyiv, 13/06/2016.

⁴¹⁸ Interview with a French journalist based in Ukraine, Kyiv, 13/06/2016; Interview with IDPs and representatives of IDPs at Sviatohirsk IDP Center, Sviatohirsk, 17/06/2016; Interview with representatives of UN Agencies, Kramatorsk, 17/06/2016.

⁴¹⁹ Interview with IDPs and representatives of IDPs at Sviatohirsk IDP Center, Sviatohirsk, 17/06/2016.

⁴²⁰ Interview with representatives of UN Agencies, Kramatorsk, 17/06/2016.

⁴²¹ Interview with representatives of UN Agencies, Kramatorsk, 17/06/2016.

⁴²² Interview with representatives of Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

⁴²³ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

⁴²⁴ UNHCR Global Hub/Service Centre, Factsheet, Donetsk, March 2016; Norwegian Refugee Council (NRC), Housing, Land and Property Rights of displaced and conflict-affected communities in Eastern Ukraine, January 2016.

⁴²⁵ Charitable Foundation „East-SOS“, Freedom of movement in Eastern Ukraine. Crossing the contact line in Donetsk and Luhansk regions, 2016.

⁴²⁶ UNHCR Global Hub/Service Centre, Factsheet, Donetsk, March 2016.

⁴²⁷ Official permit.

⁴²⁸ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

⁴²⁹ Interview with representatives of the Border-Guards State Service of Ukraine, Kyiv, 14/06/2016.

representatives of the OSCE, the different authorities present at CGA crossing points were the Border Guards, the Army, police and fiscal authorities of Ukraine⁴³⁰. The military advisor of the European Union asserted that Right Sector Battalions were no longer present⁴³¹.

The State Border Guard Service of Ukraine said that it was the first to meet people at check points and the last one to let them out⁴³², adding that people presenting registration documents issued by DNR or LNR were not entitled to enter GCA⁴³³. Civil documents such as birth, death, divorce and marriage certificates issued by NGCA de facto authorities were not recognized by the Ukrainian authorities⁴³⁴. People who presented such documents at CGA crossing points were directed to the nearest State Migration Service in order to acquire Ukrainian civil documentation⁴³⁵.

In application of Resolution 722 passed by the government of Ukraine in September 2015, the Ministry of Justice of Ukraine has the obligation to organize the presence of notaries at the different check points situated on the administrative line, in order to restore documents. The State Border Guard Service of Ukraine and the State Migration Service are in contact day and night. Once documents are restored, it is moreover an obligation for the Border Guards to let people come into Ukraine⁴³⁶.

In June 2016 representatives of the OSCE asserted that at crossing points the presence of Border Guards, Army, police and fiscal authorities should guarantee that the rule of law was respected⁴³⁷. Nevertheless, according to the same source, people complained of rude and impolite behavior on the part of the military personnel at check points⁴³⁸. OHCHR also continued to receive complaints regarding corruption at crossing points, where bribes were sometimes demanded or goods confiscated to ease passage⁴³⁹. A survey conducted by the Ukrainian charitable Foundation „East-SOS“ at different crossing points showed that the officials of the State Fiscal Service of Ukraine, in charge of checking the luggage of civilians, did not seem to have a clear list of products authorized to be carried through⁴⁴⁰. OHCHR also reported derogatory treatment, particularly at Zaitseve, Stanytsia Luhanska and Marinka checkpoints⁴⁴¹.

According to OHCHR, in a few cases people have been allowed to cross after they have threatened to complain to the Anti-Terrorist Operation hotline. However many remain unaware of mechanisms established to file complaints. In June 2016, a media professional reported to OHCHR that her personal belongings were arbitrarily searched after she had protested against verbal harassment of civilians by one of the officers of the State Border Service at Kurakhove checkpoint ; she said officers present at the site did not intervene⁴⁴².

⁴³⁰ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

⁴³¹ Interview with the Military advisor of the European Union Delegation in Ukraine, Kyiv, 15/06/2016.

⁴³² Interview with representatives of the Border-Guards State Service of Ukraine, Kyiv, 14/06/2016.

⁴³³ Interview with representatives of the Border-Guards State Service of Ukraine, Kyiv, 14/06/2016.

⁴³⁴ UNHCR Global Hub/Service Centre, Factsheet, Donetsk, March 2016.

⁴³⁵ Interview with representatives of the Border-Guards State Service of Ukraine, Kyiv, 14/06/2016.

⁴³⁶ Interview with representatives of the Border-Guards State Service of Ukraine, Kyiv, 14/06/2016.

⁴³⁷ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

⁴³⁸ Interview with representatives of Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

⁴³⁹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016; Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

⁴⁴⁰ Charitable Foundation „East-SOS“, Freedom of movement in Eastern Ukraine. Crossing the contact line in Donetsk and Luhansk regions, 2016.

⁴⁴¹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016; Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

⁴⁴² Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

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Civilians also reported having being verbally assaulted by members of separatist groups at NGCA crossings points⁴⁴³. According to the charitable foundation „East-SOS“, claims of interference in private life by armed groups were increasing, with separatists collecting IMEI (International Mobile Equipment Identity) and other digital information from all civilians, and checking pictures and SMS. This information could however not be verified as „East-SOS“ was not allowed to conduct monitoring in NGCA⁴⁴⁴. In LPR, the OSCE SMM was also restricted from monitoring the border on a number of occasions⁴⁴⁵.

In June 2016, representatives of the Border-Guard Service deplored the quality of infrastructure at crossing points remained poor despite many complaints⁴⁴⁶. Indefinite closing of traffic corridors due to skirmishes and their reduced capacity, especially in the autumn and winter, also hampered traveling⁴⁴⁷. At some crossing points, OHCHR observed queues of 150 to 500 cars, whereas according to reports at the Maiorsk checkpoint people sometimes had to spend the night in their cars without access to water, food or sanitation facilities, in an area contaminated by UXOs and landmines and without ambulance services in a close radius⁴⁴⁸.

In appliance of amendments to the Temporary order (article 1.6), since June 2015, all official public transportation via the contact line is prohibited, including passenger railroad connection. Buses operate between different control points but do not cross the contact line, forcing passengers to change buses⁴⁴⁹. Despite the difficulties in movement, in June 2016, OCHA asserted that the number of people crossing the ‘contact line’ had increased again⁴⁵⁰. According to the Ukrainian NGO Foundation 101, around 500 000 people crossed the line back and forth every month⁴⁵¹. The Akhmetov Foundation estimated that in May 2016, a holiday month in Ukraine, around 750 000 people crossed the frontline⁴⁵², a number which has increased to reach 816,000 in June 2016, according to the State Border Guard Service of Ukraine⁴⁵³.

According to OCHA, people mainly traveled across the line “in order to visit relatives, buy food and other goods”, but also “to receive social payments and look after property”⁴⁵⁴. Some of them, in Luhansk oblast, also crossed the border with the Russian Federation at the border point located in Milove⁴⁵⁵.

In 2016, the Ukrainian charitable foundation „East-SOS” stated that “In the summer, traffic corridors operated officially from 6 a.m. until 8 p.m.” whereas “In the autumn and spring, the working hours were from 7 a.m. until 6.30 p.m., and in the winter from 8 a.m. until 5 p.m.”; “No person can cross the contact line after the hours in the timetable” and “at some traffic corridors, such as Horlivka–Bakhmut (former Artemivsk), approximately an hour before closing, it is possible to cross the control point only in one direction (to NGCA)”⁴⁵⁶. OCHA

⁴⁴³ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁴⁴ Charitable Foundation „East-SOS”, Freedom of movement in Eastern Ukraine. Crossing the contact line in Donetsk and Luhansk regions, 2016.

⁴⁴⁵ Organization for Security and Co-operation in Europe (OSCE), Status Report as of 11 May 2016.

⁴⁴⁶ Interview with representatives of the Border-Guards State Service of Ukraine, Kyiv, 14/06/2016.

⁴⁴⁷ Charitable Foundation „East-SOS”, Freedom of movement in Eastern Ukraine. Crossing the contact line in Donetsk and Luhansk regions, 2016.

⁴⁴⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

⁴⁴⁹ Charitable Foundation „East-SOS”, Freedom of movement in Eastern Ukraine. Crossing the contact line in Donetsk and Luhansk regions, 2016.

⁴⁵⁰ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

⁴⁵¹ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

⁴⁵² Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

⁴⁵³ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

⁴⁵⁴ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

⁴⁵⁵ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

⁴⁵⁶ Charitable Foundation „East-SOS”, Freedom of movement in Eastern Ukraine. Crossing the contact line in Donetsk and

asserts that the busiest crossing points are those situated along the contact line in Zaitseve and Marinka, where the humanitarian situation is tense, as well as in Pyschchevyk, Novotroitske and Stanytsia Luhanska⁴⁵⁷. During the summer of 2016, according to OHCHR, it could take up to 36 hours to cross the line of contact⁴⁵⁸.

3.3. Illegal occupation and seizure of properties

Occupation and looting of properties are reported both in GCA and NGCA⁴⁵⁹. In GCA, according to the Norwegian Refugee Council, reports of expropriation and occupation concern residential houses but also business property and private agricultural lands. The extent of expropriations is however not clear⁴⁶⁰. In June 2016, an internally displaced person from an area near the contact line (GCA-side) interviewed at Sviatohirsk Collective Center recalled the story of a friend, whose house in GCA had been plundered, stating that “When you call the police, they say they can’t do anything”⁴⁶¹.

Allegations of soldiers occupying houses without the agreement of the owner were on the rise⁴⁶². Fear of confiscation or expropriation often steered displaced families to leave one member behind to look after the house⁴⁶³, thus families are frequently separated⁴⁶⁴. In June 2016, internally displaced persons (IDPs) from areas near the contact line (GCA-side) housed at Sviatohirsk Collective Center asserted that they were eager to return to their places of origin, as they were afraid that their houses could be occupied by the army⁴⁶⁵. They asserted that seizure and burning of properties happened on both sides and stated that in case people complained, soldiers could come back at night and set fire to the house⁴⁶⁶. According to testimonies, some houses were even purposefully damaged by the army, in order to declare them unsafe and eventually occupy them⁴⁶⁷. And there were no legal provisions for suspension of repayments for properties which have been damaged or destroyed during offensives⁴⁶⁸.

According to the Norwegian Refugee Council, internally displaced persons who have mortgaged their property were also worried about the continuation of repayments. Some were also afraid to lose their social housing rights if they fail to pay utility bills in absentia. In April 2015, it was reported that the de facto authorities of NGCA had announced that property vacant for 45 days would be subjected to confiscation. But this information could not be confirmed, while some IDPs said they had managed to return to NGCA to secure a waiver from local authorities for the time they had been absent. Front line communities were nevertheless often obliged to continue paying utility bills and mortgage repayments on their occupied dwellings⁴⁶⁹.

Luhansk regions, 2016.

⁴⁵⁷ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin: Ukraine, Issue 11, 1-30 June 2016.

⁴⁵⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

⁴⁵⁹ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Special Monitoring Mission to Ukraine (SMM), Kyiv, 15/06/2016.

⁴⁶⁰ Norwegian Refugee Council (NRC), Housing, Land and Property Rights of displaced and conflict-affected communities in Eastern Ukraine, January 2016.

⁴⁶¹ Interview with IDPs and representatives of IDPs at Sviatohirsk IDP Center, Sviatohirsk, 17/06/2016.

⁴⁶² Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

⁴⁶³ Interview with representatives of the International Organization for Migrations (IOM), Kyiv, 15/06/2016.

⁴⁶⁴ Interview with representatives of the International Organization for Migrations (IOM), Kyiv, 14/06/2016; Interview with representatives of the French NGO “Triangle Génération humaine”, Kyiv, 13/06/2016; Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

⁴⁶⁵ Interview with IDPs and representatives of IDPs at Sviatohirsk IDP Center, Sviatohirsk, 17/06/2016.

⁴⁶⁶ Interview with IDPs and representatives of IDPs at Sviatohirsk IDP Center, Sviatohirsk, 17/06/2016.

⁴⁶⁷ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016; Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016.

⁴⁶⁸ Norwegian Refugee Council (NRC), Housing, Land and Property Rights of displaced and conflict-affected communities in Eastern Ukraine, January 2016.

⁴⁶⁹ Norwegian Refugee Council (NRC), Housing, Land and Property Rights of displaced and conflict-affected communities in Eastern Ukraine, January 2016.

According to members of the Chamber of Commerce of Ukraine, in NGCA small and medium sized enterprises had also been illegally taken over⁴⁷⁰. The extent of expropriation was however not known⁴⁷¹.

3.4. Abductions and enforced disappearances

In its report covering February 16th to May 15th 2016, OHCHR asserted that enforced disappearances and arbitrary detention remained deeply “entrenched practices”⁴⁷². Since 2014, many people have reported the disappearance of their relatives to the OSCE⁴⁷³. In Government-controlled territories, OHCHR continued to receive allegations of unofficial places of detention located in the conflict zone where detainees are kept incommunicado⁴⁷⁴.

In June 2016, UN agencies reported allegations of people having been taken away by persons in camouflage with no insignia, while others said they had being arbitrarily detained on accusations of terrorism⁴⁷⁵. Among them, the UN Agency mentioned the story of a woman who disappeared on February 18th 2016 after she went to check on her house in the village of Zhovanka (Donetsk region) located in the grey zone along the contact line⁴⁷⁶. Local Ukrainian armed forces told her neighbors she had been taken to hospital for medical treatment but four days later, a video was released of her confessing to being an informant for the armed groups, suggesting she had been apprehended and detained, while local forces concealed her fate and whereabouts for four days⁴⁷⁷.

According to OHCHR, some people have been arrested at GCA crossing point on the basis of information provided by ‘Myrotvorets’ (‘Peacemaker’), a website database linked to the “Myrotvorets center”⁴⁷⁸ which provides personal information on people who are considered to be „enemies of Ukraine”⁴⁷⁹. In May 2016, the site shocked Ukrainian and international media organizations by leaking personal data of journalists accredited by the self-proclaimed authorities of NGCA⁴⁸⁰.

Since late 2015, OHCHR observes a change in the pattern of enforced disappearances arbitrary and incommunicado detention in CGA⁴⁸¹. While in 2014 and early 2015, they mainly involved volunteer battalions, they now mostly implicate the SBU⁴⁸². In June 2016, an OSCE member referred to a survey according to which out of 30 people, 29 were abducted by volunteer’s battalions and SBU. According to him, among them, some were exchanged as prisoners, some released against bribes, and some kidnapped again to be released against even more

⁴⁷⁰ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

⁴⁷¹ Norwegian Refugee Council (NRC), Housing, Land and Property Rights of displaced and conflict-affected communities in Eastern Ukraine, January 2016.

⁴⁷² Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁷³ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

⁴⁷⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁷⁵ Interview with representatives of UN Agencies, Kramatorsk, 17/06/2016.

⁴⁷⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁷⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁷⁸ Author’s Note: An , often described as being led by an elusive former employee of (SBU) named Roman Zaitsev but which origin remains unclear.

⁴⁷⁹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁸⁰ UNIAN Information Agency, Myrotvorets website leaks personal data of journalists accredited in „DPR”: intl scandal brewing, 11/05/2016.

⁴⁸¹ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016

⁴⁸² Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

bribes⁴⁸³.

According to UN agencies, arbitrary detention usually leads to official arrest⁴⁸⁴. According to OHCHR, following their confessions, the people concerned are taken to SBU premises and officially charged⁴⁸⁵. In its report covering February 16th to May 15th 2016, OHCHR suggested that SBU investigators may nevertheless be involved in certain cases of secret or incommunicado detention, or failed to act to prosecute perpetrators. The SBU however continued to deny these practices, claiming allegations were “unfounded” and made by criminals trying to portray themselves as victims⁴⁸⁶. In May 2016, the United Nations Subcommittee on Prevention of Torture (SPT) was denied access to SBU detention facilities and therefore suspended its visit to the country⁴⁸⁷.

In June 2016, a French journalist based in Ukraine asserted that in NGCA crackdowns on people seen as pro-Ukrainian, disappearances and incommunicado detention continued⁴⁸⁸. Covering the period from May 16th to August 15th 2016, OHCHR documented an increase in detentions and disappearances at DPR checkpoints. Among the latter, the UN Agency reported the case of a man who went missing while crossing the Zaitseve/Maiorsk checkpoint on March 5th 2016. “Reports indicate that he was arrested at the checkpoint of the Donetsk People’s Republic (DPR) and could have been transferred to the department of the ministry of State Security in the city of Makiivka”. “Before the beginning of the conflict, the man was working in the Donetsk State University of Management and was known for his strong pro-Ukrainian views”. In 2014, he had moved to Kyiv and had started working at the National University⁴⁸⁹. In another incident, on May 27th 2016, a former armed group member went missing in Novoluhanske while travelling to DPR from Government-controlled territory. “Following repeated inquiries, his mother found that he had been deprived of liberty at a ‘Donetsk people’s republic’ checkpoint, transferred to Horlivka and then into ‘police custody’ in Donetsk. On 4 July 4th, she was told that the ‘police’ no longer held her son. She has since been unable to ascertain his fate or whereabouts”⁴⁹⁰.

In its report covering February 16th to May 15th 2016, OHCHR reports cases of people detained at NGCA checkpoints on the basis of ‘wanted lists’. According to OHCHR, in NGCA “arbitrary deprivation of liberty has reached an unprecedented scale”, “with a broad network of unrecognized detention facilities”. Members of the “ministry of state security” of the Donetsk People’s Republic continued to deprive individuals of their liberty and keep them incommunicado⁴⁹¹.

The UN organization underlined the arbitrary nature of abductions and asserted a spreading fear among civilians⁴⁹². In June 2016, a member of the Chamber of Commerce of Ukraine, who travels regularly to NGCA to visit his relatives, asserted that it was always risky to pass

⁴⁸³ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016.

⁴⁸⁴ Interview with representatives of UN Agencies, Kramatorsk, 17/06/2016.

⁴⁸⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁸⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁸⁷ Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016; United Nations Human Rights Office of the High Commissioner, UN torture prevention body suspends Ukraine visit citing obstruction, 25/05/2016.

⁴⁸⁸ Interview with a French journalist based in Ukraine, Kyiv, 13/06/2016.

⁴⁸⁹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁹⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

⁴⁹¹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

⁴⁹² Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

crossing points, especially for businessmen. According to him, there were frequent cases where businessmen have been detained and released against a payment of ransom⁴⁹³. According to Yuri BOIKO, leader of the faction “Opposition Bloc”, in NGCA you have to be at home by 8 pm, “otherwise if you walk on the streets you will be arrested and taken to the police”⁴⁹⁴. In its report covering February 16th to May 15th 2016, OHCHR reported cases of women who were arrested in Donetsk City for violating the curfew⁴⁹⁵.

3.5. Ill treatments and torture

In its report covering February 16th to May 15th 2016, OHCHR stated that deprivation of liberty was often accompanied by torture and other cruel, inhuman or degrading treatment or punishment⁴⁹⁶. Since the beginning of the conflict the UN Agency has conducted 1,500 face to face interviews based on confidentiality⁴⁹⁷. From January 2014 to May 2016, it has documented more than 60 cases and 115 victims of arbitrary deprivation of life, summary and extrajudicial executions and deaths in detention. During that period, most reported cases occurred in the conflict zone⁴⁹⁸.

According to OHCHR, if torture has always been systemic, it has become more used during the conflict, particularly by the Security Service of Ukraine (SBU). In its quarterly report covering February 16th to May 15th 2016, the UN Agency asserted it was often used against individuals detained under charges of terrorism in order to extract confessions or information or as means of intimidation or punishment⁴⁹⁹. In June 2016, a representative of the OSCE reported the story of detainees having been allegedly beaten and asked to sign a blank paper⁵⁰⁰. OHCHR also reported complaints of people living near the conflict zone alleging having been detained by unidentified armed men and subjected to ill-treatment and torture in order to confess that they assisted armed groups⁵⁰¹.

OHCHR also reported allegations of “threats of rape and other forms of sexual violence being used towards both men and women, during arbitrary or illegal detention, to extort confession or property, or even as a condition for safety or release”⁵⁰². According to the OHCHR quarterly report from February 16th to May 15th 2016, in NGCA thousands of people have “been subjected to inhuman conditions of detention” combined with torture and ill-treatment. Despite repeated requests, the UN Agency has however not been granted access to detention facilities manned by the de facto authorities⁵⁰³.

⁴⁹³ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

⁴⁹⁴ Interview with an MP of the “Opposition Bloc” faction of the Supreme Rada of Ukraine, Kyiv, 15/06/2016.

⁴⁹⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁹⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 May to 15 August 2016.

⁴⁹⁷ Interview with representatives of UN Agencies, Kramatorsk, June 17/06/2016.

⁴⁹⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁴⁹⁹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁵⁰⁰ Interview with representatives of the Organization for Security and Co-operation in Europe (OSCE), Kramatorsk, 17/06/2016

⁵⁰¹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁵⁰² Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

⁵⁰³ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine, 16 February to 15 May 2016.

Chapter 5. Situation of Internally Displaced Persons (IDPs)

1. Internal Displacement in Ukraine

The recent conflicts in Ukraine - annexation of Crimea by the Russian Federation and the conflict in Eastern Ukraine - have since 2014 caused large-scale internal displacements within this country of about 44 million⁵⁰⁴ inhabitants. During and after Russia's annexation of Crimea, an estimated 50,000 to 60,000 people, mainly ethnic Ukrainians and Crimean Tatars, fled Crimea after it was annexed by Russia (Another 17,000 moved within the peninsula). Many do not intend to return to Crimea as long as it is under Russian control. Later, when the situation in Eastern Ukraine's Donbass region escalated, many more left the contested areas of Donetsk and Luhansk oblasts.⁵⁰⁵ 4.4 million people on both sides of the contact-line are affected by the conflict there.⁵⁰⁶ An estimated 3.8 million people are in need of humanitarian assistance - 2.9 million of which live in non-government controlled areas (NGCA), the rest live in government controlled areas (GCA). The contact line between GCA and NGCA has become a de-facto border.⁵⁰⁷ Real security issues are only occurring in a territory of about 7 km left and right of the contact-line, what is often referred to as 'grey zone'. In the other areas of NGCA and GCA there are mainly social issues that concern people.⁵⁰⁸

The Ukrainian Government has officially registered about 1.7 million people countrywide as internally displaced persons (IDPs) as of 10 October 2016. It is estimated that this figure could be considerably higher, as a lot of displaced persons remain unregistered. Lack of registration is mostly due to lack of necessary documentation needed to register. Other reasons include administrative hurdles, lack of information or other concerns, including fear of military conscription⁵⁰⁹ or discrimination.⁵¹⁰ Initially many displaced persons chose not to officially register as IDPs, as the benefits of doing so were not clear, whereas others were afraid that registration could be seen as a political statement, fearing negative repercussions on relatives or property left behind on the territory of the self-proclaimed People's Republics of Donetsk and Luhansk.⁵¹¹ A deep-rooted soviet mentality to better stay away from authorities as much as possible might also have played a role. But on the other hand the displaced don't get support if they don't register. And the registration process itself is not overly cumbersome for Ukrainian standards.⁵¹²

However, of this 1.7 million registered IDPs only some 0.8 to 1 million reside permanently in GCA. During 2016 many IDPs have returned to NGCA, mostly to locations unaffected by fighting for over a year. Some did so voluntarily, others could no longer afford housing in GCA. Other registered IDPs are frequently crossing the contact-line, despite security and other challenges.⁵¹³ Returns to NGCA are viewed with concern by humanitarian organizations, as these areas are considered lawless, with no guaranteed human rights whatsoever.⁵¹⁴ But there

⁵⁰⁴ Central Intelligence Agency (CIA), The World Factbook. Ukraine, 12/07/2017.

⁵⁰⁵ Bertelsmann Stiftung (BS): Facts on the European Dimension of Displacement and Asylum: Ukraine, January 2016.

⁵⁰⁶ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), 2017 Humanitarian Needs Overview Ukraine, November 2016.

⁵⁰⁷ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Response Plan. January – December 2017. Ukraine, November 2016.

⁵⁰⁸ Interview with representatives of the French NGO "Triangle Génération humaine, Kyiv, 13/06/2016.

⁵⁰⁹ Actually there are no exceptions to mobilization for IDPs. But according to the Ministry of Defense of Ukraine people from certain geographical areas (Crimea and Donbas) would not be forced to serve, because there might be counter-intelligence concerns. Interview with representatives of the Ministry of Defense of Ukraine, Kyiv, 13/06/2016.

⁵¹⁰ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Response Plan. January – December 2017. Ukraine, November 2016.

⁵¹¹ Office of the United Nations High Commissioner for Refugees (UNHCR), International Protection Considerations related to developments in Ukraine – Update II, January 2015.

⁵¹² Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

⁵¹³ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Response Plan. January – December 2017. Ukraine, November 2016; Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016; Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁵¹⁴ Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

are no exact numbers on returns. Registration of place of residence is not conducted centrally, but by local authorities. So also a return to the ATO-zone is not centrally registered. We were told by our interlocutors that a central registry database is currently being created - the so called Unified State Demographic Register. But this will not be operative any time soon.⁵¹⁵

Numerous Ukrainians from the conflict-affected areas in the East also decided to seek protection or other forms of stay abroad. In December 2015 UNHCR had registered an additional 1.1 million Ukrainian refugees outside the country (a disputed 858.000 in Russia and a disputed 127.000 in Belarus) but Russia is politically instrumentalizing these refugees. Thus the numbers Russian authorities are reporting cannot be entirely verified and appear to be exaggerated.⁵¹⁶ Other sources count 600.000 Ukrainian refugees in Russia.⁵¹⁷ UNHCR continues to monitor the refugee situation in Ukraine's neighbouring countries. According to government sources in receiving countries, the total number of Ukrainians seeking asylum or other forms of legal stay at the end of 2016 was 1,481,377, with the majority going to the Russian Federation (1,154,212) and Belarus (148,549). As of 1 September 2016 the top five receiving countries within the European Union had registered 7,967 applications for international protection in Germany, 7,267 in Italy, 5,423 in Poland, 3,176 in France and 2,742 in Sweden, since the beginning of the crisis.⁵¹⁸ As we were told, despite suboptimal integration measures in Ukraine, Ukrainian IDPs are not very likely to illegally migrate to the EU or seek asylum there, because there are after all humanitarian programs for IDPs, financed by international organizations and NGOs in Ukraine.⁵¹⁹ But one of our interlocutors stated that according to experiences in e.g. Syria, a lot of people also flee to Europe after having spent 3-5 years in a refugee camp near their home. They try everything to stay as long as possible near their home. He pointed to the possibility that IDPs in Ukraine might reach a point where they don't want to wait for an improvement of their situation or better perspectives anymore and decide to leave.⁵²⁰

2. IDPs in Ukraine: Geographic Distribution and Support

At the beginning of August 2015 1,428,077 officially registered IDPs from Donbas and Crimea comprised of 59% elderly, 24% persons of working age, 13% children and 4% persons with disabilities. 52% of IDPs were registered in government controlled areas of Donetsk and Luhansk oblasts, 13% in Kharkiv, 7% in Kyiv, 7% in Zaporizhia and 5% in Dnipropetrovsk, which are all part of eastern Ukraine.⁵²¹

As far as IDP-accommodation is concerned, many IDPs stay with host families, with volunteers or rent private accommodation, though affordable private accommodation is often in poor condition.⁵²² One of our interview partners made it clear that this is because the IDPs just don't seek official help.⁵²³ Another interpreted this as a positive development for the IDPs but making it harder to follow their situation (e.g. cost of living, support, etc.).⁵²⁴ There is no overall national strategy for IDP-accommodation in Ukraine. Only the most vulnerable IDPs stay in collective centers, which were initially mostly intended for short-term transit accommodation.

⁵¹⁵ Interview with representatives of the State Migration Service of Ukraine, Kyiv, 14/06/2016.

⁵¹⁶ Bertelsmann Stiftung (BS): Facts on the European Dimension of Displacement and Asylum: Ukraine, January 2016.

⁵¹⁷ Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

⁵¹⁸ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update, October 2016.

⁵¹⁹ Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016; Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016.

⁵²⁰ Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016; Interview with an MP of the All-Ukrainian Union „Fatherland“ (Batkivshchyna), Kyiv, 16/06/2016.

⁵²¹ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Update on IDP Registration, August 2015; Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁵²² Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update 20 January – 6 February 2016, February 2016; Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016; Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

⁵²³ Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016.

⁵²⁴ Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

Practically they are recreation centers, sanatoria etc. Even 3 small container complexes were erected with international help. But less than 5% of IDPs live in such centers, which usually offer limited space and are quite remote, what makes them unattractive. In 2015, relocation of IDPs to alternative housing allowed 23 collective centers to be closed. So, at the beginning of 2016 there were around 300 such collective centers left, housing some 14,000 people.⁵²⁵

During 2016 IDPs continued to report the lack of affordable livelihoods as a key concern. A shortage of employment opportunities and the general economic situation facing Ukraine has particularly affected IDPs, forcing many to live in inadequate housing. At the end of November 2016 there were still 270 collective centers housing over 10,000 people. As stated above, those living in IDP-centers are those who aren't able to go anywhere else – mostly because they can't afford it. If centers have to close due to lack of budgetary means these people are often forced to return to non-government controlled areas out of a lack of alternatives.⁵²⁶

In 2016, partners of the UN protection cluster delivered 22% of its Shelter/NFI assistance to IDPs in southern and central Ukraine compared to 78% in Donetsk and Luhansk oblasts. IDPs in south and central Ukraine and in the eastern oblasts further from the contact line struggle with the high price of rent and the sudden closure of collective centers. No alternative durable housing solutions are in place when evictions happen, jobs are lost or hard to find, and prices continue to rise. The Shelter Cluster of the UN and its partner organizations report that some 700 people living in 15 centers are at risk of eviction in 2017, because of accumulated debts resulting from operating expenses.⁵²⁷

During this Fact Finding Mission we were able to visit an IDP-center in eastern Ukraine, in fact a sanatorium harboring 75 IDPs⁵²⁸ at the time of our visit. At the beginning of 2016 it housed 361 IDPs, but most have moved out. As stated by other sources in this report, those who stayed had nowhere else to go. Correspondingly there was no limit to the length of their stay. 55% of expenses of accommodation were paid by the oblast, the rest was paid by the IDPs themselves from the state social support they receive (14 UAH per day for a grown-up, 7 UAH per day for a child). Not all IDPs received support, so they were not able to pay but were allowed to stay anyway. When IDPs are able to work, they have to find a job and get allowances for a limited period of 6 months. The first 2 months they receive 880 UAH per month, then 440 UAH per month for the next two months and then 220 UAH per month for the last two months. There had been some confusion because of the recent changes in legislation which had led to a suspension of payments for 2 months. Registration with the Ministry of Social Affairs has to be done in Slavyansk and takes 2-3 days but once it is done, the IDP-certificate is issued immediately. But going to Slavyansk costs 60 UAH, which many people can't afford. But at the beginning of July a representative of the ministry was supposed to come to the center. By the time of the visit only one of the IDPs we met was receiving social support, the others were living from savings and NGO-support. The center provided only one meal a day, so they lumped together what they got as humanitarian aid and cooked for everybody. In the center IDPs have cost-free access to a doctor and a nurse from the Red Cross. Several NGOs support the IDPs, e.g. with food. At the time of the visit the center was negotiating with another NGO regarding food packages. The center is reporting free capacities to the oblast administration and IDPs are brought to the center by volunteers and the oblast administration. One problem that was still unsolved at the time of the visit was heating for the winter period,

⁵²⁵ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update 20 January – 6 February 2016, February 2016; Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵²⁶ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine, UNHCR Operational Update, September 2016; Office of the United Nations High Commissioner for Refugees (UNHCR), UNHCR Operational Update, November 2016.

⁵²⁷ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Response Plan. January – December 2017. Ukraine, November 2016.

⁵²⁸ They all were from the GCA and had lived near the contact line. They had been evacuated because of the increased shelling at the beginning of June 2016.

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because of lack of money. This was reported to be a problem all IDP-camps in Ukraine face. NGOs usually just help by providing food etc., but not coal. The Rinat Akhmetov Foundation had procured one wagon load of coal but this had been used for providing hot water and basic heating. Agreements with local coal mines are difficult because they demand payment in advance.⁵²⁹



IPD Center, Sviatohirsk

IDPs in GCA receive 800 UAH (up to 2.000 UAH for families) a month as long as they are registered.⁵³⁰ IDP's in Ukraine have a right to healthcare in state and communal healthcare institutions. The implementation of this is partly imposed on local authorities, e.g. providing the necessary medical and psychological assistance to IDPs in the respective locality. The main challenge in providing healthcare to IDP's are the limited human and financial resources of the Ukrainian healthcare system, as the State does not allocate additional funds to healthcare budgets to meet the increased demand. Medical services are accessible only at the place of residence.⁵³¹ It is also a fact that corruption is deep-rooted in the Ukrainian health sector and unofficial out-of-pocket payments are common.⁵³²

According to one of our interlocutors, Ukraine does not seem to have a clear strategy regarding long term integration of IDPs. Labor market integration is suboptimal. 67.000 IDPs have applied for help for finding work, 35% of them received the required assistance (i.e. job offers etc.).⁵³³ Some 45% of IDPs have difficulties in finding a new job and in September 2016 38% of IDPs were unemployed. Employment among IDPs is best in urban environments and significantly worse in towns of up to 100,000 residents and villages. Nationwide, IDPs and the group with lower socio-economic income within their host communities share similar living conditions. However, IDPs who have abandoned their homes, income, and their social and economic ties in the Donbas or Crimea, are exposed to additional vulnerabilities.⁵³⁴ In Lviv, Poltava and Kharkiv regions there's currently implemented a pilot project supporting IDPs and vulnerable families by finding jobs, providing interest-free financial assistance to businesses and facilitating involvement in community work.⁵³⁵

Finally the 'Ministry of Temporarily Occupied Territories and IDPs (MTOT&IDPs) was created in April 2016 to solely deal with IDP-issues, but it is still at an initial stage and the Migration Service and the Ministry of Social Affairs are still involved.⁵³⁶ So different Government entities

⁵²⁹ Interview with IDPs and representatives of IDPs at Sviatohirsk IDP Center, Sviatohirsk, 17/06/2016.

⁵³⁰ Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁵³¹ Council of Europe (CoE), Enhancing the Legal Framework of Ukraine on Protecting the Human Rights of IDPs, May 2016; Interview with a Hospital representative, Kostjantynivka, 17/06/2016.

⁵³² Interview with IDPs and representatives of IDPs at Sviatohirsk IDP Center, Sviatohirsk, 17/06/2016.

⁵³³ Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016.

⁵³⁴ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Response Plan. January – December 2017. Ukraine, November 2016.

⁵³⁵ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine, Legislative Update. 19 November – 9 December, December 2016.

⁵³⁶ Interview with an MP of the All-Ukrainian Union „Fatherland“ (Batkivshchyna), Kyiv, 16/06/2016.

have overlapping and fragmented mandates when it comes to humanitarian affairs. At present, the Ministry of Social Policy (MoSP) is the key body administering issues specifically related to IDPs, while the MTOT&IDPs' mandate for humanitarian and recovery coordination has not yet fully translated into substantive policies and actions.⁵³⁷

3. IDP Legislation and Registration

Ukrainian laws require every resident to register their place of residence in order to have access to basic rights and services. Normally an official stamp in the internal passport indicates a person's current place of residence, enabling this access. Divergent from that, IDPs need an IDP-certificate, to get access to the social system and enjoy all kinds of benefits (e.g. pensions, disability compensations, family support money, etc.) and services (enrollment of children in schools and kindergartens, access to healthcare, etc.).⁵³⁸ As described in the chapter on judicial reform in this Fact Finding Mission report, one of the core problems of legislation in Ukraine is that laws are adopted but the relevant by-laws to implement these laws either never follow up or are flawed. There are similar problems regarding IDP legislation. As by-laws are what is applied by officials and civil servants in practice, this has serious consequences on IDPs.

When the first wave of IDPs arrived from Crimea, there was no legal basis whatsoever regarding IDPs, but they were registered anyway.⁵³⁹ Since then a series of laws and by-laws governing registration and protection of IDPs was enacted. The most important of which, the Law on Ensuring the Rights and Freedoms of Internally Displaced Persons (IDP Law), adopted on 20 October 2014, provides a comprehensive framework for the protection of IDPs, facilitating access to essential rights, providing protection against discrimination and forcible return, and ensuring assistance for voluntary returns. Several by-laws accompanied this act.⁵⁴⁰ Later this IDP law saw comprehensive amendments by Law No. 2166 On Amendments to Some Laws of Ukraine to Strengthen the Guarantees of Rights and Freedoms of Internally Displaced Persons, adopted on 24 December 2015 (in force by 13 January 2016).⁵⁴¹

To register as an IDP in Ukraine, a person has to submit an application to the local office providing social protection. Together with the application the person has to submit an identification document providing evidence of the place of residence before displacement. Thanks to the IDP-law amendment of 24 December 2015, any document proving the place of residence before displacement can be submitted (e.g. military certificates, employment records, ownership certificates ...) in absence of the required ID. Initially the IDP-certificate was valid for 6 months and thus had to be renewed frequently. The IDP-law amendment of 24 December 2015 changed that into unlimited validity. But the relevant by-law is not yet harmonized and still imposes the 6-month-validity.⁵⁴² Additionally there are no procedures stipulated regarding the exchange of old certificates that still have expiry dates with new ones.⁵⁴³ The amendments to the IDP-law of 24 December 2015 abolished the requirement of receiving a stamp by the

⁵³⁷ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Response Plan. January – December 2017. Ukraine, November 2016.

⁵³⁸ Council of Europe (CoE), Enhancing the Legal Framework of Ukraine on Protecting the Human Rights of IDPs, May 2016; Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵³⁹ Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵⁴⁰ There are other relevant legislative acts, like Resolution No. 505 „On monthly financial aid for accommodation and utilities“ and Resolution No. 509 „On registration of IDPs“ adopted by the Cabinet of Ministers of Ukraine on 1 October 2014; United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Update on IDP Registration, August 2015.

⁵⁴¹ Office of the United Nations High Commissioner for Refugees (UNHCR), Key Protection Concerns and UNHCR Recommendations. Ukraine, February 2016; Council of Europe (CoE), Enhancing the Legal Framework of Ukraine on Protecting the Human Rights of IDPs, May 2016.

⁵⁴² Council of Europe (CoE), Enhancing the Legal Framework of Ukraine on Protecting the Human Rights of IDPs, May 2016; Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016; Interview with an MP of the All-Ukrainian Union „Fatherland“ (Batkivshchyna), Kyiv, 16/06/2016.

⁵⁴³ There are other problematic aspects, like that the IDP-certificate can be revoked if a person is absent from the place of residence for more than 60 days (90 days in special cases); Council of Europe (5.2016): Enhancing the Legal Framework of Ukraine on Protecting the Human Rights of IDPs.

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Migration Service certifying the IDP's place of residence⁵⁴⁴, but following a decision of the Cabinet of Ministers on 22 February 2016, this requirement was reinstated. The outcome was that practice varied from office to office, leading to confusion among authorities and IDPs.⁵⁴⁵

Ukraine actually lacked a uniform IDP-registry for long. We were told by our interlocutors that each authority has its own database, incompatible with the others' and that officials were using USB-sticks to exchange data, which led to different numbers circulating.⁵⁴⁶ Until December 2014 Ukraine's State Emergency Service (SES) had registered IDPs using a paper-based system. Then registration was passed over to the Ministry of Social Policy (MoSP) and an electronic system, which was much more efficient.⁵⁴⁷ We were also told that the newly established Ministry of Temporarily Occupied Territories and IDPs (MTOT-IDPs) just coordinated efforts but isn't registering itself.⁵⁴⁸ In September 2016 finally resolution no. 646 on a consolidated information database on IDPs for the use of central authorities was adopted. This database will be run by the Ministry of Social Policy (MoSP) and central authorities, including the Ministry of Temporarily Occupied Territories and IDPs (MTOT-IDPs), will have access to the database upon written request.⁵⁴⁹

4. IDP Registration and social benefits

As stated above IDP registration is important to have access to social benefits. But in December 2014 the Ukrainian government decided to stop payment of all pensions and social insurance benefits for people living in areas not under government control. With that decision, anyone interested in receiving Ukrainian social benefit payments had to register as an IDP in government controlled territory in order to transfer their pensions and social benefits to a region where the government was capable of making payments. This suspension of government payments in NGCA is considered to have contributed to additional displacement. At the beginning of 2015, in some regions, as many as 50% of newly registered IDPs had been pensioners.⁵⁵⁰

Subsequently the Ministry of Social Policy (MoSP) suspended payments to IDPs pending verification of residential addresses. The process for address verification was initially not defined in legislation, which led to some confusion. While many of those affected have been able to go to MoSP offices and confirm their address, there were concerns about vulnerable people such as the elderly and disabled.⁵⁵¹ At the local offices of the MoSP long lines of people waiting to get confirmations were queuing up and many could not obtain their social support for up to two months.⁵⁵²

More confusion was added by the above mentioned cancellation of the requirement for the State Migration Service (SMS) to stamp renewed IDP certificates (13 January 2016) and the immediate reintroducing of the same requirement (22 February 2016).⁵⁵³ According to our sources the Migration Service immediately applied the new law not demanding a stamp, but the Ministry of Social Affairs still applied the old law demanding a stamp. So for some time it

⁵⁴⁴ Council of Europe (CoE), Enhancing the Legal Framework of Ukraine on Protecting the Human Rights of IDPs, May 2016.

⁵⁴⁵ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update 23 April–13 May 2016, May 2016.

⁵⁴⁶ Interview with representatives of the Ukrainian Helsinki Human Rights Union (UHHRU), Kyiv, 16/06/2016.

⁵⁴⁷ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Update on IDP Registration, August 2015.

⁵⁴⁸ Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁵⁴⁹ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update, October 2016.

⁵⁵⁰ Bertelsmann Stiftung (BS): Facts on the European Dimension of Displacement and Asylum: Ukraine, January 2016; Office of the United Nations High Commissioner for Refugees (UNHCR), International Protection Considerations related to developments in Ukraine – Update II, January 2015; Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵⁵¹ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update 23 April–13 May 2016, May 2016.

⁵⁵² Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵⁵³ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update 23 April–13 May 2016, May 2016.

was not possible to be granted support. Just the week before our visit this gap was repaired in the law and it was made clear that IDP support is not temporarily limited and does not demand a stamp by the Migration Service on the IDP certificate.⁵⁵⁴

Following the suspension in February 2016, the NGO Right to Protection (R2P) conducted a thematic monitoring in five regions on the suspension of payments. The majority of IDPs surveyed stated that social payments were their primary source of income, underlining the importance of the suspension of payments to IDPs. R2P presented the results of monitoring in Zaporizhia region on the implementation of changes introduced by law no. 2166. The results also showed the absence of unified approach among local offices of social protection regarding registration of IDPs. The main reasons named were gaps in legislation and unadjusted by-laws not yet in line with the amended legislation.⁵⁵⁵

On 8 June 2016, the Council of Ministers adopted Resolution no. 365, “On Procedure of Controlling Transfers of Social Payments to IDPs at their place of residence”, coming into effect on 14 June. The resolution includes the establishment of commissions for assigning or reinstating social payments (including pensions) composed by local administrations. It stipulates that social benefits may only be applied for at the place of IDP registration. Social protection authorities shall initiate verification of personal residency data in order to assign or reinstate social benefits. Reasons for denial of social benefits include absence of the IDP from the place of residence indicated in the application for reinstatement of benefits. Where a person is absent from the place of residence, they will be obliged to go to check with the Department of Social Policy (DoSP) within three days. The State Border Guard Service (SBGS) shall provide the DoSP with information on a beneficiary’s movement to non-government controlled areas or abroad, which can also lead to cancellation of the IDP certificate. If the IDP certificate is cancelled, IDPs will not be able to receive their benefits sooner than in six months after suspension, in compliance with the required procedures.⁵⁵⁶

According to Resolution no. 637, to make really sure IDPs are present in GCA, the residence of IDPs receiving social payments is to be verified by local offices of the Department of Social Policy (DoSP) every six months.⁵⁵⁷ If the required person is not at home during a check, he/she has to report to the authority within 3 days. If a person moves his/her place of residence he/she has to register within 10 days, which is criticized as being a rather short period. If one has already lost support and wants it reinstated, mobile teams of SBU, police and Migration Service will check if he/she lives under the registered address and then a committee has to decide on the reinstatement of support. If no IDP-support is granted, people get nothing, not even child benefits because they are linked to the place of residence as well. NGOs view this as a discrimination against residents of the NGCA.⁵⁵⁸

The controls are to happen in the whole of Ukraine but they were started in the east where most IDPs live.⁵⁵⁹ But actually the local DoSP-offices lack the resources necessary to conduct the checks required by legislation relating to the suspension of payments. The inspections are carried out by working groups consisting of staff from the DoSP, the Pension Fund, the Security Service of Ukraine (SBU), the Ministry of the Interior (Mol), the State Migration Service (SMS) and the State Fiscal Service (SFS). Working groups draft inspection reports, which are reviewed by the Commission on benefits renewal. Due to the slow pace of inspection visits, it was announced that the number of DoSP monitoring staff would be increased in some areas.

⁵⁵⁴ Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵⁵⁵ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update 23 April–13 May 2016, May 2016.

⁵⁵⁶ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update 11 June – 15 July 2016, July 2016.

⁵⁵⁷ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine. UNHCR Operational Update 14 May – 10 June 2016, June 2016.

⁵⁵⁸ Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵⁵⁹ Interview with representatives of the Ukrainian Helsinki Human Rights Union (UHHRU), Kyiv, 16/06/2016.

The procedure for reinstatement from the moment of application to the receipt of payments takes approximately one month.⁵⁶⁰ One of our interlocutors stated that of about 600.000 people whose payments had been suspended, 450.000 were still suspended at the time of our visit.⁵⁶¹ Of some 390,000 appeals for reinstatement of social benefits which have been made after 8 June 2016, 242,000 (62%) have been reinstated, according to the Ministry of Social Policy, while some 84,000 (22%) have been rejected and 63,000 (16%) were still pending.⁵⁶² Lack of transparency of the processes of suspension and reinstatement of payments are an issue. Also it is questionable if it is conforming to the Ukrainian constitution and international obligations to deny the payment of vested pension payments to a certain group of citizens.⁵⁶³

5. The Problem of Registered IDPs Living in NGCA

Initially, to live in NGCA and at the same time as being registered as an IDP in GCA was not illegal. At the beginning of 2015 this was suddenly deemed 'social tourism'. Getting pension payments was strictly tied to residence in the GCA.⁵⁶⁴

Of the about 1.7 million people officially registered by the Ukrainian Government as IDPs, only some 0.8 to 1 million are permanently residing in GCA. More than 700,000 people are crossing the contact-line every month in both directions. Many of them are registered as IDPs in GCA but are actually living in NGCA. The majority of them are female pensioners who want to pick up their pension in GCA. Besides that the main reasons for crossing the contact-line are to pick up other social payments⁵⁶⁵, to access healthcare⁵⁶⁶, shopping (prices are lower in GCA), buying medicines and visiting relatives in GCA. Some people even work in GCA while living in NGCA (only in few cases it is the other way round).⁵⁶⁷ As the Ukrainian government wouldn't pay for NGCA-residents anymore⁵⁶⁸ and a Ukrainian bank account can only be accessed from GCA, but not from NGCA⁵⁶⁹, regular crossings are the only possibility to access the money. People who regularly cross the contact-line into non-government controlled areas (NGCA) are registered electronically by the SBU.⁵⁷⁰

Pensioners are the only breadwinners for 60% of conflict-affected families in NGCA (38% in GCA). When in December 2014 the Ukrainian government decided to stop payment of all social benefits for people living in areas not under government control, it suspended social payments and pensions for some 600,000 already registered IDPs until re-validation of their IDP-certificates, to make sure they are really residing in GCA. This was intended as a measure to fight 'fraudulent schemes', but it deprived Ukrainian recipients of social transfer payments residing in NGCA and displaced persons who weren't able or not willing to register as IDPs, of Ukrainian state financial assistance. This decision has increased movements of civilians, mostly pensioners residing in NGCA, across the front-line, to register as IDPs in order to receive their entitlements. Simultaneously the Government of Ukraine launched the complicated and

⁵⁶⁰ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukraine, UNHCR Operational Update, September 2016.

⁵⁶¹ Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016.

⁵⁶² United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Response Plan. January – December 2017. Ukraine, November 2016.

⁵⁶³ Interview with an MP of the All-Ukrainian Union „Fatherland“ (Batkivshchyna), Kyiv, 16/06/2016.

⁵⁶⁴ Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵⁶⁵ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Response Plan. January – December 2017. Ukraine, November 2016; Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁵⁶⁶ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

⁵⁶⁷ Interview with a representative of World Food Programme (WFP), Kyiv, 13/06/2016.

⁵⁶⁸ Bertelsmann Stiftung (BS): Facts on the European Dimension of Displacement and Asylum: Ukraine, January 2016; Office of the United Nations High Commissioner for Refugees (UNHCR), International Protection Considerations related to developments in Ukraine – Update II, January 2015.

⁵⁶⁹ Interview with representatives of the Chamber of Commerce and Industry of Ukraine, Kyiv, 16/06/2016.

⁵⁷⁰ Interview with representatives of the State Migration Service of Ukraine, Kyiv, 14/06/2016.

slow procedure to re-validate IDP-certificates, described above.⁵⁷¹

6. Other Problems with IDP Legislation

There have by now been 3 elections (presidential elections of May 2014; parliamentary elections of October 2014; local elections of October 2015) many IDPs were not able to participate in, because of security reasons or electoral arithmetics (proportional votes were generally possible, but no votes in single mandate constituencies, which are majority votes). While 12-13 million Ukrainians are not living where they are registered, just IDPs were not allowed to vote. This is why one of our interlocutors called this a discrimination.⁵⁷² According to another interview partner there weren't any international standards on how to handle the voting problems. But these problems should be solved before the general elections, where some mandates are also elected in constituencies, so there is need for a rule.⁵⁷³ There is a number of concurrent draft laws on access to electoral rights for IDPs registered in Parliament: e.g. draft law 4471 developed by members of the Parliament and officially supported by the Ministry of Justice. The suggested draft law is important since it is inter alia aimed at ensuring the participation of IDPs in local elections by recognizing their belonging to local communities.⁵⁷⁴

The re-issuance of lost documents is a concern. Basically it is no problem to have them replaced by the State Migration Service's local office at the place of residence, including interior passports. All Ukrainian citizens in Crimea, DNR or LNR holding valid Ukrainian documents are still citizens. Crimean Tatars are also Ukrainian citizens. Lost documents have to be replaced to be able to register properly as an IDP. The SMS has access to the databases concerning taxation, voting, driving licenses and pensions. So it is no problem to get what is needed to register. In extreme cases SMS can issue a certificate proving Ukrainian citizenship and a passport so people can get support. According to representatives of the State Migration Service of Ukraine, whether they have pro-Russian views doesn't matter – they are Ukrainian citizens and are supported.⁵⁷⁵ But it is more complicated to have changes in civil status acknowledged that occurred in areas not under Ukrainian control, because by law of Ukraine any document issued by the self-proclaimed authorities are automatically null and void. The only way to get e.g. a Ukrainian birth certificate for a child born in NGCA after the beginning of the conflict, is to ask for an according court decision. The same is true with death certificates. So it is not an administrative, but a judicial procedure, which is rather lengthy. This issue was addressed by the law on amendments to the Civil Procedural Code which came into force on 24 February 2016 and brought some alleviation by establishing that every court in Ukraine can be addressed for these issues. Courts try to tackle this problem through a fast track procedure and the re-issuing of documents through the Ministry of Justice. But this has increased the burden on some courts and the procedure, e.g. in Kyiv, can take between 2 weeks and 2 months. Therefore, experts would prefer an administrative approach instead of a judicial one.⁵⁷⁶

Enrollment of children in school is no problem for IDPs. The number of teachers was increased to cover the demand.⁵⁷⁷ Students had some problems to enroll in new universities, but that was

⁵⁷¹ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), 2017 Humanitarian Needs Overview Ukraine, November 2016.

⁵⁷² Interview with an MP of the All-Ukrainian Union „Fatherland“ (Batkivshchyna), Kyiv, 16/06/2016.

⁵⁷³ Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016.

⁵⁷⁴ Office of the United Nations High Commissioner for Refugees (UNHCR), Legislative Update 24 October – 4 November, November 2016.

⁵⁷⁵ Interview with representatives of the State Migration Service of Ukraine, Kyiv, 14/06/2016.

⁵⁷⁶ Council of Europe (CoE), Enhancing the Legal Framework of Ukraine on Protecting the Human Rights of IDPs, May 2016; Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016; Interview with an MP of the All-Ukrainian Union „Fatherland“ (Batkivshchyna), Kyiv, 16/06/2016; Interview with representatives of the United Nations Human Rights Monitoring Mission (UNHRMM), Kyiv, 16/06/2016.

⁵⁷⁷ Interview with representatives of the United Nations Human Rights Monitoring Mission (UNHRMM), Kyiv, 16/06/2016; Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

countered with special legal provisions.⁵⁷⁸ As far as the collective centers are concerned, there are classes for IDP-children: Although not on a regular basis and not well-functioning, they are still better than nothing. The government has no overview of the schooling topic, so it depends a lot on how much the parents care.⁵⁷⁹

7. Attitude Towards IDPs In Host Communities

IDPs from Crimea mostly settled in Ukraine's western provinces; those from eastern Ukraine mostly stayed in the eastern areas of the country, close to home so to say. More than half of all IDPs in Ukraine are registered in eastern regions. Most of them live with family members or friends. Solidarity among Ukrainians was quite strong in the beginning, but resentment has since grown in some areas.⁵⁸⁰

Most IDPs tend to view their situation as temporary. One of the primary conditions for their return is a cessation of hostilities and the restoration of normal life in their home regions. But there are also IDPs who are unable to return because of property destruction, political and ideological conflicts with those who remained on territories not controlled by Ukraine, and other reasons. Therefore, the successful integration and adaptation of IDPs in host communities remains a relevant issue in the long term. The available information on the attitude of local residents towards IDPs is contradictory. In some cases they claim to have neutral or friendly attitudes toward IDPs, expressing compassion and understanding of the difficult situation in which IDPs have found themselves and declaring readiness to provide help. On the other hand, there is evidence of discrimination and prejudice against IDPs, as well as negative stereotyping and the existence of hidden and potential social conflicts.⁵⁸¹ The nearer people live to the conflict zone, the higher is their understanding for IDPs.⁵⁸² We were told by various interlocutors that the attitude towards IDPs is basically positive but gradually changing.⁵⁸³ In Vinnitsa there have been isolated incidents with Crimean Tatars, but they don't represent a general trend. Ukrainians are still very supportive of IDPs.⁵⁸⁴ The civil society in Ukraine is very strong and IDPs are generally cared for.⁵⁸⁵

In February-March 2016 the Kyiv International Institute of Sociology, at the request of the UN High Commissioner for Refugees (UNHCR), conducted a public opinion poll to assess the resident population of Ukraine's attitudes towards IDPs with particular focus on cities with the largest number of registered IDPs (hence: CLP), according to official statistics. The main objectives of this study were to uncover the general attitude of the local population toward IDPs; to assess the prevalence of stereotypes and prejudices about the latter; and, to detail the perception of the impact IDPs have on city life as perceived by local residents. The results show that mass media is the main source of information on IDPs. 65% of all respondents throughout Ukraine and 63% of respondents in CLP have attitudes towards IDPs based on information gained from the media. About one fifth (17%) of all the inhabitants of Ukraine have had a personal conversation with an IDP; in cities with the largest IDP populations, almost half (47%) of the citizens have had such an experience. So information obtained through mass media, as well as from acquaintances, plays an important role even for those Ukrainians who have or have had contact with IDPs. Nearly all respondents maintain positive (43% of Ukraine's general population, 58% in CLP) or neutral (47% Ukraine-wide, 34% in CLP) attitudes towards IDPs from Donbas and Crimea. According to the data attitudes towards IDPs

⁵⁷⁸ Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016.

⁵⁷⁹ Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016.

⁵⁸⁰ Bertelsmann Stiftung (BS): Facts on the European Dimension of Displacement and Asylum: Ukraine, January 2016.

⁵⁸¹ Office of the United Nations High Commissioner for Refugees (UNHCR), Ukrainians' Attitudes Towards Internally Displaced Persons from Donbas and Crimea. Summary of Opinion Polls, April 2016.

⁵⁸² Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

⁵⁸³ Interview with a representative of the Human Rights Officer of the European Union delegation in Ukraine, Kyiv, 16/06/2016;

Interview with an MP of the All-Ukrainian Union „Fatherland“ (Batkivshchyna), Kyiv, 16/06/2016.

⁵⁸⁴ Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁵⁸⁵ Interview with representatives of the United Nations Human Rights Monitoring Mission (UNHRMM), Kyiv, 16/06/2016.

have remained largely unchanged for the past two years. And where attitude towards IDPs did change, there is no clear trend towards deterioration nor towards improvement. Opinions of the general population are somewhat more favorable towards working IDPs in contrast to unemployed ones. Poor and middle-class IDPs are seen more positively than rich ones. Women are seen more positive than men. Older IDPs are more positively seen than younger ones. Interestingly 76–77% of the respondents throughout Ukraine and in CLP do not know the amount of assistance IDPs are entitled to by law. More than half of the respondents cannot assess whether this assistance is sufficient for IDPs. The rest are inclined to believe that IDPs need larger amounts of assistance, as the aid available does not provide for all the necessities. Almost no one expressed the idea that IDPs receive too much assistance. The respondents tend to perceive IDPs as citizens who have found themselves in an unfavorable situation without their own fault, who are in need of help and who are entitled to the same rights as others. However, respondents believe that civic duties, such as military conscription, should be carried out by IDPs on equal terms.⁵⁸⁶ Male IDPs in military service age often face public opinion that they should fight in the East.⁵⁸⁷

Inhabitants of Ukraine's western region maintain more negative stereotypes about IDPs. In particular these respondents attribute the following features to IDPs: pro-Russian political views; unwillingness to work on equal terms; aggressiveness towards locals; arrogance; and the desire for special treatment. Also, people in Western Ukraine are more likely to blame IDPs for the situation in which they find themselves. Correspondingly, residents of this region have the least direct communication with IDPs (50% of them have not spoken with a single IDP and are unaware of any IDPs living in their vicinity), and therefore have less opportunity to make their judgment about IDPs based on personal experience.⁵⁸⁸ Interestingly, according to one of our interview partners IDPs in western Ukraine are comparably well integrated and require a low level of government coordination.⁵⁸⁹

More than half of respondents throughout Ukraine and in CLP are willing to hire IDPs for jobs or provide them with housing for rent. More than half of respondents throughout Ukraine (more in CLP) would privately hire IDPs for apartment renovation or as a nanny. Which on the other hand means that nearly half of respondents would refuse to do so. Fear and distrust of strangers are named as the primary reasons for refusal in regard to these questions. Personal biases also play a negative role. 70% of the inhabitants of CLP have felt little or no influence from the arrival of IDPs to their communities. 64% have not noticed any crime rate reduction neither growth nor rise of social cohesion or tension. One fourth of respondents have heard about competition between the long-term local population and IDPs for jobs, housing, places in schools and kindergartens, and waiting time in public facilities; however, a minuscule number of respondents have had first-hand experience in any of these situations. Regular conflicts between IDPs and locals are largely unheard of: 81% of respondents are not aware of any such conflicts in their city, and 11% could remember individual cases. Thus, overall, host communities across Ukraine appear not to perceive any significant pressure from IDP presence on the infrastructure, labor or housing markets. Nor do host communities in general believe that life has undergone any fundamental changes.⁵⁹⁰ One of our interlocutors also mentioned the occasional perception of IDPs as competitors as far as jobs, housing etc. are concerned.⁵⁹¹

But the situation in particular localities differs from the one generally observed. The presence

⁵⁸⁶ Office of the United Nations High Commissioner for Refugees (UNHCR), *Ukrainians' Attitudes Towards Internally Displaced Persons from Donbas and Crimea. Summary of Opinion Polls*, April 2016.

⁵⁸⁷ Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁵⁸⁸ Office of the United Nations High Commissioner for Refugees (UNHCR), *Ukrainians' Attitudes Towards Internally Displaced Persons from Donbas and Crimea. Summary of Opinion Polls*, April 2016.

⁵⁸⁹ Interview with a representative of the Akhmetov Foundation, Kyiv, 15/06/2016.

⁵⁹⁰ Office of the United Nations High Commissioner for Refugees (UNHCR), *Ukrainians' Attitudes Towards Internally Displaced Persons from Donbas and Crimea. Summary of Opinion Polls*, April 2016.

⁵⁹¹ Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

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of IDPs is most noticeable in the East and in Kyiv. About a third of residents in these areas have noticed the effects of IDPs in their communities. The population in the East is moderately aware of competition, conflicts, and other negative effects of the IDPs' presence. Kyiv residents assess the presence of IDPs far more unfavorable than elsewhere. In particular, 39% of Kyiv residents share worries about a worsening crime situation; while in any other region no more than 16% share the same concern. 21% of Kyiv citizens perceive a rise in social tension, a figure twice as high as in any other region. The percentage of people who know about competition between IDPs and the long-term local population is two to three times larger in Kyiv than in other areas, although the number of those who have experienced competition first-hand is no larger than elsewhere. A third of Kyiv residents have also heard about conflicts with IDPs. But also in Kyiv 57% of respondents stated they would hire an IDP for renovation works and 51% said they would lease dwellings to an IDP. These numbers were lower only in Western and Central Ukraine.⁵⁹² One of our interlocutors asserted that discrimination of IDPs seems to be worse in Kyiv than in Western Ukraine.⁵⁹³ Other interview partners expressed that even people residing in Kyiv for years have problems finding apartments. But it seems that everybody wants to go to Kyiv. In other cities the situation is not that bad. In Western Ukraine IDPs are best-off regarding integration etc. The economic crisis is hitting everybody and Kyiv is the most expensive city. So some are going back to the east or think about it.⁵⁹⁴

Language is absolutely no issue. According to representatives of the International Organization for Migration (IOM), Russian speakers are not harassed in Ukraine in any way.⁵⁹⁵

Regarding the perceived or asserted link between presence of IDPs and rise in criminality, one of our interlocutors stated that there has been a rise in petty crime in Kharkiv since the IDPs arrived, but it was not possible to tell more because crime statistics in Ukraine are very bad. Although the increase in reported crimes can also be interpreted as an increase of trust in the police (see Chapter 2.2. of this report), two interview partners linked the increase in street crime in Kyiv to the presence of about 1 million people from the east.⁵⁹⁶ Another interlocutor named IDPs as one facilitator of crime, next to the war in the east and the bad economic situation.⁵⁹⁷ According to a further interlocutor a link between IDPs and a rise in criminality is so far not evident.⁵⁹⁸

Discrimination of IDPs is a problem⁵⁹⁹, but of a rather economical nature. It occurs mainly when IDPs want to rent space, but rather not because of where they come from, but because landlords are afraid they might not be able to pay or go back soon – the same is true when applying for a job. But interlocutors generally agree that in the end there is always a solution and no incidents of homelessness of IDPs are known.⁶⁰⁰ But paying the rent is indeed a problem for many IDPs, because there are hardly jobs. Governmental support for IDPs comes mostly from local communities and there's huge solidarity in the country. But economic crisis in Ukraine is grave. The GDP has dropped, inflation has gone up, costs for goods are rising, so life in Ukraine is not easy in general and surely not for IDPs.⁶⁰¹

One of our interlocutors did and does opinion polls in Donbas and had interesting things to

⁵⁹² Office of the United Nations High Commissioner for Refugees (UNHCR), Ukrainians' Attitudes Towards Internally Displaced Persons from Donbas and Crimea. Summary of Opinion Polls, April 2016.

⁵⁹³ Interview with a French journalist based in Ukraine, Kyiv, 13/06/2016.

⁵⁹⁴ Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

⁵⁹⁵ Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

⁵⁹⁶ Interview with representatives of the European Union Advisory Mission (EUAM), Kyiv, 13/06/2016; Interview with representatives of the Gorshenin Institute, Kyiv, 16/06/2016.

⁵⁹⁷ Interview with a representative of the Ukrainian National Police, Kyiv, 15/06/2016.

⁵⁹⁸ Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁵⁹⁹ Interview with representatives of the office of the Ombudsman, Kyiv, 15/06/2016.

⁶⁰⁰ Interview with representatives of the NGO Crimea SOS and the NGO Center for Civil Liberties, Kyiv, 16/06/2016; Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016; Interview with representatives of the Organization for Security and Cooperation in Europe (OSCE), Kyiv, 15/06/2016.

⁶⁰¹ Interview with representatives of the International Organization for Migration (IOM), Kyiv, 14/06/2016.

say about the attitude of IDPs themselves. According to the numbers, before the war 30% of respondents in Donetsk and Luhansk oblasts wanted to separate from Ukraine. In the GCA of Donbas now 5% of respondents want to separate from Ukraine, whereas 10% want an own statehood. A survey in Kramatorsk and Slavyansk, two eastern Ukrainian cities near the contact-line shows that public opinion is very different in the two cities: Kramatorsk is rather pro-Ukrainian. It is the capital of the GCA. The situation is rather positive. Slavyansk on the other hand is rather anti-Ukrainian.⁶⁰²

⁶⁰² Interview with a representative of Ilko Kucheriv Democratic Initiatives Foundation (DIF), Kyiv, 16/06/2016.

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