

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

**Report on the human rights situation in Ukraine  
16 February to 15 May 2018**





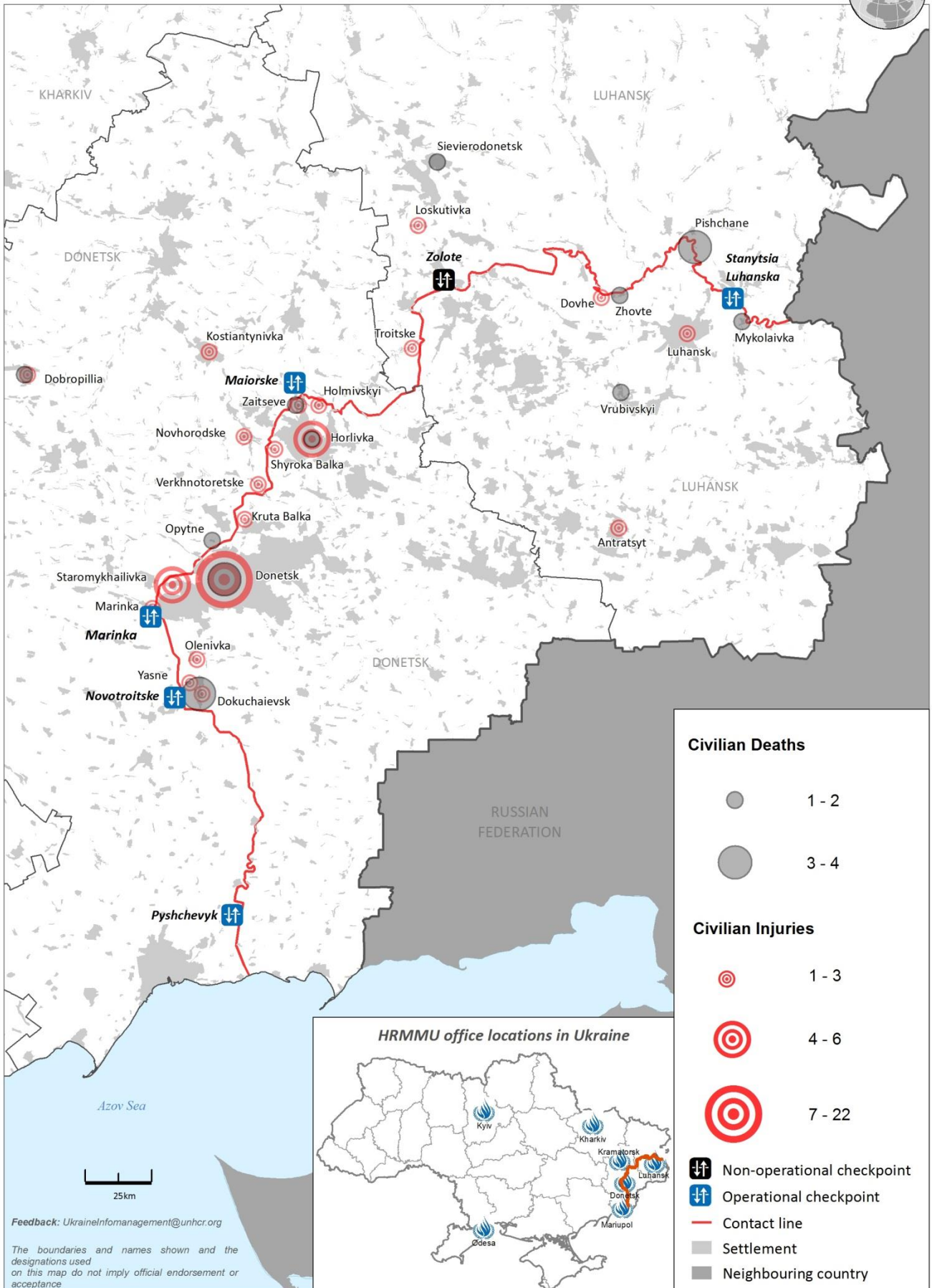
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# Ukraine: Civilian casualties along the contact line, 16 February - 15 May 2018





## I. Executive summary

1. This twenty-second report on the situation of human rights in Ukraine by the Office of the United Nations High Commissioner for Human Rights (OHCHR) is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU)<sup>1</sup>, and covers the period from 16 February to 15 May 2018.

2. As of 15 May 2018, the conflict continued with no end in sight and with civilian casualties on the rise; serious human rights violations such as torture and arbitrary detention continued with impunity; and increasing attacks on fundamental freedoms of opinion and expression, media and peaceful assembly were documented. Continuing conflict and a stagnant human rights situation make efforts towards future peace and reconciliation more difficult.

3. The active conflict – now in its fifth year – continued to cause deaths and injuries to civilians, as well as to damage and to disrupt critical civilian infrastructure. OHCHR recorded 81 civilian casualties in eastern Ukraine (19 deaths and 62 injuries) between 16 February and 15 May 2018, a 9 per cent increase compared with the previous reporting period. Half of the total (56.7 per cent) occurred in April, as casualties from shelling, light weapons, small arms and mine-related incidents increased sharply. Shelling and small arms fire continued to damage civilian infrastructure, in particular the Donetsk Filtration Station (DFS) causing disruptions in the public water supply. OHCHR documented four incidents where DFS civilian staff may have been intentionally targeted, which if proven, could constitute a war crime.

4. During the reporting period, OHCHR documented 201 cases<sup>2</sup> of credible allegations of 321 human rights violations and abuses, which affected 252 victims.<sup>3</sup> Of the 321 human rights violations and abuses documented, 112 occurred during the reporting period; the Government of Ukraine was responsible for 68 violations (61 per cent), armed groups for 19 (17 per cent), and the Government of the Russian Federation (as the Occupying Power in Crimea<sup>4</sup>) for 25 (22 per cent). The total number of cases documented is comparable to the number documented in the previous reporting period.<sup>5</sup>

5. In government-controlled territory, OHCHR generally had effective access to official places of detention, allowing confidential interviews of conflict-related detainees, with the exception of access to some detainees in Kharkiv in cases related to investigations by the State Security Service (SBU), which was unreasonably delayed. The continued denial of access to detainees and places of deprivation of liberty in the self-proclaimed ‘Donetsk people’s republic’ and self-proclaimed ‘Luhansk people’s republic’<sup>6</sup>, despite repeated requests by OHCHR, continued to raise grave concerns regarding detention conditions and treatment of detainees, leading OHCHR to suspect ill-treatment and torture of detainees being deliberately hidden from international monitors.

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<sup>1</sup> HRMMU was deployed on 14 March 2014 to monitor and report on the human rights situation throughout Ukraine and to propose recommendations to the Government and other actors to address human rights concerns. For more details, see paras. 7–8 of the report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine of 19 September 2014 (A/HRC/27/75).

<sup>2</sup> The numbers of cases documented is affected by restrictions on OHCHR’s access and freedom of movement in territory controlled by armed groups, and complete lack of access to the Crimean peninsula. OHCHR enjoys access and freedom of movement in government-controlled territory.

<sup>3</sup> These numbers do not include civilian casualties caused by the armed conflict.

<sup>4</sup> See United Nations General Assembly resolution 71/205 of 19 December 2016 referring to Crimea as occupied by the Russian Federation and resolution 72/190 of 19 December 2017 urging the Russian Federation to comply with its obligations as an occupying power in Crimea.

<sup>5</sup> In the last reporting period, OHCHR documented 205 cases of alleged human rights violations and abuses. Sixty-six such cases involved incidents which occurred during the reporting period; the Government of Ukraine was responsible for 38 of these 66 cases (57.6 per cent), and the armed groups were responsible for 28 (42.4 per cent).

<sup>6</sup> Hereinafter ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’.

6. OHCHR was able to document 93 cases – on both sides of the contact line – involving 149 credible allegations of unlawful or arbitrary detention, torture, ill-treatment, sexual violence and/or threats to physical integrity. In 28 of these cases (representing 38 human rights violations and abuses), the incidents occurred during the reporting period, which is more than double the number of violations documented by OHCHR occurring in the previous reporting period. The Government of Ukraine was responsible for 22 of these human rights violations, and armed groups for 15.<sup>7</sup> Lack of effective investigation into previously documented cases of arbitrary detention and torture remains a critical human rights concern in government-controlled territory. In territory controlled by armed groups of the ‘Luhansk people’s republic’, the practice of ‘preventive arrest’ was instituted, while ‘administrative arrest’ continued in territory controlled by the ‘Donetsk people’s republic’; both practices amount to arbitrary *incommunicado* detention and may constitute enforced disappearance, while creating serious risks of torture and ill-treatment.

7. Access to justice in conflict-related criminal cases continued to be hindered by protracted proceedings, prolonged detention and violations of fair trial rights. OHCHR also documented state interference in the independence of the judiciary, as judges who released individuals accused of terrorism- or separatism-related charges pending trial became subjects of criminal investigations themselves. Only minor developments were noted in cases involving the killing of protestors at Maidan or the 2 May 2014 violence in Odesa, as lack of accountability remained one of the biggest obstacles to the rule of law in Ukraine. In territory controlled by armed groups, OHCHR documented cases where individuals detained by armed groups were prohibited from access to a lawyer, or forced to use one appointed by the ‘republics’.

8. With the official campaign season for 2019 presidential and parliamentary elections forthcoming, protection of the freedoms of opinion and expression, media, and peaceful assembly and association is imperative to ensure an open and constructive democratic and civic space. OHCHR documented 41 violations of these fundamental freedoms in addition to the right to non-discrimination, an increase from the previous reporting period. OHCHR documented 25 physical attacks against individuals and events carried out by members of extreme right-wing groups, often with impunity. Of deep concern were two separate attacks on Roma communities in Kyiv and Rudne that led to their settlements being burned to the ground. Both are under investigation, with one already known to have been perpetrated by extreme right-wing group C14 in the presence of national police.

9. In the Autonomous Republic of Crimea and the city of Sevastopol<sup>8</sup>, the Russian Federation continued to apply its laws in violation of the obligation under international humanitarian law to respect the legislation of the occupied territory. OHCHR monitored the human rights situation in Crimea despite having not been granted access to the peninsula by the Russian Federation in line with United Nations General Assembly resolutions reaffirming the territorial integrity of Ukraine and qualifying the situation as temporary occupation of Crimea by the Russian Federation.<sup>9</sup> During the reporting period, OHCHR documented 28 human rights violations in Crimea, including enforced disappearances, restrictions on fundamental freedoms and infringement of property rights; the Government of the Russian Federation was responsible for 25 of these violations, and the Government of Ukraine for 3.<sup>10</sup>

10. As part of its mandate to promote human rights, OHCHR engaged in nine technical cooperation and capacity-building activities with the Government of Ukraine and civil

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<sup>7</sup> One incident occurred in “no man’s land” and cannot be attributed to a specific party.

<sup>8</sup> Hereinafter “Crimea”.

<sup>9</sup> See United Nations General Assembly resolution 68/262 of 27 March 2014 on the territorial integrity of Ukraine, resolution 71/205 of 19 December 2016 referring to Crimea as being occupied by the Russian Federation and resolution 72/190 of 19 December 2017 urging the Russian Federation to comply with its obligations as an occupying power in Crimea.

<sup>10</sup> The violations attributable to the Government of Ukraine did not occur in Crimea itself, but concern events in mainland Ukraine with connection to the situation in Crimea and are related to freedom of movement and access to public services.



society, focusing on increasing protection against arbitrary detention, torture and ill-treatment, freedom of movement, and housing, land and property rights. OHCHR also advocated for the protection and promotion of human rights, including fair trial rights, rights of persons with disabilities, rights of internally displaced persons (IDPs) and fundamental freedoms. Since 1 January 2018, OHCHR has referred 54 allegations of human rights violations and abuses to specific duty-bearers. Twenty-nine violations were raised with the Government of Ukraine; in 1 case the violation was fully addressed, in 12 cases the violation was partially addressed, and in 4 cases criminal investigations were opened. Twenty-five human rights abuses were raised with the armed groups; in one case the issue was fully addressed, in three cases human rights abuses were partially addressed and in one case an ‘investigation’ was opened.

## **II. OHCHR methodology**

11. OHCHR’s quarterly reports are based on information collected by HRMMU through interviews (with victims, witnesses, relatives of victims and lawyers), site visits, meetings (with government representatives, civil society and other interlocutors), trial monitoring, court documents, official records, open-source material, and other relevant materials. OHCHR evaluates all sources and information for credibility and reliability, and exercises due diligence to corroborate and crosscheck information from as wide a range of sources as possible. Testimonies are also evaluated on their consistency with what is known about an incident, and whether that incident reveals a pattern consistent with other similar incidents. When documenting human rights cases, the standard of proof applied is that, to an objective observer, there are “reasonable grounds to believe” that a particular human rights violation or abuse occurred, or that a given pattern of violations occurred.

12. OHCHR applies the same due diligence and standard of proof when documenting civilian casualties. In some instances, documentation may take weeks or months before conclusions can be drawn, and therefore numbers on civilian casualties may be revised as additional information becomes available.

13. OHCHR is committed to the protection of its sources and provides for the preservation of their confidentiality. It therefore does not disclose any information that may lead to the identification of sources, unless sources have provided their informed consent. OHCHR also systematically assesses the potential risks of harm and retaliation to its sources. Accordingly, some documented cases are not included or are anonymized.

14. The findings presented in this report are based on data collected by HRMMU through 186 in-depth interviews with witnesses and victims of human rights violations and abuses, as well as site visits in both government-controlled and armed-groups-controlled territory.<sup>11</sup> HRMMU also carried out 465 specific follow-up activities to facilitate the protection of human rights connected with the cases documented, including trial monitoring, detention visits, referrals to State institutions, humanitarian organizations and non-governmental organizations (NGOs), and cooperation with United Nations human rights mechanisms.<sup>12</sup>

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<sup>11</sup> HRMMU has offices in Kharkiv, Kramatorsk, Kyiv, Mariupol and Odesa (government-controlled territory), and in Donetsk and Luhansk (armed-groups-controlled territory). Consequently, the majority of human rights violations and abuses documented by OHCHR occurred in these regions, as well as in Crimea.

<sup>12</sup> United Nations Human Rights Council Special Procedures mandate holders and Human Rights Treaty Bodies.

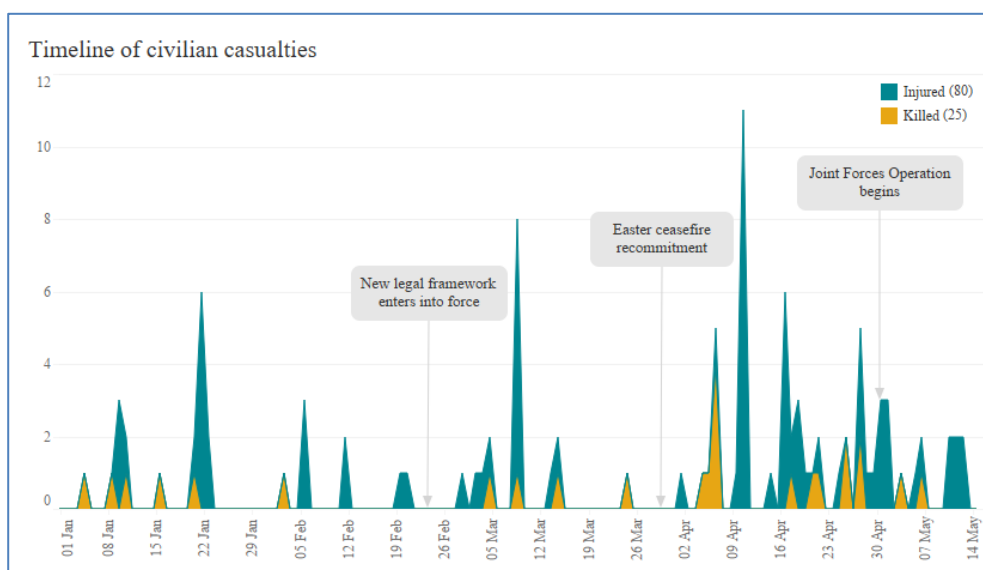
### III. Impact of hostilities

#### A. Conduct of hostilities and civilian casualties

*Every night I go to sleep fully dressed,  
because I don't want to look ridiculous when I get killed by shelling.*  
- Resident of a village near the contact line.

15. During the reporting period, the armed conflict in eastern Ukraine continued to exact a severe toll on civilians living in proximity of the 457-km contact line. Parties to the conflict persisted in violating the Minsk agreements, including through the use of indirect<sup>13</sup> and/or explosive weapons. From 16 February to 15 May 2018, OHCHR recorded 81 civilian casualties (19 killed and 62 injured)<sup>14</sup>, a 9 per cent increase in civilian casualties compared to the previous reporting period when OHCHR documented 74 civilian casualties (13 killed and 61 injured). This is, however, a 59.7 per cent decrease compared with the same period in 2017.<sup>15</sup>

16. During the entire conflict period, from 14 April 2014 to 15 May 2018, at least 2,725 civilians have been killed: 1,568 men, 961 women, 93 boys, 47 girls and 56 adults whose sex is unknown. An additional 298 civilians, including 80 children, were killed by the downing of flight MH17 on 17 July 2014, bringing the total death toll on civilians to at least 3,023. OHCHR estimates the total number of conflict-related civilian injuries to be between 7,000 and 9,000.



17. Following low numbers of civilian casualties during the first three months of 2018, a sharp increase was documented in April, with 46 civilian casualties (13 killed and 33 injured).<sup>16</sup> This represented an increase of 142 per cent compared with 19 civilian casualties recorded in March (5 killed and 14 injured): Casualties caused by shelling and light

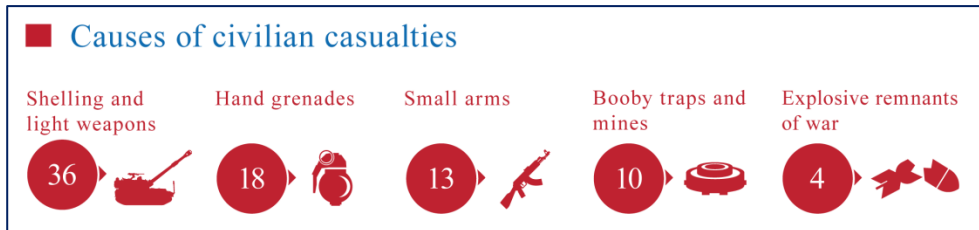
<sup>13</sup> Indirect weapons are weapons which are fired without line of sight.

<sup>14</sup> The deaths of 13 men and 6 women, and the injury of 33 men, 24 women, 3 boys and 2 girls.

<sup>15</sup> From 16 February to 15 May 2017, OHCHR documented 200 civilian casualties: 40 killed (26 men, 11 women and 3 boys) and 160 injured (92 men, 58 women, 9 boys and 1 girl).

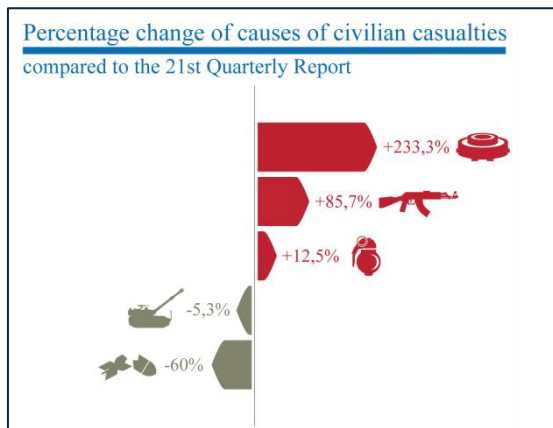
<sup>16</sup> OHCHR recorded 18 civilian casualties in January (5 killed and 13 injured), 8 casualties in February (1 killed and 7 injured), 19 casualties in March (5 killed and 14 injured), and 26 casualties in April (13 killed and 33 injured).

weapons increased by 850 per cent (from 2 to 19), casualties caused by small arms increased more than tenfold (from 1 to 12), and casualties in mine-related incidents increased by 600 per cent (from 1 to 7). Casualties from mishandling of abandoned explosive ordnance (mainly hand grenades) decreased by 47 per cent (from 15 to 8). This higher rate of civilian casualties continued until 15 May; during the first half of the month, 16 civilian casualties were recorded (2 killed and 14 injured).



18. As in the last reporting period, shelling and SALW<sup>17</sup> fire were the main cause of civilian casualties: 49 (6 killed and 43 injured)<sup>18</sup> accounting for 60.5 per cent of all recorded casualties.<sup>19</sup> Direct and indirect fire from explosive weapons (such as artillery, mortars and light weapons utilizing explosive ammunition), accounted for 36 civilian casualties (6 killed and 30 injured). Of these, 33 casualties (6 killed and 27) injured are attributable to the Government, and 3 casualties (all injuries) are attributable to the armed groups.<sup>20</sup> The risk of civilian casualties is very high when explosive and/or indirect weapons are used in civilian-populated areas. Small arms fire accounted for 13 civilian casualties (all injuries): 12 casualties are attributable to the Government and 1 to the armed groups.

19. The continued use of indirect and/or explosive weapons by parties to the conflict remained the primary concern regarding protection of civilians.<sup>21</sup> OHCHR emphasizes that significant numbers of civilians continue to reside in villages and towns in proximity to the contact line. While most civilian casualties from shelling – and shooting – appeared to occur indirectly in incidents that did not specifically target civilians, the conflict’s civilian toll remains a serious concern. Examples of civilian casualties from shelling include injuries to 10 civilians on 11 April in armed-groups-controlled Staromykhailivka village and Kuibyshevskiy district of Donetsk<sup>22</sup>; the deaths of four civilians and injury of two others in armed-groups-controlled Dokuchaievsk between 22-28 April<sup>23</sup>; and injuries to two civilians from shelling in government-controlled Troitske



<sup>17</sup> Small arms and light weapons.

<sup>18</sup> The deaths of 4 men and 2 women, and the injury of 23 men, 18 women and 2 girls.

<sup>19</sup> This is a 4.3 per cent increase compared with the previous reporting period where 47 civilian casualties were recorded: The deaths of 3 men, and the injury of 23 men, 19 women and 2 girls.

<sup>20</sup> The standard of proof applied by OHCHR is that, to an objective observer, there are reasonable grounds to believe that a particular civilian casualty occurred. OHCHR attributes a civilian casualty to a particular party based on the geographic location where it occurred, the direction of fire, and the overall context surrounding the incident. OHCHR is not able to attribute all civilian casualties to a specific party to the conflict.

<sup>21</sup> Indiscriminate attacks are prohibited by international humanitarian law. See ICRC Customary International Humanitarian Law, Rules 11, 12.

<sup>22</sup> Five men, four women and one girl were injured.

<sup>23</sup> Three men and one woman were killed, and one man and one woman were injured.

(Luhansk region), on 2 May.<sup>24</sup>

20. The damage caused to civilian life from continued shelling across the contact line, beyond the infliction of death and physical injury, cannot be overstated. During the reporting period, deployment of indirect and/or explosive weapons continued to traumatise civilians and damage property, including civilian homes, critical civilian infrastructure and educational facilities.

21. As in previous reporting periods, shelling and small arms fire impacted critical civilian infrastructure on multiple occasions, endangering public water and electricity supplies. At least six such incidents resulted in property damage and/or disruptions in operations.<sup>25</sup> The First Lift Pumping Station of the South Donbas Water Pipeline and the Donetsk Filtration Station (DFS) are particularly vulnerable due to their proximity to the contact line.<sup>26</sup> Together they pump or process the public water supply for 1.17 million people living on both sides of the contact line. Disruptions in their operations caused by the armed hostilities threaten these residents' access to safe drinking water, which is encompassed in the right to life.<sup>27</sup>

22. OHCHR is extremely concerned by a pattern of incidents during the reporting period in which vehicles travelling to and from the DFS came under small arms fire.<sup>28</sup> OHCHR documented four instances where employees of the facility may have been intentionally targeted. Of deep concern, on 17 April, a bus carrying approximately 30 civilian workers from the DFS in armed-groups-controlled territory came under what appears to be deliberate small arms fire originating from the direction of government-controlled territory.<sup>29</sup> Five passengers on the bus were injured (four men and one woman), including one critically. In response, the DFS ceased operations for five days while it attempted to obtain security guarantees for its staff.<sup>30</sup> In addition, on 15 May, following shelling of the area around the DFS, staff outdoors on the property came under small arms fire believed to originate from a sniper.<sup>31</sup> Noting that the parties to the conflict are aware of the civilian status of the staff as well as the movements of DFS vehicles, OHCHR emphasizes that both the intentional

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<sup>24</sup> One man and one woman were injured.

<sup>25</sup> On 1 March 2018, the First Lift Pumping Station of the South Donbas Water Pipeline partially stopped operations due to a damaged electricity line, temporarily cutting off the water supply to approximately 100,000 people living on both sides of the contact line. On 10-11 March, the station came under small arms fire which damaged a transformer. On 15 April, shelling damaged three out of the four power lines supplying the Third Lift Pumping Station of the Siverskyi Donets Donbas. On 26 April, shelling in Dokuchaievsk damaged the power line to two water pumps, cutting off water to two areas of the city. On 13 May, shelling damaged buildings of the Donetsk Filtration Station (DFS). On 15 May, shelling damaged the lighting system of the Holmovskiy wastewater treatment plant.

<sup>26</sup> The First Lift Pumping Station is located between the armed-groups-controlled villages of Vasylivka and Kruta Balka, in immediate proximity to the contact line. The DFS is located in "no man's land" approximately 15 km north of Donetsk city, between government-controlled Avdiivka and armed-groups-controlled Yasynuvata.

<sup>27</sup> See The Right to Water, OHCHR Fact Sheet No. 35, available at <http://www.ohchr.org/EN/Issues/ESCR/Pages/Water.aspx>.

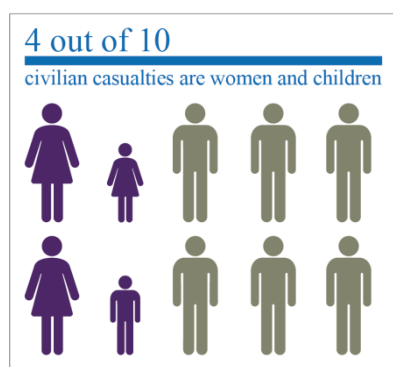
<sup>28</sup> On 7 March, small arms fire targeted a truck carrying fuel to the Donetsk Filtration Station, resulting in no civilian casualties. On 12 March, small arms fire hit a truck carrying 12 DFS staff, which resulted in damages to the vehicle but no injuries. In two incidents on 13 March, a bus carrying 30 workers home from the facility was fired upon (sustaining damage, but no injuries to staff) and a truck delivering chemicals for water treatment was shot at with small arms (no civilian casualties). On 17 April, five passengers on a bus carrying DFS staff were injured when the bus came under small arms fire. In addition, on 15 May, staff standing on DFS premises came under small arms fire.

<sup>29</sup> In reaching the conclusion that the firing was intentional, OHCHR notes that (1) the bus was traveling from the DFS towards Yasynuvata and was struck in the rear; (2) Voda Donbasa vehicles are clearly marked and easily recognizable; (3) parties to the conflict in the area are well aware of the movement of the bus on this road, carrying civilian workers twice daily, to and from the DFS; and (4) parties to the conflict previously negotiated "windows of silence" to enable the safe transport of civilian staff to and from the facility during certain time periods.

<sup>30</sup> The DFS processes the water supply for 345,000 people living on both sides of the contact line.

<sup>31</sup> WASH Cluster Incident Report No. 128, at <https://reliefweb.int/report/ukraine/wash-cluster-incident-report-no-128-15052018>.

targeting of civilians and indiscriminate attacks are serious violations of international humanitarian law and war crimes.<sup>32</sup>



23. Furthermore, on 19 April, three civilians (two women and one man) standing at a bus stop in “no man’s land”<sup>33</sup> came under small arms fire, and were injured and hospitalized. The fact that the incident occurred in broad daylight at a public bus stop where it is known that civilians would be present suggests that the targeting was intentional.

24. OHCHR continued to observe the presence of military and armed groups in areas where civilians reside. OHCHR reminds parties to the conflict that the protection accorded to civilians who remain in the area of the contact line must be respected at all times. Parties must take all feasible precautions to avoid harm to the civilian population and damage to civilian objects during attacks.<sup>34</sup> In parallel, parties to the conflict must also take precautions to minimize harm to civilians under their control, including by locating military objects outside of areas heavily populated by civilians.<sup>35</sup>

25. Mines, booby traps and explosive remnants of war (ERW) accounted for 32 civilian casualties (13 killed and 19 injured)<sup>36</sup> comprising 39.5 per cent of the civilian casualties recorded. Ten casualties (7 killed and 3 injured)<sup>37</sup> resulted from mine-related incidents,<sup>38</sup> reflecting a 400 per cent increase from the previous reporting period (when 2 civilians were injured). This is, however a 79.2 per cent decrease compared with the same period in 2017 when 48 casualties were recorded (7 killed and 41 injured). In particular, the deaths of four members of one family<sup>39</sup> on 7 April when their vehicle triggered the detonation of an anti-tank mine in government-controlled Pishchane (Luhansk region) illustrates the grave risk posed to civilians by the emplacement of mines in the area. Another example is the death of a civilian man killed in his own yard by a booby trap in armed-groups-controlled Vrubivskiyi village (Luhansk region) on 21 April.

26. OHCHR remains concerned about the risk of further civilian casualties in the future due to remaining mines, explosive remnants of war (particularly unexploded ordnance), and victim-activated devices including booby traps.

27. Abandoned explosive ordnance (primarily, hand grenades) continued to take a heavy toll on lives and health of civilians on both sides of the contact line, killing 6<sup>40</sup> and injuring 14<sup>41</sup> during the reporting period.

28. The Law of Ukraine “On particular aspects of public policy aimed at safeguarding the sovereignty of Ukraine over the temporarily occupied territory of the Donetsk and Luhansk regions of Ukraine” which provides a framework to re-establish control over

<sup>32</sup> ICRC Customary International Humanitarian Law, Rules 1, 7, 11, 12, 14, 156. *See also* ICC Rome Statute, articles 8(2)(b)(i) & (ii) and 8(e)(i).

<sup>33</sup> The bus stop is located in “no man’s land” in Donetsk region, in between the “zero checkpoints” along the Marinka crossing route.

<sup>34</sup> ICRC Customary International Humanitarian Law Database, Rules 15-21. As noted above, indiscriminate attacks are also prohibited by international humanitarian law.

<sup>35</sup> ICRC Customary International Humanitarian Law Database, Rules 22-24.

<sup>36</sup> The deaths of 9 men and 4 women, and the injury of 10 men, 6 women and 3 boys.

<sup>37</sup> Seven men and three women; 5 in government-controlled territory and 5 in territory controlled by armed groups.

<sup>38</sup> A civilian unexpectedly tripping a mine, booby trap or ERW while on feet or in a vehicle.

<sup>39</sup> Two men and two women were killed.

<sup>40</sup> Consisting of 4 men and 2 women; 3 in government-controlled territory and 3 in territory controlled by armed groups.

<sup>41</sup> Consisting of 6 men, 5 women and 3 boys; 2 in government-controlled territory and 12 in territory controlled by armed groups.

certain areas of Donetsk and Luhansk regions<sup>42</sup> entered into force on 24 February 2018. Under the new framework, the Government of Ukraine regards territory not under its control as temporarily occupied by the Russian Federation. This did not have immediate effect on the on-going security operation, which continued to be conducted under the anti-terrorist framework until 30 April 2018 when the military-led operation coordinated by the Joint Operational Headquarters of the Armed Forces of Ukraine was officially launched following a Special Order issued by President Poroshenko.

29. With the change of format on 30 April, a special regime was enacted in Donetsk and Luhansk regions establishing “security zones”<sup>43</sup> where authorities engaged in the security operation are vested with “special powers”.<sup>44</sup> Access by civilians to parts or the whole of the “security zones” may be temporarily restricted or prohibited by the Commander of the Joint Forces. The “area of hostilities”, including the contact line, may be accessed only with a special permit from the Commander of the Joint Forces issued based on the defined list of grounds. Full implementation of the new legal framework rests on the development of relevant regulatory acts, such as the procedure for the movement of persons and goods across the contact line, which is in progress.

30. OHCHR notes that on 8 May, the Ukrainian Armed Forces advanced their position in Chyhari, a residential area in Pivdenne settlement within Donetsk region. As of 15 May, the security situation was uncertain, with potential risk to the civilian population.

## **B. Situation at the contact line and rights of conflict-affected persons**

31. In addition to the security risks outlined above, civilians living on both sides of the contact line, as well as internally displaced persons, faced further hardship as a result of the conflict, such as lack of access to reparations, forced eviction, and limited access to restitution or compensation for damaged property, social security, social protection, and health and educational facilities.<sup>45</sup> These factors contributed to a deteriorating standard of living that undermines people’s right to live in dignity. Furthermore, the deteriorating

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<sup>42</sup> Law of Ukraine “On particular aspects of public policy aimed at safeguarding the sovereignty of Ukraine over the temporarily occupied territory of the Donetsk and Luhansk regions of Ukraine” no.2268 of 18 January 2018. *See also* OHCHR Report, 16 November to 15 February 2018, paras. 131-133; OHCHR Report, 16 August to 15 November, paras.149-154.

<sup>43</sup> As defined by the Joint Operative Headquarter of the Armed Forces of Ukraine (JOHAFU), the “security zones” adjacent to the “area of hostilities” are: Vynohradne, Kurakhove, Ocheretyne, Rozivka, Vovchoiarivka, Bila Hora, Novoidar, Sadky, Makarivka, Prostiane, along the state border, Chorniavka, along the administrative boundary between the Luhansk and Kharkiv regions, Olhivka, along the administrative boundary between the Donetsk and Kharkiv regions, Znamenivka, along the administrative boundary between the Donetsk and Dnipropetrovsk regions, Komyshuvakha, along the administrative boundary between the Donetsk and Zaporizhzhia regions, Urzuf, along the sea line, Prymorske.

<sup>44</sup> The list of the “special powers” is exhaustive; it mirrors the powers availed to the personnel engaged in the anti-terrorist operation under Article 15 of the Law ‘On combatting terrorism’: use of weapons, authority to stop and check persons, to conduct searches, to detain persons, to limit movement in the streets, to access private property, including houses, and to use private vehicles and means of communication. On the positive side, the new law does not contain ambiguous provisions authorising preventive detention for prolonged periods outside the ambit of administrative and/or criminal procedures.

<sup>45</sup> Forced eviction is “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection” (Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions). If an occupant leaves home for a period of time, whether voluntarily or owing to a natural disaster or conflict for instance, and is then not allowed to return, the situation may also amount to forced eviction.

situation for conflict-affected persons can hinder future prospects for peace and reconciliation.<sup>46</sup>

## 1. Remedy and reparations for conflict-affected population

32. During the reporting period, little progress was observed in the adoption of a comprehensive state policy on remedy and reparation for civilians injured by the armed hostilities and relatives of those who were killed. A positive development was the adoption, on 25 April 2018, of resolution No. 306 of the Cabinet of Ministers determining the procedure for linking disability with conflict-related injuries. The order enables the implementation of amendments to national legislation<sup>47</sup> which allowed certain categories of civilians whose disability resulted from armed hostilities, to enjoy benefits of war veterans.<sup>48</sup> As of 15 May 2018, no civilians with conflict-related disabilities have received status of war veterans.

33. OHCHR is also concerned that amendments<sup>49</sup> adopted to Cabinet of Ministers resolution No. 268<sup>50</sup> “On the Approval of Order of Determining the Status of a Child Affected by Armed Hostilities and Armed Conflicts”, to better define and expand eligibility criteria<sup>51</sup>, did not specify remedy and reparation to help affected children cope with the consequences of their exposure to the conflict. The status, therefore, remained nominal. As of 15 May 2018, only nine children have received this status.<sup>52</sup>

## 2. Right to restitution and compensation for use or damage of private property

*When I went to the city administration to ask for compensation  
for damages to my house from shelling, they told me:  
be modest and just be thankful you are alive.  
- Resident of a village near the contact line.*

34. During the reporting period, the Government still did not establish an effective restitution and compensation mechanism for private property destroyed or damaged by the armed conflict on both sides of the contact line. This remained among the most pressing unaddressed socio-economic issues faced by those directly affected by the conflict. At the end of 2017, over 40,000 civilian houses had been damaged or destroyed since the outbreak of hostilities in 2014.<sup>53</sup> This figure does not include houses abandoned by IDPs and those damaged during military use.

35. Along with the absence of a mechanism for recording the damage to, and destruction of civilian property, a methodology to assess the repair and reconstruction needs is also

<sup>46</sup> For discussion on links between violations of economic, social and cultural rights and violence, social unrest and conflict, see Early Warning and Economic, Social and Cultural Rights, OHCHR Report, available at [http://www.ohchr.org/Documents/Issues/ESCR/EarlyWarning\\_ESCR\\_2016\\_en.pdf](http://www.ohchr.org/Documents/Issues/ESCR/EarlyWarning_ESCR_2016_en.pdf).

<sup>47</sup> Law of Ukraine “On amendments to the Law of Ukraine ‘On the status of war veterans and their social protection guarantees’ enhancing the social protection of participants of the anti-terrorist operation, of the Revolution of Dignity and of the family members of such persons” no. 2203-VIII of 14 November 2017. Entered into force on 24 February 2018.

<sup>48</sup> See OHCHR Report on the human rights situation in Ukraine (hereinafter “OHCHR Report”), 16 November 2017 to 15 February 2018, paras. 134-135.

<sup>49</sup> Resolution of Cabinet of Ministers No. 301 “On amendments to the resolutions of the Cabinet of Ministers of 24 September 2008 No. 866 and of 5 April 2017 No. 268” of 11 April 2018.

<sup>50</sup> Dated 5 April 2017.

<sup>51</sup> Under the amendment, those eligible were not only children who suffered various forms of physical injuries, but also those subjected to “psychological violence”, which includes all children who lived in the area of hostilities, IDP children, and those who lost their parents.

<sup>52</sup> NGO Right to Protection (R2P), <http://vpl.com.ua/uk/news/4957/>.

<sup>53</sup> 2018 Humanitarian Response Plan, available at <https://www.humanitarianresponse.info/en/operations/ukraine/document/ukraine-2018-humanitarian-response-plan-hrp>.

lacking. OHCHR notes that there is no unified approach to certify damages, which would facilitate compensation claims.

36. For property owners who bring a court claim, the process may be costly, protracted and ineffective due to lack of execution. As of 19 April 2018, over 230 cases seeking compensation for damaged or destroyed property had been filed in courts.<sup>54</sup> In the majority of cases, courts issued rulings in favour of the claimant, recognizing the right to compensation, however none of those decisions has been executed.

37. In some locations in government-controlled territory, such as Shyrokyne, Pisky and Rozsady, the Ukrainian Armed Forces denied residents access to the area due to security reasons, which impeded claimants in certifying damages and filing requests for compensation in court. Where security concerns prevent access to residents, an alternative mechanism for documenting damages and loss of property should be developed.

38. During the reporting period, OHCHR continued to document cases of military use of private homes without consultation with, or restitution/compensation for, the owner.<sup>55</sup> Assurances had been given by the Government<sup>56</sup> that such military use would occur only in strict compliance with the law,<sup>57</sup> however interlocutors informed OHCHR that established procedures were not followed. OHCHR notes that the right to housing, land and property restitution and compensation is essential to conflict resolution and to post-conflict peace-building.<sup>58</sup>

### 3. Right to social security and social protection

39. Access to social security and protection is of heightened importance given the hardship and poor socio-economic environment in particular for conflict-affected persons.<sup>59</sup> After four years of armed conflict, one in five households in government-controlled territory of Donetsk and Luhansk regions experienced worsened food insecurity, and 78 per cent of households reported applying negative coping strategies, including exhausting their meagre savings or reducing their health expenditures, to purchase food.<sup>60</sup> The situation in territory controlled by armed groups is similar, however with greater negative impact of the conflict on the socio-economic situation, resulting in higher prices, higher unemployment and comparatively lower income. Seventy-two per cent of households reported resorting to negative livelihood-based coping strategies.<sup>61</sup> The economic situation for IDPs has also

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<sup>54</sup> Residents of armed-groups-controlled territory may be at an ever further disadvantage, making access to effective remedy even more limited. Out of 175 claims submitted in courts in Donetsk and Luhansk regions, only 6 refer to property in armed-groups-controlled territory (information received from Norwegian Refugee Council). This is likely due to restrictions on freedom of movement, financial costs to travel to government-controlled territory and lack of access of state authorities to the properties.

<sup>55</sup> See also Protection Cluster factsheets, February and March 2018, available at <http://www.globalprotectioncluster.org/en/field-support/field-protection-clusters/countries/ukraine.html>.

<sup>56</sup> Letter of the Ministry of Defence, Department for Civil-Military Cooperation No.188/юс/119 of 24.01.2017.

<sup>57</sup> See, e.g., the Law “On acquisition of privately owned land plots and other immovable properties located on them for public needs” providing a procedure enabling purchase of immovable properties for public needs, including national security and defence, and fair compensation to owners and rightful users of the property as well as other affected individuals; Cabinet of Ministers Decree No. 415 of 29 March 2002 enabling funding for purchase of alternative housing for individuals relocated due to the ATO as well as for the repair and reconstruction of houses damaged in the course of ATO from the reserve fund of the state budget; the MoD Decree No.737 of 30.11.2011, among other, enables UAF units to rent private property to house servicemen; etc.

<sup>58</sup> United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (“Pinheiro Principles”). Further, arbitrary deprivation of property is prohibited in Article 17 of the Universal Declaration of Human Rights.

<sup>59</sup> See, e.g., OHCHR Report, 16 August to 15 November 2017, paras. 111, 114-117.

<sup>60</sup> This was the highest level since April 2016. Food Security and Livelihoods Cluster Trend Analysis, available at <http://fscluster.org/ukraine/document/fslc-reporttrend-analysisfood-security>.

<sup>61</sup> Ibid.



worsened, with 54 per cent reporting that they have funds only for food, which is 10 per cent higher than in December 2017.<sup>62</sup>

40. In April 2017, 200,200 pensions were suspended. As of April 2018, 123,500 individuals had applied for reinstatement, which was granted to 91,600 pensioners.<sup>63</sup> OHCHR notes that a significant number of pensioners had their pensions suspended due to the verification and identification procedure linking pensions to IDP registration.<sup>64</sup>

41. On 24 April 2018, the Cabinet of Ministers introduced amendments to Resolution no. 365, confirming the rights of persons whose pensions had been suspended and later reinstated to have their accumulated pension subsequently paid out.<sup>65</sup> This shall be done according to a special procedure established by the Cabinet of Ministers of Ukraine, which has not yet been put in place.

42. OHCHR welcomes the Supreme Court decision issued on 3 May 2018 in an “exemplary case”<sup>66</sup> finding unlawful the termination of payment of pensions to an IDP on the grounds that it was not “provided for by law”.<sup>67</sup> The Court also found that such actions constituted an unlawful interference into the applicant’s right to property. Once it enters into force, the ruling will be a model decision for other courts to use in similar cases.

43. With regard to civil registration issues, administrative solutions for implementation of the legal provision, which took effect on 24 February 2018<sup>68</sup> enabling the use of birth- and death-related documents issued in territory controlled by armed groups for civil registration purposes, have not yet been developed. A court procedure, which is simplified for this purpose, but still challenging and time-consuming, remained the only way for residents of territory not controlled by the Government to obtain Ukrainian birth and death certificates.<sup>69</sup>

#### 4. Freedom of movement, isolated communities and access to basic services

*We are just outcasts.  
We are blamed by the people on the other side,  
and nobody knows about the hell we are going through.  
- Resident of a village near the contact line.*

<sup>62</sup> IOM National Monitoring System Report on the Situation of Internally Displaced Persons, March 2018, available at [http://www.iom.org.ua/sites/default/files/nms\\_round\\_9\\_eng\\_press.pdf](http://www.iom.org.ua/sites/default/files/nms_round_9_eng_press.pdf).

<sup>63</sup> Pension Fund of Ukraine.

<sup>64</sup> See OHCHR Report, 16 August to 15 November 2017, paras. 118-121.

<sup>65</sup> Available at <http://zakon3.rada.gov.ua/laws/show/335-2018-%D0%BF>.

<sup>66</sup> An “exemplary case” (under art. 291 of the Code of Administrative Procedure of Ukraine) means that 1) it will be used as a model decision in similar cases (the judgment sets out the characteristics of cases that would qualified as similar to this one), 2) similar cases will be considered “non-complex” and be heard faster, and 3) in similar cases, there are only two grounds for cassation appeal.

<sup>67</sup> Supreme Court decision available at <http://reyestr.court.gov.ua/Review/73869341>. The Court used a “narrow” interpretation of the “law” underlining that pensions could only be terminated on the conditions provided for by the Law of Ukraine ‘On Mandatory State Pension Insurance’ no.1058-IV of 9 July 2003 and not by the Cabinet of Ministers Resolution no. 365, which has lower legal force.

<sup>68</sup> Law of Ukraine “On particular aspects of public policy aimed at safeguarding the sovereignty of Ukraine over the temporarily occupied territory of the Donetsk and Luhansk regions of Ukraine” no. 2268 of 18 January 2018. See also OHCHR Report, 16 November to 15 February 2018, paras. 131-133; OHCHR Report, 16 August to 15 November, paras. 149-154.

<sup>69</sup> OHCHR notes that this issue affects many residents. For example, between March and April 2018, the Norwegian Refugee Council provided legal assistance and counselling in 564 cases regarding issues in registration of births and deaths. Further, from information provided by the Ministry of Justice and data obtained from open sources, UNHCR estimates that only 48 per cent of births and 23 per cent of deaths occurring in territory controlled by ‘Donetsk people’s republic’ in 2016-2017 were registered.

44. Severe restrictions on freedom of movement along both sides of the contact line, combined with the ongoing insecurity, led to further isolation of communities. For example, in Travneve and Hladosove, residents are still without effective access to basic services, such as regular public transport, health and social protection facilities. There is no medical care in Sakhanka (armed-groups-controlled territory, Donetsk region), and ambulances cannot enter Kruta Balka (armed-groups-controlled territory, Donetsk region), Marivka (armed-groups-controlled territory, Luhansk region) or Vodiane (government-controlled, Donetsk region) because of the unstable security situation.

45. Crossing the contact line remained physically challenging for civilians due to long queues, exposure to weather and temperatures, and inadequate sanitary and medical facilities.<sup>70</sup> This burden fell disproportionately on elderly persons living in territory controlled by armed groups, who are required to cross into government-controlled territory at least once every 60 days to maintain eligibility for and access to their pensions.<sup>71</sup> During the reporting period, at least seven civilians suffered medical emergencies while attempting to cross the contact line through official crossing routes, two of whom died.<sup>72</sup> Due to the lack of crossing routes in Luhansk region and long queues at the only existing Entry-Exit Checkpoint (EECP), via the footbridge at Stanytsia Luhanska, civilians are often unable to cross the contact line in time and are forced to wait until the next morning, which can incur significant costs or require them to overnight in facilities not intended or equipped for such use.<sup>73</sup> Frequently long queues at all crossing routes also endanger civilians by exposing them to the armed hostilities over extended periods. At least four civilians were injured by small arms fire while traversing the crossing routes.<sup>74</sup>

#### IV. Right to physical integrity

*People there [in 'MGB'] and here [in SBU] are off-springs of the same institution; these are the very same people. They think the same way and have the same methods.*  
*I am a small person. My family depends on me.*  
*I would say whatever they want me to say to be out of this.*  
- Victim detained, interrogated and threatened by both SBU and armed groups.

46. In government-controlled territory, OHCHR continued to enjoy overall effective access to official places of detention, allowing for confidential interviews of conflict-related detainees. In some cases, however, access was unreasonably delayed. For instance, on 3 April, OHCHR requested access to two conflict-related detainees under SBU investigation

<sup>70</sup> See OHCHR Report, 16 November 2018 to 15 February 2018, paras. 100-103; OHCHR Report, 16 May to 15 August 2017, paras. 90-91. The number of individuals crossing the contact line remains high, with 942,800 crossings of the five EECPs recorded in February, 1,021,700 crossings in March and 1,131,000 crossings in April. Official statistics provided by the State Border Service of Ukraine.

<sup>71</sup> Government policies linking pensions to IDP registration require pensioners to regularly cross the contact line. See OHCHR Report, 16 August to 15 November 2017, paras. 118-121. During the reporting period, over 50 per cent of persons crossing the contact line were over the age of 6. See monthly surveys by NGO Right to Protection (R2P), available at <http://vpl.com.ua/en/materials-cat/reports-en/>.

<sup>72</sup> On 23 March, a 60-year-old man reportedly died due to a heart attack while traveling across the Hnutove checkpoint. At the checkpoint in Marinka, a 60-year-old man suffered a heart attack on 27 March, a woman died from a stroke on 19 April, two men were hospitalized on 20 April due to an epileptic stroke and fainting spell, and two women fainted due to blood pressure issues on 24 April.

<sup>73</sup> On 20 February 2018, approximately 150 civilians could not cross the EECP in the direction to armed-groups-controlled territory and had to wait overnight. On 27 April, despite the increase in EECP operational hours for spring time, between 280-300 civilians were unable to cross the EECP to armed-groups-controlled territory. OHCHR notes the efforts of local authorities and humanitarian organizations to provide support and shelter for those forced to overnight in Stanytsia Luhanska.

<sup>74</sup> OHCHR documented the wounding of a female at the Olenivka EECP on 7 April, and the wounding of two females and one male at the Marinka EECP on 19 April, all from small arms fire.

in Kharkiv, and by 15 May, access had not yet been granted.<sup>75</sup> During the reporting period, OHCHR visited and interviewed 30 detainees (26 men and 4 women) in detention facilities in Bakhmut, Bucha, Kharkiv, Kherson, Kyiv, Mariupol, Mykolaiv, Odesa, Starobilsk and Zaporizhzhia and in an SBU detention facility in Kyiv.

47. In territory controlled by the armed groups of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, OHCHR continued to be denied access to detainees and places of deprivation of liberty despite repeated requests. OHCHR remains, therefore, gravely concerned that it is not able to follow up on individual cases in line with its mandate. The lack of access to detainees raises concerns, about their conditions of detention and treatment. Concerns have been further exemplified by information provided by former detainees who were released on 27 December 2017 within the Minsk process,<sup>76</sup> which indicated that persons held in detention facilities of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ are frequently subject to torture and ill-treatment.

48. During the reporting period, OHCHR documented 93 cases of credible allegations of human rights violations and abuses involving unlawful or arbitrary detention, torture, ill-treatment, sexual violence and/or threats to physical integrity, committed on both sides of the contact line. Out of this total, 22 cases occurred in 2014, 11 in 2015, 3 in 2016, 14 in 2017 and 43 in 2018. Of the 43 cases allegedly committed in 2018, 28 cases occurred within the reporting period. Delayed reporting of cases of torture and ill-treatment, including sexual violence, is common, mostly due to fear of persecution. OHCHR continued interviewing individuals that had been detained on conflict-related charges on both sides of the contact line and released on 27 December 2017.<sup>77</sup> The 28 cases that occurred within the reporting period involved thirty-eight human rights violations and abuses, which affected 34 men and 9 women. The Government of Ukraine was responsible for 22 violations, and armed groups were responsible for 15. One occurred in “no man’s land” and cannot be attributed to a specific party.

49. In government-controlled territory, within the reporting period, OHCHR continued documenting procedural violations during detention of individuals, which may amount to unlawful or arbitrary arrest. For example, OHCHR documented three cases of individuals detained by SBU within the reporting period following searches conducted with procedural violations.<sup>78</sup> Further, in another two cases, members of extreme right-wing groups (C14 and National Corps) assumed the role of law enforcement, detaining two alleged former members of armed groups without legal grounds and handing them over to SBU. In one case, on 14 March 2018 members of C14 unlawfully detained a man in Kyiv region

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<sup>75</sup> Permission to interview the detainees was received by OHCHR after the close of the reporting period, on 23 May.

<sup>76</sup> See OHCHR Report, 16 November 2017 to 15 February 2018, paras. 56-82.

<sup>77</sup> For example, OHCHR interviewed a woman who was unlawfully detained and interrogated on several occasions by SBU, police and battalions in 2014 -2015. Each episode lasted from a few hours to a few days, amounting to enforced disappearance. During one incident in 2015, she was held *incommunicado* in an unofficial place of detention where she was repeatedly subjected to torture (including beatings and electroshocks) and gang raped. She was officially arrested only in September 2016 and released on 27 December 2017.

<sup>78</sup> For example, in one case, on 12 March 2018, SBU searched the apartment of an opposition journalist in Kharkiv. While the SBU presented a search warrant, the officers did not allow the victim to contact a lawyer. After SBU seized a plastic bottle with ammunition rounds, which they said they found in the journalist’s apartment, they took him to the regional SBU department, interrogated him for 12 hours and pressured him to cooperate with SBU, including by collecting incriminating information on others. SBU released the journalist without pressing any official charges. On the same day, SBU searched the apartment of an anti-Maidan activist from Kharkiv, who had been previously detained by police from April 2014 to October 2016. SBU began the search without a lawyer, and the video recording started only after SBU “found” grenades and ammunition. After being taken to the regional SBU department, the activist refused to talk without a lawyer present and was eventually released. In one case, SBU officers seized money, which was not returned. SBU claims that the searches were conducted in line with the national legislation and respective protocols were signed. In one case an individual said that the SBU did not give a copy of the search protocol, in another case a person received a copy of the protocol, but it was not signed by SBU official.

suspected of being a member of an armed group of the ‘Luhansk people’s republic’ based on his file on Myrotvorets website.<sup>79</sup> After interrogating him while he was face down and handcuffed, C14 then handed him over to SBU. In the other case, on 4 May 2018 in Kyiv, members of C14 and National Corps unlawfully detained a Brazilian national believed to be a former member of armed groups<sup>80</sup> and handed him over to SBU.<sup>81</sup>

50. The lack of effective investigation into previously documented cases of arbitrary detention and torture remains a critical human rights concern in government-controlled territory.

#### ***Territory controlled by armed groups***

51. OHCHR remained concerned about ‘preventive arrest’ introduced on 2 February 2018 in territory controlled by ‘Luhansk people’s republic’.<sup>82</sup> ‘Preventive arrest’ may be applied for up to 30 days, with the possibility to extend to 60 days, based on allegations that a person may have been involved in crimes against the security of the ‘republic’. During ‘preventive arrest’, detainees are denied access to lawyers or relatives. Such practice amounts to *incommunicado* detention, and creates serious risks of torture and ill-treatment.<sup>83</sup>

52. In ‘Donetsk people’s republic’, the ‘ministry of state security’ (‘MGB’), ‘UBOP’<sup>84</sup> and other structures continued applying ‘administrative arrest’, raising concerns of arbitrary *incommunicado* detention and other human rights abuses.<sup>85</sup> As previously documented, civilians were most often detained at entry-exit checkpoints at crossing routes along the contact line. Within the reporting period, OHCHR documented seven cases (five of which occurred in 2018) involving eleven victims, who were detained while attempting to cross the contact line. Five cases occurred in territory controlled by armed groups of the ‘Donetsk people’s republic’. OHCHR also documented cases of three individuals detained in 2018 either at their homes, or near their workplace. In these cases, relatives could not receive information about the whereabouts of the detained person, particularly during the initial stage of detention, amounting to enforced disappearance.

53. OHCHR continued following the situation of pre-conflict prisoners who remain in custody in territory controlled by ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. Within the reporting period, there were no practical steps for the transfer of pre-conflict prisoners to government-controlled territory, despite the appeals of prisoners and their relatives. In a positive development, it was reported that routine beatings of prisoners

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<sup>79</sup> OHCHR reiterates its concerns over activities of the website Myrotvorets (Peacemaker), which publishes the personal data of individuals allegedly linked to armed groups and/or labelled as “terrorists”. Such a list violates the presumption of innocence, right to privacy and personal data protection and is often used as a sole reason for arrest of an individual. *See also* “Freedom of opinion and expression and freedom of the media” section below.

<sup>80</sup> SBU detained him in October 2016. On 25 January 2017, first instance Pechersk district court in Kyiv city sentenced him to 13 years in prison under articles 258-3 (creation of the terrorist group) and 260 (creation of unlawful paramilitary or armed formations). On 17 August 2017, Kyiv court of appeal annulled first-instance court decision and transferred the case for retrial. The court also prolonged his pre-trial detention. On 15 December 2017, upon the initiative of the Prosecutor, the Pechersk district court in Kyiv ruled to release the detainee from custody to his personal undertaking not to leave Kyiv and appear in court whenever summoned. On 7 May, Pavlohrad city court of Dnipropetrovsk region sanctioned his 60 days detention in Dnipro SIZO until 5 July.

<sup>81</sup> On 1 June 2018, SBU initiated criminal proceeding into “unlawful deprivation of liberty of a foreign citizen by a group of *unidentified* people”. OHCHR notes members of C14 and National Corps physically handed over the Brazilian national to SBU, that video and photographic documentation of the incident is widely available online, and that the leader of C14 posted about his involvement in the “arrest” on social media.

<sup>82</sup> *See also* OHCHR Report, 16 December 2017 to 15 February 2018, para. 35.

<sup>83</sup> *See* Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1992/32, E/CN.4/1995/34, para. 926(d).

<sup>84</sup> Department for combatting organized crime.

<sup>85</sup> *See* OHCHR Report, 16 August to 15 November 2017, paras. 40-44.

in Slovianoserbsk colony have stopped since February 2018.<sup>86</sup> According to information available, some 150 pre-conflict prisoners awaiting appeals since 2014 are held in the Luhansk pre-trial detention facility (SIZO). Some pre-conflict prisoners also appealed their verdicts to the ‘court of appeal’ of ‘Luhansk people’s republic’, which does not exist. Those prisoners, who have already spent the amount of time in custody equal to the sentences imposed by the judgment of first instance courts, are now being released on a personal undertaking not to leave the territory of the ‘republic’, however their criminal cases are not being closed, and they remain restricted in their rights.

## V. Administration of Justice

54. OHCHR followed legal proceedings against individuals charged with affiliation or links with armed groups or crimes against the national security of Ukraine, noting systemic violations of fair trial rights and interference with the independence of the judiciary. There were few developments in high-profile cases related to the riots and public disturbances at Maidan and in Odesa in 2014. Violations of fair trial rights and lack of accountability not only prevent access to justice, but also undermine public trust in government institutions, as well as peace and reconciliation efforts.

### A. Fair trial rights

*How can I release them if I don't even know the factual circumstances of the case?*  
- Judge considering whether to extend pre-trial detention for accused.

55. OHCHR documented 60 violations of fair trial rights, 15 of which occurred during the reporting period. Most of the violations related to a failure to ensure access to a lawyer and the extortion of confessions from detainees. Trials in conflict-related criminal cases are often marked with substantial delays leading to prolonged detention.

56. Due to a widespread practice of application of article 176(5) of the Criminal Procedure Code, defendants remain in detention, often without a full examination of whether their detention is reasonable and necessary.<sup>87</sup> For example, since the 2 May 2014 violence in Odesa, seventeen individuals have been in continuous detention in Odesa for periods ranging from two to three years.<sup>88</sup> In a further case, our men arrested after the attempted takeover of Mariupol police department on 9 May 2014 have remained in continuous detention for over four years.<sup>89</sup> OHCHR recalls that persons who are placed in custody pending trial must be tried as expeditiously as possible, and when delays are necessary, the court must reconsider alternatives to pre-trial detention.<sup>90</sup>

57. At the same time, certain categories of perpetrators are ostensibly exempted from the described widespread practice. Namely, OHCHR notes that members of volunteer battalions<sup>91</sup> and SBU officers<sup>92</sup> facing charges of committing violent crimes against civilians in conflict related cases are often released from custody during trial.

<sup>86</sup> See OHCHR Report, 16 August to 15 November 2017, para. 66.

<sup>87</sup> See 21<sup>st</sup> OHCHR Report, paras. 44-45.

<sup>88</sup> As of 15 May, trials against nine detainees are still at the stage of preliminary hearings due to undue delays including repeated substitution of judges.

<sup>89</sup> They were arrested on 9 May 2014. Most recently, when the trial restarted on 24 March 2018, the court of appeal of Donetsk region transferred the case from Illichivskiy to Zhovtnevyi district court of Mariupol. Ruling available at <http://reyestr.court.gov.ua/Review/72947774>.

<sup>90</sup> Human Rights Committee, general comment no. 35, para 37.

<sup>91</sup> For example, five members of the Donbas battalion accused of a number of crimes against civilians (including abductions, armed robberies, extortions, and banditry) were released on 30 August 2016 during a preparatory court hearing after four members of Parliament motioned to release them under

58. OHCHR notes that in some cases trials are protracted due to the understaffing of courts, which is in part due to the ongoing judicial reform and process of reappointment of judges.<sup>93</sup> Understaffing seriously affects conflict-related detainees who usually face charges of membership in a terrorist group or organization, which require a panel of three judges.

59. OHCHR followed the legal situation of conflict-related detainees simultaneously released on 27 December 2017 under the Minsk agreements.<sup>94</sup> In 100 cases out of the 232 detainees released by the Government and transferred to territory controlled by armed groups, the criminal proceedings against the individual were not officially closed, and hearings may continue before the courts. In at least 25 cases, the individual is under probation and required to periodically appear before the penitentiary service. In at least three such cases known to OHCHR, the released individuals are unable to leave territory controlled by armed groups.<sup>95</sup> In at least 20 cases, courts have issued a ruling either to place the individual on a wanted list or compel the person to attend a hearing. Further, at least 62 individuals did not have their identity documents returned upon their release, preventing them from crossing the contact line. This affects access to justice of both the alleged perpetrator as well as the victims of the crimes.

## **B. Independence of the judiciary**

60. Interference with the judiciary is a particular concern, specifically retaliatory actions taken when courts issue decisions deemed to be “anti-Ukrainian”. OHCHR is closely monitoring criminal investigations opened against judges following court decisions to release persons facing terrorism- or separatism-related charges from pre-trial detention.

61. During the reporting period, OHCHR received complaints from four judges of Kharkiv courts who are under criminal investigation in relation to their professional work. After three of the judges ruled to replace the detention of Nelia Shtepa<sup>96</sup> with house arrest, the Prosecutor’s Office of Kharkiv region opened an investigation against them for taking a bribe and delivery of an unjust verdict.<sup>97</sup> As of 15 May 2018, the investigation is ongoing, without any charges brought against the judges. On 2 March 2018, the same Prosecutor’s

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their personal guarantees. In another case, three members of the Right Sector on trial for a number of incidents of extortion, ill-treatment and arbitrary detention of civilians were released during trial.

<sup>92</sup> For example, two SBU officers accused of torturing Oleksandr Ahafonov, that resulted in his death were released on bail. In another case an SBU officer charged with killing a resident of Avdiivka on 3 March 2017 was detained on 16 March and released on bail on 10 April 2017.

<sup>93</sup> For example, OHCHR was informed that the court of appeal of Odesa region is operating at 40% staff capacity; according to the staffing table, 38 judges should be dealing with criminal matters, but there are only 10. In the court of appeal of Mykolaiv region, only 5 judges deal with criminal matters when the staffing table calls for 20. In Svativskiy district court of Luhansk region, operating at 50% of judges staffed, the average annual caseload of each of the five judges exceeds 20,000 cases, while the Council of Judges of Ukraine has estimated the optimal annual caseload to be 180-190 cases per judge. The court adjudicates on cases not only from Svativskiy district, but also cases which fall under the jurisdiction of Krasnodon City district court of Luhansk Region and Leninskyi district court of Luhansk, which were located on territory controlled by armed groups. A judge in Mariupol told OHCHR that the local courts are overloaded and understaffed, and some newly appointed judges requested transfers to other regions after only six months because of the heavy caseload, environmental pollution in Mariupol, and lack of good public transportation to Kyiv.

<sup>94</sup> See OHCHR Report, 16 November 2017 to 15 February 2018, paras. 56-82.

<sup>95</sup> Some people who tried to cross the contact line were turned away by ‘border guards’ who stated they needed authorization to cross from the ‘MGB’ of ‘Donetsk people’s republic’, OHCHR interviews.

<sup>96</sup> Shtepa, the former mayor of Sloviansk is currently facing a fourth re-trial on charges of trespass against the territorial integrity of Ukraine and creation of terrorist organization.

<sup>97</sup> The investigation was opened on 4 October 2017 under articles 368 (taking a bribe) and 375 (delivery of unjust decision) was opened following rumours that the three judges received a bribe in exchange for releasing the accused from detention. OHCHR notes that the legal proceedings against Shtepa have been marked by undue delays and intimidation of the judiciary, and that she had already spent over three years in detention prior to being released under house arrest. *See, e.g.*, OHCHR Report, 16 August to 15 November 2017, para. 78 and OHCHR Report, 16 November 2017 to 15 February 2018, para. 47.

Office opened an investigation of delivery of an unjust ruling<sup>98</sup> against another judge, after a Kharkiv city council member accused of trespassing against the territorial integrity of Ukraine (in connection to a 2014 Facebook post) was released from detention. The judge, his assistant, the secretary of the court hearing, as well as the President of the court have all been interrogated as witnesses.

62. According to the High Council of Justice, 517 criminal cases were opened against judges in 2017, yet only six cases have led to indictments. The High Council of Justice noted that launching an investigation into allegations of delivery of an unjust decision may be used to exert pressure on judges over long periods of time while they are under such pending investigations.<sup>99</sup>

## **C. Accountability for cases of violence related to riots and public disturbances**

63. The current reporting period covers the fourth anniversary of the killings and violent deaths of protesters and police officers in Kyiv during Maidan protests and in Odesa during the clashes between supporters of united Ukraine and those who supported its federalisation. Due to the complexity of cases and failure to preserve evidence shortly after the events or to prevent key suspects from fleeing the country, little progress has been achieved in prosecuting those responsible.

### **1. Accountability for the killings of protesters at Maidan**

64. On 3 April 2018, a former Maidan protester was arrested for the intentional killing of two police officers<sup>100</sup> on 20 February 2014.<sup>101</sup> The first arrest of a protester on these charges immediately drew criticism from prominent actors, including members of Parliament,<sup>102</sup> as contrary to a 2014 law<sup>103</sup> exempting protestors from prosecution for certain crimes committed during the Maidan protests. On 4 April, the Prosecutor General stated that the imputed deeds were wrongly qualified and replaced the head of the prosecutor group in the case with his deputy, who immediately dropped the charges of intentional killing.<sup>104</sup>

65. The Special Investigations Department of the Prosecutor General's Office is nevertheless continuing the investigation into this particular episode, which offers the opportunity to establish the possible role of protesters in triggering the mass shooting which claimed lives of 48 protesters and 4 police officers. Information obtained in the course of this investigation can affect other criminal proceedings, such as the trial of five 'Berkut'

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<sup>98</sup> Ruling of Kyivskiy district court of Kharkiv, 1 March 2018, available at <http://reyestr.court.gov.ua/Review/72555739>.

<sup>99</sup> 2017 Annual report on the situation with ensuring independence of judges in Ukraine, 13 February 2018, chapter VII, para. 7, available at <https://bit.ly/2Im9Xqu>.

<sup>100</sup> Thirteen police officers were killed between 18 and 20 February 2014. See OHCHR Report on Accountability for Killings in Ukraine from January 2014 to May 2016, Annex I, table 2.

<sup>101</sup> Press release of the Prosecutor General's Office, available at: [https://www.gp.gov.ua/ua/news.html?\\_m=publications&\\_t=rec&id=227036&fp=50](https://www.gp.gov.ua/ua/news.html?_m=publications&_t=rec&id=227036&fp=50). In a documentary by Babylon 13 released on 14 May 2016 (available at: <https://www.youtube.com/watch?v=9b6BiN7Eo3s&t=3s>), the suspect states he deliberately shot two police officers in the head on the morning of 20 February from a conservatory building at Maidan.

<sup>102</sup> At least three members of Parliament, including Volodymyr Parasiuk (a symbolic person of Maidan protests who, according to the suspect, was with him at the conservatory building at Maidan) accused the prosecutor of not investigating the case of killing the protesters and instead focusing on "patriots" (video of 3 April 2018 court hearing available at: <https://www.youtube.com/watch?v=eWP33VrFCZY>).

<sup>103</sup> On 21 February 2014, Parliament adopted the Law of Ukraine 'On prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies and recognising the repeal of certain laws of Ukraine'. According to this law, all criminal proceedings against protesters suspected of committing a number of crimes including the killing or attempted killing of police officers shall be closed and the case files destroyed.

<sup>104</sup> As of the date of this report, the accused is charged with causing bodily injury to one law enforcement officer.

servicemen charged with killing the 48 protesters who have maintained that the protesters were armed and fired first.<sup>105</sup>

66. The replacement of the head of the prosecutor group was challenged by the Special Investigations Department, which views it as an interference with independence of investigators.

67. In a separate case, a ‘titushky’<sup>106</sup> gang leader was remanded in custody on 29 March by the Darnytskyi district court of Kyiv in the case of abduction and beating of Maidan protesters on 21 January 2014.

## **2. Accountability for the 2 May 2014 violence in Odesa**

68. OHCHR continued following the legal proceedings around the events that took place on 2 May 2014 in Odesa that led to the death of 48 people. Investigations and legal proceedings related to the violence continued to be one-sided, focusing on prosecution of ‘pro-federalists’ involved in the clashes. Moreover, the failure to prevent several senior police<sup>107</sup> and emergency service<sup>108</sup> officials from fleeing the country results in inability to bring them to account.

69. OHCHR welcomes the completion of the preparatory proceedings and the commencement of the trial on 12 February 2018 against the former Head of Odesa regional police on charges of abuse of authority and neglect of official duty during the violence on 2 May 2014.

70. On 23 April 2018, the first hearing was held in the appeal against the acquittal of 19 individuals for mass disorder<sup>109</sup> at the court of appeal of Mykolaiv region. In order to consider the case within a reasonable time, the Court allowed the use of video conferencing in future court hearings as the majority of defendants and their lawyers reside in Odesa region.

71. The investigation into the fatal shootings of five civilians in the city centre remained ongoing, with no essential progress to date. There was also no progress in the legal proceedings against the only ‘pro-unity’ activist, who was indicted on charges of killing for the fatal shooting of another civilian in the city centre, and attempted killing of a police officer.<sup>110</sup>

72. The investigation into the fire at the House of Trade Unions also remains ongoing, with no one held accountable for the resulting deaths of 42 people. In April, OHCHR met with members of law enforcement and the judiciary in Odesa, as well as victims of the 2 May 2014 violence, and advocated justice for the victims and for the perpetrators to be brought to account.<sup>111</sup>

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<sup>105</sup> The suspect stated that after killing two police officers he continued shooting aiming at others’ limbs.

<sup>106</sup> Civilians engaged by the law enforcement to attack peaceful protesters to justify their subsequent dispersal by the police. According to the investigation, during the Maidan protests, police provided them with bats and did not intervene when they attacked protesters.

<sup>107</sup> The Deputy Head of Odesa regional police, charged with abuse of authority or official powers and neglect of official duty, reportedly left Ukraine on 7 May 2014. Apart from failing to ensure public safety in the city centre, he is also suspected of giving the instruction to release 67 individuals (both ‘pro-unity’ and ‘pro-federalism’ supporters) arrested on 2 May, on 4 May 2014.

<sup>108</sup> The Head of the Odesa regional department of the State Emergency Service, charged with leaving persons in danger in the House of Trade Unions, resulting in their deaths, reportedly fled Ukraine on 1 March 2016 when the case against him and three of his subordinates was transferred to court.

<sup>109</sup> See OHCHR Report, 16 August to 15 November 2017, paras. 89-91.

<sup>110</sup> The case was sent from the Prosecutor’s Office of Odesa region to the Prosecutor General’s Office on 25 May 2017.

<sup>111</sup> See HRMMU video on accountability for the 2 May 2014 violence at <https://youtu.be/zSJ1OrqXTsE>.



## D. Territory controlled by armed groups

*Lawyers in 'DPR' demand enormous counsel fees, but they do nothing;  
they are like second prosecutors.*

- Defence lawyer.

73. The Government of Ukraine bears the primary responsibility to ensure that human rights of individuals within its territory are recognized and respected.<sup>112</sup> This applies also in certain areas of Donetsk and Luhansk regions not under its control where its access is restricted. Where armed groups of 'Donetsk people's republic' and 'Luhansk people's republic' have installed parallel structures claiming to assume judicial and government functions, they may also be held to international human rights standards.<sup>113</sup>

74. OHCHR continued to document instances where conflict-related detainees in territory controlled by armed groups were deprived access to a lawyer of their choice. Within the framework of 'administrative arrest' in 'Donetsk people's republic' and 'preventive arrest' in 'Luhansk people's republic', individuals are held *incommunicado* and prohibited from speaking with a lawyer. OHCHR also documented at least three cases in 'Donetsk people's republic' where individuals were prohibited from hiring a private defence lawyer<sup>114</sup> and instead were provided with a lawyer 'appointed' by the 'republic'.

## VI. Democratic/civic space and fundamental freedoms

*If the trend of jeopardizing freedoms continues,  
we cannot speak of democratic elections in 2019.*

- Representative of a national NGO.

75. Attacks on the exercise of fundamental freedoms, including those which directly impact the democratic/civic and political space continued. If left unaddressed, these restrictions of the democratic/civic space may compromise the integrity of the presidential and parliamentary elections in 2019. Further, impunity – which is a systemic issue in Ukraine – also prevailed in such attacks, particularly when extreme right-wing groups or law enforcement were involved. OHCHR documented 41 human rights violations and abuses committed during the reporting period, in the form of attacks on individuals, public events and peaceful assemblies. The Government of Ukraine was responsible for 28 of these violations: in 2 cases, the attack was allegedly perpetrated by government actors, and in 26 cases, the Government failed to prevent, investigate and/or prosecute the known perpetrators of the attack. Armed groups were responsible for three documented human rights abuses. OHCHR is deeply concerned that, on government-controlled territory, extreme right-wing groups perpetrated 25 separate attacks, often with impunity.

<sup>112</sup> ICCPR, article 2(1).

<sup>113</sup> It is increasingly accepted that non-State actors exercising government-like functions and control over a territory must respect human rights standards when their conduct affects the human rights of individuals under their control. See, e.g., United Nations Committee on the Elimination of Discrimination against Women, General Recommendation No 30, 2013; Statement by the President of the United Nations Security Council, S/PRST/2002/27(2002); Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, A/HRC/17/44, para 72; and Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, para 188.

<sup>114</sup> OHCHR interviews of 16 March, 3 and 27 April 2018.

## A. Freedom of opinion and expression and freedom of the media

76. This reporting period saw an increase in the number of physical attacks against media professionals and of other incidents precluding their activity.<sup>115</sup> OHCHR documented 12 cases<sup>116</sup> involving violations of freedom of expression and/or freedom of the media: in two incidents, the police were named as perpetrators<sup>117</sup>; in three incidents, victims stated they were attacked and/or pressured by members of extreme right-wing groups<sup>118</sup>; and in six other cases where the perpetrators were not identified, the victims were journalists who were investigating allegations of corruption on a regional or national scale.<sup>119</sup>

77. In four additional cases, OHCHR is concerned with the proportionality and necessity of measures applied in response to publications or other journalistic activity; one journalist was arrested and charged with state treason, two female journalists were deported<sup>120</sup> and one individual was charged with trespassing against the territorial integrity of Ukraine in relation to his social media re-posts.<sup>121</sup>

78. OHCHR continued following investigations in cases that occurred between 2015 and 2018 with serious concerns about their efficiency and transparency. The police reported no progress in the investigation into the killing of Pavlo Sheremet, a renowned Ukrainian journalist murdered in Kyiv in July 2016. The trial of two members of the extreme right-wing group C14 for the killing of journalist Oles Buzyna (in April 2015), commenced on 9 February 2018, however only three hearings have been held as of 15 May. OHCHR remains concerned that no progress has been achieved in the criminal investigation against the Myrotvorets website.<sup>122</sup> A further worrying development is that some of the personal data of Ukrainian journalists (in some cases, with passports scans) previously published on Myrotvorets has been shifted to a similar website called Parazyt centre.<sup>123</sup>

### *Territory controlled by armed groups*

79. The space for freedom of expression and freedom of media remains highly restricted in territory controlled by armed groups. With few critical voices publicly expressed in this territory, OHCHR is concerned that they may have been silenced, including by means of intimidation, expropriation of property and deprivation of liberty. During the reporting period, OHCHR documented four cases when civilians were detained, in relation to expressing pro-Ukrainian views in public and in social media, or being critical towards the ‘authorities’.

<sup>115</sup> From January to March 2018, the NGO ‘Institute of Mass Information’ documented 71 cases where the freedom of speech was violated, whereas 52 cases were documented for the same period in 2017. <https://bit.ly/2rPv3TT>; <https://bit.ly/2wYkXp1>. The National Union of Journalists in Ukraine documented 21 cases of physical attacks against journalists (14 men and 7 women) for January-March 2018, three incidents more than for the period in 2017. <https://bit.ly/2Kym5kK>.

<sup>116</sup> Eleven of these cases involved incidents which occurred during the reporting period.

<sup>117</sup> On 3 March 2018, three journalists were physically attacked and/or harassed when police dismantled a protest camp established by a political opposition group near the Ukrainian Parliament. HRMMU interviews on 3 May, 10 May, 11 May 2018. On 29 March, a journalist from Sievierodonetsk was detained for several hours at a police checkpoint near Sloviansk, allegedly because his name had been included into the database of ‘illegal armed groups members’ in Donetsk region. The journalist stated that such measures were “a means to pressure independent journalists who express critical opinions”. HRMMU interview on 26 April 2018.

<sup>118</sup> On 12 March 2018, a journalist in Uzhhorod was harassed and threatened by the right-wing organization ‘Karpatska Sich’.. Between 28 March and 4 April, members of the extreme right-wing group ‘Bratstvo’ put tents in front of ZIK TV Channel’s Kyiv office and harassed two female journalists on their way to work. On 9 May, members of the National Corps rallied in front of the premises of ‘Inter’ TV channel in Kyiv and threw a Molotov cocktail at the building.

<sup>119</sup> The incidents occurred in Kharkiv (2), Kyiv (1), Odesa (1), Ovidiopol (1) and Rivne (1).

<sup>120</sup> On 9 May, SBU deported two female journalists from RF channels ‘Pervyi kanal’ and ‘Rossiya’. On 15 May in Kyiv, SBU detained the chief of the Ukrainian bureau of RIA Novosti (Russian Federation news agency) under state treason charges.

<sup>121</sup> On 2 March, OHCHR interviewed a detainee in the Odesa SIZO charged with trespassing against the territorial integrity of Ukraine in relation to his re-posts on social media.

<sup>122</sup> See OHCHR Report, 16 November 2017 to 15 February 2018, para. 87.

<sup>123</sup> Created in the end of 2014, the Parazyt centre claims to be an independent web-portal that gathers “all types of lies” by politicians, and claims its purpose is the “hygiene of media and journalists who lie to Ukrainians in the publications, supported by Russian oligarchs”.

## B. Discrimination, hate speech, racially motivated violence and manifestations of intolerance

*Aren't you afraid that next time this will be acid?*

- Member of extreme right-wing group to civic activist doused with paint.

80. OHCHR documented 22 cases of discrimination, hate speech and/or violence targeting persons belonging to minority groups or holding alternative, minority social or political opinions. All of these cases occurred within the reporting period, and in 21 cases, perpetrators of the acts of violence were members of extreme right-wing groups who appeared to act with impunity. The failure of the police and prosecutors to prevent the acts of violence, to properly classify the acts as hate crimes, and to effectively investigate and prosecute the commission of discriminatory crimes violates the right to non-discrimination in the equal protection of the law and leads to an environment of impunity and lack of justice for victims. Furthermore, the proliferation of intolerance threatens constitutional democracy, rule of law and inclusiveness, fundamental elements for the legitimacy of the upcoming presidential and parliamentary elections in 2019 and sustainable peace.

81. OHCHR documented four attacks against participants of peaceful assemblies: in most cases, such attacks were committed against people belonging to social minority groups or expressing their political or social opinions. For instance, on 8 March 2018, participants of public events aimed at raising awareness concerning the issues of women's rights, gender-based and domestic violence held throughout Ukraine were attacked by members of extreme right-wing groups in three cities.<sup>124</sup> The attackers beat, threatened with physical violence and splashed paint on participants.<sup>125</sup>

82. In addition, OHCHR was informed of five public events which were disrupted or threatened by members of extreme right-wing groups. For example, on 26 March 2018, a roundtable discussion in Kyiv on proliferation of extreme right-wing violence was disrupted by members of extreme right-wing groups. Moreover, events organized by the LGBT community were regularly disrupted by members of extreme right-wing groups.<sup>126</sup> Police did not take effective measures to secure such peaceful assemblies or to effectively investigate these cases.

83. OHCHR also documented eleven cases of attacks against individuals in Kyiv, Lviv, Odesa and Uzhhorod. In Uzhhorod, OHCHR documented three cases of physical violence against civil society activists who were raising awareness of corruption; all were committed

<sup>124</sup> In Uzhhorod, attacks were perpetrated by Carpathian Sich, in Lviv by National Corps, and in Kyiv perpetrators represented various extreme right wing groups, including Traditions and Order. OHCHR field trip to Zakarpattia and Lviv regions, 26-31 March.

<sup>125</sup> Furthermore, on 17-18 February 2018, the Russian Cultural Centre (Rossotrudnichestvo) in Kyiv was attacked by members of extreme right-wing groups. The Head of the Centre is a Russian diplomat and the building is rented by the Embassy of the Russian Federation. On 17 February, members of C14, Right Sector and Traditions and Order broke into the Centre, threatened its staff and visitors and damaged property. Police were present but did not intervene. On 18 February, members of OUN Volunteer Movement, White Hummer and Black Committee threw stones and paint on the exterior walls of the Centre, causing damage. The police were present near the building but did not intervene. OHCHR interview, 28 February 2018.

<sup>126</sup> For example, on 10 May, a public discussion in Kyiv organized by Amnesty International on "The Offensive against LGBTI Rights as a Form of Censorship: The Russian experience" was disrupted by approximately 50 members of extreme right-wing groups including Nemezida, Tradition and Order, and Right Sector and the political party Svoboda. Also, roundtable discussions concerning rights of LGBT people, anti-discrimination and hate crimes were disrupted in Poltava by members of National Corps, Uzhhorod by members of Carpathian Sich, and in Vinnytsia by members of Sokol, National Brigades, Right Sector and others.

by members of extreme right-wing groups, and in two instances the police were present but did not take effective measures to prevent or halt the violence.<sup>127</sup>

84. Members of extreme right-wing groups also conducted forceful and discriminatory actions against the Roma community. On 18 April, members of C14 extreme right-wing group forcibly confined Roma people at the main train station in Kyiv, checking IDs and searching personal belongings.<sup>128</sup> Also, following threats to forcefully evict Roma residents, members of C14 burned down a Roma camp in Kyiv on 21 April. The police were present, but did not prevent the attack from happening.<sup>129</sup>

85. On 28 February 2018, the law outlining the principles of the State language policy<sup>130</sup> ceased to be in force pursuant to the judgment of the Constitutional Court of Ukraine recognizing the law unconstitutional due to procedural violations that took place during its adoption.<sup>131</sup> In particular, the Court emphasized systemic violation of the requirement of personal participation of the Parliament deputies in the voting. New legislation must be developed to realise Ukraine's obligations in the field of minority language protection.<sup>132</sup> OHCHR also continued monitoring the implementation of article 7 of the Law on Education concerning the language of instruction.<sup>133</sup>

### C. Freedom of peaceful assembly and association

86. The failure of the Government to act with regard to the attacks on public events described in the section above also affected the enjoyment of the right to freedom of peaceful assembly and association.

87. In addition, OHCHR notes that the highly criticized e-declaration requirements imposed for anti-corruption activists in March 2017<sup>134</sup> remained in force. The heads and members of boards of anti-corruption organizations had to submit their annual declarations by 1 April 2018.<sup>135</sup> On 3 April, the Ukrainian Parliament rejected the Presidential draft law that intended to replace the e-declaration obligations of anti-corruption activists with more stringent financial reporting requirements for a broader range of civil society organizations.<sup>136</sup> This was in line with recommendations made by the Venice Commission and the OSCE/ODIHR to refrain from imposing or, at a minimum, to narrow down substantially the proposed financial reporting and disclosure obligations for civil society.<sup>137</sup> The Government was also advised to cancel the e-declaration requirements for anti-corruption activists.

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<sup>127</sup> In Kyiv, two visitors of the Docudays UA were physically attacked, allegedly by members of extreme right-wing groups. On 9 May, a diplomat, Head of the Russian Cultural Centre in Kyiv was attacked by members of C14.

<sup>128</sup> Police are normally present in the central train station, however according to information received by OHCHR, they were absent at the time that C14 were searching the Roma people.

<sup>129</sup> In addition, on 10 May, approximately 30 masked men reportedly attacked a Roma settlement in Rudne village (Lviv region), beating people and burning down the settlement. In both this and the Kyiv incident, criminal cases were initiated by the National Police but no arrests were made. OHCHR interview, 27 April 2018. In addition, OHCHR continued to monitor the protracted legal proceedings in the case regarding the forced eviction of Roma from Loshchynivka village in August 2016 (*See* OHCHR Report, 16 August to 15 November 2016, para. 152).

<sup>130</sup> Law of Ukraine "On the Principles of the State Language Policy" No. 5029-VI of 3 July 2012.

<sup>131</sup> Constitutional Court of Ukraine, judgment no. 2-p/2018 of 28 February 2018.

<sup>132</sup> The list of provisions of the European Charter for Regional or Minority Languages ratified by Ukraine: <http://zakon3.rada.gov.ua/laws/show/802-15>.

<sup>133</sup> *See* 21<sup>st</sup> OHCHR Report, 16 November 2017 to 15 February 2018, para. 136.

<sup>134</sup> Law of Ukraine 'On amendments to article 3 of the law on prevention of corruption' no. 1975-VIII of 23 March 2017. *See also* OHCHR Report, 16 February to 15 May 2017, para. 111.

<sup>135</sup> National Agency on Corruption Prevention, Decision no. 549 "Clarification of application of article 3(1.5) of the Law of Ukraine "On prevention of corruption", 29 March 2018.

<sup>136</sup> Draft law "On amendments to legislation enhancing the transparency of funding of public organizations and of the use of international technical assistance" no. 6674 of 10 July 2017. *See also* OHCHR Report, 16 May to 15 August 2017, para. 95.

<sup>137</sup> Joint opinion (CDL-AD(2018)006) adopted by the Venice Commission at its 114<sup>th</sup> Plenary Session (Venice, 16-17 March 2018).

## D. Voting rights

88. Due to the burdensome voter registration system, over 1.5 million IDPs<sup>138</sup> are at risk of facing significant obstacles in voting in presidential and parliamentary elections.<sup>139</sup> OHCHR welcomes the decision of Prymorskyi district court of Odesa restoring the voting rights of an IDP from Donetsk.<sup>140</sup>

89. Citizens living in the villages along the contact line which are listed in the Cabinet of Ministers Order 1085 cannot participate in elections in their place of residence since elections will not be organized there due to security constraints.<sup>141</sup> Guaranteeing full voting rights for IDPs is essential for legitimacy of the electoral process and is an important precondition for building sustainable peace and reaching long-lasting reconciliation.

## VII. Human rights in the Autonomous Republic of Crimea and the city of Sevastopol

*People are arrested exclusively for expressing their position.*  
- Resident of Crimea.

90. The Russian Federation continued to apply its laws in Crimea and the city of Sevastopol in violation of the obligation under international humanitarian law to respect the legislation of the occupied territory.<sup>142</sup> On 18 March 2018, the election of the Russian Federation President was held in Crimea, in violation of United Nations General Assembly resolutions 68/262 (27 March 2014), 71/205 (19 December 2016), and 72/190 (19 December 2017). Further, through application of its legislation, the Russian Federation continued to restrict the exercise of fundamental freedoms and criminalized free speech on the peninsula. During the reporting period, OHCHR documented 24 cases involving 54 human rights violations, including enforced disappearances and infringement of property rights, and a lack of accountability. Twenty-eight of these violations occurred during the reporting period, of which the Government of the Russian Federation was responsible for 25 violations, and the Government of Ukraine was responsible for 3 violations.<sup>143</sup>

### A. Enforced disappearances

91. A Kharkiv resident disappeared at the Russian Federation-controlled side of the Administrative Boundary Line on 11 April 2018, which is the first documented case of

<sup>138</sup> As of 7 May 2018, the Ministry of Social Policy in Ukraine registered 1,509,019 IDPs. <http://www.msp.gov.ua/news/15257.html>.

<sup>139</sup> Information provided by IFES. Moreover, IDPs are deprived of the right to vote in local elections because their registered place of residence is located in territory controlled by armed groups. According to art. 8 of the Law of Ukraine “On State register of voters”, a citizen’s voting address is his/her registered permanent place of residence. Hence, IDPs whose registered voting place is in territory controlled by armed groups cannot vote in local elections. *See also* OHCHR Report, 16 February to 15 May 2017, para. 126. Draft law no. 6240 and a draft Electoral Code currently under consideration would, if adopted, will address the issue of IDP electoral rights.

<sup>140</sup> The IDP will be included in the State Register of Voters and be able to participate in local elections. OHCHR trial monitoring, 11 April 2018. Court decision available at <http://reyestr.court.gov.ua/Review/73554706>.

<sup>141</sup> Those residents can register in nearby towns in order to be included into the State Register of Voters, however they would then lose their registration in their home village.

<sup>142</sup> Article 43 of the Regulations concerning the Laws and Customs of War on Land, Annex to Convention (IV) respecting the Laws and Customs of War on Land The Hague, 18 October 1907 and Article 64, Geneva Convention IV of 1949.

<sup>143</sup> The violations attributable to the Government of Ukraine did not occur in Crimea itself, but concern events in mainland Ukraine with connection to the situation in Crimea and are related to freedom of movement and access to public services.

enforced disappearance in Crimea since 2016 where the victim has been missing for over three days. OHCHR received information that the victim was initially detained by the Russian Federation Federal Security Service (FSB) with no official charges. Documents received by OHCHR indicated further formalized detention of the victim for 12 days allegedly for committing an administrative offence. On the day when he was supposed to be released, he disappeared again. Despite efforts of relatives and human rights defenders to inquire about the whereabouts of the victim, the law enforcement and penitentiary institutions in Crimea failed to provide any information.<sup>144</sup> The victim's whereabouts as of 15 May 2018 were still not known.

92. A Sevastopol resident living in Kharkiv was abducted on 19 November 2017 while visiting his mother in Sevastopol. In 2014, he had publicly expressed support for Crimea remaining in Ukraine and was photographed burning a Russian flag. The victim was held *incommunicado* for six hours in a place he thought was the FSB office in Sevastopol. Following ill-treatment<sup>145</sup> and death threats against his mother, he agreed to provide lists and personal data of acquaintances with connections to Ukrainian nationalist organizations and the Ukrainian Armed Forces. He was released after six or seven hours, and after "cooperating" for two months, he fled to mainland Ukraine. During the hours he was held captive, his mother went to a police station to file a report about his abduction but was met by refusal from the police officer who stated "If he is where we think he is, there is no point in registering any reports".<sup>146</sup>

93. On 26 March 2018, a court in Simferopol dismissed a lawsuit brought by a defence lawyer complaining of inaction of the police in a case involving the alleged enforced disappearance in 2016 of a Crimean Tatar member of the regional Mejlis in Bakhchisaray. A video shows him being abducted by men appearing to wear police uniforms.<sup>147</sup> The investigation into his disappearance was suspended on 10 April 2017 due to the police's alleged inability to identify the suspects. OHCHR recalls that an occupying power is liable for violation of the right to liberty and security arising from the failure of authorities to investigate the fate and whereabouts of missing persons in its occupied territory.<sup>148</sup>

## **B. Freedom of opinion and expression**

94. Two convictions challenging the right to freedom of opinion and expression were issued during the reporting period. In both cases, OHCHR documented violations of fair trial guarantees. On 1 March, a Crimean Tatar man was given a two-year suspended sentence and banned from "public activities connected with publications in telecommunication networks including Internet" after being found guilty of publicly calling for the violation of the territorial integrity of the Russian Federation.<sup>149</sup> The accused had re-posted a video on Facebook entitled "New battalion. Draft of volunteers and fund raising" and commented that "Crimea is Ukraine, it has always been, it is and it will always be! Thanks to the author for this video! I support it!" The court accepted linguistic and physiological expert reports which established that the accused had supported the call of the author of the video to join the pro-Ukrainian "Krym" battalion and contribute financially to it in order to violate the territorial integrity of the Russian Federation by resorting to violence. OHCHR notes that the court merely endorsed the experts' reports, without assessing the video's content or the accused's comments, which contravenes the principle according to which all legal matters must be resolved exclusively by courts.<sup>150</sup> In the second case, on 15 March, the Supreme Court of Crimea upheld the conditional prison sentence of a female resident of Crimea convicted of inciting hatred through media, while reducing the

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<sup>144</sup> HRMMU interviews, 30 April and 3 May 2018.

<sup>145</sup> A black sack was put over his head and he was handcuffed to a chair in a stress position for two hours.

<sup>146</sup> HRMMU interview, 2 April 2018.

<sup>147</sup> <http://khpg.org/en/index.php?id=1522112890>.

<sup>148</sup> *See Cyprus v. Turkey*, 25781/94, Judgment, European Court of Human Rights, 10 May 2001, available at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-5945>.

<sup>149</sup> On 3 May 2018, the Supreme Court of Crimea upheld the verdict.

<sup>150</sup> Most recently, *Dmitriyevskiy v. Russia*, no. 42168/06, § 113, 3 October 2017.

term of her sentence from 2 years to 1 year and 10 months. The woman was found guilty for a Facebook post which allegedly denigrated the Russian Federation, its army and historical characters. During the hearings, the accused was denied the right to a Ukrainian language interpreter.<sup>151</sup> In both cases, in violation of the presumption of innocence, the names of the accused were added to the so-called State list of extremists managed by the Federal Financial Monitoring Service of the Russian Federation prior to their conviction.

### C. Voting rights

95. On 18 March 2018, the election of the Russian Federation President took place on the Crimean peninsula, in violation of three United Nations General Assembly resolutions reaffirming the territorial integrity of Ukraine and prescribing that Crimea is temporarily occupied by the Russian Federation.

96. OHCHR received reports of pressure applied in Crimea on teachers, medical staff and local government employees to vote in order to ensure high turnout. A Crimean Tatar teacher was reprimanded and threatened with dismissal by the principal of a school in the Krasnoperekopsk district for refusing to vote. Some voters stated that their employers required them to take a photograph of themselves at the polling station as evidence of their participation. Two weeks before the vote, a member of an unregistered anarchist group from Sevastopol who announced via social media plans to hold a protest under the slogan “The presidential post is a monarchist throwback” and to remind citizens of their “constitutional right not to take part in the election” was sentenced to 11 days of administrative arrest for an earlier post allegedly containing extremist content.<sup>152</sup> On the same day, the FSB and police searched the homes of four other activists who planned to take part in the protest. One of them was convicted on extremism charges and sentenced to 10 days of administrative arrest.<sup>153</sup>

97. The Ukrainian authorities declared the election held in Crimea illegal and prevented Russian Federation nationals in (mainland) Ukraine from voting in diplomatic missions in Kyiv, Kharkiv, Odesa and Lviv.<sup>154</sup> OHCHR monitored the areas around the diplomatic presences in Kyiv, Kharkiv and Odesa and observed voters being turned away by Ukrainian police.<sup>155</sup>

### D. Forcible transfers and deportations

98. According to Russian Federation authorities in Crimea, 155 individuals considered foreigners were deported from Crimea in 2017 for violating Russian Federation immigration rules.<sup>156</sup> Deportations continued in 2018. On 2 February, 23 Ukrainian citizens who worked at a construction site in Crimea were deported by court order on the basis of their “illegal employment” and banned from entering Crimea for a period of five years.<sup>157</sup> Each individual received a 5,000 RUB fine and was held in a temporary detention facility in Russia’s Krasnodar region before being deported to mainland Ukraine. The court hearings were conducted expeditiously in a formalistic manner and in the absence of defence lawyers, in violation of fair trial guarantees.

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<sup>151</sup> HRMMU interview, 26 March 2018.

<sup>152</sup> OHCHR interview, 19 March 2018.

<sup>153</sup> On 8 March 2018, his conviction was revoked and the case closed by the Supreme court of Crimea. He spent 8 days in detention.

<sup>154</sup> Statement of the Ministry of Interior of Ukraine, available at [http://mvs.gov.ua/ua/news/12677\\_Arsen\\_Avakov\\_Provedennya\\_nezakonnih\\_viboriv\\_prezidenta\\_RF\\_na\\_suverennyi\\_ukrainskiy\\_teritorii\\_nepripustime.htm](http://mvs.gov.ua/ua/news/12677_Arsen_Avakov_Provedennya_nezakonnih_viboriv_prezidenta_RF_na_suverennyi_ukrainskiy_teritorii_nepripustime.htm).

<sup>155</sup> OSCE/ODIHR observers monitored the election in the Russian Federation but not Crimea “due to the lack of consensus among the OSCE participating States regarding the status of Crimea”. See International Election Observation Mission, Russian Federation – Presidential Election, 18 March 2018, Statement of Preliminary Findings and Conclusions, available at <https://www.osce.org/odihr/elections/russia/375670>.

<sup>156</sup> [http://www.crimea.gov.ru/news/30\\_03\\_18\\_8](http://www.crimea.gov.ru/news/30_03_18_8).

<sup>157</sup> OHCHR interview.

99. On 14 May 2018, imprisoned Ukrainian filmmaker Oleh Sientsov reportedly started a hunger strike, raising concerns about his health condition. He had been transferred from Crimea to a detention facility in the Russian Federation in May 2014, and sentenced in 2015 to 20 years of imprisonment on terrorism charges. OHCHR recalls that individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power, or to that of any other country, occupied or not, are prohibited under international humanitarian law, regardless of their motive.<sup>158</sup>

## **E. Housing, land and property rights**

100. Under international humanitarian law, private property cannot be confiscated under any circumstances.<sup>159</sup> Nevertheless, as OHCHR has previously reported,<sup>160</sup> the beginning of the occupation of Crimea in 2014 was followed by the confiscation of thousands of publicly and privately owned real estate assets, which the State council of Crimea declared to be “nationalizations”.<sup>161</sup>

101. Similar processes took place in the city of Sevastopol, where over 1,800 privately-owned land plots, some with buildings erected on them, have been confiscated since the first court decisions were issued in November 2014. A decision of the Supreme Court of the Russian Federation in September 2017<sup>162</sup> triggered a series of judgments in the Sevastopol courts upholding the security of tenure of property owners. In November and December 2017, the Sevastopol court of appeal quashed 33 confiscation orders, and 84 expropriation lawsuits were rejected by judgments in first instance. At the same time, judicial practice remained inconsistent, with 334 land plot confiscations on similar grounds approved or upheld on appeal by courts during the same period.<sup>163</sup>

## **VIII. Technical cooperation and capacity-building**

102. OHCHR engaged in cooperation and capacity-building activities with the Government of Ukraine and civil society as part of its human rights promotion mandate, with a focus on arbitrary detention, torture and ill-treatment, freedom of movement, and housing, land and property rights. In addition, OHCHR advocated for the protection and promotion of fair trial rights, rights of persons with disabilities, and IDP rights.

103. Throughout the reporting period, OHCHR continued to promote implementation of the Istanbul Protocol and built local capacity to prevent and address torture and conflict-related sexual violence. OHCHR delivered training sessions to military personnel scheduled to be deployed to eastern Ukraine as civil-military cooperation units and to civil society monitors of the National Preventive Mechanism covering relevant international human rights and international humanitarian law standards and United Nations human rights mechanisms to address and prevent torture and ill-treatment. OHCHR also submitted a proposal to the Ministry of Justice to amend the National Human Rights Action Plan, which included the implementation of the Istanbul Protocol.

104. Together with Norwegian Refugee Council and Danish Refugee Council, OHCHR conducted a series of three discussions in Kramatorsk, Mariupol and Sievierodonetsk, aimed at sharing knowledge and experience in addressing Housing, Land and Property Rights violations, and presenting recommendations to the Government of Ukraine. Representatives

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<sup>158</sup> Article 49, Fourth Geneva Convention.

<sup>159</sup> Articles 46 and 56, Hague Regulations.

<sup>160</sup> See OHCHR thematic report “Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)” paras. 171-176.

<sup>161</sup> As of 15 May 2018, the Russian Federation authorities in Crimea had nationalized 4,671 public and private properties.

<sup>162</sup> On 19 September 2017, the Supreme Court found in favour of a dispossessed land plot owner from Sevastopol contesting the legality of a court-ordered confiscation. The Supreme Court held that the nationalization had ignored the rules on bona fide purchase and had not taken into account the lapse of the statute of limitations. Available at: [http://www.supcourt.ru/stor\\_pdf.php?id=1583148](http://www.supcourt.ru/stor_pdf.php?id=1583148).

<sup>163</sup> These are OHCHR figures based on its analysis of court judgments.



of the local government, judiciary and civil society participated in working groups which discussed inter alia legislation and obstacles in its implementation.

105. In addition, since 1 January 2018, OHCHR has referred 54 specific allegations of human rights violations and abuses to duty-bearers. Twenty-nine violations were raised with the Government of Ukraine: in one case, the violation was completely addressed; in twelve cases, the violation was partially addressed; and in four cases, criminal investigations were opened. Twenty-five human rights abuses were raised with the armed groups; in one case the issue was completely addressed in three cases it was partially addressed and in one case an ‘investigation’ was opened.

## IX. Conclusions and recommendations

*We did not call any of the sides to come here.  
We are Ukrainians and all we want is to live in peace.  
- Resident of a village near the contact line.*

106. The human rights situation in Ukraine remained substantially unchanged compared with the previous reporting period – which is a concern in itself. With the active armed conflict entering its fifth year, and its costs for civilians amassing by the day, it is imperative that all parties to the conflict cease the hostilities and end the suffering of the population. In addition, the Government of Ukraine must address issues related to accountability, the rights of conflict-affected population and non-discrimination, to avoid further deepening the divide and making peace and future reconciliation increasingly challenging.

107. The unpredictable nature of the armed hostilities and its consequences maintained an atmosphere of physical insecurity and socio-economic degradation among the conflict-affected communities in eastern Ukraine. The parties to the conflict continued to violate the ceasefire contained in the Minsk agreements, and in a deeply troubling development, appeared to intentionally target civilian staff working at a critical water infrastructure facility. Such acts cannot be tolerated.

108. Also troubling was the increased number of documented attacks on peaceful assemblies, public events, media professionals and individuals, including the despicable destruction of two Roma settlements in Kyiv and Lviv regions. Discrimination, racially motivated violence and hate speech have no place in an inclusive democracy founded on rule of law, and are a serious threat to fundamental freedoms necessary for civic expression. With the campaign season for presidential and parliamentary elections approaching, it is imperative that Government authorities act decisively by strongly denouncing such acts, providing police protection, and conducting effective investigations and prosecutions.

109. The Government must also act now to address the systemic lack of accountability and pervasive environment of impunity. This includes bringing an end to arbitrary deprivation of liberty, *incommunicado* detention, torture and ill-treatment. Accountability and independence of the judiciary are essential to ensure access to justice, build public trust in Government institutions, and support peace and reconciliation efforts.

110. Armed groups of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ also bear responsibility for human rights protection and are accountable. Practices of arbitrary, *incommunicado* detention and enforced disappearance must cease; fundamental freedoms, including freedom of opinion and expression, the media, peaceful assembly and association must be promoted. Further, access to places where people are deprived of their liberty must be granted so that independent observers can meet and speak in private with detainees in accordance with international standards that promote human rights protection..

111. In Crimea, the Government of the Russian Federation, as the Occupying Power, must fully live up to its obligations under international humanitarian law with regard to human rights and fundamental freedoms. Forcible transfers of protected persons must cease and property rights must be respected.

112. Most recommendations made in the previous OHCHR reports on the human rights situation in Ukraine have not been implemented and remain valid. OHCHR further recommends:

113. To the Ukrainian authorities:

- a) Government of Ukraine to adopt a comprehensive state policy and mechanism on remedy and reparation for civilians injured during the hostilities and to relatives of those killed in hostilities in accordance with United Nations Principles Basic and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law; and Cabinet of Ministers to adopt specific remedy and reparation measures for children with the Status of a Child Affected by Armed Hostilities and Armed Conflicts.
- b) Government of Ukraine and the Joint Operational Headquarters of the Armed Forces of Ukraine to ensure that the implementation framework for the law “On particular aspects of public policy aimed at safeguarding the sovereignty of Ukraine over the temporarily occupied territory of the Donetsk and Luhansk regions of Ukraine” fully conforms with the Government’s responsibilities towards the civilian population on both sides of the contact line, and in particular, establishes a clear protocol for ensuring safe, rapid and unimpeded humanitarian access to civilians in affected territory, ensures the unimpeded passage of civilians across the contact line through the entry-exit checkpoints, and provides that any instances of the use of civilian property are documented and satisfy the requirements of proportionality.
- c) Ministry of Defence to make the Civilian Casualty Mitigation Team, which is to be established under Civil-Military Cooperation Department, operational as soon as possible, and to vest it with authority to effectively prevent civilian casualties which could result from the Joint Forces Operation.
- d) Government of Ukraine to establish independent, transparent and non-discriminatory procedures of documentation and verification of housing, land and property ownership; create a registry of housing and other property damaged or destroyed by the armed hostilities; and set up a comprehensive legal mechanism for restitution and compensation.
- e) Where military presence within civilian areas is justified due to military necessity, Government of Ukraine to take all possible steps to protect the civilian population, including making available adequate alternative accommodation, as well as compensation for the use of property and any damages.
- f) Security Service of Ukraine to grant immediate, unrestricted, and confidential access to conflict-related detainees newly arrested by SBU, including in Kharkiv region.
- g) National Police and General Prosecutor’s Office to conduct effective and timely investigations into all attacks against media professionals, as well as cases of precluding their professional activity, even when no physical or material damage was caused.
- h) State and local authorities to systematically and publicly condemn acts of violence committed based on race, sex, religion, language, national or ethnic origin, political or social opinion, sexual orientation, gender

identity, or place of residence or any other grounds of discrimination prohibited under international human rights standards; Office of the Prosecutor General and law enforcement agencies to ensure that such crimes are appropriately classified, that they are effectively and timely investigated, and that perpetrators – in particular members of extreme right-wing groups – are held accountable.

- i) Parliament and Government of Ukraine to ensure that the current language education policy does not lead to violations of the rights of minorities or discriminate against certain minority groups, in particular by holding an inclusive and effective consultation process in relation to the implementation framework for article 7 of the Law on Education.
114. To all parties involved in the hostilities in Donetsk and Luhansk regions, including the Ukrainian Armed Forces, and armed groups of the self-proclaimed ‘Donetsk people’s republic’ and self-proclaimed ‘Luhansk people’s republic’:
- a) Bring an end to the conflict by strictly adhering to the ceasefire and implementing other obligations foreseen in the Minsk agreements, in particular regarding the withdrawal of prohibited weapons and disengagement of forces and hardware.
  - b) Ensure full compliance with the fundamental principles of international humanitarian law of distinction, proportionality and precaution, including by immediately ceasing use of weapons with indiscriminate effects in areas populated and used by civilians, particularly those with a wide impact area or the capacity to deliver multiple munitions over a wide area.
  - c) Take all feasible precautions to minimize harm to the civilian population during operations, including by locating military objectives such as armed forces and weapons outside of densely populated areas, and refraining from deliberately targeting civilians or civilian objects including objects indispensable to the survival of the civilian population, such as water infrastructure.
  - d) Protect the civilian population from hazards posed by all mines (including marking and fencing of minefields),<sup>164</sup> adhere to international obligations to mark, clear, and destroy explosive remnants of war and minefields at the cessation of hostilities,<sup>165</sup> and cease the use of victim-activated devices.<sup>166</sup>
  - e) Armed groups of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to ensure unimpeded access of OHCHR and other independent

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<sup>164</sup> See ICRC Customary International Humanitarian Law Database, Rules 1, 11, 12, 15, 17, 22, 81-83. Note that this statement refers to mines other than anti-personnel mines. Ukraine is a party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (“the Ottawa Convention”), which prohibits the use of these devices.

<sup>165</sup> See Protocol on Explosive Remnants of War (Protocol V to the 1980 CCW Convention), 28 November 2003. Ukraine consented to be bound by Protocol V on 17 May 2005. The protocol binds all parties to the conflict in a non-international armed conflict. See also ICRC Customary International Humanitarian Law Database, Rule 22.

<sup>166</sup> See Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II to the 1980 CCW Convention as amended on 3 May 1996), Articles 1, 2, 3, 7. See ICRC, Customary International Humanitarian Law Database, Rules 1, 11, 12, 15, 17, 22, 80-83. Ukraine consented to be bound by Protocol II on 15 December 1999. The protocol binds all parties to the conflict in a non-international armed conflict. See also the Convention on the Prohibition on the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (“the Ottawa Treaty”).

**international observers to all places of deprivation of liberty, including for private confidential interviews with detainees.**

- f) Enable and facilitate the voluntary transfer of all pre-conflict detainees to government-controlled territory, regardless of their registered place of residence, in order to enable contact with their families without the unnecessary hardship linked to restrictions on freedom of movement.**

**115. To the Government of the Russian Federation:**

- a) Implement General Assembly Resolution 72/190 of 19 December 2017, including by ensuring proper and unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea.**
- b) Respect obligations that apply to an Occupying Power pursuant to international humanitarian law, including the obligation to respect laws in force in the occupied territory.**
- c) Refrain from criminalizing free speech and peaceful conduct, and quash all penalties imposed on Crimean residents for expressing dissenting views, including regarding the status of Crimea.**
- d) End the practice of deportations and forcible transfers of protected persons outside the territory of Crimea, pursuant to the obligations of the occupying power.**
- e) Protect private property in Crimea and Sevastopol against confiscations in line with international standards and restore property rights of all former owners affected by previous confiscations.**

**116. To the international community:**

- a) Continue using all diplomatic means to press all parties involved to end hostilities and to implement all obligations foreseen in the Minsk agreements, by emphasizing how the active armed conflict causes suffering of civilians and hampers prospects for stability, peace and reconciliation.**
  - b) In consultation with civil society, engage with law enforcement, investigators and the judiciary, on the national level and in the regions, to ensure understanding of and compliance with international standards on respect and protection of freedom of expression as one the foundations for a free and democratic society.**
-