

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

**Report on the human rights situation in Ukraine
15 December 2014**

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TO THE GOVERNMENT OF UKRAINE

TO ALL THOSE INVOLVED IN THE HOSTILITIES IN THE EASTERN
REGIONS OF DONETSK AND LUHANSK

TO THE AUTHORITIES IN CRIMEA AND THE DE FACTO GOVERNING
AUTHORITY OF THE RUSSIAN FEDERATION

I. EXECUTIVE SUMMARY

1. This is the eighth report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine based on the work of the Human Rights Monitoring Mission in Ukraine (HRMMU). The report covers the period from 1 to 30 November 2014. It describes the continued deterioration of the human rights situation in the eastern regions of Ukraine and in Crimea. The total breakdown in law and order and the violence and fighting in the eastern regions, fuelled by the cross-border inflow of heavy and sophisticated weaponry as well as foreign fighters, including from the Russian Federation, has for the past eight months had a direct impact on all fundamental human rights – including the security, liberty and well-being – of individuals living there.

2. With the conflict in the east entering its ninth month, the situation is becoming extremely dire for the population, particularly older persons, children and people in institutional care, many of whom are on the brink of survival. Moreover, the impact of the conflict in the east on the rest of Ukraine is increasingly acute.

Situation in the east

3. The HRMMU observed early signs of the rapid deterioration of the security situation as of April 2014. Initially demands from protestors in the east were for a referendum on the federalisation of Ukraine and the recognition of the Russian language as a second State language. Groups of armed men – in a well-organized and coordinated fashion – unlawfully seized public buildings and police and security facilities in cities and towns across the Donetsk and Luhansk regions. As law and order increasingly broke down, so more human rights abuses, such as killings, torture, abduction for ransom and forced labour, started to be committed by members of armed groups, supported by increasing numbers of foreign fighters. On 14 April, the Government launched a security operation¹ to re-establish control over those territories. By the end of April the self-proclaimed ‘Donetsk people’s republic’² and the self-proclaimed ‘Luhansk people’s republic’³ were announced as having been established, which was furthered by the 11 May so-called ‘referendum’ on self-rule, contravening the constitution of Ukraine and international norms and standards.

4. Forced mobilization and threats of the use of the death penalty were additional means to intimidate and harass the population in the territory under the control of the armed groups. Increasingly as people left their homes, their property was seized. Efforts by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to develop their own systems of administration of justice (‘legislation’, ‘police’, ‘prosecutors’ and ‘courts’) did not improve the dire human rights situation on the territories under their control.

5. As the fighting intensified in the east, there have been increased reports of violations of international human rights law and international humanitarian law. This highlighted the need to ensure the protection of civilians. The use of indiscriminate shelling in residential areas has led to the killing of civilians, as well as the damage to property and infrastructure.

6. Over the months, allegations have come to the fore of mass graves, which have yet to be substantiated, as well as reports of the use of cluster munitions.

7. Despite the 5 September Minsk Protocol, which included a ceasefire as part of a 12-point peace plan, shelling and skirmishes have continued. This is largely the result of the non-implementation of key provisions of the Protocol by the armed groups, especially point 4 ‘ensure permanent monitoring of the Ukrainian-Russian border and its verification by the OSCE and a security zone at the frontier areas of Ukraine and Russia’; point 9 ‘early local elections in

¹ Referred to by the Government as an ‘anti-terrorist’ operation.

² Henceforth the ‘Donetsk people’s republic’.

³ Henceforth the ‘Luhansk people’s republic’.

compliance with the law of Ukraine on interim self-governance in certain areas of Donetsk and Luhansk (the law on special status)’; and point 10 ‘withdrawal of illegal armed groups, military equipment as well as militants and mercenaries from the territory of Ukraine’.

8. By 30 November, the total number of casualties in the east had reached at least 4,364 killed and 10,064 wounded⁴. Over 1,000 bodies delivered to morgues in the conflict zone remained unidentified, and many sites where hostilities had taken place not yet been searched to recover all remains.

9. The efforts of the Government to safeguard the territorial integrity of Ukraine and restore law and order in the conflict zone have been accompanied by arbitrary detentions, torture, and enforced disappearances of people suspected of ‘separatism and terrorism’. Most of such human rights violations appear to have been perpetrated by certain voluntary battalions or by the Security Service of Ukraine (SBU). The procedural rights of people have not always been observed, with reports of ill-treatment and reports of reprisals upon release.

10. With the onset of winter and no let-up in the hostilities, the situation of approximately 5.2⁵ million people living in the conflict and post-conflict affected areas is further deteriorating due to significant damage of the infrastructure, the breakdown of economic activities, and the disruption of social and medical services and social welfare benefits.

11. On 2 November, the armed groups organised ‘elections’, in violation of the legislation of Ukraine and the Minsk Protocol, in areas under their control.

12. Subsequently, the Government of Ukraine decided⁶ to temporarily relocate all State institutions and organisations present in areas controlled by the armed groups to Government-controlled areas. This implies the relocation of social, medical and educational institutions, the judiciary, penitentiary facilities, state enterprises and other entities, as well as banking services⁷. As of 1 December, all allocations from the State budget, (including for social payments) to areas not controlled by the Government ceased. To continue receiving social payments, residents of Donetsk and Luhansk regions under the control of the armed groups are required to register by 31 December, in territory under the control of the Government. This was justified by the Government as necessary to prevent national budget funds falling into the hands of the armed groups who had taken control of social institutions, including local branches of the Pension Fund, as well as banks. However, pensions and other social payments will be redirected and may be received by beneficiaries and may be received in territory under the control of the Government⁸. For humanitarian reasons the Government continues to supply gas and electricity

⁴ This is a very conservative estimate by the HRMMU and World Health Organization based on available official data. It includes casualties among the Ukrainian armed forces as reported by the Ukrainian authorities; the 298 people from flight MH-17; and casualties reported by civil medical establishments of the Donetsk and Luhansk regions (civilians and some members of the armed groups). The actual numbers of casualties is likely to be considerably higher, as both military and civilian casualties continued to be underreported.

⁵ As of 28 November according to *Situation Report No.20*, of the UN Office for the Coordination of Humanitarian Affairs.

⁶ The Decision of the National Security and Defence Council of 4 November *On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions*, enacted by the Decree of the President of Ukraine No. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine No.595 as of 7 November 2014, *On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions*.

⁷ The suspension of all financial operations by banking services predates the Presidential Decree. The National Bank of Ukraine Decree No. 466 of 9 August, states that all banks, non-bank institutions and state post services which conduct payment operations should suspend their operations in territory not controlled by Ukrainian government. Their activity should be renewed after Ukrainian forces regain control over such territories.

⁸ These derived from a Presidential Decree signed on 14 November that instructed the Government to establish the order of humanitarian aid supply to the east, to organise reconstruction of the gas, heating and energy in the regions,

to the areas under control of armed groups without receiving any payment for it. The Decree also orders the reconstruction of damaged infrastructure for these utilities. These measures, and their implementation could have considerable consequences for the population in the eastern regions as the consequent institutional vacuum, lack of provision of public services and access to social payments is likely to create a severe protection gap, and to exacerbate economic and social vulnerabilities. Implementation of these measures needs to be considered, particularly their impact on the most vulnerable.

13. Locals who leave the conflict affected area are covered by a state program for IDPs. The capacities, however, of these registration points, which were already overwhelmed, were not prepared for the increased flow of IDPs generated by the Decision. The situation and fate of those who remain, either unable or unwilling to leave, is of serious concern, even if they are still legally under the protection of the State.

14. Many, particularly the most vulnerable, are on the brink of survival, facing continued hardship due to the conflict, and their condition may deteriorate with the onset of winter. This is further aggravated by the degradation of many public services, particularly specialised medical care, which has become more limited due to lack of staff and/or supplies. Treatment and care is at risk, particularly as some staff in public institutions have left their jobs. There are emerging but unconfirmed reports of people, particularly older persons, beginning to face starvation. Hospitals face shortages in staff and supplies, and as a result the standard of healthcare has deteriorated as medical staff are unable to maintain the pre-conflict standards of practice. Pharmacies are facing shortages, and many people are in need of basic medical supplies.

15. With the increasing needs in the conflict affected area, humanitarian assistance has continued to be provided by just a few international NGOs and heavily depends on the work of volunteers.

16. Over one million people have left the conflict affected region, either being displaced within Ukraine, or seeking refuge or other legal status in neighbouring countries. For those in internal displacement, their initial needs were predominantly met by volunteers and local authorities, who stepped in while the Government tried to find its way. Eventually the State Emergency Service took on much of the coordination of services. As of 30 November, there were 498,347 internally displaced persons (IDPs) in Ukraine, of which 450,000 had been registered by the Ministry of Social Policy. The new IDP law entered into force on 22 November.

Accountability

17. One year on since the start of the Maidan protests, there has been little progress regarding accountability for human rights violations committed in that context. In Odesa, the first criminal case on mass disorder in the city centre on 2 May was submitted to the Prymorskyi District Court of Odesa, which held its first session on 27 November while the pre-trial investigation into the killing of 48 people on 2 May is still ongoing.

18. In September, the SBU opened investigations into alleged crimes against ‘peace and security of mankind’, against the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, which reportedly relate to cases of torture and inhuman treatment of civilians and captured servicemen, forced labour and looting of natural resources.

19. Investigations into violations of human rights law and international humanitarian law are critical for ensuring accountability and progress towards a meaningful and genuine resolution of past violent incidents that have led to the loss of life. This will be critical in the east. It is the responsibility of the State to record allegations of violations of both human rights and

to ensure the adoption of training and employment programmes for IDPs, to establish a special order of energy supply and to amnesty all prisoners convicted for minor or average crimes.

humanitarian law committed during the conflict and at a time when it has control of the territory undertake prompt and full investigations.

20. Limited progress has been reported in the investigation initiated by the Ministry of Internal Affairs (MoIA), the Office of the Prosecutor General and the SBU into more than 300 cases of indiscriminate shelling of residential areas since the start of the year. In some cases armed groups started their own ‘investigations’ into indiscriminate shelling of the territories under their control, for instance in the shelling of a Donetsk school playground on 5 November.

Legislative and other legal developments

21. Ukraine is in the process of elaborating a five year human rights strategy, to be submitted by the Cabinet of Ministers by 1 January 2015. This is welcome and follows a consultative process involving civil society and the Ombudsman’s office, supported by the United Nations system, through the HRMMU, and the Council of Europe.

22. Important steps were taken to improve the anti-corruption legal framework, in line with international recommendations. A National Council on Anti-Corruption Policy, involving a majority of civil society representatives, was established to coordinate anti-corruption policy and monitor its implementation, and a specialized national anti-corruption bureau will investigate crimes committed by high level public officials, including judges and prosecutors. The powers of the Prosecution not related to the criminal justice process, which used to be broad under previous legislation, were limited by law, a development which could strengthen fair trial guarantees. At the same time, some newly adopted legislation and its implementation raises human rights concerns. In particular, the dismissal of public officials under the lustration law adopted in October has started, with concerns that it may be applied in a discriminatory and arbitrary manner. The Government of Ukraine is cooperating with the Venice Commission of the Council of Europe regarding this law.

23. In dealing with the unravelling security situation in the east the Government decrees and legislation that have been adopted apply specifically to the conflict area. For example, an amendment to the law ‘on fighting terrorism’ extends the period within which a suspect arrested in the area of the security operation must be presented before a court from 60 hours to 30 days. An amendment to the Criminal Procedure Code⁹ has expanded the authority of the prosecutor in emergency situations or under martial law, allowing him to order searches of property and seizure of documents and other related activities in cases of suspected terrorist activity.

24. In the context of the situation in the east, the authorities adopted and later withdrew support from two laws drafted pursuant to the Minsk Protocol of 5 September. This decision, which applied to an amnesty law for ‘armed formations’ and a law providing for local self-government in parts of the Donetsk and Luhansk regions, followed the conduct of ‘elections’ in areas controlled by the armed groups on 2 November. These ‘elections’ did not follow Ukrainian legislation, a circumstance which the Ukrainian authorities deemed to be in violation of the Minsk Protocol. As a consequence of the ‘elections’ held in the East on 2 November, the Government adopted decisions, including a Presidential Decree on 14 November, instructing the temporary relocation of state institutions and enterprises (from areas controlled by armed groups. Through this Presidential Decree, it was announced that Ukraine would be requesting a derogation from the European Convention for the Protection of Human Rights and Fundamental Freedoms¹⁰ in areas no longer under its control. No derogation has yet been requested from the International Covenant on Civil and Political Rights but is also under consideration.

⁹ Amendment to the Criminal Procedure Code of Ukraine regarding a special regime of pre-trial investigations under martial law, state of emergency, and in the area of the anti-terrorist operation.

¹⁰ Derogation in time of emergency, article 15, European Convention on Human Rights and Fundamental Freedoms.

25. It should be noted that during Presidential and Parliamentary elections held in Ukraine, respectively in May and in October, and observed to have taken place in line with international standards, the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ denied those living in territories under their control the right to vote by either preventing or disrupting the electoral process.

26. Following the parliamentary elections held in October, a new Government was completed on 2 December. On 27 November, the two leading parties¹¹ from the elections (and the core of the previous government), led by President Petro Poroshenko and Prime Minister Arsenii Yatseniuk, formed a broad parliamentary coalition ‘European Ukraine’, made up of five of the six largest parties and some non-aligned deputies. Mr. Yatseniuk was reappointed as Prime Minister. The coalition agreement defines future policies aimed at Euro-Atlantic integration, and includes broad spectrum of reforms and anti-corruption measures.

Crimea

27. The situation in the Autonomous Republic of Crimea¹² continued to be characterized by systemic human rights violations affecting mostly people who opposed the March ‘referendum’ and the application of Russian Federation laws, as well as the Crimean Tatar community¹³.

28. Although no new cases of enforced disappearances were reported in November, no progress has been made regarding the investigation of the cases of nine people who went missing since March and the death of three men.

29. Citizenship issues continued to be a concern. Following the March referendum, all Ukrainian citizens residing on the peninsula were automatically deemed by the ‘authorities’ in Crimea to have acquired Russian citizenship, while the Ukrainian authorities continued to consider them as Ukrainian citizens. A new quota applying to foreigners on the peninsula in 2015, giving entitlement to residence permits, risks leading to expulsions to those who do not obtain such permits.

30. All religious communities must seek registration in accordance with Russian legislation by 1 January 2015 in order to acquire legal status and to continue operating. This creates a hostile atmosphere hampering the exercise of freedom of conscience and religion in Crimea.

31. A recent trend has been the increasing violations of property rights. In particular, the illegal expropriation of the apartments of servicemen belonging the Ukrainian Ministry of Defence, which began to take place in November.

II. HUMAN RIGHTS CHALLENGES IN EASTERN UKRAINE

32. A resolution to the conflict in eastern Ukraine, as envisioned in the Minsk Protocol, appeared to recede in November, with violations of the cease-fire and of key provisions of the Minsk Protocol, continued shelling and skirmishes and positions becoming more entrenched.

33. On 2 November, armed groups organised ‘elections’, not in line with the legislation of Ukraine and the Minsk Protocols, for the ‘heads’ and the ‘people’s councils’ of the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ in the areas under their control, outside Ukraine’s legal framework. The existing respective so-called ‘heads’, Oleksandr Zakharchenko and Ihor Plotnytskyi, and their political groupings were declared as winners. Both ‘republics’ continued to set up parallel governance systems, forming ‘executive bodies’ of ‘ministers’ and claiming to have enacted laws.

¹¹ The Petro Poroshenko Bloc and the People's Front will be joined in government by the Self Reliance party, the Radical Party and *Batkivshchyna*.

¹² Hereafter referred to as Crimea.

¹³ These developments were not recognized by the United Nations whose position on the status of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine.

34. A Presidential Decree and Government resolutions were adopted in response to this situation, essentially ordering the temporary relocation to Government controlled territory of all State institutions and their personnel present in areas controlled by the armed groups. This applies to the judiciary, penitentiary institutions, social and medical institutions and services, educational institutions, enterprises and banking services. In addition, this involves the cessation of social payments to those who will not have registered by 31 December to receive such benefits in Government controlled territory.

35. There is concern that the implementation of the Presidential Decree and Government resolutions will have a considerable impact on the population that has to date remained in areas controlled by the armed groups

36. An institutional vacuum could be potentially created leading to a serious human rights protection gap, should state services be relocated. The consequent disruption of social services is also likely to exacerbate economic and social vulnerabilities, and further isolate those most in needs. State officials, such as those working in hospitals, the penitentiary facilities, and educational services, could find themselves in a precarious situation for not following orders.

III. RIGHTS TO LIFE, LIBERTY, SECURITY AND PHYSICAL INTEGRITY

37. The ceasefire agreed upon on 5 September in Minsk stopped large-scale offensive activity, but skirmishing and heavy artillery exchanges continued on a daily basis. In November, Donetsk, its airport, the towns of Avdiivka and Horlivka and the front line around the Debaltseve salient remained the major flashpoints in Donetsk region. In Luhansk region the main areas of conflict were around the towns of Stanytsia Luhanska and Shchastia, as well as in various settlements north-west of Luhansk between, the Siverskyi Donets River and the Bakhmutka highway.

38. The indiscriminate shelling of built-up areas continued with over 100 incidents reported in November alone. For example, on 5 November, the shelling of a school football pitch in Donetsk killed two people, including one child, and wounded four children; on 14 November, the shelling of Horlivka (Donetsk region) killed five civilians, including two children, and wounded 12; on 18 November, the village of Toshkivka (Luhansk region) was shelled with three civilians killed and four wounded, including two children; on 25 November, a minibus was hit in Donetsk with two people killed and eight wounded. Of 285 women reported killed in Donetsk region by 25 November, 116 were killed after the 5 September ceasefire. On no occasion have any of the armed groups or the Government taken responsibility for any civilian deaths. The Government claims it only opens fire in response to attacks by armed groups and never targets residential areas. By 30 November, the total number of casualties in eastern Ukraine had reached at least 4,364 killed (including 298 from the MH-17 flight) and 10,064 wounded¹⁴. The actual numbers of casualties is likely to be higher as both military and civilian casualties remain under reported. Over 1,000 bodies delivered to morgues in the conflict zone remain unidentified, and many sites had not been searched to recover all remains due to continued fighting and insecurity.

39. Armed hostilities, wide-scale human rights abuses and violations and economic hardships caused population displacement. Between 3 July and 30 November, the number of

¹⁴ This is a very conservative estimate by the HRMMU and World Health Organization based on available official data. The totals include casualties of the Ukrainian armed forces as reported by the Ukrainian authorities; 298 people from flight MH-17; and casualties reported by civil medical establishments of the Donetsk and Luhansk regions (civilians and some members of the armed groups).

IDPs increased from 59,600 to 498,347¹⁵, and the number of Ukrainians who moved to neighbouring countries reached 545,628¹⁶, including 232,260 seeking asylum.

40. By the beginning of September, at least a thousand Ukrainian servicemen and ‘pro-unity’ civilians were held by the armed groups, while several hundred members of the armed groups and ‘pro-federalism’ supporters were being detained by the Ukrainian authorities. While the Minsk Protocol provided that ‘all hostages and illegally detained people shall be released without delay’, this clause has not been implemented. During the period under review, some people were released within so-called ‘exchanges’ as part of the Minsk agreement as well as under separate arrangements, as before the ceasefire. On 19 November, the SBU reported that out of 2,027 people on an updated list of missing people, about 1,000 had been “found and freed”, while 378 Ukrainian servicemen, two journalists and an unknown number of civilians were believed to remain held by the armed groups. On 20 November, the non-governmental Centre for Release of Captives estimated that the number of people held by the armed groups was over 650. According to the SBU, by 19 November, the Ukrainian law enforcement agencies had released 200 ‘fighters suspected of terrorism or related crimes’ within exchanges foreseen by the Minsk Protocol¹⁷. The HRMMU also knows of instances when some of those released remain on law enforcement lists, and when closed criminal cases against some exchanged people have been re-opened.

41. The break-down of law and order in the conflict zone has resulted in killings, abductions, torture, ill-treatment, sexual violence, forced labour, ransom demands and extortion of money by the armed groups which have been reported during the whole conflict period. Persecution and intimidation of people suspected of supporting Ukrainian forces or merely holding pro-Ukrainian sympathies (or perceived as such) remains widespread and has included deprivation of liberty and property, humiliation in public places and mock executions. Conditions of detention, especially for civilians, were often inhuman and degrading: people were kept in overcrowded basements or other ad hoc detention facilities without separate detention for men and women; supply of food and water was insufficient or irregular; and opportunities to maintain personal hygiene and contacts with the outside world were largely absent. Some detainees were subjected to torture and ill-treatment, which included verbal assaults; physical beatings, including various objects (rifle butts, wooden bats and metal and rubber sticks); cutting with knives and other sharp objects; sexual assaults; threats of death and of persecution of relatives.

42. Parallel bodies established by the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ to develop their own systems of law enforcement and administration of justice (‘legislation’, ‘police’, ‘prosecutors’ and ‘courts’) are contrary to international law.

43. The Government’s efforts to safeguard Ukraine’s territorial integrity and to restore law and order in the conflict zone have been accompanied by arbitrary detentions, enforced disappearances and ill-treatment of people suspected of separatism or terrorism. Most of such human rights violations reported since May appear to have been conducted by certain voluntary battalions or by the SBU. The Government has committed itself to investigating such allegations and criminal investigations for violations of article 146 (Illegal deprivation of liberty) of the Criminal Code, are being conducted.

44. On 3 November, the head of the Luhansk regional administration reported the release of 26 people subjected to either enforced disappearance or arbitrary detention on the territory controlled by the Government. On 17 November, seven people arbitrarily detained on 10-15 November by the 24th Voluntary Territorial Defence Battalion *Aidar* on the territories controlled

¹⁵ This includes 19,585 people from Crimea and 478,762 from Donetsk and Luhansk regions.

¹⁶ As of 28 November according to *Situation Report No.20*, of the United Nations Office for the Coordination of Humanitarian Affairs.

¹⁷ Only the ‘Donetsk people’s republic’ acknowledged that it had received at least 275 people ‘from Ukrainian side’.

by the Government were released after the intervention of the Luhansk regional administration. According to detainees and their relatives interviewed by the HRMMU in pre-trial detention facilities in Kharkiv and Poltava between 8 and 12 November, there were raids carried out by armed masked men in uniforms without insignia on 85 homes in the district of Krasnyi Lyman, leading to a large number of enforced disappearances. Some other detainees interviewed by the HRMMU reported being beaten and intimidated to confess to participation in the armed groups. On 14 November, a Donetsk resident died on the premises of Iziium district police department (Kharkiv region), shortly after being taken out and then returned by masked men and an identified SBU official. Forensic examination found multiple and extensive hematomas on his body and a closed blunt injury of the chest. On 10 November, the HRMMU interviewed a man who was arbitrarily detained by the SBU and kept incommunicado for two months in the SBU building in Kharkiv.

45. No clear evidence of mass summary executions either by the armed groups or by the Ukrainian armed forces have been revealed to the public so far. On 6 and 7 November, two bodies of members of an armed group, who might have been the victims of a summary execution, were exhumed from a grave near the village of Biriukove (Luhansk region). This case, as well as those reported in the seventh OHCHR report, need to be investigated, and all necessary measures must be taken to preserve evidence.

IV. ECONOMIC AND SOCIAL RIGHTS

46. The conflict and its prolongation have had a detrimental impact on the enjoyment of economic and social rights not only in the east, but throughout the country. The situation of the approximately 5.2¹⁸ million people living in the conflict and post conflict affected areas is difficult due to the significant damage of infrastructure, the economic breakdown, and the disruption of social and medical services, which particularly affects the most vulnerable people. The living conditions of people remaining in the territory controlled by the armed groups are more desperate, with the onset of winter, and with a scarcity of food and heating in some areas.

47. Furthermore, the decision¹⁹ of the Government to terminate the activities of all state institutions and organisations in areas controlled by the armed groups, and relocate them (whilst evacuating employees consensually) to Government-controlled areas is likely to exacerbate this situation. The relocation involves the withdrawal of social, medical and educational institutions, the judiciary, detention facilities, banking services, state enterprises and other entities. The relocation of large institutions, such as medical and education facilities, nursing homes and penitentiary institutions which fall within the competence of regional and local authorities, would be particularly challenging, as no mechanisms for this transfer have been developed. It is unclear how this decision will be implemented. On 26 November, the Donetsk Regional State Administration reported that out of 130 medical institutions that were on the territories controlled by armed groups, only 18 had agreed to relocate. In the case of relocation of the schools, children who remain in armed groups controlled areas will have their right to education limited, although the possibility of distance learning has been announced. For those considering relocation, many fear an uncertain future, particularly regarding the possibility to return to their

¹⁸ As of 28 November according to *Situation Report No.20*, of the United Nations Office for the Coordination of Humanitarian Affairs.

¹⁹ The Decision of the National Security and Defence Council of 4 November On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions, enacted by the Decree of the President of Ukraine Nr. 875/2014 on 14 November 2014, as well as the consequent resolution of the Cabinet of Ministers of Ukraine Nr.595 as of 7 November 2014, On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk regions.

homes and the potential loss of property. The impact of such relocation may raise a question of the breach of the state's obligation under the International Covenant on Economic, Social and Cultural Rights to respect the enjoyment of economic, social and cultural rights, including the right to health, education, social security and work.

48. As of 1 December, there will be no more transfer of allocations from the state budget to areas controlled by the armed groups, including for social payments. The Government has justified these measures from the perspective that national budget funds would fall into the hands of the armed groups who have taken over control of social institutions, including local branches of the Pension Fund, as well as banks. For humanitarian reasons the Government continues to supply gas and electricity to the areas under control of armed groups.

49. People who leave the area can receive the social benefits to which they are entitled provided they register in Government controlled territory by 31 December 2014.

50. The care for those who remain, either unable or unwilling to leave, remains in question, despite the fact that they remain Ukrainian citizens under the protection of the State. The fate for many in areas under the control of the armed groups may well be life-threatening.

51. The socio-economic situation of those who remained in the areas controlled by armed groups continued to deteriorate. Wage arrears²⁰ in Donetsk region alone, reached UAH 944 million (approximately USD 59 million) in November, as most of those employed had not been paid since July. The HRMMU continued to receive reports about threats of reprisals against police officers, doctors and teachers who did not cooperate with the armed groups. Social payments have not been systematic since August. From 3 to 17 November, local residents, mainly women, of Makiivka, Torez, Horlivka, Yenakieve (Donetsk region) and Sverdlovsk, Chervonpartyzansk and Yuvileine (Luhansk regions) rallied to demand that the armed groups fulfil their promises regarding social protection, particularly payment of pensions and child benefits, humanitarian aid distribution and soup kitchens for the most vulnerable groups. There were also protests about the increase in theft and abductions.

52. Access to medical services, especially specialised care, remained limited due to destroyed or damaged healthcare facilities and a growing lack of staff and medical supplies. Emergency medical services in conflict-affected areas were close to collapse due to the shortage of ambulances, fuel and medication. Conditions in institutional care facilities are particularly difficult. For example, on 23 November, it was reported by the OSCE Special Monitoring Mission to Ukraine²¹ that in a regional psycho-neurological hospital near Slovianskerbsk (Luhansk region) only six of the 180 staff remained, none of whom had a medical degree or training in nursing. According to the medical records, 49 patients had died since August and the remaining 350 patients, including 120 bed-ridden ones, were at risk with lack of heating, electricity, gas, food and medication. Constant shelling in the hospital vicinity exacerbated patients' mental conditions.

53. As of 29 November, 28 settlements of Donetsk region had limited water supply, and 34 settlements remained without electricity. In Luhansk region, the settlements of Yuvileine, Novosvitlivka, Stanytsia Luhanska reportedly did not have electricity for up to six months and sewage, water supply and communications consequently did not function. On 27 November, regional authorities reported about 12,000 destroyed public and private facilities and 11,000 families without gas supply in both regions.

54. Without prejudice to their legal status, armed groups are also obliged to respect the rights of residents who remained in areas under their control. These include protecting a minimum

²⁰ According to the data of the State Statistics Service, released on 25 November. No data is available on Luhansk region.

²¹ <http://www.osce.org/ukraine-smm/127184>

level of the enjoyment of economic and social rights, at the very least by facilitating humanitarian access.

55. Throughout the country, the situation of IDPs has become dire. Notwithstanding adoption of a law on IDPs and despite continued efforts by the Government and NGOs to support IDPs, lack of employment, accommodation and proper financial assistance remain of major concern. Additionally, some IDPs reported that the Ministry of Social Policy had refused to register them as they were trying to flee locations controlled by the Government but close to the fighting. As the deadline for registration by 31 December in line with the recent Presidential Decree is running out, the daily influx of IDPs is increasing – from 2,000 IDPs per day at the beginning of November to 5,000 IDPs per day by the end of the month. The overall number of applications to the pension fund regarding the transfer of payments to other departments of the Fund reached 662,000 as of 28 November.

V. ACCOUNTABILITY

Accountability for human rights violations and abuses in the east

56. No significant progress has been reported in the investigations initiated by the MoIA, the Office of the Prosecutor General and the SBU into more than 300 cases of indiscriminate shelling of residential areas since the beginning of the conflict. In some cases armed groups reported having initiated their own ‘investigations’ into indiscriminate shelling of the territories under their control, for instance the shelling of a school playground in Donetsk on 5 November.

57. The Office of the Military Prosecutor, who is responsible for investigating crimes committed by the Ukrainian forces, has not reported of taking any steps to investigate the considerable number of allegations of human rights violations against civilians and violations of international humanitarian law in the east, including looting, arbitrary detention and ill-treatment by members of certain voluntary battalions such as *Aidar*, *Azov*, *Slobozhanshchina* and *Shakhtarsk*.

58. There has been no progress either in the investigation into alleged ‘crimes against peace and security of mankind’, opened by the SBU against the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ in September. According to the SBU, ‘these investigations are based on established evidence of committed crimes, such as torture and inhuman treatment of civilians and captured servicemen, forced labour and looting of national treasures’.

59. According to the SBU, as of 26 November, it had opened more than 3,000 criminal proceedings into crimes of terrorism and separatism. On this basis, 668 people were reportedly apprehended and 186 put on a wanted list. Out of more than 150 indictments reportedly submitted to courts, judgments of conviction were delivered in 30 cases (see Administration of Justice).

Maidan

60. Accountability for human rights violations committed during the Maidan protests (including the deaths of at least 102 demonstrators²² and 13 law enforcement officers) is far from being fully achieved. The pre-trial investigation into the mass killing of protestors on 18-20 February has not significantly progressed with only two *Berkut* special police unit servicemen in custody awaiting trial under charges of killing 39 protestors on 20 November²³. However

²² While according to Presidential Decree No. 890/2014 of 21 November the number of people who died during the Maidan protests amounts to 102, including 3 foreigners, the Office of the Prosecutor General is conducting investigations into the killing of 77 people who died as a result of use of force against Maidan demonstrators in Kyiv, 67 of whom were killed as a result of the use of firearms. 184 people suffered injuries from the use of firearms, whilst more than 750 were injured in other ways.

²³ On 3 April, according to the Office of the Prosecutor General, two *Berkut* officers and their commander were

investigations into some individual cases have been concluded. These include the killing of journalist Viacheslav Veremii, the attack on Tetiana Chornovil, the kidnapping of Yurii Lutsenko and the killing of Yurii Verbytskyi. The Office of the Prosecutor General who investigated the forceful dispersal of the peaceful demonstration on 30 November found the involvement of approximately 30 *Berkut* servicemen in the incident and expects that the case will be submitted to the court soon.

61. According to the Office of the Prosecutor General and the MoIA, the lack of progress in the investigation into the violations and deaths of other protestors is due to the destruction of all evidence and the difficulty in locating all identified suspects as they have fled Ukraine. According to the MoIA, since February more than 400 requests to extradite individuals suspected of committing crimes at Maidan have been submitted to the Russian Federation, with no response to date²⁴. On 16 November, the MoIA announced that the investigation into the killing of 13 law enforcement officers on 18-20 February was ongoing, but according to the law ‘on the prevention of persecution and punishment of individuals in respect of events which have taken place during peaceful assemblies’²⁵, adopted shortly after the events at Maidan with an intention to exempt protesters from criminal liability, proceedings must stop and all materials should be destroyed. Moreover, according to the MoIA, no suspects have yet been identified.

Odesa

62. As a result of the clashes in Odesa on 2 May, 48 people died (two ‘pro-unity’ and 46 ‘pro-federalism’ supporters) and 247 suffered injuries (including 22 policemen).

On 27 November, the trial of 21 ‘pro-federalism’ activists involved in mass disorder in the city centre started in the Primorskyi District Court of Odesa. The MoIA investigation continued into mass disorder at the Trade Union Building. No investigation has been opened into the inaction of the fire brigade during the fire at the Trade Union Building

63. Approximately 40 suspects, all but one from the ‘pro-federalism’ movement – whose six month term of house arrest expired – are currently under no measure of restraint²⁶. The case of the only ‘pro-unity’ activist, suspected in the killing of demonstrators in the city centre, is being investigated separately.

64. On 28 November, the Independent Investigative Commission on 2 May, comprising journalists and civil society representatives, raised grave concerns about the official investigation. In particular, it observed that: evidence was destroyed due to the hasty clean-up of the site by the communal services and the unrestricted access to the Trade Union building until 20 May. It noted that forensic examination was carried out in violation of existing procedures, with re-examination made impossible as some corpses had been buried and others cremated. The Commission deplored that the MoIA ignored the independent expert findings about gunshots that occurred in the Trade Union Building, and stressed the poor professional level of investigators involved. They underlined that the relatives of the deceased had not been granted the status of victim.

officially notified of suspicion and placed in custody. While the first two are to remain in custody until 25 January 2015, their commander was placed under house arrest on 19 September. However his whereabouts are unknown since 4 October, and he has been placed on a wanted list.

²⁴ There is no extradition agreement between Ukraine and the Russian Federation.

²⁵ The Law on the 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, as adopted by the Parliament on 21 February 2014.

²⁶ According to Article 181 of the Criminal Procedural Code, house arrest as a measure of restraint can only be imposed for a period of six months.

Kharkiv

65. The clashes of the far-right organisation ‘Patriot of Ukraine’ and the ‘pro-Russian’ organisation *Oplot* on 14 March, in Kharkiv, resulted in the death of two members of the latter and a number of injured people. According to the MoIA, the investigation into the incident has been stalled as all the members of the ‘Patriots of Ukraine’ alleged to have been involved in the incident are inaccessible for the investigation, due to their participation in the security operation in the east as members of the National Guard Regiment *Azov*²⁷.

Mariupol

66. There has been no official information provided on the status of the investigation into the 11 deaths during the recovery by Ukrainian forces of the Mariupol police headquarters from the armed groups on 9 May. Allegations, however, remain that casualties from this incident may have been the result of the excessive use of force.

Emblematic individual cases

67. Pre-trial investigations have not advanced regarding high-profile cases, such as those of several Ukrainian citizens who, according to the Ukrainian authorities, were illegally transferred to the Russian Federation where they remain in detention: Nadiia Savchenko²⁸, Oleh Sentsov and Oleksandr Kolchenko. The Russian Federation authorities have rejected requests from the Government of Ukraine to release them.

68. The former mayor of Sloviansk Nelia Shtepa, remains in custody in Kharkiv pre-trial detention centre awaiting trial under charges of trespassing the territorial integrity of Ukraine, while an investigation into new charges of membership of a terrorist organisation is on-going. On 20 November, following the application of both the prosecutor and lawyer of Ms Shtepa to transfer the trial to the Slovianskyi District Court, the High Specialised Court for Civil and Criminal Cases ruled that the case was to be decided by the Chervonozavodskyi District Court of Kharkiv, which was involved in the pre-trial investigation.

Administration of justice

69. The overall concern with the administration of justice relates to violations of fair trial standards. The HRMMU has evidence of ill-treatment, with allegations at times amounting to torture of people arrested by the SBU and MoIA in trying to secure forced confessions. In reviewing available court decisions, the HRMMU found that in at least 19 of the 30 criminal cases investigated by the SBU, the court based its decision on a plea bargain.

VI. LEGISLATIVE DEVELOPMENTS AND INSTITUTIONAL REFORMS

70. Ukraine is in the process of elaborating a five-year human rights strategy to be completed by 1 January 2015. The preparation of the strategy follows a consultative process led by the Government and involving civil society and the Ombudsman’s office, with the support of the United Nations system, through the HRMMU, and the Council of Europe

71. Different proposals on the decentralization of power have not yet translated into binding commitments. The Parliament has not discussed the draft law on amending the Constitution containing provisions on local self-governance, which President Poroshenko submitted in July. In the meantime, the European Commission for Democracy through Law (Venice Commission)

²⁷ Previously named the Special Police Patrol Battalion *Azov*, the unit was recently moved under the National Guard within the MoIA chain of command.

²⁸ Nadiia Savchenko was elected at the Parliamentary elections. A former member of the 24th Territorial Defence Battalion *Aidar*, who was abducted by the armed groups on 17 June in Ukraine and then illegally transferred to the Russian Federation where she is held in custody awaiting trial charged with killing of two Russian journalists. The lawyers of Nadiia Savchenko have complained about difficulties to have confidential communication with their client during the investigation.

of the Council of Europe has provided a generally positive assessment of this draft. The new coalition agreement of 21 November also outlines various measures towards greater decentralization.

72. A law establishing criminal proceedings *in absentia* entered into force on 31 October, thereby creating the legal conditions to try the former President of Ukraine and other high level officials who left the country after the Maidan protests. While international law states that proceedings in the absence of the defendant may in some circumstances be permissible in the interest of the proper administration of justice, the grounds for prosecution mentioned in the law are wide, making the frequent use of this procedure a possibility. This poses a question of compatibility with international law, which recognizes the right for an accused to be present in person at his/her trial.

73. The dismissal of public officials under the lustration law adopted in October has started. While motivated by the intention to fight corruption and abuses and the significant public support for such a measure, the law could be applied in a discriminatory and arbitrary manner. On 17 November, the Supreme Court filed an application to the Constitutional Court to assess the constitutionality of certain provisions of the Law ‘On Purification of Government’. The authorities adopted and later withdrew support from two laws drafted pursuant to the Minsk Protocol of 5 September. This decision, which applied to an amnesty law for ‘armed formations’ and a law providing for local self-government in parts of the Donetsk and Luhansk regions, followed the conduct of ‘elections’ in areas controlled by the armed groups on 2 November. These ‘elections’ did not follow Ukrainian legislation, a circumstance which the Ukrainian authorities deemed to be in violation of the Minsk Protocol.

74. Following the 2 November ‘elections’ held in parts of Donetsk and Luhansk regions under the control of the armed groups, the National Security and Defence Council drew up measures later enacted by Government decisions in early November and by a Presidential Decree on 14 November, instructing the temporary relocation of state institutions and enterprises) from the areas controlled by the armed groups. This decision, and its implementation, could have considerable consequences for the population in the eastern regions as the institutional vacuum it could create may give rise to a severe protection gap, and to exacerbate economic and social vulnerabilities.

75. Furthermore, the Ministry for Foreign Affairs was instructed to inform the Secretary General of the Council of Europe of Ukraine’s request for derogation from its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms, under article 15 on derogation that should be applied to the eastern Ukraine. No derogation has yet been requested from the International Covenant on Civil and Political Rights, but is also under consideration.

76. For the legal protection of IDPs the law on IDPs²⁹, which entered into force on 22 November. It establishes a unified IDP database, simplifies residence registration, obliges the state to provide free temporary accommodation for six months, introduces guarantees for educational and labour rights and upgrades the provision of humanitarian assistance. While the new law is generally in line with the United Nations Guiding Principles on Internal Displacement, it applies to ‘citizens’ of Ukraine, and may exclude stateless persons and foreigners legally residing in Ukraine who have been displaced.

77. A large vote for pro-European and pro-reform parties has allowed the President and the Prime Minister to form a broad parliamentary coalition. The coalition agreement defines future policies aimed at Euro-Atlantic integration, the return of Crimea, decentralisation, the abolishment of immunity for deputies, the establishment of anti-corruption bodies and of a

²⁹ The law on ensuring rights and freedoms of internally displaced persons, No. 1706-VII, 20 October, 2014.

presidential impeachment procedure among other measures. On 27 November, Ukraine's new parliament was sworn in and then appointed Mr. Yatseniuk as Prime Minister.

78. A European Union roadmap for over 60 legislative and institutional reforms presented by the President on 25 September, and reflected in the post-election coalition agreement of November started being implemented. This includes also the fight against corruption, modernizing the judiciary, reforming the police and decentralization.

VII. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA

79. The situation in the Autonomous Republic of Crimea continued to be characterized by systemic human rights violations affecting, for the most part, the segment of the population which opposed the unlawful March 'referendum' and the arrival of 'authorities' applying Russian Federation laws. These developments were not recognized by the United Nations whose position on the status of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine.

80. Most violations involved the Crimean Tatar minority, the most outspoken in its opposition to the unfolding events. Unlike previous months, there were no reported cases of enforced disappearances in November. Investigations continued into the nine documented cases of enforced disappearances – eight Crimean Tatars and one ethnic Ukrainian – that took place since March. During the same period, three persons were found dead (Reshat Ametov in March, Edem Asanov and Belial Belialov in October). No breakthrough in the investigations has yet been reported. On 21 November, unknown masked men raided the Central Market in Simferopol, arresting 15 people of 'non-Slavic appearance' who were Crimean Tatars. They were taken to the local police 'department for countering extremism', but no charges were brought against them. This followed a similar raid on the Lokomotiv Market on 15 November, by the police, Federal Security Service and the Federal Migration Service, which detained 60 people who were taken to the same police department. They were questioned about their migration status, as well as their suspected membership of religious and other associations and then released after their fingerprints, DNA and photos were taken. The HRMMU is concerned that such raids may be misused as a means of intimidating the Crimean Tartar community.

81. On 14 November, the Crimean Court of Appeal upheld a ruling of the Simferopol court from 24 October over Tair Smedliaiev, the brother of Zair Smedliaiev, head of the election committee of the *Kurultay* (the Crimean Tatar Assembly). The ruling means that Mr Smedliaiev is charged with violation of the article 318 (violence against police officer) of the Criminal Code of the Russian Federation and ordered to serve two months pre-trial detention as a measure of restraint. The violence Mr Smedliaiev is charged with allegedly occurred when he and 2,000 other Crimean Tatars came to the administrative border with mainland Ukraine on 3 May to attempt to greet the banned visit of the Crimean Tatar leader Mustafa Jemilev. The case is regarded by the defendant as a form of political pressure.

82. On 18 November, the Simferopol Court fined the charitable organization Crimea Fund RuR 4.5 million (approximately USD 95,745) and its director RuR 350,000 (approximately USD 7,450). The decision was based on the Fund having leased its building in Simferopol to the Mejlis (representative body) of Crimean Tatar people and the Crimean Tatar newspaper *Avdet*, without the consent of the 'Crimean committee for the protection of cultural heritage' (established post 'referendum'); and because of unauthorised repair work on the building. The director of the Fund believes that the fines are the latest in a chain of measures aimed at the Fund's termination³⁰.

³⁰ On 16 September, the building was surrounded by armed men, while FSB officers carried out an 11-hour-search seizing documents, Islamic literature, computers, etc. The next day bailiffs ordered the Crimea Fund, the Mejlis and

83. Citizenship issues and human rights concerns deriving from them continued to be a central issue. On 20 November, the Russian Federation Government set the quota for the issuance of temporary residence permits for foreigners and persons without citizenship for 2015. For Crimea and Sevastopol the quota is only 1,900 permits (the smallest one for any of the federal regions). This may cause many problems for Crimean residents who refused to previously acquire Russian citizenship and may lead to the expulsion of foreigners and Ukrainian citizens who do not obtain permits.

84. The HRMMU obtained information regarding cases of dozens of representatives of different confessions and religious communities who have been harassed or forced to leave the peninsula since March. This situation adversely affects the ability of Crimean residents to practice their religion in accordance with international standards guaranteeing freedom of conscience and religion. Churches belonging to the Ukrainian Orthodox Church of the Kyiv Patriarchate have been attacked by armed individuals without any investigation into the incidents and four out of twelve had to close. Greek-Catholic priests faced threats and persecution, resulting in four out of six of them leaving Crimea. A Polish citizen and the senior Roman Catholic priest in the Simferopol parish had to leave on 24 October, due to the non-renewal of Ukrainian residence permits. Most of the 23 Turkish Imams and teachers on the peninsula have left for the same reason. All religious communities must seek registration in accordance with Russian legislation by 1 January 2015, in order to acquire legal status and continue operating.

85. A recent trend has been the increasing violations of property rights. Since 18 September, over 20 facilities, including health resorts, pensions and hotels were nationalized. Actions amounting to forcible seizure of private property and equipment from individuals or companies maintaining links to Ukraine took place. In November, illegal expropriations of servicemen's apartments belonging to the Ukrainian Ministry of Defence appear to have begun. Such apartments are normally given to servicemen with an exclusive right to the enjoyment of the property including a right for free privatisation.

VIII. CONCLUSIONS

86. Respect for human rights, good governance and the rule of law are key to peace and security and economic and social development. An environment conducive to the promotion and protection of human rights in Ukraine depends on respect for General Assembly resolution 68/262 on the sovereignty and territorial integrity of Ukraine; the absence of an armed conflict which is fuelled by the continuing presence of foreign fighters, with some identified by the Government of Ukraine as servicemen from the Russian Federation, as well as the influx of heavy and sophisticated weaponry; and the effective control of the State borders between Ukraine and the Russian Federation.

87. The continued fighting, shelling and hostilities in the east must be brought to an end to stop the daily loss of life and injury. Moreover, with the onset of winter, residents of the conflict affected areas, are facing increased hardships and are being pushed to the brink of survival. With the recent issuance of Government decision on the relocation of State institutions to territory controlled by the Government from areas under the control of armed groups, it should be recalled that the Government of Ukraine remains responsible for protecting human rights of residents in all its territory, including those territories in the East of Ukraine which remains held by armed groups. The implementation of the decisions to withdraw public services through the relocation of facilities and to the requirement for people to register in Government controlled

the *Avdet* newspaper to vacate the building within 24 hours. Later the 'prime minister' of Crimea declared that the Mejlis was never properly registered and therefore 'did not exist'. The Director said he would appeal to European Court of Human Rights to challenge the court decision.

areas to receive social payments should be carefully considered in order not to breach the State's obligations under the ICESCR and its commitment to respect economic and social rights, such as the right to health, education, social security and work. The new Parliament constituted on 27 November comprises, for the first time, a pro-European majority. Five of the six largest parties and some non-aligned deputies (302 out of 423 filled seats³¹) have formed a parliamentary coalition 'European Ukraine' and drawn up a coalition agreement of pro-European and pro-reform policies. It is in a unique position to press ahead with reforms to improve human rights, build effective governance and advance in the rule of law, as previously announced by the President in his September speech³². In undertaking its work, the coalition should take into account the protection of rights and the needs of linguistic, ethnic, religious and other minorities, who have no representation in parliament. A key measure of whether such rights are being taken into account will be seen in Parliament's approach to fulfilling Constitutional guarantees as stipulated under article 10, and expressly referred to by the President in his inaugural speech, that provide for the free development of Russian and other languages while maintaining Ukrainian language as the single State language.

88. OHCHR appreciates the good cooperation extended by the Government of Ukraine to the HRMMU (HRMMU) during 2014. A Human Rights Mission in Ukraine will continue to monitor and report on the evolving situation in 2015, with a view to contributing to an unbiased and accurate assessment of the human rights situation. It will also increase its advice and support to the Government, Office of the Ombudsperson, civil society in the implementation of the strategy and plans for human rights aimed at strengthening the national human rights protection system. The UN Human Rights Mission will do so in close cooperation with the international community, including regional human rights organizations, as well as the UN system in Ukraine. In addition, the Human Rights Mission will actively participate in efforts aimed at protection as part of the UN response to the humanitarian challenges in Ukraine, especially in the east.

IX. RECOMMENDATIONS

89. Since its first report on 15 April 2014, OHCHR has issued a series of recommendations on the human rights situation in Ukraine. A clustered thematic compilation of these can be found in Annex I.

³¹ Petro Poroshenko Bloc 132 deputies, People's Front 82, the Self Reliance party 33, the Opposition Bloc 29, the Radical Party 22, *Batkivshchyna* 19 and *Svoboda* (Freedom) 6. Additionally the smaller parties of: Strong Ukraine, *Zastup*, *Volia* (Liberty) and Right Sector received 1 delegate each from voting in single mandate majority districts. Others are self-nominated candidates of undeclared party affiliation were also elected in the single mandate majority districts. The final figure of filled seat is still changing based on final calculations by the CEC for those seats which are still disputed.

³² Thus, two thirds of the new Parliament who share the same views may now take all decisions which require a constitutional majority, rather than a usual (50% + 1) majority, such as Presidential impeachment, a vote of no confidence in the government, constitutional change, etc.

ANNEX I

Compilation of recommendations

made by the UN Human Rights Monitoring Mission in Ukraine in eight reports issued from 15 April to 15 December 2014

I. TO THE GOVERNMENT OF UKRAINE

Right to life, liberty and security

1. Ensure that its armed forces refrain from using excessive force, and ensure that its ongoing security operations are at all times in line with the relevant international standards applicable to different types of operations. In all circumstances, ensure the protection of those who are not involved in the fighting.
2. Treat all people detained in the context of the security operations in line with international norms and standards and guarantee their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law.
3. Close all secret and ad hoc detention facilities and ensure that detainees are kept only in officially recognised and supervised places of detention, and that all their rights are fully respected. Guarantee that all detainees can communicate with and be visited by their families, have access to doctors and legal counsels. Lawyers must have access to the information concerning: 1) the authority that ordered the detention; 2) the date, time and place where the person was arrested and admitted to the detention place; 3) the authority responsible for supervising the detention place; 4) the whereabouts of the detainee, including, in the event of a transfer to another detention place, the destination and the authority responsible for the transfer; 5) the date, time and place of release; and 6) elements relating to the state of health of the detainee.
4. Establish a transparent and accessible mechanism for families seeking to find missing persons, including military personnel.
5. Ensure informed consent of detainees who are to be exchanged as a result of the Minsk protocol of 5 September.

Accountability and the rule of law

6. In the cases of the violence at Maidan, Odesa, Mariupol and Rymarska, independent, effective and impartial investigations in full compliance with international norms and standards must be ensured. Perpetrators must be brought to justice in a fair and non-selective manner; remedies and adequate reparations for victims must be ensured.
7. All violations of international law, including those that may constitute war crimes, must be fully investigated and accountability guaranteed, including for command responsibility; perpetrators must be promptly brought to justice and victims provided with remedies and reparations.
8. Investigate promptly and systematically allegations of summary, extra-judicial or arbitrary executions in the conflict zone, and take all measures to ensure the preservation of evidence.
9. Ensure that all victims captured by the armed groups are interviewed by the law enforcement immediately upon their release from captivity, in order to collect evidence for future prosecution of perpetrators.

10. Develop a simplified procedure for the victims of crimes committed by armed groups to apply to law-enforcement (for example, without a link to territorial jurisdiction to the place where the crime was committed).
11. All allegations of sexual violence, which under some circumstances constitute international crimes (war crimes, crimes against humanity), must be fully investigated, with regard to the needs of victims and specific methodologies (e.g. the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict).
12. All incidents of illegal seizure of property must be promptly investigated; clear procedures should be developed to return the property to the lawful owners.
13. Adopt effective prosecutorial strategies to bring to justice the perpetrators of violations of human rights and humanitarian law.
14. Reprisals against people in territories regained by the Ukrainian Government should be avoided and the rights of those detained/charged must be fully observed by the Ukrainian armed forces and law enforcement agencies.
15. Ensure that any lustration initiatives are pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.

Freedom of expression and peaceful assembly

16. Ensure freedom of expression for all and take all measures that will ensure the safety of journalists, media professionals and human rights defenders so that they are able to play their full role in shaping the future of their country.
17. Prevent media manipulation by ensuring the dissemination of timely and accurate information. Take action against deliberate manipulation of information, in compliance with international standards of freedom of expression and in full respect of due process guarantees.
18. Ensure freedom of the media and regulatory monitoring of media professionalism, disinformation, and advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.
19. Take resolute steps to prevent negative stereotyping of minority communities in the media, while fully respecting the freedom of the press. Efforts to train media professionals must be increased, including by further promoting the visibility and effectiveness of the work of the national union of journalists in this regard.
20. Adopt legislation and other measures needed to ensure the right to peaceful assembly in compliance with the requirements of article 21 of the International Covenant on Civil and Political Rights. In particular, ensure that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management of peaceful assemblies.
21. Peaceful demonstrations must be permitted, as a matter of international law, and also as a way for people to express their opinion. Law enforcement agencies must facilitate peaceful assemblies, ensuring the protection of participants, irrespective of their political views. In this context, law enforcement officers must receive adequate training for handling rallies and protests in line with the international human rights standards.

Combatting hate speech

22. Combat intolerance and extremism and take all measures needed to prevent advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and punish such incitement or acts of violence, which is of fundamental importance.

23. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.

24. All stakeholders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination. Political leaders should play a role in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech³³ and publicly condemning them.

Inclusivity, equal political participation and rights of minorities

25. Ensure inclusivity and equal participation of all in public affairs and political life, including members of all minorities and indigenous peoples and establish a mechanism to facilitate their participation.

26. Ensure that legislation on minorities, in particular on linguistic rights, is adopted following full consultation of all minorities concerned and according to relevant international and regional human rights standards.

Legislative, policy and institutional reforms

Legislation

27. Adopt a law on freedom of assembly and review legislation and policies applicable to the management of peaceful assemblies to ensure their compliance with human rights standards. In particular, these should specify that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management. In this regard, particular attention should be paid to the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Ensure that such policies, practices and instructions are observed through rigorous training for the personnel involved. In particular, effective internal oversight mechanisms must be put in place in order to review all incidents of injury or loss of life resulting from the use of force by law enforcement personnel as well as all cases of use of firearms during duty.

28. All gaps of legislation should be brought in line with the recommendations of the international human rights mechanisms (treaty bodies, universal periodic review and special procedures); the Judiciary, Office of the Prosecutor General and the Bar Association should operate in line with relevant international norms and standards in order to ensure fair trial without which it is impossible to tackle corruption.

29. The process of developing a new Constitution should foresee inclusive and meaningful consultations with political parties, representatives of civil society, women, minority groups and indigenous peoples in order to embrace all components of society.

30. Refugee law should be fully brought in line with international standards and sufficient funds allocated to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.

Institutional reforms

31. The law enforcement reform package should aim to reinforce the rule of law; to de-politicise, de-militarise, de-centralise and strengthen the structure of the law enforcement bodies through accountability, transparency, and closer cooperation with the public and local communities, as well as professionalising the staff.

³³ See the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4, appendix, para. 36).

32. Reform the administration of justice system so that it functions independently, impartially and effectively; reform the security sector so as to ensure that it functions in full respect of international norms and standards; provide for full accountability for human rights violations.

33. Ensure the institutional independence of the State Bureau of Investigation, under Article 216 of the new CCP, which provides for its creation within five years (as of 2012) to enable it to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. It will be very important to ensure that this new body is independent from the Prosecutor's Office. Public accountability and sufficient resourcing is essential to enable it to function effectively, promptly, independently and impartially.

34. Call on all the authorities to support the drafting of a national human rights strategy for Ukraine by 1 January 2015.

35. The role and position of the Ombudsperson and National Preventive Mechanism, as the main bodies / institutions working towards the strengthening of the national human rights system and the protection and guarantee of human rights for all, should be enhanced.

Economic and social rights

36. Take concrete steps to redress disparities in standards of living and equal access to and quality of health, education, employment, and social support structures for all, including marginalised communities throughout the country.

37. Ensure that all those living in Ukraine are provided with basic assistance, services and shelter/heating needs in accordance with international norms and standards and that the necessary legal institutional framework to support this is enacted.

38. Ensure the equal provision of services and utilities, as well as humanitarian and social assistance where needed, for both those who have remained and returnees.

39. Take immediate action to facilitate access to, and the provision of, treatment for HIV/AIDS and Tuberculosis, as well as of essential medicines, particularly in conflict-affected areas, in order to prevent the interruption of treatment.

Internally displaced persons

40. Needs of IDPs, including shall be addressed by the Government in coordination of civil society and in cooperation with international donors, in line with the UN Guiding Principles on Internal Displacement.

41. Collect and make publicly available comprehensive and reliable gender-disaggregated statistics concerning IDPs and other people affected by the conflict (including those killed and wounded).

Women's human rights

42. Conduct national consultations, with the involvement of civil society, to develop a national action plan in accordance with Security Council resolution 1325 to promote women's equal and full participation as active agents in the prevention and resolution of conflicts, peace-building and peacekeeping, as well as incorporate gender perspective in all areas of peace building.

43. Encourage adoption of temporary measures to ensure greater participation of women in public life, including in Parliament.

Engagement with the international human rights system

44. Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.

45. Ratify international human rights instruments to which Ukraine is not yet party. These include, the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.

46. Implement recommendations of international human rights mechanisms. The recommendations and concerns expressed in the past few years by several human rights mechanisms continue to be of relevance and should be taken into account by the authorities when considering various reforms that will greatly impact on the protection of human rights for all people in Ukraine:

- a. In particular, the UN Human Rights Committee issued several important recommendations in July 2013 when it considered the latest periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights;
- b. The recommendations adopted by the UN Human Rights Council following the Universal Periodic Review of the human rights situation in Ukraine in October 2012 should also be taken into consideration.
- c. The report of the UN Sub-Committee on the Prevention of Torture following its visit to Ukraine in 2011 should be made public immediately and taken into consideration by the authorities when considering issues related to torture, ill-treatment, and detention related matters.
- d. Ukraine has issued a standing invitation to special procedures. It should accommodate requests for such visits.
- e. Encourage the development of a national human rights action plan, with clear timelines and benchmarks, addressing every recommendation resulting from the international and regional HR systems to be implemented within a certain time-frame - with the support of the international community, regional and bilateral actors, and the UN system.

II. TO ALL THOSE INVOLVED IN THE HOSTILITIES IN THE EASTERN REGIONS OF DONETSK AND LUHANSK

Armed hostilities

1. Urgently put an end to fighting and violence in the eastern regions of Ukraine.

Protection of civilians

2. Comply with the principles of distinction, proportionality and precaution, and in any situation refrain from indiscriminate shelling of populated areas or positioning in areas that put civilians in danger.
3. Targeting civilians and civilian infrastructure are violations of international humanitarian law; those who have committed such crimes must be held accountable.
4. Ensure that all those involved in the situation in Ukraine adhere to norms and principles of international humanitarian law and provide free and safe passage for civilians and humanitarian relief in strict compliance with existing international standards

Detainees

5. Immediately release all persons illegally or arbitrarily deprived of their liberty.
6. Guarantee transparency regarding the release of detainees, and prevention of abductions, enforced disappearances, trafficking in persons and other related human rights violations and abuses.

Treatment of bodies

7. Ensure the treatment with due respect and dignity of the bodies and remains of people killed as a result of hostilities. Provide free and safe access to the areas where such bodies and remains can be found to collect them and ensure their identification and a dignified and decent burial, and return them to their families. Preserve evidence of possible summary executions.

Access for international organisations

8. Guarantee access to areas affected by the hostilities for international organisations and independent investigators.

III. TO THE AUTHORITIES IN CRIMEA AND THE DE FACTO GOVERNING AUTHORITY OF THE RUSSIAN FEDERATION

1. Reaffirming UN General Assembly resolution 68/262, entitled ‘Territorial integrity of Ukraine’, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.

Legislation

2. Ukrainian legislation should remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.

Right to life

3. Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security.

4. Actively resolve cases of missing persons, and grant access to places of detention, including the military facilities and offices in Simferopol and Sevastopol, to all international organisations requesting it.

Accountability

5. Criminal and administrative liability should not be used as a mechanism of intimidation against Crimean Tatars and other residents of Crimea, but used in line with international law.

6. Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.

7. All forms of intimidation and harassment of religious communities must be put to an end and all incidents, including those where there have been attacks on Ukrainian Orthodox Church, Greek Catholic Church and the Muslim community must be properly investigated, thus enabling the effective promotion and protection of the freedom of religion or belief.

8. Publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions.

9. Investigate all allegations of hate speech and media manipulation, and take appropriate measures to prevent them and take appropriate sanctions while fully ensuring and strengthening freedom of expression.

10. Investigate the cases of alleged killing and enforced disappearances of Crimean civil activists (Reshat Ametov, Timur Shaimardanov, Seiran Zinedin, Leonid Korzh, Vasyl Chernysh) as well as shooting of the Ukrainian major on 6 April and hold accountable the perpetrators.

11. Urge the ‘contact group’ to make progress on investigations of cases of disappearances and deaths and ensure that perpetrators of crimes are held to account.

Freedoms of expression, peaceful assembly, religion, association and movement

12. Journalists, human rights defenders and individuals must be able to fully exercise their right to freedom of expression, in accordance with Article 19 of the International Covenant on Civil and Political Rights.
13. Promote and protect freedom of expression, guaranteeing full and non-discriminatory access to information for all.
14. Guarantee all fundamental rights to all persons in the Autonomous Republic of Crimea, including freedoms of peaceful assembly and association, expression, religion and movement, as well as right to education and guarantees of economic and social rights.

Rights of minorities and indigenous peoples

15. The promotion and protection of the rights of national minorities, including the Crimean Tatars and other indigenous peoples must be ensured, enabling them to participate fully and inclusively in public and political life.
16. Put an end to selective searches of facilities and the confiscation of property belonging mostly to Crimean Tatars.
17. Promote inter-ethnic harmony, and put an end to intimidation and persecution.
18. End pressure and intimidation against the Crimean Tatars linked to the Mejlis, including the multiplication of searches of private property under the pretext of combatting extremism.
19. Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.
20. All acts of discrimination and harassment towards members of minorities and indigenous peoples – in particular Crimean Tatars – and other residents who did not support the ‘referendum’ must come to an end, and all their human rights must be guaranteed.

Internally displaced persons

21. Ensure that citizens of Ukraine who fled the conflict in the east of the country and go to Crimea are not forcefully resettled in the Russian Federation.

Rule of law

22. Take all needed measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to access to citizenship, right of residence, labour rights, property and land rights, access to health and education.
23. Act to re-establish the rule of law, including by the effective disbandment of any and all ‘self-defence forces’ and/or para-military groups.
24. Grant access to independent and impartial human rights monitors, including by OHCHR.
25. OHCHR reiterates the need to implement UN General Assembly resolution 68/262, entitled ‘Territorial integrity of Ukraine’, as well as to undertake measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
26. Strengthen the security of Crimean residents by acting to curb human rights violations committed by the ‘Crimean self-defence’ groups.

27. Reconsider the legislative initiative to grant amnesty to the ‘Crimean self-defence’ group and reiterate that all allegations of gross human rights violations and abuses must be investigated, their perpetrators identified and punished and their victims duly compensated.

Engagement with the international human rights system

28. The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

29. Agree to the deployment of independent and impartial human rights monitors, including by the HRMMU.

30. Ensure monitoring of the human rights situation in Crimea by the UN HRMMU.