

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

**Report on the human rights situation in Ukraine**

**1 December 2014 to 15 February 2015**

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## I. EXECUTIVE SUMMARY

1. This is the ninth 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 Mission in Ukraine (HRMU)<sup>1</sup>. The report covers the period from 1 December 2014 to 15 February 2015. The report presents the outstanding and emerging human rights challenges in the eastern regions of Ukraine and in the Autonomous Republic of Crimea<sup>2</sup> (hereafter Crimea) as well as other parts of the country. It considers the human rights situation of all population groups affected by the ongoing current conflict and political developments, including internally displaced persons and other vulnerable groups.

2. The impact of the conflict on the human rights of those living in areas affected by the fighting in the eastern regions is dramatic and frequently life threatening in areas where fighting and indiscriminate shelling take place. OHCHR calls for intensified efforts by all parties to the conflict to achieve a peaceful solution and to comply fully with the Minsk agreement, and allow civilians remaining in areas affected by fighting to be evacuated on a voluntary basis. Statements by representatives of armed groups rejecting any ceasefire agreement and to scale-up offensives have been deeply worrying<sup>3</sup>. It is imperative that indiscriminate shelling of civilian areas and targeting of civilians and civilian property and infrastructure must cease immediately.

3. Non-implementation of all the provisions of the Minsk agreement concluded in September 2014 has had a serious impact on the human rights situation, especially the number of civilians killed and wounded and persons displaced. The situation in numerous localities affected by fighting has been characterized by the increasing use of heavy and sophisticated weaponry, including multiple launch rocket systems (MLRS), new offensives in several areas and indiscriminate shelling. Credible reports indicate a continuing flow of heavy weaponry and foreign fighters throughout the reporting period, including from the Russian Federation, into areas of the Donetsk and Luhansk regions controlled by armed groups. This has sustained and enhanced the capacity of armed groups of the self-proclaimed 'Donetsk people's republic' and 'Luhansk people's republic'<sup>4</sup> to resist Government armed forces and to launch new offensives in some areas, including around the Donetsk airport, Mariupol and Debaltseve.

4. The peace talks on 11-12 February 2015 in Minsk resulted in agreement, *inter alia*, to a new ceasefire starting from 15 February; the withdrawal of heavy weaponry from the contact line; the establishment of 50-140 km security zone; and the withdrawal of foreign armed formations, mercenaries and weapons from the territory of Ukraine. OHCHR welcomes the provision regarding an 'all for all' release of hostages and unlawfully detained persons. OHCHR has advocated for this at the highest levels with representatives of the armed groups, Government and the facilitators. Regarding the provision on amnesty for those involved in the conflict, OHCHR reiterates the long-standing position of the United Nations that amnesty must not be granted for international crimes, including gross violations of international human rights and humanitarian law.

5. Following a relative lull in the hostilities in December under the 'silence regime', the security and human rights situation in the east dramatically deteriorated in January and early February 2015. In areas of hostilities, there is continuing and indiscriminate shelling of highly

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<sup>1</sup> The Human Rights Monitoring Mission in Ukraine has evolved into the Human Rights Mission in Ukraine due to its enhanced work, which includes technical cooperation.

<sup>2</sup> The United Nations' position on the status of the Autonomous Republic of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine.

<sup>3</sup> The 'prime minister' of the self-proclaimed 'Donetsk people's republic', Aleksandr Zakharchenko, stated in January that they would continue to push back government forces to the limits of the eastern Donetsk region. "Attempts to talk about a ceasefire will no longer be undertaken by our side," he said.

<sup>4</sup> Hereafter 'Donetsk people's republic' and 'Luhansk people's republic'.

populated civilian areas by all parties and an escalating toll of civilian casualties killed and injured on a daily basis, including women, children and elderly people. From mid-April 2014 until 15 February 2015, at least 5,665 people were killed (including 298 from MH-17 flight) and 13,961 were wounded in the east of Ukraine<sup>5</sup>.

6. Heavy civilian tolls of dead and wounded have resulted from indiscriminate shelling of residential areas in both Government-controlled areas, such as in Avdiivka, Debaltseve, Popasna, Shchastia and Stanychno Luhanske, as well as cities controlled by the armed groups, including Donetsk, Luhansk and Horlivka. On 13 January, 13 civilians were killed and 18 wounded, when a bus was hit by an MLRS GRAD rocket at a Ukrainian checkpoint near the Government controlled town of Volnovakha. At least 31 people were killed, including 2 children, and 112 wounded in the Government controlled city of Mariupol, following deadly attacks on 24 January by multiple launch rocket systems. An intensification of hostilities was evident immediately prior to the February peace talks. On 10 February seven civilians were killed and 26 injured in attacks on Kramatorsk, the headquarters of Ukraine's 'anti-terrorism operation'.

7. The fighting and indiscriminate shelling have caused heavy damage to civilian property and vital infrastructure, leaving civilians in highly precarious situations and often without electricity, gas, heating, water or food. Hospitals, schools and kindergartens were hit by shelling of residential areas, including in Avdiivka, Donetsk city, Horlivka, Luhansk, Mariupol and other settlements, raising suspicion that civilian objects have been targeted or at the minimum indiscriminate shelling of such areas had been conducted in the knowledge of and with stark disregard for international humanitarian law and civilian lives.

8. Despite welcome steps by the Government of Ukraine to continue to supply gas and electricity to some of the areas held by the armed groups, the impact of the destruction in these areas is severe in freezing winter temperatures, particularly affecting older persons, persons with disabilities and others with limited mobility. Many civilians have remained trapped in conflict zones. Locally agreed ceasefires and evacuation efforts have been inconsistent and reports suggest inadequate evacuation modalities, including provision of transport and other assistance, have been made available by the Government or by armed groups in areas under their control. Civil society volunteers continued to play a vital role in the evacuation of civilians. Many persons remaining in areas controlled by armed groups lack the capacity, resources or assistance to leave such areas voluntarily.

9. Evacuees interviewed by the HRMU highlighted the lack of information on evacuation opportunities and further steps. Some said that they had to arrange their own travel out of the conflict zone, although there was an organized evacuation from some towns. As of 12 February, the Ministry of Social Policy reported that since 24 January, 1,898 children had been evacuated from the immediate vicinity of fighting in Donetsk and Luhansk regions. Many of these children were unaccompanied and the HRMU emphasizes the importance of keeping families together wherever possible.

10. Guaranteeing the protection of those who live within the conflict-affected area must be the highest priority. Thousands of civilians remain trapped in locations including Debaltseve, sheltering in basements and lacking drinking water, food, heating, electricity and basic medical supplies. Evacuations have been hampered by lack of information and consistent shelling. A ceasefire agreement on 6 and 7 February allowed many hundreds to leave Debaltseve and adjacent villages. However, according to some of the evacuees, approximately

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<sup>5</sup> This is a very conservative estimate by the HRMU and the World Health Organization based on available data. These totals include casualties within the Ukrainian armed forces as reported by the Ukrainian authorities and casualties reported by civil medical establishments of Donetsk and Luhansk regions: civilians and some members of the armed groups (without distinguishing them). The actual number of casualties is likely to be far higher since military and civilian casualties remain under-reported.

20 per cent of the original 26,000 residents have remained in the area, mostly older persons, but also some families with children. Electricity, water and telephone connections are disrupted and people have little food. Some underground shelters are reportedly now flooded and unusable.

11. On 11 January 2015, the State Security Service of Ukraine (SBU) announced the introduction of a temporary order to regulate travel in and out of the conflict area, which became effective on 21 January<sup>6</sup>. This requires that movement into and out of the areas controlled by armed groups must be through seven government-designated transport corridors. Furthermore, special passes are required based on the necessity to travel and may be refused, including on grounds related to national security or public order. IDPs reported inconsistent practice and corruption in securing the vitally needed passes to leave the area of armed conflict. This temporary order is particularly concerning in light of the Government decision in November 2014 to discontinue providing State services in the territories controlled by armed groups, which has had a severe effect on the most vulnerable groups, such as older people, mothers with young children and persons with disabilities, who depend heavily on social benefits. For humanitarian reasons the Government continues to supply gas and electricity to the areas under the control of armed groups. On 26 January, the Government introduced an ‘emergency situation’ regime in Donetsk and Luhansk and a state of ‘high alert’ throughout the rest of Ukraine. OHCHR notes that this does not diminish the human rights obligations of the State.

12. Ensuring the safety and security of persons, as well as access to humanitarian aid for vulnerable persons, and non-discriminatory delivery of humanitarian aid are therefore critical concerns. The United Nations and other humanitarian organizations continue to seek assurances of free and unimpeded access to all areas to perform their essential humanitarian functions.

13. In many locations, reception centres for internally displaced persons (IDPs) are overwhelmed, under-resourced and unprepared for potentially high levels of expected new arrivals. Since the beginning of hostilities in April 2014 there has been massive displacement. On 13 February, the Ministry of Social Policy reported that the number of registered IDPs had exceeded one million people. According to UNHCR, 60 per cent of IDPs are pensioners<sup>7</sup>. Those internally displaced by recent fighting commonly flee their homes with very few possessions, inadequate warm clothing and with few financial resources. They are consequently entirely reliant on assistance provided by the Government, the self-proclaimed ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, the United Nations, international and national humanitarian actors and volunteers.

14. Allegations of violations of international human rights law and international humanitarian law have persisted over the reporting period. Credible reports of arbitrary detentions of civilians, torture and enforced disappearance have been alleged against the armed groups and the Government. The HRMU interviewed victims and verified numerous accounts of acts that may amount to torture or other cruel, inhuman or degrading treatment or punishment. The arbitrary detention of civilians regrettably remains a feature of the hostilities, including for the purpose of prisoner exchanges. In areas controlled by the armed groups, ‘parallel structures’ have been established and the break down in law and order in these areas

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<sup>6</sup> Temporary Order on the control of movement of people, transport vehicles and cargoes along the contact line in the Donetsk and Luhansk regions.

<sup>7</sup> Many reportedly continue to live on the territories controlled by the armed groups and register as IDPs in Government-controlled areas for the sole purpose of receiving social payments. The Cabinet of Ministers issued an unofficial instruction to regional offices of social protection to check actual places of residence, but the local authorities informed the HRMU that they lack capacity to conduct such checks.

accommodates persistent violations of the rights of civilians, including abductions, arbitrary detention, beatings and alleged torture.

15. Following a Presidential decree on the fourth wave of mobilization on 19 January 2015, there were public appeals against mobilization. Local groups organized rallies and tried to block conscription offices in several towns. Subsequently a wave of anti-mobilization protests took place in numerous Government controlled areas, particular in Severodonetsk, Kramatorsk, Mariupol, several villages in Zaporizhzhia, Odesa, Volyn and Ivano-Frankivsk regions. In some cases people were prevented from protesting, facing opposition from other groups and rival activists. In most cases no violence was reported. Criminal charges have been brought against some individuals who openly oppose mobilization. Conscientious objection to military service should be respected by the authorities, with opportunities provided for non-armed service.

16. Little progress has been made in achieving accountability for violations of human rights committed in the context of the continuing conflict in the eastern regions of Ukraine. While recognizing challenges due to the ongoing conflict, the HRMU urges that all possible steps be taken to pursue investigations and prosecutions as appropriate, including into possible international crimes and gross violations of international human rights and humanitarian law.

17. Measures to achieve accountability for grave human rights violations committed during the Maidan protests, in which at least 104 demonstrators and 13 law enforcement officers were killed, and in 2 May violence in Odesa when 48 persons were killed, remain inadequate with poor progress over the reporting period. According to the Prosecutor General, the main obstacle impeding investigations into the Maidan violence remains the impossibility to locate suspects who fled Ukraine and the lack of expertise in investigating this type of cases. Regarding the 2 May violence in Odesa similar obstacles prevail and there is no measurable result into the investigation of police and fire brigade negligence.

18. During the reporting period the Government continued to develop the human rights strategy for Ukraine; a working group was established to amend the law on lustration of public officials; and a national anti-corruption bureau was established. On 29 January, Parliament registered a draft law establishing criminal responsibility for public calls to avoid mobilization, which, if adopted, may contravene the rights to freedom of opinion and expression and freedom of peaceful association.

19. The United Nations' position on the status of the Autonomous Republic of Crimea is guided by General Assembly resolution 68/262 of 27 March 2014 on the Territorial Integrity of Ukraine. The situation in the Autonomous Republic of Crimea<sup>8</sup> continues to be characterized by systematic human rights violations affecting mostly Crimean Tatars and those who opposed the March 'referendum'. The application of Russian Federation laws, which contravene resolution 68/262, also has human rights implications. Arrests and detention of Crimean Tatar activists on charges related to demonstrations and disruption of the activities of their civil society organizations and media outlets on the grounds of prevention of 'extremist activities' have been evident. Arrests, prosecution and deportation of Crimean Tatar leaders, including leaders of the Crimean Tatar Mejlis and the Committee on the Protection of the Rights of the Crimean Tatars, have been criticized by Crimean Tatar leaders and those affected as politically motivated.

20. The exercise of the rights to freedom of opinion and expression and of peaceful assembly continued to be curtailed, particularly for Crimean Tatars. Limitations are imposed on the freedom of religion or belief in Crimea due to restrictive registration requirements. This situation, and instances of police raids on places of worship, has created anxiety among

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<sup>8</sup> Hereafter referred to as Crimea.

the religious groups and questioned the commitment of the *de facto* authorities in Crimea to the protection of religious freedoms. In addition, on 26 December 2014 the Government of Ukraine stopped train and bus connections from mainland Ukraine into Crimea, which particularly affects older persons and persons with disabilities, on the grounds of ensuring the safety of passengers and to prevent the penetration of ‘subversive groups’ from the peninsula.

## II. RIGHTS TO LIFE, LIBERTY, SECURITY AND PHYSICAL INTEGRITY

### *Armed hostilities*

21. The ‘silence regime’ between Ukrainian armed forces and armed groups declared on 9 December 2014, resulted in several weeks of relative calm. In January 2015, usage of tanks, heavy artillery and multiple launch rocket systems (MLRS) resumed and spread to populated areas along or near the line of contact. From mid-January, armed hostilities escalated to a degree unseen since the 5 September Minsk agreement. Major flashpoints were the Donetsk airport, the nearby village of Pisky and the town of Avdiivka; areas around the town of Debaltseve and cities of Horlivka and Mariupol (Donetsk region); and the town of Shchastia and the village of Stanychno Luhanske (Luhansk region). On 10 February, the Ukrainian forces launched an offensive east of Mariupol, seizing control of several settlements. By 15 February, a number of Ukrainian units in Debaltseve ‘pocket’ (including the town and surrounding areas) were cut-off from the main Government-controlled territories.

22. The peace talks held on 11 and 12 February in Minsk resulted in agreement, *inter alia*, to a ceasefire to enter into force from 15 February; the withdrawal of heavy weaponry from the contact line; the establishment of a 50-140km security zone; and withdrawal of foreign armed formations, mercenaries and weapons from the territory of Ukraine. OHCHR welcomes the provision regarding an ‘all for all’ release of hostages and unlawfully detained persons. OHCHR has advocated for this at the highest levels. Regarding the provision on amnesty for those involved in the conflict, OHCHR reiterates the long-standing position of the United Nations that amnesty must not be granted for international crimes, including gross violations of international human rights and humanitarian law.

23. Indiscriminate shelling of populated areas, both Government-controlled and those controlled by the armed groups continued to be widespread. Although, in some cases, imprecise targeting of military positions occurred in the immediate vicinity of built-up areas (especially in Debaltseve area), there were also numerous cases of shelling of residential areas not located near military positions.

24. On 13 January, 13 civilians were killed and 18 wounded, when a bus was hit at a checkpoint near the Government-controlled town of Volnovakha (Donetsk region). The bus was hit by a MLRS ‘Grad’ rocket launched from territory controlled by the ‘Donetsk people’s republic’. On 24 January, at least 31 people were killed and 112 wounded following MLRS attacks on the city of Mariupol (Donetsk region). The rockets were allegedly fired from the territory controlled by the ‘Donetsk people’s republic’. On 4 February, a hospital in the city of Donetsk held by the armed groups, was hit with six people killed and wounding 25. The MLRS rockets reportedly came from areas controlled by the armed groups.

25. On 22 January, at least 13 civilians were killed and 12 wounded in Donetsk, most of them after a trolleybus and public transport stop were hit by mortars. On 29 January, eight civilians were killed and 19 wounded amidst heavy shelling in city of Horlivka held by the armed groups. The armed groups attributed responsibility for these and other cases of shelling of residential areas to the Ukrainian armed forces. In January and February 2015, several cases of usage of cluster munitions were reported. It is imperative that reports of shelling of residential areas (either by conventional or prohibited weapons) be investigated promptly. In

all cases, verification of the origin of the attacks remains required. All possible measures must be undertaken to prevent civilian casualties and the targeting of civilians.

### **A. Casualties**

26. Between 1 December 2014 and 15 February 2015, at least 1,012 people were killed and at least 3,793 were wounded in the conflict area of eastern Ukraine. Due to the dramatic escalation of hostilities (13 January – 15 February), at least 842 deaths were reported, including at least 359 civilians. Of at least 3,410 reported wounded during this period, at least 916 were civilians. From mid-April 2014 to 15 February 2015, at least 5,665 people (including at least 375 women<sup>9</sup> and 63 children) were killed and at least 13,961 (including at least 630 women<sup>10</sup> and 159 children) were wounded. These totals include Ukrainian armed forces (at least 1,756 killed and 5,505 wounded); 298 from flight MH-17; and casualties reported by medical establishments: at least 2,420 killed and 4,919 wounded in the Donetsk region, and at least 1,185 killed and 3,573 wounded in the Luhansk region. Casualties reported by medical establishments include civilians and some members of the armed groups<sup>11</sup>.

27. Many of those killed (especially members of armed groups) have been buried without being taken to morgues, and insecurity prevented many wounded people from accessing medical establishments. Hundreds are considered missing with numerous bodies pending recovery and identification. Through interviews conducted in the Lviv region, HRMU noted the lack of an effective system to inform relatives of deceased Ukrainian servicemen about their rights and entitlements prescribed by the law. Moreover, family members of the missing and captured servicemen also report lack of information from and contact with the relevant authorities.

### **B. Evacuation of civilians**

28. Since the upsurge in hostilities in late January, the State Emergency Service of Ukraine has reported evacuations of civilians from residential areas in the vicinity of the armed conflict, including Avdiivka, Debaltseve and Svitlodarsk in Donetsk region and Chornukhyne, Popasna and Shchastia in the Luhansk region. According to Government figures, the overall number of evacuated civilians from 28 January until 13 February was 8,429 people, including 1,923 children and 265 persons with disabilities. The armed groups have also reported evacuations, including of some 1,100 civilians, mainly older persons and children, from Vuhlehirsk (Donetsk region) and 272 people from the village of Chornukhyne and nearby areas (Luhansk region) to safe locations in territories under their control.

29. Evacuations were hampered by constant shelling of Government controlled territories and evacuation routes. Reports suggest that some incidents of shelling coincided with the evacuation of civilians and may have been targeted to prevent it. In view of the temporary order regulating transit across the line of contact and the requirement for individuals to have an official pass, the State Emergency Service indicated to the HRMU that evacuations were conducted with a simplified procedure that did not require passes. Individuals making their own way out of territories controlled by armed groups continue to require the official passes,

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<sup>9</sup> Breakdown of casualties by sex is not available for the Luhansk region and is not reported by medical establishments.

<sup>10</sup> As in footnote 9.

<sup>11</sup> As in previous reports, these are conservative estimates by the HRMU and the World Health Organization (WHO) based on the available official data. Actual fatalities are probably much higher. Military casualties remain under reported by the Ukrainian Government and by the armed groups and there is evidence that some killed and wounded members of the armed groups have been taken to the Russian Federation.



although some people described inconsistent enforcement of requirements and incidents of the payment of bribes at border crossings.

30. The HRMU monitored reception and transit points for evacuees in Kharkiv, Dnipropetrovsk and Kyiv. Evacuees informed about problems they had encountered, including a lack of information about evacuation opportunities, especially for those living in the suburbs of towns where organized evacuations were conducted. Due to the constant shelling, people were frequently hiding in basements with no electricity or communication with the outside world. Some were not aware of organized evacuations and had to find ways to leave by their own means. The HRMU is aware of some cases when civilians had to walk to adjacent villages and cities in order to be evacuated, because neither volunteers nor authorities could reach their settlements due to intensive fighting. Civil society volunteers continued to play a vital role in the evacuation of civilians and many have relied heavily on their assistance provided at great personal risk to themselves.

31. Evacuation from social care institutions is particularly difficult as many patients, mostly older persons, have not consented to evacuation. High numbers of bedridden persons who require special assistance or transportation also remain in conflict-affected areas. Members of armed groups have on several occasions stated that they will not allow the evacuation of people from such institutions to Government controlled areas. They have also demanded the return to Donetsk of 260 orphans who were evacuated in the summer of 2014. In addition, no steps have been taken for the evacuation of inmates of the penitentiary system.

### ***C. Alleged summary, extrajudicial or arbitrary executions***

32. A number of media reports and social media postings of videos have raised concern over possible incidents of summary, extrajudicial or arbitrary executions. On 24 January, armed groups claimed control over the settlement of Krasnyi Partyzan (30 km north of Donetsk), which had been previously controlled by the Ukrainian armed forces. The video footage made by the armed groups soon after the fight for the settlement and disseminated through social media gives grounds to allege the execution of up to three Ukrainian servicemen taken captive in Krasnyi Partyzan. Following fighting for Donetsk airport in January and the subsequent taking of the airport by armed groups of the ‘Donetsk people’s republic’, media reports suggested that the bodies of Ukrainian military personnel were found in the airport with “their hands tied with white electrical cable.”<sup>12</sup> OHCHR underlines that all evidence of summary, extrajudicial or arbitrary executions must be fully investigated and perpetrators prosecuted without the possibility of amnesty.

### ***D. Illegal and arbitrary detention, enforced disappearance, and torture and ill-treatment***

#### *By the armed groups*

33. Estimates of the number of people held by armed groups vary continuously and reflect the constantly evolving pattern of detentions and releases. Several hundred were thought to be detained at any given time between December 2014 and mid-February 2015. On 9 December, the Head of the Security Service of Ukraine (SBU) Main Investigative Department stated that 684 people were held by armed groups. On 11 December, the non-governmental organization, The Centre for Release of Captives estimated the number of people held by the armed groups to be 632. In addition to Ukrainian servicemen (as of 25 January, the Ukrainian Government estimated the number still held as 184), people held by the armed groups include those suspected of ‘subversive’ activities. On 22 January, the ‘head’ of the ‘Donetsk people’s republic’ declared that up to five Ukrainian ‘subversives’ aged between 18 and 35 were

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<sup>12</sup> See <http://blogs.channel4.com/alex-thomsons-view/bodies-shells-snow-ruins-donetsk-airport/8993>

detained every day. On 22 January, a dozen Ukrainian servicemen captured at Donetsk airport were forced to march through the streets of Donetsk. Several were physically assaulted by an armed group commander and by onlookers.

34. As of 4 February, civilians held by armed groups are estimated by the Government of Ukraine to number over 400. Some are held for minor offences and substance abuse. However, civil society activists, journalists and staff of international NGOs continue to be illegally detained. A Donetsk-based journalist was abducted on 8 January while observing a 'humanitarian convoy' from the Russian Federation and released on 7 February. On 31 January, a freelance journalist was abducted in Donetsk. His whereabouts were unknown as of 15 February.

35. On 30 December, according to the 'prosecutor general's office' of the 'Luhansk people's republic', a 'criminal case' was initiated against armed group commander Aleksandr Biednov (call sign 'Batman') and his subordinates for illegal detention and torture resulting in the death of a detainee. On 2 January, videos were released showing members of Biednov's group who confessed to running a facility in the basement of a university library in Luhansk and taking part in the ill-treatment of captives. The 'head' of the facility (call sign 'Maniac') allegedly used a hammer to torture prisoners and surgery kit to scare and extract confessions from prisoners.

36. The Ukrainian female pilot, Nadiia Savchenko, Member of the Parliament of Ukraine (since November 2014) and Ukrainian delegate to Parliamentary Assembly of the Council of Europe (since December 2014), has been in detention in the Russian Federation since July 2014 after being reportedly captured by armed groups in June. She is awaiting trial on charges of involvement in the deaths of two Russian journalists killed during the conflict in eastern Ukraine. On 10 February 2015, the Basmany court in Moscow extended her pretrial detention until 13 May. A motion to have her released on bail was rejected. She has now been on hunger strike since 13 December and reportedly is being kept in solitary confinement in the Matrosskaya Tishina detention centre in Moscow. On 9 February, EU foreign ministers launched a plea for the Russian Federation to release her.

*By the Ukrainian Government*

37. Ukrainian law enforcement agencies continued to report on the detention of people suspected of separatism and terrorism. On 10 December, the SBU announced that since March 2014, it was carrying out over 3,000 criminal proceedings related to crimes against national and public security. In the context of these proceedings, 1,043 people had reportedly been notified of being officially suspected; of them, 703 people had been arrested and 198 indictments (in relation to 254 people) had been submitted to the courts<sup>13</sup>. Information received by the HRMU from the detainees, their relatives and lawyers reveals a pattern of enforced disappearances, secret detention and ill-treatment by Ukrainian law enforcement agencies in the security operation area and adjacent territories.

38. In December 2014, the HRMU interviewed a man who was unofficially detained by unidentified Ukrainian servicemen and allegedly severely beaten for several days. Another detainee claimed to have been beaten by SBU officers and kept in incommunicado detention where he met detainees who had been beaten and subjected to mock executions. A freelance journalist claimed that during his detention and SBU interrogation, masked men forcefully raised his handcuffed arms behind his back and hung him in that position urging him to confess to working for the Russian secret services. Several other detainees interviewed by the HRMU alleged incommunicado detention and ill-treatment that may amount to torture.

39. As of 15 January, a joint database of the civil society initiatives included 37 cases of people who had disappeared on the territory controlled by the Ukrainian armed forces. These

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<sup>13</sup> It shall be noted that exactly the same figures were released by the SBU on 22 January 2015.

cases had been filed by relatives, some of whom reportedly saw missing persons being detained by people in military uniform.

40. On 17 December, the pro-federalism activist Ignat ‘Topaz’ Kromskoi was reported by the SBU to have been detained at the Ukrainian/Russian Federation border. He had previously been detained and formally released from custody by a Kharkiv court on 12 September, however he was taken away from the court room by the same guards who brought him there and no one saw him free afterwards. His location was officially unknown and he was put on a wanted list<sup>14</sup>. On 18 December 2014, during a court hearing to decide on his measure of restraint (he was detained for two months), Mr Kromskoi stated that from 12 September until 17 December he had been held incommunicado in cell No. 5 of an SBU building in Kharkiv (the SBU denies the existence of this facility). He claimed that he had taken a hidden video of the cell, and had left notes on the walls, as well as hair and other traces to confirm his presence there. According to him, on 17 December, the SBU took him from his cell, put him on a bus and, as it approached the border, he was officially arrested. On 22 January, he informed the HRMU of his alleged secret detention. He said he saw up to 90 other people kept there. The HRMU also received other testimonies alleging the existence of this illegal detention facility in Kharkiv. Regarding this issue, the SBU has denied the allegations of a secret detention facility in Kharkiv.

#### *Exchanges of detainees and captives*

41. Exchanges of detainees and captives have continued over the reporting period. On 26 December, an exchange took place of 222 persons released by the Ukrainian Government in exchange for 145 persons (members of voluntary battalions, National Guard, civilian volunteers and civilians; all men) released by the armed groups. The exchange included persons whose cases were followed by the HRMU and who allege secret and incommunicado detention and ill-treatment while in custody. On 27 December and 2 and 5 January, at least ten people were released by the Ukrainian Government and 16 captives were released by the armed groups. On 6 January, there was reportedly the exchange of new lists of people for a future exchange in the coming weeks. According to ‘the ombudsperson’ of the ‘Donetsk people’s republic’, the armed groups requested to release 168 members of the armed groups and 380 ‘political prisoners’. Detention of persons not associated with the conflict for the purpose of exchanges has been reported. In February, representatives of the armed groups reiterated their intention to conduct exchanges based on ‘serviceman to serviceman’. The HRMU received information that some exchanged detainees were not given back their ID documents. On 11-12 February, it was agreed in Minsk to “ensure the release and exchange of all hostages and illegally detained persons based on ‘all for all’ principle”.

#### ***E. Measures limiting movement in and out of the conflict area***

42. On 21 January 2015, a temporary order regulating travel into and out of the conflict area came into effect<sup>15</sup>. With reference to national security concerns, it limited the movement of civilians, passenger and cargo vehicles to seven corridors in the Donetsk and Luhansk regions. The order also introduced special passes issued at ‘coordination centres’ located in four district police departments. Those wishing to travel are required to provide their itinerary and duration of stay in the area – whether it be in Government-controlled territory or territory under the control of armed groups; a valid passport; and a copy of a document justifying the necessity to travel (e.g. proof of residence; proof of illness of a relative; certificate of

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<sup>14</sup> Mr Kromskoi is suspected of committing crimes under articles 28 and 294 (participation in mass disorders accompanied by pogroms, arson and destruction of property), article 110 (encroachment on the territorial integrity of Ukraine) and articles 28 and 289 (illegal seizure of the vehicle) of the Criminal Code of Ukraine.

<sup>15</sup> Temporary order on control of the movement of people, transport vehicles and cargos along the contact line in Donetsk and Luhansk regions.

employment, etc.). The HRMU was informed of various problems in implementing the order: hotlines providing information on the procedures could not be reached or did not work; passes were not provided to offices authorized to issue them; coordination centres were overwhelmed with up to 3,000 applications in each in the first days of their operation. Lack of a specific provision for civilians wishing to move solely due to security concerns largely left such crossing at the discretion of local security officers, frequently leading to the payment of bribes. No legal procedure has been established to appeal against the refusal to issue a pass.

43. Civilians living in and wishing to leave territories controlled by armed groups have to travel to the checkpoints at least twice: to submit documents and to receive a pass. They have faced constant danger as shelling and attacks on Ukrainian checkpoints intensified. On 26 January, at a checkpoint near Mariinka, an explosive device in a car went off killing the driver and one Ukrainian soldier. Mortar shelling began simultaneously. The discontinuation of State services<sup>16</sup>, including postal service, in areas controlled by armed groups added to the difficulty of providing required documents. No alternative provisions were envisaged for people whose identification documents were lost or taken away, which is a widespread problem. Interviews conducted indicate that some people who experienced problems obtaining passes to leave via the line of contact are leaving the conflict zones through the Russian Federation territories and then having to bribe Ukrainian border officials to re-enter Ukraine (some paying 10 times the official fine of UAH 170). On 27 January, the Commissioner of the President of Ukraine for Children's Rights announced that families with children may leave the territories without a special pass and reports received by the HRMU indicate that this has been the case.

### **III. ECONOMIC AND SOCIAL RIGHTS**

44. The impact of the conflict on the enjoyment of economic and social rights has been devastating for those living in conflict-affected areas and internally displaced persons, in particular women, children, older persons and persons with disabilities. An escalation in the hostilities since January 2015, including heavy and indiscriminate shelling, has caused, in addition to the increased numbers of casualties, significant additional displacement, destruction of infrastructure and housing, leading to the almost total economic and infrastructure breakdown in some of the worst affected localities. Since 10 January, at least 27 schools, kindergartens and hospitals have been damaged, in some cases leading to casualties, both in towns controlled by both the Government and armed groups. In the towns regularly shelled, at least 50 residential buildings are damaged on a weekly basis. As of 15 February, 77 settlements in the conflict affected area with approximately 202,000 residents remained completely without electric power supply and heating. Due to the shelling of water facilities, 461,350 people in Donetsk region and 86,862 people in Luhansk region do not have access to safe drinking water.

#### **A. Social welfare, food, health, education**

45. The payment of salaries, pensions and social benefits for those living in territories controlled by the armed groups stopped in November 2014, making it difficult for local residents to purchase essential goods. At the very least, 600,000 pensioners<sup>17</sup> in Luhansk and

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<sup>16</sup> Pursuant to the Presidential Decree 'On Immediate Measures aimed at the Stabilization of the Socio-Economic Situation in Donetsk and Luhansk Regions' as of 14 November 2014 enacting an earlier decision of the National Security and Defence Council of Ukraine.

<sup>17</sup> The estimates are very conservative and the actual number affected is likely to be higher. In Ukraine 'pensioners' include not only the elderly but also other categories, for example persons with disabilities.

Donetsk regions have been left without regular income due to the cessation of the allocations from the State budget. Often the only income, its termination makes these persons extremely vulnerable. As described below, many pensioners had to register as IDPs in order to receive pensions while still living in areas controlled by the armed groups.

46. Access to food is increasingly challenging in conflict-affected areas and humanitarian actors have expressed their concern about their impeded access to the conflict area. Humanitarian actors reported that they have supplies in warehouses, while access to areas of need is hampered by roads being closed, due to shelling and restrictions imposed on the Government side of the line of contact. In December 2014, some battalions of the Ukrainian armed forces - 'Dnipro-1', 'Donbas' and 'Kryvbas' - blocked access of a humanitarian organization to the areas controlled by armed groups, demanding the release of prisoners held by armed groups. On 29 January, the volunteer initiative, 'Humanitarian Mission of Aid to the Civilians from Conflict Area', noted that due to the new rules, it has become more difficult for Ukrainian volunteers to deliver aid. It is reportedly difficult to provide the package of documents required by customs services. In Artemivsk, a control point for cargo transport, trucks are reportedly held up for several days. It is also difficult to pass through other control points: Stanychno Luhanske, Shchastia, Avdiivka; the latter has been regularly shelled.

47. On 30 January, the Cabinet of Ministers issued Decree No. 21<sup>18</sup>, regulating the provision of humanitarian aid to residents of Donetsk and Luhansk regions. However, it does not provide clear guidance on how to deliver aid to conflict affected areas and does not facilitate the efforts of humanitarian actors, as was its intention. Child and infant nutrition is a constant need in all conflict-affected areas as well as in IDP centres. The November 2014 Presidential Decree ending Government financing of State institutions, such as hospitals, in territories controlled by armed groups has potentially serious implications for a wide range of economic and social rights. It is recalled that Ukraine has continuing obligations to the realization of such rights as a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

48. In January, most hospitals in conflict affected territory remained open but reported severe shortages of various drugs, particularly painkillers, antibiotics and other essential medical supplies. Patients suffering from chronic conditions, including HIV/AIDS, TB and drug dependency are likely to run out of essential medicines upon which their lives depend.

49. Penitentiary institutions, nursing homes, psycho-neurological and other facilities continue to function albeit without State financing and depend entirely on humanitarian aid. Humanitarian actors report a constant shortage of medicine and hygiene kits. The situation is particularly dire in the psycho-neurological facilities due to a severe shortage of drugs crucial for its patients. On 30 January, the HRMU learned that 2,332 persons remain in the institutional care of such facilities in territories controlled by the self-proclaimed 'Luhansk people's republic'. According to Ukrainian ministries, 577 children remain in orphanages and some 5,000 children in family foster care in territories controlled by armed groups.

50. Access to education in conflict-affected areas has been severely curtailed. School buildings have been damaged and heating and power cut-off, forcing schools in many towns to close. As of 15 February, all schools in Donetsk city were closed. In Horlivka 16 schools and four kindergartens were reported to have been damaged by shelling. Numerous education sector workers have left the eastern regions. As of 13 February, in 'Luhansk people's republic' all schools and kindergartens were reported to be closed. Evacuees interviewed by the HRMU reported that schools have not been functioning for over three weeks in towns controlled by the Ukrainian Government in the conflict area due to shelling.

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<sup>18</sup> This resolution was adopted according to the Presidential decree as of 14 November (on urgent measures for the east and relocation of state institutions) by which the President instructed the Cabinet of Ministers to adopt the procedure on provision of the humanitarian aid and its marking with state symbols.

51. The Ministry of Education and Science of Ukraine made provisions to facilitate access to education for students living in the areas controlled by armed groups. The enrollment of IDP children into schools is done based on the written application from their parents with no other documentation required. As of 15 February, 71,632 IDP children were registered in schools of Donetsk (territories under Government control), Kharkiv, Dnipropetrovsk regions and Kyiv city. To enable children who remain in territories controlled by the armed groups as well as Crimea to continue their education and sit exams, the registration deadline for the independent assessment (exams required to enter universities) has been prolonged to 20 April for school graduates from these areas.

### ***B. The situation of internally displaced persons***

52. As of 13 February the Ministry of Social Policy reported that the number of registered IDPs in Ukraine had exceeded one million people, more than a twofold increase in their number since the beginning of December 2014. Approximately 60 per cent of the IDPs are reported to be pensioners. At the same time, the State Emergency Service, responsible for accommodation of IDPs reported that the number of people displaced from the east had reached 731,422 people as of 15 February (711,209 from Donetsk and Luhansk regions and 20,213 from Crimea), This figure includes 133,178 children and 328,770 persons with disabilities. The discrepancy in the IDP numbers provided by the different Government bodies may be partly explained by so called 'pension tourism'. Government Resolution No. 637 states that pensions are to be paid only to those who are registered IDPs residing in the Government controlled territory. Some pensioners who still live in territories controlled by the armed groups register with the Ministry of Social Policy to continue receiving their pensions.

53. The accommodation capacities in regions neighbouring the conflict area are almost exhausted. New IDPs from conflict-affected regions who arrive at locations such as Sloviansk or Kharkiv have been encouraged by the State Emergency Service to travel to western and southern regions of Ukraine. Authorities provide IDPs with free onward train tickets. New arrivals have little choice but to accept them. The HRMU recalls that under international standards, all authorities should ensure the voluntariness of the displacement process, including respecting decisions of IDPs to travel to locations of their choice. In view of new and potential future displacement flows, new winterized accommodation options may be required in eastern regions and information should be provided to IDPs to assist their decisions and ensure, to the extent possible, their right to freely decide upon the location of their temporary resettlement.

54. In October 2014, Parliament adopted the law on IDPs, however many concerns remain regarding their rights and welfare. While many desire an early return to their homes when conditions allow it, recognition of the likely protracted nature of the displacement for many IDPs is essential. The elaboration of a programme to ensure durable solutions for IDPs is essential. IDPs unable to return to their homes must be properly integrated into other regions of Ukraine on a voluntary basis and in full consultation with them. Article 2 of the law on IDPs guarantees the right of a displaced person to return and to reintegration, however, it sets no guarantees for integration in other parts of Ukraine as required by international standards, including the Guiding Principles on Internally Displaced Persons.

55. Despite the efforts of regional authorities, IDP reception centres in many locations are overwhelmed, under-resourced and under-prepared for possible high levels of expected new arrivals following the upsurge in fighting in some areas and essential evacuations. IDPs and those supporting them continue to stress their urgent needs, which include winter clothes, hygiene kits, diapers, food and non-food items, and medicines (including for chronic conditions). There is a lack of disease monitoring and control at IDP reception and transit

points for contagious diseases such as tuberculosis. Reports indicate that there is a lack of shelter to accommodate people, particularly those with special needs or limited mobility, who cannot be sent to other regions.

#### **IV. OTHER HUMAN RIGHTS ISSUES**

##### **A. *Right to peaceful assembly***

56. During the reporting period, the right to peaceful assembly was generally exercised in most of the country, with the exception of territories controlled by the armed groups and Crimea. Nevertheless a number of prohibitions of protests by courts in Kharkiv and Odesa regions in the name of public order and safety were reported. Public appeals for peace and protests against mobilization gained momentum throughout Ukraine in the reporting period.

57. After the fourth wave of mobilization was announced on 14 January, there were attempts to oppose mobilization and initiate a dialogue with State authorities in some cities, which were then followed by anti-mobilization protests in cities including Ivano-Frankivsk, Kyiv, Kherson, Mariupol, Odesa, Zaporizhzhia, and parts of Donetsk controlled by the Government. In some cases protestors were opposed by rival activists, as noted in Kramatorsk, Mariupol and in Zaporizhzhia region. A recent initiative, ‘People of Peace’, calling for the reconciliation of two sides to the conflict, received criticism in social media and its public events were prevented from being held on several occasions. It has also been noted that those who oppose mobilization and the conflict report increasing antagonism towards them. In January, the HRMU followed the cases of prosecutions of people who publically opposed mobilization. On 29 January, Parliament registered a draft law establishing criminal responsibility for public calls to avoid mobilization<sup>19</sup>. On 8 February, a man who recorded a public video appeal to the President of Ukraine ‘I refuse mobilization’ and published it on ‘Youtube’ was sentenced to a 60-day detention as a preventive measure. Criminal proceedings have been initiated against him under article 111 (high treason) and 114 (espionage) of the Criminal Code. The video was widely disseminated by several Russian TV channels, which also invited him to participate in programmes on the situation in Ukraine, classified by the prosecution as ‘propaganda’. The HRMU is concerned about these measures, which can be considered as criminalization of dissenting political views.

##### **B. *Freedom of expression***

58. The HRMU is concerned about continuing attacks on journalists in Ukraine, particularly in eastern areas controlled by armed groups and in Crimea (see below). On 11 February, the State Committee on TV and Radio Broadcasting addressed the issue of freedom of expression and protection of the rights of Ukrainian and foreign journalists in Donetsk and Luhansk regions, as well as the Autonomous Republic of Crimea. It was stated that since March 2014, at least 78 journalists have been held by armed groups and at least 60 attacks on media offices have been documented. Many journalists were forced to leave Crimea, and the Donetsk and Luhansk regions due to constant threats. In addition the State Committee stated that “there is also a large-scale and aggressive Russian propaganda campaign.”

59. In other regions of Ukraine some journalists or media offices were attacked due to their alleged ‘separatist’ views. On 10 January, the editorial office of *Slavianka* newspaper in Kharkiv, was attacked by unknown masked men who broke windows and threw Molotov cocktails into the office. On 22 January, a journalist of a local ‘pro-federalism’ website,

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<sup>19</sup> Draft law ‘On Introduction of Amendments to the Criminal Code of Ukraine (regarding liability for public appeals to avoid mobilisation)’ No. 1886 as of 29 January.

covering the preparatory trial hearing on the 2 May violence in Odesa, was beaten outside the Malynovskiy city court in Odesa.

60. In other cases, journalists were attacked for criticizing local authorities or law enforcement officials. On 26 January, a journalist of the Internet outlet *Traffic Control* from Chernihiv reported an attempt on his life, which he assumed, was related to his work on the lustration of police serving under the Yanukovych government. On 11 February a Ukrainian journalist from Dnipropetrovsk region working for the Russian Federal news agency and St. Petersburg-based news agency *Nevskiiie Novosti* was detained in Mykolaiv region for allegedly gathering data about the defence industry of Ukraine. On 12 February, the central district court of Mykolaiv ordered his detention for pre-trial investigation until 11 April under article 111 (high treason) of the Criminal Code.

### **C. Women's rights and gender issues**

61. With the prolongation of the conflict and displacement, women are increasingly vulnerable to various human rights violations and abuses both in Government and armed group controlled areas. The economic consequences of the conflict also acutely affect women. Those trapped in areas of fighting are at a heightened threat of sexual violence. Information from NGOs and IDPs that young women and men are being taken off buses leaving the conflict zone require further investigation. The HRMU is concerned that cases of violence against women may go unreported. The NGO La Strada, which operates a national hotline, reported only few calls related to sexual violence. Yet cases continue to emerge: one IDP woman reported sexual violence against her by members of the armed groups and members of an unidentified Ukrainian battalion, and remains severely traumatized.

62. Women may be at increased risk of domestic violence, as servicemen return from the conflict area without receiving proper social and psychological services. La Strada registered an increase in calls relating to domestic violence over the reporting period (72.2 per cent of total calls). It reported that incidents of psychological violence are increasing in families of IDPs, as well as within those remaining in the conflict area.

63. Women, including those internally displaced, may be at heightened risk of being exposed to trafficking, sexual violence and resorting to prostitution as a means of survival. In the reporting period, the HRMU became aware of cases of trafficking involving IDPs. On 19 January a man in Lviv was arrested on suspicion of allegedly recruiting four women, one Lviv resident and three IDPs, for sex work in Israel. One of the IDPs stated that she was desperate for any income, as it was impossible to find employment and she had to provide for her two children. The case highlights the need for all actors working with IDPs to be alert to the threat of trafficking facing displaced women. The International Organization for Migration was providing services for two IDP women from Luhansk region who were allegedly in the process of being trafficked to Turkey for sex work.

64. Some incidents of discrimination continued against the LGBTI community, especially in the territories under the control of the armed groups. On 19 December, the HRMU succeeded in evacuating a transgender man from the areas controlled by armed groups who was in fear of persecution and isolated at home without access to either food or medicine. As a transgender man, he was believed to be at risk of detention and violence if attempting to leave the area himself, as his identification documents did not reflect his gender identity. The HRMU negotiated with officials from the 'Donetsk people's republic' and the Ukrainian Ministry of Internal Affairs and Ukrainian military to escort him to safety.



#### **D. Rights of minorities and groups facing discrimination**

65. The HRMU continues to monitor the human rights situation of minority groups and incidents of discrimination throughout Ukraine and to identify trends in this regard. As noted by the Special Rapporteur on minority issues following her visit in April 2014, Ukraine has a legislative, policy and social environment that is generally conducive to the protection of minority rights, including linguistic and cultural rights<sup>20</sup>. Nevertheless the Special Rapporteur recommended the further strengthening of Ukraine's legislative and institutional frameworks for minority rights protection. The HRMU continued receiving reports of alleged discrimination against Roma who frequently face additional challenges including lack of documents. On 11 December in Sverdlovsk (under control of the 'Luhansk people's republic'), a group of armed men reportedly broke into Roma homes, robbed them and took their passports. On 15 December, a Roma NGO reported that two police officers, in civilian clothes, came to the collective centre and harassed and threatened Roma IDPs and demanded money from them.

66. The HRMU received reports of targeting of religious minorities in the areas controlled by armed groups. On 10 January, in Horlivka, five Jehovah's Witnesses ministers were taken to the office of a 'Donetsk people's republic' commander and accused of betraying the Orthodox religion. They were allegedly punched and kicked and subjected to mock execution. After several hours, they were released while threatened with being shot if they continued their religious activities. On 22 January, in Donetsk city, a Jehovah's Witnesses minister was abducted at his workplace by members of the Oplot battalion, a military unit of 'Donetsk people's republic'. He was blindfolded and interrogated several times before being released on 23 January. On 5, 11 and 20 December 2014, Kingdom Halls (prayer houses of Jehovah's Witnesses) were seized by armed groups in Krasnyi Luch, Telmanove and Zuhres.

67. On 15 January a synagogue was vandalised in Ivano-Frankivsk with offensive inscriptions. The HRMU spoke with the local Jewish community representatives, who informed them that similar incidents had occurred previously, but never received appropriate attention by the law enforcement officials, and that such cases have always been categorized by police as hooliganism and the persons responsible have never been found. The written complaints and applications of representatives of the community concerning similar incidents were left without response. At the same time, the community does not perceive such instances as posing any threat or having some wider anti-Semitic context.

68. On 15 January, residents of Mykolaiv originally from Azerbaijan and Armenia filed a complaint to the Office of the Prosecutor General for racial discrimination, as they were refused to be served in a local restaurant and were told that "Caucasians were not welcome". A criminal investigation was launched under article 161 of the Criminal Code (violation of equality of citizens based on their race, national origin and religion).

#### **V. ACCOUNTABILITY**

##### *Accountability for human rights violations in the east*

69. The Ministry of Internal Affairs as well as the SBU conducted investigations into cases of indiscriminate shelling of residential areas in Donetsk and Luhansk regions. The Ministry collected all available evidence relating to major incidents, but emphasized that a core obstacle barring the investigation remained the lack of access to the territories shelled. The HRMU also noted that a further obstacle to accountability is that many witnesses/victims

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<sup>20</sup> A/HRC/28/64/Add.1 available online in English and Russian and all UN languages at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx>

are reluctant to file complaints to the police for fear of reprisals and in the absence of trustworthy protection schemes.

70. While a significant percentage of criminal proceedings in regard to human rights violations in the east were opened under charges of terrorist acts, the Government reported only one case where a person was convicted of such act. On 13 January the district court of Sloviansk delivered the first judgment against a member of the armed groups of the self-proclaimed 'Donetsk people's republic', recognising the latter as a 'terrorist organization' and sentencing him to eight years imprisonment for membership of such a group under article 258-3 of the Criminal Code (membership of a terrorist organisation) and related charges. This judgment may set a precedent for subsequent judgements against those suspected of affiliation with the 'Donetsk people's republic' identifying them as terrorists.

71. The HRMU has been following the case of the former mayor of Sloviansk, Nelia Shtepa, who remains in custody charged under articles 110 (trespassing the territorial integrity of Ukraine) and 258 (creation of a terrorist organization) of the Criminal Code<sup>21</sup>. In a concerning development, Ms Shtepa's deputy, who was one of the main witnesses for the defence, was abducted on 30 January and subsequently found dead along with his driver. The HRMU learnt from the lawyers that other defence witnesses - around 40 persons - have since become reluctant to appear as witness in the proceedings.

72. As of 4 February, offices of the military prosecution conducted 49 criminal proceedings against servicemen of the National Guard and Armed Forces of Ukraine and 26 criminal proceedings into human rights violations, including arbitrary detentions and illegal deprivation of liberty committed by the 'Aidar' and 'Donbas' battalions in the conflict area. On 11 February, the Office of the Military Prosecutor reported the completion of pre-trial investigations against four servicemen of the 'Aidar' battalion accused of killing a civilian who refused to stop his car at a checkpoint on 19 November. The HRMU repeatedly come across instances where the military prosecutor's office investigators refused to pursue a case, arguing that civil prosecutor's office investigators had to prove first that servicemen had been involved in these crimes. Since not all combatants are provided with chevrons or other identification marks, investigations can be significantly impeded.

73. The 'ombudsperson' of the self-proclaimed 'Donetsk people's republic' reported on 3 February (having collected evidence in the 'White Book' project) of military crimes committed by Ukrainian armed forces. The 'White Book' reportedly includes almost 3,000 documents, victim and witness reports and video footage. According to the 'ombudsperson' almost 2,000 individual applications have been received which will be submitted to the European Court of Human Rights in a case against Ukraine.

74. The Office of the Prosecutor General, which is responsible for observation of compliance with the law by law enforcement bodies, reported that its investigations into allegations that the Kharkiv Regional Office of the SBU was used as a place of illegal detention, had not led to the identification of cases of illegal detention at that location, despite witness testimonies received by the HRMU.

#### *Accountability for human rights violations committed in the context of Maidan protests*

75. Progress in accountability for serious human rights violations committed during the Maidan protests in which at least 104 demonstrators and 13 law enforcement officers were

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<sup>21</sup> In addition to this case, the law enforcement agencies of Ukraine have reported prosecution of at least six high level national and local politicians. These include former Head of Kharkiv Regional State Administration, Mykhailo Dobkin, Kharkiv City Mayor, Hennadii Kernes, Mayors of Stakhanov – Yurii Borysov, of Debaltseve – Volodymyr Protsenko, and of Kurakhove – Serhii Sazhko, and former head of the faction of the Party of Regions in the Parliament – Oleksandr Yefriemov. All of them were suspected of trespass on the territorial integrity of Ukraine under Article 110 of the Criminal Code, however, no case has yet been brought to court.

killed and 1,200 people were injured (including 1000 who sustained gunshot wounds), remains inadequate with poor progress over the reporting period. According to the Prosecutor General of Ukraine, the main obstacle to investigations remained the difficulty in locating suspects who fled Ukraine as well as the lack of expertise in investigating this type of cases. An investigation into the forceful dispersal of Maidan protestors on the night of 30 November 2013, when 84 people were injured, has established that the former head of the Kyiv City State Administration, Oleksandr Popov, was responsible for the violent actions of the police. He is charged under the Criminal Code with illegal impediment of public meetings and collusion with the purpose of abuse of power. Four 'Berkut' officers were suspended and placed under house arrest for their alleged role in the 30 November events.

76. On 6 February, the Prosecutor General reported that approximately 1,000 criminal proceedings were ongoing into human rights violations and abuses committed during Maidan protests. Eight indictments in cases related to killing of protestors were submitted to the court. On 20 January, the Prosecutor-General informed the HRMU of submission of the indictment on the case of killing of 39 protestors by a group of law enforcement officials (including three Berkut servicemen) on 20 February 2014. On 23 January two servicemen remanded in custody had their detention extended until 23 March 2015. The Berkut commander was released from custody and placed under house arrest by the court in September 2014, however he subsequently escaped, raising serious questions regarding the appropriateness of his house arrest for such serious charges. The suspects are charged under the Criminal Code articles 115 (murder), 262 (theft of firearms) and 365 (abuse of power by the law enforcement). On 2 February the Ministry of Internal Affairs reported that its investigations into the killing of protestors in February 2014, had established that firearms used by the *tytushky*<sup>22</sup> against protestors in Kyiv were obtained from the Ministry.

77. On 20 January, the Kharkiv Regional Prosecutor's Office informed the HRMU of the completion of pre-trial investigations in relation to a former senior official of the Kharkiv Regional Department of Internal Affairs who allegedly ordered the dispersal of pro-Maidan protestors in Kharkiv on 19 February 2014, in which protestors were injured as a result of violent police action.

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

78. No essential progress has been reported in investigations into the killing of 48 persons and inflicting bodily harm to 247 people (including 22 police officers) during the clashes and burning of the Trade Union Building in Odesa on 2 May 2014. During preliminary court hearings by the Malynovskyi District Court of Odesa from 16 January, lawyers for the defendants (mostly 'pro-federalism' activists) drew attention to human rights violations and procedural omissions contained in the indictment: failure to provide Russian Federation citizens with Russian translation of indictment; failure to specify the action of each accused during mass disorder; failure to indicate information on conducted investigative actions, and incorrect personal data of participants of the trial. On 2 February 2015, the panel of judges ruled that the indictment regarding organising mass disorder in the city centre violated the right to fair trial and did not comply with the Criminal Procedure Code, and should be returned to the Office of the Prosecutor General for revision and correction. The preparatory trial hearings were held in a tense atmosphere with threats by 'pro-unity' supporters. There is no measurable result into the investigation of police and fire brigade negligence on 2 May, which is chaired by the Office of the Prosecutor General and the Ministry of Internal Affairs.

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<sup>22</sup> Organized groups of young men used to attack peaceful rallies or stage provocations.

## VI. LEGISLATIVE DEVELOPMENTS AND INSTITUTIONAL REFORMS

### *Legislative developments related to the situation in the east*

79. Confronted with a surge in hostilities from January 2015 the authorities introduced measures designed to prevent the further destabilization of the security situation, including the temporary order regulating travel in and out of the security operation area,<sup>23</sup> which became effective on 21 January 2015. The temporary order may contravene elements of international standards for freedom of movement, restrictions to which must be based on clear legal grounds and meet the test of strict necessity and proportionality. Whereas it is acceptable to restrict access into the security operation area, making it hard or impossible for civilians to leave the area of conflict is not in compliance with article 12 of the International Covenant on Civil and Political Rights<sup>24</sup>. The Guiding Principles on Internally Displaced Persons (articles 14 and 15) also establish that IDPs are free to move anywhere within a country. As the shelling and fighting has intensified, impeding movement of civilians out of the conflict areas contravenes the international humanitarian law customary norm regarding removal of civilians from the vicinity of military objectives. The temporary order has also created difficulties for the delivery of humanitarian aid, contrary to international humanitarian law, which obliges the parties to a conflict to allow rapid and unimpeded passage of humanitarian relief for civilians<sup>25</sup>.

80. Another legislative development related to the situation in the east is the elaboration of a draft law that would empower the High Administrative Court of Ukraine to decide whether an organization should be considered as ‘terrorist’<sup>26</sup>. Requests for recognition can be submitted by the Office of the Prosecutor General or prosecution offices in the regions based on documentary evidence. The decision of the High Administrative Court cannot be appealed and would enter into force immediately. The draft law provides that in a crisis situation the decision to recognize an organization as terrorist may be taken by the National Security and Defence Council of Ukraine (NSDC). This draft law raises serious questions as it enables a non-judiciary body with links to the executive branch to make a legally binding determination of an organization as terrorist and lacks internationally recognized fair trial guarantees, including due process and the right to appeal. The draft should be significantly amended in order to comply with international standards.

81. On 26 January, the Government introduced an ‘emergency situation’ regime in the regions of Donetsk and Luhansk under Government control, and a state of ‘high alert’ throughout the rest of Ukraine<sup>27</sup>. The purpose of this measure was reportedly to ensure proper identification of the needs of the population in the conflict affected areas and efficient coordination of State assistance, and to strengthen the protection of civilians. On the basis of this regime, local authorities in government-controlled areas will have enhanced powers to use State funds, notably to rebuild infrastructure destroyed during the fighting. The emergency situation regime is regulated by the Code of Civil Protection of Ukraine, which deals with the tasks, role and responsibilities of the State in connection with the protection of the population in emergency situations. OHCHR reiterates that this ‘emergency situation’ regime must neither diminish the human rights obligations of the State nor must it affect the enjoyment of fundamental rights and freedoms.

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<sup>23</sup> Temporary Order on the control of movement of people, transport vehicles and cargos along the contact line in the Donetsk and Luhansk regions.

<sup>24</sup> General Comment 27 of the Human Rights Committee (paragraph 16).

<sup>25</sup> See Rule 55 on Access for Humanitarian Relief to Civilians in Need.

<sup>26</sup> Draft Law No. 1840 ‘On Introducing Amendments to Certain Legislative Acts of Ukraine on the Recognition of Organizations as Terrorist ones’, registered in parliament on 26 January 2015.

<sup>27</sup> Order No. 47-r ‘On the establishment of regimes of high alert and emergency’.

82. A State commission was created to streamline civilian protection efforts,<sup>28</sup> including to draw up an inventory of State facilities that can be used for the protection of civilians and a registry for the delivery of equipment as well as humanitarian and other supplies. Regional emergency commissions will support and complement the civilian protection measures that already form part of the legal obligations of the State,<sup>29</sup> namely activities necessary for evacuation, safety and health. In a resolution of 30 January, a procedure for rendering humanitarian assistance to the population was elaborated which provides for assistance to be distributed through the State administrations of the Donetsk and Luhansk regions in areas controlled by the Government and in areas controlled by armed groups'. While the intention to provide and ensure access to humanitarian assistance without discrimination is a positive signal, no procedures for coordination and delivery to areas controlled by armed groups are elaborated.

83. On 3 February, Parliament adopted a law 'On military-civilian administrations' aimed at ensuring the functioning of local administrations in the conflict area. The law allows the State-appointed regional administrations in Donetsk and Luhansk to nominate civilian and military personnel to run local self-government bodies. This measure applies to territories under the control of the Ukrainian armed forces. It appears to be aimed at making up for the absence of local people to fill local government positions as a result of the ongoing conflict.

*Other legislative and institutional developments*

84. On 9 February, the Kyiv District Court of appeal partially cancelled the Government decision adopted in November 2014 that discontinued pension and social security payments for residents in the areas controlled by armed groups. The court declared illegal the provisions of paragraph 2 which state that "in cities of Donetsk and Luhansk regions where State authorities temporarily cannot exercise or cannot exercise at all their functions, payments from the State budget, budget of the Pension Fund of Ukraine and other budgets of funds of social insurance will be conducted only after the Government regains control over these territories". If after 10 days no appeal is received, the Government will become liable to resume payments and retroactively pay pensions and other social payments suspended since November 2014 when the decision entered into force.

85. On 12 January, President Poroshenko signed a decree 'On the Strategy of sustainable development – Ukraine 2020'. The strategy foresees 62 reforms including on the fight against corruption, decentralization, energy independence, and modernising the judiciary, the public administration and the defence system. A national council on reforms, involving civil society representatives, was established and tasked to submit strategies and other draft documents concerning the administration of justice and legal institutions. Several anti-corruption laws were adopted<sup>30</sup> and the powers of the prosecution were reduced.

86. Under the leadership of the Ministry of Justice, the Government continued working on the development of the national human rights strategy. Upon the request of civil society, the deadline of 1 January 2015 for its adoption was extended until 31 March 2015 to provide additional time for consultations. The elaboration of the strategy has been based on a consultative process involving representatives of the Government, civil society, the Ombudsman's Office, UN agencies and regional organizations. Over a dozen meetings in plenary sessions and sub-working groups were held in December, January and February.

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<sup>28</sup> Resolution No. 18 'On the State Commission on technogenic and environmental security and emergencies'.

<sup>29</sup> See Resolution No. 11 of the Cabinet of Ministers of Ukraine 'On approval of the Regulation on the unified state system of civil protection' (9 January 2014).

<sup>30</sup> See the HRMMU report of 31 October 2014.

### *Lustration law and anti-corruption measures*

87. A government-led working group was established on 12 January 2015 to prepare amendments to the law ‘On the purification of Government’ (lustration law) adopted on 16 September 2014<sup>31</sup>. The ‘lustration’ of public officials was demanded during the Maidan protests to address corruption and human rights violations by officials under the Yanukovych government. Assessment of the law by the Venice Commission revealed several shortcomings, including: an overly broad timeframe for its application; collective guilt by virtue of belonging to a category of public officials; and a lack of fair trial guarantees. By 12 February 2015, 395 high-ranking State officials had been dismissed, including heads and deputies of ministries, government agencies and State bodies at central, regional and local levels. More than 200 decisions have been appealed in court. Eight decisions were confirmed, while three were overturned, leading to reinstatements. The remaining cases are on hold pending a Constitutional Court ruling on the constitutionality of the law<sup>32</sup>.

88. A law ‘On fair trial’ adopted on 12 February aims to improve the impartiality and professionalism of judges. It provides for a complete re-attestation of judges; elaborates in detail procedures for membership of the bodies in charge of appointing, dismissing and initiating disciplinary proceedings against judges; enhances the powers of the Supreme Court as the ultimate cassation authority; and widens the scope of disciplinary proceedings that can be initiated against judges. The provisions are conducive to improving the functioning and independence of the judiciary, however, constitutional changes have been recommended<sup>33</sup> to ensure that judges are elected by their peers rather than by parliament; and to make the lifting of judicial immunity the prerogative of an independent authority rather than parliament.

89. On 31 January, amendments to the lustration law<sup>34</sup> came into force enabling the selective exemption of high ranking military and security officers from the lustration procedure due to the ongoing conflict. At least one case resulted in the reinstatement of a general previously dismissed under the lustration law. The amendment may be abused and carries the risk of exemptions being obtained through corruption or other illicit means.

90. The law establishing a National Anti-Corruption Bureau (NACB) entered into force on 25 January 2015 while legal acts are being adopted for its functioning. The NACB is a specialized law enforcement agency to fight corruption among senior officials, including ministers, judges and heads of public administrations. It can conduct investigations and open criminal proceedings for corruption cases involving more than UAH 600,000. Its creation constitutes a positive development but should be combined with other necessary reforms, including of the courts, which have lacked independence and integrity. The police and the prosecutor’s office remain responsible for investigating corruption cases involving non-senior officials and smaller amounts, despite very limited success in the past.

### *Law on criminal proceedings in absentia*

91. Amendments to the law on criminal proceedings *in absentia*<sup>35</sup> became effective on 31 January. Trials in the absence of the defendant will be possible when a suspect has left the country and for individuals known to be in the area of the security operation or in Crimea. Amendments widen the scope of the law to include parts of Ukraine which the authorities neither have access to nor control. The HRMU notes that the grounds for prosecution in the absence of the accused, as provided for in the law on criminal proceedings *in absentia*, are

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<sup>31</sup> For a description and analysis of the law, see the HRMMU report of 31 October 2014.

<sup>32</sup> Requests to assess the constitutionality of the law was made by the External Intelligence Service of Ukraine (18 October 2014), the Supreme Court of Ukraine (20 November 2014) and 47 deputies (20 January 2015).

<sup>33</sup> See Opinion No. 639/2011 of the Venice Commission of 18 October 2011.

<sup>34</sup> Law No. 132-VIII ‘On Introducing Amendments to the Law of Ukraine on the Purification of Government’ Regarding Additional Measures to Secure the Defense Capabilities of the State’.

<sup>35</sup> The law was analysed in the HRMMU report of 31 October 2014.

very wide<sup>36</sup>, making possible a frequent resort to this procedure. International law recognizes the right of the accused to be present in person at trial<sup>37</sup>.

## VII. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA

92. Political pressure and intimidation continued against Crimean residents opposing the *de facto* authorities in Crimea and in particular Crimean Tatars and human rights activists. In addition, for the first time, the *de facto* authorities in Crimea have opened legal proceedings in relation to incidents that occurred prior to the March ‘referendum’ in application of Russian laws in the Autonomous Republic of Crimea, contrary to General Assembly resolution 68/262 on the territorial integrity of Ukraine. The exercise of the rights to freedom of opinion and expression and of peaceful assembly continued to be curtailed while registration requirements imposed limitations on the exercise of freedom of religion or belief.

93. The *de facto* authorities in Crimea started legal actions in relation to the events of 26 February 2014 when supporters of Ukraine’s territorial integrity, mostly Crimean Tatars, and pro-Russia demonstrators, clashed in front of Crimea’s parliament building. Two individuals died in the scuffles and about 30 were injured. On the following day, armed men took over Crimea’s parliament. On 29 January 2015, the Crimean police arrested the Deputy Chairman of the Crimean Tatar Mejlis, Akhtem Chiigoz, who took part in the demonstrations. A Simferopol court ordered his detention until 19 February and later extended it until 19 May. Mr Chiigoz is accused under article 212 of the Criminal Code of the Russian Federation (Organization and participation in mass disturbances), which carries a maximum prison sentence of 10 years. On 7 February another Crimean Tatar, Eskender Kantemirov, was detained and accused under the same charges. On 8 February, a court placed him in pre-trial detention for two months.

94. On 26 January 2015, armed masked men raided the premises of the Crimean Tatar TV channel ATR. Equipment was confiscated and some staff members were detained for several hours. According to Crimea’s prosecution office, the channel had been warned against violating the Russian Federation law on extremist activities. Sources within ATR stated that the searches involved video materials related to the events of 26 February 2014.

95. The *de facto* authorities in Crimea started legal proceedings in relation to Crimean participants of the Maidan events. On 8 February, Oleksandr Kostenko was remanded in custody for two months accused under article 115 of the Criminal Code of the Russian Federation<sup>38</sup> of having injured a Berkut special police officer during demonstrations in Kyiv. In this case, as well as the case involving the deputy chairman of the Mejlis, legal proceedings relate to events preceding the March ‘referendum’ and the *de facto* application of Russian legislation in Crimea. This seems to be against article 15(1) of the ICCPR, which states that “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.”

96. A Crimean Tatar activist, Edem Osmanov, was arrested by the Crimean police on 19 January 2015 in connection with the events of 3 May 2014 when thousands of Crimean Tatars

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<sup>36</sup> The law allows trial *in absentia* for: overthrow of the constitutional order; violation of territorial integrity or its financing; high treason; attempt against the life of a statesman; sabotage; espionage; murder and corruption.

<sup>37</sup> Proceedings *in absentia* are in some circumstances (for instance, when the accused person, although informed of the proceedings sufficiently in advance, declines to exercise their right to be present) permissible in the interest of the proper administration of justice (See Daniel Monguya Mbenge v. Zaire, Communication No. 16/1977, U.N. Doc. CCPR/C/OP/2 at 76 (1990))

<sup>38</sup> Article 115 concerns “deliberate infliction of mild damage to health for motives of political, ideological, racial, ethnic or religious hatred or enmity, or hatred or enmity in relation to a social group”.

came to the administrative border with Ukraine to greet the former head of the Crimean Tatar Mejlis, Mustafa Jemilev, who had been banned from entering Crimea by the *de facto* authorities on 22 April 2014. A tense standoff with the Crimean police ensued, with the Crimean Tatars briefly blocking a few roads. A court placed Mr Osmanov in pre-trial detention for two months. He is the fifth Crimean Tatar activist detained in relation to these events since October 2014 on charges of using force against a police officer<sup>39</sup> despite eyewitness reports that the action was largely peaceful.

97. On 25 December 2014, Gennady Afanasiev was sentenced to seven years imprisonment by a Moscow city court. Together with Ukrainian film director Oleh Sentsov and pro-Ukrainian activists Oleksandr Kolchenko and Oleksii Chorny, he was arrested in May 2014 in Simferopol, accused of a ‘terrorist plot’, and later transferred to a pre-trial detention centre in Moscow. Mr Afanasiev had confessed to the charges while in police custody in Simferopol without access to family or a lawyer. On 28 January, a court in Simferopol refused Oleksandr Kolchenko’s request to keep his Ukrainian citizenship. It stated that he had applied for Russian citizenship, a claim denied by his lawyer. On 3 February, in addition to the accusation that he organized a ‘terrorist plot’, Oleh Sentsov was also charged with illegal possession of weapons under article 222-3 of the Criminal Code of the Russian Federation (unlawfully obtaining, selling, possessing weapons, explosive substances and devices).

98. Intimidation of civil society activists has continued over the reporting period. On 23 January 2015, Sinaver Kadyrov, Eskender Bariiev and Abmedzhit Suleimanov, three coordinators of the Committee on the Protection of the Rights of the Crimean Tatar people, a Crimea-based NGO, were stopped by Russian border guards as they were crossing the administrative boundary line with mainland Ukraine. After being interrogated by FSB officials, two were released but Mr Kadyrov was detained and taken to a court, which fined him and ordered his deportation from Crimea for “violating migration legislation and the passport regime”. On 17 January 2015, the three had organized a conference in Simferopol that adopted a resolution calling on the Ukrainian authorities and the international community to protect the Crimean Tatar people. In December 2014, they had tried unsuccessfully to hold a public event on Human Rights Day.

99. On 23 January, officials of the Federal Security Service (FSB) arrested three Crimean Tatars near Simferopol on suspicion of belonging to Hizb ut-Tahrir, a religious organization banned in the Russian Federation for extremism. Their arrest followed searches of their houses. They were placed in pre-trial detention for two months in accordance with article 205-5 of the Criminal Code of the Russian Federation (planning and participation in the activities of a terrorist organization). These are the first cases known to the HRMU of charges for belonging to a banned religious organization since the March ‘referendum’.

100. On 30 January, the Crimean ‘head’ adopted a decree enacting a ‘Comprehensive Plan to counter the terrorist ideology in the Republic of Crimea for the period 2015 to 2018’ developed on the basis of an analogous document of the Russian Federation. The plan aims to ‘effectively decrease the threat of terrorism’ through measures designed to prevent the radicalization of various population groups, ‘in particular the youth’. The measures include identifying people who participated in the armed conflicts in the northern Caucasus of the Russian Federation and other states, including Syria and Ukraine; disseminated terrorist and extremist ideology and information discrediting the Russian Federation; or are members of non-traditional religious organizations and sects. Other measures include terrorism prevention programmes in the media and educational spheres, and activities to promote tolerance, inter-ethnic and religious harmony.

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<sup>39</sup> The other four were remanded in custody for two months in October 2014 and released in December but are still facing charges of using force against a police officer.



101. Freedom of peaceful assembly continued to be restricted by actions of the *de facto* authorities in Crimea. The Committee on the Protection of the Rights of the Crimean Tatars, a Crimean NGO, was prohibited by the *de facto* authorities of the city of Simferopol from holding an event to mark Human Rights Day (10 December) on the grounds that it could block public transportation and access to public buildings as well as “constitute a real threat to the life and health of the population”. An appeal against the ban was rejected and the organizers notified the Simferopol city administration about a planned protest rally instead, also on 10 December. This notification was also rejected and the protest could not go ahead due to a strong police presence. At a press conference later that day, members of the Committee were doused in green paint by a group of young men. The police did not investigate the incident.

102. The Ukrainian authorities restricted the movement of people to and from Crimea. On 26 December 2014 train and bus connections from mainland Ukraine into Crimea were stopped. The decisions of the Railway Transport of Ukraine (‘Ukrzaliznytsia’) and the State Inspection on Safety of Overland Transport mentioned the need ‘to ensure the safety of passengers’ and to prevent the penetration of ‘subversive groups’ from the peninsula. Passenger cars and trucks are still allowed to move in and out of Crimea. However, this situation has created very long lines of vehicles. There are reports of people needing to walk through the two custom services and border guard check-points, which are separated by a five kilometre-long ‘security area’, by foot. Suspension of bus and train connections particularly affects older persons and those with disabilities, who used to travel by train to the mainland.

103. Religious communities in Crimea currently operate based on Ukrainian registration, which the *de facto* authorities in Crimea have neither recognized nor formally denounced. Russian Federation law requires religious communities and civil society organizations to register by 1 March 2015. Registration is essential to open a bank account or rent premises and is a pre-condition for inviting foreign citizens. Non-registration of the Roman Catholic Church in Crimea has led to the departure of a Polish priest and nuns of the Roman Catholic parish in Simferopol after their Ukrainian resident permits expired in late 2014. Similarly, 23 Turkish imams residing in Crimea under a 20-year-old programme with the Crimean Tatar Mejlis had to leave due to non-registration of the Mejlis under Russian law. This situation, and instances of police raids on places of worship, has created anxiety among religious communities and questions the commitment of the *de facto* authorities in Crimea to the protection of the right to freedom of religion or belief.

## **VIII. CONCLUSIONS AND RECOMMENDATIONS**

104. In view of the serious escalation of the conflict in eastern Ukraine since January and its devastating impact on civilians caught in indiscriminate shelling and other hostilities, it is essential that the fighting be brought to an end without further delay. Credible reports indicate a continuing influx of heavy and sophisticated weaponry to armed groups in the Donetsk and Luhansk regions, as well as foreign fighters, including from the Russian Federation. This has fuelled the escalation of the conflict and new offensives by armed groups, undermining the potential for peace as armed groups extend their areas of control. This has resulted in further and significant increases in civilian and military casualties. All parties to the conflict must implement fully the provisions established under the Minsk agreement including: a new ceasefire to have entered into force from 15 February; the withdrawal of heavy weaponry by both sides to create a 50-140km security zone; the withdrawal of foreign armed formations, mercenaries and weapons from the territory of Ukraine; and the reinstatement of full control of the state border by the Government of Ukraine throughout the conflict area.

105. Travel restrictions imposed by the Government of Ukraine on movement across the line of contact have created new threats to civilians in affected areas already in extremely precarious situations, adding to their vulnerability. Assumptions that those who remain on territory controlled by armed groups have made their choice to remain, are worrying and misguided. Many of those who remain do so in fear for their lives due to indiscriminate shelling of homes and evacuation routes, to protect children or other family members, or lack the physical means to leave, including elderly persons, those with disabilities and others. All of those who remain have a right to protection according to international human rights and humanitarian law, which must be respected for all, by all relevant authorities, everywhere.

106. Despite previous warnings that continuing conflict in eastern Ukraine could potentially result in new waves of internally displaced persons, national responses to new displacement over the reporting period remained inadequate, unprepared and largely in the hands of volunteers and humanitarian organizations. The Government must do more to meet the needs of internally displaced persons, in conformity with their rights under international standards, including to ensure winterized accommodation in locations preferred by IDPs, provision of social benefits, and ensuring all their basic needs are met. It is essential to recognize that for many, displacement is likely to be protracted and that durable solutions with regard to housing, employment and integration must be promptly put in place.

107. The impact of the conflict on the economic and social rights of civilians is massive and long-term. All parties to the conflict should strive to guarantee economic and social rights as required by international human rights law and to minimize the restriction of access to basic social services, including health, education, social security as well as access to housing. Interruption of access to such services could have life-threatening or life-long impact on a large portion of the population and would hinder post-conflict recovery of the society. In times of resource constraint, it is essential to mobilize maximum available resources and avoid retrogressive measures.

108. OHCHR continues to appreciate the cooperation extended by the Government of Ukraine to the HRMU during the reporting period. The HRMU will continue to monitor and report on the evolving situation with a view to contributing to an unbiased and accurate assessment of the human rights situation throughout Ukraine. It will work closely with the Government and other national, regional and international actors, including the United Nations system, and will endeavour to assist all actors to fulfil their commitments with respect to international human rights and humanitarian law.

109. While all previous recommendations contained in OHCHR reports issued since 15 April 2014 remain valid, OHCHR calls upon all those involved in the conflict in Ukraine to implement the following recommendations:

- a) Guarantee efforts to abide by and implement the Minsk agreement to end the conflict in the Donbas region and urgently bring an end to the fighting and violence in all localities.
- b) Ensure the protection of civilians in conflict affected regions in full conformity with international human rights and humanitarian law, including an immediate end to indiscriminate shelling of populated areas that puts civilians at risk.
- c) Ensure free and unimpeded access for humanitarian actors to all necessary areas as well as the rapid and non-discriminatory delivery of humanitarian assistance, while adhering to international norms and ensuring the protection of humanitarian actors.
- d) Lift restrictions on free movement across the line of contact on the grounds of security to ensure that civilians wishing to leave conflict affected areas can do so promptly and safely without undue restrictions or delays that may put them at risk due to indiscriminate shelling and attacks at checkpoints.

- e) Enhance evacuation measures, including for those in institutional facilities, to ensure that all individuals wishing to leave conflict affected areas have access to information, transport and essential needs. Respect ceasefire agreements to ensure the safe and voluntary evacuation of civilians.
- f) Provide all necessary assistance to internally displaced persons according to international standards such as the Guiding Principles on Internally Displaced Persons, including with regard to their freedom of movement and the need for durable solutions.
- g) Release all those unlawfully or arbitrarily detained without delay and in conditions of safety. Treat all detainees, civilian or military humanely and according to international human rights and humanitarian law and standards, including those regarding women in detention.
- h) Investigate and prosecute according to law any person found to be responsible for serious human rights violations, including torture and other cruel, degrading or inhumane treatment or punishment of detainees, summary or arbitrary execution, or enforced or involuntary disappearance, including those with command responsibility.
- i) Mechanism for the reporting of violence against women should be established and referral and support systems put in place to ensure the protection of women and girls who may be highly vulnerable to sexually-based or other forms of violence, trafficking and prostitution as a means of survival and ensure prompt investigation of all cases.
- j) Ensure the protection of family unity and that wherever possible children are not separated from their parents, including in the context of evacuation of civilians.
- k) Implement measures in the field of education to ensure to the fullest extent possible that students, including those living in areas controlled by armed groups, who wish to do so, may continue their education, sit exams and obtain Ukrainian diplomas and certificates.
- l) Ensure freedom of the media and the liberty, security and rights of journalists to freely conduct their legitimate professional activities.
- m) Guarantee the rights to freedom of peaceful assembly, freedom of opinion and expression and freedom of association for those legitimately protesting, including for those who object to military mobilization.
- n) Law-enforcement agencies should ensure prompt and effective investigation of crimes motivated by ethnic or religious hatred, including desecration of property and places of worship and acts of violence.

110. With regard to the situation in the Autonomous Republic of Crimea, OHCHR notes a continuing deterioration of the human rights situation for some persons belonging to the Crimean Tatar indigenous group, in particular political and human rights activists and community leaders. Measures have been implemented that undermine the legitimate rights of this and other communities, including freedom of religion or belief and freedom of association and peaceful assembly, and the rights of minorities. To the *de facto* authorities in Crimea and to the Russian Federation, OHCHR makes the following recommendations:

- o) Review of the judicial legitimacy of criminal cases brought against Crimean Tatar leaders and activists and deportations of some leaders should be conducted to answer challenges that cases are politically motivated.
- p) Freedom of religion or belief should be fully respected and protected, including the right of religious communities to freely function without undue administrative or legislative hindrance, harassment or other restrictions, including by law enforcement bodies.

- q) The right to freedom of peaceful assembly and association should be fully restored and measures should be taken to protect that right in practice and to ensure that organizations may hold events including commemorations and demonstrations freely and without hindrance.