

UPDATE ON THE HUMAN RIGHTS SITUATION IN UKRAINE

1 AUGUST – 31 OCTOBER 2022

SUMMARY

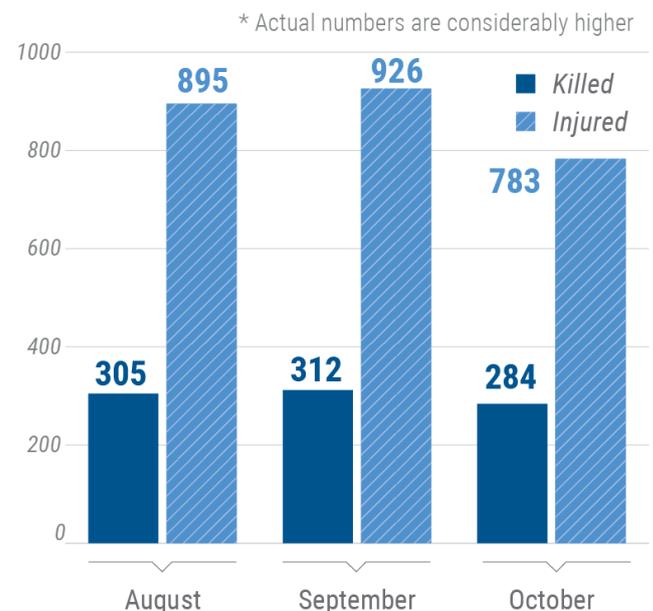
This update focuses on key human rights developments in Ukraine from 1 August to 31 October 2022 and is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU). As the ongoing armed attack by the Russian Federation against Ukraine shows no signs of abating, the human rights situation across the country remains dire. This reporting period was marked by multiple human rights violations affecting both civilians and combatants, including arbitrary deprivation of life, arbitrary detention and enforced disappearance, torture and ill-treatment, and conflict-related sexual violence (CRSV). It was also characterised by widespread attacks against critical infrastructure which caused the humanitarian situation to further deteriorate.

CIVILIAN CASUALTIES

From 1 August to 31 October, HRMMU recorded 3,505 civilian casualties, with 901 killed and 2,604 injured. HRMMU believes that the actual figures are considerably higher, as intense hostilities in some areas delayed the verification of pending cases. Of the 3,505 civilian casualties, 726 were killed and 2,129 injured in 249 settlements under Government control when they occurred (81 per cent of the total); and 175

were killed and 475 injured in 17 settlements in parts of Luhansk and Donetsk regions occupied by the Russian Federation (19 per cent of the total).¹ Explosive weapons with wide area effects caused 95 per cent of civilian casualties (869 killed and 2,466 injured), while mines and explosive remnants of war caused 5 per cent (32 killed and 138 injured).²

CIVILIAN CASUALTIES (INDIVIDUAL CASES VERIFIED BY OHCHR)*, PER MONTH, from 1 August to 31 October 2022



Creation Date: 30 November 2022 Source: OHCHR HRMMU

¹ Civilian casualty figures for other regions of Ukraine that are or were occupied by the Russian Federation (Kharkiv, Kherson and Zaporizhzhia regions) are still pending verification.

² These figures include cases in which civilians were killed or injured by anti-personnel or anti-vehicle mines, other explosive devices such as booby traps, or unexploded ordnance which detonated when touched.

RUSSIAN STRIKES ON ENERGY INFRASTRUCTURE

Since 10 October, Russian armed forces have significantly increased missile, rocket and loitering munitions strikes on cities and energy supply objects across Ukraine. HRMMU documented at least 43 civilians killed and 160 injured by these attacks on Government-controlled territory. Moreover, critical infrastructure, including energy facilities and hydroelectric power stations, was hit in ten regions of Ukraine, resulting in significant electricity and water shortages across the country, including in major cities.

The strikes have cut and restricted civilians' access to water, electricity, heating and essential communications for varying periods of time. With temperatures falling, the destruction of critical water and energy infrastructure puts millions of civilians, especially persons in situations of vulnerability, at real risk of extreme hardship this winter. It could also spark new flows of displacement. These strikes raise a number of concerns with regard to their conformity with the rules on the conduct of hostilities, in particular the principles of necessity, distinction and proportionality.

EDUCATIONAL AND MEDICAL OBJECTS IMPACTED BY THE HOSTILITIES

From 1 August to 31 October, HRMMU documented the destruction of 32 educational and 5 medical facilities and damage to 60 educational and 27 medical facilities. Since the beginning of the armed attack by the Russian Federation on 24 February, HRMMU has documented damage to or destruction of 501 educational facilities and 261 medical facilities.³ The extent of damage to educational and medical facilities directly impacts the enjoyment of the rights to health and education. Children, women in need of perinatal care and persons with vulnerabilities who require stable access to healthcare are particularly affected.

KILLINGS OF CIVILIANS

Many allegations of violations of international human rights and humanitarian law, including wilful killings, emerged after the Government of Ukraine regained control over occupied areas of Kharkiv region in

September. Ukrainian authorities reported that 447 bodies were exhumed from a mass burial site near Iziium.⁴ HRMMU documented that victims include civilians killed as a direct result of hostilities, civilians killed unlawfully, civilians who died because of stresses on their health resulting from the hostilities or lack of access to medical aid, civilians who died from natural causes, and military personnel. In one case documented by HRMMU, Russian armed forces killed a local forensic expert (a man with a disability in his late 60s) on 7 May, as they attempted to requisition his car.⁵

CONFLICT-RELATED SEXUAL VIOLENCE

During the reporting period, HRMMU received credible allegations of CRSV against civilians in areas of Kharkiv and Kherson regions over which Ukraine regained control in September, as well as areas currently occupied by the Russian Federation. Since 24 February 2022, HRMMU has documented 86 cases of CRSV against women, men, and girls, including rape, gang rape, forced nudity and forced public stripping, sexual torture and sexual abuse. The cases occurred in different regions of Ukraine and in a penitentiary facility in the Russian Federation. The majority of these violations were perpetrated by members of Russian armed forces or law enforcement authorities. In 53 cases, sexual violence was used as part of torture and ill-treatment in the context of detention.

Ukrainian law enforcement authorities are reportedly investigating 43 cases of sexual violence. In October, the Office of the Prosecutor General presented a new strategy aimed at integrating a victim-centred approach into CRSV investigations. This important step should facilitate survivors' access to justice, while protecting them against re-traumatisation or other harm.

EVACUATIONS, FORCED TRANSFERS AND 'FILTRATION'

Given the risk of escalating hostilities and the approach of colder months, the Government started mandatory evacuations from parts of Donetsk region under its control on 1 August and strongly recommended that residents of the Government-

³ As many cases are still pending corroboration, HRMMU believes that actual figures are considerably higher.

⁴ According to the Government, the bodies of 215 women, 194 men, 5 children, 22 military personnel, and 11 persons whose sex could not be established were exhumed.

⁵ OHCHR will issue a thematic report on summary executions and attacks on individual civilians in December 2022.

controlled parts of Kharkiv, Mykolaiv and Zaporizhzhia regions also evacuate. While the Government committed to providing transportation, accommodation, food, medical services and financial assistance, HRMMU's monitoring to date suggests that most evacuations are being organised and conducted by civil society and unaffiliated volunteers without the direct assistance of the Government.

Russian occupation authorities in Kherson reported that, between 18 and 26 October, people were evacuated from the west bank of the Dnipro River of Kherson region to other occupied areas or further to the Russian Federation. Initial reports indicate that the evacuation was not compulsory, but civilians who wished to leave had to go through a so-called 'filtration' process, a system of security checks and personal data collection. On 10 October, according to information available to HRMMU, a woman was forcibly disappeared, allegedly by the Security Services of the Russian Federation, after failing to pass the 'filtration' at the Ukraine-Russian Federation border in the Rostov region.

The only crossing point through the frontline in Vasylyvka, Zaporizhzhia region, was often closed in October. On 1 October, Russian armed forces also introduced rules limiting the number of people who could cross from occupied territory to territory controlled by the Government of Ukraine. It became necessary for individuals wishing to cross to apply for written permission from Russian occupation authorities. As people often had to queue for up to three days at the crossing point, the permissions (which were only valid for one or two days) often expired before they could cross, forcing them to turn back and reapply.

HRMMU has received reports of forced transfers of children, including those under institutionalised care, from Donetsk, Kherson, Kharkiv, Luhansk and Zaporizhzhia regions to other regions in Russian-occupied territory, as well as of deportations of children to the Russian Federation. These reports, as

well as the 'filtration' processes, raise serious concerns.

On 7 April, members of Russian-affiliated armed groups ordered a man and his three children to leave their shelter in Mariupol and go through 'filtration'. The man failed to pass the 'filtration' and was detained incommunicado for 50 days. His children were first placed in a 'filtration camp' in Bezimenne and then in a hospital in Novoazovsk, in the occupied territory of Donetsk region, and then taken with other children to a camp for children near Moscow on 27 May. After his release, the man managed to travel to the Russian Federation. On 19 June, he found his children in the camp and left the country with them. According to the man, about 30 children from Donetsk region who lost or were separated from their parents or guardians were transferred with his children to the Russian Federation and brought to the camp, and then placed in foster care in the Russian Federation. The Russian Presidential Commissioner for the Rights of the Child reported that she took into foster care one of the boys from the group, and that he had received Russian citizenship in September.⁶ International humanitarian law prohibits forced transfers and deportation of protected persons, which may amount to war crimes.⁷ This prohibition also applies to children who are not nationals of the party to the conflict in which hands they are found.

TREATMENT OF PRISONERS OF WAR

During the reporting period, HRMMU continued to have confidential access to official places of internment run by the Government of Ukraine. However, the Russian Federation did not grant HRMMU access to prisoners of war (POWs) and civilian detainees under its authority or control.⁸ During the reporting period, HRMMU interviewed 33 POWs from Russian armed forces and affiliated armed groups in six pre-trial detention facilities used for interning POWs. HRMMU found that POWs were frequently punched or kicked upon their capture by Ukrainian armed forces. Moreover, even when their conditions of internment were adequate, many of them were

⁶ MK.ru, "Ombudsman Lvova-Belova took into custody a boy from Mariupol", 13 July 2022, retrieved from <https://www.mk.ru/social/2022/07/13/ombudsmen-lvovabelova-vzyala-pod-opeku-malchika-iz-mariupolya.html> on 23 November 2022; and 360tv.ru, "A teenager from [DPR] was issued a passport in Odintsovo", 22 September 2022, retrieved from <https://360tv.ru/news/mosobl/podrostku-iz-dnr-vydali-pasport-v-odintsove/> on 23 November 2022.

⁷ Article 49 of the Fourth Geneva Convention.

⁸ Exceptionally, on 19 August, HRMMU was allowed to see POWs in a pre-trial detention facility in territory occupied by the Russian Federation in Luhansk. However, HRMMU was not able to conduct confidential interviews.

held in close confinement, contrary to international humanitarian law.⁹

Through 120 interviews with former Ukrainian POWs (104 men and 16 women) released during exchanges, HRMMU documented widespread practices of torture and ill-treatment in places of internment in the Russian Federation and in Ukrainian territory it occupies. These included severe beatings, electric shocks, sexual violence, stress positions and other forms of torture. The beatings resulted in at least one death. HRMMU also documented that members of what appeared to be a group of military contractors summarily executed a person *hors de combat* and denied medical assistance to a POW in their captivity, who died as a result. The majority of Ukrainian POWs complained of poor nutrition and lack or poor quality of water, which led in many cases to the deterioration of their health and extreme weight loss.

Several women POWs who were interned in pre-trial facilities in Donetsk, Kursk and Taganrog reported having been subjected to beatings, forced nudity (in some cases accompanied by cavity searches), threats of rape, and other humiliating treatment that may amount to sexual violence. In particular, women were forced to run naked in the halls of facilities in the presence of male guards. Those who were interned in the penal colony near Olenivka reported that they were not physically abused as such, but complained of psychological suffering and extremely inadequate and humiliating conditions of detention. All interviewed former Ukrainian POWs were held in close confinement, contrary to international humanitarian law.

ENFORCED DISAPPEARANCES AND ARBITRARY DETENTIONS

Since 24 February, HRMMU has documented 457 cases of arbitrary detention and enforced disappearance of civilians (395 men, 61 women, and 1 boy) attributable to the Russian armed forces and affiliated armed groups. Among the victims, 20 (19 men and 1 woman) died in detention or were eventually found dead. HRMMU documented a widespread practice of torture and ill-treatment of

civilian detainees in pre-trial detention facilities in the Russian Federation.¹⁰ This practice included beatings, stress positions and exposure to cold temperatures. Many civilian detainees suffered acts of torture and ill-treatment similar to those inflicted on POWs, including being subjected to “welcome corridors”.¹¹ In several cases, civilian detainees were held in mixed cells with POWs despite the obligation under IHL to keep them separate.

In Kharkiv region, HRMMU documented 34 cases of civilians subjected to enforced disappearance and arbitrary detention by Russian armed forces and affiliated armed groups during the period of their military control. Seven released victims told HRMMU that they were subjected to torture and ill-treatment in detention, including beatings and sexual violence. Moreover, victims were detained in makeshift places of detention, without access to sanitation or sunlight, and provided with poor food. In the Autonomous Republic of Crimea and city of Sevastopol, occupied by the Russian Federation, (“Crimea”) the risk of enforced disappearance was high for men, particularly Crimean Tatars, who travelled from Ukraine’s mainland to Crimea through the Administrative Boundary Line (ABL). HRMMU documented five cases (four men and one woman) of enforced disappearance since 24 February, one of which ended in summary execution. Victims were either apprehended at the ABL or forcibly transferred from Kherson region to Crimea across the ABL.

HRMMU also documented 53 cases of arbitrary detention and 32 cases that may amount to enforced disappearance committed by members of the Ukrainian armed forces and law enforcement bodies. In 36 of these cases, torture or ill-treatment was used, notably by the Security Service of Ukraine (SBU), to procure information or extract confessions in official or unofficial detention facilities, such as basements and rooms in buildings of law enforcement bodies, private apartments or other places turned into military quarters. Forms of torture included severe beatings, administration of electric shocks, mock executions and sleep deprivation, sometimes accompanied by invasive body searches, forced stripping and nudity.

⁹ On 15 November, the Head of Mission Matilda Bogner gave a briefing on the situation of POWs, available at <https://www.ohchr.org/en/press-briefing-notes/2022/11/ukraine-russia-prisoners-war>

¹⁰ These civilians were apprehended in territory of Ukraine controlled by Russian armed forces and affiliated armed

groups and then transferred to facilities in the Russian Federation.

¹¹ Guards line up on two sides to form a corridor and force POWs to run through it, beating them with batons on their entire body, except for the head. HRMMU documented at least one death resulting from such beatings.

CIVIC SPACE AND FUNDAMENTAL FREEDOMS

HRMMU documented that it has become increasingly dangerous for persons residing in Crimea to voice and express their opinions, particularly when expressing support to Ukraine or opposing the armed attack by the Russian Federation. During the reporting period, Russian occupation authorities convicted 61 individuals (40 men and 21 women) for “public actions directed at discrediting the armed forces of the Russian Federation”, a 35 per cent increase compared to the previous three-month period, during which 45 individuals were convicted. This brings the overall number of convictions to 154 since the law was introduced on 4 March.

In one emblematic case, six individuals were charged with publicly demonstrating the symbol of an extremist organization and discrediting Russian armed forces two days after a disc jockey played a Ukrainian patriotic song during a wedding at a restaurant in Bakhchysarai on 10 September. On 13 September, a local court in Bakhchysarai convicted the disc jockey, the mothers of the bride and the groom, a guest, and the owner of the restaurant and his wife. Four of them were sentenced to detention for 5 to 15 days, and the remaining two were ordered to pay administrative fines. The court considered an extract of the song calling “to liberate brothers, Ukrainians from Moscow’s chains” to amount to discrediting Russian armed forces.

In September and October, one journalist was killed by shelling and four journalists and media professionals were injured (three by shelling, one by an explosion) in territory occupied by the Russian Federation. Since 24 February, HRMMU documented 18 cases in which journalists and media professionals died and 19 cases in which they were injured.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

In parts of the country that were affected by the hostilities, including areas of Kharkiv region over which Ukraine regained control in September, many settlements lack electricity, gas and water, and remain heavily contaminated with mines and unexploded ordnance. Civilians returning to their villages face harsh conditions that jeopardise their rights to life and

health. The majority of civilians who stayed in these areas during periods of hostilities and occupation were older persons who face significant challenges applying for and receiving social assistance, including non-contributory pensions. These challenges include the lack of internet access and smartphones, and the necessity to travel to cities several hours away to submit official applications.

Civilians living in the areas affected by hostilities, many of whom are older persons and women with very low incomes or pensions, have been struggling to repair damage to their homes and maintain them inhabitable in winter conditions. Moreover, many of them cannot afford to procure fuel for the winter or are only able to do so to the detriment of other basic needs.

In areas of Donetsk region occupied by the Russian Federation, the water supply has sharply decreased since February, with some settlements receiving only one-fifth of the water they need. The quality of the water is also very low. As water is delivered by trucks to specific collection points, persons with disabilities and older persons, especially those with chronic health problems or mobility challenges, face additional hurdles in accessing sufficient potable water.

On 3 November, Parliament adopted a budget law that does not provide for any substantial increase of the statutory minimum subsistence level, despite an expected inflation rate of 30 per cent and the Government’s own estimate that the statutory minimum only covers half of the current living costs. Since many social benefits, such as non-contributory pensions, are based on this statutory minimum, HRMMU is concerned that, as a result, many civilians will not be able to cover basic needs, especially this winter. Among those most at risk are older persons since 80 per cent of them are dependent on social pensions, and more particularly older women, since they are less likely to have contributed to the formal contributory pension system due to past unpaid family and caregiving responsibilities.¹²

HRMMU continues to receive reports about the lack of adequate housing for displaced persons with disabilities. Problems include inaccessible sanitary

¹² ILO, Future of the Ukrainian Pension System Adequacy, Coverage and Sustainability, 2019, available at: <https://www.social-protection.org/gimi/gess/RessourcePDF.action;jsessionid=vs>

facilities, as well as temporary housing that is either unavailable or not physically accessible.

'REFERENDA' AND APPLICATION OF RUSSIAN LEGISLATION IN THE OCCUPIED TERRITORY

From 23 to 27 September, the Russian occupation authorities held so-called 'referenda' on joining the Russian Federation in the occupied territory of Donetsk, Luhansk, Kherson and Zaporizhzhia regions. On 30 September, the President of the Russian Federation signed "Treaties on the Accession of the Donetsk People's Republic, the Lugansk People's Republic, the Zaporozhye Region and the Kherson Region to the Russian Federation". On 4 October, the Russian Federation adopted federal constitutional laws on accession and purported to formally recognise these four Ukrainian regions as separate "subjects" of the Russian Federation.¹³ On 13 October 2022, the United Nations General Assembly, in its resolution ES-11/4 on "Territorial integrity of Ukraine: defending the principles of the Charter of the United Nations", condemned the organization of these so-called 'referenda' and the attempted illegal annexation of the Donetsk, Kherson, Luhansk and Zaporizhzhia regions, and declared that the unlawful actions of the Russian Federation have no validity under international law and do not form the basis for any alteration of the status of these regions of Ukraine.

The legal acts adopted by the Russian Federation purported to formally extend the application of Russian legislation to the territory of four regions of Ukraine (Donetsk, Luhansk, Zaporizhzhia and Kherson), parts of which are occupied by the Russian Federation.¹⁴ Despite their lack of validity in international law, they have had direct practical consequences for residents in the concerned regions.¹⁵ In particular, they provided that, as a matter of Russian law, all Ukrainian citizens and stateless persons permanently residing in these regions would be recognised as citizens of the Russian Federation, with the exception of those who failed to take an oath or formally rejected Russian citizenship within one month of the entry into force of the "treaties".¹⁶ HRMMU notes with concern that residents of occupied territory who do not obtain Russian citizenship may be excluded from pension, social security and health insurance schemes.

On 19 October, the President of the Russian Federation signed Decree No. 756, which imposed martial law in Donetsk, Kherson, Luhansk and Zaporizhzhia regions. While the exact scope of martial law has yet to be determined, the decree provides for a wide range of measures that may be implemented "if required", including curfews, property seizures, internment, and restrictions on freedom of movement, freedom of association, and activities of political parties and other public associations.¹⁷

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¹³ See Federal Constitutional Laws of the Russian Federation No. 5-FKZ, 6-FKZ, 7-FKZ, 8-FKZ dated 4 October 2022.

¹⁴ Article 8 of each "treaty", whereby the application of Russian legislation was purportedly extended to the entire geographical scope of the relevant regions, each occupied in part by the Russian Federation.

¹⁵ These legal acts replaced existing legislation by Russian legislation in all spheres of life. They also established Russian courts, prosecutor's offices, notaries, bar associations, and set

up a transitional period lasting until 1 January 2026, during which Ukrainian laws would complement Russian legislation unless deemed contrary to the Russian Constitution.

¹⁶ Article 5 of each "treaty".

¹⁷ These measures restrict several rights and freedoms guaranteed by international human rights law. HRMMU notes that the Russian Federation did not formally derogate from any of these rights and thus remains under the obligation to respect them.