

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

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

**15 July 2014**

## **TABLE OF CONTENTS**

<b>I. EXECUTIVE SUMMARY</b>	3
<b>II. RIGHTS TO LIFE, LIBERTY AND SECURITY, AND PHYSICAL INTEGRITY</b>	7
<b>III. RULE OF LAW</b>	14
A. Impunity in the east	14
B. Constitutional amendments	16
C. Justice sector reforms	17
D. Legislative developments	19
<b>IV. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS</b>	20
A. Investigation into human rights violations related to the Maidan protests	21
B. Investigation into human rights violations related to the violence in Odesa	22
C. Investigations into other human rights violations	25
<b>V. INTERNALLY DISPLACED PERSONS</b>	26
<b>VI. FREEDOMS OF EXPRESSION, ASSOCIATION, PEACEFUL ASSEMBLY, MOVEMENT, RELIGION OR BELIEF</b>	29
A. Peaceful assembly	29
B. Freedom of association	30
C. Freedom of expression	30
D. Freedom of movement	31
E. Freedom of religion or belief	32
<b>VII. ECONOMIC, SOCIAL AND CULTURAL RIGHTS</b>	33
<b>VIII. MINORITY RIGHTS AND GROUPS FACING DISCRIMINATION</b>	35
<b>IX. POLITICAL RIGHTS</b>	36
<b>X. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA</b>	37
<b>XI. CONCLUSIONS</b>	39
<b>ANNEX I. COMPILATION OF RECOMMENDATIONS BY THE UN HUMAN RIGHTS MECHANISMS AND THE UN HUMAN RIGHTS MONITORING MISSION IN UKRAINE.</b>	41

## I. EXECUTIVE SUMMARY

1. The continuing deterioration of the human rights situation in eastern Ukraine, the rapid escalation of hostilities and the growing impact on the rest of the country have been the main developments during the past month<sup>1</sup>.
2. Egregious human rights abuses have been committed in the Donetsk and Luhansk regions of eastern Ukraine, where armed groups supporting the self-proclaimed “Donetsk People’s Republic” and “Luhansk People’s Republic” (DPR and LPR respectively) have, until recently, controlled a large part of the territory, including most of the main population centres. There have been hundreds of abductions with many victims tortured.<sup>2</sup> Increasing numbers of civilians have been killed.
3. The Ukrainian security operation, referred to as an ‘anti-terrorist operation’ (ATO), aimed at regaining control of the regions of Donetsk and Luhansk held by these armed groups, involves the army, the military police (National Guard), the National Security Service (SBU) and volunteers’ battalions. In any law enforcement operation security forces must act proportionally to the threat and must at all times respect the right to life. In addition, in the conduct of hostilities all those involved in the hostilities must comply with principles of distinction, proportionality and precautions. This is particularly important in an environment in which armed groups and civilians are inter-mingled.
4. The current intense fighting using heavy weaponry in and around population areas, has devastated towns and villages, demolishing residential buildings and killing an increasing number of their inhabitants. Precautionary measures should be taken to avoid the deaths and injury of civilians.<sup>3</sup>
5. There has been deliberate targeting by the armed groups of critical public utilities like water, electricity and sewerage plants that have shut down essential supplies to the residents. Public and private properties have been illegally seized and residences destroyed. Banks have been robbed and coal mines attacked. Railways were blown up. Hospitals and clinics were forced to shut down and essential medicines and emergency medical services became scarce or totally unavailable. People were unable to leave their homes in some places, trapping older persons or persons with disabilities. The rule of law no longer existed and was replaced by the rule of violence. The increased level of fear, intimidation, harassment and fighting inflicted on the population of the region resulted in an ever growing flood of internally displaced persons fleeing, at latest count 86,609<sup>4</sup> people.
6. Some regional and local officials were abducted and tortured. The regional government in effect ceased to function in the two eastern regions. Some local authorities continued to work but with greatly reduced control or were co-opted by the armed groups. Salaries, pensions and other social welfare payments stopped in some places. The police and judiciary ceased to

---

<sup>1</sup> This is the fourth report of the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU). It covers the period from 8 June to 15 July 2014.

<sup>2</sup> Illegal acts committed by the armed groups include abductions, detentions, torture, murder, executions, extortion, and destruction of property.

<sup>3</sup> On 23 July, the International Committee of the Red Cross (ICRC) issued a News Release calling the fighting in eastern Ukraine a ‘non-international armed conflict’ and urging all parties to comply with international humanitarian law. This requires to impose restrictions on the means and methods of warfare and to distinguish at all times between civilians and persons directly participating in the conflict. In particular, no attacks must be directed against civilian objects such as homes, schools, medical facilities and places of workshop, among others.

<sup>4</sup> UNHCR, 15 July 2014.

function. Residents were left to cope in whatever way they could. Volunteers attempted to fill the gaps.

7. In some places the situation was worse than in others. Slovyansk city (normal population about 130,000 which by early July was down to less than half) in northern Donetsk region was, since April, the stronghold and main base of operations for the armed groups. The residents were particularly badly affected due to the almost constant shelling and fighting there for weeks as the armed groups and Government forces clashed.
8. The professionalization of the armed groups fighting in the east has become openly acknowledged and self-evident. Their leadership, many of whom are nationals of the Russian Federation, are trained and hardened by experience in conflicts, such as in Chechnya (Russian Federation) and Transnistria (Republic of Moldova). What was previously something of a rag tag of armed groups with different loyalties and agendas is now being brought together under the central command of these men. Heavy weaponry including mortars and anti-aircraft guns, tanks and armoured vehicles, and landmines are now being used by them. As the 'Minister of Defence' of the armed groups told the HRMMU on 8 July: "we are in the state of war".
9. The armed groups from the Donetsk and Luhansk regions have themselves joined forces in a self-proclaimed 'People's Republic of Novorossia'. They claimed to have adopted a constitution and to be making other preparations for establishing an unlawful self-government.
10. Throughout the reporting period, the Government of Ukraine pursued its "anti-terrorist" operation (ATO), under the direction of the State Security Service, as it sought to regain control of territory in the eastern regions. This security operation has intensified in the past two weeks involving the use of heavy weaponry and airstrikes. Following the announcement of a Peace Plan by the President of Ukraine on 20 June, the Government implemented a 10-day ceasefire but this was reportedly breached at least 108 times, killing 27 Ukrainian soldiers and wounding 69. At least 9 people not involved in the fighting were also killed, including one eleven month old child. After the ceasefire ended on 30 June, the Government mounted an intense offensive, recapturing territory including the main strategic base of the armed groups in the Donetsk region - the city of Slovyansk - and stating it had regained control of the Ukraine-Russian Federation border areas that had previously been under the control of the armed groups. But the price was high with at least 30 civilian deaths, many wounded, and a great deal of destruction to the recaptured villages, towns and cities. And the control was tenuous, as evidenced by the continuing attacks by armed groups that have killed and wounded soldiers and many civilians. Neither side expressed any public willingness to come together to discuss a negotiated peace. The level of rhetoric and propaganda escalated, with allegations of deliberately targeting civilians. The President, however, stated his readiness to restore a ceasefire upon the following conditions: (i) all hostages should be released; (ii) Governmental control over the border with the Russian Federation should be restored; and (iii) armed groups should be disarmed.
11. The protection of civilians in the eastern regions has been of increasing concern. On 4 July, the United Nations High Commissioner for Human Rights expressed concern about the safety of people caught in the crossfire between Ukrainian forces and the armed groups, and reminded all those involved in the fighting of the need to scrupulously respect residents' fundamental rights, including the right to life. The Government appeared to take notice and, on 8 July, said it would give special attention to the prevention of civilian losses and would not bombard the cities of Donetsk and Luhansk, to which the armed groups had retreated. Instead it would blockade those cities in an effort to force the armed groups to surrender. A leader of one of the armed groups said it was prepared to start a full-scale guerrilla war.

12. Nevertheless people trapped in areas controlled by the armed groups continue to be killed as the heavy shelling continues from both sides. Questions arise about the conformity of these attacks with the rules governing the conduct of hostilities. It is essential that the authorities conduct full and impartial investigations of all incidents where civilians have lost their lives or been wounded.
13. Civilians continue to be abducted by the armed groups. Some people previously abducted and recently released have reported being tortured by them. New allegations of executions by the armed groups have arisen. There have also been cases reported of enforced disappearances of people detained by Government forces, including in areas where the Ukrainian authorities have regained control. The Government must guarantee accountability for all its actions, curtailing impunity and ensuring the local population do not face reprisals. There is also concern about the arbitrary detention of people who are suspected of being supportive of the armed groups.
14. Meanwhile, the situation in the east has begun to impact the rest of Ukraine. Although most people carried on their lives as normal outside the Donetsk and Luhansk regions, there are already signs that violence in the east is having an impact elsewhere.
15. One of the most obvious and immediate impacts has been the increase in the number of internally displaced persons (IDPs) – the majority of whom are women and children - having to be accommodated in the rest of the country. Initially the Government was slow to react to the growing flood of people fleeing the violence in the east, relying on volunteers and the goodwill of the local receiving communities. But as the numbers increased and the lack of coordination, planning and resources became evident, the State Service for Emergency Services stepped in. However, many problems remained to be addressed, including the need for a central registry to document the IDPs, and for the central government to ease access of the IDPs to important social and economic rights. This was partly addressed in a decision in June by the Cabinet. However, other concerns remain, including meeting the specific needs of women and children, who make up the majority of the IDPs. Most IDPs are accommodated in private homes, sanatoriums, student dormitories (that are currently vacant during the summer holidays), or in other temporary situations. If the fighting and hostilities in the east continue, there is concern about how this temporary accommodation will be maintained, especially as the weather gets colder and if the summer sanatoriums are not winterized.
16. At the same time, there is concern that there might be a new wave of IDPs from Crimea in the next few months because of tightening restrictions, the continuing harassment and discrimination against ethnic Ukrainians, Crimean Tatars, and representatives of minority groups in general, as well as stringent limitations of the rights of association, peaceful assembly and expression.
17. A second impact of the worsening situation in the east, are the instances of use of hate speech. High level public condemnations of such troubling developments are required. There are reports of Russian-owned banks and some businesses having been targeted by activists who charged them with ‘financing terrorism’ in the eastern regions. Steps have been taken to ban the Communist Party. Negativity about IDPs has begun to surface, in particular on social media, further dividing opinions between east and west.
18. Concerned about the lack of military equipment, families and local communities themselves have provided basics such as flak jackets, ammunition, and food to new troops being sent to the Government security operation. Local and regional authorities have tried to manage with the growing need to provide social protection to the increasing number of local families who

have members serving in the security operation. As the number of military deaths rise, it can be expected that there will be additional tensions.

19. In some places, tensions have risen for other reasons. In Odesa, there have been a series of bomb hoaxes and violent incidents. This has further affected communities already traumatised following the 2 May violence when 48 people were killed. Accountability for such loss of life must be guaranteed, ensuring justice for the victims as well as perpetrators. Regional and local authorities appear unwilling or unable to take steps to calm the current situation. Arrests have started to be more frequent around the country of people accused of being part of or linked to the armed groups in the east. Dissatisfaction with the lack of accountability in the appointment of regional and other high-level officials, and with the slowness of central government in effectively tackling corruption, has begun to come to a head with confrontational demonstrations.
20. The social impact of the violence and fighting should not be underestimated. It is further exacerbated by the propaganda war, alongside the rhetoric of hate speech that is fuelling further violence. On the other hand, there were some positive developments. Citizens, both individually and in groups have stepped in where their government has been unable to respond quickly enough to rapidly changing events, assisting their communities in the east, accommodating the people fleeing the fighting, and even providing support and equipment to the armed forces. Perhaps this new civic spirit will help drive the next phase of the much needed change in Ukraine.
21. On 27 June, President Poroshenko signed the trade agreement with the European Union (EU) that completes the Association process. Recognising the significance of the occasion, the President said after signing the agreement that this was the second most important event in Ukrainian history after independence. As promised, the Government published on 2 July its proposed amendments to the Constitution allowing for greater regional autonomy and for the use of their own languages. Other important legislation was passed tackling corruption and there were some institutional reforms, including the firing of staff who were found to be inept, corrupt or had committed other violations. Most notable among these, in terms of the large numbers involved, were the firing of 17,000 law enforcement officers and of 1,500 employees of the Office of the General Prosecutor, although the latter appeared to be more an austerity measure. It is essential that in undertaking such action, the rights of the individuals be fully respected.
22. With so much of its attention focused on the escalating security operation in the east and responding to the increase of violence of the armed groups, other key aspects of reform are beginning to receive less attention from the Government. Reform of the judiciary and the system of justice remain to be addressed. Initial steps have been taken to reform law enforcement with a pilot project to start in Lviv, the results from which will form the basis of a reform package. Reform also needs to address the powers of the State Security Service (SBU). The results of the investigations into the Maidan and Odesa violence are still awaited.
23. The unexpected cost of fighting an escalating security operation in the east, which could amount to many millions of dollars, will impose a heavy economic burden on Ukraine. The negative impact of this will be even greater given the current recessionary economic situation in the country, as will the damage inflicted by the armed groups on the infrastructure of the Donbas region, which houses a large part of Ukraine's heavy industry.
24. As it reclaims territory in the east that was formerly held by the armed groups, the Ukraine Government faces a daunting task of rebuilding communities ravaged by the months of fighting, instances of intense violence against protesters and the polarizing impact of the on-

going propaganda war. Humanitarian assistance is already being provided by the international community and a Donor's Conference is being organized by the EU for later in the year. This will provide resources for Ukraine to undertake necessary reform.

25. Corruption and mismanagement has existed for many years. The respect and promotion of good governance, the rule of law and human rights, including through the introduction of critical reforms, must continue as a priority as Ukraine seeks to fulfil its EU aspirations and establish a democratic, pluralistic and prosperous society.

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

26. The rights to life, liberty and physical security are usually the first to be abused during hostilities, such as that happening in eastern Ukraine. It is the responsibility of the Government to ensure that civilians are never targeted and that all precautions are taken to spare the loss of innocent lives. Detained persons must be treated humanely and provided with all due process guarantees, starting with the right to counsel and information about the reasons for the detention. Arbitrary detention and abduction, hostage taking and other human rights abuses must be promptly investigated and the perpetrators brought to justice. In addition, any allegations of extrajudicial killings and enforced disappearance must be duly investigated and perpetrators brought to account. The armed groups fighting in the east must abide by international law but unfortunately this has not been the case. Grave human rights abuses have been committed by those armed groups. And it must be remembered that these groups have taken control of Ukrainian territory and inflicted on the populations a reign of intimidation and terror to maintain their position of control. The Government is undertaking its security operation, within a legislative framework that includes anti-terrorism laws and the criminal procedure code. It also needs to ensure respect for international law and the protection of human rights for all those who live in the Donetsk and Luhansk regions.
27. All allegations of abduction, enforced disappearance, arbitrary detention, torture, ill treatment and other human rights abuses must be investigated and the perpetrators held to account. However, ensuring an impartial investigation of the multiple killings, detentions, cases of torture and enforced disappearances and other reported violations and abuses has not been possible until now because of the dangerous situation in the east and the limited control of the Ukrainian Government in the territory.

### ***Casualties***

28. The number of casualties is hard to ascertain. However, based on the best data available conservative estimates by the HRMMU and the World Health Organisation (WHO) are that at least 1,000 people have died from mid-April until 15 July. This includes military and civilians (including members of the armed groups). According to the Ministry of Health, as of 10 July, 478 civilians have been killed (441 men, 30 women and 7 children) and 1,392 injured (1,274 men, 104 women and 14 children) since the fighting began in eastern Ukraine in mid-April. However, the Ministry withdrew these figures the same day they announced them, and have issued no further data since. In addition, the Ministry's figures only include those dead who were delivered to morgues of medical establishments, or those wounded and who later died in hospital. In fact, many dead were buried without being taken to morgues. The number of casualties of the Ukraine armed forces is given as 258, with 922 wounded, according to the Council for National Security and Defence on 15 July. The number of members of armed

groups who have been killed is unknown, but some may have been counted within the numbers of civilians killed.

29. Since 10 July, there have been at least 44 more civilian casualties, including two children, for a total of 522 people, as reported by civil medical establishments and regional administrations in the Donetsk and Luhansk regions. Most of these recent have been the result of intense shelling of villages, towns and cities, the so-called 'collateral damage' to the fighting that is taking place in and around population centres.
30. In this report, the HRMMU has enumerated cases where people were killed by indiscriminate shelling. However, of the figures above, the Government has said that most of the deaths were by gunshot wounds.
31. The armed groups are locating their military assets in and conducting attacks from densely populated areas thereby putting the whole civilian population at risk. Locating military objectives within or near a densely populated area, and launching attacks from such areas may constitute a violation of international humanitarian law.
32. Human Rights Watch and Memorial, sometimes accompanied by Ukrainian human rights defenders, have visited the town of Krasny Liman, and the villages of Stanista-Luganskaya and Staraya Kondrashovka to investigate the circumstances in which civilians have been killed. In Stanista-Luganskaya and Staraya Kondrashovka, at least 11 people were killed including 2 children on 2 July; in Krasny Liman, shelling hit the Railway Hospital, killing the chief surgeon and wounding three others.
33. As the increasing number of casualties in the past few days attests, there has not been sufficient precaution taken to preventing death and injury to civilians. Recent examples include the shelling of the village of Maryinka and of the Petrovskiy district of Donetsk on 11 and 12 July when at least 16 people were killed, including one child. There was an air strike on the town of Snizhne in the Donetsk region on 15 July, and at least 11 people were killed from shrapnel wounds and eight more wounded, including one child. On 11 July, Ukrainian forces claimed to have destroyed a camp of an armed group located in the premises of an empty school in the village of Golmovsky, near Horlivka. The armed group claimed that one civilian had been killed during that air strike. On 13 July, two civilians were killed in Krasnogrovka in the Donetsk region. On 15 July, the Mayor of Luhansk announced that 17 Luhansk residents were killed in residential areas during attacks on 14 July and 73 people received shrapnel and gunshot wounds during the fighting. On 15-16 July, one civilian died and nine more were injured as a result of gunfire in Luhansk. During the hostilities, paramedics reported responding to 160 calls.
34. However, not all of the deaths and injuries can be attributed to reported shelling or air strikes of towns/villages. Some deaths had other causes. For example anti-personnel landmines have killed at least three and injured two others; people have been killed when the passenger buses they were travelling in were shot at; and people have been killed when travelling in their car. Three traffic policemen were killed at close range and without warning, according to an eyewitness, in Donetsk city on 3 July. A criminal investigation has been opened into the police killings. A motorist was killed when armed groups stole the car he was driving in Noviy Svit (Donetsk region). There have been reports of people being used as 'human shields' by the armed groups, as for example in Horlivka on 14 June. In this incident, after two people were killed and 8 injured, reportedly during an airstrike, the armed group then threatened to organise "human shields", by placing detainees on the roof of a city municipal building, The detainees, included five servicemen from the Kirovograd region and two 25<sup>th</sup> army brigade officers and their driver who were all from Dnepropetrovsk region.

### *Abduction and detention*

35. According to the Ukrainian government<sup>5</sup>, since mid-April, 717 people have been abducted by armed groups in eastern Ukraine. These included: 46 journalists, 112 police officers, 26 representatives of the OSCE, 22 deputies, members of political parties and heads of district (town) councils, 5 employees of the prosecution office, 2 lawyers, 2 judges, 1 employee of the penitentiary service and 481 other people (including 392 girls and women). The armed groups also detained 91 servicemen and border guards as well as 4 Security Service officers. 437 people were released. The whereabouts of 375 people remains unknown.
36. The HRMMU has been following the cases of 400 people who were abducted since mid-April. Of these, 4 people are dead (having been found dead with visible signs of torture), 211 are still detained, and 185 have been released. Of those still detained, 202 are men and 9 are women.
37. The number of people abducted by the armed groups has significantly increased in Luhansk city during the past 2 weeks. For example, a group of 13 employees of PrivatBank were abducted on 7 July. Four were subsequently released and 9 remain in captivity.
38. Intimidation and violence by the armed groups against civilians in the east has continued, with people being abducted and detained often for purposes of hostage taking. The armed groups also carry out acts of ill-treatment, torture and murder.
39. Some of those detained by the armed groups are local politicians, public officials and employees of the local coal mining industry; the majority are ordinary citizens, including teachers, journalists, members of the clergy and students.
40. The motivation for the abductions and detentions by the armed groups appears to be: a) exchange with detainees held by the Government; b) gain some influence on the situation; c) extortion of property or money; d) source of labour for digging trenches and preparing military barricades; e) opportunistic 'arrests' of people; and f) 'internal discipline' of the armed groups themselves. With these acts, the armed groups continued to exercise their power over the population in raw and brutal ways.
41. Examples of the 400 cases that the HRMMU has been following include the following: in Donetsk, a free-lance cameraman was reportedly abducted in Slovyansk. In Soledar (Donetsk region) the chairman of a Trade Union organization at the Artyomsol Company was abducted. A professor at the Luhansk National University was abducted. A resident of Pionerske village in the Luhansk region was reported missing. The Head of a company called Agrovostok in Malarovo (Luhansk region) was abducted. According to unconfirmed reports, the police chief of Severodonetsk (Luhansk region) was detained by armed persons. Two university students were abducted in Donetsk allegedly for breaking the curfew and told they would be drafted into the DPR army. They were later found in an occupied public building and had been engaged in 'forced labour'. A university professor was abducted by armed persons 'for questioning' for allegedly taking photos and videos of the movements of armed groups and posting them online. Two senior managers of a private company were abducted at a checkpoint while driving at night near Karlivka (Donetsk region). A protestant pastor and his wife were abducted and held in Druzhkivka (Donetsk region) by the 'Donbas People's Militia'. Three drunk people driving a car in Luhansk were reported missing; two others who were drinking with friends outside a café in downtown Luhansk were 'arrested' by armed men after a fight broke out. An assistant of the Donetsk Regional Governor was abducted on 26 June and the chief of the Artemivsk pre-trial detention centre was abducted on the same

---

<sup>5</sup> Ministry of the Interior figures as of 18 July.

day, when armed groups robbed the centre's armoury. Reportedly, armed members of the "Right Sector" abducted the Mayor of Kurakhovo and a deputy of the city council on 8 July. They later confirmed to the HRMMU that they were questioned about their collaboration with the armed groups in Maryinka, and then were released on 9 July.

42. The length of period for those detained varies considerably – some are held for a few hours, others for several months. In the majority of cases, release depends on factors such as whether there is an exchange of some sort, e.g. money. However, there have also been occasions in the past month of a number of detainees being released without any particular "exchange". Between 7-13 June, some 32 people were released by the armed groups. However, a pattern emerged that no sooner were some people released than others were detained, reinforcing the opportunistic and resource providing element to the abductions and detentions.
43. In addition to the abductions and detentions of local citizens, there were the cases of the eight monitors (in two separate teams) from the OSCE Special Monitoring Mission who were abducted by armed groups in May. All eight were released over a period of a few days in early July.
44. Other cases of detention include the former Mayor of Slovyansk, the current mayor of Mykytivka (a village near Slovyansk), and the head of the Artyomivsk city department of the Ministry of the Interior (MoI), all of whom were detained by armed groups. In a 25 June meeting in Mariupol, the HRMMU learned that the acting Head of the Mariupol city department of the MoI was conducting investigations into "pro-Russian" activities in Mariupol in connection with the 9 May incidents. In addition some activists being detained by Ukrainian law enforcement and voluntary battalions, allegedly committed crimes under Article 258 (Act of terrorism) of the Criminal Code. No clarification has been provided to the HRMMU on the exact whereabouts of those detainees. It was also reported that the Right Sector in coordination with the Ukrainian military had detained a leader of one of the armed groups in the Donetsk region on 25 June.
45. Since 5 June there have been instances when drug users (even those in remission) and people living with HIV/AIDS who, because of their status, have been detained by armed groups. Reportedly, some are being tortured and kept in basements. The relatives of the detained are frequently required to pay a "fine" (ransom) ranging from 200 to 1,000 USD. Many detainees are also forced to "work off their guilt" as forced labour or to fight on the front lines for 15 days. Those who cannot pay the ransom are given the option to "wash off their guilt with blood"; in other words, they are sent to the front lines to fight on the side of the armed groups. Evidently, the armed groups consider these actions to be "prevention measures for drug addicts". At the same time there were some cases of abduction reported in other regions of Ukraine. For example, a local leader of a Right Sector chapter in Ivano-Frankivsk region was reported abducted by unknown persons during the reporting period.

#### *Torture and ill-treatment*

46. In discussions with the HRMMU following their release, many detainees who were held by armed groups report beatings, ill-treatment, sleep deprivation and very poor conditions while in detention, and forced labour, including digging trenches on the front lines. As an "alternative" to torture and ill-treatment, it was suggested that detainees join the ranks of those fighting for the armed groups. Some, allegedly, are forced to participate in the abduction of other people. The son of a man abducted in Donetsk on 7 July reported that his father had been transferred by the armed groups to Snizhne where about 100 detainees, males aged from 14 to 60 years old, were being held. He said that during the day the detainees were forced to dig trenches near the Ukrainian-Russian Federation border, which has been on the

front lines of heavy fighting between the armed groups and the Ukraine forces. A Donetsk Regional State Administration official was released from captivity in Horlivka on 10 July. He had been held since 26 June and said he had been tortured.

### ***Executions***

47. Written records of execution orders authorized and signed personally by the ‘Commander-in-Chief’ of the armed groups, Igor Girkin (known as Strelkov), as well as protocols of hearings of a ‘military tribunal’ convicting people to death, were found in Slovyansk by a journalist on 7 July. The convictions were apparently of people associated with armed groups, and a common criminal. The HRMMU is verifying these records with relatives of the victims and a witness.

### ***Abduction of children***

48. Children face particular hazards in the conflict zones. Orphans, many very young or with disabilities, in the Donetsk and Luhansk regions have faced particular difficulties, sometimes being used as pawns in the larger geo-political dispute. For example, in Donetsk, the chief medical officer reported difficulty in evacuating children from an orphanage in Kramatorsk city, because armed groups did not want to send Donbas children “to an enemy country, Ukraine” and wanted them to go to the Russian Federation. All 32 children were eventually evacuated safely to the Kharkiv region on 28-29 June thanks to the intervention of a Moscow-based NGO. In so doing, one of their representatives faced some personal danger, including being briefly detained by local armed groups on 25 June.
49. A group of 16 children and two chaperones, who were allegedly abducted and transferred to the Russian Federation territory on 12 June by armed groups, were returned back to Ukraine on 13 June.<sup>6</sup> The Ombudspersons of Ukraine and the Russian Federation actively cooperated to facilitate the return of the children.
50. On 7 July, the UN in Ukraine received an official communication from the Government of Ukraine informing the UN of possible attempts by armed groups to forcefully transport 206 orphans from the Donetsk region to the Russian Federation, saying that it had informed the Embassy of the Russian Federation in Ukraine about the above-mentioned situation and called for the implementation of international obligations to guarantee the rights of children.
51. On 13 July, 54 children from a Maryinka orphanage were taken to Donetsk by armed groups after attempts to transfer the children to the Russian Federation were unsuccessful. This was in spite of intense pressure being placed on the directors of the orphanage. The children remain in Donetsk.

### ***Allegations of sexual violence***

52. The HRMMU has received reports of allegations of sexual violence being committed against individuals by members of the armed groups. It has also received allegations concerning a National Guard in Kramatorsk. The HRMMU is trying to verify such claims.

---

<sup>6</sup> The Ministry of Foreign Affairs (MFA) of Ukraine issued a statement on 12 June accusing the Russian Federation of having allowed the illegal transfer to its territory of 16 orphans. The children were reportedly part of a group of people abducted in the town of Snizhne by armed representatives of the “Donetsk People’s Republic”. According to the MFA, the children did not have proper permits to cross the border, and that in such conditions their transfer qualifies as an act of international abduction of children. The MFA sent a note verbale to the MFA of the Russian Federation requesting urgent measures to be taken to ensure the immediate return of the children in Ukraine and the prosecution of persons involved in the promotion of their illegal entry into the Russian Federation.

### *Arbitrary detentions and enforced disappearances*

53. Members of the Ukrainian territorial battalions and the National Guard are alleged to have arbitrarily detained a number of suspected supporters of the armed groups and subjecting them to enforced disappearances. The HRMMU is seeking verification on a number of cases.
54. On 11 June, the HRMMU with the Head of the National Preventive Mechanism (NPM) visited the Headquarters of the Government's security operation in the eastern regions, which is based in Izyum, to gain information on the situation of those detained by the Government armed forces in the context of the security operation. According to information provided to the HRMMU, all persons detained by the Ukrainian armed forces during the security operation are sent directly to the State Security Services of Ukraine (SBU).
55. On 27 June, the HRMMU met with the head of the Investigative Department of the SBU, who said that in the current situation, detentions are often carried out in areas within close proximity to the fighting, which sometimes does not allow for entire compliance with the procedure of detention of the Criminal Procedure Code. Also, since in many towns of the two eastern regions the police was not functioning, detainees had to be transferred to Kyiv, which reportedly did not allow for timely notification of the relatives about the fact of detention. The HRMMU was also told that none of the detainees kept in Kyiv by the SBU have been tortured or ill-treated.
56. On 4 July, the Ministry of Interior stated to the HRMMU that if detentions are undertaken by battalions subordinated to the Ministry of the Interior, they are carried out in accordance with the law "On police", which obliges battalions' volunteers to fill out a protocol for detention, and then they usually transfer detainees to the authorities (mostly in Kyiv). The HRMMU is, however, concerned that such procedures are not respected, following reports it has received on the situation of individuals detained in the course of the security operation. According to the Criminal Procedure Code of Ukraine, the detaining authority must immediately take steps to ensure that a person arrested can benefit from the services of a counsel; in addition, the person must appear before a court within 60 hours following his or her arrest in order to determine the measure of restraint to be applied. The HRMMU has observed that these two requirements were often not met because the security environment did not allow securing the services of a defence lawyer and for the suspect to appear before court within the prescribed deadline. In addition, the powers granted under Ukraine's counter-terrorism legislation, place emphasis on the collection of information, including interrogation of suspects. Thus, persons detained as part of the security operation may often be victims of a protection gap, and consequently suffer a violation of their rights, due to the application of provision of the Criminal Procedure Code in a context characterized by active fighting and limitation of movements.
57. Together with the NPM, the HRMMU is following up on cases of detention by the security forces, a number of which are cause for concern, in particular those of enforced disappearance.
58. For example, a Donetsk resident was detained by the SBU in the main Kyiv train station on 13 June. Information about the detention was published on the SBU website, which mentioned that the individual was "an active member of the terrorist DPR". However, the SBU later denied having detained this individual who is currently unaccounted for. His defence lawyer has been unable to contact him since the arrest took place.
59. Reports suggested that members of the Ukraine forces have been responsible for the ill-treatment and torture of detainees. On 18 June, the editor-in-chief of the local newspaper "Vestnik Priazovya" was detained by armed men of one of the Ukraine battalions in

Mariupol. The HRMMU has received very contradictory information on this case of enforced disappearance, and is now closely cooperating with the NPM to verify it.

60. On 10 July, unknown persons reportedly opened fire on the Artemovsk Pedagogical College, in which the Ukrainian battalion “Donbass” was based. A soldier of the Battalion “Donbas” was reportedly arrested by his own battalion as of 8 July and accused of transmitting information about the deployment of the battalions to the supporters of the armed groups. Reportedly he was beaten and taken to Izyum police department (the Ukrainian security operation base in the Kharkiv region) and kept in solitary confinement. However, as of 15 July his whereabouts remain unknown.

#### *Landmines and explosive remnants*

61. The first indication of the use of landmines by the armed groups came on 2 July when Ukraine forces regained control of the border area in Luhansk. In so doing, it discovered anti-tank landmines, one of which blew up a Ukraine Border Control vehicle, wounding the six border officials inside. Anti-personnel mines killed three civilians and wounded two more in separate incidents near Luhansk and Kramatorsk; both towns were at that time controlled by armed groups.
62. Ukraine is a party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction.
63. On 4 July, the Ministry of the Interior informed the HRMMU that the armed groups have been using two types of blast land mines. One of the types is an anti-personnel non-removable land mine complex with two wires between the mines which makes it almost impossible to safely de-activate. It was also reported that anti-tank mines are used in combination with anti-personnel mines, which make them more dangerous, not only for the armed forces, but also for the residents not involved in the fighting.
64. After Ukrainian forces regained control of Slovyansk, they discovered explosive remnants on many roads, enterprises and buildings. The Ukrainian Defence Minister reportedly said on 8 July that many highways were mined, in particular the routes from Slovyansk to Kramatorsk and from Slovyansk to Donetsk, saying “a lot of landmines and unexploded shells lie on the sides of the roads” and that they were working to dispose of them. There were reports of more civilian deaths from landmines on the outskirts of Donetsk city.

#### *Other incidents*

65. As the fighting has escalated in the east, there has been a concurrent rise in incidents and ‘preventive’ action by the authorities elsewhere in Ukraine. For example, in the Dnipropetrovsk region, a woman who is allegedly the local coordinator for the armed groups in the Marinski and Velikonovoselski districts was arrested on 20 June for allegedly inciting people to disobey the Ukrainian Government and to support the “independence” of the Donetsk region.
66. During the week of 7-13 July, the SBU in Kharkiv announced the arrest of two people it alleged to be ‘terrorists’ participating in the armed groups in the east; the SBU also announced the arrest of a resident of Dnipropetrovsk who is the alleged leader of a terrorist group commissioned by the intelligence service of the Russian Federation to undertake intelligence and subversive activities against Ukraine. According to the SBU Press centre on 6 July, in Kherson, one of the leaders of the armed groups was detained while trying to cross from the Ukraine mainland into Crimea. In Odesa, the SBU on 10 July arrested two people (including one citizen of the Russian Federation) in connection with an event at which, along with 50 other people, they were allegedly planning to create an ‘Odesa People’s Republic’.

67. Bomb threats have plagued Odesa since June targeting public buildings and facilities such as train stations and the courts. There were also a number of actual explosions and other incidents. An explosion at a military unit on the night of 3 July was called a ‘terrorist act’ by the Government. Two fires on 6 July at a bank and the office of a political party were considered suspicious. Two branches of the PrivatBank were damaged by powerful explosions on 13 July. No casualties were reported. A spokesperson of the bank said it was another attempt to de-stabilize the city. Nevertheless, a week-long international film festival in Odesa opened as planned on 11 July.
68. On 1 July the SBU blocked several streets in Odesa while arresting three individuals suspected to be “rebel fighters”. In the Kherson region, border guards and the SBU arrested two people trying to escape to Crimea who were wanted for allegedly participating in the storming of a military unit in Mariupol.
69. In Odesa, the city Department of the Ministry of Justice appealed to the Odesa District Administrative Court to ban a “pro-Russian” movement called ‘Molodizhna Ednist’ as being contrary to Ukrainian law on civil organizations. In June, one leader of the organization was arrested in March under Article 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code and is being held in Kyiv; his brother has been in hiding since the 2 May violence and is rumoured to have fled to the eastern region of Ukraine that is under the control of the armed groups.
70. On 8 July, authorities in the Russian Federation announced that the former Ukrainian military pilot, Nadiya Savchenko, who is being held in a pre-trial detention centre in Voronezh in the Russian Federation<sup>7</sup>, was being charged with complicity in the killing of two Russian TV journalists on 17 June near Luhansk. There has been a great deal of controversy surrounding the circumstances of the capture of Ms. Savchenko, with the Russian authorities insisting she crossed the border freely into its territory and was then arrested for having no documents and pretending to be a refugee. The Ukrainian Government insists she was abducted in Luhansk by the armed groups and was taken to the Russian Federation ‘as a result of an agreement or joint operation between the terrorists and the Russian secret services.’ The Ukrainian Government is appealing to the international community to help free Ms. Savchenko. On 19 June, the office of the Ukrainian Prosecutor General said a criminal investigation was being undertaken into the circumstances leading to the death of 10 persons, including the 2 Russian TV journalists, who were killed in a mortar attack near Luhansk on 17 June. On 10 July, the HRMMU was informed this is now an investigation under Article 258 of the Criminal Code (Terrorism) and the investigation is being handled by the SBU. On 10 July, the Luhansk Ministry of the Interior opened a criminal investigation into the abduction of Ms. Savchenko under Article 146 of the Criminal Code (Illegal confinement or abduction of a person).

### **III. RULE OF LAW**

#### **A. Impunity in the east**

71. The armed groups do not recognize the authority of the Ukraine Government. In the areas of the east that they control the rule of law has collapsed. The police are de facto under the control of armed groups. Police investigations concerning crimes attributed to armed groups

---

<sup>7</sup> The Government of Ukraine states that the Russian Federation did not allow a Ukrainian Consul to visit Ms. Savchenko for several days. Her lawyer said she went on a hunger strike to protest this treatment. Ms. Savchenko was allowed to see the Consul on 16 July.

are not conducted. During evening hours, the police do not respond to phone calls made on the emergency line. Some courts continue operating, but even in these there have been examples of hearings being interrupted by armed groups entering the courtroom.

72. Public buildings, such as those hosting the local or regional branches of the Ministry of the Interior, the Office of the Prosecutor, the State Security Service (SBU) and local government institutions, are occupied and are often used to detain and torture civic activists, journalists or political opponents. Criminal proceedings or other legal measures initiated by the Ministry of the Interior and the Prosecutor General of Ukraine remain a dead letter in territories controlled by the armed groups.
73. The armed groups claim that they are putting into place parallel ‘institutions’. For example, they claimed a ‘prosecution system’ had been set up, and that a ‘court martial’ temporarily carried out (unlawful) judiciary functions. They claim that a special (illegal) ‘military police’ is in the process of being created as well as a Criminal Code and Criminal Procedure Code, replicated from the Russian equivalents.
74. The Ukrainian security operation involves the army, the military police (National Guard), the National Security Service (SBU) and a number of volunteers’ battalions.<sup>8</sup> The involvement of battalions of volunteers (Donbas, Azov, Aydar, Dnipro, Ukraine, etc.) raises important questions. While they nominally operate under the command of the Ministry of the Interior or the Ministry of Defence, they would appear to enjoy a large degree of autonomy in their operation. There are allegations of human rights violations committed by these battalions. Currently four types should be distinguished: operational assignment battalions, special police forces battalions (both are under the Ministry of the Interior and function according to the law “On Police”), battalions of territorial defence (under the Ministry of Defence), and self-organised battalions who do not subordinate or report to State institutions. On 3 July, the Ministry of the Interior created a special department, which will oversee the activity of its battalions. However, the legal basis for the functioning of other battalions is not as clear. The Ministry of the Interior said it was deeply concerned about these groups and planned to reach out to as many of them as possible with a view to integrating them into existing battalions. This would solve the question of their legality and would also allow for coordination of their activities. It is imperative, for purposes of accountability, to clarify the legal framework within which these battalions operate.
75. Heavy armament, including tanks, military aviation and helicopters were used in addition to artillery. The armed groups also use heavy weaponry, including missiles and tanks. Incidents involving civilian deaths have occurred without any possibility to ascertain beyond any doubt whether the casualties were caused by Ukrainian forces or armed groups. Among them: a five-year-old and his mother were killed by mortar shelling in Slovyansk on 20 June; two Russian journalists were killed on 17 June during a mortar attack near Luhansk; 2 employees of the Public Utility Company “Water of Donbas” were killed by shelling at the water canal in the village of Semenivka on 10 June.
76. The authorities of Ukraine can legitimately claim they have a duty to restore law and order, including, if necessary, by resorting to force. In any law enforcement operation security forces must act proportionally to the threat and must at all times respect the right to life. In addition, in the conduct of hostilities all those involved in the hostilities must comply with

---

<sup>8</sup> The first volunteer battalions appeared in mid-April in the eastern regions of Ukraine as small groups of pro-Ukrainian activists who wanted to protect their neighbourhoods from the lawlessness of armed groups. Eventually more people joined. By the end of May, a number of battalions (each battalion is around 500 people) were formed. As of July, some have already been officially integrated into the structure of relevant Ministries.

principles of distinction, proportionality and precautions. This is particularly important in an environment in which armed groups and civilians are inter-mingled.

77. The use of heavy artillery and aviation, in particular, have increased the risks to civilians and caused casualties. It is essential that the authorities conduct full and impartial investigations of all incidents where civilians may have lost their lives or have been injured by the Ukrainian forces since the launch of the security operation. Remedies must be available to victims, if the damage to their property was done illegally.
78. The Ukrainian forces have regained several areas formerly controlled by armed groups since 5 July; it is essential to ensure that no reprisals are applied against civilians. The questioning of people and verification of information conducted by Ukrainian forces in areas, formerly controlled by the armed groups, must at all times uphold the presumption of innocence and respect human rights and human dignity<sup>9</sup>. The Government needs to provide information on how these activities are conducted and what human rights guarantees are attached to this process. The HRMMU stresses the paramount importance to uphold the right to life and ensure protection against arbitrarily deprivation of liberty, in accordance with Ukraine's obligations under the International Covenant on Civil and Political Rights (ICCPR) and other international instruments.
79. There are disturbing reports of cases, including journalists, politicians and of people allegedly supporting the armed groups, of having been arrested by the Ukrainian forces but whose whereabouts could not be ascertained for a long period of time or are still not known. These cases constitute a violation of the right to liberty and security, which implies a prohibition of arbitrary arrest or detention, and of the 'minimum guarantees', such as the right to a counsel, that every person deprived of liberty is entitled to benefit from under international human rights law.

## **B. Constitutional amendments**

80. On 2 July, the Parliament registered a draft law (№ 4178a) initiated by the President of Ukraine, proposing to amend the Constitution of Ukraine.
81. According to this document, Ukraine is to be divided into regions, districts and communities, based on the principles of unity, integrity and decentralization. Local self-government institutions with legislative and executive functions are to be created and local state administrations abolished. Representatives of the President are to be appointed at local level and entrusted with powers to suspend local decisions deemed to be in violation of the constitution. The draft mentions that the division of power between the different levels of self-governance is based on the principle of subsidiarity and that the President can revoke the powers of the local self-government institutions. The provisions regulating self-government institutions in Ukraine also apply to Crimea, but the function of the representative of the President in Crimea is abolished. Other new provisions include the possibility to grant "special status" to the Russian language and languages of other national minorities at the level of villages, towns, districts and regions; increasing the powers of the parliament to initiate or approve appointment of ministers and heads of state institutions; and abolishing the power of the Prosecution to oversee compliance with fundamental rights and freedoms. It should also be noted that the amendments do not contain provisions strengthening the independence of the judiciary. The Venice Commission of the Council of Europe was

---

<sup>9</sup> In accordance with Article 10 of International Covenant on Civil and Political Rights (ICCPR) for detainees as well as the prohibition of torture and ill-treatment under Article 7 of ICCPR.

requested to present an opinion on the draft law and is expected to do so in the second half of July.

82. The draft law is expected to be discussed in parliament and amendments are likely to be proposed. The HRMMU insists on the importance of reaching out to the country in all its diversity to ensure a process of transparency, and inclusive consultations. Debates must be organized to enable the participation of a wide array of constituencies. Human rights defenders, associations of legal professionals, media and other civil society organisations including those representing women, children, minorities, indigenous peoples, refugees, and stateless and displaced persons, and labour and business<sup>10</sup> from all the regions of Ukraine should be given a voice. To facilitate this, the draft Constitutional changes should be made available in minority languages, such as Russian. Durable solutions to controversial issues will only be found through an inclusive, open dialogue and readiness for compromise.

### **C. Justice Sector Reforms**

#### *Law enforcement reform*

83. Initial steps have been taken by the Government of Ukraine to reform the law enforcement system. An Expert Council “on the issues of human rights and reformation” was established in the Ministry of the Interior on 4 April in order to develop a concept for the reform of law enforcement bodies. On 1 July, the Minister of the Interior tasked the Expert Council to prepare and implement a pilot project in Lviv seeking to analyse the work of the police, its performance and cooperation with the local authorities, its relation to citizens, community policing practices, and issues of transparency and accountability. The results of the pilot project are expected to be presented at an Expert Council meeting in November 2014 and to form the basis of a law enforcement reform package. The HRMMU recommends that this pilot should be gender sensitive and ensure that it includes an assessment of how the police deal with domestic violence, rape and other crimes that affect women disproportionately.
84. The HRMMU stresses the importance of reforming the law enforcement system, which as a first step, should include the adoption of a new law on the police. The latter needs to move away from a militarized structure into a civilian, professional public service. Reform also needs to address the powers of the State Security Service (SBU). According to the Parliamentary Assembly of the Council of Europe Recommendation 1402 (1999) the SBU should be devoid of the authority for criminal investigation and arrest of persons<sup>11</sup>.
85. Training<sup>12</sup> should be developed and conducted on all aspects of policing (including or e.g. arrest, pre-trial detention, use of firearms, as well as gender sensitive issues as mentioned above) and a lot remains to be done to ensure that they conform to international standards. This should be another key element of the reform of the law enforcement system.
86. Currently, internal oversight mechanisms are not effective in reviewing incidents of injury or loss of life resulting from the use of force by law enforcement personnel. In addition, the police are generally distrusted and perceived as being corrupt and lacking professionalism. For these reasons, it is important to create platforms, open to civil society and other non-police actors, including women’s groups, to discuss the work of the police and its

---

<sup>10</sup>[http://www.unrol.org/files/Guidance\\_Note\\_United\\_Nations\\_Assistance\\_to\\_Constitution-making\\_Processes\\_FINAL.pdf](http://www.unrol.org/files/Guidance_Note_United_Nations_Assistance_to_Constitution-making_Processes_FINAL.pdf)

<sup>11</sup> “The control of internal security services in the member states of the Council of Europe”; para. V.iii

<sup>12</sup> UPR recommendations from 2012 require Ukraine to provide training for staff of law enforcement bodies on the rights of detainees.

performance and to put in place conditions for greater public accountability of law enforcement officials.

### *Administration of justice reforms*

87. As noted in previous reports, many of the concerns that led to the Maidan events and the crisis in the east are systemic ones, rooted in a weak rule of law and the absence of effective checks and balances. The law “On the restoration of the credibility of the judiciary in Ukraine” developed a mechanism for the dismissal of judges who have discredited the judiciary institution by violating professional and ethical standards or being corrupt. A lustration procedure has been put in place to undertake a vetting of judges. However it does not follow some generally recognized requirements in the area of judicial proceedings. For example, past court decisions can be scrutinized by an ‘Interim Special Commission’, which can decide to immediately dismiss judges. The Commission held its first session on 3 July, elected its head and deputy head, but has not initiated any vetting yet. There is concern that the implementation of the law could lead to unjustified and non-motivated dismissals of judges and jeopardize the administration of justice. There is an urgent need to strengthen the institutional independence of the judiciary. This can be done by ensuring, among other things, that the appointment and dismissal of judges, as well as the initiation of disciplinary proceedings against them, leave no room for undue political or other pressure. On matters of judicial self-administration, international standards require that any decision affecting the selection, recruitment, appointment, career progress or termination of office of a judge should be taken by an independent authority within which at least one half of those who sit are judges elected by their peers. However, the High Council of Justice, which plays a central role in the appointment judges, does not fulfil this requirement: only 3 out of 20 members are appointed by the Congress of judges. In addition, when appointed, judges serve for a 5-year trial period after which they can be elected by parliament to a lifetime position. This lengthy trial period is of concern as it opens up the possibility for undue influence on the decision-making of judges during that time. Legal and constitutional amendments should address obstacles to an independent judiciary, namely the role and composition of the High Council of Justice; the length of the trial period, and the role of Parliament in the appointment process. The authorities must also ensure that the justice system is sufficiently funded from the state budget. This would lower the dependency of the judiciary on public and private interests, and minimize the risk of corruption.
88. No progress has been made in reforming the prosecution system, which is another pillar of the justice system, and many recommendations have been made to that effect. The prosecution used to have broad powers outside the criminal justice process. Legal amendments in 2012 reduced them slightly by narrowing prosecutorial general supervision over the application of laws and abolishing the power to issue orders that have the effect of suspending an action undertaken/required. (“submissions”). In addition, the new Criminal Procedure Code, in force since November 2012, gives the Prosecution Service a greater role within the criminal justice process, which is a positive development. However, these measures are insufficient. It is important to provide the prosecution with a clearer mandate focused on leading pre-trial criminal investigations and prosecutions. Such changes can be implemented by amending the law “On the Prosecutor’s Office” and possibly the Constitution. It should also be noted that no progress has been made in establishing a State Bureau of Investigation, as required by the Criminal Procedure Code of Ukraine and recommendations from the Universal Periodic Review and the HRMMU.
89. The role of defence lawyers is critical to a well-functioning legal system and the fairness of trials. A National Bar Association exists that serves as a body of self-administration.

However, the exercise of the profession and working conditions require enhanced protection. Courts do not have any premises for defence lawyers; legislation does not regulate the right to rest or social protection for defence lawyers. The current Criminal Procedure Code limits the number of defence lawyers allowed to work on one case; in case of absence, a lawyer can be replaced by a state-appointed lawyer. A law on the legal profession was adopted in 2012 and draft amendments are under discussion. It would be necessary to ensure that the new amendments create improved conditions of work for defence lawyers and a professional environment conducive to a proper exercise of the right to defence. Equality of arms should characterize the relationship between defence lawyers and prosecutors.

#### **D. Legislative developments**

90. An important number of laws, legal amendments or regulations adopted in recent months have been dictated by the necessity to address topical issues in a difficult and evolving context, characterized by the ‘referendum’ in Crimea<sup>13</sup> and a grave deterioration of the security situation in the east. They include: internally displaced persons; issues related to the rights of those taking part in the security operation and their families; sanctions for criminal actions threatening territorial integrity or aimed at overthrowing the government; the introduction of new penalties for financing illegal activities; amendments to the anti-terrorism law and others. The HRMMU is following these developments, which will be analysed and, if necessary, reflected in future recommendations.
91. In some cases, the new legislation foresees increased compliance with international instruments and recommendations of international human rights mechanisms. For example the definition of complementary protection applying to refugees was extended to include persons fleeing “international or internal armed conflict” and other serious human rights violations, in line with international and European standards. On the issue of discrimination, the definition, scope of prohibited ground, and range of sanctions have largely been aligned with relevant international norms and standards. Finally, the terms applicable to persons with disabilities in domestic legislation – such as “reasonable accommodation”, “universal design ” and “discrimination on the basis of disability ” - are used as defined in the Convention on the Rights of Persons with Disabilities. However, the amendments to the anti-discrimination law do not integrate the jurisprudence of the UN Human Rights Committee and the European Convention on Human Rights on the prevention of discrimination on the basis of sexual orientation.

#### ***Anti-corruption***

92. The legislative basis for combating corruption has improved in recent months: bribery is now classified as an offence under the Criminal Code and corruption in all its forms is treated as a crime. Liability of companies (“legal persons”) has been introduced under the Criminal Code. Regulations have been put in place concerning confiscation and seizure of proceeds of crime. A government Commissioner for anti-corruption policy has been appointed to lead the National Anti-Corruption Committee, established in 2010. However, the latter was not given a sufficient level of independence to carry out a meaningful monitoring function of anti-corruption policies. The Government has indicated its intention to adopt a new anti-corruption strategy for 2014. Eradicating corruption is also inextricably linked to improving the functioning of other institutions. This includes amendments to the legal framework governing the powers and work of the Prosecutor’s Office, public procurement procedures and

---

<sup>13</sup> This referendum was ruled to be unconstitutional by the Constitutional Court of Ukraine; the UN General Assembly declared the referendum to have no validity in its resolution 68/262.

reforming the public administration and civil service. In all these areas, no progress has been made during the reporting period.

### *Asylum*

93. On 30 May 2014, the amendments to the Refugee Law of Ukraine, which brought the complementary protection and temporary protection definitions in line with international and European standards, came into force. The definition of complementary protection now includes persons fleeing armed conflict and other serious human rights violations<sup>14</sup>. Also, in May 2014, asylum seekers were granted access to emergency medical care. Another recent development is the beginning of practical implementation of the age assessment procedure for unaccompanied children seeking asylum which was adopted by the State migration service in 2013. The first age assessment committee was convened in June 2014 in the Kyiv region.
94. However, numerous gaps remain in the current refugee law particularly affecting the quality of due process in the asylum procedure and the reception conditions for asylum-seekers. Asylum-seekers frequently have to find and pay for their own interpreters; if their applications are rejected, they are not provided the reasons for rejection, yet have only five days to file an appeal; asylum-seekers are frequently left undocumented because of gaps in the asylum procedure. Without documentation, asylum-seekers cannot exercise their right to temporary employment. Since reception conditions are generally poor (few spaces available in Temporary Accommodation Centres, no social assistance available outside these centres), many are compelled to work informally in order to meet their basic needs. This places them at risk of exploitation, and given the general economic downturn in the country, their livelihoods are extremely precarious.
95. The quality of decision-making on asylum applications remains a concern, as many persons with genuine international protection needs continue to be rejected and at risk of *refoulement*. For example, in 2013, 46% of Syrian asylum applicants received refugee status or complementary protection.
96. State funding for asylum matters is inadequate. Low staffing levels and high turnover at some migration service offices means that staff is frequently unavailable to perform regular tasks, such as receiving asylum applications or renewing documents. For example, in early May, one asylum-seeker had to approach the migration service on five different days in order to file an application. This gap means that asylum-seekers are often undocumented and at risk of detention. The state does not provide language classes, so asylum-seekers struggle to adapt. Recognized refugees receive a one-time grant of only 17 UAH (less than \$2), which is clearly insufficient.

## **IV. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS**

97. The state has a duty towards its citizens to ensure accountability for the violations of their rights and freedoms. This is of paramount importance in the context of the situation in the east. It is also essential in relation to events in Maidan and Odesa, which have struck a deep chord within society.

---

<sup>14</sup> On Amending Article 1 of the Law of Ukraine “On refugees and persons that require additional or temporary protection”, available at <http://zakon1.rada.gov.ua/laws/show/1251-18>

### **A. Investigation into human rights violations related to Maidan protests**

98. Five months after the end of the Maidan protests, which started on 21 November 2013 and ended with the arrival of a new Government on 22 February 2014, much remains to be done to ensure accountability for human rights violations committed during this period.
99. As a result of violent clashes between demonstrators and representatives of different law enforcement agencies, and the use of arms, an estimated 103 protesters (including three women) and 20 law enforcement officers died. Hundreds more were wounded on both sides. There have been numerous reports of violence, torture and ill-treatment of protesters, mainly attributed to the 'Berkut' special police. In addition, according to a civil society organization "EuroMaidan SOS", 32 Maidan protesters (31 men and 1 woman) remain unaccounted for as of 14 July.
100. The killings on Maidan occurred during two periods: on 19-21 January 2014 and on 18-20 February 2014. To this date, nobody has been sentenced. Three 'Berkut' police officers accused of involvement in the killing of protesters have been detained under murder charges and are held in pre-trial detention. Regarding the killing of law-enforcement officers, the investigations have not led to the identification of suspects.
101. In relation to another incident, the violent dispersal of demonstrators by the riot police on the night of 30 November 2013 which triggered the Maidan protest, a Kyiv court is to decide whether two persons suspected of having ordered the dispersal are covered by an amnesty law voted in December 2013. Hearings have been postponed several times.
102. The only sentences passed so far involve 3 police officers who confessed to having ill-treated a demonstrator who had been stripped naked in the street in freezing conditions and was forced to stand in the snow while being mocked, assaulted and filmed. One of them was sentenced to three years of imprisonment with a probation period of one year, and another to two years, including a one-year probation period.
103. The Government of Ukraine submitted on 9 April a request to the International Criminal Court (ICC) to investigate the events that occurred on Maidan from 21 November 2013 to 22 February 2014. The Registrar of the ICC received a declaration lodged by Ukraine accepting the ICC jurisdiction. The declaration was lodged under article 12(3) of the Rome Statute, which enables a non-party to the Statute to accept the exercise of jurisdiction of the Court. The Prosecutor of the ICC has decided to open a preliminary examination into the situation in Ukraine in order to establish whether the Rome Statute criteria for opening an investigation are met. The government of Ukraine is currently considering the possibility to ratify the Rome statute of the ICC.
104. Various interlocutors contacted by the HRMMU expressed their concern at the slowness and inefficiency of the investigations. In particular, concerns were raised about the following: (a) the collection and preservation of evidence and forensic examinations may not have been systematic; (b) documentation related to the activities of the special police unit "Berkut" during Maidan has been destroyed; (c) it is believed that some suspects could be involved in the security operations in the east, hence the unwillingness to carry out meaningful investigations at a sensitive time; (d) corruption and general inefficiency of the judicial and law enforcement system were cited as obstacles to an impartial and comprehensive investigation; (e) some witnesses may be afraid to talk.
105. Most families of Maidan victims, who have joined in an 'initiative group', are reported to have received one-time social payments of 121,800 UAH (about USD 10,100). The allocation of payments to all families should be completed by the end of July. The initiative group is finalizing negotiations with the Ministry of Education to ensure that 52 children

from the families of people killed at Maidan will be entitled to education free of charge in all pedagogical institutions.

106. Different groups which actively participated in the Maidan demonstrations, continued to occupy buildings and facilities in central Kyiv that were taken over during the anti-government protests between December 2013 and February 2014. According to the Office of the Kyiv City Prosecutor, an estimated 950 people affiliated with the Maidan "self-defence", the Right Sector and the Social National Assembly have established themselves in and around 12 buildings, including the Ministry of Agriculture, the main post office, several cultural and business centres, shops, bars, restaurants and banks. This presence has been condemned by the Minister of Interior, the Prosecutor General of Ukraine, the Prosecutor of Kyiv, Mayor of Kyiv who have also called for the vacation of buildings. However, this has not led to the vacation of the buildings.

## **B. Investigation into human rights violations related to the violence in Odesa**

107. The violent incidents in Odesa on 2 May resulted in the deaths of 48 people, with over 200 injured. This appears to have hardened the resolve of those opposing the Government, and deepened division between communities. There is a need for resolution to the violent events of that day. The perpetrators must be brought to justice in a fair and non-selective manner.
108. More than two months after the 2 May violence in Odesa, the incidents still divide those who live in the city. Six investigations, official and independent, have been initiated into the killings of six people by gunshot that took place during the afternoon of 2 May, and the deaths of 35 men and 7 women in the fire in the Trade Union building<sup>15</sup>. Considering the number of investigations launched by law enforcement agencies and experts, there is a high risk of miscommunication and contradictory information. The HRMMU follows these criminal investigations and has received alarming information from different sources on violations of human rights by law enforcement agencies and free legal aid incompetence. On several occasions high ranking officials have disclosed information, which has since been refuted. Overall, the communities in Odesa have no trust in the law enforcement investigation independence. This negative atmosphere is deteriorating further due to the fact that there has been little transparency within the framework of the investigations, limiting access to information for the citizens of Odesa. Both the Ministry of the Interior (MoI) Investigation Commission and the Special Parliamentary Commission have requested the assistance of foreign experts.
109. The Deputy Minister of the Interior has requested international assistance in conducting the investigation process, by written appeals to four embassies (Germany, Israel, the United Kingdom and the United States). The Independent Commission has requested the assistance of foreign experts from the Organization for Security and Cooperation in Europe and the Council of Europe. The Commission has officially requested expertise from the UN Secretary General, the High Commissioner for Human Rights, the Human Rights Monitoring Mission in Ukraine and the UN Resident Coordinator in Ukraine. It is felt that such independent international experts would be able to receive more adequate answers since witnesses would have more confidence in foreigners than in local officials. The HRMMU recommends the following: (a) in the interest of the investigation, law enforcement officials should refrain from spreading damaging rumours and disclosing information; (b) all Commissions, within their mandates, should meet on a regular basis; (c) the regional and local authorities, should work on strategies to deescalate tensions within

---

<sup>15</sup> See HRMMU monthly report of 15 June 2014, paragraphs. 37 – 93.

the communities and to initiate dialogue focusing on reconciliation; (d) law enforcement agencies should ensure the protection, fulfilment and promotion of human rights within their criminal investigations; (e) the Governmental Free legal aid system should ensure the competence of lawyers providing free legal defence.

***Criminal investigation by the Ministry of the Interior Investigation Unit***

110. The Main Investigation Department of the MoI in Kyiv (under the control of the Deputy Minister of the Interior) is investigating the 2 May violence. According to the MoI, at the expiration of the 60 days legally granted for investigation, the investigative team requested an additional five (5) months. More time is needed to conduct the following investigative proceedings: to identify all people involved in the mass riots and identify witnesses; identify organisers of the Odesa “Euromaidan”, Right Sector, local Self-Defence, Odesa “Narodnaya Druzhyna” and other participants; identify and interrogate policemen involved with securing public order on 2nd and 4th May; identify and interrogate State Emergency Service employees who received emergency fire calls and who dispatched fire brigades to the various locations on 2 May; analyse the phone-call registry between city centre and Kulikovo Pole; conduct a full-scale analysis of the video files; question victims claiming material damage; question all Trade Union building employees present at work on 2 May.
111. The HRMMU conducted a number of meetings with defence lawyers in the 2 May violence cases, who notified that the Investigation Commission requested a prolongation of measure of restraint for all detainees (under custody or house arrest) for an additional 60 days. The HRMMU received information that the investigation process, including the interrogation of detainees, has been very limited so far. Some detainees since their apprehension on 2 May have been questioned only twice.
112. The Primorsky District Court of Odesa has favourably satisfied all petitions presented by the MoI.
113. The HRMMU has not had any obstacle in cooperating with the Commission of MoI. As of 12 July, the Investigation Commission provided the HRMMU with the following information: 12 men remain in Pre-trial detention centres under the Penitentiary Services; 41 men are placed under house arrest; 53 persons were interrogated as suspects, 83 persons were interrogated as victims; 430 persons were interrogated as witnesses; 242 forensic examinations were appointed, of which 62 are still on-going; out of 42 men and 6 women deceased, one man is still not identified; one injured man remains in hospital; five detainees (all men) are reported to be foreign citizens.
114. None of the preliminary conclusions were made public by the Investigation Commission. However, although the investigation is still ongoing, several controversial statements were made by the MoI. In May, when the forensic examinations had just started, the deputy Minister of Interior stated that people in the Trade Union building died from breathing chloroform, which has never been confirmed. Furthermore, the Head of the Regional Office for Forensic, at a public meeting with the Regional Council Investigation Commission stated that none of the deceased at Kulikovo Pole were shot or beaten to death, but that their death was caused by carbon-monoxide gas poisoning, some unidentified chemical substance or by burns. In addition, he disclosed personal private information regarding one deceased person without prior consent from the family. The Head of the Regional Office for Forensic has regularly refused to provide information regarding the cause of death, referring to the confidentiality of the investigation.
115. The Investigation Commission is in charge of investigating the actions of the Odesa Regional Emergency Service (fire brigade). The Head of the Emergency Unit was accused

of negligence, due to improper performance of his official duties (i.e. delay in deploying the fire brigade to the Trade Union building). For the purposes of the internal investigation he was temporarily dismissed. The internal and criminal investigations remain on-going.

116. The Investigation Commission has provided internal investigation documentation to families who have requested information regarding their deceased relatives. Following meetings with victims, witnesses and relatives, the HRMMU has observed a growing dissatisfaction regarding the lengthy and non-transparent investigation process. In general, witnesses shared with the HRMMU their concern about revealing information regarding the incidents. On 11 June, several claims regarding the insufficient and lengthy investigation process were brought against the Government at the Kyiv District Administrative Court.

***General Prosecution Investigation Unit regarding police duty performance***

117. On 3 May the General Prosecution Investigation Unit launched a criminal case against police officials based on article 365 (Excess of authority or official powers) and, article 367 (Neglect of official duty) of the Criminal Code.
118. The Regional Prosecution Office confirmed the allegation regarding the inaccessibility of high ranking officials during the 2 May violence, noting that all were at the time attending a closed meeting at the request of the Deputy General Prosecutor.
119. The investigation process into 2 May violence is challenged by the fact that the main suspect, the former Deputy Head of the Regional MoI, is currently on a “wanted” list.

***Criminal investigation under the State Security Service of Ukraine (SBU)***

120. As of 15 July, the SBU had initiated several criminal investigations under article 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government), article 110 (Trespass against territorial integrity and inviolability of Ukraine), and article 258-2 (Public incitement to commit a terrorist act) of the Criminal Code. The SBU arrested at least 35 people allegedly engaged in the above-mentioned criminal activities, mostly activists and supporters of the “pro-Federalism” movement. The HRMMU attended 6 court hearings and tried to establish contacts with the SBU investigators. The HRMMU regretfully underlines the lack of working cooperation from the Regional office of the SBU at the local level.
121. The Penitentiary Services administration fully cooperated with the HRMMU and has been granting access to detainees recently arrested. The HRMMU has also met with detainees’ lawyers and relatives. The HRMMU has the following concerns about actions committed by the SBU in the investigation, including violations of legal guarantees and ill treatment during the investigation process, which are as follows: (a) excessive use of force during arrest and house searches contravening fundamental human rights; (b) the illegal practice of disclosing personal data in relation to arrested foreign citizens, which violates the presumption of innocence; (c) the obligation to immediately inform the arrested person, in detail and in a language he/she understands, of the reasons for his/her arrest and any charges against him/her, as well as of the right to have the assistance of legal counsel, receive medical assistance free of charge, not to be compelled to testify against him/herself or confess guilt, inform promptly other persons about his/her arrest or detention and whereabouts, in accordance with the provisions of applicable international human rights law and the Ukrainian Criminal Procedure Code; (d) the failure to provide written notice of charges to the arrested person within 24 hours after the apprehension in accordance with article 278 of the Criminal Procedure Code; (e) the use of psychological intimidation and threats (in some case sexual threats) in order to obtain information.

### ***Special Parliamentary Commission Group***

122. The Special Parliamentary Commission continues to investigate the facts of mass murder. As of 15 July, it had held 9 sessions. The Head of the Commission informed the HRMMU that the members met with witnesses, victims, relatives and doctors. In addition the commission received a written statement from the former Deputy Head of the Odesa Regional MoI, who remains at large. All the collected documentation has been shared with the Office of the General Prosecutor. In addition, the request for foreign experts was raised. The Commission plans to present its preliminary findings in September.

### ***Ukrainian Parliament Commissioner for Human Rights (Ombudsperson Office)***

123. The Ombudsperson's Office has finalized its findings regarding the 2 May violence and concluded that the positive obligations of Ukraine to protect human rights (the rights to life and to liberty and security of the person and the freedom of peaceful assembly) were violated during the 2 May incidents. Moreover, the Ombudsperson concluded that the Head of the Regional MoI Odesa did not fulfil his mandatory duty to initiate the special police tactical plan "Khvyliia". This neglect resulted in a high number of victims. The Ombudsperson appealed to the Office of the General Prosecutor to investigate the law enforcement agencies performance of duty during 2-4 May, and launch a criminal investigation against responsible officials.

### ***Independent Commission investigating the 2 May violence***

124. The Independent Commission including civil society activists, journalists and experts, continued to gather information on 2 May violence. Witnesses mentioned to the HRMMU that they feel more comfortable to share information with this Commission. Several conclusions of the Commission were already broadly publicised, including the chronology of the events in the city centre, which tend to counter numerous rumours and allegations. In the course of their investigation, the Commission members requested MoI, the State Agency on Emergency Situation and the Centre of Forensic Examination for information, with no success to date. The Commission intends to take legal action against these agencies: in accordance with the law "On access to public information" (2939-17, dated 2011), information has to be shared.

### ***Temporary Oversight Commission on the 2 May violence of Odesa Regional Council***

125. The Temporary Oversight Commission on the 2 May violence has been working in close cooperation with the Special Parliamentary Commission Group. Since its establishment, this Commission held two hearings to monitor the criminal investigation process. Its conclusions were presented to the Odesa Regional Council. It deplored the fact that the SBU and the Regional Prosecution Office were not always fully cooperating. According to the statement of this Commission, based on the MoI criminal investigation there are four scenarios that triggered the 2 May violence: (1) actions committed by radical groups to destabilize the situation in the Odesa region and in other regions of Ukraine; (2) attempts by local authorities to discredit the Government; (3) uncontrolled football fans and law enforcement negligence; (4) provocation by the "pro- Unity" movement in order to intimidate the "pro-Federalism" movement.

## **C. Investigations into other human rights violations**

126. The Parliamentary Committee investigating the events in Odesa is also in charge of investigating the violence in Mariupol, which became the theatre of heavy fighting on 9

May. Nine people died when Ukrainian security forces fired into unarmed protesters and, earlier that day, tried to dislodge armed protesters from a police station<sup>16</sup>.

127. The head of the Committee told the HRMMU that after having listened to many witnesses it was now in possession of a very detailed factual description, including information about the time and sequence of events, names of individuals who allegedly gave specific orders or took key decisions that led to the tragic outcome. The Committee will interview the persons mentioned by the witnesses and transfer the information collected to the Investigative Department of the State Security Service of Ukraine. The deadline for the Parliamentary Committee report, initially planned to be issued on 15 June, was extended until 20 October 2014.

## V. INTERNALLY DISPLACED PERSONS

128. As of 15 July, UNHCR reports there are 86,609 internally displaced persons (IDPs) from Crimea and the eastern regions of Ukraine. The number of IDPs from the east has increased dramatically since mid-June with a change in the composition of the IDP population - 85% now coming from the east and 15% from Crimea. Given the large numbers of IDPs reported as having left the eastern regions, it appears that there is a significant gap in the registration of IDPs. The numbers may swell if these IDPs are registered in coming weeks. Though disaggregated statistics on the age and gender breakdown of the IDP population are not available, it is observed that the vast majority of IDPs appear to be women and children.
129. IDPs from eastern Ukraine have left home predominantly due to security concerns, including the risk of being caught in crossfire. Some IDPs express individual fear of persecution for their political views, ethnicity or fear of being forcibly recruited into the insurgent groups. IDPs also report having experienced or heard of incidents of abduction, extortion and harassment in their neighbourhoods, leading them to take preventive flight. Another reason that prompts people to flee is the material damage to housing and infrastructure in the region, where the water and electricity systems were no longer functioning. Given the insecurity in the region, delivery of basic goods is paralyzed to many towns, and IDPs say that food supplies are erratic and expensive, and medicines are frequently unavailable. With the breakdown in the banking system, many could not obtain the cash they needed to purchase basic goods, even if they did become available. Many IDPs are particularly vulnerable as they remain within the eastern regions, caught in the on-going fighting to which international humanitarian actors currently do not have access.
130. IDPs from the Donetsk and Luhansk regions report leaving the region with few personal belongings, sometimes without time for preparation, in order to disguise the purpose of their departure from the region, so they have few resources to establish themselves. IDPs who leave the eastern regions generally maintain a low profile, since they report fearing reprisals against family members who have remained at home. Many are psychologically traumatized, having witnessed violence. For example, children are afraid of loud noises and hide under furniture whenever they hear an airplane passing overhead.
131. IDPs from Crimea are mostly Tatars, but also include ethnic Ukrainians, ethnic Russians, mixed families, refugees and foreigners married to Ukrainians citizens. Many IDPs from Crimea are political activists and journalists who fear harassment, or those who have

---

<sup>16</sup> A description of the case is provided in the HRMMU Monthly Report of 15 June 2014.

economic, professional or family ties within Ukraine, and, therefore, feel compelled to leave to other parts of Ukraine in order to continue a normal life. Many Crimean Tatars fear limitations on their religious and cultural expression. IDPs from Crimea live dispersed across the entire territory of the country, but with significant concentrations in Kyiv and Lviv. Ukrainian military from Crimea and their families are mainly staying in Odesa, Mykolaiv and Kherson.

132. The State's system to protect IDPs has significant gaps. Many IDPs leaving Donetsk and Luhansk regions report that they do not have information about where to go or which services are available. Despite the creation of governmental coordination mechanism, the law on IDPs has not been adopted yet and there is no central information gathering system or database on IDPs. The present registration mechanism system is ad hoc and rudimentary which does not provide the accurate number of IDPs in Ukraine or individual needs of those who approach the authorities for assistance. The government is currently developing a list of available accommodation facilities for IDPs, but, so far, has allocated financial resources only to cover the costs of accommodating those from Crimea. Owners of sanatoriums and summer camps accommodating IDPs from the Donetsk and Luhansk regions report being frustrated that they do not know when or if they will be compensated for the expenses they are incurring for taking in IDPs. Several administrative matters remain unresolved, hindering IDPs' ability to start their new lives: many IDPs cannot obtain residence registration, transfer employment record from places of displacement, register their business activities and access their personal savings in bank accounts. There are also the problems of access to day care, schools for the children and assistance for the elderly to enable women to seek employment. Also, Ukraine's legislation and policy of imposing taxes on humanitarian aid and personal income precludes tax-free provision of international aid to IDPs.
133. Many IDPs have exhausted the resources they had available. There are limited options for most IDPs to secure long-term housing arrangements, in particular those who are currently hosted by friends, family or volunteers, or placed in temporary accommodation centres provided by regional authorities. Many IDPs are temporarily housed in summer camps or hotels which are normally closed for the winter and therefore are not insulated or heated. These facilities are generally in rural areas far from schools. Thus, this accommodation is suitable only for the very short term; longer term planning is not yet underway. Furthermore, given the high cost of heating, it is likely that many temporary accommodation facilities will be unable to continue housing IDPs into the month of October unless they receive financial support. Plans should also be developed to cover shelter, clothing and heating needs, during the winter, in case a massive return to the areas currently under conflict does not materialize before or during the winter months.
134. The Government was slow to respond to the rapidly growing number of IDPs coming from the Donetsk and Luhansk regions. For many weeks the authorities relied totally on voluntary assistance and the goodwill of the receiving communities to respond to meeting the IDPs accommodation and other needs. Most IDPs were accommodated in private homes, public sanatorium or in other voluntary arrangements. By early July, many local and regional authorities began to complain that they did not have the resources to cope with the numbers of IDPs arriving. Lack of coordination, planning and resources was coupled with growing concern about the need to provide social protection to the increasing number of local families who had members fighting with the Government military and security operation in the East. In Rivne, for example, as of 1 July there were 785 people mobilized from that region to serve in the Government's security operation, while it had received 584 IDPs.

135. In June the State Service for Emergency Situations was tasked with the responsibility for coordinating the accommodation and other needs of IDPs throughout Ukraine. However, because of the involvement of civil society, in the form of volunteer groups and a loose association of concerned individuals that has provided the bulk of assistance so far to IDPs, the authorities need to coordinate with them and work systematically together. The HRMMU has been working to facilitate this.
136. Odesa became the destination of choice for IDPs with disabilities because it has a sanatorium designed to accommodate persons with disabilities. However, much of the sanatorium was already occupied by soldiers and their families from Crimea. Nevertheless, Odesa has received more than 700 IDPs with disabilities. By early July, Odesa was reporting it had reached capacity with 3,000 IDPs plus an additional 500 military and their families, all housed in summer sanatorium. There were many other unregistered IDPs staying privately with friends or family who were not reflected in that figure. IDPs continue to arrive daily in Odesa.
137. Roma IDPs have faced unique problems. Roma families tend to be large and move in groups, sometimes as large as 50 people, including many children, all of whom need to be housed together. This is often impossible because of the lack of available collective housing. Therefore some Roma camp in public parks or privately owned camping grounds which has caused additional problems. For example, in the Kharkiv region, the owners of a camping ground in Visoky, initially agreed to let a group of about 40 Roma from Slovyansk stay, but then tried to evict them when, lacking any other means to cook, the Roma families built cooking fires out in the open. The police were called to evict them and the situation escalated: the Roma threatened to block the neighbouring road and the police reportedly threatened to 'plant narcotics' on the group to make their problems harder. The HRMMU intervened after being alerted to the situation by a volunteers' group, calling the Ombudsperson and some journalists. When the media showed interest in the situation, the police left and the Roma and the camp owners worked out an agreement that the Roma could stay until a more permanent solution is found. No suitable alternative accommodation has yet been found by local authorities for this group who continue to stay in the camp.
138. In addition to the practical problems, Roma also face negative attitudes from the public, stereotyping, and bias. For example, in June, an outbreak of measles in Kharkiv, mostly among unvaccinated people, caused public animosity towards Roma (expressed in social media and publications), who accounted for about 40% of the measles cases, and who were blamed by some people for spreading the disease. The Kharkiv Deputy Governor said that the regional authorities are now working with the Roma communities in the Kharkiv region to find a systematic solution of how to assist Roma IDPs.
139. Negative information of a more general nature about IDPs has also been spreading on social media and through the internet. In Lviv, the authorities said the misinformation about IDPs was deliberately planted to cause further divisions between people from the east and west. Some of this misinformation related to the notion that male IDPs were shirking their military duty to serve back where they came from. In Rivne, the city council decided to no longer host IDP men of military conscription age. (Women make up two-thirds of all adult IDPs). On the other hand, regional authorities, as for example in Volyn, started checking male IDPs when they arrived in the west for fear that they might be 'separatists' posing as IDPs, and the local population was encouraged to report any suspicious person or object.

## **VI. FREEDOMS OF EXPRESSION, ASSOCIATION, PEACEFUL ASSEMBLY, MOVEMENT, RELIGION OR BELIEF**

### **A. Peaceful assembly**

140. Ukrainians with the exception of those living in the east were generally able to fully exercise their freedom to peaceful assembly in a variety of ways: by gathering in ‘flash mobs’, pickets, rallies, demonstrations and other groups to articulate publicly their concerns. Peaceful demonstrations must be permitted, as a matter of international human rights law, and also as a way for people to exercise their rights to the freedoms of expression and peaceful assembly which are the foundation for a free and democratic society. Mostly these gatherings were held without incident and without hindrance, although almost always with a large police presence.
141. In Odesa, the HRMMU noticed that since June, most of the assemblies were prohibited by court decisions. Generally the court referred to an alleged danger to public order which, in accordance with Ukrainian legislation, was among the grounds justifying interference with the right to peaceful assembly. In addition the court referred to the 2 May violence, and recent arrests of people allegedly planning terrorist acts, as grounds for the potential threat to public order.
142. No violence on the scale which occurred with the Maidan protests or in Odesa on 2 May has occurred at peaceful assemblies held during the reporting period. However, those seminal events continue to be a guiding concern for the authorities when approving demonstrations: they appeared to prefer to ban one rather than be blamed for any violence it triggered. In some places, public mass rallies were banned altogether, for example, in Odesa on 22 June, although two peaceful rallies went ahead anyway. In other places it was because the authorities thought the subject matter might incite violence. In Kyiv, for example, this justification appeared to be behind the eventual cancellation of an LGBT rights parade, to be held on 5 July, when police said they could not guarantee the safety of participants. It is the job of law enforcement officers to facilitate peaceful assemblies and to ensure the protection of the participants, irrespective of their political or other views. In order to be able to do this, law enforcement must receive adequate training to be able to handle rallies and protests, in line with international human rights standards.
143. Overall, law enforcement has managed to contain violent intent, although there have been incidents of serious damage to property and some injuries. There have also been more isolated scuffles and clashes that generally have been kept to a minimum by law enforcement. Police have been criticized for sometimes not doing enough to stop violent actions (as for example, when the trade unions meeting was violently disrupted in Kyiv on 26 June) and, conversely, for cracking down unnecessarily hard on demonstrators to prevent any kind of possible public disorder from the very beginning. This was the concern in Kharkiv on 22 June, when a large presence of law enforcement officers successfully kept opposing groups apart but was later criticized by one side for abuse of power<sup>17</sup>. There remains a need to adopt legislation and other measures to clarify the role and responsibilities of law enforcement to ensure the principles of necessity, proportionality, non-discrimination and accountability underpin the management of peaceful assemblies.
144. Currently a chilling trend has been observed where groups with different political agendas have demanded the authorities not allow peaceful assemblies of people with opposing

---

<sup>17</sup> The Prosecutor’s office has started an investigation on possible criminal responsibility of the police during the two rallies held on 22 June in Kharkiv, for excessive use of force, under article 365 of the Criminal Code.

viewpoints to theirs. This illustrates once again, the need for national legislation in line with international norms and standards.

145. In Crimea, the authorities would not allow the Crimean Tatars to hold their normal celebration in the city centre of Flag Day on 26 June, but smaller gatherings took place elsewhere.
146. The subject matter of the peaceful assemblies held during the reporting period covered a broad spectrum of people's current concerns and included: protests against specific cases of alleged corruption; protesting the lack of consultation on the appointments of regional and local officials; families of soldiers protesting military service and conditions; against Russian-owned banks and business; for peace in the east; in observance of Crimean Tatar Flag Day and Constitution Day; and in support of both sides of the 'pro-Ukraine/pro-Federalism' debate (separate demonstrations). Since 8 June the Sunday 'viche' (people's assembly) has been held in Kyiv on Maidan and is now a regular weekly happening, having taken root in public consciousness as a watchdog for Government accountability.

## **B. Freedom of association**

147. Freedom of association is an essential condition for the effective exercise of the right to vote and must be fully protected. It includes the freedom to engage in political activity individually or through political parties and other organizations. In this regard, it is noted that on 8 July the Government filed a lawsuit to ban the Communist party of Ukraine.

## **C. Freedom of expression**

148. There were some worrying trends observed in the area of freedom of expression in both the eastern and western parts of the country. As the severity of the violence increased in the east and the crisis there dragged on, opinions became more polarized in Ukraine. As a result, the level of hate speech has escalated dramatically, especially on social media, but also in demonstrations and protests and even in Parliament<sup>18</sup>. Acts of hate speech must be publicly condemned and prohibited by law<sup>19</sup>. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech.<sup>20</sup> In an indicative action, some news sites in Ukraine have started blocking comments to their stories because of the virulent comments people were posting. The increasing level of hate speech must be addressed by the country's political leaders, who have yet to speak out publicly against it.
149. There remains a need to combat intolerance and extremism and to prevent national, racial or religious hatred that constitutes incitement. As armed groups fighting in the east are no longer just local people wanting more regional autonomy or a separate autonomous state, but are being organized by professional fighters not Ukrainian citizens, there has been an

---

<sup>18</sup> During a parliamentary session on 20 June, MP Ivan Stoyko made the following statement: 'We are now at war with the Mongoloid race, fascist Russia, which climbs on Ukraine like a locust in order to destroy our country, our nation.' Verbatim report.

<sup>19</sup> Article 20 of the ICCPR; Article 4 of the ICERD.

<sup>20</sup> Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Electronic version may be found here: [http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat\\_draft\\_outcome.pdf](http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf).

increased ‘anti-Russia’ rhetoric with demonstrations targeting Russian-owned banks and business on the grounds that they are ‘financing terrorists’. Some of these demonstrations have resulted in the defacement of property.

150. Given the rise in Ukraine of instances of hate speech and other forms of intolerance expressed through social media and the internet, it is worth noting here the report on racism, the internet and social media, recently issued by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance<sup>21</sup>. In it he says that while the internet serves as a formidable vehicle for the exercise of free speech, it also provides a powerful platform for the rapid dissemination of racist ideas, ideologies and incitement to hatred. A comprehensive, multi-stakeholder approach is necessary to effectively counter expressions of racism on the internet and social media.
151. Journalists, media professionals and human rights defenders need protection so that they are able to do their jobs. Harassment, intimidation, manipulation and abductions of journalists have continued to occur in the east, and at least five journalists have been killed since the fighting began in April. None of these journalists was using any personal safety equipment<sup>22</sup>. The circumstances around one of the latest cases were particularly horrifying. In an operation led by an armed group on 30 June as the 10-day curfew ended, a bus of civilians, including journalists and a group of women, was sent in the middle of the night to a besieged Ukrainian military base, endangering the lives of the civilians during an attack on the base. The journalists had been told that the women on the bus were mothers of soldiers and their presence would ensure that the Ukrainian soldiers in the base would surrender peacefully. However, one of the journalists on the bus reported later that he spoke with the women and was told that none of them was a mother of any soldier. Gunfire broke out as the bus approached the military base; the bus driver was wounded and one journalist killed. The armed group has evidently ‘arrested’ one of its own activists for organizing this staged provocation.
152. In the east, attempts at manipulation of the media have been especially egregious. Many journalists previously working in the east have already fled after being abducted, harassed, intimidated or otherwise threatened. Those that remain in Luhansk have been instructed by the armed groups on how they should report the news. Words such as ‘separatist’ and ‘terrorist’ should not be used, they were told, and each Monday there would be a meeting with the editors of local media to instruct them on what to cover and how. Media outlets were threatened that if they did not cover the activities of the armed groups positively, their equipment would be destroyed and employees put in danger. In Donetsk, all media outlets are required to register with the armed groups’ ‘Ministry of Information and Communications’. This extends to online resources, including individual bloggers, as well as distributors of print media. Any outlet that does not register would be banned from all media activities. Ukrainian television channel ICTV and the local municipal TV channel 12 in Donetsk were replaced by Russian TV channel broadcasts. On the other hand, four Russian TV channels have already been banned from broadcasting in Ukraine and the

---

<sup>21</sup> Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Available at: <http://www.ohchr.org/Documents/Issues/Racism/A-HRC-26-49.pdf>.

<sup>22</sup> On 3 June, the National Journalist Union announced that in cooperation with the OSCE, a special point was opened where journalists could rent flak jackets and other personal safety equipment. On 15 July, the Ukrainian NGO Institute of Mass Information informed the HRMMU that they collect and provide flak jackets to all accredited journalists who work in the east. The accreditation is granted by the Security Service of Ukraine. So far, all journalists who applied for accreditation have received it. The IMI is deeply concerned that many Russian journalists work in Donbas without any accreditation or proper documents and without even basic security training.

process is underway to ban three more following complaints about their content in compliance with the national legislation, particularly related to the use of hate speech and media.

153. The polarization and hardening of attitudes in Ukraine has resulted in some people attempting to muzzle the press or intimidate media outlets in an attempt to influence their editorial policy that they consider contrary to their own viewpoint. For example, the newspaper offices of 'Vesti' in Kyiv were attacked twice within a week, on 28 June and again on 5 July. In Chernivtsi, the local chapter of the National Council of Journalists has appealed to the President and others concerning a number of recent judgments which the organization says will impair journalists' independence and force them to stop writing about important issues and which, in the organization's view, contravene European and Ukrainian law.

#### **D. Freedom of movement**

154. Restrictions on the freedom of movement are a daily experience in areas of the east. Roadblocks and ad hoc checkpoints manned by armed groups regularly stop people who are then searched and valuables stolen or destroyed. Women and girls feel especially vulnerable because of the violence and general lawlessness and, according to the testimony of IDPs, do not go out. The ability of men to freely move in and out of areas controlled by armed groups in the eastern regions is curtailed due to abductions, which at times, lead to forced mobilisation to armed groups.
155. Ukrainian citizens continue to face restrictions and long delays crossing from Ukraine mainland to Crimea and vice versa due to the Crimean border guards.

#### **E. Freedom of religion or belief**

156. The freedom of religion or belief has come under increasing pressure in the last weeks. A disturbing number of incidents have been reported in the east and Crimea. The armed groups have declared that the main religion in Donetsk region was Orthodox Christianity (of the Moscow Patriarchate) and that sects were prohibited. This approach explains to a large extent, the increasing number of attacks on Protestant, Mormon, and Roman Catholic churches in the areas controlled by the armed groups. Religious leaders have been harassed, threatened and abducted.
157. There have been reports of incidents in other parts of the country. For example, in Odesa, law enforcement pre-emptively surrounded a synagogue that was to be a target of an anti-Jewish demonstration thereby deterring the protestors and no gathering occurred.
158. In Kyiv, on 22 June, a more violent protest targeted a religious group perceived as being affiliated with the Russian Federation. The demonstrators included men armed with baseball bats and hammers, some wearing bulletproof vests and clearly intending to do damage. However, once again a large law enforcement presence prevented any violence. The demonstrators claimed the event, being held at the Orthodox Church, was an attempt by 'separatists' to form a 'Kyiv People's Republic'.
159. This trend is particularly disturbing as Ukraine until now has demonstrated a general tolerance for different beliefs and religions.

## VII. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

160. The full enjoyment of social and economic rights by everyone throughout Ukraine was one of the main aims of the civil society activists, experts and journalists who united after Maidan to lobby for the necessary reforms. However, the new society that they hoped would be created by the “reanimation package of reforms” is still far from reality.
161. The country’s economy remains in recession, with a consequent adverse impact on the right to work. Unemployment increased from 8% to almost 9% in the first 6 months of this year, the inflation rate has reached 16% and utility rates have increased by an average of 30%. Meanwhile salaries and social benefits have been frozen since December 2013. The majority of the registered unemployed are women (at 52.2%) and young people aged 15 to 35 (42.3%). According to the Federation of the Trade Unions of Ukraine, every third person is employed illegally without any social guarantees or protection. There is a need to align labour legislation with international standards<sup>23</sup>, in particular concerning the strengthening of inspections and the protection of public servants, whose mid-level salaries are 48% of the average salary in Ukraine and who lack guarantees of employment, often being the first to be fired when a new administration comes to power.<sup>24</sup>
162. The trade unions are warning that because of these factors, coupled with the lack of meaningful social dialogue or transparency in government, there may be major social unrest in autumn.
163. The Government has proposed that in order to finance the security operation against the armed groups in the east, as well as the repair and revitalization of the Donetsk and Luhansk regions, the Ukraine budget would be amended. Currently the Government estimates that repair of east Ukraine will cost 8 billion UAH (about 750 million USD). Social programmes would be cut by 4.6 billion (about 420 million USD) while the defence and security sectors would grow by 8 billion UAH (about 750 million USD). The budget cuts would include a reduction of 2 billion UAH (about 180 million USD) in unemployment and disability benefits; funding for education and health would also be cut. The salaries of State employees would not be adjusted to keep pace with inflation (currently at 16%).
164. The situation in the east is dire. As of now, 104 buildings remain seized by the armed groups. Of these 24 are military premises, 16 are administrative and local authorities’ buildings, 16 are buildings of the Ministry of the Interior, 7 are Security Service buildings, 5 are prosecutor offices, 4 are of the emergency service of Ukraine, 1 is a tax administration building, and 1 is a court. With banks, the Treasury and pensions funds closed because of the violence and robberies, salaries and social security benefits have not been paid regularly for more than two months. The situation has been especially critical in Slovyansk, Kramatorsk, Snizhne and Krasnyi Luch.
165. Women have been particularly affected in this situation. They make up about 80% of those employed by the government (teachers, doctors, public servants) and were therefore hard hit by the lack of government payments of salaries and social security benefits like child support. Economically women already face a wage gender gap and discrimination in the workplace. With a scarcity of money and food coupled with their responsibility for their

---

<sup>23</sup> Labour Inspection Convention, 1947 (No. 81) (would strengthen the institution of inspectors and allow ad-hoc checks at enterprises) and Convention 151 - Labour Relations (Public Service) Convention (would protect rights of public servants).

<sup>24</sup> According to the Trade Union of public servants.

households and families, women in the east were further burdened by the constant fear for their lives and security.

166. Negative impacts are also apparent on the right to health. Access to healthcare remains limited in the east, as many hospitals of the region are not operational or are working below their normal capacity, according to the Ministry of Health. The availability of health care staff has decreased, as doctors, especially specialists and surgeons have left. The lack of fuel means the Emergency Medical Service is not operating properly, especially in Slovyansk and Kramatorsk where medical help is mainly delivered by volunteer squads from Kharkiv. Delivery of medicines, including insulin and ARV therapy, has been often disrupted.
167. Due to threats and intimidation, many factories and businesses have had to shut down. For example, in the Luhansk region, four coal mines owned by the DTEK Mining Company were shut down on 10 July because of the risk to miner's lives. This followed an incident in which four miners were killed and 16 wounded, including women, when a bus they were travelling in came under fire. The company also closed its 2 coal enrichment factories. These closures affect 4,500 employees. Armed groups have also seized warehouses and factories, using the premises for such things as training camps or military repair shops. Companies that produce materials that can be used to make weapons have also been seized by the armed groups.
168. In addition, big industrial enterprises and mines are functioning under great risk of sudden power cuts, which can occur anytime as a result of damage caused by shelling. Especially in mines, such an emergency would result in miners being trapped under ground, threatening their lives and their right to safe and healthy work conditions. Numerous factories and other large enterprises use chemicals in their production and have large storage areas of containment. In situations of shelling, these could be damaged causing leakage of dangerous chemical substances, with a negative impact on the right to health and environmental safety for the residents.
169. Eastern Ukraine is the centre for the country's heavy industry. With the economic life of Donetsk and Luhansk now crippled, the impact on the rest of the country will be severe.
170. The rights to an adequate standard of living and the quality of life for residents in the east has been severely impacted and the damage to their towns and villages extensive. In some places this has reached critical levels. For example, as of 15 July, because of damage to the water systems, there was no water in Semenivka, Mykolaivka or Petrivka and residents of Slovyansk were relying on well water which was turbid and with sediment and reaching its limit. In Mykolaivka deliveries of water were being made daily but older persons and people with disabilities had no way to get into town to get the water. There were no water deliveries to Semenivka. In Luhansk, 28 villages were without electricity on 2 July; the power was also cut to 34 cities and villages in the Donetsk region on 4 July because of the fighting and repair work was in progress; according to the electricity company on 2 July, power to healthcare facilities in Kramatorsk was disrupted; 200 people were reported without gas when a gas pipe was damaged by shelling in the village of Vlasivka (Luhansk) on 3 July. Fuel was reportedly in short supply with only one petrol station remaining open to serve Kramatorsk and Slovyansk (15 miles away) on 4 July. On 27 June, the Donetsk Mayor said the sewage pumping station was not operational in Slovyansk, causing all sewage to flow untreated into the river which is relied on by people in downstream towns for drinking water. Semenivka, in the suburbs of Slovyansk, has suffered so much damage from the fighting it likely will not be repaired.

171. In the Donetsk and Luhansk regions there have been at least 24 explosions of railway lines, bridges and freight trains since 19 June. There are concerns that these acts are part of the armed group's policy to control and raise corrupt profits from trade, as train transport is harder to control than trucks. Meanwhile, in mid-July residents of Donetsk were reported to be waiting for hours in order to catch a train to leave the area, anticipating the blockade around their city that the Government had warned it would impose. Damage to public transportation negatively affects the right to an adequate standard of living.
172. In Crimea, water supply through the North Crimean Canal was blocked by the Ukrainian Department of the North Crimean Canal on 12 May. As much as 80% of Crimea's water reserves used to come from mainland Ukraine. While this situation will not affect drinking water, the consequences of the decision to halt water supply have already started being felt on the harvest of crops, particularly rice and potatoes, which was lower than in the previous year.

### **VIII. MINORITY RIGHTS AND OTHER GROUPS FACING DISCRIMINATION**

173. Despite the escalation of violence in the east and the rise of hate speech, particularly in social media, incidents of actual harassments or violent attacks on minorities remain isolated and rare.<sup>25</sup> Representatives of ethnic and national groups who the HRMMU have spoken to, do not report any systematic negativism or discrimination against them.
174. A few individual cases of hostility and anti-minority acts were reported to the HRMMU. For example, on 25 June in Ivano-Frankivsk region, an activist of the Ukrainian Greek Ethnic and Cultural Society had his property defaced with the Russian and armed groups' flags. He believes it was done by the local Self Defence group who have threatened him previously for questioning the lawfulness of their activities. He also believes there is a connection to his Greek ethnic origin and perceives the situation as inciting hostile attitudes in the region. On 3 July, in Mykolaiv, a monument commemorating Holocaust victims was defaced with brilliant green dye.
175. Representatives of some ethnic communities raised specific concerns about intolerant attitudes towards them. For instance, Roma activist mentioned to the HRMMU that Roma IDPs are less likely to receive help, particularly accommodation; in several towns and villages, local authorities requested Roma families to leave; some local residents were also hostile. People belonging to the Chechen minority fear that because citizens of the Russian Federation from the Republic of Chechnya are known to have participated in the fighting in the eastern regions of Ukraine, people belonging to the Chechen minority in Ukraine might eventually face threats and discrimination.
176. A few incidents of intolerance were based on sexual orientation and gender identity. On 8 June in Donetsk and on 6 July in Kyiv, LGBT clubs were attacked by armed men. The attackers insulted visitors on the basis of their sexual orientation. Although the LGBT rights parade 'March of Equality' planned for 5 July in Kyiv was cancelled, as reportedly police could not guarantee participants' safety, the organisers of the event still received threats and numerous hate comments in social media.

---

<sup>25</sup> In her visit to Ukraine in April, the Special Rapporteur on minority issues reported that the country had a history of harmonious inter-ethnic and inter-faith relations and a legislative, policy and social environment that is generally conducive to the protection of their rights, including cultural and linguistic rights. Nevertheless it was noted that some grievances do exist and that minority rights had become a highly politicized issue.

177. In its previous recommendations, the HRMMU stressed the importance of ensuring inclusivity and equal participation of all in public affairs and political life. The law “On Minorities” adopted in 1992 is declarative and does not provide sufficient legal basis for the active participation of minorities in decision-making processes. Unfortunately, no particular efforts were made to develop a mechanism which could have facilitated participation of all minorities and indigenous peoples in the recent national unity round tables on the constitutional changes.
178. Among positive developments, on 18 June, the Cabinet of Ministers created a Commissioner on Ethno-National Policy. The mandate, defined by the Decree of the Cabinet of Ministers Nr. 164 as of 4 June, is to facilitate cooperation between authorities and civil society to “ensure protection of ethnic and national minorities and indigenous peoples, preserve inter-ethnic unity and concord in Ukrainian society”. The Commissioner should develop and present the Cabinet of Ministers with measures to improve ethno-national policy and to prevent inter-ethnic conflicts and acts of discrimination.

## **IX. POLITICAL RIGHTS**

179. In the past few weeks there has been growing frustration expressed by citizens in many different regions (e.g. Ivano-Frankivsk, Ternopil and Lviv) over the way regional and local appointments are made without regard to public opinion. In numerous demonstrations and meetings, people have demanded that they be consulted before such appointments are made and that senior officials, usually appointed by central government, should be of local origin and of people well trusted by the community. Sometimes these protests have been effective in stopping a particular appointment. However, the public lack of trust in political institutions and actors - the result of years of widespread corruption and mismanagement – needs to be systematically addressed, in particular at the regional, district and local levels. It remains to be seen if changes currently being drafted to the Constitution will sufficiently address this issue.
180. Recommendations made in the previous report concerning the conduct of the Presidential election held on 25 May and about the need for inclusive consultations, are pertinent to the anticipated Parliamentary election. This election must be free, fair and transparent. Equally important is the need for political parties and their supporters to refrain from intolerance and hate speech, as well as from harassment or physical attack on candidates, all of which were factors during the Presidential election. It is hoped that a new Parliament will reflect the new political and social reality of the country.
181. Women hold less than 10% of the parliamentary seats in Ukraine and only one woman has a Cabinet position. A draft law that provided for gender quotas, requiring political parties to ensure that women comprised 30% of their party lists of candidates, languished after the first reading last year.
182. There is also a need for inclusiveness and meaningful consultations with people from all components of society (national, ethnic, linguistic, religious and other minorities, women, indigenous people, representatives of civil society, all political parties and of the ‘peaceful population’ of the east) about important government decisions. As previously reported, this did not happen sufficiently in the development of the new constitutional amendments which were finally published on 2 July.

183. Concerning consultations with the peaceful population of the east referred to above, this is particularly meaningful since there appears to have been a lack of communication with central government due in large part to the fighting and the consequent disruption of regional and local government. This has been coupled with an increase in the level of fear, intimidation, rhetoric and propaganda aimed at the residents of the east by the armed groups that has escalated along with the fighting. As the Government regains control of areas in the east, it should make every effort to include representative voices from the peaceful population in decisions about the rebuilding and rehabilitation of their region. Only through such inclusive and participatory dialogue will there be a de-escalation of tensions and the restoration of law and order.

## **X. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA**

184. In the previous three reports, the HRMMU made 17 recommendations relating to the situation in Crimea, primarily addressed to the Russian Federation. They addressed ways the authorities could protect and enhance the enjoyment of human rights for all residents of Crimea. There has been no progress in implementing them. The HRMMU will continue monitoring the situation.
185. According to UNHCR, as of 15 July 13,381 people have moved from Crimea. A new Crimean Ombudsperson has been appointed, the first to occupy such a post. She was appointed after a majority vote in the Crimean Parliament/State Council of Crimea on 9 July. In Lviv, a Crimean NGO warned that there could be a new wave of IDPs during August-September. This would include business people who were having serious difficulties with continuing to operate their businesses in Crimea; lecturers and teachers because they fear they will be sacked at the beginning of the new academic year for holding Ukrainian nationality or because they are Crimean Tatar; and families with sons of military age who do not want to be called for service into the Russian Federation army.
186. In contravention of General Assembly resolution 68/262 on the territorial integrity of Ukraine, the Russian Federation applies laws and regulations of the Russian Federation to the people of this territory. This continues causing confusion, legal problems and jeopardizing the rights of the residents of this region, in particular those who do not hold Russian Federation citizenship. Prisoners in Crimea are facing specific challenges: they could not leave the peninsula after the March “referendum”, as other residents chose to do. In addition, the right to reject Russian citizenship within the specified timeframe of one month from 16 March until 18 April 2014, was hampered by their deprivation of liberty.
187. All the issues previously reported on remain concerns. This is particularly true of harassment and discrimination against ethnic Ukrainians, Crimean Tatars, representatives of religious minorities, minority groups in general, and activists who opposed the 16 March ‘referendum’ in Crimea.<sup>26</sup>
188. The detention of Ukrainian filmmaker Oleg Sentsov, who was arrested in Crimea and transferred to the Russian Federation on terrorism charges, was extended until 11 October. Three other activists are also detained on the same grounds. Despite the fact that Sentsov is a citizen of Ukraine, Federal Security Service (FSB) of the Russian Federation allegedly wrote in the official investigation file that “Oleg Sentsov is a Russian citizen with a

---

<sup>26</sup> The UN General Assembly in Resolution 68/262 on 27 March, 2014, declared the ‘referendum’ held in Crimea on 16 March 2014 as having no validity.

Ukrainian passport”. According to Sentsov’s lawyer, his client has never applied for Russian citizenship. It would appear that since Sentsov did not explicitly renounce Ukrainian citizenship within the deadline provided under Russian legislation, he is automatically considered to have become a Russian citizen<sup>27</sup>. The head of the Crimean centre of business and cultural cooperation "Ukrainian House", who currently lives in Kyiv, was informed by his neighbours that his apartment in Crimea was sealed by the self-defence forces. A madrasa (Islamic religious school) in the village of Kolchugino was searched on 24 June by men in camouflage uniforms who said they were officers of the “centre for combating extremism” of the Russian FSB. During the search, several doors and windows were broken. No reason was provided for the search.

189. Representatives of religious minorities are under pressure to leave Crimea. A pastor of the Protestant Church from Simferopol and his family decided to leave Crimea after he was told by FSB officers that he could ‘disappear’ like the three pro-Ukrainian activists who went missing in May 2014. According to the pastor, it became dangerous even to wear clerical cloths since the “Russian Cossacks” and representatives of other ‘pro-Russian’ groups were very aggressive. The Bishop of the Ukrainian Orthodox Church (from the Kyiv Patriarchate) in Crimea reported about increasing pressure on believers and the church property being under threat.
190. The whereabouts of three pro-Ukrainian activists who disappeared in May 2014 are still unknown. On 23 June, the director of a Crimean human rights organization was told by an investigating officer from Crimea that the three were neither in a pre-trial detention centre nor in an FSB facility. No less critical is the situation of people living with HIV/AIDS, particularly drug addict patients and prisoners who do not have access to the substitution maintenance therapy that they previously received; several patients have reportedly died since 10 June due to the lack of necessary medication.
191. Movement to and from Crimea continued to be strictly controlled, and in some cases, prohibitions have been imposed. Representatives of the Crimean Tatar community have been targeted who opposed the March ‘referendum’. Thus, the authorities of Crimea have barred on 5 July the head of the Mejlis of the Crimean Tatar People, Refat Chubarov, from entering Crimea. A similar measure had been taken against the former head of the Mejlis, Mustafa Dzhemiliev, in May 2014. In both cases, the decision was justified by alleged ‘extremist’ statements having been made. The Ukrainian Foreign Ministry condemned the ban and the Ombudsperson of Ukraine said it infringed international law and violated fundamental rights and freedoms of the indigenous people of Crimea.
192. Restrictions continued to be placed on the exercise of the right to peaceful assembly. The authorities in Simferopol rejected three proposals submitted by the representatives of the Crimean Tatar community concerning the location to celebrate the Crimean Tatar Flag Day, a festive event celebrated since 2009. The authorities insisted that the event be held far from the city centre and in areas mainly populated by Crimean Tatars. The official celebration, with about 500 people, eventually took place on 26 June in the district of compact settlement of the Crimean Tatars instead of the central area of the capital of Crimea. The police controlled the perimeter of the gathering and people were searched. No significant incidents were reported. Several Ukrainian and Crimean Tatar media outlets are under threat of closing. The editor’s office of “Krymskaya Svetlitsa”, the only Ukrainian language newspaper in Crimea, received an order from the Crimean authorities to leave the premises which they have been renting for years. The distribution network refuses to

---

<sup>27</sup> In its second and third public reports, the HRMMU raised concerns that unclear procedures of acquiring and renouncing citizenship would cause difficulties and violations of the right to citizenship.

distribute the newspaper in its newsstands and it has not been included in the subscription catalogue. New laws have been rapidly introduced, without any prior consultation or notice that may have significant implications for those affected. For example, for employment purposes, Ukrainian nationals resident in Crimea who rejected Russian citizenship are now considered foreigners, and may be employed only if their employer has a permit to employ foreigners. A quota system providing the number of foreigners who may be employed in Crimea is provided by the Russian Federation. Employers had very little notice of the need to apply for a permit by 15 July, and those without could be fined 800,000 RUB (more than 22,000 USD). The effects of this law on Crimean residents who are Ukrainian nationals have yet to be seen.<sup>28</sup>

193. Russia and Ukraine have reached agreement on the price of electric power supplies to Crimea but no official contacts have been established as regards water supply. The current impact of water restrictions in Crimea is described earlier<sup>29</sup>. The Ukrainian Ministry of Infrastructure announced the closure of its ports in Crimea (Evpatoria, Kerch, Sevastopol, Feodosia, and Yalta) for international shipping, effective 15 July.
194. On 7 July 2014, the International Civil Aviation Organization officially confirmed that the airspace over Crimea belongs to Ukraine and the organization denied that it had transferred the management of the airspace to the Russian Federation. The Ukrainian Ministry of Justice said it was seeking 1 million UAH per day (about 91,000 USD) compensation from the Russian Federation for illegally providing air navigation services over Crimea and its territorial waters (the 19-kilometer zone). Otherwise Ukraine will file a claim for the expulsion of the Russian Federation from the Convention on International Civil Aviation.
195. The situation of people living with HIV/AIDS is difficult, particularly for prisoners. Due to the differences in the approved schemes for HIV treatment in Ukraine and the Russian Federation, patients in Crimea have been forced to change their medications. Drug users have been put in a particularly vulnerable position, as they do not have access to the Opioid Substitution Therapy<sup>30</sup>, which is prohibited by legislation of the Russian Federation. Since 10 June, 20 patients have reportedly died due to the lack of necessary medication and some have allegedly returned to the usage of illegal drugs.

## **XI. CONCLUSIONS**

196. Notwithstanding the challenges the Government faces trying to restore law, order and security as well as combat armed groups in the east, it needs to address the wider systemic problems facing the country with respect to good governance, rule of law and human rights. This requires deep and badly needed reforms, especially as Ukraine seeks to fulfil its EU aspirations and establish a democratic and pluralistic society.
197. It is thus imperative for the Government to ensure priority attention to addressing comprehensively the recommendations made by international human rights mechanisms (UN treaty bodies, special procedures, and the UPR).

---

<sup>28</sup> In its second and third public reports, the HRMMU warned that imposed legislative changes over such a short period of time would inevitably have an adverse impact on the possibility of residents to exercise the full scope of their rights.

<sup>29</sup> See Chapter VII.

<sup>30</sup> World Health Organisation recognizes Opioid Substitution Therapy as one of the most effective harm reduction programmes, which are widely used to control HIV/AIDS and other infectious diseases among injecting drug users.

198. Annex 1 to this report contains recommendations from the UN Human Rights mechanisms and OHCHR based on the monitoring work of the HRMMU, which could form the basis of a multi-year national human rights action plan to be developed and implemented – with clear benchmarks and timelines – through a senior coordination mechanism led by the Government of Ukraine, with the participation of key Ministries, relevant State Institutions, including the Ombudsman, and civil society organisations. The international community and the UN system stand ready to support Ukraine in the implementation of such a plan, firmly convinced that it will be essential to ensuring the success and long-term sustainability of on-going peace, security and development efforts.

**Compilation of recommendations by the UN Human Rights Mechanism  
and the UN Human Rights Monitoring Mission in Ukraine**

The following recommendations are a thematic compilation of recommendations from the UN Human Rights mechanisms – treaty bodies, special procedures and the universal periodic review (UPR) – as well as from the first three reports of the UN Human Rights Monitoring Mission in Ukraine (HRMMU).

*A glossary of acronyms is on the last page of this Annex.*

**Theme 1: Rule of law, accountability and administration of justice**

*Treaty Bodies*

- CAT (2011) reiterated its recommendation that the reform of the Prosecutor's Office should ensure its independence and impartiality and separate the criminal prosecution functions from those of investigating alleged abuse. WGAD (2009) made similar observations.
- CRC urged the Government to put in place a juvenile justice system; ensure a restorative juvenile justice system promoting alternative measures to deprivation of liberty and strengthen the social support services. WGAD made similar recommendations.
- The HR Committee (2013) recommended the State party to take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body.
- The HR Committee urged the State party to adopt a law providing for clear procedures and objective criteria for the promotion, suspension and dismissal of judges.
- The HR Committee also noted that Government should ensure that prosecuting authorities are not involved in deciding on disciplinary actions against judges and that judicial disciplinary bodies are neither controlled by the executive branch nor affected by any political influence.

*Special Procedures*

- WGAD (2009) recommended that Ukraine provide the legal and operational framework for an independent and effective judiciary, including through appropriate recruitment.
- WGAD recommended that Ukraine amend the Criminal Procedure Code to the effect that convictions exclusively based on confessions are inadmissible.
- WGAD recommended that Ukraine: (a) ensure that in practice all detainees have recourse to lawyers from the moment of arrest and (b) legally enact a Bar Association with an independent and effective mandate.

*UPR recommendations (2012)*

- Speed up the work to bring the Criminal Procedure Code in line with European standards, as proposed by the Council of Europe.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to limit the powers of the Prosecutor General's office.
- Implement genuine measures ensuring truly independent judiciary, including establishing transparent procedures and criteria regarding the appointment and dismissal of judges and the use of disciplinary measures.
- Continue strengthening the independence and impartiality of the judiciary and guaranteeing greater transparency of legal procedures, through measures such as the review of the Criminal Code and of the Public Prosecutor's Office.
- Provide the legal and operational framework for an independent judiciary, inter alia, by establishing fair procedures and criteria regarding the appointment and dismissal of judges.

- Consider establishing enhanced procedures and transparent criteria regarding the appointment and dismissal of judges, and the application of disciplinary measures in order to dispel concerns of the international community regarding the independence of the judiciary.
- Provide the legal and operational framework for an independent and effective judiciary, and undertake reform of the Prosecutor's Office that ensures its independence and impartiality and separate the criminal prosecution functions from those investigating alleged abuse.
- Further strengthening of the judiciary by investigating all allegations of human rights violations by law enforcement officers and the police.
- Take concrete steps to improve the objectivity and independence of the criminal justice system by incorporating the recommendations of the Venice Commission, implementing the judgments of the European Court of Human Rights, and addressing concerns about selective justice.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to limit the powers of the Prosecutor General's office, and establish an impartial and independent criminal justice system, in line with Ukraine's obligations under the ICCPR.
- Full implementation of the new criminal procedure code, and that the independency of judges is strengthened, the role of the public prosecution is balanced and corruption in judiciary system is tackled.
- Continue to make efforts with regard to reform in criminal proceedings, including enhancing the independence and impartiality of the Prosecutor's Office, as well as the updating of pre-trial investigation procedures.
- Create an independent body to investigate cases of torture and guarantee compensation for victims. Additionally, bring conditions of detention in line with international standards and ensure respect for the judicial guarantees of detainees.
- Further pursue its effort to provide human rights training for police personnel to effectively fight hate crimes.
- Issue a comprehensive anti-discrimination law and update the national action plan in order to dedicate special attention to addressing the practices of law enforcement officials, as well as the legal and practical measures needed to combat incitement and hate crimes.
- Provide training for staff of law enforcement bodies on the rights of detainees.
- Take urgent measures to prevent cases of ill-treatment and torture by police officers.
- Protect and promote effectively the right to a fair trial in accordance with internationally established standards.
- Take the necessary steps to ensure that all allegations of mistreatment are impartially investigated.
- Ensure non-selective prosecutions on its territory and a fair trial for persons being prosecuted, in conformity with the standards as under article 14 of the ICCPR, including the right to appeal laid down in paragraph 5.
- Urgently address the problem of the acceptance by the courts of evidence obtained as a result of ill-treatment in detention.
- Consider stepping up efforts towards reform in juvenile justice.
- Strengthen and advance its efforts for establishing a juvenile justice system and promote alternative measures to deprivation of liberty for juvenile offenders.
- Ensure that the new Criminal Procedure Code respects the human rights of those held in custody, and that the statements informing migrants of the justification for their deportation is in one of the languages that the deportee understands.

*HRMMU 15 April 2014 Report*

- Ensure the institutional independence of the State Bureau of Investigation, under Article 216 of the new CCP, which provides for its creation within five years (as of 2012) to enable it to investigate allegations of human rights violations committed by judges, law enforcement officers

and high-ranking officials. It will be very important to ensure that this new body is independent from the Prosecutor's Office. Public accountability and sufficient resourcing is essential to enable it to function effectively, promptly, independently and impartially.

#### *HRMMU 15 May 2014 Report*

- The deterioration in the east of Ukraine – the unlawful activities of the armed groups, including the seizure and occupation of public and administrative buildings, and numerous human rights abuses, inter alia, unlawful detentions, killings, torture/ill-treatment and harassment of people – remain the major factor in causing a worsening situation for the protection of human rights. A prompt, impartial and comprehensive investigation should be undertaken into the events and violence in the east.
- The violent clashes in Odesa on 2 May resulted in the deaths of 46 people, with over 200 injured and 13 remaining missing. It appears to have hardened the resolve of those opposing the Government, and deepened division between communities. There is a need for an independent investigation into the violent events of that day. The perpetrators must be brought to justice in a fair and non-selective manner.

#### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All gaps of legislation should be brought in line with the recommendations of the international human rights mechanisms (Treaty Bodies, Universal Periodic Review and Special Procedures); the Judiciary, Office of the Prosecutor General and the Bar Association should operate in line with relevant international norms and standards in order to ensure fair trial without which it is impossible to tackle corruption.
- The Constitutional Court should be enhanced – legal, social and all other guarantees need to be elaborated in order to ensure the genuine independence of the Constitutional Court.
- Reaffirming UN General Assembly resolution 68/262, entitled "Territorial integrity of Ukraine", measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
- Ukrainian legislation should remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
- Criminal and administrative liability should not be used as a mechanism of intimidation against Crimean Tatars and other residents of Crimea, but used in line with international law.

#### Accountability and Rule of Law:

##### *HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Ensure accountability for all human rights violations committed during the period of unrest, through securing of evidence and thorough, independent, effective and impartial investigations, prosecutions and adequate sanctions of all those responsible for these violations; ensure remedies and adequate reparations for victims.
- Ensure that any lustration initiatives are pursued in full compliance with fundamental human rights of persons concerned, including right to individual review and right of appeal.

To the authorities in Crimea:

- Act to re-establish the rule of law, including by the effective disbandment of any and all 'self-defence forces' and/or para-military groups. Reform the administration of justice system so that it functions independently, impartially and effectively; reform the security sector so as to ensure

that it functions in full respect of international norms and standards; provide for full accountability for human rights violations.

- Strengthen rule of law institutions so that they fully comply with relevant international and regional human rights norms and recommendations of human rights mechanisms.

#### *HRMMU 15 May 2014 Report*

- All armed groups must disarm and their unlawful acts brought to an end, including the immediate release all those unlawfully detained, and the vacation of occupied public and administrative buildings, in line with the provisions of the 17 April Geneva Agreement. Those found to be arming and inciting armed groups and transforming them into paramilitary forces must be held accountable under national and international law.

#### *HRMMU 15 June 2014 Report*

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

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

### Judiciary

#### *Treaty Bodies*

- HR Committee (2013) – urges the State party to ensure that judges are not subjected to any form of political influence in their decision-making and that the process of judicial administration is transparent. The State party should adopt a law providing for clear procedures and objective criteria for the promotion, suspension and dismissal of judges. It should ensure that prosecuting authorities are not involved in deciding on disciplinary actions against judges and that judicial disciplinary bodies are neither controlled by the executive branch nor affected by any political influence. The State party should ensure that prosecutions under article 365 of the Criminal Code fully comply with the requirements of the Covenant.

#### *UPR Recommendations (2012)*

- Take the necessary steps to ensure that all allegations of mistreatment are impartially investigated.
- Implement genuine measures ensuring truly independent judiciary, including establishing transparent procedures and criteria regarding the appointment and dismissal of judges and the use of disciplinary measures.
- Continue strengthening the independence and impartiality of the judiciary and guaranteeing greater transparency of legal procedures, through measures such as the review of the Criminal Code and of the Public Prosecutor's Office.
- Provide the legal and operational framework for an independent judiciary, inter alia by establishing fair procedures and criteria regarding the appointment and dismissal of judges.
- Consider establishing enhanced procedures and transparent criteria regarding the appointment and dismissal of judges, and the application of disciplinary measures in order to dispel concerns of the international community regarding the independence of the judiciary.
- Provide the legal and operational framework for an independent and effective judiciary, and undertake reform of the Prosecutor's Office that ensures its independence and impartiality and separate the criminal prosecution functions from those investigating alleged abuse.
- Take concrete steps to improve the objectivity and independence of the criminal justice system by incorporating the recommendations of the Venice Commission, implementing the judgments of the European Court of Human Rights, and addressing concerns about selective justice.
- Fully implement the new Criminal Procedure Code, including necessary constitutional and statutory reforms needed to establish an impartial and independent criminal justice system, in line with Ukraine's obligations under the ICCPR.

- Full implementation of the new Criminal Procedure Code, and that the independency of judges is strengthened, the role of the public prosecution is balanced and corruption in judiciary system is tackled.
- Continue to make efforts with regard to reform in criminal proceedings, including enhancing the independence and impartiality of the Prosecutor's Office as well as the updating of pre-trial investigation procedures.
- Urgently address the problem of the acceptance by the courts of evidence obtained as a result of ill-treatment in detention.

*HRMMU 15 May 2014 Report*

- The Law "On the restoration of the credibility of the judiciary in Ukraine" must be brought in line with international norms and standards.

Equality before the law, courts and tribunals

*UPR Recommendations (2012)*

- Fulfil its commitments on the use of minority language in justice, in both criminal and civil procedures.

Right to a fair trial

*UPR Recommendations (2012)*

- Protect and promote effectively the rights to a fair trial in accordance to the internationally established standards.
- Ensure a fair trial for persons being prosecuted, in conformity with the standards as under article 14 of the ICCPR, including the right to appeal laid down in paragraph 5.

*HRMMU 15 June Report*

To the Government of Ukraine and other stakeholders:

- The State Migration Service should propose amendments to bring the refugee law in line with international standards, and to allocate sufficient funds to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.

Impunity

*Treaty Bodies*

- HR Committee (2013) - The State party should take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body, that sentencing practices and disciplinary sanctions against those found responsible are not overly lenient, and that appropriate compensation is provided to families of victims.

*UPR Recommendations (2012)*

- Improve the legislation and its application in order to combat police impunity and to increase the number of criminal investigations of suspected perpetrators accused of police brutality.
- Take sincere efforts to hold accountable those police and law enforcement officers responsible for the torture and ill-treatment of detainees.
- Ensure police officers accountability for any criminal acts.

Juvenile justice

*UPR Recommendations (2012)*

- Consider stepping up efforts towards reform in juvenile justice.
- Strengthen and advance its efforts for establishing a juvenile justice system and promote alternative measures to deprivation of liberty for juvenile offenders.

## Law Enforcement

### *HRMMU 15 April 2014 Report*

- Ensure that policies, practices and instructions applicable to the management of peaceful assemblies are observed through rigorous training for the personnel involved. In particular, effective internal oversight mechanisms must be put in place in order to review all incidents of injury or loss of life resulting from the use of force by law enforcement personnel as well as all cases of use of firearms during duty.

### *HRMMU 15 May 2014 Report*

- Security and law enforcement operations must be in line with international standards and guarantee the protection of all individuals at all times. Law enforcement bodies must ensure that all detainees are registered and afforded legal review of the grounds of their detention.
- There is an increasing tendency in some critical urban areas for rallies of opposing groups to be held simultaneously, often leading to violent confrontations and clashes. This trend can be reverted by replacing incitement to hatred with the culture of tolerance and mutual respect for diverging views. Peaceful demonstrations must be permitted, as a matter of international law, and also as a way for people to express their opinion. Law enforcement agencies must facilitate peaceful assemblies, ensuring the protection of participants, irrespective of their political views. In this context, law enforcement officers must receive adequate training for handling rallies and protests in line with the international human rights standards.
- The law enforcement reform package should aim to reinforce the rule of law; to de-politicise, de-militarise, de-centralise and strengthen the structure of the law enforcement bodies through accountability, transparency, and closer cooperation with the public and local communities, as well as professionalising the staff.

## **Theme 2: Right to life, liberty and security of the person, torture and ill treatment**

### *Treaty Bodies*

- The HR Committee (2013) urged Ukraine to take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body.
- HR Committee recommended Ukraine to adopt a new legislation on prevention of domestic violence.
- CEDAW (2010) urged Ukraine to work towards a comprehensive approach to preventing and addressing all forms of violence against women; ensure effective penalties in cases of domestic violence and access of victims of domestic violence to shelters and social centres and to immediate means of redress and protection.
- CRC (2011) urged Ukraine to step up its efforts to prevent and combat all forms of abuse and neglect of children, adopt preventive measures and provide protection and services for their recovery.
- CRC urged Ukraine to end all forms of corporal punishment in the home and other settings by implementing the existing legislative prohibition.
- CRC urged Ukraine to eliminate exploitative child labour, in particular in the informal sector and ensure effective enforcement of applicable sanctions against persons violating legislation on child labour.
- CRC recommended that Ukraine develop a national strategy for the prevention of, support for and social reintegration of such children and increase the number and quality of shelters and psychosocial rehabilitation centres for children in street situations.
- CEDAW (2010) called upon Ukraine to address the root causes of trafficking, establish additional shelters for rehabilitation and social integration of victims and ensure systematic investigation,

prosecution and punishment of traffickers. CRC also recommended that Ukraine seek technical assistance from UNICEF, IOM and other partners.

#### *Special Procedures*

- WGAD (2009) recommended that Ukraine ensure a policy of zero-tolerance of torture and that any related allegation is promptly and properly investigated. CRC made similar recommendations.

#### *UPR Recommendations (2012)*

- Establish an independent national preventive mechanism in accordance with its obligations under the OPCAT.
- Consider bringing national legislation relating to trafficking in and sale of children in line with the Optional Protocol to the CRC, on the sale of children, child prostitution and child pornography.
- In the realm of the new criminal procedure code, establish an independent mechanism for the investigation of alleged cases of torture by officers of law-enforcement agencies independent from the Ministry of the Interior and the Prosecutor's Office.
- Pay due attention to the recommendations made by the Special Rapporteur on torture.
- Take further measures to ensure systematically safeguards against occurrence of torture or ill-treatment in particular in prison and detention facilities, while implementing also recommendations of the European Committee for the Prevention of Torture.
- Create an independent body to investigate cases of torture and guarantee compensation for victims.
- Ensure that the right of victims of torture or other cruel, inhuman or degrading treatment to obtain reparation is respected.
- Continue to strengthen provisions to address domestic violence, and programmes to reinforce mechanisms for the protection of women and children;
- Respect the principles and standards provided by the Council of Europe Convention on preventing and combating violence against women and domestic violence, even prior to its ratification and entry into force.
- Allocate adequate resources to ensure the effective implementation of the Combatting Trafficking in Persons Act (2011).
- Step up the national efforts in the field of trafficking in persons through a victim-oriented approach that attaches special focus on the protection of children from abuse and sexual exploitation.
- Continue efforts in combating human trafficking and provide the necessary assistance to victims of trafficking.
- Redouble its efforts in regard to combating trafficking in persons, particularly in combating the trafficking of children for sexual and labour exploitation, including through addressing the root causes of trafficking, establishing additional shelters for rehabilitation and social integration of victims and ensuring systematic investigation, prosecution and punishment of traffickers.
- Give adequate training on the Law on combating trafficking in human beings to all those involved in the fight against human trafficking, especially border guards.
- Continue its efforts aimed at fighting trafficking in persons, particularly children and women, and at ensuring compensation and rehabilitation for trafficking victims.
- Improve the legislation and its application in order to combat police impunity and increase the number of criminal investigations of suspected perpetrators accused of police brutality, as well as provide training for staff of law-enforcement bodies on the rights of detainees.
- Ensure that the right of victims of torture or other cruel, inhuman or degrading treatment to obtain reparation is respected.
- Take sincere efforts to hold accountable those police and law enforcement officers responsible for the torture and ill-treatment of detainees.

- Take urgent measures to prevent cases of ill-treatment and torture by police officers and ensure their accountability for any criminal acts.
- Strengthen the effectiveness and the independence of the mechanisms to supervise the observance of human rights of inmates and persons under police custody with the aim of preventing ill-treatment.

#### *Treaty Bodies*

- HR Committee (2013) - The State party should reinforce its measures to eradicate torture and ill-treatment, ensure that such acts are promptly, thoroughly, and independently investigated, that perpetrators of acts of torture and ill-treatment are prosecuted in a manner commensurate with the gravity of their acts, and that victims are provided with effective remedies, including appropriate compensation. As a matter of priority, the State party should establish a genuinely independent complaints mechanism to deal with cases of alleged torture or ill-treatment. It should also amend its Criminal Procedure Code to provide for mandatory video recording of interrogations, and pursue its efforts towards equipping places of deprivation of liberty with video recording devices with a view to discouraging any use of torture or ill-treatment.

#### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All armed groups must immediately put an end to their violent activities and lay down their arms.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

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

#### Right to life – excessive use of force

##### *UPR Recommendations (2012)*

- In the realm of the new Criminal Procedure Code, establish an independent mechanism for the investigation of alleged cases of torture by officers of law enforcement agencies independent from the Ministry of the Interior and the Prosecutor's Office.
- Further strengthening of the judiciary by investigating all allegations of human rights violations by law enforcement officers and the police.

#### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- The Government must ensure that its armed forces refrain from using excessive force, and ensure that its on-going security operations are at all times in line with the relevant international standards applicable to different types of operations. In all circumstances, it must ensure the protection of those who are not involved in the fighting.

#### Arbitrary arrest and detention

##### *UPR Recommendations (2012)*

- Additionally, bring conditions of detention in line with international standards and ensure respect for the judicial guarantees of detainees.
- Strengthen the effectiveness and the independence of the mechanisms to supervise the observance of human rights of the inmates and the persons under police custody with the aim of preventing ill-treatment.
- Ensure non-selective prosecutions on its territory.
- Ensure that the new Criminal Procedure Code respects the human rights of those held in custody.

#### *HRMMU 15 April 2014 Report*

To the authorities in Crimea:

- Publicly condemn all attacks or harassment against human rights defenders, journalists or any members of the political opposition; and ensure full accountability for such acts, including arbitrary arrests and detentions, killings, torture and ill-treatment, through prompt, impartial and effective investigations and prosecutions.
- Take all measures to ensure that the human rights of Ukrainian soldiers based in Crimea are also fully respected.
- Take all needed measures to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to access to citizenship, right of residence, labour rights, property and land rights, access to health and education.

#### *HRMMU 15 May 2014 Report*

To the authorities in Crimea:

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

#### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All people detained in the context of the security operations should be treated in line with international norms and standards and guaranteed their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law. In order to protect its security personnel and persons not involved in the fighting, the Government should consider providing assurances that acts of abduction and detention by armed groups will not be prosecuted provided that they do not target people not involved in the fighting and the victims are treated humanely at all times.

### **Theme 3: Corruption**

#### *CESCR (2014)*

- The State party should, as a matter of priority, address the root causes of corruption and adopt all necessary legislative and policy measures to effectively combat corruption and related impunity and ensure that public affairs, in law and in practice, are conducted in a transparent manner. It also recommends that the State party make politicians, members of parliament and national and local government officials aware of the economic and social costs of corruption, and make judges, prosecutors and the police aware of the need for strict enforcement of the law.

#### *HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Put in place, as a matter of priority, all legislative and policy measures needed to effectively eradicate corruption.

### **Theme 4: Equality and Non-Discrimination**

#### *Treaty Bodies*

- The HR Committee (2013) recommended the State party to further improve its anti-discrimination legislation to ensure adequate protection against discrimination in line with the Covenant and other international human rights standards. The Committee noted that Government should

- explicitly list sexual orientation and gender identity among the prohibited grounds for discrimination and provide victims of discrimination with effective and appropriate remedies.
- The HR Committee urged the Government to state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or trans-sexuality, or hate speech, discrimination or violence against persons because of their sexual orientation or gender identity.
  - The HR Committee urged that State party to strengthen its efforts to combat hate speech and racist attacks, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also step up its efforts to ensure that alleged hate crimes are thoroughly investigated, that perpetrators are prosecuted under article 161 of the Criminal Code and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated.
  - CERD (2011) urged Ukraine to accelerate the adoption of an anti-discrimination act stipulating the definition of direct/indirect and de facto/de jure discrimination.
  - CEDAW (2010) recommended that Ukraine implement temporary special measures, including quotas, to achieve gender equality in areas where women are underrepresented or disadvantaged and for women suffering from multiple forms of discrimination, such as Roma women.
  - CEDAW called upon Ukraine to amend the Equal Rights and Opportunities Act to strengthen the complaints and sanctions mechanisms and to bring the definition of discrimination against women into conformity with the Convention, by encompassing both direct and indirect discrimination. CEDAW recommended that Ukraine strengthen the national mechanism for the advancement of women by raising its authority and provide it with adequate resources. CEDAW also encouraged Ukraine to adopt a national plan of action with a comprehensive approach to gender equality and to allocate sufficient resources for its implementation.
  - Noting the adoption of the Plan of Action to Combat Xenophobia and Racial and Ethnic Discrimination (2010-2012), CERD (2011) recommended that Ukraine establish institutional mechanisms to counter racial discrimination and re-activate institutions which had ceased to be operational, particularly the Inter-departmental Working Group against Xenophobia and Ethnic and Racial Intolerance. Furthermore, it recommended that Ukraine mandate the Parliamentary Commissioner for Human Rights with specific competence in the field of racial discrimination, in particular to process complaints and take measures in response to the victims' concerns of racial discrimination and ensure their access to the Commissioner's Office at the regional, district and municipal levels.
  - CERD recommended that Ukraine establish civil and administrative liability for racial discrimination, including hateful opinions spread by the media and guarantee remedies and compensation to victims. CERD urged Ukraine to: investigate hate crimes; ensure that the police do not engage in racial or ethnic profiling and bring perpetrators to justice.
  - CERD strongly recommended that the State party closely monitor the activities of extremist organizations, and adopt legal and policy measures with the aim of preventing their registration and disbanding their activities, as necessary, and ensuring the protection of foreigners and members of "visible minorities" against all acts of violence.
  - CRC (2011) urged Ukraine to ensure that all children enjoy their rights without discrimination on any ground.
  - The HR Committee (2013) recommended the State party to strengthen its efforts to combat hate speech and racist attacks, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also step up its efforts to ensure that alleged hate crimes are thoroughly investigated, that perpetrators are prosecuted under article 161 of the Criminal Code and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated.

## Anti-discrimination legal framework

### *CESCR (2014)*

The State party should expedite the adoption of amendments to its anti-discrimination legislation to ensure adequate protection against discrimination in line with article 2(2) of the Covenant, taking also into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, inter alia by:

- (a) explicitly including all the prohibited grounds for discrimination listed in article 2(2) of the Covenant in its comprehensive anti-discrimination law;
- (b) bringing the definitions of direct and indirect discrimination in line with the State party's obligations under the Covenant;
- (c) prohibiting discrimination in both public and private spheres;
- (d) providing for a reversal of the burden of proof in civil proceedings;
- (e) adding provisions for access to redress in cases of discrimination, including through judicial and administrative procedures, and providing for effective and appropriate remedies for victims of discrimination.

### Discrimination against Roma

The CESCR (2014) requests the State party to step up its efforts in combating discrimination against Roma with a view to giving full effect to their Covenant rights in practice and, to this end:

- (a) collect statistical data, on the basis of voluntary self-identification, on the number of Roma living in the country and on their situation in the areas of employment, social security, housing, healthcare and education with a view to formulating, implementing and monitoring targeted and co-ordinated programmes and policies at national and regional levels aimed at improving their socio-economic situation;
- (b) simplify the procedure and remove existing obstacles to ensure that all Roma are provided with personal documents, including birth certificates, which are necessary for the enjoyment of their rights under the Covenant;
- (c) ensure that the Action Plan for Roma provides for concrete measures aimed at addressing the problems faced by Roma in accessing employment, social security, housing, healthcare and education;
- (d) establish quantitative and qualitative indicators to monitor the implementation of the Action Plan nationwide and provide adequate financial resources for its effective implementation.

### Discrimination against Crimean Tatars

- The State party should take measures to further improve the situation of Crimean Tatars and ensure their de facto access to employment, housing, health care, social services and education.

### Gender pay gap

The CESCR recommends that the State party, taking into account the Committee's general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights:

- (a) take steps to eliminate the persistent gender pay gap by combating vertical and horizontal segregation in employment that results in women occupying lower paid jobs and facing obstacles in the enjoyment of career opportunities on an equal footing with men;
- (b) take measures to change society's perception of gender roles, including through awareness-raising campaigns on shared family responsibilities for men and women and about equal career opportunities as a result of education and training in fields other than those traditionally dominated by either sex.

### *Special Procedures*

- The Special Rapporteur on freedom of expression (2008) urged Ukraine to take action to thwart the wave of racist violence.

### UPR Recommendations (2012)

- Adopt a comprehensive anti-discrimination legislation that would include also a definition of direct and indirect discrimination and a comprehensive list of grounds for discrimination.
- Enact legislation which clearly prohibits child prostitution and other forms of sexual exploitation, consistently with the international obligations undertaken by the country, bearing in mind that the Lanzarote Convention will enter into force as regards Ukraine on 1 December 2012.
- Adopt a comprehensive anti-discrimination law that addresses the worrying trend of incidents based on gender, sexual orientation, racial and ethnic discrimination.
- Step up efforts to strengthen the national mechanism for the advancement of women and to provide such mechanism with adequate resources.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- Continue the promotion of the rights of national minorities, as well as governmental policy on combating discrimination.
- Remove from the legislation discriminatory provisions based on race, sex or sexual orientation, and adopt comprehensive anti-discrimination legislation.
- Continue its effort to combat discrimination and promote equality in accordance with international treaties establishing guarantees of fundamental human rights and freedoms, and equality in the enjoyment of such rights, without privileges or restrictions based on race, colour, political, religious or other belief, gender, sexual orientation, ethnic or social origin, property status, place of residence, language or other grounds.
- Take more effective procedures to counter discrimination and xenophobia.
- Continue efforts to combat different forms of discrimination and ensure respect for the rights of ethnic minorities.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- In line with the observation made by CERD, ensure proper investigation and continue its actions to stop hate crimes.
- Continue its efforts to combat discrimination and ensure that manifestations of racial, ethnic and religious hatred are promptly investigated and acted upon accordingly; and in this regard, intensify its efforts in enacting anti-discrimination laws.
- Intensify its efforts to fight hate crimes and encourage senior State officials to take a clear position against these crimes and to publicly condemn racist acts of violence and other offences motivated by hatred.
- Further pursue its efforts to create appropriate institutional mechanisms to counter all forms of discrimination and further pursue its efforts to provide human rights training for police personnel to effectively fight hate crimes.
- Respect its international commitments on fundamental rights related to non-discrimination, prevent the adoption of a law prohibiting freedom of expression with regards to homosexuality and raise awareness of civil society on combating all forms of discrimination, including discrimination based on sexual orientation and gender identity.

- Study the possibility of expanding measures to combat discrimination, especially in the case of children with disabilities and HIV.
- In line with the observation made by the Committee on the Elimination of Racial Discrimination, ensure proper investigation and continue its actions to stop hate crimes.
- Intensify its efforts to fight hate crimes and encourage senior State officials to take a clear position against these crimes, and publicly condemn racist acts of violence and other offences motivated by hatred.

## **Theme 5: Minorities and Indigenous Peoples**

### *Treaty Bodies*

- CERD (2011) urged Ukraine to adopt special measures to preserve the language, culture, religious specificities and traditions of those communities.
- CERD recommended that Ukraine ensure the restoration of political, social and economic rights of Tatars in the Crimea, in particular the restitution of property.
- CERD recommended that Ukraine provide education to Roma children, and on Roma language and culture.
- CERD urged Ukraine to issue identification documents to all Roma to facilitate their access to the courts, legal aid, employment, housing, health care, social security, education and other public services. CRC made similar observations.
- CERD recommended that Ukraine respect the right of persons and peoples to self-identification and consider the issue of the Ruthenians' status, in consultation with their representatives.
- CERD urged Ukraine to adopt legislation to protect indigenous peoples and guarantee their economic, cultural and social development.

### *CESCR (2014)*

#### Linguistic rights of national or ethnic minorities

- The Committee recommends that the State party ensure the meaningful and comprehensive participation of concerned minorities in the process of drafting the new language law with a view to giving expression to the linguistic diversity of different minorities. It should further ensure that the revised law conforms to the relevant international and regional standards for the protection of the linguistic rights of national or ethnic minorities.

#### Cultural rights of Crimean Tatars

- The Committee recommends that the State party, taking into account the Committee's general comment no. 21 (2009) on the right of everyone to take part in cultural life, strengthen the measures aimed at ensuring favourable conditions for Crimean Tatars to preserve, develop and promote their identity, language and culture, inter alia by providing adequate financial support to cultural organizations for their activities and creating more opportunities for Crimean Tatars to promote and use their mother tongue in education and daily life.

### *UPR Recommendations (2012)*

- Continue efforts to combat different forms of discrimination and ensure respect for the rights of ethnic minorities.
- Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups.
- Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities.
- Continue the promotion of the rights of national minorities, as well as governmental policy on combating discrimination.

- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.
- That no effort be spared for the improvement of the current status and living conditions of the Crimean Tatars along with the other minorities.
- Take further action in ensuring and preserving the political, economic, social and cultural rights of the Crimean Tatars, which would also be conducive to better inter-communal relations.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.
- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.

*HRMMU 15 April 2014 Report*

To the Government of Ukraine:

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

To the authorities in Crimea:

- Ensure the protection of the rights of all minorities and indigenous peoples in Crimea, in particular Crimean Tatars.

*HRMMU 15 May 2014 Report*

To the Government of Ukraine:

- The announced national consultations on the discussion of the amendments to the Constitution of Ukraine on the decentralization of state powers should be advanced in accordance with the principle of equal inclusion of all, including national minorities and representatives of civil society, and ensuring equal role for women. A system of checks and balances should be fully provided. If conducted in a broad, consultative and inclusive manner, this may be a positive step leading to the de-escalation of tensions and genuine national reconciliation.
- The adoption of measures, including making official public commitments on minority protection and ensuring participatory and inclusive processes in public and political life - reassuring all members of minorities regarding respect for their right to life, equality, political participation in public affairs and public life, as well as their cultural and linguistic rights would significantly ease tensions within the Ukrainian society.

To the authorities in Crimea:

- All acts of discrimination and harassment towards members of minorities and indigenous peoples – in particular Crimean Tatars – and other residents who did not support the “referendum” must come to an end, and all their human rights must be guaranteed.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- A language law should be adopted in line with international standards that enable the promotion of the official national language as well as other languages.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- The promotion and protection of the rights of national minorities, including the Crimean Tatars and other indigenous peoples must be ensured, enabling them to participate fully and inclusively in public and political life.

## **Theme 6: Right to participate in public and political life**

### *Treaty Bodies*

- CEDAW (2010) urged Ukraine to increase the representation of women in elected and appointed bodies through, inter alia, the implementation of temporary special measures.

### *UPR Recommendations (2012)*

- Take appropriate measures aimed at increasing the number of women in decision-making positions as well as address the issue of a persisting wage gap between men and women;

### *HRMMU 15 April 2014 Report*

To the Government of Ukraine:

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

### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- There should be constitutional inclusive and meaningful consultations with all political parties, regardless of their ideology, as well as representatives of civil society and minority (national and ethnic, linguistic, religious and other) groups and indigenous peoples in order to embrace all components of society, including women in the dialogue for the new constitution, which will reflect the new reality of the country with a full-fledged system of checks and balances. The peaceful population of the east should participate in these consultations.

## **Theme 7: Freedom of expression, association, and peaceful assembly**

### *Treaty Bodies*

- Concerned about the lack of a domestic legal framework regulating peaceful events, the HR Committee (2013) urged Ukraine to adopt a law regulating freedom of assembly, imposing only restrictions that are in compliance with the strict requirements of article 21 of the Covenant.
- HR Committee recommended that State party ensure that journalists, human rights defenders and individuals are able to freely exercise their right to freedom of expression, in accordance with article 19 of the Covenant and the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. Any restrictions on the exercise of freedom of expression should comply with the strict requirements of article 19, paragraph 3, of the Covenant. Furthermore, the State party should ensure that acts of aggression, threats and intimidation against journalists are investigated, prosecuted and punished and victims provided with appropriate remedies.
- HR Committee urged the State party to ensure that individuals fully enjoy their right to freedom of assembly. The State party should adopt a law regulating the freedom of assembly, imposing only restrictions that are in compliance with the strict requirements of article 21 of the Covenant.

### *Special Procedures*

- The Special Rapporteur on freedom of expression (2008) urged Ukraine to guarantee that crimes against media professionals and opinion-makers will not go unpunished. The Special Rapporteur also called for a broad and comprehensive revision of media legislation, especially on TV and

radio broadcasting, to increase TV and radio broadcasting bodies' independence from political lobbies.

- The Special Rapporteur urged Ukraine to ensure that human rights defenders do not face harassment or discrimination and to create a safe environment conducive to their work.

#### *UPR Recommendations (2012)*

- Further promote freedom and pluralism of the media as key elements for enabling the exercise of freedom of expression.
- Create an enabling environment for journalists and media professionals and ensure fully transparent and impartial investigation and prosecution in all cases of attacks against them.
- Further develop measures to fully guarantee freedom of expression, particularly the protection of the integrity of persons working in the media in the exercise of that right.
- Ensure better protection of journalists and combat abuse and violence to which they are subject.
- Pursue measures against State organs which attempt to limit media and journalists.
- Implement a law on freedom of assembly that complies with applicable standards under article 21 of the ICCPR.
- Adopt a law on bar association that recognizes the right of the bar to self-government and guarantees a proper representativeness by regular elections and regional representation.

#### *HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Adopt legislation and other measures needed to ensure the right to peaceful assembly in compliance with the requirements of article 21 of the International Covenant on Civil and Political Rights. In particular, ensure that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management of peaceful assemblies.
- Prevent media manipulation by ensuring the dissemination of timely and accurate information. Take action against deliberate manipulation of information, in compliance with international standards of freedom of expression and in full respect of due process guarantees.
- Combat intolerance and extremism and take all measures needed to prevent advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and punish such incitement or acts of violence, which is of fundamental importance. A careful balancing act must however be maintained, with fully respecting the right to freedom of expression.
- Take resolute steps to prevent negative stereotyping of minority communities in the media, while fully respecting the freedom of the press. Efforts to train media professionals must be increased, including by further promoting the visibility and effectiveness of the work of the national union of journalists in this regard.
- Review legislation and policies applicable to the management of peaceful assemblies, and if necessary, modify them to ensure their compliance with human rights standards. In particular, these should specify that the principles of necessity, proportionality, non-discrimination and accountability underpin any use of force for the management. In this regard, particular attention should be paid to the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

To the authorities in Crimea:

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

#### *HRMMU 15 May 2014 Report*

To the Government of Ukraine:

- Primarily as a result of the actions of organised armed groups, the continuation of the rhetoric of hatred and propaganda fuels the escalation of the crisis in Ukraine, with a potential of spiralling out of control. Acts of hate speech must be publicly condemned and deterred. Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech.
- There are increasing reports of harassment and intimidation of journalists. These should be investigated and addressed in order to ensure accountability and protect fundamental human rights and freedoms. Freedom of expression must be ensured allowing journalists the space and security to carry out their work objectively.

To the authorities in Crimea:

- At variance with UN General Assembly resolution 68/262, the legislation of the Russian Federation is being enforced on the territory. In addition, its differences in comparison with Ukrainian laws already have and will continue having serious implications for the enjoyment of human rights and fundamental freedoms, including freedom of expression and media as well as freedoms of peaceful assembly, association and religion.

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- All stakeholders should refrain from using messages of intolerance or expressions, which may incite hatred, violence, hostility, discrimination or radicalisation.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

- Journalists, human rights defenders and individuals must be able to fully exercise their right to freedom of expression, in accordance with Article 19 of the International Covenant on Civil and Political Rights.

### **Theme 8: Freedom of Movement**

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- Normative acts to ensure freedom of movement for residents of Crimea should be enacted as soon as possible.

### **Theme 9: Freedom of Religion or Belief**

*HRMMU 15 June 2014 Report*

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

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

### **Theme 10: Right to health**

*Treaty Bodies*

- CRC (2011) recommended that Ukraine develop specialized youth-friendly drug-dependence treatment and harm-reduction services, ensure that criminal laws do not impede access to such services and address root causes of substance use and abuse among children and youth.

## *CESCR (2014)*

### Health insurance system

- The State party should expedite the process of establishing a mandatory national health insurance system in the context of ensuring a sustainable public social security system without prejudice to maintaining the guaranteed universal health care services provided free of charge.

### Health care system

The Committee recommends to the State party to:

- (a) progressively increase the health care expenditure as a proportion of gross domestic product (GDP) with a view to giving practical expression to its obligation in fulfilling the right to health under the Covenant and the State party's Constitution;
- (b) take measures to further improve the infrastructure of the primary health care system, including dental care;
- (c) take concrete measures to address the problem of the high health care costs, the shortage of certain drugs and the limited availability of health care services, especially in rural areas, in order to ensure de facto access to affordable, quality and timely health care and medical treatment for all segments of the population, including disadvantaged and marginalized individuals and groups;
- (d) reverse the current negative trend in vaccination coverage.

### Mortality rates

- The Committee recommends that the State party step up its efforts with a view to further reducing the high rate of infant, child and maternal mortality, including by improving the quality, availability and accessibility of medical assistance throughout the country.

### Access to emergency medical care for asylum-seekers

- The Committee recommends that the State party take all the necessary measures to guarantee that asylum-seekers have full access to free emergency medical assistance.

### HIV/AIDS

The State party should continue its efforts to prevent and combat HIV/AIDS, including through the effective implementation of the National HIV/AIDS Programme 2014–2018, inter alia by:

- (a) enhancing its national preventive strategy, including its awareness-raising activities, taking into account the spread of HIV infection beyond the original risk groups and providing adequate funding for its prevention activities, including for needle and syringe exchange (NSE) programmes;
- (b) improving the coverage of adequate confidential testing throughout the country;
- (c) enhancing its counselling and referral services;
- (d) addressing shortages of antiretroviral drugs;
- (e) providing for access to adequate laboratory monitoring for HIV-infected persons;
- (f) progressively increasing the antiretroviral therapy coverage, including by considering the introduction of generic-based antiretroviral drugs.

### Tuberculosis

The Committee recommends that the State party step up its measures with a view to improving its policies and strategies for disease prevention and detection, ensuring sufficiency and accessibility of specialized tuberculosis treatment and medication and adequate service delivery for patients at the primary health care level.

## Drug use

The Committee recommends that the State party adopt a human rights-based approach in addressing the problem of drug use, including by:

- (a) conducting awareness-raising programmes about the serious health risks associated with drug use;
- (b) addressing the discrimination against drug dependent persons;
- (c) providing appropriate health-care, psychological support services and rehabilitation to such persons, including effective drug dependence treatment such as opioid substitution therapy (OST);
- (d) allocating financial resources for the proper operation of opioid substitution therapy (OST) and needle and syringe exchange (NSE) programmes and increasing their coverage, ensuring inter alia better access to such programmes in prison settings.

### *UPR Recommendations (2012)*

- Continue to implement measures and programmes to promote and protect the rights of children, in particular the right to education and the right to health.
- Take effective measures to increase budgetary allocation to the health sector.
- Continue to develop the national health sector, with special focus on access to health for poorer segments of the population.
- Adopt effective measures to ensure access of all categories of citizens to treatment and prevention of HIV.
- Take steps to reverse the negative trend of the decrease in vaccination coverage in Ukraine.

## **Theme 11: Right to social security and to an adequate standard of living**

### *Treaty Bodies*

- CEDAW (2010) recommended that Ukraine use a gender-sensitive approach in all poverty alleviation programmes.
- CRC (2011) recommended that Ukraine ensure that poverty reduction reforms focus on social assistance and benefit to low-income families and on child protection. It urged Ukraine to address poverty in families with children in the Poverty Reduction and Prevention Programme.

### *CESCR (2014)*

## Unemployment

The Committee recommends that the State party step up its efforts to further reduce unemployment, in particular youth unemployment and unemployment among persons with disabilities, Roma and Crimean Tatars, including by:

- (a) maintaining the incentives for employers who create new jobs for individuals who have been unemployed for at least two years, including persons who have difficulty competing on the job market, and ensuring that individuals so employed retain their jobs when such incentives are no longer offered;
- (b) reviewing the vocational education and training system to ensure it reflects the current labour market demands;
- (c) taking specifically targeted measures aimed at reducing youth unemployment;
- (d) ensuring effective compliance by public and private companies and institutions with the 4 per cent quota accorded to persons with disabilities, including by providing for dissuasive sanctions for employers in case of non-compliance;
- (e) ensuring equality of opportunity and treatment in employment for Roma and Crimean Tatars and providing for sustainable income-generating opportunities, including by enhancing their skills training.

### Employment in the informal economy

- The Committee recommends that the State party take all appropriate measures with a view to achieving the progressive reduction of the level of informal employment and access of persons employed in the informal economy to basic services, social protection and other Covenant rights. It also recommends that the State party systematically include the informal sector in the operations of the labour inspection services, deal with regulatory obstacles to job creation in the formal economy, and raise public awareness of the fact that labour rights and social protection apply to the informal economy.

### Wage arrears

The State party should step up measures to address the problem of wage arrears, including by:

- (a) ensuring effective monitoring of the payment of wages;
- (b) providing for appropriate and dissuasive sanctions in case of violations;
- (c) ensuring that a wage guarantee institution is in place in order for workers to secure payment of their wages when such payment cannot be made by the employer due to insolvency;
- (d) ensuring that mechanisms of redress provide not only for the full payment of the overdue amounts, but also for fair compensation for the losses incurred on account of delayed payment.

### Social security

- The State party should take measures to progressively bring its State social standards in line with its core obligations under articles 7, 9 and 11 of the Covenant and progressively increase their amounts.

### Poverty

- The Committee draws the State party's attention to its statement concerning Poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10) and recommends that the State party strengthen its efforts to combat poverty, with a particular focus on most disadvantaged and marginalized individuals and groups, and reduce the disparities between rural and urban areas. The State party should guarantee that its social assistance system is effectively targeting the poor and ensure that adequate financial resources are allocated for the effective implementation of poverty reduction programmes and that these are adjusted accordingly when measures taken do not bring the expected positive impact.

### *UPR Recommendations (2012)*

- Further strengthen a gender-sensitive approach in all poverty alleviation programmes.
- Use a gender sensitive approach in all poverty alleviation programmes.

## **Theme 12: Right to adequate housing and right to food**

### *Treaty Bodies*

### *CESCR (2014)*

### Right to adequate housing and right to food

The State party should, taking into account Committee's general comment no. 4 (1991) on the right to adequate housing, adopt all appropriate measures to ensure access to adequate housing for Roma, inter alia by ensuring that adequate resources are allocated to increase the supply of social housing units and by providing appropriate forms of financial support, such as rental subsidies. The Committee also recommends that the State party take steps to ensure that Roma communities are consulted throughout the eviction procedures, are afforded due process guarantees and are provided with alternative accommodation or compensation enabling them to acquire adequate accommodation, taking into account the guidelines adopted by the Committee in its general comment no. 7 (1997) on

forced evictions. The Committee further recommends that the State party take effective measures to secure access to adequate housing and food for asylum-seekers.

### **Theme 13: Right to education**

#### *Treaty Bodies*

- CRC (2011) recommended that Ukraine ensure adequate funding for the public education system; improve availability, accessibility and the quality of general education in rural areas; and seek assistance from UNICEF and UNESCO.
- CRC urged Ukraine to develop a national plan of action for human rights education.

#### *CESCR (2014)*

##### Inclusive education for Roma

- The Committee recommends that the State party address the segregation of Roma children in schools and their overrepresentation in special education schools by ensuring the effective enforcement of its anti-discrimination legislation and by raising teachers' and the general public awareness of these laws. It further recommends that the State party adopt an inclusive approach to the education of Roma children.

#### *UPR Recommendations (2012)*

- Continue to implement measures and programmes to promote and protect the rights of children, in particular the right to education and the right to health.
- Ensure adequate funding for the public education system and improve the availability, accessibility and quality of general education in rural areas.
- Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing.
- Further ensure, in a sustainable way, the education in minority languages.
- Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels.

### **Theme 14: Cooperation with UN mechanisms**

#### *Treaty Bodies*

- HR Committee (2013). The State party should reconsider its position in relation to Views adopted by the Committee under the First Optional Protocol. It should take all necessary measures to establish mechanisms and appropriate procedures, including the possibility of reopening cases, reducing prison sentences and granting ex gratia compensation, to give full effect to the Committee's Views so as to guarantee an effective remedy when there has been a violation of the Covenant, in accordance with article 2, paragraph 3, of the Covenant.

#### *HRMMU 15 April 2014 Report*

To the Government of Ukraine:

- Closely cooperate with the HRMMU and act upon its recommendations and steps needed to provide protection for persons at risk.
- Enhance cooperation with the UN human rights system, including collaboration with OHCHR, in particular through the recently deployed United Nations HRMMU.

To the authorities in Crimea:

- Actively resolve cases of missing persons, and grant access to places of detention, including the military facilities and offices in Simferopol and Sevastopol, to all international organisations requesting it.
- Grant access to independent and impartial human rights monitors, including by OHCHR.

*HRMMU 15 May 2014 Report*

To the Government of Ukraine:

- Welcome steps taken to support the establishment of the HRMMU and encourage further cooperation in order to support the Government in addressing human rights concerns. OHCHR assures the Government of its on-going support in its efforts to address human rights concerns in line with international standards, and within the framework of the UN General Assembly resolution 68/262 and the Geneva Agreement of 17 April 2014.

To the authorities in Crimea:

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

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- Access for international organisations to the areas affected in eastern Ukraine by the security operations (urban areas in the epicentre of the fighting) should be facilitated so that the real needs of the population can be assessed and addressed.

To the authorities in Crimea and the de facto governing authority of the Russian Federation:

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

**Theme 15: Economic, Social and Cultural Rights**

*Treaty Bodies*

*CESCR (2014)*

- The Committee reminds the State party of its obligation under the Covenant to respect, protect and fulfil economic, social and cultural rights progressively, using the maximum resources available to it. While acknowledging that certain adjustments are at times inevitable, the Committee draws the attention of the State party to its open letter on economic, social and cultural rights and austerity measures during economic and financial crisis, dated 16 May 2012, which outlines the requirements that any proposed policy change or adjustment by States parties in reaction to the economic crisis must meet. The State party should also ensure that any measures adopted with a view to stabilizing the current economic situation do not disproportionately affect the most disadvantaged and marginalized individuals and groups and do not lead to lowering the existing social protection standards below the minimum core content as well as that its obligations under the Covenant are duly taken into account when negotiating financial assistance projects and programmes, including with international financial institutions such as the International Monetary Fund.
- The Committee recommends that the State party establish a statistical data collection system to assess the enjoyment of economic, social and cultural rights situation by disadvantaged and marginalized individuals and groups, including but not limited to Crimean Tatars, persons with disabilities, persons living with HIV/AIDS and non-citizens, with due respect for the principles of confidentiality, informed consent and voluntary self-identification of persons as belonging to a particular group.

#### *HRMMU 15 April 2014 Report*

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

#### *HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- A central authority should be established to respond to the humanitarian needs of IDPs, including by establishing a comprehensive registration system, formulation of legislative and regulatory acts to ease access to important social and economic rights, establishing public assistance programmes, mobilization and coordination of civil society-initiated relief efforts, and cooperation with international donors and technical assistance.

### **Theme 16: Additional Human Rights Instruments**

#### *Treaty Bodies*

- The HR Committee (2013) recommends that the State party provide the Office of the Commissioner for Human Rights with additional financial and human resources commensurate with its expanded role, to ensure fulfilment of its current mandated activities and to enable it to carry out its new functions effectively. It should also establish regional offices of the Commissioner for Human Rights, as planned.

#### *CESCR Report 2014*

- The Committee encourages the State party to sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Committee also encourages the State party to consider signing and ratifying the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and the International Convention for the Protection of all Persons from Enforced Disappearance, as well as the individual complaint mechanisms under various core human rights treaties which the State party has not accepted with a view to further strengthening the protection of human rights by providing rights holders with additional opportunities to claim their rights at the international level when domestic remedies have been exhausted.
- The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials, members of the Verkhovna Rada and judicial authorities, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.
- The Committee invites the State party to submit its common core document in accordance with the harmonized guidelines on a common core document (HRI/GEN/2/Rev.6, chap. I).

#### *HRMMU 15 April 2014 Report*

- Ratify international human rights instruments to which Ukraine is not yet party. These include, the International Convention for the Protection of All Persons from Enforced Disappearance; the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the third optional Protocol to the Convention on the Rights of the Child; the Rome Statute of the International Criminal Court; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.
- Implement recommendations of international human rights mechanisms. The recommendations and concerns expressed in the past few years by several human rights mechanisms continue to

be of relevance and should be taken into account by the authorities when considering various reforms that will greatly impact on the protection of human rights for all people in Ukraine:

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

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

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

**Theme 17: Elections**

*HRMMU 15 June 2014 Report*

To the Government of Ukraine and other stakeholders:

- As a representative body of the country, the Parliament should reflect the new political and social reality of the country; therefore there is a need for new parliamentary elections.

## **Glossary**

CAT – Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CCP – Criminal Code Procedure

CEDAW – Committee on the Elimination of Discrimination Against Women

CERD – Committee on the Elimination of Racial Discrimination

CESCR – Committee on Economic, Social, and Cultural Rights

CRC – Committee on the Rights of the Child

HRC – Human Rights Council

HR Committee – Human Rights Committee

HRMMU – Human Rights Monitoring Mission in Ukraine

ICCPR – International Covenant on Civil and Political Rights

IOM – International Organization for Migration

OHCHR – Office of the High Commissioner for Human Rights

OPCAT – Optional Protocol on the Convention Against Torture and Other Cruel, Inhuman or Degrading  
Treatment or Punishment

UNESCO – United Nations Educational, Scientific, and Cultural Organization

UNICEF – United Nations Children’s Fund

UPR – Universal Periodic Review

WGAD – Working Group on Arbitrary Detention