

Violations of human rights and international crimes during the war in the Donbass

**Almanac of monitoring reports
2020**



This version of the report, which is the result of the work of monitoring volunteer groups of the Center for Civil Liberties in Eastern Ukraine since 2014, was published as part of the project “Dialogue for Mutual Understanding and Law: European NGOs together for overcoming the conflict in Donbas”. Research and collected facts are important for the formation of a full-fledged knowledge base necessary for the continuation of the work of organizations-members of the CivilM + Coalition.



For issues that arise with respect to this report, or for comments and feedback, please contact ccl.com.ua@gmail.com

Printed on the order of NGO «Center for Civil Liberties» in FOP Nosachenko V.V.

For free distribution. 2020 year

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The “Chemical Triangle” of the Region of Lugansk during the occupation:

**hostages, tortures
and extrajudicial executions**

Report on visit of the monitoring group of the Centre for Civil Liberties
to Severodonetsk, Lysychansk and Rubizhne during December 6–11, 2014

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1. INTRODUCTION

During a week, a group of supervisors of the Centre for Civil Liberties in cooperation with the Ukrainian Helsinki Human Rights Union made a monitoring visit to the northern areas of the region of Lugansk liberated by the Ukrainian army. The supervisors have visited the cities of Severodonetsk, Lysychansk, and Rubizhne.

The Monitoring Group of the Centre for Civil Liberties consisted of the following experts: Oleksandra Romantsova, the Centre for Civil Liberties, Mariia Tomak, the Centre for Civil Liberties, Mariia Lysenko, a lawyer, Oleksii Bida, a human rights and social activist. Vladyslav Lytkevych, a representative of the International Partnership for Human Rights, also contributed to the mission. Besides, Mariia Lysenko and Oleksii Bida made an additional visit to the same region during December 22–26, 2014.

The purpose of the visit was to study human rights violations situation during April–July 2014, which roughly corresponds to the period of occupation of the region by illegal military groups (IMG). The monitoring objects were the fundamental rights such as the right to life and the right to freedom from torture, guaranteed by international and national law. The group investigated the cases of kidnapping, holding hostage, tortures and extrajudicial executions.

During their visit, the supervisors communicated with the victims and witnesses of human rights violations, their relatives, local human rights activists and journalists, as well as newly appointed representatives of local authorities and the police. The purpose of this communication was to create a generalized idea of the extent, nature, causes and consequences of the occupation of the region by the IMG in terms of human rights violations. In addition, the supervisors set out to learn about the progress of the investigation of such cases by local law

enforcement agencies. The researchers also tried to visit the places of holding hostages, but in most cases it was impossible on the grounds that the law enforcement agencies are currently investigating these areas.

This report presents the preliminary results of the monitoring visit. It consists of three main sections, devoted respectively to Severodonetsk, Lysychansk and Rubizhne and specific evidence which the supervisors managed to collect. However, we should note that the report can't be regarded as an exhaustive one. The supervisors are going forward to broaden and deepen it. In the opinion of the participants of the mission, additional visits are required to make a more complete picture of the listed human rights violations in the region over the period of occupation, and special attention should be given to public control over the investigation of individual cases.

Allegedly, the State Security Service of Ukraine is currently investigating about 700 proceedings related to separatism in the region of Lugansk. Officially, over 650 criminal proceedings related to separatism and terrorism were initiated in the region of Lugansk as of December 17, 2014 according to the press service of the Prosecutor's Office of the region of Lugansk. "The Prosecutor's Office of the region of Lugansk has initiated more than 650 criminal proceedings against the members of illegal military groups based on the facts of crime associated with infringement of territorial integrity and inviolability of the state; take-over of public buildings; imprisonment of the residents of the region; illegal possession and use of firearms, ammunition, explosive agents and devices; terrorist attacks and terrorism financing. 71 criminal proceedings on the facts of creation or participation in illegal military formations were referred to court with indictments."

After considering the results of the monitoring visit, the Centre for Civil Liberties sent a number of requests to investigate the

crimes committed during the occupation of Severodonetsk, Lysychansk and Rubizhne to the Ministry of Internal Affairs and the State Security Service of Ukraine. We are currently awaiting response.

Separately, we appealed to the Ministry of Internal Affairs with a request to publish the official results on the following proceedings: Anton Gerashchenko, a Deputy Minister of Internal Affairs, said in August that the Ministry of Internal Affairs will conduct an investigation to determine "whether the owner of Lysychansk glass factory gave its premises to establish there a base for "Prizrak" ("the Ghost") terrorist battalion voluntarily or they took it by force". The results of this investigation haven't been unveiled yet. We ask to publish the results of this investigation, since it deals with one of the key bases for holding hostages.

The group members also faced the reluctance of victims to come in contact. For a variety of reasons people are still intimidated: some of them do not preclude return of illegal military groups to their cities, some fear reprisals from those who both in the period of occupation and now worked and continue to work in local authorities; the victims don't trust a priori neither local government, nor law enforcement authorities or representatives of the state in general.

It should be noted that the region under research called the "Chemical Triangle" (Severodonetsk, Lysychansk, Rubizhne) is quite different, even in comparison with neighbouring areas also released from occupation. Severodonetsk gained notoriety as a "stronghold of controlled separatism" as early as in 2004 when during the Orange Revolution the "all-Ukrainian congress of all levels deputies" took place there. The peculiarity of this region and its difference, for example, from Sloviansk being the most widely promoted in mass media as a centre of kidnapping and holding hostages in Donbas, is that

considerable industrial powers focused there in the Soviet period have become almost extinct in recent decades. However, today they allow their owners (who timely used non-transparent post-Soviet privatization options) to play a significant role both in the region and in the country. On the one hand, these facilities were sometimes used in the hostages’ holding scheme. On the other hand, the economic structure established on the ruins of this industrial region (and its consequences such as a total destruction of infrastructure, high level of unemployment and considerable social depression) contributed to the militants success and the feasibility of a scenario of destabilization the region. Severodonetsk, Lysychansk and Rubizhne form, in fact, the agglomeration of industrial cities located at a small distance from each other, with connected infrastructure and economy. However, during the occupation each of these cities, as it turned out, had its own special role assigned to them by the militants and those who led them. There was established a sort of hostages’ “circulation” between these cities. Some of them were sent to Lugansk. People were often threatened they would be given “to Sloviansk to dig trenches”, which clearly evidences that a constant contact with militants of Hirkin- Strelkov was maintained.

Another peculiarity of that region was also chaotic nature of the IMG even compared to the region of Donetsk: there was no one leader there (like Hirkin/Strelkov in the DNR); when someone was kidnapped, it was difficult to locate the person, so family members of trapped persons came through all known IMG’s bases to search out some information, but even those very extensive searches were not always successful; infightings between various groups were more likely to occur there.

Perhaps, this is one more reason why we can find far fewer information on the hostages in the region of Lugansk than in the neighbouring region of Donetsk. So many people believe that the hostages were not taken at all there, although it was far otherwise. In the absence of accurate data, it is difficult to say it for sure, but at least in the triangle of Lysychansk – Rubizhne – Severodonetsk the scale of kidnappings was if not at the level of Sloviansk and Donetsk then little less. As well as in the above- mentioned cities of the region of Donetsk there were three main categories of hostages: “political”, “disciplinary” and people who were kidnapped with an aim of getting ransom or squeezing them out of certain markets (e.g. drug traffic market). Systematic capture of people goes back into a period of preparation for the presidential

election. At that time, they began to steal the participants of the election process, such as chief officials and members of district election commissions and precinct election commissions. After that there were entrepreneurs, activists, journalists, government and law enforcement officials, members of city councils, their relatives, as well as people whose behaviour was considered “wrong” by the militants or those who interfered with the militants.

They applied a wide range of tortures to the hostages (from beating and applying electric shockers and noise grenades to psychological burden in form of digging graves “for themselves”, imitation of executions, capturing their relatives), practiced forced labour, and they also forced hostages to fight for the LNR. In fact, the same set of tortures and ill-treatment methods was used in the neighbouring DNR.

The system of places used for illegal retention of people first of all included the buildings of law enforcement agencies, prosecutor’s offices, the State Security Service of Ukraine (SSSU), office buildings, former premises of military registration and enlistment offices, enterprises, even a research institute (the State Institute of Nitric Industry (SINI) in Severodonetsk) and a school. Typically, each location had its “owners” and was famous for cruel or relatively loyal torture chambers. In addition, there were the locations outside the cities, in the suburbs, without IMG bases, where the hostages were brought to victimize. Our monitoring mission became aware of some of them, but we assume that in fact the number of such cases was much more.

Various IMG in that region competed with each other (and as we know, the situation in the occupied territories is so until now), however it was nothing but a redistribution of spheres of influence and material flows at the local level. Strategically it is hard not to notice that all of them performed, so to speak, a common task.

Particular attention should be paid to **the role of police in the system of abduction and torturing**. Unfortunately, there is enough evidence of police officers involvement in abduction and torturing of people in Donbas. And the “chemical triangle” is no exception. In addition, unfortunately, many people have doubts about integrity of existing law enforcement authorities, considering reshuffling after the liberation from occupation to be insufficient.

One of our interlocutors, a victim of kidnapping, a resident of Lysychansk Antonida Melnykova tells the following story: “... On the way I learned that militants arranged their people at the filling stations to

control the staff, who were allowed to service only the vehicles of “their” people. When at the filling station the people sitting in our car in the back seat got out of the cabin, I saw a policeman among them. He came to our district election commission earlier. He was dressed in camouflage with St. George ribbon. Meanwhile at the filling station there were two more policemen, but in uniform. They came, greeted each other and patted each other’s shoulders. I knew the name of the mentioned policeman in camouflage and I told his name to the investigator when I was giving evidence after the liberation of the city, but a few days back I saw the same policeman in the city in a police uniform and with a gun. I do not know, maybe he is already released, but now I’m afraid to talk about it. I’m still afraid of being shot...”

Although some staff changes in the police have been made. In particular, about 100 of 408 police officers (the whole staff) of Lysychansk City Department were released, 5 of them were dismissed for defamation because they had mounted guard at DNR checkpoints. Our source in the law enforcement office reported that the database of “separatist policemen” in the region of Lugansk currently includes 800 officers, but the list is not complete.

On the other hand, it is important to remember that not all police officers met militants standing at attention and with St. George ribbons on the lapel. The pro-Ukrainian part of police also was subjected to cruel persecution and entered to the “firing lists” of the LNR; they were kidnapped and held captive just the same. For example, the colleagues of Vitalii Petrenko, the killed police officer from Lysychansk (see details about his case in the “Lysychansk” section), claim that he was killed just because he had not agreed to cooperate with the militants. Those pro-Ukrainian police officers who went from Lugansk because of their views and position have been working as a senior management staff of the Ministry of Internal Affairs (MIA) in Severodonetsk, Lysychansk and Rubizhne since the moment of the region liberation. Some of them continue to receive threats in social networks.

Representatives of the state authorities put themselves in danger if they held pro-Ukrainian position. Like everyone else who demonstrated support for Ukrainian state in general (an illustrative example was prosecution of the election process participants: if a person was somehow involved in the elections, it meant that he/she supported Ukrainian statehood). However, on the other hand, the local authorities gave rise to the main drivers of the “Russian spring”, which resulted in total violence. Many interlocutors of the supervisors complained of impunity of some of the “Russian spring” organizers (some of them were even detained, but then released as if because of insufficient evidence against them; the cases of the others were even brought to court, but the court made a decision to release them from custody). Pro-Ukrainian population generally fears that if the situation in the region will get out of control they will be “shot in the back”.

It also should be noted that in each of these cities a leading role in organizing pro-Russian movement and violence was played by the Communist Party of Ukraine.

For example, in the case of Lysychansk, Antonida Melnykova tells the following about her abduction: “*At the executive*

committee there was the group of people. Oleksandr Viktorovych Vynnyk, a trustee of Petro Symonenko at the election, was among them. His wife Tetiana Vynnyk became a self-proclaimed mayor of Lysychansk later. Mr. Vynnyk repeatedly came to our election committee and threatened us. I am confident that it was him who sent the gunmen to us. On that occasion, I also submitted a statement to the police, but there was no reaction.” Another person from those surveyed by us told us how Tetiana Vynnyk, a member of the Communist Party, had been elected. “*They just said that those who don’t vote for will be killed.*” On September 16, the Prosecutor’s Office of the region of Lugansk reported on a suspicion of T. Vynnyk in promoting separatism, but she has already left the territories controlled by Ukraine.

Another example: the role of a member of the Communist Party was crucial in negotiating release of the Protestant Church pastor (read his story in the “Lysychansk” section) from captivity in “Mozgovyi’s group”.

Another case: On May 22, there was the first major battle between the IMG and the National Guard between Lysychansk and Rubizhne. As reported by the news agencies citing local residents, during the battle “the representatives of the Communist Party walked along the streets of Lysychansk and called on citizens “to protect the city”.

One of the main organizers of the pro-Russian movements and a coordinator, for example, of the roadblocks construction in Rubizhne was “a deputy of the LNR” Nelia Zadyraka, a head of the local branch of the Communist Party. It was said by all interviewed citizens of Rubizhne without exception. There are enough materials about this person both in mass media and in the public domain. In particular, she has a close friendship with Spirydon Kilinkarov, a former member of Parliament from the Communist Party, who often came to Rubizhne and in whose country house the “Aidar” volunteer battalion discovered an arsenal of weapons in mid-July. The “Day” newspaper of June 2014 contains the following text about the role of communists: “... The blogger from Lugansk Serhii Ivanov posted a copy of interrogation record of a militant captured on Ukrainian checkpoint in Rubizhne on his Facebook page. It is evident from that document that local officials and functionaries of the Party of Regions and the Communist Party of Ukraine were involved in formation of militants’ gangs; supply them with weapons, control over public buildings seizure and attacks on Ukrainian military checkpoints. The record of interview contains the names of A.V. Khomenko (an acting mayor),

N.O. Zadyraka (a member of the Communist Party of Ukraine), S.I. Khortiv (a member of the Party of Regions), Mr. Hrachov and Mr. Kravchenko (the officers of the Severodonetsk Department of the SSSU), Anatolii Busenkov (a former mayor of Rubizhne), the names of business leaders and entrepreneurs. Many residents are outraged by the actions of the Communists, but they do not speak it out because otherwise tomorrow the militants will knock on their doors. The militants also seize people with pro-Ukrainian position occasionally and take them to Lugansk, presumably to the SSSU building. Then again, some people say that local communists lay information against pro-Ukrainian activists as they recorded who attended rallies for the unity of Ukraine, who was on Maidan, and what the people were speaking about long before the hostilities outbreak.” Therefore, we cannot rule out the participation of members of the Communist Party in the kidnapping system.

It is also specific that all of the members of the Communist Party are currently beyond the territories controlled by Ukraine.

One of the key factors within the investigated problem was propaganda. It is unlikely to expand violence of such magnitude without a proper propaganda. People were intimidated by western Ukraine, the National Guard and “Pravyi Sector”, who supposedly were about to come and shoot them. The troops, which then escalated into IMG, began to form in winter just under the pretext of that “threat”. Those who believed in “trains full of Pravyi Sector’s members” went “to defend their city at checkpoints”. And that whipped up hysteria was one of the reasons for finding enemies among the population and capture of Pravyi Sector’s “agents” or people who had visited western Ukraine.

2. SEVERODONETSK

A city of regional significance in the region of Lugansk, an actual regional administrative centre from September 2014. Severodonetsk forms agglomeration with Lysychansk, Rubizhne and Kreminna. It is one of the most important industrial cities of Donbas, the centre of chemical industry of Ukraine, one of the centres of the building and instrument-making industries and a great transport hub. Before May 2014 its population numbered 108,500.



2.1. CHRONOLOGY OF EVENTS IN THE CITY IN THE PERIOD UNDER REVIEW

The first cases of pressure on civic activists and attempts of hostage taking in Severodonetsk were recorded before the so-called “referendum” of May 11.

On April 6, 2014, from 15.45 to 18.20 p.m., a meeting initiated by a group of citizens to discuss the political situation in the country and support the referendum was held in Severodonetsk near the City Palace of Culture at Khimikiv Prospect. At 16.00 p.m. a fight between that group and a group of citizens who were preparing for the flash mob (they were going to sing the National Anthem of Ukraine and release yellow and blue balloons) was started. During the fight, 6 citizens were injured and called

for medical assistance to the emergency room of the local hospital. This fact is registered in the Unified Register of Prejudicial Inquiries. <https://www.youtube.com/watch?v=9DTxS39fJVA&feature=youtu.be>

In early May, the following message regarding the events in Severodonetsk appeared on the <http://svsever.lg.ua/>:

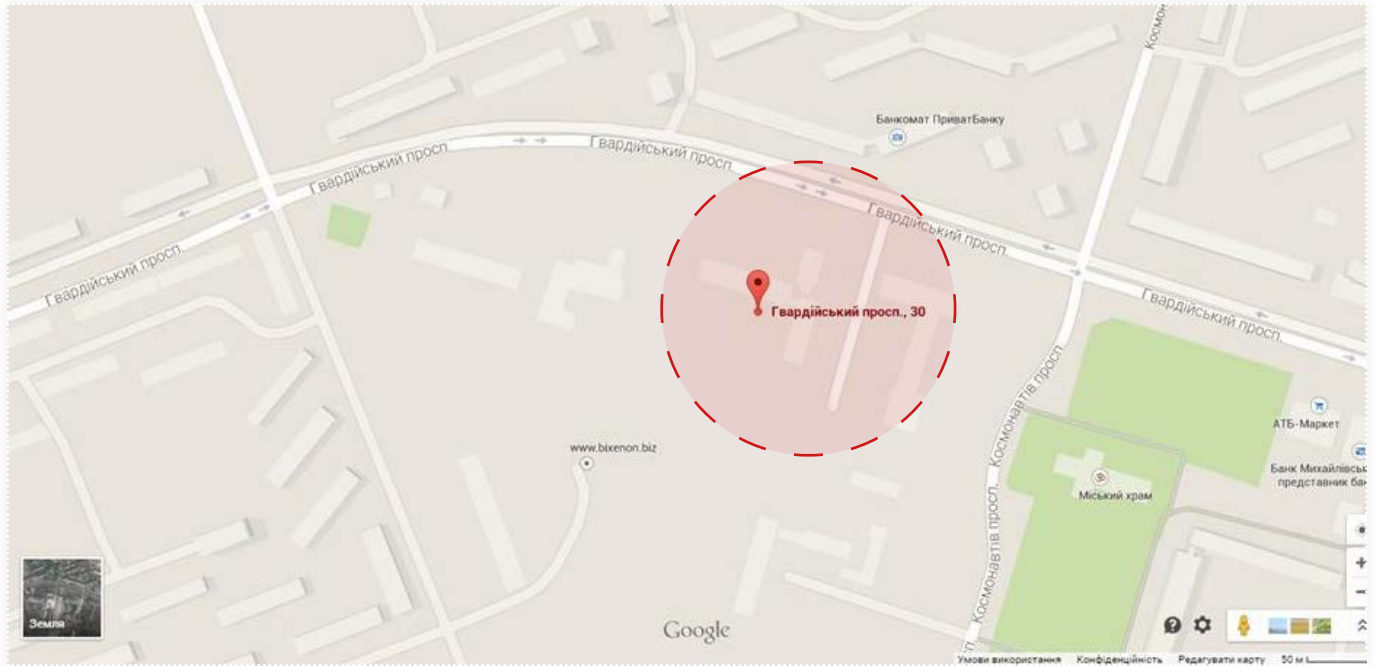
On May 3, 2014, at 14.00 p.m., unidentified persons broke glass in the window and entered the house of a human rights activist Rymma Bilotserkivska and stole a 20-caliber hunting rifle Saiga, a gas revolver, a computer (a monitor and a system unit), and money.

On May 5, 2014, at 3.30 a.m., a building in Severodonetsk where the city

representative office of “Batkivshchyna” party was located was thrown with “Molotov cocktails”.

On May 6, 2014, at 17.00 p.m., at the house No.115 in Haharina Street, unidentified persons forcibly huddled into the car IЖ-2715 a 16-year-old local resident, whose relatives were the members of pro-Ukrainian incentives. Already at 17.10 p.m. the girl was able to jump out of the car near the filling station located at a distance of 700 meters from Budivelnkyiv highway. At 17.40 p.m. the burned car was found near the village Smolianynovo of the Novyi Aidar District.

The general situation with the presence of IMGs, according to the witnesses, was as



follows: “In April–May there were several small armed groups of the “South-East Army”. They used to come to the city in a one car, fire into the air to intimidate residents and go away. Several permanent representatives of the “South-East Army” remained in Severodonetsk campaigning on the “referendum” of May 11. There were two of them: one was a trader at a local market (and was killed later), and the other one was a loader. More than 100 of them came to the city a few days before the “referendum” of May 11”.

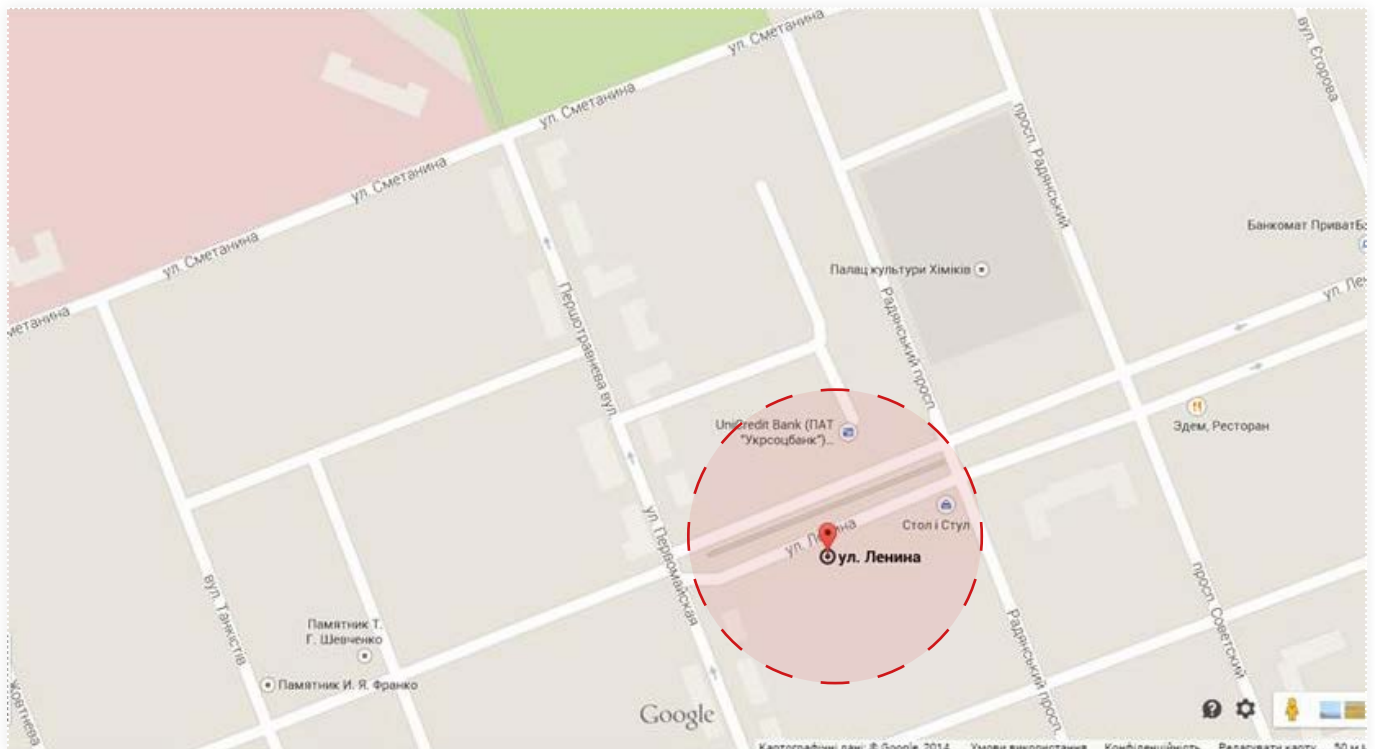
On May 5, 2014 several vehicles full of people with small arms entered

Severodonetsk. As a result of the invasion the insurgents captured: the City Prosecutor’s Office (30 Hvardiiskiy Prospekt, Map No.1), the City Court and the building of the Enforcement Service (19 Lenina Street, Map No.2). The capture passed without any resistance from the employees of the above-mentioned organizations. After capturing the building of the Prosecutor’s Office, the militants began reprisals against the residents who participated in pro-Ukrainian events. Thus, according to witnesses, at about 19.00 p.m. a dozen of people in black uniform with St. George

ribbons and guns stormed the office of the company located near “Maister” shop, which is owned by a Euromaidan activist. They shot in the air sitting in cars. In addition, at least one car parked in Donetska Street, in front of “Kontynent” café and near “Maister” shop was shot with automatic firearms. <http://news.sever-strasti.com/2014/05/07/53411/>

According to Serhii Samarskyi, a victim, a deputy of the City Council of Severodonetsk:

“In April we started to think together with activists how to protect the city. We met



and tried to form self-defence forces. The journalists of STB TV channel came; and in the interview we told them about our plans. Within a week after the story went on the air the guys from the “South-East Army” came and started to persecute those shown on TV, made shots at cars; my family and I were hiding for 3 days. My friend, a businessman, a taxi service and a shopowner, called me and said that they had shot at his office and were seeking him and me too. He managed to leave the city from under the militants’

nose. As far as I know, they threatened all his taxi drivers in order to paralyze the service’s operation”.

The Referendum of May 11 was held.

On May 15, 2014 a concert was held in Severodonetsk near the City Palace of Culture, where the “official” transfer of power to the LNR was declared. A flag of the “Lugansk People’s Republic” was run up on the flagpole near the Palace of Culture. Oleksandr Petrenko, a member of the executive committee and a director of

the “Kontinent” enterprise was appointed a new leader representing the LNR in Severodonetsk and Mykhailo Vasylichenko, a deputy of the Severodonetsk City Council and concurrently a head of “Mechanization Administration” Alchevsk utility enterprise was appointed a local “underboss” by the leaders of the “Lugansk People’s Republic”. <http://inforestist.org/severodoneck-pereshel-pod-kontrol-lnr-bez-soprotivleniya/>

2.2. ILLEGAL MILITARY GROUPS AND THEIR LOCATION

On **May 25, 2014** the “South-East Army” spread the word on creation of the training and combat Sabotage and intelligence centre in the State Institute of Nitric Industry (SINI) premises (1 Vilesova Street, Map No.1) in mass media. The SINI building was captured on **May 14, 2014** by Lysychansk “Prizrak” battalion of Oleksii Mozhgovi (about 1,000 militants) and “Cossacks’ National Guard” of Mykola Kozitsyn (according to various sources from 300 to 1,700 militants), which included so-called unregistered Cossacks, i.e. those who for

whatever reason were not joined to the “Great Don Army” Military Cossack Society or other cossack organizations officially supported by the Russian Federation. All the SINI employees have been placed on indefinite leave, the tenants were forbidden to enter the office building.

The second base of the “South-East Army” (SEA) became **the premises of the city military recruiting office** (4 B. Lishchyna Str., No.1 on the map), which the militants still managed to capture on **June 11, 2014** after the fail on **May 15, 2014**. So-called “military commandant’s office” was located there.

On June 23, 2014 the **premises of the Department for Organized Crime Control (DOCC) and the Ministry of Internal Affairs** (16 and 11 Partyzanska Street, No.2 and No.3 on the map) were captured. These buildings were occupied by representatives of the so-called “Garrison for Severodonetsk protection” – put simply, a group under the command of “a chieftain” Pavlo Dromov, the resident of Stakhanov. He was one who organized the capture of the SSU Administration building in the region of Lugansk. His team consisted of 300–500 Don Cossacks. For some period, Dromov recognized that he executed the





orders of the general Kozitsyn, but during the conflict of Kozitsyn and Bolotov he went out of his control.

In addition, the offices of Dromov’s militants were located in the **Severodonetsk SSU Administration building** of the region of Lugansk (No.4 on the map; the approximate date of capture, according to victims, was July 5, 2014) and in **a separate room of the Severodonetsk City Council**, which, according to media reports, on July 4, 2014 was transferred by the mayor of Severodonetsk Valentyn Kazakov to the “South-East Army” to locate its office there. This part of the building is located at 32a Lenina Street in the courtyard of the City Council; the Centre for administrative services, the Civil Registry Office and other services were located there. To transfer this premises Mr. Kazakov referred to the legislation of Ukraine, which allows transmission of premises to the NGOs on a long-term rent basis just for UAH 1.00 per year.

And the last room was a newly built **temporary detention facility (TDF)**. Dromov’s militants tried to grab it on **June 6, 2014**, but a duty attendant refused to give them the keys. The fact was recorded in the Unified Register of Prejudicial Inquiries. However, according to hostages, they were moved to the wards of the TDF on **June 10, 2014**. Thus, we can conclude that the capture was successful as on that date (No.5 on the map).

The evidence of victims indicates that all 3 groups were involved in kidnapping

and torturing. They detained and tortured hostages in 4 main areas:

- *Basement of the SINI*
- *Buildings of the Severodonetsk City Department of the SSU Administration in the region of Lugansk*
- *Building of the TDF*
- *Building of the DOCC*

In addition, as of **May 15, 2014** IMGs have built 3 checkpoints around Severodonetsk: on the road to Rubizhne, near the bridge from Lysychansk (Novyi Aidar direction), and the most serious one – on the road to Shchedrishchievo. They kept the watch at the first two periodically, while at the last checkpoint there were standing tents, field kitchens and up to 20 people armed with guns were constantly on duty. **Those were the checkpoints that became the places where civil residents were commonly taken as hostages and their transport vehicles were confiscated. In addition, those were the main places of use of forced hostages’ labour.**

Moreover, Severodonetsk became “famous” because on **May 26, 2014** there had been lost touch with a group of OSCE observers in the region of Donetsk. 4 members of the organization who were the nationals of Switzerland, Denmark, Estonia and Turkey went missing. On May 29, 2014 it was revealed that the OSCE team was

stopped by armed men in Severodonetsk. The group was composed of 4 international observers and a Ukrainian translator, the team went by two cars. On May 30, 2014 the “News of Donbas” TV channel said that Andrii Purhin, one of the terrorist leaders of the so-called “Donetsk Republic” said as follows: “According to the available information two groups of the OSCE detainees are kept in Severodonetsk. This is purely a reflex decision because keeping there the representatives of the mission is a guarantee that military actions won’t be conducted in the city”. The city online edition of Severodonetsk posted information that the members of the special monitoring mission of the OSCE are kept in the building of the SINI. In late May – early June Lugansk and Donetsk militants announced the release of the OSCE observers, but the data was not confirmed by the organization. On **June 27, 2014** a message was posted on the official twitter page of the OSCE according to which 4 representatives of the OSCE Donetsk team were released. On **June 29, 2014** the second Lugansk group of the OSCE observers was released.

However, keeping the OSCE representatives in the building of the SINI have been optional since they were not in the basement and were not limited in visiting WC or in their access to drinking water. It cannot be compared with the horror pro-Ukrainian activists and people who “looked at the militants in a wrong manner”, or “were standing in a wrong place”, had to face.

The supervisors managed to get the APB for persons tortured the hostages captured in the room of the Severodonetsk SSU from the police of Severodonetsk. Their names appear in many of the following statements. Currently, these individuals are wanted.



Пефтєєв Василій Павлович, 11.07.1965 р.н.,
адреса проживання: Луганська область, м.
Северодонецьк, вул. Федоренко, 4-А, кв. 12.

Активний учасник незаконного збройного
формування.

Розшукується Северодонецьким МВ ГУМВС
України в Луганській області за ст.ст. 260, 263, 341
КК України.



*це фото
або інші -
архів*

Барман

Видиш Олексій Сергійович,

25.06.1983 р.н., адреса проживання: Луганська
область, м. Рубіжне, вул. Комінтерну, 59.



Балкунов Дмитро Євгенович, 14.06.1984 р.н.,
адреса проживання: Луганська область, м.
Рубіжне, вул. 30-років Перемоги, 12, кв. 8.

Активний учасник незаконного збройного
формування.

Розшукується Рубіжанським МВ ГУМВС України у
Луганській області за вчинення кримінальних
правопорушень, передбачених ст. 260 КК України.

The supervisors managed to gather the following stories of hostages in Severodonetsk. Some of them are anonymous due to the above-mentioned reasons. And we can briefly summarize all of them just in a one word, which is the key to liberated cities reality: "Fear".

2.3. KIDNAP OF SERHII SAMARSKYI:

Was captured in May and hold hostage for 5 days Serhii Samarskyi, a deputy of the City Council of Severodonetsk, a former member of the "Batkivshchyna" party and currently nonpartisan, a founder of the web-site "Severodonetskie strasti" ("Passion of Severodonetsk"), said the main motive for his abduction was involvement in the electoral process.

"As of the May 23 Severodonetsk was staffed with 90% of polling stations, we were ready to hold elections. That is why I was taken as a prisoner," – he said.

Although according to Serhii his persecution began earlier, immediately after he and his associates began to form self-defence groups in April.

Serhii describes his kidnapping as follows:

"In the night from May 22 to 23 about 6.00 a.m. tommy gunners got to my office. They tied me, beat office equipment and took the system units. At first, I was taken to the headquarters of the Sabotage and intelligence centre in the SINI. There I saw people with guns coming and leaving. They were directed – where to go, whom to shoot, where there would be snipers' and grenade launchers' positions. Then I was taken to

Lugansk, where I spent two days in the Operational intelligence division; people who kept the watch there left the division and went to shoot our roadblocks regularly".

They demanded a ransom of 30,000 US dollars for Serhii. The militants were mostly local, from the region of Lugansk: "Only 5 per cent of them, the rest fought for the idea for money and pillage opportunities".

After staying in Severodonetsk Serhii was transported to the SSU of Lugansk, where he, in his own words, was kept in counterintelligence. They threatened to shoot him, but fed and did not beat.

"I was explained that good feedback was given on me from both sides, and that's why they did not apply force. But then I was put in a shooting range in the basement suddenly. That's where the nightmare begun. They did not allow us to visit WC. Bottles and buckets of excrement were everywhere. The militants tested weapons on those bottles and their contents burst to pieces every which way. We slept on the floor. Several times they tested Russian roulette on me".

In the Lugansk SSU Serhii had a chance to communicate with a representative of the Congress of Ukrainian Nationalists ("His whole back was black from the beatings, his kidneys were knocked out"). He was accompanied by two journalists who were also kidnapped on the election day.

"In order to intimidate us they beat their fellows in our presence, very harshly by the way: with the whole group of 30 persons they came down hard on disciplinary prisoners with rods, antennas and butts of the rifles. It was an "exhibition performance", and after that the investigator came and said: you see, we're beating not only your fellows, but our as well..."

At that time, they had already hit Serhii with a butt several times in the stomach and shoulder, and had broken his ear. However, he did not verify battery-induced injuries. Serhii explains it as follows: "because they almost left me without beating compared to others". Serhii thinks that he was lucky: "I was saved by the fact that they did not guess to switch on the equipment they took from me. There was a bunch of photos from Maidan".

According to Serhii, when he was released from captivity in Lugansk, a man who represented himself to be the "commander of the Counterintelligence support department" told him that he had been "ordered" by Mr. Kunchenko who had paid money for it. This is the name of a former member of Parliament from the Party of Regions, a very influential person in the region.

Serhii was released on May 27, 2014. He took his family and temporarily left the occupied territory immediately.

2.4. KIDNAP OF AN ACTIVIST:

Captured in July, was kept imprisoned for 2 days

In early July, an activist and a representative of one of the Ukrainian political parties was detained at the Ukrainian checkpoint in the presence of his wife and children when he tried to take his family to Starobilsk. The man noticed that when he approached to the checkpoint, the militants checked his vehicle registration number with some lists, and then ordered him to stop the car by the side of the road and pointed a hand-held machinegun at him. Before having been arrested, the victim managed to call to

his regional organization and one more party and report on detention. Then his phone was confiscated. The car and car documents just remained in the militants' hands. The militants took the victim's family to his wife's parents.

After a while, an assault team approached on “Lanos” to the checkpoint. One of them, as our source says, looked like a mechanic who had repaired his car.

“They immediately took me somewhere in order to shoot. They showed me a pit, but I did not believe them. They brought me to knees, set a barrel at me, racked the slide and dab the barrel in my head. They beat me with a buttstock in the ribs area”.

Later it turned out that two ribs were broken.

The hostage was taken to the Department for Organized Crime Control, where the “Dromov's Cossacks” located. There he spent 2 days, and he was not beaten. Meanwhile the information about his kidnaping reached the publicity. Therefore, according to the victim, he was released the next day in the evening. He was put to a bus and warned not to show his face to the militants.

Later he filed three claims to the police: on illegal detention and imprisonment, on causing grievous bodily harm and on an automobile theft.

2.5. KIDNAP OF A BUSINESSMAN FROM SEVERODONETSK:

Captured in July, released in 23 days

Our interlocutor is a middle-aged man, a successful businessman from Severodonetsk with pro- Ukrainian views. On July 21 in the afternoon several man looking like people with criminal records, whom he had never seen, broke into his office. They brought with them the employees of the businessman, who, in fact, played the role of hostages. One of the militants had a nickname “Barmalei” (see. The APB above). Another was in shorts, bare-chested, with a scar near the collarbone on his back.

They turned all the office upside down. Eventually they found a certificate of acknowledgement for successful entrepreneurship signed by a former Prime Minister Yulia Tymoshenko and the Ukrainian flag. *“That was enough for them”, – said the man.*

The militants have made a call and within 5 minutes the reinforcement group came to the place. One of them nicknamed “Bars” was, as it turned out, the chief of counterintelligence. The man was brought from the office at approximately 17.00 p.m. by a Dagestan man named Giurza (aka Zmiia (Snake), aka Polkovnyk (Colonel)). He was put to the car between the two militants and was brought to the TDF. The

businessman was not beaten. He suggests the reason could be the order for his theft. A businessman's car with all the documents was taken away and never returned.

In the TDF the man was questioned by “Bars” about his social and political activities, business and property, the attitude to the “Svoboda” political party (the man really had been involved in the “Svoboda” party, but not those generally known, and that established about 10 years ago by the former Prime Minister Yevhen Marchuk). During the first night in captivity, the man was questioned several times. The third time, as he suggests, the interview was conducted by a professional investigator. That evening the man even received a chance to see his wife for 5 minutes. They promised to release him in the morning.

Appearances were all for him, but the next day at 4 a.m., while in the ward, he heard a rumble and a voice command of “Bars” – “Rise! Evacuation complete!” It was, as later confirmed, the beginning of liberation of the city, so the militants were to run. The man heard as the bars in neighbouring cells were opened one by one, and after each crash he heard two shots from AK. It happened with four wards, preceding to his one. In total he heard about 8 shots. The man suggests that they were shooting

the other hostages. He did not see their bodies, so he has some doubts. But before there were several people in each of those wards, they were beaten and taken for questioning. Why they did not shoot our interlocutor? He cannot explain it himself. They just opened his ward and said: “Go! To the exit!” When at the exit “Bars” noticed him, he ordered: “Put this one in the car and keep handcuffed”. He was in a car with another prisoner Anton, a member of the “Aidar” battalion. There were also, as our interlocutor expressed, 15–17-years old “kids”, and the militants let them go home.

Before leaving the man in the car heard “Bars” giving orders to the guard to shoot if anything crops up. The car easily moved to Stakhanov.

“For a half an hour we were brought to the hotel. Then the order “to move” was given again. Then an order to take us to Dromov. We were loaded and brought into the building of the Department for Organized Crime Control to Dromov. His immediate phrase was as follows: “Nothing personal, in a day or two you’d be home; maybe I could exchange you for my Cossacks”.

The man spent 12 days in the Department for Organized Crime Control in a room on the first floor. Handcuffed all the time, he could visit WC during limited hours, and there was the problem with drinking water. They could see the yard, where a garage full of hostages was situated, through the window. He could hear screams and sounds from there that usually accompany beating people. Among others, they held women, people suspected of drug abuse and prostitution. After 12 days the businessman was led to Dromov again, and he

ordered to let him wash his face, give some food, and put him in the car.

Thus, on August 2 or 3, the businessman was moved to Perevalsk to the Kozitsyn’s headquarters in the Palace of Culture. He saw about seven people with their hands tied and with packages on their heads on the second floor. There were about 15 people.

“That place was something of a transit settling point. They distributed hostages there and the directions they would be moved. I was brought to the garage, where 14 prisoners of war were sitting. In a few days 3 more civilians were brought”.

On the example of the case of this man, it is clear that civil hostages, in fact, are double hostages. They are not only captured and brutally tortured by the militants, but they also have marginal positions in the Ukrainian lists of exchange or are not recorded in such lists at all.

“My name was not mentioned in any lists, – our source says. – And I was sent to the garage again”. Thanks to the military men the entrepreneur was able to contact his wife and to give information that the negotiations should be conducted through one of the reverend fathers of the Moscow Patriarchate. Soon he was brought to Kozitsyn again.

“I saw a man in a cassock. Kozitsyn said to him: “Well, is this one yours? Take him away, we found him by accident”.

The businessman spent in Perevalsk about 12 days. In the night from August 13 to 14 he got home. He submitted an application to the police. A mobile phone, a computer server, as well as some other personal items that were stored in the TDF all that time have been returned to him.

2.6. KIDNAP OF A CIVIL PERSON:

Captured in July, held for 7 days

Our interlocutor is engaged in repairing equipment. He has never been a member of any organization, did not participate in rallies or protests, did not contact with the militants or the Ukrainian army. However, “Cossacks’ National Guard” decided that he was a spotter (the man because of his work often had to drive through the roadblocks), took him hostage and held from June 5 to 12, 2014 in the building of the SSU of the region of Lugansk and in the RDF.

“They called themselves counter-intelligence. They said they detected spies such as spotters and gunners. They obtained my data. I was taken by 8 people with Kalashnikov machine gun with capacity of 250 rounds, machine guns and pistols. They were dressed in camouflage with stripes of “Cossacks’ Don Troops”. They arrived in two cars, blocked the road (an entrance to the yard) and rang the doorbell. My mother opened them. I did not know them. Later I identified one of them in the MIA catalogue”, – the victim says.

A man with a machine gun identified by the victim was a local car mechanic. The armed men raided the apartment. They took the money lying on the table (5,000 or 6,000 UAH), seized a computer,

a phone, bank cards, notebooks. The man was handcuffed, a bag was put on his head, he was loaded in a yellow Volkswagen van and drove to the building of the SSU. The detention was shot on camera. That van belonged to the family of the hostages from Rubizhne, together with whom Vitalii was kept in the building of the SSU.

“The father told me that when during the search of the apartment they found a Ukrainian flag, they cut him with knives and threatened to do the same with my parents, because people going under this flag kill their children. On the argument of parents that it was the flag of the country they lived in, they answered that they live in the Novorossia, but not in Ukraine”.

The parents of a person taken hostage called the police and wrote a statement about their son’s disappearance. Later Vitalii’s father was also kidnapped.

“When in the car, they said: “That’s cool, we took a gunner! Yeah, I’ll say! We blew his cover...” I wondered why I was so important that so many people arrested me, why they were so happy and capture me, an “important prisoner”, on film. There were a lot of threats: “Let me take a bayonet- knife to poke his eye out, he does not require two; let me cut him cut his groin...” etc.”

Upon arrival to the SSU, the man was taken to “Chieftain Pasha” (aka “Batia” (“Dad”)). He demanded to tell about

“beacons”, “correcting fire”, and our communications agents’ positions.

The hostage is sure that it was not Dromov. *“It was a 55–58-year-old man, with a neatly trimmed goatee, swollen face, in a hat. But the chieftain is not dealing with inquiries; the group of militants was responsible for that. They beat so many people every day... got tired, drank tea, went for lunch. The same people – the former policemen”.*

Since the man had nothing to tell about “fire adjustment”, the “Dad” ordered to send him to the “special cabinet”. After that he was led to another room, put to his knees, and put a helmet on his head.

“They put the soldering iron to my face and threatened to use it unless I start talking. My finger was squeezed to the crunch. Then they start beating: with hands, police batons, wooden and aluminium bats, golf clubs. They beat professionally in vulnerable places – bones, muscles, kidneys and liver. They beat with a stick in my hands, and with batons in my feet. They shoot with traumatic weapon from a distance of 2 meters. They staged a military execution, forced me to dig my own grave. They poured water and threaten that they would strew it with caustic soda.”

Then Vitalii was taken to the ward in the basement with a total area of approximately 8 to 5 meters. At that time

there were 4 people in that ward. The man recounts them: *“The colonel of the MIA, his colleagues tipped him because he collected data about separatists and their checkpoints. They were offered to exchange him. He was beaten the worst way and also on the head; they stuck a soldering iron into his ear. Now he is alive. The second one was Andrii, a brawler from Rubizhne. He was grabbed at the market where he drunkenly threatened a saleswoman. The saleswoman called separatists and they grabbed him. He was strongly beaten: it looked like they worked off on him. They shot his leg just above the ankle and did not give medical care. The third one was a public bus driver. He was accused that he is a member of Pravyi Sector, although he was also taken drunk, and he was released soon. And the fourth was a man from Rubizhne, a drug dealer. He was taken hostage because militants wanted to wrestle his market away from him. He had a top of the left ear incised; later a local medical assistant sewed it down”*.

During Vitalii’s stay in captivity sometimes he was in a cell alone, and sometimes there were up to 15 people. Inmates told him that prisoners usually were beaten on the first day, and then they were sent to involuntary labour. They released only those who were more or less improved in strength – so that there could not be any complaints. If a person was getting really bad, they asked the guard to call for medical care. There were also former drug addicts in the ward, the residents of Rubizhne and Severodonetsk were a significant part of them.

“Most of them were drunkards, mischiefs, drug addicts, dealers or random people – “looked in a wrong manner”, “said a wrong word” – the man says. – At the end of the second day they brought to the ward a paramedic of the Armed Forces of Ukraine from Kharkiv. Together with two officers and a driver he got lost and ran to a security road block of separatists. Every night he was taken for beating, we heard him shouting, and then the militants returned him to our common ward... Later

a woman came to our ward together with “Barmalei” (one of the militants). A son of that woman was a fighter who died near Lysychansk. She buried her son and came to “pay for his death”. Barmalei told three persons (a paramedic was among them) to leave the ward. The woman started screaming at them. I heard sounds of blows and screams. Only two of them returned. We have never seen a paramedic again.”

On the fourth day of his captivity in the SSU building the former prosecutor of Rubizhne (see “Rubizhne” section) and then Ye. Chudyk (see “Rubizhne” section) were brought there.

On the fifth day he was transferred to the jail in Partyzanska Street. *“The man called Yura was in my ward (he did a spell in prison, and lived in Severodonetsk). The third person was a “newcomer” from Borivske, he was responsible for collecting money and food for the militants from the population, but drank all money away. The militants chased him, shot at him but failed, then caught, beat, and finally thrown in our ward.”*

In that jail the man was mercilessly beaten again during interrogation in the presence of newly arrived Lugansk investigators. They even broke the second rubber baton (the first one had been broken in the SSU building). They stopped beating only when his leg began to twitch. But not for a long time. Subsequently beating was resumed. *“They started to beat in my arms, said to take off my pants and threatened to cut off the penis with an axe. And then they began to beat in his my head. After that “Tsyhan” began to choke me with a golf club until rattle. Early in the morning I was brought to the ward again.”*

On the sixth day they brought the father of the victim, whom they held in the so-called “glass” (a ward

1.5 to 2 meters). However, the next day he was released.

The militants’ “fight against drugs” can be illustrative. *“I heard “Tsyhan” and Kolia (the members of the IMG) brought someone in a reception area, which is near*

the ward I was sitting in. During beating and questioning a man, I realized that he was a drug dealer from Severodonetsk who brought someone a dose of the drug. He was injected a dose of the drug, which was by him during the arrest. Eventually that man was killed to death. In the morning Barmalei yelled at them, that they killed him too early as they could not extract the required information.”

The hostage was released on the eighth day. They brought him into a room where there were two men, whom he had not seen before; one of them had soldierly appearance.

They returned to the victim the things picked from him during capturing (except money). Then they forced him to write exactly as told and read on camera the following text: *“In the course of my work, I have many contacts with customers and companies throughout Ukraine, which aroused suspicion. I did not serve in the army, I did not adjusted fire, and I have no complaints.”*

The man had a chance to talk to those whom he described as a person with a soldierly appearance. *“During our talk it became clear that he was a former Afghan, who also served in Africa. He told me openly that he was from Russia, a retired member of the Main Intelligence Directorate. “We were thrown for help, because THOSE could not cope.” I asked him about my case, about unjust detention and tortures. He said that the people were given guns and the fighters experienced impunity and permissiveness. “We do not decide, we have been sent to help them” – he told me.”*

The man was released on July 12. He met Severodonetsk exemption in the hospital with multiple injuries.

According to him, his case died out in the police. *“In the city police department they offered me to identify those present in the SINI basement, but never those militants present in the building of the SSU. Most fighters from the SSU are now in Stakhanov, Perevalsk, Alchevsk working for Kozitsyn and Dromov.”*

2.7. KIDNAP OF OLEKSANDR KONONOV AND VIKTORIIA KONONOVA:

Were captured in August, held in captivity for more than 3 months

Since 2005 Oleksandr Kononov is a disabled person of group I (traumatic amputation of the right hand and left foot). Until recently Oleksandr and his wife Viktoriia have been hardly interested in socio-political situation in the country (although Oleksandr mentions that he is interested in legal issues and is a member of the “Legal literacy campaign for drivers” Internet community). They began actively monitor the situation in February 2014 after the mass shooting of people on Maidan in Kyiv. On May 15 spouses living in the village Voronovo near Severodonetsk connected home Internet, which allowed them to monitor the events closely. The volunteers’ activities inspired Oleksandr and Viktoriia, so in June they decided to join the army of volunteers and started working underground. At that time active violence started in Severodonetsk: 3 corpses with signs of gunshot wounds were found in the marsh between the village Syrotyne and Lysychansk factory for the production of baking soda (Lyssoda LLC), an office of a local deputy Serhii Samarskyi was destructed, an administrator of the city internet portal Andrii Nidchenko was captured.

“Our family was aware of the fact that at any time they could come and take us too. I did not hide my pro-Ukrainian position. We found more like-minded people, and began to help the military,” – Oleksandr says. On July 22 in the afternoon, Oleksandr and Viktoriia left Shchastia for the village Vesela Tarasivka. They lost the way and went to the checkpoint, where there were people without identification marks. They noticed a Ukrainian flag in the car of Oleksandr

and Viktoriia, and demanded to get out of the car immediately, put them near the concrete fence, searched, took phones and documents. They were kept at the point of a gun.

“Then a man came – big, tall and chubby, with light hair, with a gun in a holster. He approached us, introduced himself as Serhii, the prisoners of war expert. I replied that we were not military, but civil citizens. He asked where we were going, to whom exactly and why. Also he said that we were not subject to any Convention on the prisoners of war and they could do anything with us.”

Later they have called other people who begun to beat spouses and simulate shooting, to shoot near their ears (in consequence Oleksandr does not hear in one ear well), and due to one of such shoots Oleksandr was slightly injured. They wore a plastic bag on Viktoriia’s head and choked her until she fell unconscious. “They did it in my eyes. In such a way they wanted me to provide them with necessary information but I had none. They considered us to be the spotters, firing pointers and reconnaissance men. At one moment we were told to say goodbye to each other. They led her to me and said that she would be taken to shoot and “I would not see her any more”. We said goodbye to each other and they got her away.”

Oleksandr remembers the angriest militants.

“There were two characters who were burning with hatred – a man with a nickname “TT”, who led a group for work with prisoners, and his closest aide – I do not know the name, but his nickname was “Chekh”.

After the first scenes of violence, they have never applied physical abuse to Oleksandr. But there was psychological pressure: “Threats to shoot me, to hang on

at the Metalist checkpoint, so that “nazi” could see what would happen to each volunteer.” The most effective means of pressure on Oleksandr was violence against his wife, and the militants used this method successfully. “I’ve heard that they used the electric shocker to my wife and heard her screaming. After that I signed a written warrant of cooperation with them, under condition of keeping me and my wife healthy and alive.”

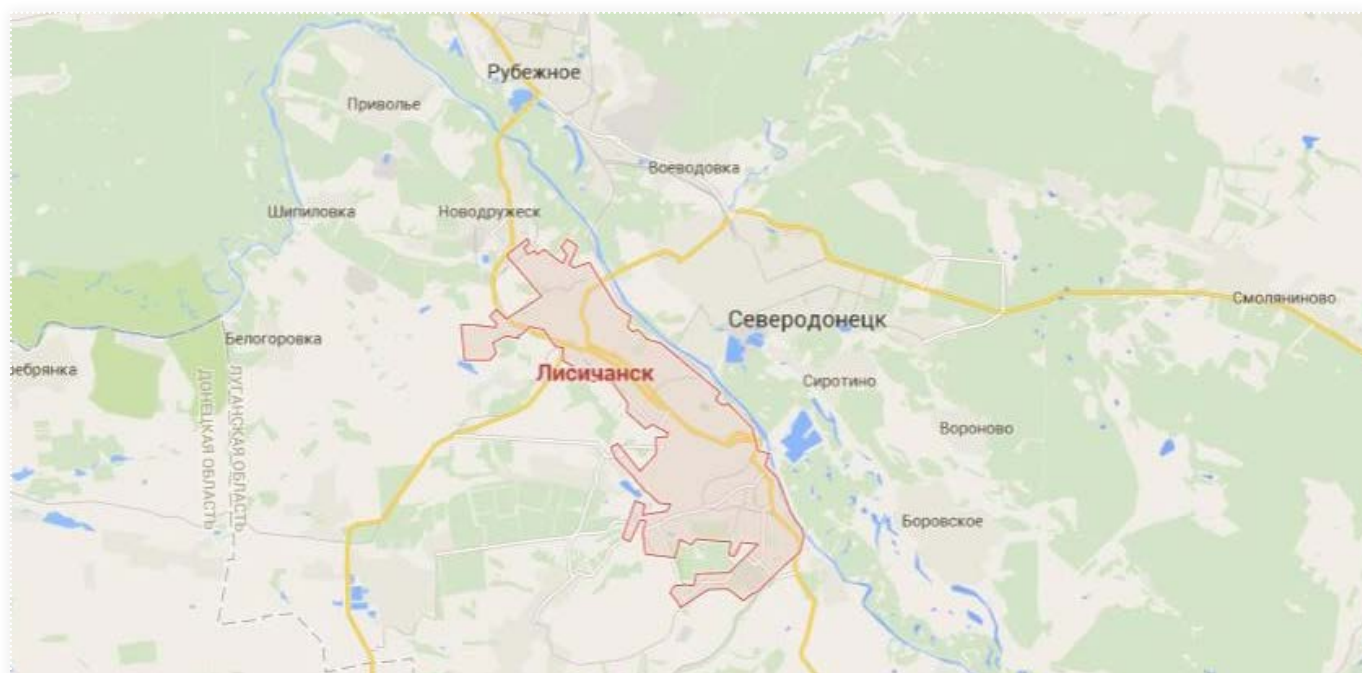
Then Oleksandr was taken to the temporary detention facility of Leninskyi District Police Department of Lugansk, and put to the ward. In three days he learned that his wife was sitting in the next ward. The first month Oleksandr was kept there, another month he spent in the basement of the regional administration.

“I was kept in the boiler room, the floor was covered with wooden boards, cardboard, wooden doors – we slept on them. There was not lighting there during the first week, later they install a lighting system. The room was not ventilated and the temperature was 30 degrees. The conditions were pretty tough, the room was small enough, but it contained a large number of people, from 40 to 60 prisoners in different periods.”

Then the couple was moved to Zhovtnevyi District State Administration, because the commandant moved there. Oleksandr was put in a room 4 to 4 metres. The total number of people kept there was from 15–20 to 39 people in different periods. At that place the couple was kept for more than a month. The process of freeing the couple began when Viktoriia was able to talk to Lugansk Afghans who came to the district state administration to negotiate the exchange of prisoners of war.

On October 28 they came to us and said: “Get out!”

3. LYSYCHANSK



3.1. CHRONOLOGY OF EVENTS IN THE CITY DURING THE PERIOD UNDER REVIEW

On April 11, the deputies of the Lysychansk City Council adopted an appeal, in which they stood against splitting Ukraine, disarmament of illegal formations and Russian as a second state language, a non-aligned status of Ukraine, amnesties of all protesters in the south-eastern regions of Ukraine, etc. That list included an item “to condemn seizure of buildings of state and local government by radical nationals.”

On April 16, according to the “Informatsiyni Opir” (Information Resistance)

group in Severodonetsk and Lysychansk “the police and coalminers in close collaboration wended down all manifestations of separatism among local fans of Putin quickly. Joint patrols of cities were organized. City entrances were controlled to prevent the “performers” visits.

However, Lysychansk was one of the cities where the so-called Referendum of **May 11** was held.

In the all-Ukrainian information space of already destabilized country this city appeared in May on the eve of the presidential

elections in Ukraine which have never happened there (and local elections as well). News agencies reported on seizure the district electoral commission No.110, which became the sixth one captured in this region. <http://www.unian.ua/politics/920374-na-donechchini-zalishayutsyazablokovanimi-7-okrujkomiv.html> Not only the electoral process, but also the rail connections were blocked there.

On May 22, the representatives of the “Lugansk People’s Republic” terrorist organization blocked the bridge in

Lysychansk completely and stopped the traffic in the “Water station” area. Because of blocking the railway bridge on the stretch Nasvetevykh – Rubizhne by the militants Donetsk Railway closed the traffic on the stretch Svatove – Lysychansk, cancelled 5 distant and suburban trains and changed the routes of a number of trains. <http://economics.unian.ua/transport/920985-na-luganschini-teroristi-pidirvali-zaliznitsyu.html>

The same day the IMG representatives captured a number of mines of Lysychanskvuhillia enterprise. On May 23, the Ministry of Energy and Coal Industry reported that the mines named after R. Kapustin and D. Melnykov, as well as “Pryvolnianska” and “Novodruzhyvska” mines that are owned by the state coal mining company Lysychanskvuhillia stopped working because of the actions of terrorists. “On May 22, 2014 an armed group of unknown persons captured two operating separate units of Lysychanskvuhillia OJSC”, – said a statement of the Ministry of Energy and Coal Industry of Ukraine. – The terrorists menacing with guns demand to provide them with explosives. Their actions contain all the features of a serious criminal offense.” Therefore, the Ministry requested assistance of the Security Service of Ukraine. <http://economics.unian.ua/energetics/920716-minenergo-teroristizahopili-chotiri-shahti-lisichanskvugillya.html>

On May 22, the first major battle was held between the IMG members and the National Guard (namely the 30th brigade from Novohrad-Volynskyi) in the area between Lysychansk and Rubizhne. An ambush of militants was organized on Tomashivskyi bridge (on the road between Rubizhne and Lysychansk). According to some information, the chairperson of a local department of the Communist Party in Rubizhne Nelia Zadyraka was involved in its organization. As a result, Ukrainian military men and militants were killed.

On June 11, according to the report published on informator.lg.ua, the armed men occupied the building of the repair and maintenance administration, located in the city centre, close to the residential houses. The snipers were located on the roof; the entry was reinforced with barricades. The same day, but earlier, the armed men seized the prosecutor’s office in Lysychansk and “evicted” all the employees from there, allowing them to take personal belongings. About two hundred armed men arrived to the city, presumably from the region of Krasnodar and from Kazakhstan.

On June 12, according to the InfoResist publication, “in the course of a conflict

the local bandits kicked off the lads from Lugansk. The same day without long negotiations the winners decided to declare the “Lysychansk People’s Republic” and declared war against the central Ukrainian authorities.

On July 12, Lysychansk was among the five points on which targeted airstrikes were made. The Press Service of the Ministry of Defence of Ukraine said that “the first airstrike was made on the strongholds of terrorists in the area of Lysychansk. Because of it the groups of militants, weapons and equipment were affected.” <http://army.unian.ua/939048-sili-ato-tochkovimi-aviaudarami-znischili-desyatki-teroristiv-i-kilka-gradiv-minoboroni.html>

On July 14, active hostilities were held in the region. According to the information of the ATO Staff the settlements of Metalist, Oleksandrivsk, Bile, Rozkishne were liberated from the militants and the “Lugansk” airfield was unlocked. In some cities, particularly in Lysychansk, “the militants were going to use the captured premises of the state office buildings as their strongholds; state television and radio were blocked in the central cities, and instead of them they broadcast Russian TV channels that do not provide an objective assessment of the actions of the ATO soldiers during the liberation the cities of Donetsk region from terrorists. The militants continued to intimidate the local population; there were documented cases of looting and theft of personal and commercial vehicles, creating tensions with locals.” <http://army.unian.ua/939316-sili-ato-zvilnili-vid-boyovikiv-dekilka-naselenih-punktiv-luganskoj-oblasti.html>

On July 16, the IMG representatives stopped the work of the State Treasury Department and worked over the ATMs in Lysychansk, the National Security Council said.

On July 19, the press centre of the ATO reported on “military advance in the areas of Lysychansk and Severodonetsk”. <http://www.unian.ua/politics/941513-teroristi-vnochi-obstrilyali-z-minometiv-ta-gradiv-ryad-pozitsiy-ato.html>

On July 17, a sole proprietor from Lysychansk requested to put an airstrike on his enterprise, where the soldiers of the LNR located. The information was written by a citizen of Kyiv Ihor Chalenko, a son-in-law of the businessman, on his Facebook page. “I appeal to the leadership of the ATO. The private property of my father-in-law (a large vehicle service station with a total area of 700 m²), situated in the city of Lysychansk, the region of Lugansk, is captured by terrorists. The building is used to repair the armour of separatists and in this regard

it is of strategic importance. We (or rather, my father-in-law) KINDLY ASK you to apply targeted airstrike at the address 15 Hryzdubovoi Street, Tsehlianyi district,” – Mr. Chalenko wrote.

On July 20, the presidential adviser Yuriy Lutsenko said on TV that the Ukrainian military men changed over to the offensive: “In recent days we split the hostile terrorist group into three parts. The cities Lysychansk and Severodonetsk were cut, as well as the region of Lugansk is cut from the region of Donetsk.” According to him, the military claimed that they surrounded the terrorists and were ready to complete the operation. <http://bit.ly/2EODm7k>

In the morning of July 21, the “Informatsiyni sprotyv” (Informational resistance) resource reported on partial blocking of Lysychansk by the ATO forces. It is reported that “terrorists make a breakthrough of the area at night. They destroyed a large amount of militants’ equipment and manpower. About 30 terrorists were captured.” <http://www.unian.ua/politics/941854-sili-ato-vidrizali-osnovni-ugrupovannya-teroristiv-vid-zabezpechennya-timchuk.html>

The Minister of Defence of Ukraine Valeriy Heletey announced on his Facebook page that in the evening on July 20 active military clashes continued in the areas of the cities Lysychansk, Rubizhne and Severodonetsk, during which the militants suffered heavy losses. “In particular, terrorists tried to break through surrounded Lysychansk with a motor convoy in panic, but trapped into “the sack of fire” prepared by the units of the Armed Forces of Ukraine. As a result, three units of equipment of terrorists are burning at the site of the battle. The rest of the mercenaries scattered and returned to the blocked city. During the last day the Ukrainian military forces captured 35 Russian mercenaries, the most of whom are from the army of Kadyrov.” <http://www.unian.ua/politics/941859-sili-ato-vzyali-v-polon-35-boyovikiv-geletey.html> Later the press service of the President of Ukraine said that “Chechen nationals are among the captives. All fighters have Russian citizenship.” <http://www.unian.ua/politics/941863-ponad-20-uzyatih-u-polon-pid-lisichanskom-boyovikiv-mayut-rosiyske-gromadyanstvo.html>

On July 21, in the morning, the press service of the ATO informed that the units of the National Guard had liberated Rubizhne and were very close to Lysychansk.

On July 22, in the afternoon, neutralization of IMG and mopping-up operations started in Lysychansk. <http://army.unian.ua/942694-sili-ato-prodovjuyut-zvilnyati->

mista-i-naseleni-punkti-vid-teroristich-nih-ugrupovan.html

On July 22, there one of three bridges over Siverskyi Donets located near the railway station was blown up. The sources of the Ministry of Defence in the “Informator” printed edition reported that “Lysychansk is almost empty. Only Chechens sabotage groups are working there. The militants of Mozgovyi left the city and moved to Alchevsk where they consolidated the defence in the territory of the metallurgical plant. But no one has seen Mozgovyi in the city yet.”

On July 23, the commander of the “Donbas” battalion Semen Semenchenko reported that an intense battle is conducted for Lysychansk.

In the night from July 23 to 24, the Secretary of the National Security Council Andriy Parubiy wrote in his Twitter that “blue and yellow flags are already hanging on the outskirts of Lysychansk”.

The Secretary of the National Security Council had not reported the details of a raid for liberation from terrorists yet, but noted that most terrorists are Russian saboteurs having put through Chechnya and other hot spots.

On July 24, in the afternoon, the commander of “Donbas” battalion Semen Semenchenko reported on “the on-going assault of Lysychansk. It is better for the residents to remain in bomb shelters. Terrorists attack the city with mortars and automatic grenade launchers”. In addition, Semen Semenchenko notified the organization of a “green corridor”: “Information for those, who just decided to leave the city: one of the local journalists is responsible for organization of a humanitarian corridor for WOMEN AND CHILDREN. Write him a private message and he will coordinate you with the group and place. Please do not walk the streets until the end of hostilities”.

On July 24, in the evening, the spokesman of the Information Centre of the ATO Andrii Lysenko reported during a briefing that “Ukrainian troops entered Lysychansk and occupied its northern regions”. According to him, the terrorists remaining there were blocked, as Ukrainian forces intercepted the retreat for them. He also reported that “in the liberated areas they are checking former habitats of militants, and carrying out the demining works. Operational measures to detect subversive terrorist groups are under way”.

Late in the evening on July 24, the combat of “Donbas” battalion Semen Semenchenko reported on his Facebook page that “Lysychansk was taken. The terrorists (Lysychansk garrison of the “Large Don Army”) escaped from there”.

According to Semen Semenchenko, the city was liberated by the soldiers of the “Donbas” battalion and by the 24th unit of the Armed Forces of Ukraine. He also wrote on his page some information about the police activities: “The biggest surprise was waiting for us at the local police office. A bunch of “police officers” (some officers even with weapon) were quietly sitting in the town captured by terrorists. When asked, “Why you did not fight?” they answered, “What could we do against them?” When we asked, “Why you did not leave the city?” we heard only a vague bleating in response,” – Semenchenko says. The National Security Council said **on July 25** that “the Ministry of Internal Affairs will conduct an internal investigation on the police officers who were in Lysychansk during the occupation of the city by the terrorists and did not take any action to counter the separatists”.

On July 24 at 22.20 p.m. Ukrainian armed forces raised the flag over the City Council of Lysychansk. The Lieutenant General, the Chief of the General Staff Viktor Muzhenko reported on it to the President Petro Poroshenko. “The operation for liberation of the city lasted two days and was very difficult. The terrorists offered stubborn resistance. Some of them became panic-stricken and left the city the day before the main assault, joining the other bandits”. “With a well-planned operation of the ATO Staff, the Armed Forces of Ukraine delivered a multiple thrust to the terrorist manpower clutters, checkpoints, and other strongholds and fortified areas of the armed gangs, which ultimately allowed them to liberate Lysychansk from invaders,” – the press service of the ATO informed.

The National Security Council reported: “Fighting for Lysychansk was long because the President of Ukraine ordered not to engage fire with heavy artillery and from air on the settlements – the land forces had to liberate the city street by street using only small arms.”

On July 25, the National Security Council reported that searching for weapons and ammunition remaining in the city, as well as survey and demining residential premises, are under way in Lysychansk; Ukrainian forces also draw the plans for restoration of critical city infrastructure and make necessary calculations.” On the same day, according to the press service of the ATO, Ukrainian military men have demined the bridge between Severodonetsk and Lysychansk.

On July 24, according to the press service of the Prosecutor’s Office of the region of Lugansk, there were initiated criminal proceedings against the Secretary of the

Lysychansk City Council on encroachment on the territorial integrity of Ukraine. “The Prosecutor’s Office of Svatove district of the region of Lugansk provides procedural guidance in the criminal proceedings initiated against the Secretary of the Lysychansk City Council.

The information about the above-mentioned criminal offense is included into the Unified Register of Prejudicial Inquiries according to the Chapter 2, Article 110 of the Criminal Code of Ukraine (violation of territorial integrity and inviolability of Ukraine). Moreover, the Secretary of the Lysychansk City Council appealed to the President of Russia Mr. Putin and the Federal Chancellor of Germany Mrs. Merkel for help in forming the future structure of Donbas.

On July 26, the Ministry of Defence reported that “during the mopping-up operation in Lysychansk the soldiers of highly mobile assault forces of the Armed Forces cleared a sniper group of terrorists.” During the liberation operation the soldiers of the Armed Forces captured the arsenal of weapons and ammunition. In particular, a KamAZ truck loaded with missiles to the anti-aircraft missile system “Strela-10”, as well as a large number of small arms, mortars and guns; and sniper rifles of new model made in Russia. Semen Semenchenko notes that when the soldiers left Lysychansk they saw many policemen in uniform in the streets; a lot of them had “Berkut” chevrons.

On July 27, the press centre of the ATO reported that people began to return to Lysychansk. “In the city centre of Lysychansk, which was released by the Armed Forces of Ukraine on the eve, we restored power supply; grocery stores and pharmacies began working there. Active works on the restoration of gas and water supply to the residents’ houses are under way. Repairs are complicated by the fact that the bandits destroyed key public utilities.”

The 5th TV Channel reported that the terrorists of the so-called “LNR” looted all the shops before leaving Lysychansk, and there is no food in the city. “People who lived in the basements for a week are hungry. So the National Guard gives them their army field rations,” – the statement said. <https://www.youtube.com/watch?v=pAg-On7T5NHw>

In August the pyrotechnic units of the State Emergency Service of Ukraine neutralized 150 kg of trotyl in the territory of the cities of the region of Lugansk liberated from terrorists, including Lysychansk.

On September 16, the Prosecutor’s Office of the region of Lugansk reported its suspicions of promoting separatism to the

Secretary of the Lysychansk City Council. According to the regional Prosecutor's Office, "the Secretary of the City Council convened a special session at which they voted for the so-called state sovereignty act of the "Lugansk People's Republic". "Later she publicly expressed the need to

change the boundaries of the territory of Ukraine and withheld recognition from the Government of Ukraine in the city of Lysychansk." In addition, on July 2 the Secretary issued an illegal order, under which all the wealth that was kept in the Lysychansk City Council were transferred

to the so-called "military commandant's office of Lysychansk".

On September 17, the National Security Council announced that on September 13 the mayor of Lysychansk had been kidnapped, and was held captive by the IMG.

3.2. ILLEGAL MILITARY GROUPS AND THEIR LOCATION

A number of armed military groups operated in Lysychansk. They were stationed on the territory of the office buildings and industrial enterprises. According to the evidence of our respondents, the main forces were represented by the following groups: "Prizrak" (Ghost) battalion led by Mozgovyi (Lysychansk glass factory); the group of Caucasians (the building of the Lysychansk District Oil Administration); the "Orthodox Russian Army" (the building of the Prosecutor's Office); and a number of places used not for the militants bases, but for holding and interrogation of hostages.

It was Lysychansk where the militants of a well-known because of the events in Donbas so-called "gang of Oleksii Mozgovyi" (who appeared there in May) were quartered. The headquarters of his "Prizrak" battalion was in the premises of the **Lysychansk glass factory** (Stiekolnyi District). As a police officer told the members of the mobile group on condition of anonymity: "when Mozgovyi appeared here – the weapons appeared as well. He gave it. They conducted manoeuvres there allegedly; the weapons had registered numbers. The ads with the following text appeared: "enter the armed groups, do not lie on the sofa, and come to us to protect the city".

During the occupation, a rather large area of the plant housed a significant number of military equipment (trucks KamAZ, Ural, Armoured Transport Vehicles), weapons and ammunition, medicines. A training ground for militants was also there; the chiefs of the group were sitting in the former factory office at the entrance to the plant. In addition, the plant became a major place of holding hostages in Lysychansk. Most of our interlocutors were kept exactly in that glass factory while they were taken hostages. They held both

political prisoners (hostages for ideological reasons) and disciplinary prisoners there.

For the time being, according to our interlocutors, the militants were mostly local residents. Antonida Melnykova, who was taken hostage at the end of May, says the same. "Local women were coming to me and asking: "Who you are? You're not ours, not from our district... Why do they capture you? We do not capture anyone..." "Now they will shot you – but it serves you right." Another woman brought me a sedative – Peonies tincture... Another man told me that he was from Zolotarivka (a village near Lysychansk) and that he was unemployed... None of them wore any chevrons at that time, just camouflage and a St. George ribbon."

Actually, none of our respondents saw any identification marks at the glass factory.

However, a car mechanic from Rubizhne Volodymyr Koziuberda, who was captured and taken to the premises of the same glass factory a month later, in late June, was inquired by the Russian military men. When asked how did he identify them just as the Russian military men, Volodymyr Koziuberda said: "Even then, there were 95% of Russians, and no one was ashamed, no one hid. They said that we, the Russians, had come to defend you, but you were sitting here, and did not protect your Donbas from "banderovtsy", from the members of Pravyi Sector; they would come to you and kill you, they would eat your children and abuse your women. They showed their passports, rubbed our noses in them and said – we were from Rostov region, from Belgorod region. We, the Russians, had arrived there, but you were just sitting and drinking vodka. The fact was that they caught many citizens at night with a bottle of beer, and brought them to the glass factory, every night they captured dozens of them in such a way. Thus, 95% of them were Russians. With modern weapons,

with the latest optical rifles. They made raids every night and went out as quietly as came – they tried to be invisible so that no one even noticed them. Those military men wore Russian chevrons. As they drove us to clean toilets, corridors etc., we saw all that", – Volodymyr said (for more details see "Rubizhne" section).

This is indirectly confirmed by the materials published in mass media after Lysychansk had been released. After the city liberation at the Lysychansk glass factory they found guidelines for assault and commando units bearing the stamps of the General Staff. The photo of Russian weapons and humanitarian supplies found inside the plant were published in the media. http://www.ukrinform.ua/ukr/news/zalishena_teroristami_baza_v_lisichansku_1960552

The group of Mozgovyi was located not only at the Lysychansk glass factory, but, according to some witnesses, in the **military enlistment office**. They called themselves the "South-East Army".

One of the groups was based in the **Mining College of Lysychansk**. They called themselves "people's militia".

According to our sources in the law enforcement authorities, the group that based in a captured building of the **Security Service of Ukraine** was headed by a man nicknamed "Poltinnik". According to Nataliia Honcharova, whose husband, Dmytro Skoromokha, was kidnapped (see details below), the local members of the IMG were based in the SSU building. "They said that there was the greatest chaos – local criminals, drug addicts," – the woman says. For example, Nataliia's neighbour, who served out 4 times, was among them. Now his place of residence is unknown. According to our sources in the City Department, cossacks were also quartered there.

The "Great Don Army" was quartered

in the building of the **Prosecutor’s Office**. They had appropriate marks on their cars. They had a flag with the face of Christ. Our interlocutors suggested that they were not local.

Two men with guns were constantly on duty in the **Executive Committee of Lysychansk**. Several times, as Nataliia Honcharova, an employee of the executive committee, suggested, she saw “*kazakhs, people of Asian appearance*” there. These words are confirmed indirectly by the message published on informer.lg.ua, according to which on June 11 “*about two*

hundred armed men, presumably from Krasnodar region and from Kazakhstan” came to the city.

There are many evidences in relation to the presence of Caucasians in the occupied Lysychansk. Anatolii Derhach, a fighter of “Chernihiv”, the special battalion of the MIA that liberated the city, told in an interview about “approximately a thousand of Chechens”. Antonida Melnykova said that in late May she saw “a lot of people of Caucasian appearance” in the Lugansk glass factory. The pastor of the Protestant church also tells about a Caucasian, a member of the

group that captured him. Volodymyr Koziuberda also said about a “Chechen” in his evidence. According to our sources in the City Department, Chechen women were based in the premises of the **Lysychansk District Pipeline Administration**, which also housed the “military commandant’s office”.

The evidence of people who were the victims of kidnapping and tortures in Lysychansk are given below; the descriptions of two murders are also provided.

3.3. KIDNAP OF ANTONIDA MELNYKOVA

The members of the mobile group managed to talk to **Antonida Fedorivna Melnykova (born in 1957)**, the head of the district election commission No.110 centred in Lysychansk, a victim of kidnapping and violence of militants. On the eve of the kidnapping, the district election commission suffered repeated intimidations and attempts to assault from the members of the IMGs, some of the committee members had been even imprisoned.

“*All of us – the members of the district commission and precinct commissions – were persecuted. They began to send us threats. They phoned me and invited me to a meeting with Bolotov, who at that time was a self-proclaimed governor of the region of Lugansk. In response to these proposals, I laughed, saying, “Who is Bolotov, that bandit? I do not know and do not want to know him.” At first I was phoned by a woman who introduced herself as a Press Secretary of Bolotov, then by a woman who introduced herself as a “Secretary of the Central Election Commission”. On May 7 when we transferred the seals and documents to the territorial election commission in Popasna the premises was attacked, a member of the district election commission Serhii Lozovyi was kidnapped by the armed men and the documents were destroyed. “Soon, the same day the militants called me using the phone of Mr. Lozovyi and delivered an ultimatum: if I do not come to Popasna, they will bring the commission members to barricades, to the SSU in Lugansk or to Sloviansk. Later Mr. Lozovyi was released. After 10 days, on May 17, the situation repeated in Kirovsk, where the members of the district election*

commission came to pass the documents. However, that time they managed to escape in time,” – says the woman about the background of her abduction and adds that at that time Popasna was already under the Russian flag – the first one in the region of Lugansk, while Kirovsk was still under occupation.

When on May 21 there was the first serious attempt to attack the district commission in Lysychansk, commission members managed to escape and save the seal of the election commission. “*They entered the accounting department and began to smash everything in the room. When I said that I was a citizen of Ukraine and did not know any Bolotov, one of them racked the slide of his gun and put the barrel to my chest. The employees gave them all accounting documents, and I ran to save the seal of the district election commission... The militants plucked the Ukrainian flag off the wall in the room where the district commission met, broke out the doors, turned everything inside out, but failed to make anything with the safe; only PC and the documents were stolen.*”

Antonida Melnykova was kidnapped on July 24, around 10.30 a.m., when she went to see the SSU building and the Executive Committee of Lysychansk that were captured at the time.

“*At the SSU building I saw the concrete plates in the way, anti-aircraft guns, and people in camouflage with machine guns. When passing by a group of people at the Executive Committee I suddenly heard someone shouting “Stand!” And they started clicking the shutters. I tried to run away, but stopped. The crowd was running after me and the first to run was Mr. Yeremenko, who*

became the second self-proclaimed mayor of Lysychansk later. He was the first to catch me up and with all his might hit me on the head, so I came off to the wall and hit my head. He shouted, “You, bitch, tramp! Hell, where did you put the stamp?” Among the crowd, there was a person who also was a member of the group that attacked the district commission on May 21: a tall, hefty man, with a musky voice. It took me as a kitten with one hand, and clubbed me with the second hand. The whole crowd pounced on me – they all beat me and dragged me by the hair. And then one of them said: “The commander said to take her to the base for questioning.” At that time a car drove up, an old yellow Zhiguli. They put me in the back seat between two armed men. I tried to talk to them, but the one who sat on the left (said he was 18 years old, maybe not 18, but he looked very young and, judging by his appearance, he was a drug addict) all the way beat me in my leg with the gun and said: “Shut up, bitch!” He called me a traitor. When we drove by the church – they made the sign of the Cross.”

Antonida Melnykova was brought to the Lysychansk glass factory, which was one of the main places of holding hostages.

“*At that time there were already a lot of military equipment and vehicles at the territory of the plant; I did not see tanks, but there were armoured vehicles, anti-aircraft guns; the territory was full of armed men. Just before May 22 they took the first battle on the Tomashevskiy bridge. They were angry. When we got to the two-storey building of the plant, one of the terrorists took off my sunglasses and told me that I would never need them... Then another man came and said, “The commander said that the interrogation is*

cancelled. Put her in the firing ward.” We went down to the first floor and passed to the end of the corridor. The doors to all rooms were open, and I saw many people in camouflage there, someone sleeping and someone making dressings. When I was brought to the end of the corridor, they began to look for the keys to the firing room, put in a lot of work but did not find anything.”

Therefore, they did not manage to put a woman in the so-called “firing room”, because there was no key to it. She did not understand – was it just a “joke” or were they really going to shoot her, but changed their minds. A few hours later a “Commander” came (he ordered to call himself that way). Antonida Melnykova describes him as follows: *“Camouflage pants, a belt, a black shirt, bald and low. But I think it was not Mozgovyi. He said, “Your activists told everything about you... You are the member of BYT party.” The woman replied that she was a representative of a candidate Tymoshenko at elections but she has never been a member of the party. “Then he flung in my teeth that we conduct elections. I denied and said the elections were not held. I asked him what I was beaten for, and in return I heard that “our people do not beat anyone. Do you have any complaints?” I said no. After all, he told me, “If you want to live, give us the seal and the key to the safe” and ordered to carry me home to pick up the seal and the key... I think that they received premiums for the seals. The members of the other commissions called me and told that the militants were looking for seals at their homes and confiscated them, despite the fact that the elections were not carried out.”*

They returned to Antonida her bag, put her in the front seat of Chevrolet (*“It was evident that the car was just taken away from someone because they looked at it and were amazed”*) and drove her home, where she gave the seal of the district commission No.110 to the militants.

The woman was hiding for over two weeks after the event, then she moved home, but did not switch on the light and slept between the wall and the bed, so that if the militants come it would be less likely that they would notice her. She went to the hospital only in June, *“but I could not tell them the truth, and had to say that I fell down”*. The woman describes the damages as follows:

“I had a leg bruised after hitting me with the gun; there were many bruises on my back and arms. They did not disappear over 2 months. The forehead was broken due to the hit against the wall. They also screwed my arm, and it still remains nonworking.”

Nobody knows what was situated in that so-called “firing room”. Remarkably,

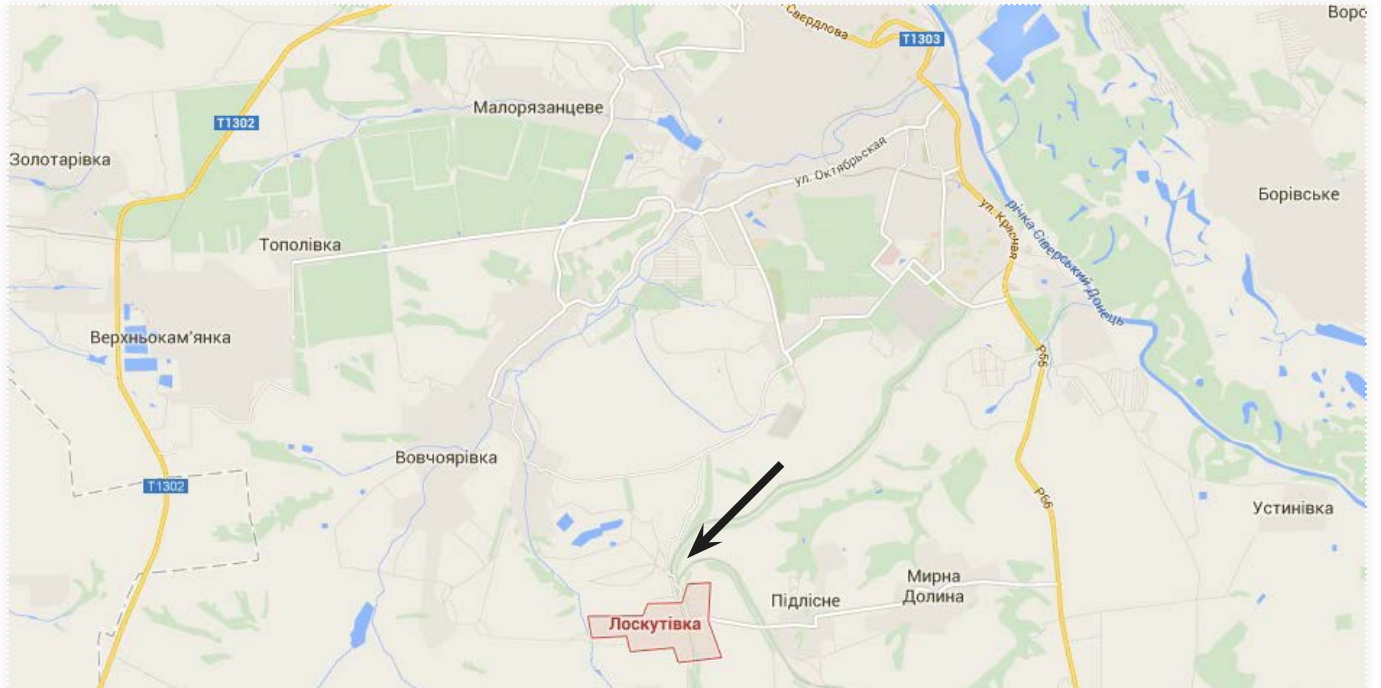


The premises inspected by the members of the monitoring group in the former office building of the Lysychansk glass factory



The second premises inspected by the members of the monitoring group in the former office building of the Lysychansk glass factory

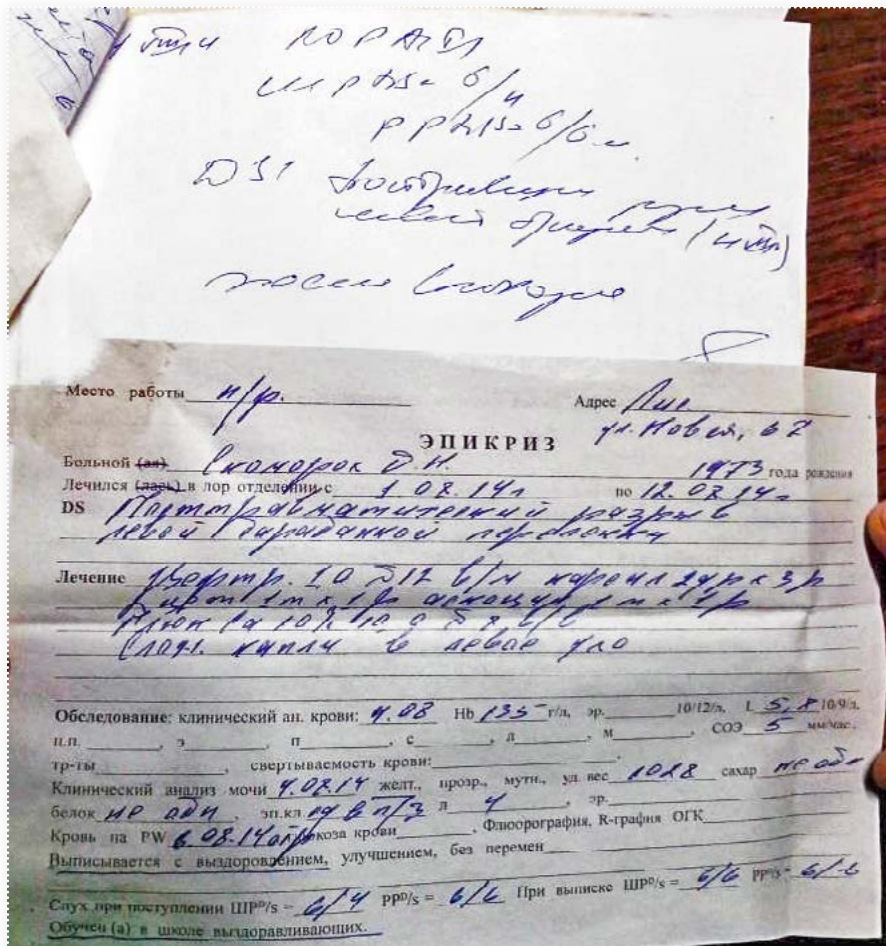
that was the room the members of the mobile group entered to due to the agreement with the Armed Forces of Ukraine, quartered in the premises of the Lysychansk glass factory at that moment. However, that happened even before the respondents explained to us in detail where they were kept and pointed to the location of the so-called “firing room”, and that’s why we did not require visiting that part of the building. The military men showed us just two rooms and, as it became clear later, in the other part of the corridor at the ground floor, saying that was the only place where people could be held hostage and that they could not let us to visit the other part for security reasons.



Dmytro. In rough form and with threats they said they knew that at that address a man from western Ukraine was living, that he had an automatic gun with him and threatened that soon Pravyi Sector and the National Guard would come and kill everyone. However, they did not

answered the question who reported them on it. “Then we called our neighbours and asked to confirm that we are local citizens and that none from western Ukraine is living here,” – Nataliia says. “Finally, they went away, and we decided to express our opinions more quietly.”

On July 4, from 8.15 a.m., the boss of Dmytro who was already at work at that time (he usually came early, approximately at 6.00 a.m.) started calling to Nataliia. She told the woman that her husband was taken by the camouflaged men who came in UAZ, on which “Prizrak” was written. The car was waiting for Dmytro at the shop from the very morning, and as soon as he came and put his bike, he was kidnapped. As Nataliia is an employee of the Executive Committee, first she tried to influence the situation through the “People’s Secretary” of the self-proclaimed City Council Anatolii Yeremenko. In her presence he called on several numbers, but no one heard about Dmytro. At least, he told so to Nataliia. Then Nataliia went to the building of the Lysychansk District Oil Administration where the so-called “military commandant’s office” was situated.

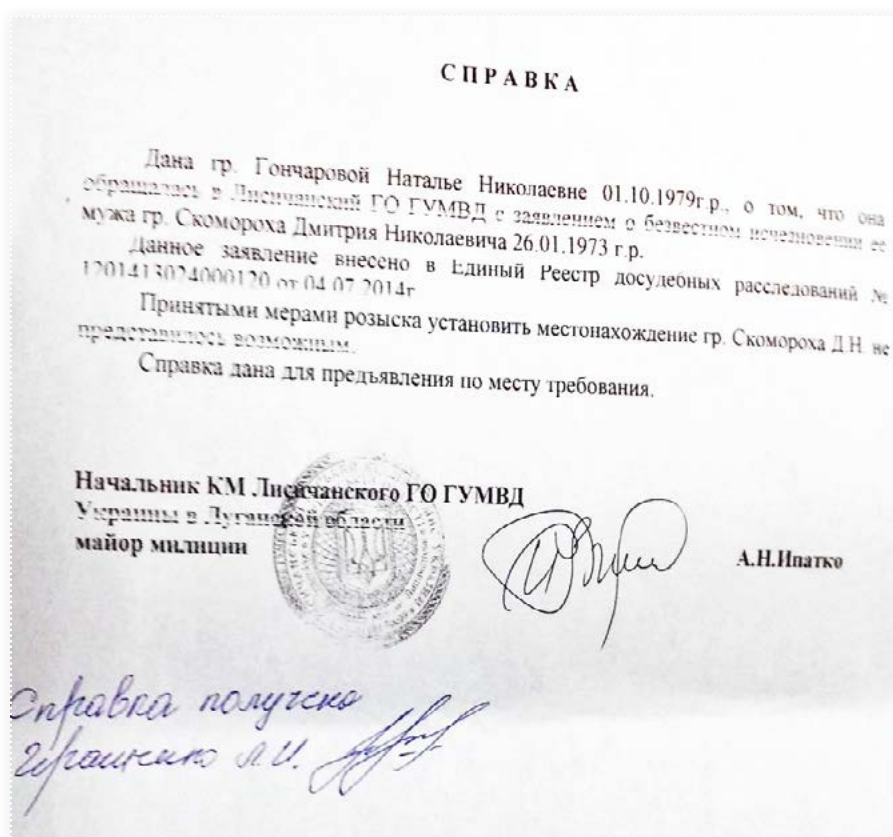


They advised her to write a statement about the disappearance of her husband. “I wrote a statement addressed to the commandant of the military commandant’s office, I do not remember his name, because it is not mentioned any more. “The military commandant’s office” tried to play the role of a focal point because there were a lot of groups in the city that competed with each other.” Dmytro’s colleagues from the shop who witnessed his kidnapping, refused to write claims to the police.

In subsequent days, all the attempts to find Dmytro failed. The woman came to the Lysychansk District Oil Administration every day, they said that they were looking for Dmytro, but he was nowhere to be seen. Nataliia visited all the places of holding hostages, including the Security Service, the Prosecutor’s Office, the Lysychansk glass factory. “When I came to different places for holding hostages, the first question everywhere was “What political views he has?”

Dmytro was released on August 10 around 15.00 p.m. He was kept captive for 6 days in total. The man returned home with numerous bruises, including a closed fracture of a rib. It was found that after five militants captured him, he was immediately taken to Loskutovka village 30 kilometres from Lysychansk to an abandoned military base.

Dmytro was beaten for three days. In the worst manner – on the first day. They shot near the ears, forced him to dig a pit, threatened to cut off his legs, flogged with an ax near his feet. When beating



him they demanded to give them some lists. Later it turned out that one of Dmytro’s colleagues from the shop, who was married to a member of the IMG, said her husband that Dmytro collected some lists of “militias” and transferred them to Pravyi Sector supposedly. Besides Dmytro, they held several people in Loskutovka. He did not know them, but all those people had significant bruises.

Medical Records of Dmytro Skomorokh based on a medical examination held after his release from captivity.

The police, whom Nataliia asked for help, have issued a certificate of its “helplessness”. “The measures taken to establish the location of Mr. D.M. Skomorokh did not give any result,” – the document explains.

3.6. KIDNAP OF THE PASTOR OF THE PROTESTANT CHURCH

Some cases of kidnapping and taking hostage in the region happen on the verge of ideological and personal reasons. It is obvious that the situation of legal chaos was used for the purpose of targeted massacre of certain people. As an employee of the Office of Children’s Service, Nataliia Honcharova said that she faced the cases where the wives asked the militants to “educate” their husbands – to take them to the trenches, for example. However, then there was the problem to get them back.

A striking example of competing of the

ideological and personal reasons is a case of a kidnap of the **pastor of one of the Protestant churches** (he wished not to publish his name) who was caught right in the premises of his church in Pryvillia village near Lysychansk.

On June 27, immediately after the worship in the church approximately 6 masked men with guns entered it and shouted: “Everyone on the floor!” “They started to run, scratch around,” – the pastor says. – “One of them, who was without a mask, had Caucasian features. They looked as if they were frightened; I think they had

a drink before. One of them threatened my wife that he would shoot her. There also were little children in the church. One shouted, “Grab the children!”, but they managed to escape.”

The man is sure that the gunmen stopped in Pryvillia not by chance, because earlier they have never seen men with guns in this area. “One of our brothers married the girl whose family did not approve him, because he is a former prisoner, who, moreover, occupied a pro-Ukrainian position. The brother of that girl Ruslan belonged to the militia, and was a

member of the guard, that came to capture us. It was a kind of personal revenge, but it developed into another motive – namely on which side we stand. A few weeks before my wife and I travelled to western Ukraine with a visit and that was the first thing I was questioned even in the church.”

The militants arrived in two cars – a light motor car and a jeep. Two people – the pastor and the mentioned man who did not satisfy the militant Ruslan for personal reasons – were loaded into a car and taken first to some place unknown for our interlocutor which he names “a box”. The pastor’s hands were tied; all his personal items were collected, including a mobile phone and money.

“When we were brought to the box, they immediately placed a gun to the back of my head and began to shout: “Speak!” I asked, “What should I say? Ask any questions.” Then they sat me on a chair, and began to ask what drinks did we give to our faithful to make them “dumbed down”, they began to examine our veins, asked who the chief of our church was. Subsequently, they poured our legs with gasoline, threatening that they would scorch them, but they didn’t.”

One of the gunmen struck a violent blow at the pastor, resulting in broken upper jaw. The second man was beaten even more, required to file an application for divorce with Ruslan’s sister. The pastor says that one of the fighters called themselves Russian. There were no people in the box except them. When they

were taken out after questioning, the man saw a yard and an unfamiliar suburban area. “When they led me they constantly tilted my head towards the ground, so it was difficult to spy out the land. Then I was worn a neck face mask so that I did not see anything, and the other kidnapped person was put down to the trunk. We were taken to the glass factory. We arrived there late at night. Someone ordered to put us to different places. I was led to a former bomb shelter. I spent one night there alone. I was in a terrible state; my broken jaw ached severely. But they were irritated by my calm-tempered behaviour.”

On June 28, in the morning, the pastor was led to a local “barrack” to work. He was given a companion with whom they cleaned the second floor of the former office building, inhabited then by the militants’ chiefs. “My companion was also brought at night. It turned out that he was driving drunk, and when they stopped him, he began to snap, and got shot in the foot. He got that ball out of his foot, and he was made dressing in the first-aid post, and later they took him for dressing to the hospital.”

After cleaning the pastor was sent to unload “Ural” loaded with weapons. There were dozens of grenades and hand-held grenade launchers. After unloading he was cleaning the combat’s rooms on the second floor of the former factory office, and then – digging trenches.

The militants in the territory of the glass factory did not have any stripes in

their camouflages, only the St. George ribbons. According to the pastor, there were about 500 militants there.

During the day of his stay in captivity, the pastor saw over 20 prisoners in the territory of the glass factory. They were located in two rooms on the ground floor of the former office building at the end of the corridor. He managed to communicate with some of them. He had even known one of them before. “He was no stranger to the bottle, an unemployed. It turned out that he was a former prisoner from Stekolnyi District. When he was asked to go to the militia, he agreed... Two hostages told, they were detained simply because they went to the store. One was accused of being the member of Pravyi Sector and beaten strongly for it, although he was very frail, looked as if he was 45 years old.”

Later in the afternoon, at about 17.00 p.m., the pastor was put handcuffs on and led to a big shop, where the militants had the shooting range. They said, “Now the “doctor” will come to talk to you”. The “doctor” and another one, I thought, a Russian, questioned me what I knew about the mopping-up operation. I told them I knew that city citizens were talking about some mopping-up operation, but I did not know what it was”. They asked me about the murder of children in Shchastia, asked how I will meet the Ukrainian army. During the interview, the doctor fired over my head first with the gun, and then he took a machine gun and clubbed me in the shoulder. It lasted about half an hour.”



Then the pastor was led to one of the rooms where about 10 prisoners were kept. It was difficult to breathe for the man because of his broken jaw, but the militants did not let him go to the hospital, a nurse examined him at the site, although it did not help.

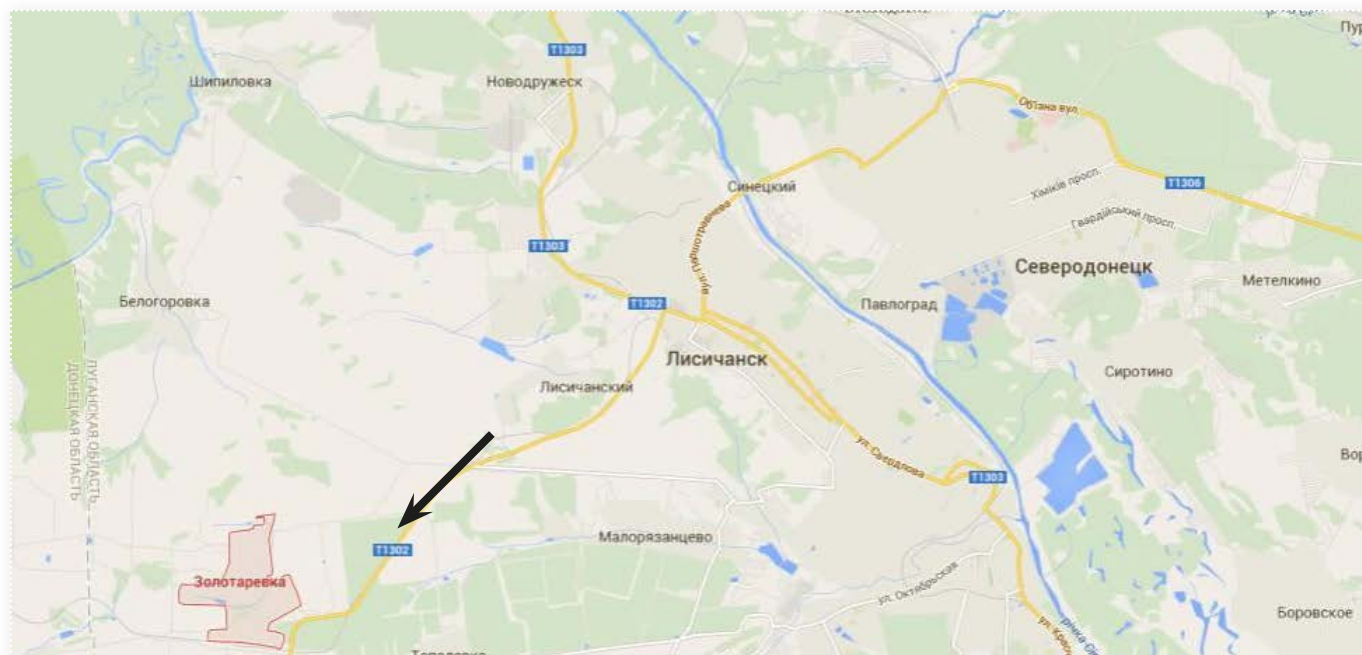
They were about to send him to dig

trenches in the city, but it was found that his mother and aunts stood at the entrance of the glass factory demanding his release. They did it because one of his aunts was a member of the Communist Party and knew the man in chief at the glass factory. His nickname was “Hnom” (that person was

already mentioned in the evidence of the wife of a kidnapped man, who was also a prisoner at the glass factory).

The pastor has spent about one day in captivity. After his release he left Lysychansk and returned after the city was liberated. He did not file a claim to the police.

3.7. MURDER OF MR. PETRENKO, THE HEAD OF THE INVESTIGATION DEPARTMENT OF POLICE IN LYSYCHANSK



At the time of his kidnapping Vitalii Petrenko was an acting Chief of the City Police Office of Lysychansk. On November 3, 2014 he had to celebrate his 41st birthday. After the outbreak of armed occupation a significant part of the police personnel went on vacation or sick leave. V. Petrenko decided to stay in town, but, according to his wife Nataliia (with whom our inspectors had an opportunity to meet and who is working as the Head of the personnel department of the City Police Office of Lysychansk), refused to meet the rebels. She said that most police officers remained faithful to the oath.

On May 25, armed men came to V. Petrenko’s office and took away from the police station all Kalashnikov assault rifles and ammunition to them. Then V. Petrenko began to insist that his wife and children should leave Lysychansk because of the threat to them. Nataliia with children moved to the Crimea temporarily and stayed there until July 4.

Vitalii Petrenko was kidnapped on July 8. The man went to work, but did not get there. Before the kidnapping Nataliia’s husband did not say anything to her, but she noticed that it was “something wrong” with him. He continued to insist that Nataliia and children should leave the city.

On July 8 at 8.30 a.m. Nataliia heard persistent knocking at the door. It turned out that her husband’s colleagues came; they realized that something was wrong when V. Petrenko did not appear at work on time. At that moment, his phone had not already answered. That night Nataliia did not sleep at home, then she went to Svatovo, and then to Kharkiv, where she stayed until July 28.

Since then and until mid-September, Nataliia did not hear anything about his husband.

On September 18, Nataliia was reported that they had found the body, which might belong to her husband, and was invited

to the identification. The body was not exposed to identification, but they found a driver's license issued for V. Petrenko in the pocket. According to Nataliia, her husband's body was found in Zolotarivka, it had stayed there from July 12. He was allegedly taken to the military enlistment office in Severodonetsk prior to the murder. But it is currently unconfirmed, and Nataliia does not have access to the file. V. Petrenko was buried on September 19.

According to Nataliia, her husband was killed because he "did not want to get in touch with the separatists".

According to information obtained by us from various sources, V. Petrenko was shot in the head. The investigation has already determined four persons involved in his murder. All of them are the members of the IMG, one of them is already dead, and the other three have left the city and stay at the territory controlled by the militants. According to our sources in the City Police Office, V. Petrenko was sold out by his colleagues.

There was a version that V. Petrenko tried to escape somewhere, but Nataliia rejects it. There is also some unverified information about other reasons of V. Petrenko's murder related to "internecine quarrelling" between the police officers. However, his former colleagues insist that he died because of his position; and a stand in memory of the former Head of the Investigation Department was hanged in the City Police Office.



Vitalii and Nataliia Petrenko



A stand dedicated to V. Petrenko at the City Police Office of Lysychansk.

3.8. SHOOTING OF THE “GREEN CORRIDOR”

A separate story that deserves attention is **shooting of the “green corridor”**, which passed through Proletarskyi (Severodonetskyi) bridge. It was announced for a few hours during the operation of the Ukrainian troops to release Lysychansk on July 24. The peaceful population that tried to leave the city through the corridor was shot by the IMG. In particular, the TV spot prepared by the correspondent of “Inter” TV channel Ruslan Smeshchuk as of July 24 devoted to the complex process of liberation and in particular to the “green corridor”, reads as follows: “Hundreds of people are leaving the city... Unfortunately, it did not go without victims among civilians. When we were at one of the checkpoints through which people were rescued, a terrorist sniper killed an elderly man. It happened at the time of the car inspection; a man was standing in line with a soldier, and at that point the sniper shot. And other citizens of the city told us that during the evacuation they fell under the militants’ fire. “I waded through the bushes, as they drove fire on me.” <http://podrobnosti.ua/podrobnosti/2014/07/24/986190.html>

The inspectors failed to meet a man in Lysychansk, whose father, according to

him, was shot dead in that “green corridor” with a sniper bullet. It happened at the intersection of Sverdlova and Pervomaiska Streets, which locals call “Melnykov’s turn” (from the name of the mine located nearby).

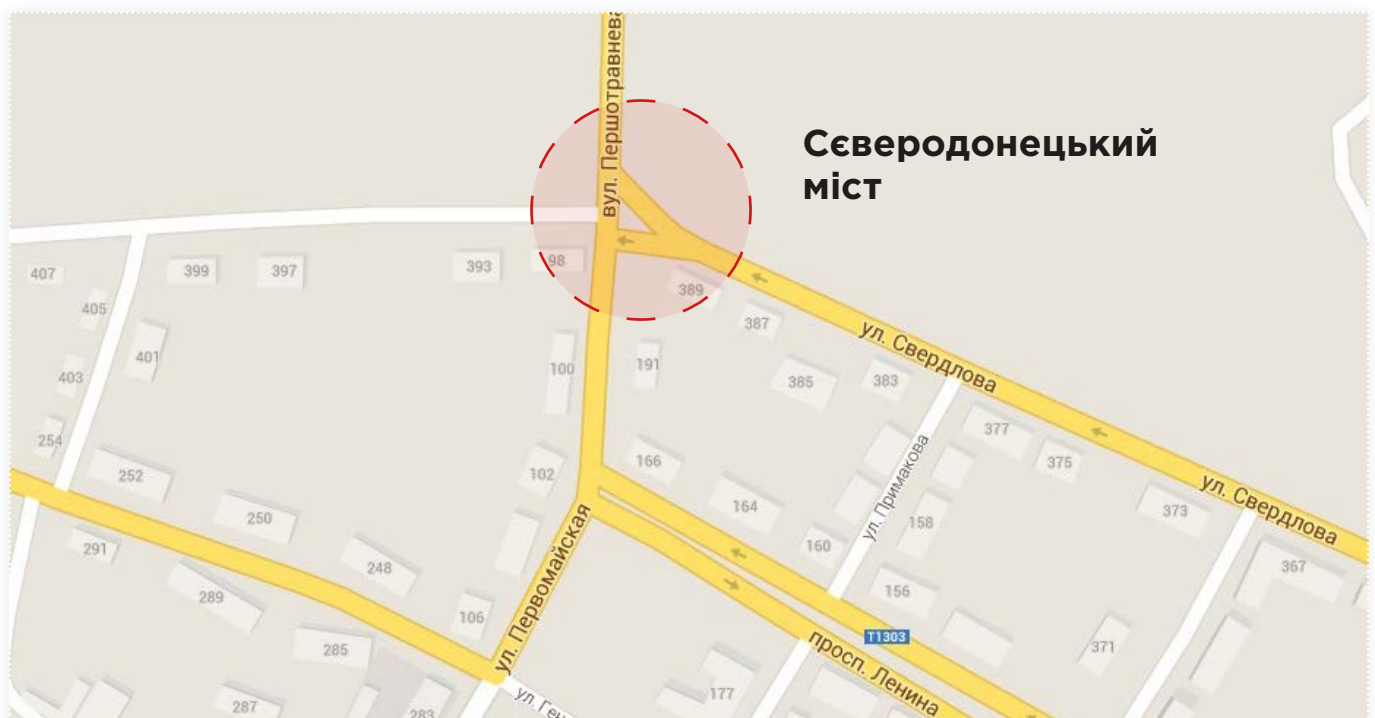
A man who wanted to remain anonymous described the details of this event as follows:

“July 24 was the third day of bombing. My wife was 5 months pregnant and I had not already sleep for three days. We decided to leave the town. I noticed that movement towards Severodonetsk bridge started; some people were on foot, some on bicycles or motor transport. At that time my aunt, who lived in Svatove district, called us. She said that she had heard the militants had opened the “green corridor” in Lysychansk. We did not have such information. Then my sister called and said they had already left for Severodonetsk by taxi, and urged us to leave. She said that the “green corridor” would be open until 18.00 p.m. I made a decision to leave. I tried to call a taxi, but failed. After all, my father insisted that he would take us out of the city. We agreed with him and then went to Sverdlova street. The ambulances and other cars were passing by. I was with my wife, her younger brother and our neighbour with her daughter. My

father did not come for a long time, so we flagged down a passing car. Everyone got into the car, but there was no seat for me, so I remained to stand by the road waiting for my father. After some time he came and we started going. And suddenly at the “Melnykov’s turn» a ball flied from the alley, passed through the driver’s door and entered the left side. I thought the injury to be minor. I asked, “Are you wounded?” He answered “yes” but managed to stop the car. He was lifeless in a few seconds, looking forward with a frozen look. I brought him to the central hospital in 5–10 minutes. They responded immediately, but it was too late. The father was taken to the morgue. And then the real battle began. Bullets flew overhead. I realized that there would not be any “green corridor” any more.”

Our interlocutor is a former Ukrainian contract soldier – a member of a peacekeeping force in Kosovo. He believes that this shot could not be a coincidence.

“At first I thought: well, the sniper wouldn’t fire at us, and then saw several cars with the same bullet holes on the side. It rather was a tactic and not a coincidence... When Ukrainian troops approached the city, they began to fight a defensive action. I think they had some combat experience.





381 Sverdlova Street, from where a sniper could make a shot

The majority of militants were under their leadership, fulfilled their orders,” – the man says.

There was the only road to leave the city so all people and all transport vehicles were driving along it. The ball was not even taken out of the body of the dead man. A pathologist made a conclusion on the death of the man in the absence of his son. According to our source, “As far as I understand, the pathologist made an assessment on the eye, because there were a lot of dead people. He wrote in the certificate that the death was due to a shell fragment wound.” When asked whether he tried to challenge this conclusion, the man replied: “You know, the situation was such that there wasn’t any police officers to accept the claim... There were no representatives of the Ministry of Internal Affairs... There were military men, but it was not their function. I had one goal – to bury my father properly. But even this was not possible: we buried him on July 27 without a priest. Although we can say that we were lucky that we even managed to bury my father. It was possible only thanks to friends at the funeral service.

When they opened the morgue so that I could take the father’s body, I saw a mountain of dead bodies there.”

Soon the man was called to the City Police Office where he spoke with the investigator. “He pointed me to an article. They see it as a result of a terrorist act: they think that one size fits all.” The man was not informed on the course of the investigation. But the fact is that he does not believe that the guilty will be found and brought to responsibility.

The inspectors were able to visit the scene of the crime together with the interlocutor. The man showed the place where, in his opinion, the sniper was and from where a shot could be made. This is the roof of the house No.381 in Sverdlova Street. The attic of the house is not closed, and the traces of probable shoes are visible on the wall at the entrance to the attic. The inspectors could easily get to the attic. However, they failed to find some traces of sniper there.

In addition, our interlocutor mentions several important episodes the members of the mobile group were unable to verify, but they still need to be reviewed.

The first story was a car with children, which allegedly was also shot in the “green corridor”. The man says, “I saw a red car. There was a table with a word “children” at the windshield. I saw that a car was chock-full with children and begin waving them with my hands, saying “where you are going, stop!” The driver did not respond. I heard that a bit later that car was shot... I also know that the family from the house opposite was shot when leaving the corridor. I think that they could be in that car just because I know that before leaving they took a lot of children of their neighbours with them... My wife told me that she saw how people in the column who had already passed the bridge just fell down from shots.”

The second story was told by the man referring to his colleague. “He saw a minibus approached to the garment factory, which is opposite to the bus station. A Chechen came from it (he served somewhere in the Caucasus and can distinguish them), lay down on the grass, smoked, examined his rifle and after that climbed onto the roof of the garment factory. He was not alone in the car. Apparently, they were transported



The attic of the house No.381, from where a shot could be made



Approximate place of the car shooting.



Entrance to the attic of the house No.381



The attic of the house No.381

to positions. It was on July 24. No one saw snipers in the area before.

According to our interlocutor, after the release the Ukrainian army warned the residents that many snipers left in the city, so it was not desirable to move the streets yet. It was not official information but the rumours that passed from mouth to mouth.

The third story that needs to be reviewed is as follows: *“Even female snipers worked on the waste piles as it was a very comfortable position. They shot people right and left. Local citizens also found the shields and the items of ammunition that were much smaller than those used by men.”*

The mobile group found out the information on the cases of capture of the following people in Lysychansk. However, they either refused to communicate with the mobile group or were not found by us.

The head of the “City Heating System” Utility Enterprise was kept in the building of the Prosecutor’s Office for about a week because he refused to pay wages the IMG participants who bunked off for obvious reasons.

A former professional soldier was ransom kidnapped and for about a month held hostage at the glass factory. He was forced to fight for the LNR, but refused and escaped later. Apparently, it was the man mentioned in the story of the Protestant Church pastor. *“We unloaded weapon from Ural together with the reserve officer of the Armed Forces of Ukraine. At that time he already was there for 19 days. He was sent to dig trenches in Sloviansk, twice “shot”, they tried to force him to serve the “LNR” but he refused.”*

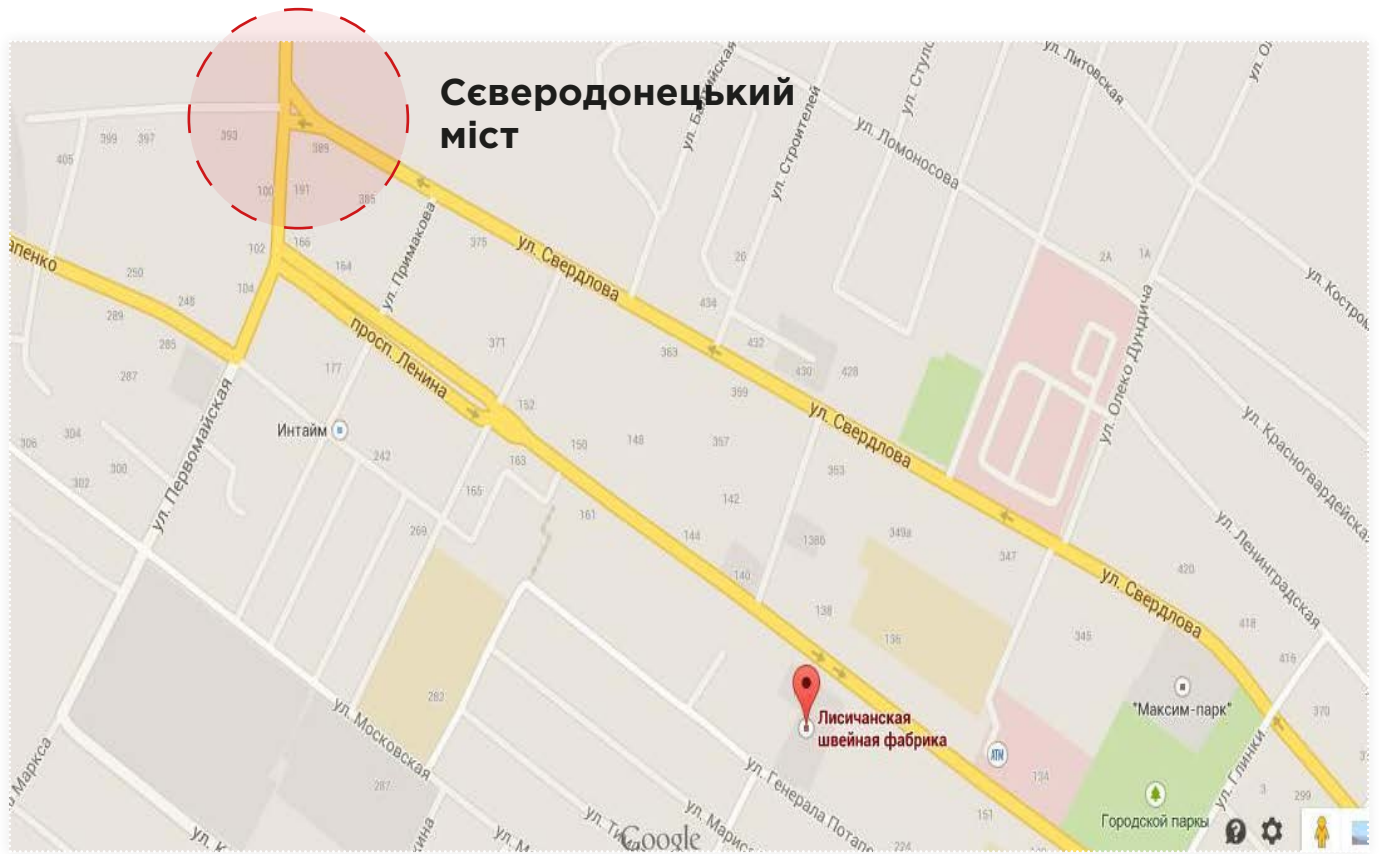
The militants searched for the Ukrainian teacher from the school No.8,

because she expressed support to Ukraine.

According to unconfirmed information, the Head of the Civil Defence of the Citizens of the Lysychansk Executive Committee committed suicide because of pressure on him from the militants in late May. He was threatened and demanded to prepare bomb shelters properly; they said he would be killed otherwise. However, his suicide was recorded as a heart attack. But no one knows what is written in the medical certificate.



Probable sniper’s position (view from inside)



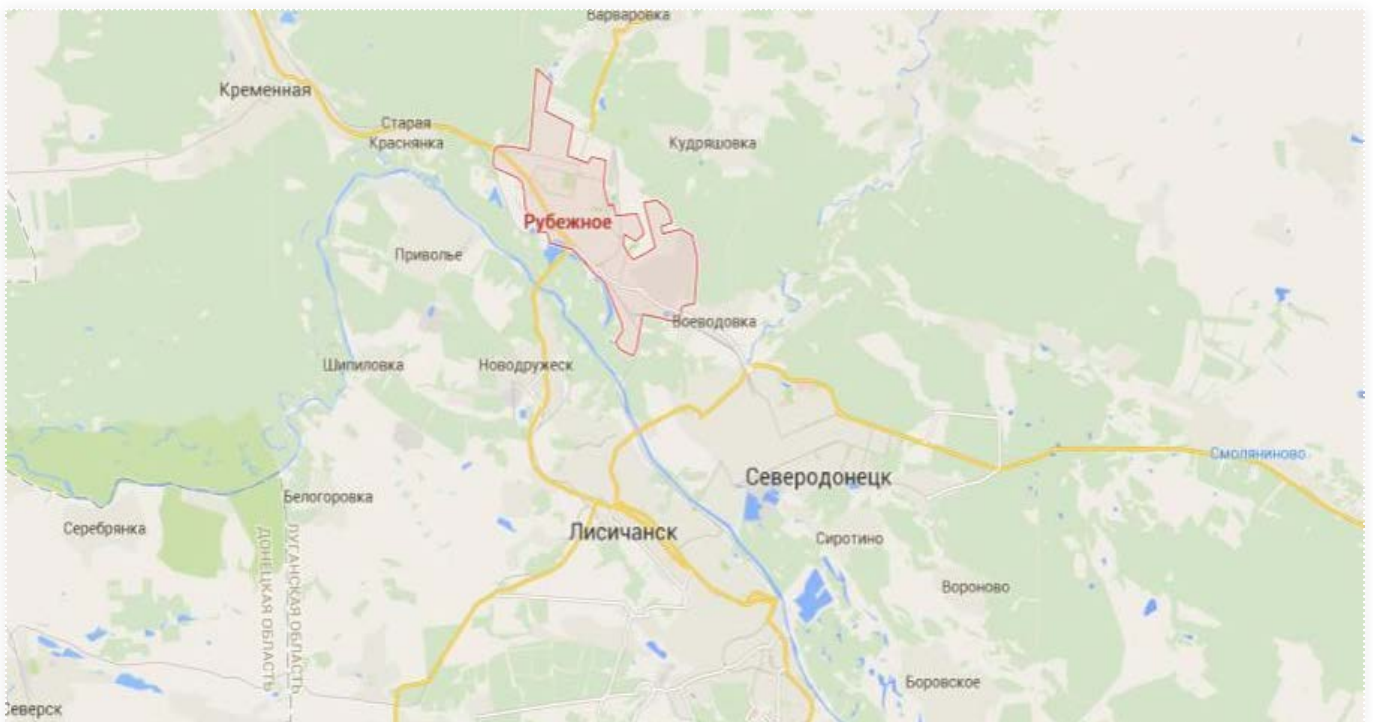
3.9. INVESTIGATIONS

From our sources in the law enforcement authorities we managed to get a printout of the complaints about illegal imprisonment during the occupation registered in the Unified Register of Prejudicial Inquiries (referring the statements from June to September 2014). There are 37 statements and all of them have an almost identical plot: unknown persons in camouflage illegally imprisoned or kidnapped a citizen X. Only a few of these 37 cases were closed. It should be noted that not all the

victims of kidnaps and tortures filed their claims to the police. Such appeals are rather an exception. Therefore, we consider drawing conclusions about the number of hostages based on this list inappropriate. The number of reported murders is 21. However, a significant portion of them made the deaths that occurred because of shell fragment wounds. The mission pays special attention to the fact that some of the remains were found at the same place – Shkliar reservoir. This is a popular fishing place located in Lysychansk. According to

unconfirmed information, there was situated a military unit No.21335 in Soviet times. All the cases related to the period of occupation and activities of the IMG are under the jurisdiction of the SSU. Therefore, the Ministry of Internal Affairs informed us about the progress of their investigations. We are currently waiting for the SSU reply to the request for information.

4. RUBIZHNE



4.1. CHRONOLOGY OF EVENTS IN THE CITY IN THE PERIOD UNDER REVIEW

On May 22, approximately from 2.00 to 6.00 a.m., the gunfire with automatic weapons was heard in Rubizhne, in the area of Tomashevskiy bridge. Firefight and explosions continued until morning. Locals constantly heard heavy-calibre guns shots, and perhaps mortars shot or grenade launchers. The bridge over the river Donets was blown. That morning even mobile communications went wrong.

On May 23, UkrSotsbank stopped its work in Rubizhne. Rubizhne became a battlefield. <https://www.youtube.com/watch?v=R-DclQZFp4U#t=73>

On May 27, explosions and shooting were heard, the reason was unclear.

On May 28, the militants used stolen ambulances to transport ammunition. The unidentified persons shot residential areas of the city the same day. No one was injured during the night shooting in Rubizhne, but

6 houses were partially damaged. The ATO Speaker Viacheslav Seleznev said that it was not the Ukrainian Army to make shots at residential districts. The militants shot at the ATO roadblocks and residential areas of the city. They fired with automatic grenade launchers (presumably AGS-17 and AGS-30) as well as with mortars from the residential area of Trudova Street.

On May 30, the militants blocked the road to Rubizhne. <http://bit.ly/2RRuROS>

In the night from June 4 to 5, from 22.00 p.m. to 00.30 a.m. and later at 4.00 a.m., the citizens of Rubizhne heard explosions. Some were very strong, sounded like blasting waves, in the Krasniankyi District on the outskirts of Rubizhne. But the Tomashevskiy bridge had been already blown up by then. Locals not only heard but also “saw” explosions: the rockets hung in the air for a moment, the fire flew towards the 7th district and a school No.10 after the explosion.

On June 15, the militants attacked a checkpoint of the Armed Forces of Ukraine. The checkpoint was located between the village Kransnianka and the city. The battle began at 14.00 p.m. and lasted over two hours. Powerful explosions and machine-guns seriously alarmed the citizens of Rubizhne who had already become accustomed to the night gunfire, but the daily battle forced many people to seek shelter.

On June 23, Mozgovyi’s militants fired the checkpoints of the Armed Forces of Ukraine. At about 4.00 a.m. the militants of Oleksii Mozgovyi made fire attacks on checkpoints of the Ukrainian army located in Stara Krasnianka and Varvarivka villages.

On June 28, at about 22.00 p.m., a group of armed men with automatic weapons, dressed in camouflage uniforms, fired the building of the Rubizhne City Police Office, then entered the premises of the City Police Office and having threatened

the employees with weapons stolen two AK-74 and 120 rounds of ammunition.

On June 30, the citizens saw tanks in two courtyards in Rubizhne. Local residents reported of it. At 14.00 an anonymous message was received; it stated that armed men with automatic weapons wearing camouflage clothing and masks, under the threat of weapons stole large quantities of fuel at the gas station of Ukrnafta, located in Myru Street in Rubizhne.

On July 2, at 05:00 a.m., the house No.48 in Sportyvna Street, the houses No.33 and No.40 in Pomsomolska Street, the house No.112 in Pomeranchuka Street in Rubizhne were damaged with shells.

According to SVS source, “on July 4, a group of armed separatists walked through the market in Rubizhne and collected “tribute” from some vendors.

On July 9, at 10.45 a.m., the premises of the Rubizhne City Police Office were entered by the armed people with automatic weapons wearing camouflage clothing. The Chief of the Police Office, Lieutenant Colonel D.H. Shpak, was taken handcuffed to an unknown direction. The place of his location is still unidentified.

On July 21, Rubizhne was freed from the militants, and the Ukrainian flag was run up over the Executive Committee.

Rubizhne was on the outskirts of active militants’ activities within the “chemical triangle” Severodonetsk–Lysychansk–Rubizhne to some extent. In fact, there was no complete occupation there except the

headquarters of local Afghans loyal to the LNR. That headquarters was located in Lenina Street near the “Lastochka” shop. The flag of the LNR was planted at the headquarters entrance. Nevertheless, locals still were stolen, but transported out of town immediately and kept in various places. It can be assumed now that everything depended, in fact, on the certain IMG that hunted them.

According to our source in the Rubizhne Police Office, “a group from Rubizhne” was engaged in tortures in Severodonetsk. The main goal of their activities was financial gain. According to the source, those militants who were in the city went to serve Dromov (one of the chieftains). According to the policeman, local drug addicts got the most, but not for the reason that the militants cared for human health and struggled with drug addiction, but because they believed they could “bring down money” from the relatives of those people. According to the source, the militants were not interested in “miserable pro-Ukrainian activists”.

The presidential elections never took place in Rubizhne in May as several voting stations faced attacks of Chechens. According to local activists, those Caucasians were killed by other militants later for selfish reasons.

The inspectors have documented several cases of kidnappings of people from Rubizhne. They were transported from there to Severodonetsk, Lugansk and Lysychansk.

4.2. KIDNAP OF LIUBOV X.:

Captured in June and released in 12 hours

A local social activist and a pensioner Liubov X. starts observation of the events from April. At that time there was a “fight of rallies” – pro-Russian and pro-Ukrainian – in the city and in the region as a whole. During one of pro-Ukrainian meetings, a well-known case of hard crackdown of pro-Ukrainian activists of Rubizhne by the criminals happened. People were choked with Ukrainian flags. Vasyl Liutyi, a music teacher from the school No.9 and a pro-Ukrainian activist, was tied to a tree in the centre of the city and people victimized him, and did not let a paramedic who arrived with the emergency crew to provide him medical care. After that the paramedic

went away with the words “I also have the family, and I want to live too”. Later Liutyi went to western Ukraine.

According to Liubov X., during the occupation there was even an underground resistance headquarters in the city, which included a few dozens of pro-Ukrainian activists; Liubov was also the member of that organization. They even had a chance to meet during that period, albeit secretly.

Liubov became a victim of kidnapping, though a loyal one if compared to the others. It happened in June. The woman does not remember the exact date. About 22.00 p.m. someone called on her mobile phone, and a familiar voice asked for a meeting. She felt a threatening tone, so decided that she could not refuse the flagitating for the meeting. Soon a “cool” car without license

plates came to her yard. Two men sat in the car: the woman knew one of them; he was a former police officer, whose name she does not want to mention. The second one, she believes, was an Afghan. Both men were in camouflage; the car was apparently stolen. At the checkpoints on the way from Rubizhne to Severodonetsk the men showed their “IDs” issued in the LNR. The woman was taken to the SSU of Severodonetsk where the hostages were held. One of the men instructed her: “*Just do not tell that you are pro-Ukrainian*”. On the way she was told that she must “identify the stupid jerks”. On her arrival, Liubov Mykolaivna was brought to the basement of the SSU, where it became clear that she was taken for the “identification”. First, she was shown a former police officer, who worked in Rubizhne as a policeman (then he was

engaged in private law practice) and, according to the activists, had a bad name as the person related to drugs. She saw him tied to a chair, with a bag on his head. When asked whether she recognized him, Liubov said, “I do not recognize him”. Then the woman was shown another detainee – a former prosecutor (then he was engaged in private law practice, along with the above-mentioned person). There were traces of blows on the man’s body; he was sitting in a corner in the basement, but in another room. She was

asked to identify him, but she refused again, referring to the fact that she did not know him.

This section contains the information on both men’s stay in captivity.

The woman claims that she felt a smell of a corpse in that basement, but she did not see any other people or dead bodies there. She was not beaten, tiered, handcuffed etc., and treated as correctly as it could be in those circumstances. Liubov says that in the yard of the SSU she noticed many cars without license plates.

In her view, it looked like all those cars had been stolen.

She was taken home on another car in the morning. On the way she was told that “we know all your addresses”, and those words sounded like a threat. They also said that “if our people come – we will kill your people”. One of the men admitted to Liubov Mykolaivna that he was invited to the LNR as a “specialist” and it was not easy for him to leave them. At that point the episode with her kidnap was exhausted.

4.3. KIDNAP OF VOLODYMYR KOZIUBERDA

Kidnapped in June and kept hostage for 3 days

There are several notable moments in the case of Volodymyr Koziuberda. In particular, he said that the hostages of the militants were forced to fight for the LNR, and many of them have been subjected to fear and agreed to it, especially those who were detained for “disciplinary” and not ideological reasons. In addition, Volodymyr is a witness of mass presence of the Russian troops in Lysychansk, whose representatives, according to the man, questioned him.

Volodymyr Koziuberda is a car mechanic from Rubizhne, calls himself an “ordinary busy bee” who has always had pro-Ukrainian views. He began to carry humanitarian aid to Ukrainian military men in March (the nearest checkpoint was behind Nova Astrakhan).

“One day in May when I passed the Ukrainian checkpoint with the field kitchen in my trailer, someone took a picture of me, in such an angle that the field kitchen looked like a gun. The photo was posted online, – Volodymyr says. – But only on June 22 when I was captured I became aware of the fact that they had declared a manhunt for me.”

Volodymyr refused to travel to the calls to Severodonetsk and Lysychansk realizing it was the risk zone. If compared to them Rubizhne was safe. Once he asked his son (born in 1994) to go to one of such calls. “He had to get free in half an hour. But the connection was interrupted for more than three hours. Finally, I realized that something was wrong. Then his phone turned on, the son called me and said,

“Dad, come to Lysychansk, please!” The phone was snatched from the hands up and somebody’s voice said that if I did not come in half an hour, then in another half an hour my son would be in Sloviansk digging trenches. They wanted to see me.”

As it turned out later, the son of Volodymyr Koziuberda has become a hostage of the militants already in Rubizhne when he came on call; 5 people began to beat him with guns immediately and put to the car. According to V. Koziuberda, a local policeman was present there at that time – “without any masks or camouflage... He pointed his finger at my son and said, “Yes, this is a son of that tow truck driver.” Now that policeman left the city”. One of the IMG participants got into Volvo 740 (Volodymyr’s son came by that car) and went away. Later they failed to return the car.

Volodymyr went for his son immediately. At the checkpoint near the “Proletarii” plant, which is situated on the Severskyi Donets River, he was put a bag on his head, put to the militants’ car accompanied with two people on both sides. His hands were not tied. The car moved on to Novozhrushesk from there.

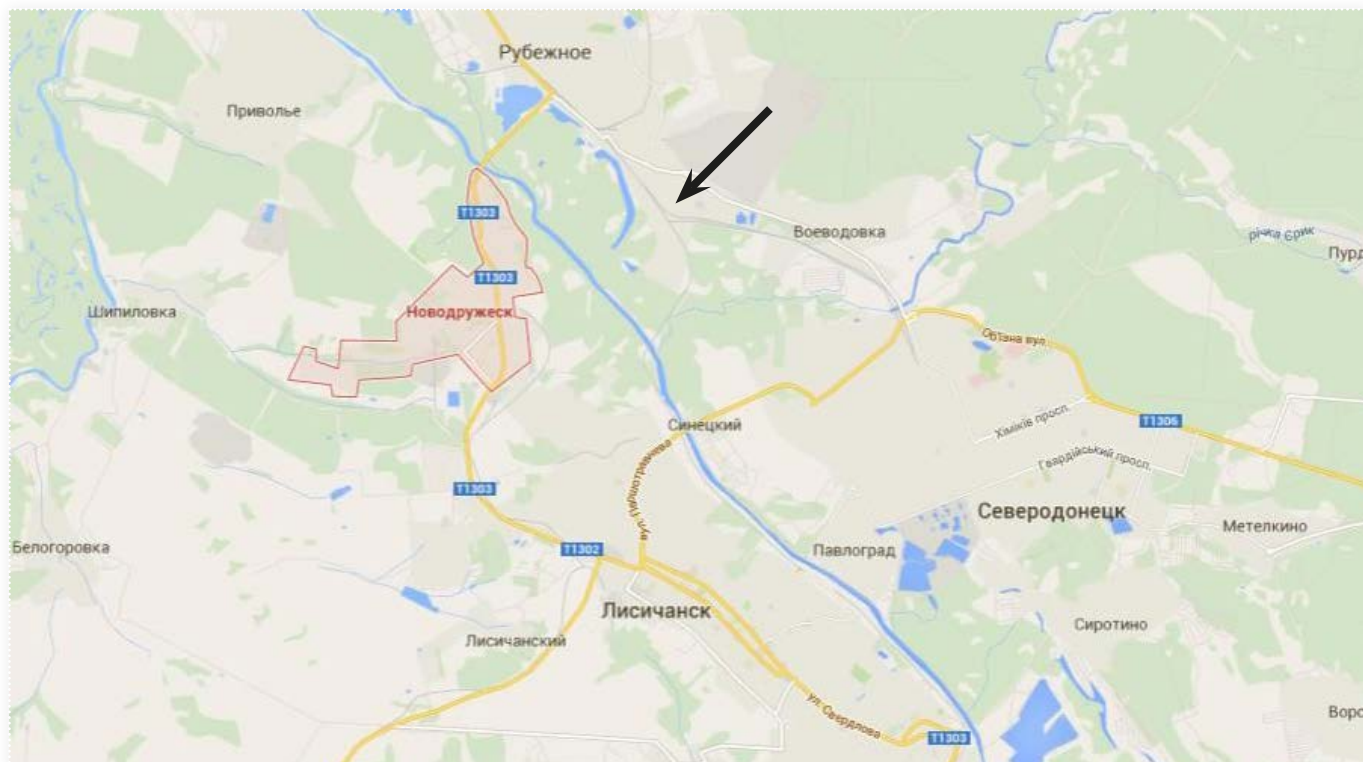
“We took my son there – he was kept in some kind of the headquarters. The room was situated in the centre near the theatre... I was with a bag on my head, but it was a bit transparent; and as I knew that area well, I understood where I was.”

After that Volodymyr and his son were taken to the Lysychansk glass factory. They arrived late afternoon. They were beat all the evening and all the night in the same room; the militants used the electric jolt, choked them with hands until they lost

consciousness. The man claims that he was choked by a Chechen (“I determined it by his appearance, accent, name, although I do not remember his name”). According to Volodymyr, “locals did not torture us, only Russians and Chechens. Two floors above us were filled with the Russian troops.”

The first night he was held in a room on the first floor of the factory office facilities (at the end of the corridor), the second night – in an opposite room. The next night they did not beat him severely, but according to Volodymyr, there was a moral humiliation: “for example, they could push out cigarettes on my hands...”

“Even then, there were 95% of Russians, and no one was ashamed, no one hid. They said, that we, the Russians, had come to defend you, but you were sitting here, and did not protect your Donbas from “banderovtsy”, from the members of Pravyi Sektor; they would come to you and kill you, they would eat your children and abuse your women. They showed their passports, rubbed our noses in them and said – we were from Rostov region, from Belgorod region. We, the Russians, had arrived there, but you were just sitting and drinking vodka. The fact was that they caught many citizens at night with a bottle of beer, and brought them to the glass factory, every night they captured dozens of them in such a way. Thus, 95% of them were Russians. With modern weapons, with the latest optical rifles. They made raids every night and went out as quietly as came – they tried to be invisible so that no one even noticed them. Those military men wore Russian chevrons. As they drove us to clean toilets, corridors etc., we saw all that”, – Volodymyr said.



At the glass factory Volodymyr noticed modern cross-country KamAZ trucks and the airborne combat vehicles stolen from the Ukrainian armed forces.

“We worked all day long at the plant. They beat us at night, demanding me to join their LNR. I refused and said to my son, “Son, endure beatings. It’s much better than these rascals will give you the machine in the hands and send you to fight in Sloviansk tomorrow.” At that time there were fierce battles in Sloviansk.”

Volodymyr had to deal with Oleksii Mozgovyi. *“When no one wanted to join their ranks, he was nervous a lot. He lined all the prisoners and began firing with a gun at our feet. Many were afraid – approximately 10 people fling out of the line immediately and said they would fight for the LNR. My son and I were the only political prisoners there.”*

However, the son was released the next day. According to Volodymyr, 20–30 people were permanently kept at the glass factory. Some people were released the next day, when the militants saw that people were weak and they did not need them.

Volodymyr was released three days later, on June 26, when, according to him, the militants realized that he would never join the LNR. Later, he was offered to buy his own car.

“In a week and a half after I came out of the captivity, they came to me and said, “Give us \$1,000 and we will return your car. I told them, “I will not give you a penny, I will not feed you. And that day my son and I went to Kharkiv to avoid another kidnap. The volunteers were worse for them than

the military men were. They treated the volunteers worse than they did the prisoners of war. I personally know a man who was caught and taken to Lugansk because he had helped the army. He spent a month in captivity. There, in the SSU building in Lugansk; they mocked at him, and even cut off a half of his ear.”

Volodymyr and his son returned to Rubizhne in late July, three days after the liberation of the city.

4.4. KIDNAP OF VALERII KHARCHUK

Was captured in May, released in two days

On May 7 approximately at 15.00 p.m. Valerii Kharchuk, a local entrepreneur, a deputy of the City Council of Rubizhne, a former assistant of one of the former deputies of the Party of Regions, was informed by the officer of the Prosecutor's Office that "Khomenko (an acting mayor of Rubizhne) with armed men have stopped" on the outskirts of the city. He was offered to go there to find out what had happened. Valerii went to the district of the Molodizhne Lake. *"I came, saw Mr. Khomenko, Afghans, half of which was in the militia. They were talking about something. I left the car, approached and asked what was going on, who were that armed men. At first I was told that they just wanted to hijack the car, later they said that they were "our separatists". "Yours – not ours," – I said, turned around and left. But then they blocked the road with Opel Vivarium. 7 people stepped out of the car and opened fire in my direction. People were in black overalls, looked like the policemen. I went out and said, "You shoot at a wrong target, the militants are behind you." But the answer was "So, our target is right." After that they put me in*

handcuffs, then threw to the car. They specified my home address. One of the gunmen got into my car. They instructed me not to raise my head."

On the way to Severodonetsk Valerii's kidnappers, he said, wanted to grab a few more people in Rubizhne, but did not managed to do that. Noteworthy is the fact that on the way they took on the passengers, people in civil clothes, who pointed out where the activists lived. At checkpoints one of the men in the car introduced himself as the "Colonel of the LNR Army", and said that they had captured a member of Pravyi Sector. Valerii was brought to the SSU of Lugansk, and took to the 4th floor. A man with a sign "investigator Maloi" sat in one of the rooms.

"He asked my surname, my party affiliation, if I was on Maidan. I said that I was there 3 times as a tourist. "What ties with the nationalists do you have?" I told him that I was just a victim of circumstances and they intentionally set me up – because I was undesirable. They called the police and checked if I really was not related to nationalist organizations. They said I really was not. But then the investigator said, "Still you are against us". I started to explain why it economically impossible to separate our region," – Valerii says.

Maybe that could be the end of his story if the "investigators" did not take his cell phone. *"One of the employees found my Viber conversation with a relative from the Crimea, where we spoke about Sloviansk. They began to accuse me that I was an agent of the SSU. They put a gas mask on me, started snapping a gun at the back of my head. They said, "Spill the beans!" I said I did not know what to tell. Then I was led to another room. They have brought two buckets of water there and said they would beat me with current. But they beat me only with a rubber stick. Later they beat me with the current as well, used the shock gun, simulated shooting. It lasted until 1.00 a.m."*

Then Valerii moved to another room. Militants found one more interesting conversation in his phone. *"They read another conversation with my sister Olena from the Crimea. I wrote that the Lugansk SSU was captured by the worthless people, corrupt SSU agents, the policemen, including members of the Berkut police unit who evaded legal consequences of their actions."*

In that room Valerii's nose was broken with a blow in his face. After that they made a break that lasted several hours and then tortures began again.



A photo of the approximate place of kidnapping

“They choked me two times. I lost consciousness twice. Then he said, “There is a safe, if we throw a grenade you will have time to jump into it, it’s tested.” He threw the grenade and run out of the room. The grenade did not explode. He returned, but I remained sitting on a chair as I sat before. He threw the grenade again, that time it exploded, but apparently it was not a fighting one but a sound. I had a light form of concussion. I was taken out to another room. The doctors measured my blood pressure and gave me some tablets.”

Valerii fell asleep and when woke up he saw a guy sitting near him. It turned out he was “ultras” who was sitting in the SSU for a week because he wrote negative things about the LNR on the Internet. The guy did not know how the militants managed to spot him.

The next day they led Valerii to Kyryl, “a hostage from Pravyi Sector” (he was beaten severely, frightened, with punctured feet), and asked him whether he knew Valerii.

Then – a new room again. A 55-year-old man came there; he brandished a knife in front of Valerii’s face, shouting that if he had been taken to the 5th floor, “they would have cut off the stripes of his skin”. In the evening they put Valerii in the car, worn him a face and neck mask and holding the muzzle near his temple transported him to a house outside Lugansk. At the site they reported that tomorrow they would bring him to Sloviansk, led him to the basement and closed.

“They threatened to bring my wife and rape her right in front of my eyes. I told them that I would commit a suicide during the day. When the day was over, I ripped a

can and cut my vein. I was sitting until fell unconscious. When I woke up in the morning, there was a puddle of blood in the room. I took off the mask and secured a vein. I found a metal corner and broke the door. Got out of the house and moved to another yard. No one was there, even a guard. But a man stood in the neighbouring yard. Without answering who am I and where from, he changed my clothes and transported me from there; he chose a by-pass road, passing all the roadblocks, except the one, but they did not stop us.”

Later Valerii was picked by his wife. He went to Kyiv for treatment. His wife Zhanna filed a statement to the police about the kidnapping of her husband, but there was no reaction.

4.5. KIDNAP OF AN ASSISTANT ATTORNEY YEVHEN CHUDYK

Captured on July 6, 2014, spent one day in captivity.

Yevhen works as an assistant attorney.

On Sunday, July 6, 2014, at about 13.00 p.m. Yevhen came to the office. At that time, he received a call from his boss telephone. However, Yevhen heard a voice of quite another person, who told him to go to the building of the SSU of Severodonetsk, captured by the militants at that moment, if he wanted to see his boss alive. They gave him 15 minutes to think it over. Yevhen went.

The SSU is located in Severodonetsk at Zavodska Street.

“My friend, a former officer of the Main Department of the Ministry of Internal Affairs of Ukraine in Rubizhne, brought me there in his car. We decided that I should leave him my passport of the citizen of Ukraine, a cell phone and keys. We also agreed with him that if I would not call him back in 40 minutes then he would go to Rubizhne and did not wait for me anymore; at the same time we agreed to meet not at the SSU building, but somewhere in the city.”

When arrived to the SSU building, he saw two people in camouflage uniforms; one of them was holding a machine gun. Those two came to Yevhen and began to use foul language, then one of them hit

him in the face with his fist and clubbed in the abdomen area. Then they handcuffed him and led to the SSU building. Yevhen saw the car of his boss and several cars without license plates in the yard.

Yevhen was brought to one of the rooms on the first floor. There he saw an underage boy who was with the kidnapers. They stroke Yevhen down

to the floor; then they began to kick him and beat him with police batons. They did not beat him in his head.

“However, they said that I “end up in a bad way, etc.”, all accompanied by a rough foul language. I was required to witness that I “provided a crime-sponsored cover” to addicts and deal in drugs; and they asked me whom I provide that cover.”



After a short beating, Yevhen was brought into the ward in the basement, in which 7 more people were sitting (some locals of Rubizhne said they knew Yevhen and it was rumoured that he really dealt with “covering”). That resulted in the next beating. Striking Yevhen down to the floor again they started beating him with police rubber batons, shot twice with a traumatic revolver (the first bullet passed through his right hand, the second hit the right shoulder). Then he was handcuffed to a radiator, and they continued to beat him, at the same time requiring telling everything about the crime- sponsored cover he provided to the addicts.

They also wore a plastic bag on Yevhen’s head, started to choke him with hands. Yevhen heard footsteps after a while and saw the man with whom he came from Rubizhne to Severodonetsk. They treated him in the same manner as Yevhen.

Later they brought Yevhen outdoors, showed some pits covered with sod, said that those pits are full of people they shot down, and that they would make the same with Yevhen.

“They gave me a spade and forced to dig my own grave. I was beaten with a club several times, because I seemed to be too slow digging my own grave. I dug a knee-high grave... I was told that was enough to cover me with sod. Then I was told to stick a spade into the earth, turn my back to them and face to the fence so that my brains would not splash the asphalt. I did it. They put a barrel of AK-74 to the back of my neck. The man who held the gun asked me once more if I wanted to own up to something, I replied that I did not commit anything. Then he raised the barrel a bit and made two shots, so that I felt the shots with my hair.”

Yevhen fell to his knees; they struck a few blows, and made a round of shots at the ground around Yevhen.

Then he was taken to the room again. They continued to beat him and applied electric current.

“They connected two wires to my thumbs and turned a handle at a few discharges interval, every 3–5 minutes, for about 30 minutes. As the result, I had burns on my thumbs. All that time they demanded me to own up to crimes.”

After talking with the person whose nickname was “Barmalei” who required to admit all the “bad things” they put a construction bag on Yevhen’s head and began to beat him.

“Then they took the bag out of my head, “Barmalei” brought a metallic object – either a soldering iron, or a kettle, I do not remember. They burned both my heels with that object. They applied it for 10–15



seconds. Then, when it already heated, for about 5 seconds.”

Yevhen had to own up in order to protect his life. After a short beating he was taken to the office where he was left until the morning handcuffed. At about 6.00 a.m. they came again and started beating with a golf club in his legs.

Then Yevhen realized from the conversations that they started to solve the issue of his redemption. At noon they brought to the office Yevhen’s uncle, who gave the man UAH 40,000.

When Yevhen gave money to “Barmalei”, he was ordered to write a receipt that

he gave UAH 30,000 for the “South-East Army”. Not UAH 40,000 but UAH 30,000 should be written in the receipt. And at that they emphasized that the money would be supposedly donated to the orphanage.

Once the money has been transferred, they returned Yevhen his documents, his telephone and released him from the SSU building.



“Trapped” Civilians



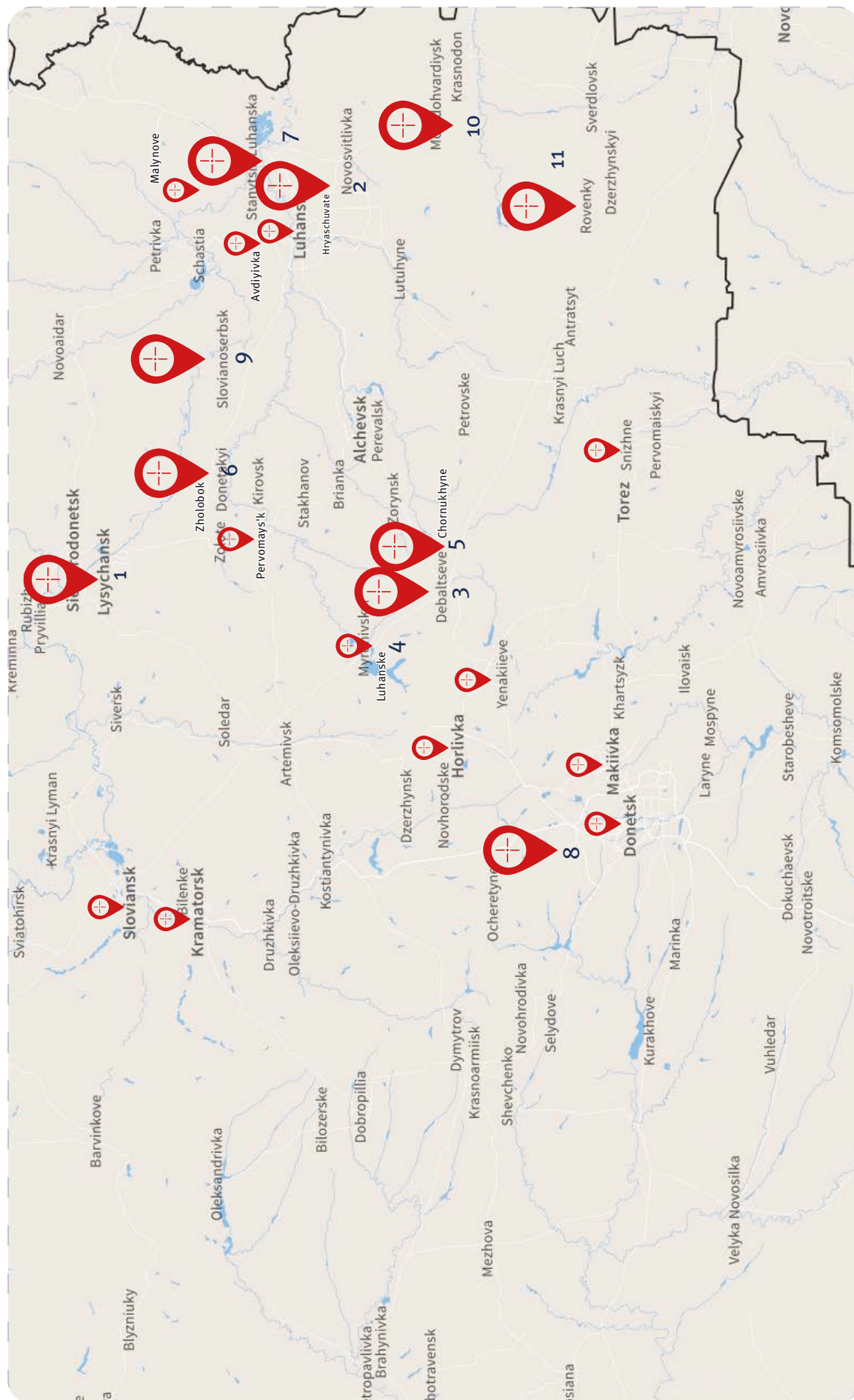
Obstruction of evacuation of civilians during the armed conflict in Donetsk and Luhansk regions

The report is prepared by the Center for Civil Liberties and the Ukrainian Helsinki Human Rights Union under the auspices of the Coalition of non-governmental organizations and initiatives “Justice for Peace in Donbass”

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MAP OF THE POPULATED LOCATIONS MENTIONED IN THE REPORT WHERE OBSTRUCTION OF EVACUATION OF CIVILIANS HAS TAKEN PLACE



INTRODUCTION

MONITORING GROUP AND SOME CONCEPTS

During March–April 2015 the group of monitors of the CENTER FOR CIVIL LIBERTIES with the support of the UKRAINIAN HELSINKI HUMAN RIGHTS UNION in the framework of the NGOs and Initiatives Coalition “Justice for Peace in Donbass” conducted the study, including some visits to the territories of Luhansk and Donetsk regions under Ukrainian government control.

The purpose of the Coalition “Justice for Peace in Donbass”, which includes 14 NGOs and initiatives is to document and create a unified electronic database, which can then be used as a source of primary information on crimes within the national and international investigation, and publishing regular subject reports on human rights violations and restrictions on fundamental freedoms.

The aim of the presented study is to examine the situation with obstruction of evacuation of civilians. Particular attention of monitors was focused at the phenomenon of attacks on so-called “humanitarian corridors” (or, as they are also called, “green corridors” through which civilians leave the place of intense fire fights) as well as points of gathering of people for further evacuation and other methods of obstruction the displacement of the civilian population. The monitoring group was trying to cover the entire period of armed escalation, from summer 2014, referring to some specific cases, which we learned from open sources or during the study.

During visits to the territory of Luhansk and Donetsk regions under the control of Ukraine monitors, in addition to study of events places (where they were available), communicated with internally displaced persons, victims and witnesses of shellings, their relatives, local human rights activists and journalists, volunteers, military, observers of International missions, as well as representatives of local authorities and law enforcement agencies. The purpose of this communication was to clarify the circumstances, nature and consequences of the shellings, search of witnesses and victims, to ascertain the possible causes of fire attacks for illicit targets and the sources of the exercise of these attacks. The last certainly needs serious investigation in each case separately. Numerous interviews were also conducted by the group after returning to Kyiv. In general more than 70 people were interviewed.

The same as before (in the case with the previous reports on the kidnapping and torture of people in north of Luhansk region) the part of interviewees who agreed to communicate with the monitors refused to tell their names, referring to security concerns; some persons who are at the temporarily occupied territories refused to communicate at all, even by phone and even on condition of anonymity for fear that they may be tapped. This seems logical, taking into account the on-going armed conflict with its usual high level of violence and intimidation and unpredictability of further development, in particular, the likelihood of capture by illegal armed groups of “DPR” and “LPR” of new Ukrainian territories.

The monitoring group considers that in the case of armed conflict in Donbas the point is that it is an **international armed conflict with involving the armed forces of the local population** (this formula was not used in practice of descriptions of armed conflicts before, however, in our opinion, it is the most appropriate). Under **the term “illegal armed groups of ‘DPR’ and ‘LPR’” (hereinafter – mostly “IAG”)** we mean proxy agents of the Russian Federation existing due to its material, technical and military support and include both the local population and citizens of other countries (first of all of the Russian Federation) participating in the hostilities on the side of the so-called “DPR” and “LPR” as well as regular units of the Russian army, which, apparently, regularly take part in the armed conflict, although their involvement to combat is unrecognized by the Russian Federation. Based on the advisory opinion of the International Court of Justice on the legal consequences of the construction of the wall in the Occupied Palestinian Territory¹, we believe the Russian Federation is the state which actually occupies and controls certain parts of Donetsk and Luhansk regions, and thus is responsible for the observance and protection of human rights in the territories under international humanitarian law. However, whatever is the composition of the military groups acting on the side of illegal armed groups of “DPR” and “LPR” in each case, they are as the members of the armed group bound with humanitarian law the same as the Armed Forces of Ukraine and National Guards of Ukraine.

¹ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Advisory Opinion of 9 July 2004 [Electronic resource]. — Access mode: www.icj-cij.org/docket/files/131/1671.pdf



I. “HUMANITARIAN CORRIDORS”

INTERNATIONAL HUMANITARIAN LAW

The rules of international humanitarian law² (hereinafter – IHL) do not give a specific definition of so-called “green” or “humanitarian corridors” (hereinafter – “humanitarian corridors”), which are as a rule announced for the safe evacuation of civilian population or wounded military from the area of battle action or humanitarian disaster to the safer territory. **IHL also provides no mandatory rules on these “corridors”, however, encourages agreement on these “corridors” between the parties of the conflict, but mainly protects civilians and civilian objects in any situation, including during leaving the area of fire attacks through these “green” or “humanitarian” corridors, and strictly prohibits attacks on them.**

Actually, the principle of the protection of civilians and civilian objects³ is one of the basic principles of IHL next to the protection of war victims, adherence distinction between combatants and non-combatants, the inadmissibility of discrimination against individuals, respect for human rights, criminal liability for violations of the principles and norms of international humanitarian law, humanity, military necessity and so on.

Protection of IHL applies to both the person and the object that is civil and not used on military purpose.

The general principle of the protection of persons who do not or have ceased to take part in hostilities

According to the rules of IHL, there is a clear distinction between combatants – military, involved in armed conflict, and civilians – persons who do not or have ceased to take part in hostilities and also wounded and sick military, who also enjoy special protection and so on.⁴ Civilians always are the subject of protection, except in some cases defined by international law for a period until they take a direct part in hostilities, which are understood as force applied to the enemy in order to break its resistance and actions that are intended to facilitate the achievement of military advantage.

“In case of doubt whether a person is a civilian, he is considered a civilian,” said in part 2, Art. 50 of the Protocol.

In addition, the following principle is important: **the presence among of the civilian population of individuals who do not fall under the definition of civilians does not deprive the population of its civilian character.**

While the destruction of the enemy – a combatant or a person who is directly involved in hostilities, is justified by IHL rules as a military target, affection of civilians

and destruction of settlements, objects where a priori can be or are civilians – is recognized as a crime.

IHL stipulates that to ensure respect for and protection of the civilian population and civilian objects, the Parties in the conflict shall at all times distinguish between the civilian population and combatants and persons taking direct part in hostilities, as well as civilian objects and military objects, and accordingly shall direct their operations only against combatants, persons taking direct part in hostilities and military objects. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. They should not be the object of attack. **In respect to them acts or threats of violence, with the main purpose to terrorize civilians etc. are prohibited** (Article 51 of Protocol 1, article 13 of Protocol II). In order to implement this protection, IHL defines this rule as being applicable in all circumstances.

Indiscriminate attacks are prohibited, such as:

- attacks not directed at a specific military objects;
- attacks which employ a method or means of combat which can not be directed at a specific military objects; or
- Attacks which employ a method or

² The rules applicable in armed conflicts are presented at the international agreements, signed by the parties in the conflict, as well as generally recognized principles and norms of international law applicable to armed conflict of both international and non-international character, which are respected by all parties in any armed conflict.

³ The question of protection of civilians in armed conflicts is governed by the Fourth Geneva Convention “On Protection of Civilian Persons in Time of War” of August 12, 1949, and supplemented by the rules of section 1 of the Additional Protocol I and section IV of the Additional Protocol II concerning humanitarian protection contained in Fourth Convention (995_154), particularly in Part II of this Convention and other international agreements binding upon the High Contracting Parties and to other rules of international law relating to the protection of civilians and civilian objects on land, at sea or in the air against the effects of hostilities.

⁴ The provisions of the Geneva Convention of 1949 on the protection of civilians during armed conflict applies to the entire civilian population of the states involved in the conflict, i.e. the citizens of these states, foreign citizens who are in one of the warring states, as well as civilians at the occupied territories.

means of combat the effects of which can not be limited as required by Protocol 1; and that, therefore, in each such case strike military objects and civilians or civilian objects without distinction.

Sanitary and safe areas, medical transport

Not speaking directly about the "humanitarian corridors" and without specifying the order of their creation and operation, IHL, however, determines the possibility of creation of:

- sanitary and safe areas;
- medical transport.

The Fourth Geneva Convention in its Article 14 provides the **possibility of the establishment by the parties of the conflict on their territory, and where appropriate in the occupied territories sanitary and safe zones and areas, organized in a way that enables to protect wounded, sick and elderly people, children under fifteen years, pregnant women and mothers with children up to seven years from the effects of war.**

Under Article 11 of the Convention **sanitary and safe areas in any case can not be attacked.** All parties of the conflict must always protect and respect them.

Draft Agreement on Sanitary and safety areas and localities annexed to the Convention specifies that sanitary and safety areas must be established provided the Parties have notified each other a

list of sanitary and safety areas located in subordinate territories. The parties also are liable to notify each about each new area established during military actions. As soon as the adverse party has received a notification, the area is legally established. However, an adverse party may refuse to recognize the area which is immediately notifying the party responsible for the named area.

In addition, any State which has recognized one or more of sanitary and safe areas established by the adverse party is entitled to require that one or more Special Commissions checked these areas to ensure that they meet the conditions and requirements. For that members of the special committees at any time have free access to the various areas and may even stay there for long.

At the same time, the creation of such zones is optional and must be negotiated between the parties of the conflict, for this purpose the provisions of the aforementioned draft model regulations offered as a supplement to the Fourth Convention can be used.

Also, Article 17 of the Convention defines the possibility **to conclude local agreements between the parties of the conflict on the evacuation of wounded, sick, disabled, elderly people, children and pregnant women from besieged or encircled areas and the permitting for the clergy of all religions, medical personnel and medical property to come to such areas.**

Besides, the term of "medical transport" is defined. Art. 8 Protocol 1 stipulates that **medical transport — is transportation by land, water or air of the wounded, sick persons and medical and religious personnel, medical equipment and supplies that are protected by the Geneva Conventions.** Under Article 21 of the Additional Protocol, ground sanitary vehicles enjoy the same respect and protection as mobile medical units under the Geneva Conventions and Protocol 1. However, both agreements on the evacuation and sanitary transport are provided subject to appropriate arrangements between the Parties of the conflict.

At the same time, even if the parties have not reached such agreements, the civilian population, which is taken out from the danger zone of conflict, or medical transport, can not be subjected to attacks and always has to be respected by the conflicting parties and to be under their protection. An attack by itself on any civilian or civilian object is a flagrant violation of international law.

Note that these provisions of the Fourth Geneva Convention concern international armed conflicts i.e. armed conflicts between states. IHL does not provide a similar treaty rules on sanitary transport and evacuation in case of armed conflict not of an international character. However, their use in case of armed conflict not of an international character can be concluded from the wide meaning of Article 3 common for all Geneva Conventions of 12 August 1949, and from customary international humanitarian law.



II. GENERAL CONTEXT

For the first time at the state level the organization of “humanitarian corridors” “to prevent new victims in the area of anti-terrorist operation” was voiced by President of Ukraine Petro Poroshenko on June 10, 2014. Poroshenko instructed the heads of military and defense agencies to “create the necessary conditions for the civilian population, who want to leave”⁵. Although the mass evacuation already took place (since the beginning of hostilities, i.e. from April, mostly from the temporarily occupied Sloviansk city) carried out by own efforts of people and the efforts of volunteers. On June 10 the responsibility for organizing the displacement of people was entrusted to the Cabinet of Ministers⁶. The following day the Order of the Cabinet of Ministers № 588-p was issued according to the proposal of the Ministry of Internal Affairs on creation of the Interagency Coordinating Headquarters on social security of citizens of Ukraine who are displaced from the area of anti-terrorist operation and temporarily occupied territory, which included deputy heads of many departments.⁷ On June 12 Antiterrorist Center at SSU on the execution of order of the President Petro Poroshenko to create “humanitarian corridor” for civilians, who

want to leave the area of the antiterrorist operation, instructed the head of ATO to identify roadblocks for safe movement of civilians⁸.

On June 13 at that time Adviser of the Minister of the Internal Affairs (today – acting head of the State Emergencies Service of Ukraine of (SESU) Zorian Shkiriyak reported about establishment of a “corridor” for a safe displacement of civilians from the ATO area in the nearest future. He said, that for security reasons no details will not be disclosed.

On June 14 press officer of ATO Alexei Lebed stated that “humanitarian corridor” for evacuation of civilians of Donetsk and Luhansk regions began to act. But, in fact, it was only about establishment of roadblocks around Sloviansk, which “inhabitants of Sloviansk and other cities captured by terrorists have to get themselves”⁹.

On June 11 the OSCE report noted that “the representatives of the so-called ‘Donetsk People’s Republic’ informed the Special monitoring mission of OSCE about their desire to support the creation of a ‘humanitarian corridor’ at Sloviansk, Donetsk region”¹⁰. However, in four days on June 15 ‘the Head of the Supreme Council of Donetsk People’s Republic’ Denis Pushylin said: “There is no evidence (of the creation

of ‘humanitarian corridors’ – EDITORIAL NOTE). *It is wrong to speak about such corridors in terms of ongoing hostilities.*”¹¹

In Luhansk region “humanitarian corridor” along the route Luhansk–Metalist–Shchastya was announced on 29 July.

The routes of permanently existing humanitarian corridors for civilians out of Luhansk, Donetsk and Horlivka was published by ATO press center on August 4¹². ATO headquarters applied to IAG with the request to recognize these “corridors”, which can mean that when deciding on the creation of “corridors” any negotiations with illegal armed groups of “DPR” and “LPR” were not conducted.¹³ On the party of the representatives of Ukrainian State there were also constant appeals to local residents to leave temporarily occupied (at that time they did not have the appropriate status) territories¹⁴.

At the same time, individual attempts to organize “corridors” to evacuate civilians from certain settlements were made since the beginning of July. Judging by the information collected, they belonged to the competence of the military and the SSU. There is no information about the participation of State Emergencies Service of Ukraine in this (the answers of the Agency to queries of the **CENTER FOR CIVIL LIBERTIES**

5 www.president.gov.ua/news/30504.html

6 www.ukr.lb.ua/news/2014/06/10/269283_poroshenko_poruchil_sozdat_koridor.html

7 www.zakon2.rada.gov.ua/laws/show/588-2014-%D1%80

8 www.tyzhden.ua/News/112058

9 www.5.ua/suspilstvo/humanitarnyi-korydor-v-zoni-ato-pochav-diiaty-46002.html

10 www.osce.org/ukraine-smm/119709

11 www.kp.ru/online/news/1762260/

12 In particular, it was proposed to leave Donetsk along Lenin Avenue to the bypass road, further on the highway Donetsk-Kurakhovo through Mariynka. From Horlovka it was possible to get on Lenin Avenue along streets Marshal Zhukov, Vitshizniana and Plekhanov and further on on highway Horlovka-Druzhkivka through Dzerzhinsk. In Luhansk the corridor ran through the streets Radianska, 16th line, Frunze, Shevchenko, 7th line, Komintern and further on the highway Luhansk-Schastie through Metalist.

13 www.bbc.co.uk/ukrainian/rolling_news_russian/2014/08/140804_ru_n_donbass_corridors

14 www.pravda.com.ua/rus/news/2014/08/4/7033875/

confirm this). In particular, it is worth mentioning the “humanitarian corridor” from Lysychansk to Severodonetsk of July 22 and 24, 2014 (see. below) and from Luhansk to Shchastya, which was organized on July 29–31, 2014¹⁵.

It is necessary to distinguish the common “corridors” for displacement of civilians to/from the occupied territory in a relatively peaceful environment, and the “humanitarian corridors”, by which we mean those that are set during the escalation of armed conflict (or apparent danger of such an escalation) in a particular area for displacement from there of civilians and wounded. Attention of the monitoring group was focused first of all on the second category of “corridors”.

There is no a clear answer to the question “who is responsible for the evacuation of civilians from the combat zone?” At least we didn’t manage to get it from stakeholders on the party of government agencies. Governmental telephone hot line 0 800 507 309 informs that SSU and State Emergencies Service of Ukraine are responsible for the evacuation of civilians from the combat zone. In response to the request of the **CENTER FOR CIVIL LIBERTIES** to the State Emergencies Service of Ukraine we received a letter in which it

was stated quite clearly that “the question of the monitoring of entry or exit of citizens and moving transport in the area and the district of ATO fall under the authority of the **Interdepartmental Coordinating Commission ATC at SSU.**” At the meeting with one of the monitors Acting Head of the State Emergencies Service of Ukraine Zorian Shkiryak (as already indicated in the past he was involved namely in the evacuation issues as the Advisor of the Minister of Internal Affairs) explained that the ATC in this case acts as a “think tank” and immediate actions on evacuation are performed in particular by **State Emergencies Service of Ukraine, MIA. This list of executors should be added with the representatives of local authorities (regional and municipal), military (both Military Forces of Ukraine and National Guards, as well as volunteer battalions).** As for the State Emergencies Service of Ukraine, from the answers of the Agency to our request, we can conclude that the systematic involvement of State Emergencies Service of Ukraine to the displacement of people was only from the beginning of 2015. In particular, the Agency displaced people from settlements of Luhansk region — Popasna, Avdiivka and Debaltseve and surrounding

settlements (Savelivka, Olkhovatka, Komuna, Novohryhorivka, Mironovka, Krasny Pahar and Vuhlehirsk).

The Agency noted that “*displacement of civilians to safe regions of Ukraine by rescuers of State Emergencies Service of Ukraine is executed independently of ‘humanitarian corridors’*”. Therefore, during the displacement of people from the city Debaltseve of Donetsk region “*the rescuers repeatedly came under mortar shelling of separatist forces that were in Luhansk region ‘regardless of presence of so-called ‘green corridor’*”. In the result — two workers were injured (DETAILS — IN THE SECTION ABOUT DEBALTSEVE).

During the battles around Debaltseve at the end of January and in the beginning of February 2015 a key role in the evacuation of civilians played a **group of volunteers**, who by this time were mainly involved in the support of the army and didn’t deal with the evacuation. However, it must be emphasized that members of Protestant religious community and private funds, and some individuals or small community groups played an important role in the evacuation since the beginning of hostilities. It was noted both by the displaced persons and by the State Emergencies Service of Ukraine representatives, as well as officers of the enforcement service and military.



III. OBSTRUCTION TO THE EVACUATION OF CIVILIANS

Information about obstructing the evacuation of civilians by illegal armed groups appeared in the spring of 2014, at the beginning of the armed conflict in **Sloviansk**. That meant both intense shelling of the city and roads, which made it impossible for people to leave, and point obstructing of displacement in the form of illegal detention of volunteer-carriers and holding them in captivity, demands for bribes at the checkpoints, illegal alienation of vehicles.

The representatives of the Charitable Foundation “Development of Ukraine”, which has been providing mass evacuation up to December 2014 (the peak of activities – May–November 2014, as of now – incidentally on request of individuals from among of vulnerable groups), in the middle of June 2014 stated that on concern of safety they refused to displace people from Sloviansk by buses. “*On the weekends we took the residents out by cars – Fighting from Sloviansk direction was intensified and cases of fire became more often*”¹⁶.

During summer visits to Sloviansk immediately after the liberation of the city by Ukrainian army monitors were able to communicate with volunteers from among the representatives of the Protestant community who took out civilians, but one day were taken hostage by the “Russian Orthodox army” because, on their mind,

they “*Drive out the corpses of “Right Sector”* (QUOTED VERBATIM). In spite of physical abuse while in captivity, and illegal confiscation of transport after release, both volunteers – **Gennady Lysenko and Alexander Reshetnyk** – continued their volunteer activities with evacuation of civilians.

One of the volunteers, who deals with the evacuation of civilians from the temporarily occupied territory within Luhansk region to other areas of Ukraine, tells about two cases of confiscation of buses at the end of August 2014 in the city Pervomaisk of Luhansk region¹⁷. One of the “Cossack” sub-groups under the supervision of Eugene “Malish” Ishchenko, who was commandant of Pervomaysk at that time and set his own laws in the city¹⁸ took two large “MAN” buses from volunteers by force, which they used for bringing people away. In that case, the driver of the vehicle and a female volunteer who had accompanied the people during evacuation, were illegally detained and held captive overnight. Volunteers were charged that they were “from Ukraine” and evacuate people to territory controlled by the Ukrainian government. At the same time, volunteers have been repeatedly offered “to change the profile” and to evacuate civilians to the Russian Federation, even were offered buses for this purpose.

Even before, June 24, Adviser of the Minister of Internal Affairs on evacuation of civilians Zorian Shkiryak stated efforts aimed “*to prevent any provocations and attempts of terrorist acts in the part where transit corridor will be organized.*”¹⁹ Consequently, there were grounds for fears of possible provocations at the time. The presence of such fears and even assurance in preparing provocations was expressed in communicating with monitors by **Dmitry Alyev**, who in summer 2014 was among those who took care of evacuation issues as the Director of the Communications Department of Luhansk Regional State Administration. The danger of attacks of “humanitarian corridors” was recognize by IAG themselves. In their statement on July 29, they called the road Luhansk–Metalist–Schastia (which was announced by ATO management a “humanitarian corridor” for July 29–31²⁰) “the Road of death”, accusing the Ukrainian side that it didn’t agree this “corridor” with them, and announced that on the other hand the “corridor” to the east on the route Luhansk-Krasnodon-Izvaryne-Donetsk (Rostov region of Russia) is “the Road of life”²¹, de facto threatening to those who intend to leave Luhansk and go to territory controlled by Ukrainian

16 www.ukr.segodnya.ua/regions/donetsk/gumanitarnyy-koridor-kuda-zvonit-i-kto-vyvozit-zhiteley-528867.html

17 We can't mention the name of the volunteer as long as this group is still dealing with displacing of people

18 www.unian.net/war/1035567-ubit-glavar-kazakov-pervomayska-boevik-po-klichke-malyish-smi.html

19 www.youtube.com/watch?v=SCmDUogXO_Q

20 www.ipress.ua/news/29_lypnja_pochne_diyaty_gumanitarnyy_korydor_z_Luhanska_77030.html

21 www.rusvesna.su/news/1406632814

government with shelling. Although the shellings occurred²², according to D.Alyev, regardless media reports, no person and no car in the “corridor” Luhansk-Metalist-Shchastia were affected. Unlike corridor through Malynove village, displacement through which was not controlled by Ukrainian forces, and where at least one “bus” and one passenger car came under fire, which were moving in the column.

Summer 2014 was also featured with a series of attempts by IAGs of “DPR” and “LPR” to obstruct displacement of children to other towns controlled by the Ukrainian government, and attempts of kidnapping children from the institutions of Donetsk and Luhansk regions and their illegal transfer to the Russian Federation²³. This practice was even “legitimized”, namely: July 25, 2014 there was the Order of “DPR Council of Ministers” signed by O.Boroday on prohibition of evacuation of children from orphanages and shelters beyond the “DPR” — except to the Russian Federation²⁴.

In the 9th report on the human rights situation in the east of Ukraine for the period from December 1, 2014 to February 15, 2015 of the Office of the High Commissioner for Human Rights of the United Nations (OHCHR)²⁵ a separate paragraph is dedicated to the issue of evacuation of civilians. A significant thing is noted in it: constant attacks of the government-controlled areas and evacuation routes prevented the evacuation of civilians. In the report it is **assumed that some attacks could be aimed precisely to prevent the evacuation.**

The authors of the report agreed with this wording, although systemic phenomenon of preventing departure of civilians from the occupied territories to other areas of Ukraine, according to the authors of the report, requires further investigation and collection of relevant facts and evidences. However, in our view, the cases collected in this report (although they are much more of them) firstly, were **directed against the civilian population**, and secondly, were **carried out deliberately and with intent.**

Overall, during the year of constant fighting in Donetsk and Luhansk regions the local civilian population, who showed a desire to leave the zone of armed clashes, faced with various forms of attempts to limit their evacuation from the occupied territories to the territory controlled by Ukraine. In particular:

1. Attempts to prevent civilians from leaving the combat zone (through physical obstruction and/or intimidation). Special scope this phenomenon gained in summer 2014 for children without parental care and guardianship.
2. Artillery shelling and shootings of locations, known as a place of gathering civilians for further evacuation.
3. Artillery shelling and shootings of transport columns with civilians during evacuation through “humanitarian corridor” (or in conditions of an undeclared “humanitarian corridor”).
4. Demotivation of people who want to leave through intimidation or violent alienation of immovable property (in language of IAG - “nationalization”), which belonged to those who left; Announcing displaced persons as “traitors” of “young republics.”
5. Extortion of money for the opportunity to leave the war zone
6. Illegal alienation of transport for the evacuation of civilians, belonging to volunteers.

We can claim this on the basis of **some distinct trends** that became apparent during collecting the information for this report, in particular:

- The above-mentioned forms of obstructing of the evacuation of civilians carried out by the IAG operating in the territory of both “DPR” and “LPR”, in other words, are common throughout the temporarily occupied territory²⁶.
- They were carried out in different locations and at different time intervals — at least from May 2014 to March 2015.
- Often they were carried out with a special media support, and therefore they can be called tools of information war and propaganda, the elements of special operations.
- Obstructing the evacuation of the civilian population into other settlements of Ukraine, members of IAGs encouraged people to move to temporarily occupied territories and/or the Russian Federation, sometimes offering transport for evacuation to the east direction. Most clear this trend was in the case with children

deprived of parental guardianship and persons with disabilities and other socially vulnerable groups who are at special institutions.

It should also be noted that in general Russian power structures (participation of which in armed conflict in Donbas, despite the statements of the Russian Ministry of Foreign Affairs, leaves no doubt and accepted by monitors of the group as a fact, furthermore, that participation is recognized by the participants of IAGs²⁷ and some Russian military²⁸) were earlier seen in shelling of “humanitarian corridors”. However, in terms of other armed conflict. We talk about the events of the Second Chechen War. In particular, when discussing human rights violations in the conflict at “Radio Svoboda” (program of January 25, 2000²⁹) a human rights activist of Russian HRC “Memorial” Alexander Cherkasov told the following: *“Humanitarian corridors for civilians are also exposed to attacks, i.e. practically do not exist... Many of the interviewed refugees from Grozny came out not through the corridors, affirming that it is even more dangerous to go through the corridors.”*³⁰ Noteworthy is the fact that

22 www.radiosvoboda.org/media/video/26546529.html

23 More detail chronic is presented in the report.

24 www.gazeta.zn.ua/socium/operaciya-evakuaciya-gosudarstvennye-deti_.html

25 www.un.org.ua/images/stories/9thOHCHRreportUkraine_1.pdf

26 Separate areas of Donetsk and Luhansk regions are recognized as temporarily occupied territories under Regulation of the Parliament “On recognition of individual districts, cities, towns and villages of Donetsk and Luhansk regions as temporarily occupied territories” of March 17, 2015, www.zakon1.rada.gov.ua/laws/show/254-19

27 www.unian.ua/war/1061814-debaltseve-bulo-zahoplene-rosiyskoyu-armieyu-boyovik-dnr.html

28 Interview to “Novaya Gazeta” of Russian tanker, buriat by origin, 20-year-old Dorji Batomunkuev (5th separate tank brigade from Ulan-Ude, a military unit №46108), who together with his battalion took part in the battles for Debaltsevo, where he received injury www.novayagazeta.ru/society/67490.html

29 www.svoboda.org/content/transcript/24220892.html

It is possible to connect the abovementioned types of obstruction of evacuation of civilians from the party of IAGs with the following reasons:

- Disinterest of IAGs in people to leave the areas controlled by the “DPR” and “LPR” and, in this way, supporting the image of the occupied territory, which massively left by people.
- Unwillingness to have the picture created in the minds of people by Russian media and media of “DPR” and “LPR” destroyed, that people saw with their own eyes what is really happening on the territory under Ukrainian government control.
- Attempts to achieve a certain media effect, such as introducing the attacks as a result of actions of the Ukrainian army.
- Attempts to keep secret the location of military positions in a given locality.
- Intimidation of population, making panic, carried out in different ways, spreading the impression that the Ukrainian party is not really monitoring the situation in the territories under its control. In this sense, according to monitors, cases of attacks on “humanitarian corridors” as well as on gathering places for the evacuation of people are to be seen in the overall context of shelling civilian targets and cities. In particular, with the intimidation shelling of cities at a relatively large distance from the front lines such as Volnovakha (shelling of January 18, 2015), Mariupol (shelling of January 24, 2015) Svetlodarsk (shelling of January 27, 2015), Kramatorsk (shelling of February 10, 2015), Donetsk (shelling of February 15, 2015).
- Provocation in order to accuse Ukrainian party in shelling.
- “The logic of war”: reluctance to release people from the newly captured territory, which according to the military, meets the logic of war - ‘because the area is captured together with the inhabitants.’
- Some cases, according to our interlocutors, could be related to the lack of coordination between different IAGs.

monitoring group members have heard the similar from many displaced people from the occupied territory of Donbas. For example, some families with children who at the time of the mobile group visit were in the hospital in Soledar town, Artemivsk district and lived in a city hospital, told that they had to go out of Popasna village (Luhansk region, currently under the control of Ukraine) through the fields as it was much more likely to get hit under shelling on the single way by which it was possible to leave the city. They talked about the end of January 2015.

At the same time, it must be emphasized that the problems with the evacuation of civilians from occupied territory to the other regions of Ukraine (although these problems are of other organizational nature) occurred in connection with **introduction by Ukraine of the temporary order of control the displacement of persons, vehicles and loads along the line of conflict within the Donetsk and Luhansk regions** (SSU Order №27 of January 22, 2015), the mechanism of which still can not be called effective ³¹,

which was recognized by the high state officials as well ³². However, according to State Emergencies Service of Ukraine data the procedure of crossing “the border” between the territories controlled by government and illegal armed groups during intense fighting at the end of January – the first half of February 2015 was simplified from the party of the government and did not require passes. It coincides with data obtained by the mobile group. None of the respondents complained that the evacuation during armed escalation in the region of Debaltseve required passes or was not allowed without their presence. After the occupation of Debaltseve by representatives of IAG and the end the fighting, the control of passes was renewed. Residents of Debaltseve with whom we managed to communicate by phone told that they were not able to leave because were waiting for issuing the passes. At the same time, they do not know about the obstacles on the part of members of IAG to depart from Debaltseve (as we were reported by some military). This information also confirmed to the mobile group by the Deputy Mayor

of Debaltseve, who as of now is at the territory controlled by Ukrainian government, but communicates with the residents of Debaltseve. One of the volunteers, who is still engaged in the evacuation of civilian population from the temporarily occupied territories, affirms that as of now the electronic system for issuing passes, in fact, doesn’t work due to technical difficulties. In addition, she says that common is the system of bribes for the “quick issuing of the pass”, which, however, requires a separate study. The problems with the operation of electronic system of issuing passes were reported to monitors by residents of Alchevsk, Luhansk region.

A special attention should be paid to the issue of ambiguity of **notification of civilians about the possibility of evacuation** issue. In particular, the aforementioned UN report referred to the lack of such information. This is also proved by data obtained by the monitoring team that most interviewed people learned about the possibility of evacuation spontaneously from rumors or through non-systematic notification at social networks. Despite claims in the summer about notification via loudspeakers and “information bombs”³³, as well as above mentioned statements of the officials about allegedly best notification mechanisms, effective notification system was not created. The non-systemic informing is evidenced by the information provided to the **CENTER FOR CIVIL LIBERTIES** by State Emergencies Service of Ukraine. According to it, informing of public about humanitarian corridors or scheduled displacement of people in Donetsk and Luhansk regions rescuers of State Emergencies Service of Ukraine carried out in the form of “*personal communication with population in crowded places.*” In addition, the “*staff of State Emergencies Service of Ukraine conducted everyday explanation for people about the places of gathering and time of presenting of vehicles for taking the civilians out.*” In some cases the notification was physically impossible, as people for a few weeks were in the basements, hiding from attacks, without any means of communication.

However, it should be emphasized that at the stage of escalation of armed conflict at the beginning of February 2015 in Debaltseve volunteers who played an important role in the evacuation of civilians (especially vulnerable groups) have repeatedly appealed to

30 See previous

31 www.noborders.org.ua/pro-nas/novyny/pravozahysni-orhanizatsiji-zdijsnennya-tymchasovoho-poryadku-pro-perety-n-liniji-zitkennya-u-teperishnij-redaktsiji-superechyt-zakonu-i-mozhe-pryvesty-do-humanitarnoji-katastrofy

32 www.ua.korrespondent.net/ukraine/3487047-poroshenko-proponuie-sprostytty-perety-n-linii-zony-ato

33 www.zadonbass.org/news/crime/message_82534

the media not to report on the place and time of gathering of people and evacuation routes because in such way civilians and those who provided the evacuation, found themselves under threat of attack³⁴. In such way, it is the danger of provocations and targeted shelling of civilians during the evacuation that can be considered one of the reasons of ineffective notification system.

The paradox is inherent not only for displacement issue but for **methods of transportation**. Thus, on June 16, 2014 press officer of ATO Alexei Lebed said that *“at the points where attacks on civilian cars are possible there are our roadblocks. In front and behind there are car of maintenance, armored personnel carriers — on case of attack and bombardment. This is the military component, we provide”*³⁵. The information about military machines for protection of the movement of transport

columns with civilians is also present in journalistic publications³⁶. Thus, through the efforts to protect civilians against fire attacks, on the opposite there were created conditions for a possible attack. On the other hand, as the experience of the “humanitarian corridor” shows, thanks to the military it was possible to avoid victims among civilians, who were displaced from combat zones. It should be emphasized that according to the rules of IHL, the presence of some military and military machines does not make the column of civilians legitimate target, namely the presence of military machines and military de facto exposes them to the threat of fire.

In addition, at the end of May in the media loyal to IAG, it was stated that Ukrainian forces did not seem to want to open “humanitarian corridors”, *“because the whole population would come*

out through them”; that those who *“tries to break through the military border, are shot on the road.”*³⁷ The monitoring group did not find any evidence of these charges, any such case didn't become known. We assume that in this there was the propaganda of “DPR” and “LPR” (and behind them Russian propaganda as well) to adhere its principle to accuse opponents in what was carried out by them.

Further down in this report there are presented the most demonstrative cases of obstructing of evacuation of civilians from the beginning of the armed conflict, which became known to the monitoring group. However, this is not a complete list of such cases and the monitoring group would be grateful for additional information or data regarding other attacks that can be reported on the contacts listed at the end of the document.

34 State Emergencies Service of Ukraine reports that at the moment the displacement procedure from Luhansk region is as follows: the heads of local governments collect information on those wishing to leave their homes and go out of city limits, they make lists and pass them to State Emergencies Service of Ukraine sub-divisions. Then the rescuers of Chief Department of State Emergencies Service of Ukraine in Luhansk region form groups and columns organize their supervision and carry out the displacement.

35 www.ukr.segodnya.ua/regions/donetsk/gumanitarnyy-koridor-kuda-zvonit-i-kto-vyvozit-zhiteley-528867.html

36 www.ostro.org/general/society/articles/448511/

37 www.politnavigator.net/ukraina-ne-daet-koridor-dlya-vyvoza-mirnykh-grazhdan-iz-zony-boevykh-dejstvij-chtoby-opravdat-rasstrely-zhilykh-domov-smi.html



IV. EXAMPLES OF OBSTRUCTION OF EVACUATION OF CIVILIANS

FROM THE ZONE OF INTENSIVE MILITARY
OPERATIONS AND/OR TEMPORARILY
OCCUPIED TERRITORY TO OTHER AREAS
CONTROLLED BY THE GOVERNMENT

1. SHELLING OF CIVILIANS DURING LIBERATION OF LYSYCHANSK

July 22–24, 2014

Four cases of shelling of civilian transport, presented below, have occurred in Lysychansk (Luhansk region) during the liberation of the city by Ukrainian military, which ended on July 24, 2014 (at 22.20 Ukrainian Armed Forces raised the flag on the top of City Council). This refers to the events of July 22 and 24, 2014. In one case before the opening of “humanitarian corridor”, in other case after its opening. This is not a complete list of shelling of civilians in those days, there were much more.

The monitoring group collected evidences indicating that the attacks were carried out by the IAG with various weapons, including mortars, automatic weapons and sniper rifles. The fire was not stopped even despite agreements with the IAG on the “quiet mode” for the displacement of civilians from the city; in some cases there is the reason to believe that the shooting to civilians was aimed and intentional. If in the case of the mortar attack on the bus “Lysychansk-Moscow” there can be an “excuse” of the Ukrainian checkpoint, which was next to the bus (although it was the only at that time available way to leave the city, which

hundreds of people have tried to use both by transport and on foot), the logic of shooting civilians by sniper groups at “green corridor” or cases of automatic weapon shelling of civilian cars remains unclear. Not to mention that there can not be any excuse.

(a) The shooting of civilian car near the plant “AZOT”

On July 20 an Adviser of the president Yuri Lutsenko said on television that Ukrainian military launched an offensive and in particular that they managed to “cut” Lysychansk and Severodonetsk from the occupied territory.³⁸



Bus Station Lysychansk (Photo 07.03.2015)

Ukrainian military reached Lysychansk on July 22. The main fighting took place on the bridges across the Seversky Donets, joining Lysychansk and Severodonetsk, where the Ukrainian forces came from. IAG blew up two bridges Pavlogradsky Bridge and Railway Bridge. The last bridge Proletarskiy was captured by the Armed Forces of Ukraine and later became a major channel for the evacuation of civilians in the direction to Kharkiv and Dnipropetrovsk.

On July 22, when intensive fighting began in the city, among local residents there was the rumour about the opening of

the “green corridor” toward Severodonetsk. Although it should be noted that the opening of the “corridor” Ukrainian military announced the next day only.

Group of monitors met the **resident of Lysychansk – Lyudmyla Markivna** (name of the witness is changed by request) – an elderly woman who that day also decided to go to her relative in Dnepropetrovsk. Together with her husband, son in law and friend they hired a taxi by which at about 8 a.m. on July 22 arrived to the “Bus station Lysychansk”. At that time, according to the women, active firefight

was carried out and glass in the windows of the bus station was beaten out almost everywhere. Buses didn’t leave already, and in the building itself there were up to a hundred of people hiding, who did not know how to leave. Therefore, passengers of the car agreed with the taxi driver that he would take them out to Severodonetsk.

The cars drove through the Petrovsky Bridge (which later the same day was blown up), the last checkpoint of “LPR” before liberated Severodonetsk and turned in a circle near the entrance “Amiak” of the plant “Azot” to the left, toward the bypass road to Rubezhnoye village. They drove at a speed of 70–90 km/h. There were no other vehicles on the road at that time.

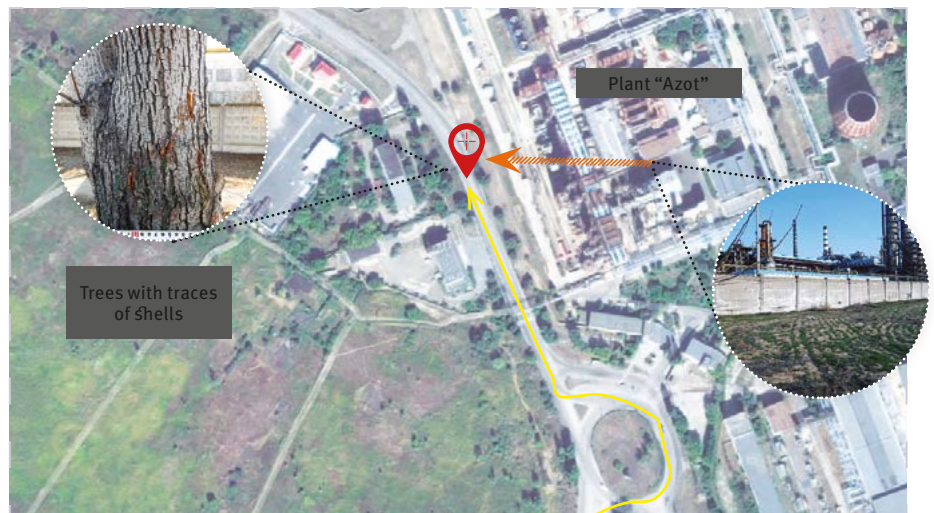
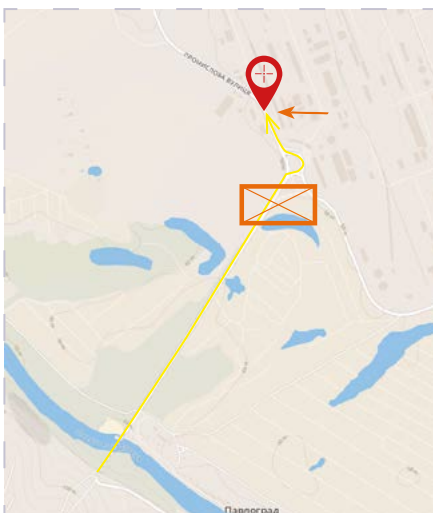
Further events are described by **one of passengers of the car, Igor** – a son-in-law of Lyudmyla Markivna:

“We drove around the circle to the left and in front of the water station they started to shoot on us to the right side, i.e. of the fence from the territory of the Plant ‘AZOT’. The car was cut on right side, in front and on back. The driver shouted, taxied to the side of the road near the fence of ‘AZOT’ and we stopped. Shots were frequent, as if automatic-gun fired,” – says the man.

According to Lyudmyla Markivna, then passengers of the car “dropped out of the car and crawled into a ditch, closer to the fence. They fired a place where we lay, judging by the sound it was machine-gun burst. We saw that the white car ‘Lada’ drove past, in which there was the family, which left from the bus station at the same time as we did, that car was also subjected to fire, the car did not stop.”

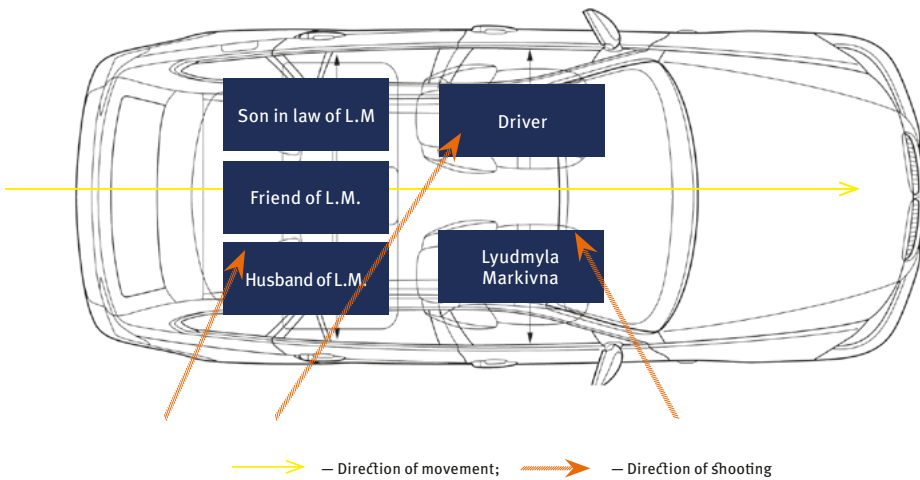
As we see, the victims have different versions as for what kind of weapon was used (automatic or machine gun), however,

Google maps as of 01.04.2015



 – Place of shooting the car;
  – Check point of LPR;
  – Route of car movement;
  – Direction of shots

Scheme of the car



Markivna and her husband immediately were sent to the surgery table. According to her, the surgeon pulled out of her lung a splinter of a bullet, and only a day after the surgery, doctors found that there was one more bullet in the lungs of the women. The operation was too risky, so the victim still walks with a bullet in the lung.

The car driver was wounded to the head, and they put a few stitches. Lyudmyla Markivna's husband lost a lot of blood because of shrapnel wound in the back under the shoulder blade, he was taken to traumatology. The son-in-law was relatively easy shot with glass of the car. A friend got shrapnel in her knee and refused from surgery. Soon the victims were transported to Dnipropetrovsk to City Clinical Hospital №16.

Later, Lyudmyla Markivna returned to Severodonetsk and appealed to the militia to file a statement. The statement was accepted, but instead of criminal proceedings against attack with using firearms, the case was qualified as “stealing of official documents.” The reasons for such qualifications will be clarified by legal counsel of Advisory Centre of Human Rights organization.

(b) Shelling of the intercity bus “Lysychansk – Moscow”

On the same day, **July 22, 2014, in the afternoon**, on the bridge near the plant “Proletarskiy”, which joins two banks of the Seversky Donets River, in the direction from Lysychansk to Severodonetsk, near the Ukrainian Armed Forces checkpoint the intercity bus having performed regular trip “Lysychansk – Moscow” stopped for document checks and was fired with mortar fire.

According to **one of the passengers of the bus, a young female doctor**, whom monitors of our group communicated with, there were mostly families with children in the bus.

“We, like most of others, decided at the last moment to leave Lysychansk for fear of shootings during the hostilities. We left from the market, at about between two and four in the afternoon. Double-decker bus was full. I think about 80 people,”- says the woman.

At the Ukrainian checkpoint near the glass factory “Proletar” bus stopped and all men came out for check of documents. Only women and children remained in the bus. And suddenly – a loud sound and an explosion. The woman believes that it was the mortar fired.

“We ran out of the bus and ran across the bridge to Severodonetsk. Although around they were constantly shooting. The only thing I saw – that some people ran to the wood line and some ran to hide in the checkpoint.”

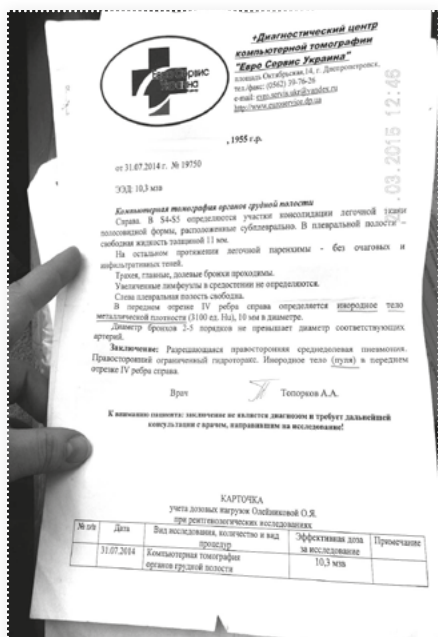
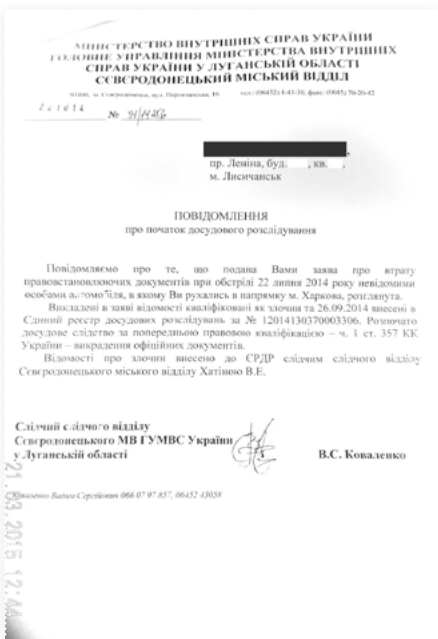
both say about the bursts, from which it can be concluded that the fire was from automatic weapons.

Lying in a ditch, the passengers of the cars began to call to the emergency services. But everywhere they got refusal on the grounds that trips are not carried out to the war zone, which was confirmed by the official response on the information request of the **CENTER FOR CIVIL LIBERTIES** to State Emergencies Service of Ukraine: “Rescuers in July 2014 didn’t carry out displacement of people from Lysychansk city in connection with active hostilities at the territory of the city at the specified time. Residents of Lysychansk city were leaving the city on their own and reached Severodonetsk city.” However, the passengers of the car managed to call to relatives in Kharkiv, and they have called the SESU vehicle from Severodonetsk. All this time they continued shelling of the place where there were the passengers of the car.

Monitors of the group found traces of shots in Lysychansk on a tree on the opposite from the fence of JSC “Azot”, side of the road (photo attached to the map).

When the SESU car arrived, machine-gun bursts stopped. Rescuers were in armor vests, they ran to the victims, and at this point the shooting resumed. Ludmila Markivna says: “When the shots started again guys from SESU fell on us, covering with their armor vests. However, they were very heavy, so that in addition to wounds we have got cracks in the ribs. Further, under the shelling both SESU guys and we ran to their car. Shooting continued till we reached the car. At that time I was almost unconscious. All thing, documents and car itself, by which we went, we were forced to leave there. Then when we got back, the car has gone.”

The victims were immediately brought to the Severodonetsk city multidisciplinary hospital where the driver, Lyudmyla



Also monitors managed to talk with the **resident of Lysychansk, 57 years old woman, who resided in Lysychansk at the address Proletarska str., 4** in the building, adjacent to the house №2 completely destroyed by direct hit of mines. She said that about 15.00 on July 22 she and her husband decided to take their grandson and run to the center, where to hide from shelling. *“We ran up along Proletarska street toward the stop “Turn to Melnikov mine.” At the stop “Bookstore” we saw as from the checkpoint of “LPR” they opened fire with mortars down, toward the bridge, where there was the Ukrainian Armed Forces checkpoint. I think it was the mortar. I abruptly turned and saw that they hit a bus to Moscow. It was white, filled with people. Two people just flew off from the broken bus, most, I think, were killed, some ran across the bridge.”* — says the woman.

According to doctors of Lysychansk “ambulance”, they could not immediately get to the bus on call, only in an hour – an hour and a half, since the battle proceeded around. On arrival at the place of the incident they took only those 10 injured passengers with children who remained in the wood line or near the bridge. So, most of the passengers of the bus, didn’t look for help from the hospital, and respectively their injuries were not documented.

Perhaps this was the reason why both witnesses, who communicated with our monitors, were not interviewed by the militia or the Security Service. Later charred remains of the bus stayed at the checkpoint for a half of a year before Communal enterprise cut it for scrap.

(c) Shooting of “humanitarian corridor” July 24, 2014

On July 23 “Donbass” battalion commander Semen Semenchenko reported that fierce fighting are conducted for Lysychansk



Embussing point of daily bus “Lysychansk – Moscow” (Photo 16.03.2015)

that “assault of Lysychansk is continued... The terrorists fire city from mortars and easel automatic grenade launchers.” In addition, the “Donbas” battalion commander reports about the organization of “humanitarian corridor” *“Those who exactly decided to leave out – the organization humanitarian corridor for WOMEN AND CHILDREN was arranged by one of the local journalists. Write to private, he will coordinate with the group and the location. Please do not walk in the streets until the end of hostilities”*

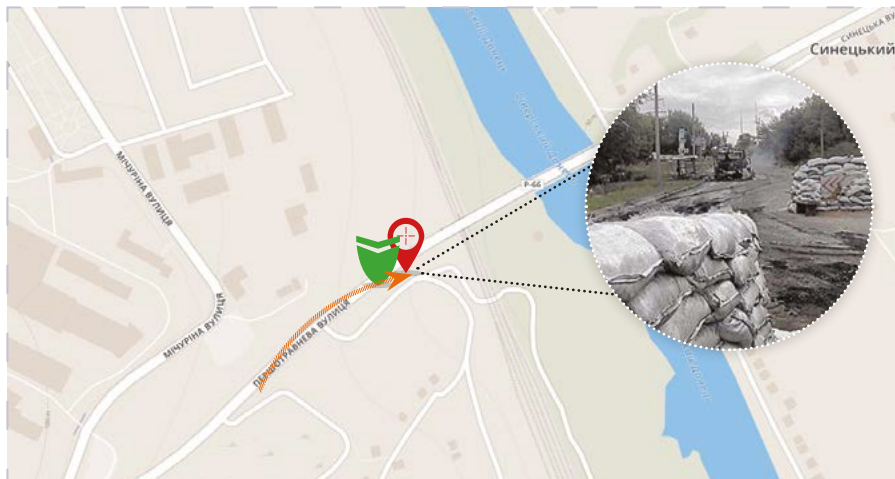
According to **doctors of two “ambulance” brigades being on duty at “Proletarskiy Spusk”** (the highest point of Proletarska street, coming down to the Proletarskiy bridge), the civilian population that tried to leave the city across the bridge was fired from the direction of Lysychansk.

This is confirmed by the **authorized representative of the head of ATO in Luhansk region on Lysychansk Vitaliy Shvedov**, who was on Proletarskiy Bridge the whole day on 24 July. He said he

witnessed the shots of snipers on civilians that were evacuated from Lysychansk: *“When mechanized brigade 51, a special battalion of Ministry of Internal Affairs “Chernigov” and battalion “Donbas” were fixed in front of Proletarskiy Bridge, an agreement with representatives of IAG on “green corridor” was reached.” In about an hour people began to leave the city, many cars drove at high speed to manage to slip. They have not been checked. And at that time before my very eyes from the top a red car “Zhyguli” drove to the middle of the bridge and a sniper shot from the heap, shot a passenger, an elderly man of 60–70 years old, right to the head. Our combatants took everything off, took a blanket and under heavy fire brought him to the other side of the bridge. But, unfortunately, he was already dead. My impression is that the car was shot for it to block the bridge. Otherwise why else to wait until it reaches to the middle.*

According to the **doctor of Lysychansk “ambulance”** at Proletarskiy Spusk on July 24 there were only 2 brigades of “ambulance” because almost no one wanted to work in the area where the most intensive shootout continued. *“So, one brigade included a paramedic and a driver, and the other one two paramedics because the driver refused, — says the man. — They were at “turn Melnikova” in the street Sverdlov. Many vehicles were leaving. But even more people went on foot across the bridge, many of them with children and luggage. Therefore, our vehicles took people and gave them lifts to the checkpoint of Ukrainian Armed Forces, that is to say took them from the top down to the bridge. We made several trips. Our vehicles were not shot on purpose, but when the ambulance drove, the shelling of the checkpoint of Ukrainian Armed Forces did not stop. There were a lot of wounded: both bullet and shrapnel injuries. Simply before very eyes of one of the crew on the bridge*

Photo: www.podrobnosti.ua/986297-v-osvobozhdenom-Lysychanske-provodjat-polnuju-zachistku-ot-terroristov-foto.html
Map: Google maps as of 01.04.2015 p.



📍 — Place of bus stop; 🛡️ — Checkpoint of Military Forces of Ukraine (as of 14:00 22.07.2015); ➡️ — Direction of mine hit

the shot from the side of Lysychansk broke through the glass of a black car “Mitsubishi” and hit the driver in the head. All victims were taken away to the Lysychansk hospital.”

Vitaliy Shvedov said that on July 24 military eliminated at least 4 snipers of IAG, who shot just over the bridge. Three of them were found in heap in front of Glass factory “Proletar”, one – on the building of the plant. Since the position of snipers was significantly higher than the position of UAF, to eliminate snipers on the heap and at the factory they used a tank that is still visible by the hole in the building of the plant. “In addition, a mortar point – as noted Vitaly Shvedov – was also at the ‘Iron market’ (MARKET OF AUTO PARTS IN LYSYCHANSK), from which they also shot over the bridge during the ‘Green Corridor’. There were a lot of snipers in the city.”

To the point, the evening of July 24, after the liberation of the city the Information Center of National Security and Defense Council of Ukraine spokesman Andrei Lysenko said that IAGs were blocked, they were cut off the retreat and he reported about “operational measures to detect sabotage terrorist groups.” So, on July 24, some members of IAGs were still in the city, in particular, acted as sabotage groups. And two days after the liberation of the city, on July 26, Defense Ministry reported that “while moping-up the city Lysychansk combatants of highly mobile assault troops of Armed Forces of Ukraine (AFU) neutralized sniper group of terrorists.”

Vitaliy Shvedov believes that shooting on “humanitarian corridor” may be due to the fact that the part of IAGs, which Armed Forces agreed about ceasefire at that time either had no impact on the individual snipers and firing point or had no connection with them.



(d) Shelling of “Melnikov turn”.

Information that in Lysychansk a “green corridor” will be opened for several hours appeared in media on July 24, the day after notification of military battalion ‘Donbas’: “For residents of Lysychansk exit through Proletarskiy Bridge is open. Ukrainian military created for people so-called ‘green corridor’ through which you can leave the ATO zone. Those who managed to pass through it reported that you need to have a passport at you.”

Despite that, shelling of civilians leaving the city continued.

In particular, in the story of Ruslan Smeschuk, correspondent of TV channel “Inter”, of July 24, it was told about the liberation of the city and in particular about the “humanitarian corridor” the following: “Hundreds of people leaving the city... Unfortunately, there is a failure

to prevent victims among civilians. When we were at one of the checkpoints through which people fled, terrorist sniper killed an elderly man. It happened in the time of inspection of the car, a man stand in line with a soldier at that moment and the sniper fired. And other townspeople told us that during the evacuation of the city they fell under fire of militants. “I went through bushes, they fired on me.”³⁹

The monitors also managed to meet in Lysychansk a man whose father was shot dead on **July 24** in that “humanitarian corridor”, according to the man, with sniper bullet. It happened at the crossing of Sverdlov and Pervomaisk streets, which locals call “Melnikov turn” from the name of the mine, located nearby. This case was described in detail in our previous report (www.ccl.org.ua/wp-content/uploads/2013/07/Zvit-LNR-5.01.pdf)

2. NOVOSVITLIVKA – HRYASCHUVATE, SHELLING OF A CONVOY OF CIVILIANS IN THE “HUMANITARIAN CORRIDOR” AUGUST 2014

Shooting of a convoy of civilians between settlements Hryaschuvate and Novosvitlivka belongs to the period when the Ukrainian army went on the offensive in many directions, the event took place shortly before Ilovaisky tragedy. On the eve the media reported about the success of the Ukrainian army, which entered also Hryaschuvate and even reached Luhansk.

The first report on the shooting of civilians in the convoy that was moving for the evacuation of the settlement Novosvitlivka, appeared on August 18, 2014 around 10 am. The head of the press center of Operative Headquarters “North” Anatoly Proshyn said that *“about 9:40 during displacement of refugees from settlements Hryaschuvate and Novosvitlivka militants opened massive fire on that convoy with mortars and rocket launchers ‘Grad’. As the result, there is a large number of victims. People burned straight in cars, by which they were taken out. People just did not have enough time to leave the vehicles.”*⁴⁰ The National Security and Defense Council stated that “Grad” and mortars were transferred from the Russian Federation. Security Council speaker mentioned that trucks for transportation of civilians were provided by military, however noted that the column contained all identifying marks, including white flags⁴¹.

The same day, August 18, the video appeared in which civilians who were in the convoy moved by provided for their transportation trucks ZIL-131, talk about shelling with two mortar shells (“Grad” was not mentioned already), and also confirm that



Armed Forces Military talks about shelling on the background of one of the ZIL-131 which came under fire – the one which survived (screenshot from the video of UAF)

transport had the white flag.⁴² One vehicle was damaged, the other broken in pieces, tell people.

Regarding the number of dead, the next day it was reported about 17 dead, including women and children. There was no possibility to take all dead of the scene, because since then the area was controlled by the IAGs⁴³.

Armed Forces Military talks about shelling on the background of one of the ZIL-131 which came under fire – the one which survived (screenshot from the video of UAF)

Later, on September 3, on social network page of the volunteer battalion “Aydar”, which organized the withdrawal

of the convoy, were photos from Hryaschuvate⁴⁴, and also (the day before) the following information appeared: “Aydar evacuated from Novosvitlivka several dozens of families, including the breastfed children. The created convoy of refugees of 26 cars (fully filled with civilian people), was fiered with direct fire by the Russian tank from the top of Lysa hill. The corridor created for displacement of refugees from Hryaschuvate, was shelled by Russian troops – those people were burned alive...” – was said in the statement.⁴⁵ In this video, recorded on August 20, combatant of “Aydar” says about shelling of 15 civilians in the “corridor” in Hryaschuvate with involvement of Russian troops, however, he does not specify exactly which trucks were shot⁴⁶. To the point, the video ten days later (August 28) fixed the vehicle of medical service of “Aydar” with relevant identification marks of red cross, cut when leaving the Hryaschuvate with fragments of MLRS “Grad”, howitzer, self-propelled artillery weapon⁴⁷.

However, in the future we could not get confirmation of shelled 26 cars. One of the victims, whom monitors talked with K.Kupriyanova notes that together with ZIL there were passenger cars in the convoy, however, how many of them she doesn’t know because passenger cars were sent later. Information about 26 cars, also was not confirmed by combatants of the battalion “Aydar”, who was in Hryaschuvate on those days. In particular, military with call sign “Orest” says that civilians were taken first by bus and then were moved to the trucks, which, in fact, were hit with shells.

40 www.pravda.com.ua/news/2014/08/18/7035073/?attempt=1

41 www.tyzhden.ua/News/117136

42 www.youtube.com/watch?v=_dVK3QFCv2E

43 www.lb.ua/news/2014/08/19/276651_presstsentr_ato_17_chelovek_pogibli.html

44 www.facebook.com/media/set/?set=a.1482886358647042.1073741830.1430526587216353&type=1

45 www.facebook.com/permalink.php?story_fbid=1482880315314313&id=1430526587216353

46 www.youtube.com/watch?t=170&v=7SW747BPq5Y

47 www.youtube.com/watch?v=qdk5QpWUHxg

He affirms that the shelling was carried out from one of the nearby mines. He says he watched the fire from the mine with own eyes, however, failed to specify what kind of mine (he does not know the name).

At the same time, “Orest” confirms that at that time from the party of IAGs there were regular Russian troops present already, namely the Pskov paratroopers⁴⁸. The same fact was told at the end of August, by the “Aydar” battalion commander Sergey Melnichuk, according to him, in Hryaschuvate area Russian tank sub-divisions and paratroopers joined the fighting⁴⁹. As for the weapons used, “Orest” talks about self-propelled artillery weapon, tanks, 120-millimeter mortars and MLRS “Grad”. He suggests that firing on civilians who were evacuated could be carried out with mortars.

The monitoring group managed to communicate with another witness of events in Hryaschuvate, a **volunteer of the “Aydar” battalion with the call sign “Beret”**, who is now a military commandant of Luhansk TPP (Schastya town). According to him, the truck has shot with a tank. However, he is not talking about ZIL but about KrAZ (perhaps mistakenly, because the trucks visually quite similar). *“When people were taken out of Hryaschuvate, first went KRAZ, which was hit by a tank. They didn’t want to shoot civilians, but civilians were in a military vehicle. Yes, they were of different colors, but we also are colorful. They fired on a military car,”* — says the military. He believes that it is not a planned attack on the convoy of civilians (BY THE WAY, “OREST” SAYS THE SAME), but the accident, but it is important to note that this view is contrary to the information that mobile group received from one of the victims of the fire.

The monitoring group managed to get evidence from the **resident of Hryaschuvate, Kupriyanov Ksenia L. born in 1980**, who was in one of the mentioned two ZIL-131 trucks. Now the woman is in the territory of the Russian Federation. Unlike the military, she is confident that the convoy, which went through the “corridor”, was sighting shot.

K.Kupriyanova was leaving Hryaschuvate on August 18, 2014 with her family of four people, with her husband and two children (girls — 6 and 2,5 years old). At that time (FROM AUGUST 13), the city was under the control of “Aydar” battalion, it was also responsible for the evacuation of civilians. On the possibility to leave the family learned spontaneously, there was no special announcement, means of communication were not available as well, everything was decided very quickly. The “Humanitarian Corridor”



Red spot shows the approximate point of attack of ZIL-131, in which there was the family who suffered

covered the road across the field between Novosvitlivka and Hryaschuvate towards settlement Lutugino. *“That area is easily visible (and swept) that is why there was an agreement without a clear definition of the time on passage of the convoy of civilians”* — the woman said. K.Kupriyanova affirms that the “corridor” has been agreed with “LPD”, they confirmed its opening. At the time of displacement the convoy counted about 50 people. They were placed in two ZIL-131 trucks, which have been transferred to “Aydar” by Armed Forces of Ukraine, as well as in passenger cars (as mentioned above, the exact number of cars the victim does not specify). The transport had the identification mark — a white canvas. According to the woman, shelling started at 9.40, which coinciding with the official report of the National Security Council. *“I went by the first ZIL of convoy (it generally was the first vehicle in the column). There were 25 people in the truck, including two elderly people who are not able of move independently and four children.”* When the truck drove from the road sign “Hryaschuvate” for one and a half kilometre, it came under firing attack.

Red spot shows the approximate point of attack of ZIL-131, in which there was the family who suffered

K.Kupriyanova affirms that it was a direct hit in a car with a grenade launcher. As a result of strike, ZIL, in which she went with her family, burned, 6 persons out of 25 survived (dead 19). In particular, elderly people have died and two children — a boy 17 years and 1 year old girl. The shelling, according to the victim, came from Novosvitlivka.

“It was made quite deliberately — said K.Kupriyanova. — They were warned about passage of the convoy of civilians, they obviously were waiting for us. Our vehicle went first and we’ve been waiting on the road for the second ZIL for a long time. This enabled to aim us,” — a woman is sure.

5 hours after the incident the woman with her husband and two children, and two of their neighbours (one undamaged, another had legs broken) spent in a trench next to the road. In 5 hours they were picked up by “Aydar” medical service and were taken for medical assistance to Novosvitlivka accompanied by infantry combat vehicle.

K.Kupriyanova husband was wounded to trachea by a grenade fragment, he was operated in the hospital of Luhansk airport. Woman had her leg torn with shrapnel below the hip, she got the help from “Aydar” medical service. The eldest daughter of the couple got deep burn of right forearm, she had a skin transplant in Lutuginsk CRH, after that she had treatment at Kharkov burn center. Younger daughter had the burn of an ear, she was treated in Lutuginsk CRH. All things and documents the family had with them, burned in ZIL. The family didn’t file the statements to the enforcement agencies. After treatment, they went to relatives to the RF.

IAGs describe the story of August 18 in Hryaschuvate in a different way. *“Army of the People’s Republic of Luhansk never fired refugees and citizens”* — said “Acting Chairman of the LPR” Igor Plotnitskiy. Meanwhile, the consolidated data of IAG, published on the website of “Press Centre DPR”, state that their forces attacked the Ukrainian army near Hryaschuvate. *“As the*

48 www.gazeta.ru/social/2014/11/10/6297181.shtml

49 www.youtube.com/watch?v=z8FEgrKeoBc&t=15

result of artillery attack of Ukrainian Armed Forces positions in Hryaschuvate the enemy suffered losses, probably 30 dead,” — said in the report of “DPR”⁵⁰. At that, “the vice-premier of the DPR” Andrew Purhin promptly made an attempt to justify the “colleagues” from “LPR”, giving interview to reporters of Reuter, stating that “rebel forces” do not have such military capabilities for such an attack⁵¹.

At the moment, according to the information provided to us by Luhansk Regional Prosecutor’s Office, the case concerning the shelling of the convoy near Hryaschuvate was investigated by the Department of SSU in Luhansk region. However, during the telephone conversation with one of the representatives of the SSU of Luhansk region, he told the mobile group, that he and his colleagues are not aware about the

relevant case.⁵² At the same time, victim K.Kupriyanova says that it is precisely known that on fact of shelling the truck, which she and her family went by, there is a criminal prosecution. She does not have the details, as she is outside the country.

August 20, according to the information and analytical center NSDC, near the village Hryaschuvate there was again a shelling of the car, which the family of IDPs traveled by. The car moved with a big white flag. The bombardment was carried out from the direction of village Samsonivske, Krasnodon district. The man and a 5-year-old child died on the spot. The woman died in the hands of physicians, is said in official report. The mobile group doesn’t possess more details on the incident.

At the same time, it is worth to pay attention to the following fact. Volunteer

with the call sign “Orest” said to the mobile group that with own eyes saw that shelling of ZIL of August 18 was carried out from one of the mines. As he noted above, he does not know the name of the mine, but underlines that saw that with his own eyes, because at that time he investigated the area. The direction of shelling on August 18 and 20 was the same. So, we can assume that it was carried out approximately from the same place. In the second case the National Security Council announces about settlement Samsonivske, Krasnodon district. It is in that village there is the mine “Samsonivska-Zahidna”, owned by LLC “Krasnodonvugillya” (Metinvest Group). Perhaps it was the mine from where the firing was carried out on August 18. By the way, before August 17, this mine was fired.

3. DEBALTSEVE, SHELLING OF POINTS OF GATHERING FOR EVACUATION

February 1, 2015

Town Debaltseve (Donetsk region), which is an important transport hub, is at the administrative border between Donetsk and Luhansk regions. Shelling of Debaltseve used to happen since the summer. After signing the Minsk protocol of September 5, 2014 the town became part of the “buffer zone”. Due to its location, Debaltseve was, in fact, on the verge of spheres of influence of groups belonging to the “DPR” and “LPR” that in January-February 2015 also hampered evacuation from the area where only from the part of “DPR” simultaneously operated “DPR troops”, Russian regular army units and armed group of “Cassack.”

Shelling of Debaltseve intensified on January 19, 2015, the day when the Orthodox celebrate Epiphany. About 7.45 a.m. the center of the town, including the

church was covered with MLRS “Grad” shells. Headquarter of Joint Center for control and coordination of the ceasefire and stabilization of the boundary of the parties (hereinafter — Joint Center) announced about at least 30 rockets that hit the center of Debaltseve and the surrounding areas. OSCE Special Monitoring Mission (hereinafter — SMM) confirmed that the shelling was carried out from Horlivka town, which is under the control of illegal armed groups (IAG) of “DPR”. Chief Department of Ministry of Internal Affairs in Donetsk region announced about the death of three civilians (including 12-year-old boy) and twelve injured (including 12-year-old girl).⁵³ **Larisa Yakovenko**, bed-bound disabled of 1 category, at the time of the visit of the monitoring group in Donetsk region at the beginning of March was at one of the places of compact settlement of displaced persons

in Artemovsk, said that it was a “provocation, as those who shot probably knew that in the morning people would go to church.”

January, 20 the town was actually cut off from communications: electricity, water and mobile communications. From that time and until the final de facto occupation of Debaltseve by illegal armed groups of “DPR” (February, 17, 2015) the evacuation of people from the town and surrounding areas was carried on mainly by own affords of people and with the support of State Emergencies Service of Ukraine, Ukrainian military, local government, and to a large extend by efforts of volunteer (as a rule the last took care about the evacuation of socially vulnerable groups). Evacuation was carried out mainly to Artemivsk, Sloviansk, Kramatorsk and other cities of Donetsk region. By some estimates, from more than 30 thousand people at the beginning of

50 www.bbc.co.uk/ukrainian/politics/2014/08/140819_hryaschuvate_update_bodies_dt

51 www.novorosinform.org/news/id/6464

52 www.youtube.com/watch?v=_dVK3QFCvzE

53 www.dt.ua/UKRAINE/v-rezultati-artobstrilu-debalceve-postrazhdali-10-osib-8-richna-divchinka-u-vazhkomu-stani-161731_.html

February about 7 remained.

Those leaving the town were indirectly threatened with bombing by illegal armed groups. In such way it is possible to interpret a statement on January 30 which was made by one of the leaders of the “DPR” Alexander Zakharchenko after the capture of Vuhlehirsk (town near Debaltseve) by forces of illegal armed group (IAG): “road can be covered with fire completely. All those who will come out of the trap, will come under cross artillery fire.”⁵⁴ Of course, first of all Ukrainian military were meant, who they tried to entrap, however, it was the only way which, in principle, was possible to leave the town by. It was the road where there was the section between towns Debaltseve and Logvinova which was under the shelling most of all.

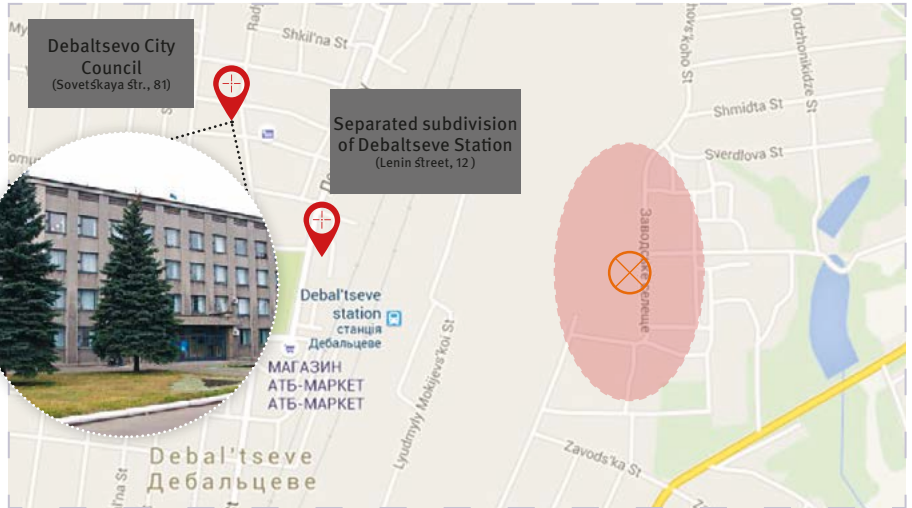
In such circumstances, the civilian population had to leave the town. For example, it was January 30, when **Galina Alentyna**, a worker of one of the kindergartens of the town, was leaving Debaltseve, and at the time of the visit of monitors was at one of the places of compact settlement of displaced people in Artemivsk. About 18.00 she was evacuated by private car of the family friend. “Road was under the fire, everything was moving around. Shells fall down both to the town and to the road,”—says the woman. Fortunately, she managed to leave the town uninjured.

At the end of January (the exact date can not be specified) **69-year-old Ivan M. Solovey** also had been leaving Debaltseve. He was taken away by volunteers. The pensioner says that the road at that time was under the fire, forcing the driver to continuously jerkily change the speed (i.e. 80 km/h, 50 km/h) and to maneuver, to make it impossible to aim and hit the car. To the question whether, according to his mind, the car was under the aimed fire, the man replied: “Of course. Our bus was driving with a white flag. They were still shooting. From Chornuhyno, Faschivka, from the part of “DPR.” The pensioner also fortunately remained uninjured, as of now he lives in a place of compact settlement in Donetsk.

But not everyone was so lucky.

February 1, 2015 in Debaltseve two locations, where there were points of gathering of civilians for further evacuation came under fire. Members of the monitoring group managed to talk to the volunteers who had organized evacuation.

Volunteer Andrew Haluschenko, who was the member of the volunteer groups that took part in arranging the evacuation from Debaltseve, says that for the further evacuation people from different points of the



— Stelling place; — area, from where more likely, it was fired.

town were brought to several predetermined locations. There they were moved into more commodious transport and were sent to the government-controlled Ukrainian cities further from the front line. The main points of the gathering were at the bomb shelter in Lenin street, 12 (Separated subdivision of Debaltseve Station) and Debaltseve City Council (Sovetskaya str., 81).

In Lenin str., 12, in addition to gathering people and moving into more commodious transport, there was the point of distribution of humanitarian aid, food and water, which was delivered there by State Emergencies Service of Ukraine. That is why quite often there was quite massive accumulation of civilians there. **Between 12.00 and 13.00 on February 1 it was that point that has been suffered under the artillery strike.** According to Andrei Haluschenko who has an experience of combat, shots were made from 82-millimeter mortar (also known as “Vasyliok”) with mines with fragmentation effect. Within approx. 20 minutes there were made three solvo fires of 15–20 shots each. At the time of the shelling there were about 70 people near the bomb shelter, including children, who were waiting for evacuation. Also there was transportation there, for taking out people, in particular the bus “Bogdan” (it was one of the four buses allocated for the evacuation by Kyiv city authorities on the request of volunteers, in the result of shelling, it remained without window panes), minibus and cars. After the first salvo fire 13-year old girl was injured to the neck (she was transported to Kharkov and she was operated there, as of now she is in a stable condition). A driver of one of the buses also got injury with shrapnel. After the first salvo fire volunteers managed to

move people into the bomb shelter where they staid for about 1.5 hours. Out of means of transportation the car of volunteers was damaged most of others, and had to be left in the town because of its unsuitability for further usage.

According to Andrew, who after the shelling had got the ear concussion (acute acoustic trauma), shelling was carried out from a distance of 1 km, i.e. from the town limits. Presumably, from the Zavodskiy district (The plant administration), which, according to his information, the Ukrainian military checked not too carefully on presence of sabotage and reconnaissance groups (hereinafter — SRG). It was that place probably where all three salvo fire were made from. The weapon, which was probably used for firing was rather mobile. Being disassembled it can be carried by three persons, it can also be installed on an off-roadster.

“It took about 40–50 seconds from when the transport was pulled up to the bomb shelter. This is just a flying time for mines on small distances. Trajectory was high-angle — Andrew describes. — Mines fell from above. This may indicate that fire was carried out from close distance. The fire was exact, with high accuracy and precision (mines fall down into a square 100 by 50 meters), although there was no signs of getting the range, which may indicate that the aiming device I was spotted in advance and namely to that place”, — assumes Andrew Haluschenko.

According to Andrew, and also **volunteer Diana Makarova, founder of the Diana Makarova Foundation**, who also organized the evacuation on that day and came under fire, from the Chief of Debaltseve militia town department Colonel

Eugene Yuhanov (later, on February 10, he was killed while trying to assault of one of SRG of Debaltseve Town Department⁵⁵) they repeatedly received information that there are several SRG in the town. According to the point of view of both volunteers (who were interviewed by participants of the mobile group separately), salvo fire could had been carried out by one of these two groups.

According to both volunteers — Andrew Haluschenko and Diana Makarova, there were no roadblocks or positions of Ukrainian military near bomb shelter in Lenin str., 12. While in the building, where there was the bomb shelter, there was the military office, but it occupied just one room, where there were the commandant and two soldiers. Before the shelling the car of battalion “Donbass” with several military drove onto the site of the building. According to another volunteer who participated in the evacuation — Tim Zlatkin, in one of the nearby administrative buildings battalion “Donbass” was creating its own deployment. However, it should be noted that at the place of the shelling at the time there were at least 70 civilians (among them — children) who were preparing for evacuation.

Diana Makarova said that the shelling took place on the third day of their active work on evacuation of people from Debaltseve. Previous days people gathered at the same place. This is another argument that may indicate that the shooting was aimed.

That is why at the time of evacuation volunteers constantly appealed to journalists not to inform in open sources, the evacuation point and route of transportation of civilians. In their opinion, these reports led to attacks. In particular, one of the volunteers **Tim Zlatkin** (facebook.com/akvilifer), who took part in organizing the evacuation, wrote in the social network that through these messages IAG “conduct aimed fire on our buses and cars.” It was him who placed the photo of bus “Bogdan” attacked near the bomb shelter.

In addition, in the conversation with the monitor Tim said that a few days before (he could not remember the exact date) one of the buses meant for evacuation of civilians, was hit by shelling nearby Debaltseve on the road. He believes that the mortar firing in that case had also been targeted because it hit a bus after it stopped due to technical reasons and that made it possible to put it on sight. Fortunately, during that shelling no one was hurt, because the bus

was almost empty — except for the driver and several volunteers at that time it was empty.

The same day, **February 1, about 14.00 there was the shelling of the Executive Committee of Debaltseve** but probably with other weapons — MLRS “Grad”. In the result of that shelling the Chief of the Headquarter assigned to the Joint Center of Ukrainian Armed Forces was wounded (at that time Joint Center was based in Debaltseve Executive Committee, it should be noted that by that time Russian military have left the town already, they moved to Soledar where the Joint Center locates now), and two civilians were also wounded⁵⁶. In addition, one of the buses was put out of action, it was used by State Emergencies Service of Ukraine for gathering people for evacuate namely from that place, 8 people from that bus were struck by shrapnel, which just was departing from the Town Executive Committee for Artemivsk. Before that two buses of State Emergencies Service of Ukraine managed to safely leave. According to the Chief Department of Ministry of Internal Affairs of Ukraine in Donetsk region, shelling took place at 14.50. 9 people were injured.⁵⁷

Oleksiy Korotkyi, born in 1948, was going to leave Debaltseve from City Executive Committee on February 1, exactly by the bus that was put down in the result of the shelling (he is a pensioner, native from Chornuhyno where his house was destroyed by a shell in January). “As soon as we departed from the Town Executive Committee — and the shelling immediately began. I do not know how our bus was not covered. Mines exploded nearby, I saw

these flashes. Bus was cut with shrapnel, window panes were shot out. The bus could not drive further because of the damage. We sat there for three hours. Out of 18 only six left, the rest of us were taken by the bus that was driving nearby. Some went on foot. Three hours later the bus of volunteers from Artemivsk arrived and took us six,” — says the man who at the time of the monitoring group visit was in the hospital of Chasiv Yar town of Artemivsk district (there he had the leg amputation, but it was a routine operation not connected with the results of the shelling). The man said that in the result of the shelling there were injured in the bus, although he was not injured.

Apparently, in the same bus with the previous interviewee, there was **Volodymyr Saltyn** (origin from Vuhlehirsk, who left the city earlier). As of February 1, he was in hospital №2 in Debaltseve, having already the shrapnel wound to the head. He says that at the time of the evacuation of February 1 (which was announced by nurses) mines fall several times next to the hospital, the building was already without windows. About the evacuation itself the man says that mines fall near the bus, but did not hit transport. However, as a result the transport was put out of action and he was taken from Debaltseve by another bus. First he was taken to Artemivsk, but as there were no vacant places in the hospital, he was moved to Chasiv Yar, namely where monitors had met V.Saltyn.

The chief doctor at the town hospital of Chasiv Yar town says that for the period of battles for Debaltseve in the end of January and February 2015 15 people from among the civilian population with



Bus “Bogdan” that was shelled near the bomb shelter. Photo by Tim Zlatkin

55 www.censor.net.ua/photo_news/324148/nachalnik_gorotdela_militsii_debaltsevo_evgeniyi_yuhanov_pogib_pri_otrajenii_popytki_zahvata_zdaniya

56 www.osce.org/ukraine-smm/138616

57 www.facebook.com/Vyacheslav.Abroskin/posts/1416019025357434

injuries got as the result of battle actions were delivered to the hospital. At the time of the monitoring group visit 10 remained in the hospital (4 at the department of therapy, 6 at surgery department). Their injuries except the said man with the head wound, were not related to battle actions, but were related to extreme conditions in which people had to stay while there we fighting at Debaltseve.

At the time of our visit to **Artemivsk Central District Hospital**, last civilian wounded, who received injuries in Debaltseve, was just released. In general, as the **Deputy Chief Doctor on the Medical Work Gubskiy Ivan** said, from February 1 to March 2, 87 people applied to the hospital with injuries of varying complexity resulted by battle actions. However, not all of them – were affected at Debaltseve. For example, 9 got injuries due to the shelling at Artemivsk of February 15.

Monitors also managed to talk by phone with the **chief of the department of internal policy of the Debaltseve Town Council Oleksyuk Ivan**, who was involved in the evacuation. The man refused to meet personally, because of the time, but confirmed the shelling of transport by which the evacuation was to be carried out at the Executive Committee. He said he knew people who suffered as a result of the shelling, but they refuse to communicate (even by phone and even anonymously) because of the fear, because they intend to come back and continue to live in Debaltseve.

In the case of Debaltseve it should be underlined **the responsibility of the Ukrainian government for untimely arranged evacuation of vulnerable groups among the civilian population**. Since the end of January 2015 volunteer initiatives always stated the need for evacuation of the population. In particular, in one of the publications in the press on February 3 the civic initiative “Station Kharkiv” stated that there are 100–200 applies per day for help with the evacuation. Fifteen hundred applications were received during the week by “Ukrainian Frontiers” NGO. *“We work, but State doesn’t – said then the coordinator of “Humanitarian aid mission for civilians at zone of military conflict” Eugene Kaplin. – A month ago we said that Debaltseve soon will be at tense situation so far. Most people either sit in the basements, or try to go to relatives. The town has no*

water, gas, electricity, the bakery was blown up, commercial carriers do not work...”⁵⁸

A few days later the shelling of Debaltseve was intensified and on February 4 SMM OSCE called for creation of the “humanitarian corridor” for civilians could leave the territory under the fire⁵⁹. On February 5 the call to create the conditions for the evacuation of civilians from places of intense shelling publicly was supported by the UN General Secretary Ban Ki-moon⁶⁰.

As a result of further negotiations it was possible to arrange **“corridor” on February 6**, thanks to which a significant number of civilians were taken from the conflict zone (first of all – people with disabilities who are unable to move on their own) and who, fortunately, was not fired. According to State Emergencies Service of Ukraine for evacuation of people there were involved 25 buses, 2 armored vehicles “KrAZ” and 2 vehicles of “ambulance”. 753 people including 81 children and 3 persons who could not move independently were evacuated from Debaltseve, nearby villages Novohryhorivka, Comuna and Chervonyi Orach, Artemivsk district, town Myronivka and Avdiivka.

In response to the information request from the **CENTER FOR CIVIL LIBERTIES** State Emergencies Service of Ukraine reported that “humanitarian corridor” was organized on February 6 from 6.00 for three days. However, it was a management decision of ATO Headquarter. In fact, as you know, corridor operated only for one day – February 6. But even that day, according to volunteers who have performed evacuations IAG tried to provoke bloodshed. Volunteer **Diana Makarova** said: *“It was possible to agree on two hours cease-fire on the way Artemivsk – Debaltseve, after that for four hours – the town, and then again two hours – way. While we were driving to the town, the road itself was not shelled but from the side of “LPR” “tornadoes” flied (TALKING ABOUT MLRS “SMERCH” – EDITOR’S NOTE). In addition, overnight forces were pulled to Debaltseve: howitzers, curtain-sided trucks from Donetsk, armored units, SRGs. They began to assault the Ukrainian military positions on the outskirts, they had to shoot back.”* The shelling of the town on the day of the “humanitarian corridor” February 6 was also stated by ATO Headquarters⁶¹. At that “LPR” argued that Ukrainian forces opened fire on a convoy of civilians, who were

evacuated from Chornuhyno on February 6, which allegedly journalists of Channel “Russia 24” and Russia Today came under⁶². Because the area was currently occupied, the mobile group didn’t manage to check the reliability of this information.

In addition, Diana Makarova tells about an attempt of provocation near school №6, where there was one of the bomb shelters and whence volunteers also tried to take people. *“When we approached the school, there was a crowd of 150–200 people there, mostly women. Around there were small groups of men in black. It turned out that people were told that we have to bring humanitarian aid. The crowd was “wound”, we were greeted with shouts and threats. They began to surround us, jerk, accusing, shouting demanding to take the military away. We miraculously managed to calm them. Just wonder that the crowd didn’t tear us apart, – says Diana Makarova, adding that she is sure – it was an attempt of provocation.”*

An elderly woman with two daughters, who wished to remain anonymous, and who at the time of monitoring visit was in the hospital of Chasiv Yar town, moved out of Debaltseve on February 6 because they needed urgent medical care. Their entire street had already been evacuated (talking about the area of “8 Bereznia” street in Debaltseve). They hoped to the last to sit until it became known that the elderly woman needed urgent surgery. Volunteers took them from the house, after that evacuation was arranged from the Town Executive Committee. They confirmed that they were able to leave the city without obstacles. This family was lucky, because they didn’t know about the announcement of the “humanitarian corridor” as they didn’t have access to any means of communication. They knew about the possibility of leave by chance.

It is rather difficult to prove the intent on obstructing the evacuation. However, the relevant motivation may be indicated, for example, by the following situation. As you know, February 6 Debaltseve “humanitarian corridor” for evacuation was organized in two directions: to Artemovsk controlled by Ukraine and to Donetsk controlled by IAG (20 buses, according to “Ombudsman of DPR” Daria Morozova). In the end, 766 people left in direction to Artemivsk and 42 in direction to Donetsk. According to the volunteers who organized the evacuation, next day from the part of Russian participants

58 www.m.day.kiev.ua/uk/article/cuspilstvo/yak-organizuvaty-sistemnu-evakuaciyu

59 www.radiosvoboda.org/content/article/26830562.html

60 www.112.ua/politika/gensek-oon-prizyvaet-sozdat-v-debalcevo-gumanitarnyy-koridor-184882.html

61 www.glavred.info/zhizn/boeviki-narushili-dogovorenosti-o-gumanitarnom-koridore-utrom-obstretlyali-zhilye-kvartaly-debalcevo-302172.htm

62 www.vesti.ru/doc.html?id=2333769

of the Joint Center there were remarks that, they said, the Ukrainian party almost forced people into buses. Openly there were also accusations that the Ukrainian party “didn’t notified residents about the possibility to go to the DPR.” These accusations seem groundless to us, we have not met any evidence, while people who moved to Artemivsk on February 6, said that evacuation to that area seemed safer for them. Volunteers believe that through such blatant unpopularity of “Donetsk direction” in the next days of ‘humanitarian corridor’ mode was broken by the IAGs.

One of a displaced from Debaltseve also told to monitors about the rumors as if during the battle for Debaltseve in February, many people were killed on the railway line, which they crossed in order to leave the town. “It seems that the snipers were killing people when they tried to get out of the town across the railway line. Everyone was afraid to go there.” However, none of our other interviewees confirmed this information, sniper activity was not observed in Debaltseve.

The following days it occurred not possible to arrange any “humanitarian corridor” from Debaltseve to other Ukrainian towns.

February 8 State Emergences Service of Ukraine reported that “the evacuation of citizens from the towns Avdiivka, Debaltseve, as well as located near settlements (Novohryhorivka, Comuna, Myronivske, Krasny Pahar, Chornuhyne), as it happened in previous days, was not carried out in connection with active battle actions. The management of antiterrorist operation to ensure safety of people did not allow KrAZ vehicles and buses that were scheduled for evacuation to mentioned settlements.”

In total, according to the Agency in response to an information request from the **CENTER FOR CIVIL LIBERTIES**, of January 28 about 5000 people, about 1 thousands of whom were children were evacuated by rescuers and volunteers and left on their own from settlements of Donetsk region, which were in the line of fire. According to the

published report in early March, the Office of the High Commissioner for Human Rights of the UN, illegal armed groups reported 1,100 evacuees, mostly elderly and children from Vuhlehirsk and Chornuhyno and adjacent areas to the territory under their control.⁶³

In response to a request for information State Emergencies Service of Ukraine said that in the period from January 22 to February 9, 2015 the displacement was carried out by a structural subdivision of State Emergencies Service of Ukrainian, State Enterprise “Mobile Rescue Centre”. The Agency also gives the chronology of the displacement and the number of displaced persons. During that evacuation there were involved 28 buses of different models (presented by the local authorities) and 2 armored special operational and medical vehicles on chassis KrAZ-5233 (from the State Enterprise “Mobile Rescue Centre of State Emergencies Service of Ukraine”), which came to certain places of gathering and evacuees were loaded and performed transportation in the opposite direction.

Among representatives of the State Emergencies Service of Ukraine there are also victims of attacks. One of them got shrapnel injuries of hands, the other got concussion – rupture of the eardrum. According to State Emergencies Service of Ukraine, it happened due to mortar fire on February 1 (probably it is about the first described case near the bomb shelter). In addition, “because of mortar attacks near the city Debaltseve and performing of dangerous maneuvers to escape from under fire area during evacuation of people” armored special operative and medical vehicles on chassis KrAZ-5233 were partially damaged. This happened despite the presence of identification marks. State Emergencies Service of Ukraine notes that all the equipment, owned by the Agency has the appropriate marks⁶⁴.

Volunteer Oleksiy Fedchenko from the Protestant community who was engaged into evacuation of civilians

from the cities of Donetsk and Luhansk regions, said that, on the one hand, for the entire time that he was engaged in the evacuation of people he never hear about are full “humanitarian corridors” for “regime of silence had never adhered to.” Actually, he said, no one was waiting for the “humanitarian corridors”, they evacuated people despite the shelling. Oleksiy did not conduct any negotiations with the IAG as for the safe evacuation of civilians. He doesn’t consider it appropriate, since “the territory is controlled simultaneously by several groups and it is impossible to agree with all,” he said. Volunteer says that the greatest number of people in need of evacuation in those periods when there were the most intense battles (600–700 people a day) during periods of so-called Truce initiative took out about 70 people per week. Total for the entire period of armed conflict in Donbas Protestant community states about evacuation of approx. 55 thousand people by there own efforts.

Monitoring of local Debaltseve online forums may indicate that at the time of termination of evacuation there still were left a lot of people who wanted to leave the war zone. **There is, for example, the following message of February 17:** “Both sides claim that there are no civilians wishing to leave the territory of Debaltseve. This is not true. It is not possible to carry out the evacuation because of shelling – this is the fact. But there is a lot of willing to leave. People didn’t move away since they hope to the last moment for the better, besides, in addition they were afraid to be killed under the shelling during the evacuation. I ask, volunteers and caring people, we must unite and do everything possible to ensure that civilians were given the opportunity to leave the sector without danger to life.”

However, starting from February 7 Debaltseve for representatives of the Ukrainian government and the most of the volunteer groups was not available through the occupation by IAG.

63 As State Emergencies Service of Ukraine informs, from February 1, 2015 in the Donetsk region there were launched 2 additional transit points for meetings of IDPs in cities Sloviansk and Kostiantynivka. 4733 people addressed these points. Also by the efforts of State Enterprise “Mobile Rescue Centre of State Emergencies Service of Ukraine” during February 18-19, 2015, at Artemivsk city there was deployed a meeting and reception point for evacuated from ATO area, which 20 people addressed for help. Overall, from June 6, 2014 State Emergencies Service of Ukraine actively deployed 7 transit point for meeting people in Donetsk, Luhansk and Dnipropetrovsk regions: in cities Krasnoarmiisk, Volnovakha, Mariupol, Svatove, Lysychansk, Schastia and village Orly. Currently there are transit points of meeting in city Krasnoarmeysk of Donetsk region and Svatove of Luhansk region and also on the basis of State Emergencies Service of Ukraine in Luhansk region there were deployed 6 points for a temporary stay of evacuees from Luhansk region. As of March 24, 2015 to transit points in the cities Sloviansk and Konstantinovka of Donetsk and Svatove Luhansk region 8 thousand 721 person addressed and registered.

64 Marking vehicles belonging to State Emergencies Service of Ukraine and which carried out the evacuation of civilians are as follows: “direct equilateral cross with diverging ends of orange and gold (yellow) borders. In the center of the image there is the Symbol of the Princely State of Volodymyr the Great of gold color on a blue field framed with a wreath of oak leaves of golden color. On the cross sides there are the images of equilateral triangles of blue color directed to the center of the emblem, between cross sides there is stylized image of flames of orange color with gold (yellow) borders. In addition, transport that has been involved in evacuation of people from abovementioned settlements had specific marks of transportation of evacuees (white flag), and special armored operative and medical vehicles on chassis KrAZ-5233 painted white with drawings of the international marks of sanitary and medical services (Red Cross) on both sides and the relevant inscriptions “Medical Ambulance” “

4. SHELLING OF AMBULANCE VEHICLE NEAR LUHANSKE

APPROXIMATELY BETWEEN FEBRUARY 7 AND 13, 2015

Few details are currently known on the evacuation of people from the line of towns Mironovskiy–Luhanske–Svitlodarsk. Meanwhile, in the social network appeared the photo of ambulance vehicle suffered under the shelling on the roadside near the village of Luhanske. It was placed **by an international journalist Alec Luhn on February 15**. The journalist himself informed the mobile group that this car was struck by fire before February 15, as he saw it a few days before he made the picture when drove past that place for the first time.

Alec describes that the car was on the western part of the road that goes south from Artemivsk to Luhansk. Photo was taken near Luhanske. Since the car was on the part of the road, which is under control of Ukraine, it can be suggested that the shelling was carried out by the IAG. This was not the only car with traces of fire, which was on that road, said the journalist. He also gave us another photo of shelled transport, however, vehicle, fixed there was of military trucks

From the volunteers we have heard about civilian cars with traces of shelling on the side of the road.



Alec Luhn @ASLuhn · 5 год.

Bombed out ambulance near Luhanske on road to #Debaltseve. Shelling up ahead. "No #ceasefire here" soldiers say

[Переглянути переклад](#)



Fragment of Twitter page of Alec Luhn

5. CHORNUHYNE, OBSTRUCTION OF EVACUATION OF CIVILIANS

FEBRUARY 10, 2015

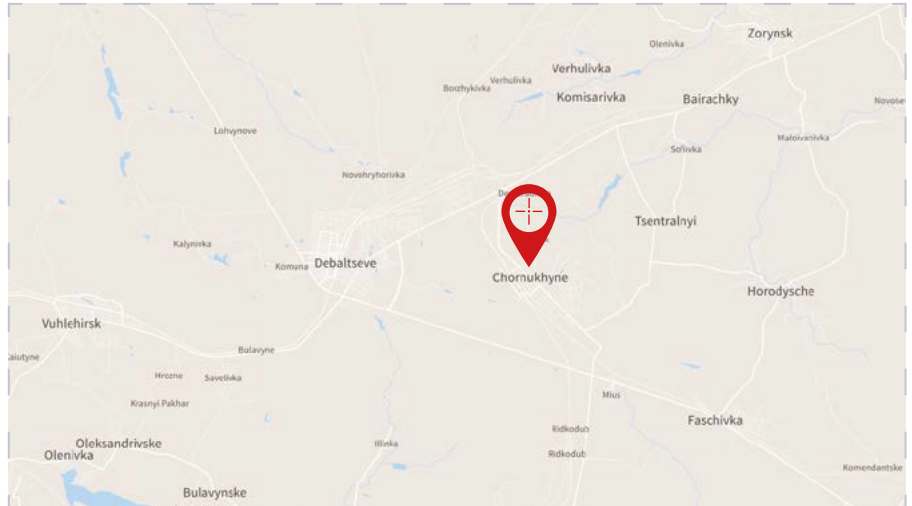
According to **Assistant of Governor of Luhansk region Gennady Moskal Svyatoslav Galas** the biggest problems at the moment

of escalation of the situation in the area of Debaltseve arose from evacuation of people from village **Chornuhyne** (Luhansk region, Popasna district, in peaceful times there lived about 6000 people there), which

during intense battles for Debaltseve was occupied by one of the "Cossack" groups. At the beginning of February, in order to evacuate civilians from Chornuhyna there were conducted the negotiating with IAG

on opening of the “corridor” with involving to the negotiation process Russian officers from the Joint Center. Logistics and transport was provided by Luhansk Regional State Administration. There was appointed a day for evacuation – February 10. However, there was no chance to carry out the evacuation of several hundred people who were going to leave, because of blocked transport. This story is detailed on the website of Gennady Moskal, it was also confirmed by S. Galas during a personal meeting in Severodonetsk.

“At 7 A.M. we went to Chornukhyne from Severodonetsk, but managed to get to the crossing at Mironovsky (Donetsk region) only, which is 15 km from Debaltseve. Now there is the last checkpoint of Ukrainian security forces there controlled by soldiers of the Department of Internal Affairs Ministry in Donetsk region. Nobody is allowed to go further than the checkpoint by on highway, as long as Lohvinove village, which is located nearby, is blocked with armored vehicles and manpower of militants. The highway is constantly shelled with “Grad” and artillery... Chornukhyne and Troitske, which were in the theater of battle actions around Debaltseve were completely blocked. It is possible to evacuate people from there only in the direction of so-called LPR. Now village people who can move independently, leave Chornukhyne on foot and go to the direction of the occupied territories”, – said the head of the Luhansk Regional State Administration Gennady Moskal⁶⁵.



S. Galas believes that the reason for the failure of the evacuation was in the lack of coordination between different groups of IAG and inconsistency of their actions, “Chornukhyne was just on the administrative border between the Donetsk and Luhansk regions, and there were a lot of parties involved. It seemed as if everything was agreed, and then they went out with tanks – and that’s all.”

Although this was not the focus of attention of the mobile group and this issue needs to be reviewed in a separate report, but it is worth of noting also the problem of evacuation of people from places of unfreedom, it is also accented in the mentioned report of the Office of the High Commissioner for Human Rights of the UN. In particular, **the story about the shelling of penal**

colony №23 of medium level of security for men in the village Chornukhyne from where at the beginning of intense battles 375 people were not evacuated (and this should be considered the responsibility of the Ukraine). Together with prisoners of other colonies of Luhansk and Donetsk regions, in fact, they were held hostage. According to the Kharkiv Human Rights Group, as of now 28 of 36 institutions of State Penal Service of Ukraine of two regions are at the temporarily occupied territory and this is from twelve to fifteen thousand people⁶⁶. The exact number of prisoners who died due to shelling and while trying to escape to the territory controlled by “LPR” (as reported earlier with reference to one of the prisoners) is currently unknown.

6. ZHOLOBOK, OBSTRUCTION OF EVACUATION OF CIVILIANS

JANUARY 2015

From an Assistant of Governor of Luhansk region monitors also received confirmation of information about the case that, as previously reported, occurred on January 28 between 29 (Ukrainian) and 31 (captured by IAG) checkpoints near the village Zholobok (Popasna

district, Luhansk region). A journalist Sergei Ivanov⁶⁷ was the first who reported about that case. According to Minsk agreements Zholobok was in the “buffer zone”. When the settlement was blocked by IAG and regular Russian troops, some people expressed their wish to leave. Volunteers negotiated on the “corridor” for them for

several days. After several days delay civilians finally left the village by two cars, one of which blew up on a fougasse nearby the Ukrainian checkpoint № 29. The initial report of the journalist Sergei Ivanov, with the reference to the military said that the fougasse was radio-controlled (at the exit from Zholobok the car was inspected by

65 www.moskal.in.ua/?category=news&news_id=1474

66 www.khpg.org/index.php?id=1423827575

67 www.news.liga.net/news/politics/4908345-pod_29_m_blokpostom_kazaki_vzorvali_avtomobil_s_zalozhnikami.htm



The vehicle damaged in result of fougasse explosion. Photo from Facebook page of Sergey Yevremov (www.on.fb.me/1DU4CYY)

“Cossacks”), and the aim was to blow up the Ukrainian checkpoint. According to Assistant of H.Moskal, one of the victims was a retired professional military, whom

he personally talked with, said that it was namely the fougasse that exploded, but not the other explosive device. However, S.Galas is not ready to confirm the fact that the fougasse was radio-controlled.

People who were in the car were seriously injured (one man lost one leg and the second leg was broken, the woman was delivered to intensive care, the third passenger got not such serious injury). When communicating with the governor, they, according to S. Galas, confirmed that before the evacuation they were forced to stay in the village for two days and were not allowed to leave. One of the passengers, a



The vehicle damaged in result of fougasse explosion. Photo from Facebook page of Sergey Yevremov (www.on.fb.me/1DU4CYY)

retired professional military, suggests that the IAG therefore tried to protect themselves from the leak of information about the location of their military equipment.

7. COSSACK VILLAGE Luhanska, OBSTRUCTION OF EVACUATION OF CIVILIANS

MARCH 17, 2015

One of the most notable cases that may indicate IAG policies aimed at blocking the evacuation of civilians, has to do with quite recent events. It happened on **March 17, 2015 at the checkpoint near the Cossack village Luhanska**, which was at the so-called buffer zone and was established in accordance with the provisions of the Minsk agreements. **Victoria Ivleva** was detained there⁶⁸, a Russian photographer, a volunteer who had been involved for nearly a year into evacuation of civilians from the temporarily occupied territory. By the group with several other volunteers, **they tried to take out of Luhansk region the group of 45 people (mostly residents of Alchevsk), most of whom were women with young children – from several months to 12 years.** Victoria Ivleva, whose voluntary activities, according to her own words, were known to “LPR”, was detained at the checkpoints around 14.40 and kept for 4 hours, and the bus was taken under convoy of “LPR KGB” and brought to the former building of Luhansk Regional State Administration.

As Victoria Ivleva told to the monitoring group, she was detained by two persons with IDs of “Great Don Troops” and with the corresponding patches (as it is known, it is one of the most active “Cossack” IAG acting in the temporarily occupied territory and in addition practicing mass kidnapping of civilians with the use of tortures and abuse to them, mobile group participants repeatedly used to interview such people). One of them introduced himself as a local forester “Nikolai Ivanovich Kuzmin,” he took photos of all papers of Victoria (including lists of people who wish to leave) which later, in her own words, simply were stolen from her. The second man introduced himself as “Rustam Hohol.” Victoria suggests that he was a resident of Cossack village Luhanska or settlements nearby. The volunteer convinced that these people did not make decisions alone, that her detention was not their own initiative. Holding her at the checkpoint, they always went out and called to someone. In addition, Victoria claims that they had the order for detention of namely that volunteer group, having details of the group including

the personal data of its members (names, phone numbers). She suggests that personal information could be obtained by representatives of IAG through the SMM OSCE (that fact was not commented by the international organization).

While staying at the checkpoint being de facto a hostage Victoria didn’t get any charges from the representatives of IAG. However, when she called to the “deputy of ‘LPR’” Olga Kobzeeva, whom she contacted earlier, and expressed dissatisfaction with the behavior of people with weapons, the “deputy” began to threaten her, saying that “would get even in Moscow.”

Later it was found out that volunteers in the local media have already been announced “kidnappers.” In particular one of the articles says the following: “LPR restrained the attempt of kidnapping of Kiev Hunta” referring to “LuhanskIformCenter”, which cites the “the LPR Council of Ministers Deputy Chairman” Vasily Nikitin⁶⁹.

When the bus with people arrived to Luhansk Regional State Administration, the women with children were already waited by local television. On the same day the story that Ministry of State Security of

68 www.kp.ua/incidents/494824-smj-lnr-ne-pustyly-v-ukraynu-avtobus-s-zhenschynamy-y-detmy

69 www.mianews.ru/2015/03/18/v-lnr-presechena-popytka-poxishheniya-detey-kievskoj-xuntoj/

LPR managed to restrain the mass kidnapping went on the air⁷⁰.

Victoria Ivleva said that people who express a wish to leave occupied territories temporarily controlled by “LPR” are intimidated and are told outright lies about what is happening in the territories controlled by Ukraine. Personally against Victoria Ivleva, in fact, there was launched an information campaign. Residents of temporarily occupied territories are shown pictures of mutilated human bodies, affirming that it was the work of Victoria. That campaign is also proved by social networks.

“These people were taken into slavery. The criminals planned to take away their documents and to force them to take part in illegal beggary business. The ethnic criminal groups are checked for any involvement in the crime”— is said at the post of Vkontakte account “Synopsis of Novorossyia militia”⁷¹.

Moreover, there was the information in mass media that in “LPR” they seems to intend “to institute criminal proceedings” against Victoria Ivleva. However, the volunteer is not aware of such fact.

In the air on Civic TV one of the evacuees from Alchevsk women (although she left earlier) noted that *“it is not true when they told that we are taken into slavery.”* So, apparently, at areas controlled by the IAG they on purpose spread rumors that people are displaced to control by Ukraine territory not for the purpose of evacuation, but for “slavery.”

This information was confirmed during our conversation with the woman, who could not leave on March 17, but who was evacuated later together with her family. At the moment these people, according to our information, are safe in one of the places of compact residence

in Zaporozhye. **Elena Moroz, born in 1975, resident of the city Alchevsk**, on March 17, tried to leave temporarily occupied territory (“of despair”) together with the family of three children (1994, 2001, 2003 year of birth) and 9-month-old granddaughter. *“When we arrived to Cossack village Luhanska checkpoint, we were immediately told that the bus with children would not be allowed to pass. At the checkpoint the Chief approached the bus, but he did not speak with us, but with the driver. He said that they were warned that this bus takes women in prostitution and slavery, and children for organs and that we allegedly were taken by force. Although we were not, we ourselves wanted to leave... When we arrived to Luhansk, the reporters were already waiting for us, we were given baby food and dry snack.”*

8. SHELLING OF AVDIYIVKA DURING EVACUATION OF CHILDREN JANUARY 2015

In March, the Head of the Chief Department of Ministry of Internal Affairs of Ukraine in Donetsk oblast Vyacheslav Abroskin mentioned on his FB page that workers of regional chief department had to take out children from Debaltseve under fire⁷². At the **Department of Juvenile Criminal Militia of Ministry of Internal Affairs of Ukraine in Donetsk region** they specified that it was said about the period (January 2015) when their staff had to deal with displacement of children from the cities of Donetsk region, which were subjected to systematic shelling. Namely: January 5 — 58 children were taken out from Debaltseve, January 24 — 34 children were taken from Avdiivka, January 25 — 68 people were displaced from Mariinka and Krasnohorivka, January 26 — 8 children previously displaced from Debaltseve were brought back to Debaltseve on the request of families, while 8 were evacuated from the city.

According to **Head of the Juvenile criminal militia department of Ministry of**

Internal Affairs of Ukraine in Donetsk region Vitaly Bodnaruk, January 24 during the evacuation of children from Avdiivka there was the shelling of the town outskirts, while in the center children were gathered for further evacuation. **And January 25 the powerful bombardment of Mariinka and Krasnogorovka with heavy artillery was carried out** (Krasnogorovka in greater extend) just during the evacuation of children from the town. Fortunately, no injuries, none of shells aimed the transport.

However, Vitaly Bodnaruk stresses that each time during preparation of children evacuation the Management of Regional Militia informed as widely as possible on the campaign of Displacement in mass media, social networks, OSCE representatives, NGOs, and members of IAG and requested to provide “quiet mode”, i.e. cease fire for safe removal of children. Nevertheless, says V. Bodnaruk **on those days shelling of towns on the contrary was intensified.**

Thus, Juvenile Criminal Militia Department of Ministry of Internal Affairs of Ukraine in Donetsk region say that there were no cases of aimed fire on columns, which transported children for evacuation.

According to the **workers of the Department managed by V. Bodnarukom**, residents of Avdiivka, Mariinka and Krasnogorovka addressed Chief Department of Ministry of Internal Affairs of Ukraine in Donetsk region asking to provide the evacuation of their children because of a difficult situation with shelling after they knew about evacuation of children from Debaltseve (by prior agreement, children were taken to recreational areas of Dnipropetrovsk region, talking about children who are deprived of parental guardianship). Forming lists of willing was made through the departments of education and social services, anyone could be registered. The evacuation of children to the recreation area in Dnipropetrovsk region was accompanied by “parent councils” (formed by the parents of several children), as well as militia officers.

70 https://vk.com/wall8816425?z=video8816425_171326993%2F94a4c26366b51c99b9

71 https://vk.com/wall8816425?z=photo8816425_359556516%2Falbum8816425_00%2Frev

72 www.facebook.com/Vyacheslav.Abroskin/posts/1438332683126068?notif_t=notify_me

9. USING EVACUATED CHILDREN FOR PROPAGANDA PURPOSES

However, the situation with evacuated children from Debaltseve of January 5, 2015 can be seen as another attempt of IAG to use children as a propaganda resource. At the beginning of January, Chief Department of Ministry of Internal Affairs of Ukraine in Donetsk region offered parents of Debaltseve to take their children to Dnipropetrovsk region. According to **Vita Andronova**, who has since that time accompanied the children and constantly was together with them, first they had to come back on January 25. But as it is known, right at that time in Debaltseve massive shelling started which caused death including children. Therefore, parents were suggested to leave the children in Dnipropetrovsk region for a longer period. 8 families out of 52 decided that their children have come back to Debaltseve. In their place other 8 children were brought whose parents expressed a desire to have their children displaced from the war zone. There were no obstacles created for taking the children back. *“Everything was fine until the fighting on Debaltseve ended. Then someone decided to hype himself or to solve own issues on the account of that story — suggests V. Andronova — In the end everything was distorted in the media.”*

V. Andronova implies story that was aired the day after the return of 8 children, March 30 in the central Russian “Channel 1”. The main subject of the story was that these children allegedly were detained by force and under various pretexts were refused to be brought back to parents. Correspondent reports: *“And now the long-awaited meeting is in a minute. Everything reminds procedure for the exchange of prisoners. Straight road to the west of Donetsk. The column from the one party, the column from the other. The transfer of children takes place at neutral territory between two checkpoints on the one side there is a Ukrainian checkpoint on the other — the militias. After three months of separation children are together with their parent again. Hugs and smiles and tears. They want to talk about lots of things, but it is not the best place to communicate.”*⁷³ This message was immediately spread by mass media of “Novorossyia”.

Apparently, no wonder the journalist mentioned the *“procedure for the exchange of prisoners,”* because it was the story told to parents of children: so to say your children were exchanged for 16 Ukrainian prisoners. This was told to monitoring group by phone by a **woman named Irina Kravchenko, who now lives in Debaltseve**. Her 13-year-old son Mykola was one of 8 children who were brought back to Debaltseve on March 29. We report the text of our telephone conversation with a woman as close to the original dialogue as possible (conversation was in Russian).

We were offered to send children for rehabilitation. Who was the sponsor of all of this we did not know — says Irina. — They had to come back to Debaltseve on January 25. On January 19 here, of course, strong shelling began. On January 22 General (TALKING ABOUT THE HEAD OF THE CHIEF DEPARTMENT OF MINISTRY OF INTERNAL AFFAIRS OF UKRAINE IN DONETSK REGION V.ABROSKIN — EDITORIAL NOTE) suggested because of that situation to keep children longer, because where to take them at that time? At that time it was really dangerous to bring them back — there were shellings in the city and on the road. We agreed. Everything was fine, they stayed at the same rest-home. Then parents started to ask when their children would be brought back, and they said, come to take them yourself if you need. And we can't come out there, you need to have a pass, because it is the territory of Ukraine, the “foul-up” started. And they move them from that rest-home to some other one. They brought them there, conditions were awful there, the child said — dirty, they brought us God knows where. They all began to complain, the general representative arrived and transported them to the orphanage in Nikopol. It was terrible. It's not that they were on their own, the boarding school is the boarding school they humiliated them there... We started to apply to all institutions: how to take the children, it was a problem for us. March 17 (ACTUALLY MARCH 29 — EDITORIAL NOTE) hardly managed to take, thanks God, all helped us. Red Cross, and from Donetsk they helped us that we had taken them away. And with the bus they helped us...

As for the passes. Have you been offered to arrange them following usual procedure?

They say, make the pass and go to take them away without problems, it was, they say, Ukraine when we took them, and now we can not do anything. Make a pass for yourself and go to take away there are no problems... But it's all money, it's all time. It is not given for nothing. You need to wait for two months, and who wants to make it quickly they ask 1000 hryvnia for it, for these passes.

Where asked?

They called there. Well, I do not know. There's one mother, she dealt with all that. She says she was called and they offered: if you want to have it done quickly — a thousand hryvnia. And I say what a thousand hryvnia? Now such time, you do not know... Then it is not clear in what perhaps bypass way we took our kids.

You say they were insulted there. Where?

In Nikopol. They were not on their own there, there are many children there. Age is different. There were many children of all of those, from all over Ukraine. And so I say thank you to all those who helped us, even took... And in the same manner there are three children left there, they didn't let back three children.

This is another story, there is no legitimate reason to give them. This is another subject.

Yes-Yes.

Did you have a one child there?

Yes, only one. A boy of 13

And now, does he go to school?

Yes, we have the school opened just yesterday, everything is fine with us. And now there are so many problems, we have a disaster in the city. The city is very affected, the water is still not supplied. Electricity, of course, was supplied, but the water no one knows when. There are lots of breakouts everywhere. But we hope for the better. What we have experienced... I say, on the one hand, it is good he was not here, because what was going on here... But they've seen everything on television and the Internet, and if he had been here, it could just drive mad. It was awful.

Did you leave?

No, we stayed here.

What was the date when your son came back?

27 or 28... Last week (IN FACT IT WAS MARCH 29 — EDITORIAL NOTE). For a month we were walking. There is hardly such a place where we didn't applied to, correspondents came and the Red Cross came. We are contacted everyone. Daria helped us in Donetsk, who deals with the rights of prisoners of war (TALKING ABOUT SO-CALLED "DPR OMBUDSMAN" DARIA MORZOVA, WHO ALSO APPEARS IN THE STORY OF "CHANNEL 1" — EDITORIAL NOTE) I do not know whether it's the truth or not, but they say they exchanged 16 prisoners of war on our 8 children. I say it's a horror...

In the story of I.Kravchenko it is necessary to pay attention to several points.

First, as to involvement of the Red Cross. The fact that the Red Cross helped to "return children" was told both by "Channel 1", and by our interviewee. However, the International Committee of the Red Cross assured us that they did not participate at the negotiation process and in the transfer of any children. "Let us inform you that the International Committee of the Red Cross was not involved in this case. Therefore we can not comment on information contained in the article," — told us at the ICRC.

Second, the woman in the end admits that it was not so bad that her son was out of the town at the time of fire.

Third, voiced story of "exchange of 16 prisoners to 8 children" represents the woman as a victim of propaganda.

Fourth, about the passes: the woman refers to "one mother", who learned the details of making a pass and who allegedly was announced the charge of thousand hryvnas. We know that the problem with the system of passes exists and bribes and corrupt schemes in the system are likely to exist as well, however, Chief Department of Ministry of Internal Affairs of Ukraine in Donetsk region claims that it was ready to grant passes for the parents of children under the simplified procedure, and it is unlikely a lie taking into account the publicity that received this story. And yes — Ukrainian law enforcement representatives since the moment of occupation of Debaltseve by representatives of IAG really do not have access to the city.

Fifth, obvious deliberate or caused by the influence attempt to present wishful for Russian propaganda thinking as the true one. The issue is that three children allegedly "were not given back" (AGAIN, IT WAS PICKED UP BY RUSSIAN "CHANNEL 1"). In fact, it is about children under the care of state and whom the state is responsible for, and the request to bring them back came from the woman having the status of mother-educator living in Debaltseve. The militia men did not have the right to bring them back to the territory outside the control of the government⁷⁴.

Finally. Humanitarian organizations that conducted visits to children from Debaltseve, refuse to comment information concerning living conditions due to reasons related to their activities and mandate. However, the escort Vita Andronova convinces that expressed information about inadequate conditions is false.

Chief Department of Ministry of Internal Affairs of Ukraine in Donetsk region considers the way the story was presented on Russian TV, a provocation. They do not rule out the possibility that parents were pressured in order to use them and their children in propaganda campaign and information war.

We should note that the **use of children in propaganda purpose** is one of the features of the armed conflict. For example, at the beginning of June 2014 to the center of social and psychological rehabilitation of disabled children in Kratorka subordinate to Ministry of Social Policy was visited by armed representatives of IAG together with journalists of Russian channel "NTV". They warned management of the center that next day they are going to shoot the story of how children are hiding in the bomb shelter, although the city has not been under attacks yet. Then management of the institution and local social service organized secret evacuation of children because of which the director of the center and local officials were called for "the investigation" and accused of kidnapping children⁷⁵.

74 Head of the Chief Department of Ministry of Internal Affairs of Ukraine in Donetsk region V.Abronskin comments this in the following way: "The request of mentioned mother, who sent three of the four adopted children for evacuation from the fire area, was denied. Under the law, they are on full state support, and she is only the mother-educator, receiving monthly payments from the state for each child. In this case, the competent authorities should have full access to observe the holding of children. Taking into account that the woman lives on the territory temporarily occupied by militants, representatives of the Ukrainian government can not fulfill this requirement, the same as will not be able to help children if necessary. Officers offered "mom" either to move to the territory controlled by Ukraine and continue bringing up children or to terminate the contract of their bringing up. The woman refused both options. As of now children remain in Dnipropetrovsk region." www.facebook.com/Vyacheslav.Abronskin/posts/1438332683126068?notif_t=notify_me

75 www.gazeta.zn.ua/socium/operaciya-evakuaciya-gosudarstvennye-deti_.html

10. OBSTRUCTION OF EVACUATION OF NEUROPSYCHIATRIC BOARDING INSTITUTION IN SLAVYANOSERBSK

JANUARY 2015

In the 9th UN report it is told about complicated evacuation from social institutions, particularly for the elderly and bedbound disabled people. Often, as it said in the report, they do not agree themselves for the displacement, however, “members of armed groups have repeatedly stated that will not allow evacuating people from such institutions to areas controlled by the government.” This tend can find plenty of evidences.

In such a way, the volunteer Victoria Ivleva tells about one more case of blocking evacuation by the IAG representatives from the **Neuropsychiatric Boarding Institution in Slavyanoserbsk (district center in Luhansk region)**. “LPR” refused to evacuate people starting from there last year. “In January Slavyanoserbsk again came under fire. Then they decided that they will evacuate bedbound patients to Anthracite, which is in 100 kilometers, opposed to territory controlled

by Ukraine that is just a few kilometers away — says Victoria. — They decided that they will move them to home for elderly people, and most of its inhabitants will be appointed to other residential institutions. But when they realized that in order to move bedbound patients the ambulance has to make 50 trips, they changed their mind to evacuate. “In such way, residents of Neuropsychiatric Boarding Institution have not been evacuated from the zone of armed conflicts and potential armed escalation.

11. OBSTRUCTION OF EVACUATION OF PUPILS OF KRASNODON REGIONAL ORPHANAGE BOARDING SCHOOL AND ROVENKY REGIONAL ORPHANAGE BOARDING SCHOOL

2014–2015

According to the Office of the Ombudsman of Ukraine, today in the ATO area there are 126 pupils of Krasnodon Regional Orphanage, 80 of whom are — children. Most of pupils of the institution are seriously ill (so called 3–1 and 4 profile) and they can not move independently. In addition 195 pupils of Rovenky Regional Orphanage, 27 of whom are

children (in this case they are of 2nd profile, i.e. people who can move independently) are not evacuated.

Starting from the last year and till now IAGs are engaged into effective control of the territory of settlements Krasnodon and Rovenki (Luhansk region.) obstructed the evacuation of children of mentioned boarding institutions. Without such consent and the mature agreements it is in fact, impossible to

displace people who because of their serious condition require evacuation by “ambulance” (and not by ordinary buses).

Among other things, this puts Krasnodon Regional orphanage and Rovenki regional orphanage on the edge of a humanitarian catastrophe. Food (and some individuals need special food due to the specific diseases), medicine and humanitarian aid in general they received only from volunteer organizations.

Next, we present a brief chronicle of attempts of illegal forced displacement (i.e. in fact kidnapping) of children from child care institutions of Donetsk and Luhansk regions to the Russian Federation.

It should be noted that such attempts were triggered to a great extent by untimeliness of the decision of the Ukrainian government to displace children from the ATO area. Because of this, they, in fact, were also held hostage. According to the Office of the Commissioner of the Verkhovna Rada (the Parliament) of Ukraine on Human Rights, of June 2014, the representatives of IAG of “DPR” and “LPR” demanded from local authorities information about orphans and children deprived of parental care, references about their health and written consent of managers of children care institutions for their displacement to the Russian Federation.

- **June 12, 2014** the bus with 25 children from the town. Snizhne, Luhansk region, was intercepted by IAG on the way to Dnipropetrovsk region and taken through the checkpoint “Dovzhanskiy” controlled by IAG to Rostov region of the Russian Federation. However, the next day it was announced about the return of the bus with children to the territory of Ukraine. Thus, the European Court of Human Rights ordered to Russia to immediately return abducted children from Snizhne to Ukraine.
- **June 15** Ukrainian Ombudsman Valery Lutkovska informed that “representatives of the so-called Donetsk People’s Republic seized lists of orphans and try to take Ukrainian children from Donetsk, Horlivka, Kramatorsk, Yenakiyev, Donetsk region away from Ukraine on the pretext of rehabilitation.”

- **June 24** armed representatives of IAG prevented the evacuation of children to Kharkiv region from one more childcare institution of Kramatorsk – it was orphanage “Antoshka”. *“Once we wanted to take the children away, the armed men came to us... and announced that the Kramatorsk city, Donetsk region is in the state of war with Ukraine, that it is an enemy state and we have no right to send children to the enemy state”,* – said the doctor of the child care institution Anatoly Romanov, who was threatened by armed persons in case he tried to carry out the evacuation.⁷⁶ *“The negotiations were conducted constantly. Five to seven times a day, terrorists had changed their terms – told about evacuation the Adviser of Minister for Internal Affairs Zorian Shkiryak. – When the agreement was allegedly reached Hirkin and Abwehr, who then were in Sloviansk, flatly refused to release the children. After all, children were evacuated, but no in organized column. They were taken by one vehicle, one or two in a few times. And once, according to our operative information, it was planned to shell the vehicle with a grenade launcher, to present everything later as the occasional shell from the Ukrainian side. Off the hook...”*⁷⁷.
- **July 4** MFA of Ukraine appealed to the competent authorities of the Russian Federation with the requirement to prevent unauthorized

crossing of Ukraine-Russia border by 206 pupils of Amvrosievsk, Maryinsk and Donetsk boarding schools; July 11 – 53 pupils of Maryinsk boarding school; July 13 – 150 pupils of Maryinsk and Donetsk boarding schools⁷⁸.

- **At night of July 21–22** 36 children from Maryinsky boarding school №3, who were retained for two weeks with the children from the boarding school №1 of Donetsk city, were managed to be taken from ATO zone to Sviatohorsk⁷⁹.
- **July 27** 61 orphan children returned to Ukraine from Luhansk city, who were illegally displaced into the territory of Russian Federation⁸⁰.
- **July 28** the National Security Council reported that “in Donetsk region they continue to hold 135 sick children from Donetsk city and regional orphanages and Makeyevka orphanage “Maliatko” where HIV-infected children stay. Militants categorically forbid to evacuate children from ATO area”⁸¹.
- **August 8** IAG kidnapped 8 children aged from 8 months to 2 years, inmates of an orphanage who were hospitalized in one of the hospitals of Luhansk. They were forcibly and illegally displaced by armed persons across the state border crossing point Izvaryne, Luhansk region to Rostov region. August 13, they were transferred to the Ukrainian Commissioner and the chief doctor of the orphanage in Donetsk town of Rostov region⁸².



76 www.youtube.com/watch?v=IXdoZEMPMhE

77 www.gazeta.zn.ua/socium/operaciya-evakuaciya-gosudarstvennye-deti-.html

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82 www.tyzhden.ua/News/116726



EASTERN UKRAINE

Civilians caught in the crossfire

© AFP PHOTO / DOMINIQUE FAGET

A pro-Russian rebel patrols in a residential area of Donetsk's Tekstilshik district, February 4, 2015.

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EXECUTIVE SUMMARY

Not only are civilians in the Donbas region of Eastern Ukraine caught in the crossfire of various warring factions, but they are further being specifically targeted by combatants. Nearly a year and a half of this conflict has seen serious violations of international human rights law, including extrajudicial executions, enforced disappearances, arbitrary and secret detentions, and acts of torture and ill-treatment, committed by a plethora of armed groups.

It is crucial that these crimes do not go unpunished. Ukraine has a responsibility under its international obligations to investigate, prosecute and punish those responsible for such international crimes, and to provide reparation to victims. Several cases have already been brought before domestic jurisdiction regarding crimes perpetrated by pro-Ukrainian volunteers. However, there seem to be no domestic proceedings concerning crimes perpetrated by forces operating under the auspices of the so-called LPR/DPR to date. Moreover, it is difficult to establish whether any investigation has been made into crimes committed by the Ukrainian military.

The acceptance by the Ukrainian authorities of the competence of the International Criminal Court (ICC) for crimes committed since November 2013 – an extension to the Court's jurisdiction, which had thus far been limited to the Maidan events – is an opportunity for a new deal and brings hope that actions that could be qualified as war crimes and crimes against humanity under the international humanitarian law will be investigated.

REPORT'S FOCUS AND OBJECTIVES

This report focuses on the most serious human rights violations committed in Eastern Ukraine between May 2014 and August 2015. These are namely, arbitrary executions, enforced disappearances, kidnappings and arbitrary detention, torture and physical attacks. It is based on the findings of nine CCL monitoring missions (four in partnership with Russian human rights organization, Memorial; International Partnership for Human Rights; and Ukrainian Helsinki Human Rights Union). These missions were conducted during this period to areas regained by the Ukrainian army in both the Donetsk and Luhansk regions, as well as to IDP (Internally Displaced People) camps in Artemivsk, Soledar (Donetsk region) and Dnipropetrovsk.

FIDH conducted two missions to Ukraine in January and June 2015 to support CCL with the structuring and legal analysis of the testimonies and evidence collected.

The report provides a legal qualification of the crimes committed under international law and highlights the need for an independent and complete investigation into the crimes committed in Eastern Ukraine.

FINDINGS

In territories controlled by the so-called DPR/LPR, arbitrary detention and hostage taking is perpetrated in a widespread manner. Civilians are in constant danger of being arrested or taken captive by armed groups in control of these areas. Most arbitrary detention of civilians is motivated by political or disciplinary reasons. Hostage taking, on the other hand, is motivated by profit, and particularly targets wealthy civilians. Once arrested, these people are systematically subject to torture or ill-treatment.

Evidence collected by the CCL and its partners shows a high level of control and responsibility on the part of the Russian State in armed actions in the Donbas region. Collated cases show the direct involvement of the Russian military, which is evidenced in the testimony of prisoners who have come into contact with Russian officers, as well as the existence of Ukrainian prisoners of war who have been transferred to Russia for further questioning by the regular Russian army.

In territories controlled by Ukraine, similar crimes are perpetrated, though on a different scale. Civilians are likewise in danger of being arbitrarily detained by Ukrainian forces or volunteer battalions. Some of these battalions have been particularly responsible for grave crimes against civilians, including acts of torture and arbitrary executions.

Testimonies from victims and material evidence, such as blacklists, presented in this report, show that certain categories of civilian are specifically targeted by separatist armed groups. National and local civil servants, journalists, local and international NGO representatives, businessmen and religious authorities are particularly subjected to threats and persecution at the hands of fighters. There are also reports of some persons being persecuted by the pro-Ukrainian armed forces (both regular and irregular) for their alleged support of the enemy.

Taking into account the apparent inability of the Ukrainian authorities to investigate and prevent the serious crimes committed by the country's own armed forces or volunteers, as well as violations by actors on the so-called LPR/DPR side, the International Criminal Court (ICC) should open an investigation into such incidents.

On 8 September 2015, the Ukrainian government lodged a declaration under Article 12(3) of the ICC's Statute recognizing the Court's jurisdiction over alleged crimes committed on its territory since 20 February 2014. The ICC Prosecutor can now establish whether "there is a reasonable basis to believe" that crimes under the ICC's jurisdiction, such as war crimes and/or crimes against humanity have been committed in Ukraine since the November 2013, and whether to request the opening of an investigation into this situation.

Crimes against humanity are crimes committed as part of a widespread or systematic attack against a civilian population. In the conflict in Eastern Ukraine, the CCL and its partners have documented crimes of murder, imprisonment, torture, enforced disappearance and persecution on political grounds, all of which may constitute crimes against humanity under Article 7 for the Rome Statute. Indeed, preliminary evidence of incidents involving armed groups of the so-called DPR and LPR suggests these crimes may also form part of a policy to direct such attacks against the civilian population, consistent with the qualification of crimes against humanity.

War crimes are violations of international humanitarian law committed in an armed conflict of an international or non-international nature. Individual incidents may themselves qualify as war crimes. War crimes are of particular interest to the International Criminal Court when committed as part of a plan/ policy or a large-scale commission of such crimes.

Cases of killings, torture or inhuman treatment, the wilful commission of great suffering or serious injury to body, arbitrary arrest and detention, and the taking of captives in Eastern Ukraine may fall within the definition of war crimes under Article 8 of the Rome Statute. CCL and other observers have documented evidence consistent with these crimes from both sides. Further investigation is still required.

The ICC can investigate and prosecute any person allegedly responsible for international crimes committed in Ukraine since the start of the conflict. No status or nationality would prevent the ICC from acting against an alleged author of such crimes, irrespective of whether such persons are military personnel or volunteers, from the Ukrainian side or the so-called LPR/DPR side, or of Ukrainian or Russian nationality.

FIDH and CCL will continue to contribute to the ICC Office of the Prosecutor's preliminary examination of the situation in Ukraine and to advocate for the ratification of the ICC 's Statute by the Ukrainian authorities.

RECOMMENDATIONS

On the basis of the findings outlined in this report, FIDH and CCL have made specific recommendations urging the Ukrainian state authorities, the international community, and notably the EU, Russia and the ICC, to secure the protection of the civilian population in the conflict area and to ensure the full and impartial investigation of crimes committed in Ukraine since November 2013. A set of recommendations is provided at the end of this report.

FIDH and CCL call upon the "authorities" of the so-called LPR and DPR, and all groups fighting on their side or controlling their territories to acknowledge that all parties of an armed conflict are subject to international humanitarian and human rights law obligations. They are called upon to effect the immediate cessation of all targeted actions against civilians. This includes the termination of all acts of torture, ill-treatment, kidnapping, arbitrary detention, arbitrary execution, seizure of property and other forms of intimidation and illegal use of power, in the territories under their control. All parties are called upon to give unhindered and safe access to humanitarian aid, observers, NGOs and journalists.

INTRODUCTION

A. CIVILIANS CAUGHT IN THE CROSSFIRE

More than a year and a half since the dramatic Maidan events, the annexation of Crimea by Russia and the outbreak of war in Donbas, the human rights situation in Ukraine is worse than ever. In its report covering the period 16 May to 15 August 2015, the UN Office of the High Commissioner for Human Rights reported that at least 7,962 people have been killed and 17,811 injured, since the conflict began in eastern Ukraine in mid-April 2014.¹ The report notes that the number of civilian casualties occasioned by the conflict between May and August this year more than doubled in comparison with the previous three months² despite a ceasefire negotiated between the parties on 16 February 2015. As of the end of September 2015, fighting had largely stopped, however.³

The use of heavy weapons in densely populated zones, the damage caused to property and basic infrastructure, an acute shortage of food, medicine and other basic supplies, and uncertainty about the conflict's duration and outcome, has seen around 1.5 million civilians forced to flee the conflict zone.⁴ The roughly four million people that remain are in need of urgent assistance in terms of access to safe drinking water, food, medical supplies and other essential items.⁵ The humanitarian situation of these people has been further exacerbated by shifting control over the territory between the two sides to the conflict as this directly affects civilians' ability to access humanitarian aid. Furthermore, the work of humanitarian organisations is also affected by the multiplicity and opacity of those actors involved in violence.

The complex nature of the conflict has not only severely affected the livelihoods of people living in the conflict area, but has also aggravated their human rights situation. Serious violations of international human rights law, notably extrajudicial executions, enforced disappearances, arbitrary and secret detentions, and acts of torture and ill-treatment, are all being committed by a plethora of armed groups on both sides of the conflict.

Testimonies from victims and material evidence, such as blacklists, presented in this report show that certain categories of civilians are even specifically targeted by separatist armed groups. National and local civil servants, journalists, local and international NGO representatives, businessmen and religious authorities are particularly subjected to threats and persecution at the hands of fighters.⁶ Some cases of persons persecuted by the pro-Ukrainian armed forces (military men or militias) for their alleged support of the enemy have also been reported.

These human rights violations are perpetrated with total impunity. Just as crimes committed by pro-Ukrainian forces were formerly taboo for national authorities, no justice is likewise rendered in separatist controlled-territories.

1. UN Office of the High Commissioner for Human Rights, Report on Human Rights Situation in Ukraine, 16 May - 15 August 2015, released on September 8, 2015, available at: <http://www.ohchr.org/Documents/Countries/UA/11thOHCHRreportUkraine.pdf>.

2. During the period from 16 May to 15 August, at least 105 people were killed and 308 injured compared to 60 killed and 102 injured between 16 February and 15 May, *ibid*.

3. See: <http://www.pravda.com.ua/news/2015/09/22/7082198/>

4. *Ibid*.

5. UN Office for the Coordination of Humanitarian Affairs, Ukraine situation update No. 7 as of August 14, 2015, available at: <http://reliefweb.int/report/ukraine/ukraine-situation-update-no-7-14-august-2015>.

6. The UN also reports that the continuous persecution and intimidation of people suspected of supporting the Ukrainian armed forces or being pro-Ukrainian have remained widespread. The same report asserts that on the Ukrainian government side, efforts to preserve the country's territorial integrity continue to be accompanied by persistent allegations of arbitrary and secret detentions and enforced disappearances of people suspected of separatism or terrorism.

The acceptance by the Ukrainian authorities of the competence of the International Criminal Court for crimes committed since November 2013 – an extension to the Court's jurisdiction, which had thus far been limited to the Maidan events – is an opportunity for a new deal and brings some hope to victims of what could amount of war crimes.

B. CONTEXT

Since the break-up of the Soviet Union, Ukraine has always been an important geopolitical actor rivaling the West and Russia. The crisis in Ukraine that started in the end of 2013 was immediately preceded by fierce competition between the EU and Russia for the future geo-economic orientation of Ukraine – a competition characterised hesitation and ambiguity on the part of Ukrainian leaders.

By the end of November 2013, massive anti-government street protests broke out in Kyiv following the refusal of President Yanoukovych to sign an association agreement with the EU and his choice to forge instead a stronger partnership with Russia. These mass protests – later called Euromaidan or Maidan – were severely repressed⁷ and were the starting point for the political crisis. This crisis was followed, amongst other things, by the annexation of Crimea by the Russian Federation and by the armed conflict in the Donetsk and Luhansk regions.

From the very beginning of Maidan, the Russian political elite and Kremlin-controlled media were hostile to protests in Kyiv.⁸ Russian mass media, especially TV, broadcast reports in which protesters were described as pro-Nazi, and hostile to Russia and to Russian speakers⁹. In Eastern Ukraine and Crimea, where Russian TV channels have a large viewership as majority of citizens are Russian-speakers (gradually these territories were cut off from Ukrainian broadcasting), such reports played an important role in creating a common misunderstanding of the agenda and claims of Maidan protesters. Fears of persecution were later reinforced by the Ukrainian parliament's decision to abolish the law on regional languages in February 23, 2015. This law adopted in 2012 gave the Russian language the status of an official language in regions with more than a 10% Russian minority. The February 2015 decision to abolish Russian as an official language was never signed into law by the President. Nevertheless, it fueled both propaganda, and the claims of Russian and pro-Russian politicians in Ukraine, who sought to portray themselves as the protectors of the Russian-speaking population.

Shortly after President Yanukovich's escape from Ukraine in February 2014, separatist groups consisting of local activists and Russian military groups without insignia appeared in Crimea. These groups were led by both locals, like Sergei Axionov, and Russian leaders, such as Russian army artillery veteran, Igor Girkin (Strelkov). The leading role of Russia in the so called Crimean separatist crisis is today confirmed by the Russian officials themselves.¹⁰

7. See FIDH-CCL, *The forgotten victims*, August 2014. Available at: <https://www.fidh.org/en/region/europe-central-asia/ukraine/15914-ukraine-the-forgotten-victims>. and the communication that was submitted in January 2015 to the Prosecutor of the International Criminal Court (ICC) by the coalition of 13 Ukrainian organisations and initiatives for combating impunity, with the support of FIDH and the International Partnership for Human Rights (IPHR) See: <https://www.fidh.org/en/region/europe-central-asia/ukraine/17045-report-on-crimes-committed-during-euromaidan-events-the-icc-should-open-an>

8. For instance, in January 2014, the State TV channel Russia 1 broadcast a talk show anchored by Arkadi Mamontov giving an apocalyptic description of an extremist uprising in Kyiv "Ukraine. The Chaos Democracy", available at: http://russia.tv/video/show/brand_id/3957/episode_id/962307/video_id/964808/. Numerous examples of fake reports and misrepresentation of the events in Ukraine by Russian media have been collected by the project Stop Fake since spring 2014 and are available on its website, at: <http://www.stopfake.org>.

9. See: <http://russian.rt.com/article/23327>; <http://russian.rt.com/article/21283>. More about this issue can be found here: <http://www.theatlantic.com/international/archive/2014/03/ukraines-phantom-neo-nazi-menace/359650/>.

10. After a year of official denial, President Putin admitted in a special film "Crimea. The way home" in April 2015 that the Crimean separation from Ukraine was organized from Russia with the support of Russian armed forces, allegedly to protect Russian speakers in the peninsula. See: <https://vimeo.com/123194285>.

Following the internationally discredited referendum on “Crimea’s unification” with Russia in March 2014, April of that year saw unidentified armed men with military bearing supporting the takeover of local law enforcement and security service offices, as well as local administration buildings in Eastern Ukraine.¹¹ Local irregular armed forces were created and foreign armed groups and weaponry began to arrive. The nature of some of the weapons used during these events evidenced their belonging to the Russian arsenal (tanks, “Grad” multiple rocket launchers, missiles, new Russian “Bumblebee” flamethrowers), with the first reports attesting to the Russian nationality of many fighters emerging.¹² At the same time, attempts were similarly being made to assert control over Kharkiv, Odessa, Kherson, Zaporizhzhya, and Mariupol under the pretext of “defending the Russian and Russian speaking population”.¹³ These other attempts were not successful. In May-June 2014, conflict in the Donbas region escalated. Intense armed confrontations between the battalions of the Ukrainian National Guard and regular armed forces on one side, and insurgent armed groups on the other side continued throughout the summer of 2014.¹⁴

An Anti-terrorist Operation (ATO) conducted in the Donetsk and Luhansk regions started on 14 April 2014 after the Presidential Decree “On Decision of the National Security and Defense Council of Ukraine of 13 April 2014 ‘On urgent measures to overcome the terrorist threat and the territorial integrity of Ukraine’”.¹⁵ According to the Law on combatting terrorism,¹⁶ the main protagonists in the fight against terrorism are the Ministry of Defense, Interior Ministry and the Anti-terrorist center of the State Security Service of Ukraine (SSSU) – the special body aimed at coordinating the activities of the actors involved in the operation.

The involvement of the Russian regular army, recognized for Crimea, is still denied by Russian officials. However, testimonies from local citizens, as well as numerous press reports, point to their presence during the active military phases of the conflict. According to the testimony of a Russian Army tank driver, published in Russian newspaper Novaya Gazeta, the mission of his unit in Ukraine was to conduct intensive operations on the battlefield before the arrival of local military groups.¹⁷ Civil initiative Informnapalm recently outlined the various cases evidencing the presence of the professional Russian army in Ukraine.¹⁸ Several crucial moments marked the armed conflict throughout 2014: namely, two battles for Donetsk Airport in May and September 2014, the downing of Malaysia Airlines Flight 17 in July 2014, and the battle of Ilovaisk in August 2014. All of these incidents provoked a strong international reaction.

Ceasefire agreements between the parties to the conflict and Russia, signed in Minsk in September 2014 and February 2015, failed to stop fighting in Eastern Ukraine. The OSCE monitors the implementation of the present ceasefire agreement daily, and reports continuous hostilities that maintain an environment conducive to human rights violations in the region.

11. One of the most prominent examples is the seizure of the law enforcement office in Slovyansk, Donetsk region. See: <http://www.pravda.com.ua/rus/news/2014/04/14/7022383/>

12. See for instance the Vice news reportage at: <https://www.youtube.com/watch?v=-QP6sM5VnUQ>.

13. <https://www.youtube.com/watch?v=YXr-oLbT8Qc>

14. Offensive of Ukrainian army on the occupied territories in June-August 2014 was stopped in late August near the Ilovaisk. So called Ilovaisk pot resulted in 366 dead representatives of Ukrainian forces, according to the official information. The battle near Ilovaisk is famous because of direct involvement of Russian military units. As it stated by the report of investigation parliamentary commission, it started at 04.25 on August 21 with the attack by the Hurricane missiles was launched from the Russian territory <http://glavcom.ua/articles/23466.html>

15. <http://zakon2.rada.gov.ua/laws/show/405/2014>

16. <http://zakon4.rada.gov.ua/laws/show/638-15>, adopted in 2003

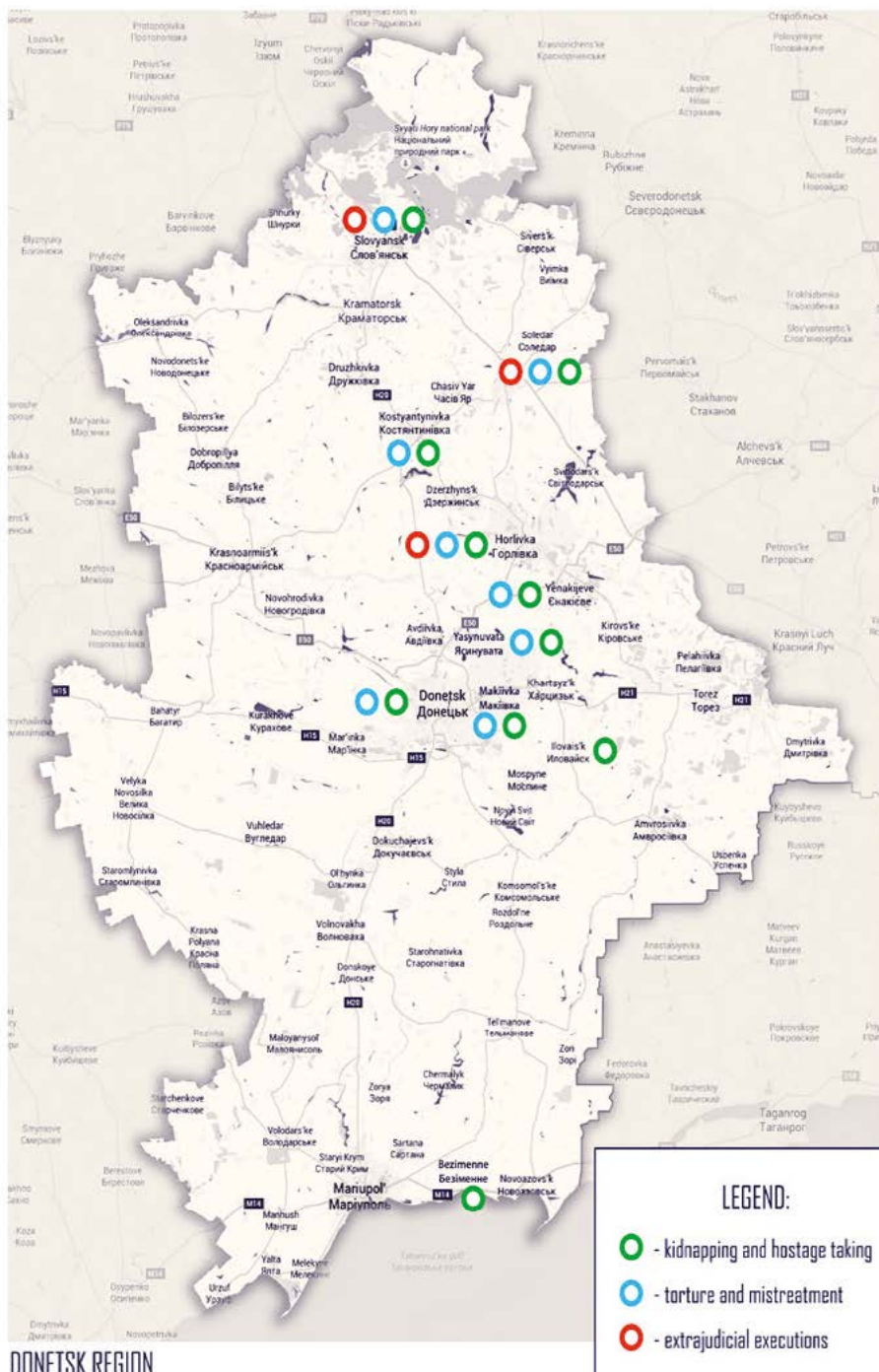
17. <http://www.novayagazeta.ru/society/67490.html>

18. <https://en.informnapalm.org/russianpresence/>

C. REPORT'S FOCUS AND METHODOLOGY

In August 2014, FIDH and its partner organisation Center for Civil Liberties (CCL)¹⁹ published a joint report describing the international humanitarian and human rights law violations committed by armed groups in Eastern Ukraine and Crimea since March 2014.²⁰

The present report focuses on civilian victims of the most serious crimes committed by both sides of the conflict in Eastern Ukraine from May 2014 until August 2015. It is limited to the Donbas region, as presented on the map.



Locations of crimes in Luhansk and Donetsk regions covered in the report. Source: CCL

The report is based on the findings of nine monitoring CCL missions (including four in partnership with other NGOs: Russian human rights organization Memorial, International Partnership for Human Rights and Ukrainian Helsinki Human Rights Union) conducted during this period to areas regained by the Ukrainian army in both the Donetsk and Luhansk regions, as well as to IDP camps in Artemivsk, Soledar (Donetsk region) and Dnipropetrovsk.

FIDH conducted two missions to Ukraine in January and June 2015 to support CCL in the structuring and legal analysis of the testimonies and evidence collected.

The report also refers to cases reported by the other human rights initiatives and open sources.

Although the testimonies presented in this report are emblematic of the types of crimes committed in Donbas, it should be noted that they represent a limited part of what is happening in this region and that certain crimes, in particular those committed against women, remain under reported.

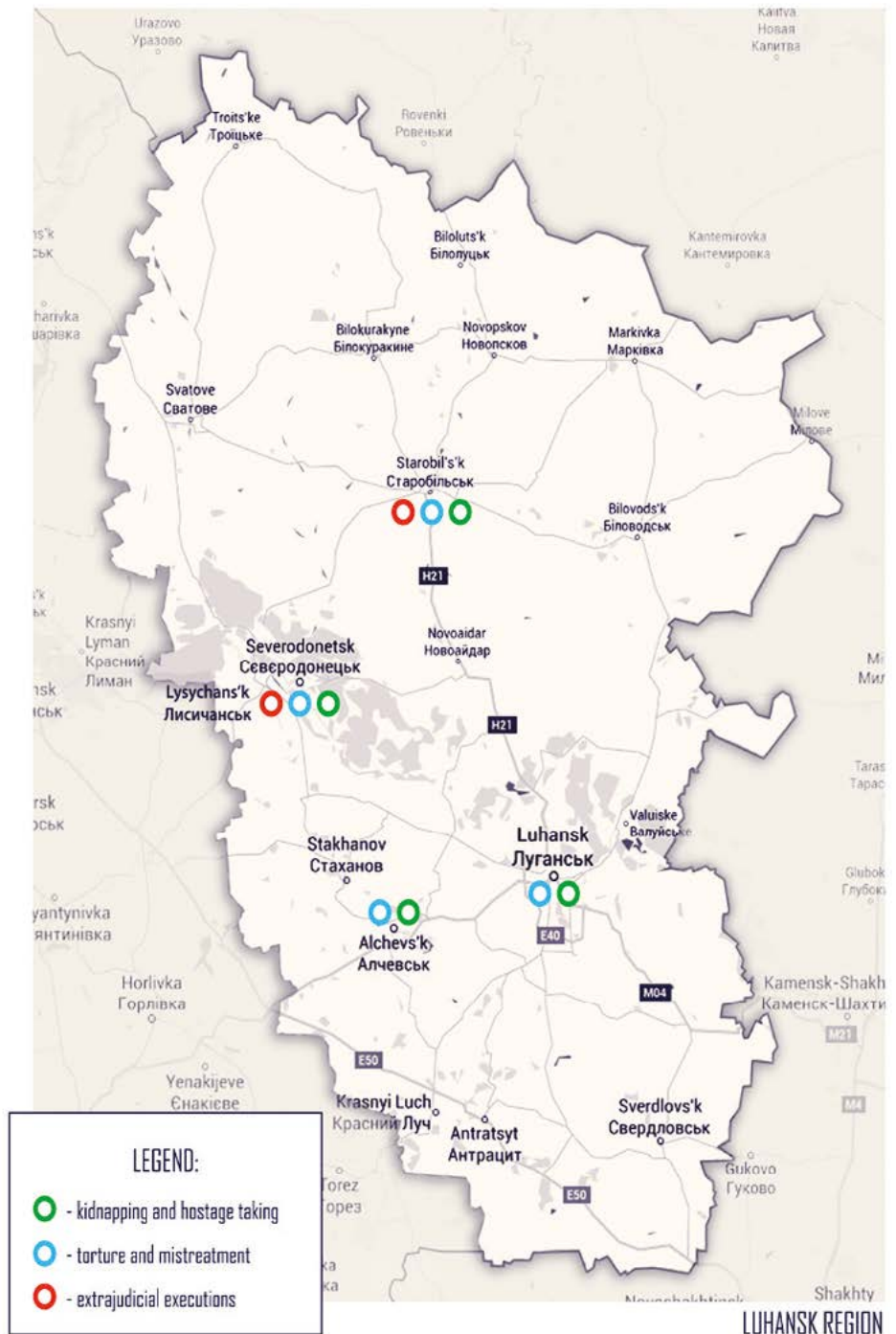
19. Center for Civil Liberties (Центр громадянських свобод) was established in 2007 to promote the values of human rights, democracy and solidarity in Ukraine and Eurasia to reinforce the principle of human dignity. The NGO is located in Kyiv, Ukraine. The objectives of the CCL are the protection of fundamental rights and freedoms; representation of the public and public control over the observance of human rights in the activities of national and local governments; work with young people to create a new generation of human rights defenders and civil society activists; advocacy and education on human rights and democracy; and the implementation of programs of international solidarity. For more information, visit: <http://ccl.org.ua/en/>.

20. FIDH-CCL, *The forgotten victims*, August 2014. Available at: <https://www.fidh.org/en/region/europe-central-asia/ukraine/15914-ukraine-the-forgotten-victims>.

The nature of the armed conflict (with official and multiple unofficial armed groups) makes it difficult for Ukrainian citizens, NGOs and foreign observers to collect data on human rights violations.

Documentation on human rights abuses in regions under the control of armed groups of the so called Luhansk and Donetsk Peoples Republics or LPR/DPR (the use of this term in no way denotes any legitimization or recognition, all uses of these titles and their acronyms should be read as “so-called”) is very limited due to ongoing repression against pro-Ukrainian, independent or critical positions, and the resulting security considerations. Informal volunteer groups operating in the region provide some information, but face serious risks. Observers also underline an atmosphere of fear in front-line regions and the unwillingness of many victims to talk, which is probably due to uncertainty about the outcome of the conflict and fear of the consequences of a testimony. Documenting human rights violations committed by the pro-Ukrainian side has been complicated from the beginning of the conflict. This is firstly because acknowledging their commission is ‘a taboo’ in Ukraine, and, secondly, because information about them has been used as a tool by pro-Russian propaganda (see Part C, section 2.b: “Pro-Ukrainian abuses: no longer a taboo issue?”).

This report aims to highlight the most serious human rights abuses committed by both sides in the Donbas region. These include: targeted killings, abductions, forced disappearances, kidnappings, torture and physical attacks, and crimes of sexual violence. It identifies the social groups that have become specific targets of persecution and, where possible, the perpetrators of serious human rights violations. The report provides a legal qualification of the crimes committed under international law.



The report highlights the need for independent and complete investigations into the serious crimes committed under international law in Donbas – crimes into which the ICC should open an investigation.

PART I.

VIOLATIONS AGAINST CIVILIANS IN DONBAS: GENERAL FRAMEWORK AND PERPETRATORS.

THE PARTICULAR INSECURITY OF CIVILIANS

Violations and abuses against civilians in Donbas not only take different forms, but also follow different rationales and are perpetrated by different actors. These actors, even those officially belonging to the same side of the conflict, are not necessarily driven by a unique common objective.

Attacks against civilians can be understood in three different contexts: uncertainty surrounding the profile of the “enemy” in the armed conflict; the need to eliminate rival groups whilst establishing authority over a zone; and persecution and abuses perpetrated in a context of instability.

A. UNCERTAINTY OF THE ENEMY PROFILE

1. Distinguishing between civilians and combatants: the challenge

Civilians in Ukraine cannot be always clearly distinguished from combatants due to a significant permeability between the two groups, especially during the early stages of the conflict.

Before the start of April 2014, when the Ukrainian government launched its “Anti-terrorist Operation” in Eastern Ukraine, no regular armed forces were involved in the confrontation. However, even after Ukrainian armed forces started to operate in the region, the distinction did not necessarily become clearer and remains challenging.

On the so-called LPR/DPR side, the fighting force was mostly composed of more or less structured unofficial armed groups that progressively became recognizable by uniforms and insignia, but seem still permeable to local civilian members, or are at least considered to be so permeable by the Ukrainian side, which suspects civilians of cooperating with pro-Russian groups.

On the Ukrainian side, battalions partly formed by voluntarily enrolled civilians were extremely numerous in the first months of the conflict. Whilst the insignia gradually adopted by these battalions helped identify those units, numerous volunteers still present in the conflict area and supporting various battalions have a totally civilian appearance.

2. Suspicion of collaboration with the enemy

As in other conflict zones, civilian populations are often viewed by the combatants as “supporting the enemy”, and as such, are subjected to threat and other serious violations of human rights.

So-called LPR/DPR groups are suspicious of civilians as potential enemy collaborators. As a result, expressions of disagreement or alternative views are systematically subjected to repression. Minor signs of allegiance such as flags, ribbons, books or brochures, and activity on social networks can stigmatize civilians and expose them to repression.

The last pro-Ukrainian meeting in Donetsk took place on 28 April 2014. Witness to the event, a CCL representative reported that unidentified individuals, armed with metal rods, baseball bats and noise grenades, attacked the demonstration a few minutes after it started, injuring many participants. The attack also served as a means of intimidation, warning about the repression of any expression of any pro-Ukrainian sentiment. Notably, Russian media coverage of the demonstration inversed the roles of the protesters and attackers describing the event as an anti-fascist demonstration that was attacked by Ukrainian radical nationalists.²¹ The TV and printed media did not broadcast any images of the event.

Violations against civilians perceived to be supporting the enemy (arbitrary detention, violence and extortion) are also perpetrated by certain battalions or elements of the Ukrainian army (see below).

3. Ideology and war propaganda also target civilians

The conflict is often depicted by the pro-Russian side as civilizational, presenting the Russian World as opposed to its “enemies”: Western and Pro-Western countries. This vision is translated in the official political discourse in Moscow and transmitted via the media. The linguistic, religious and political characteristics of citizens become potential evidence of an anti-Russian position and thus a target for LPR/DPR groups.

Two representatives of the protestant community in Slovyansk, were interviewed by CCL in July 2014 soon after the Ukrainian army came into the city. Both of them, Gennadyi Lysenko and Olexandr Reshetnyk, were helping civilians who had fled Slovyansk during the shelling between April and July 2014 when so-called DPR armed groups left the city. Both reported having been captured on 2 June 2014 at one of the check points in Slovyansk. Gennadyi said that he was called “*hristoprodavets*” (Christ betrayer) whilst in detention. He was stabbed with a bayonet knife, beaten, and threatened with being shot in the head.²²

Reinforced by media propaganda, ideological motives became a factor aggravating violence against civilians. Below are a couple of examples of such influence, published in the Russian media.

Media interview with 50 year old Victor (Yoshkar-Ola), nom de guerre ‘Poacher’, who fought in summer 2014 near Luhansk: *“My conscience made me come to Novorossiya. I felt ashamed when I saw people being killed by fascists, while the government and ordinary citizens just watched it like some kind of a reality show. If I hadn’t come here, I would have had to defend Yoshkar-Ola from fascists. I think that was an impulse, but when I arrived*

21. Ложь ИТАР-ТАСС: про-украинские радикалы напали на антифашистский митинг в Донецке, 28 April 2014, <http://www.stopfake.org/lozh-itar-tass-pro-ukrainskie-radikaly-napali-na-antifashistskij-miting-v-donetske/>.

22. “When God Becomes a Weapon: Persecution based on Religious Beliefs in the Armed Conflict in Eastern Ukraine”, April 2015, Center for Civil Liberties, Civic Solidarity, International Partnership for Human Rights, available at: http://ccl.org.ua/wp-content/uploads/2013/07/When-God-Becomes-The-Weapon_6May2015_closed-for-editing.pdf.

*I saw that the reality here was a lot worse than shown in Russia. And I have millions of relatives and friends here, all of them are my brothers and sisters here.*²³

Victor Volkov, the Deputy of Balashov district council (Russia), when commenting on the death of Igor Yefimov, born in Balashov and killed in military actions near Luhansk in Ukraine: *“He died as a hero. We should treat him as our national hero [...]. He decided to go there because, and I’m sure of this, he realized that Russia’s future is made now in Ukraine; that real fascism is growing in strength there. He died in the fight against fascists, against those banderovtzi, who are so fiercely against Russia. We all know that they won’t stop, because they have Uncle Sam behind them”.*²⁴

From the Ukrainian side the ideological dimension is not typical for the government. The defense of the state in its legal borders is reflected in the new military doctrine of Ukraine as the main goal for Ukrainian armed forces.²⁵ Citizens remaining in the occupied territories are “hostages” says Ukrainian President Poroshenko.²⁶ However, part of Ukrainian society tends to automatically perceive all citizens from the Donetsk and Luhansk regions or from Crimea as pro-Russia supporters or else blame them for the war’s escalation. This can sometimes create problems on the level of interpersonal communication,²⁷ occasioning discrimination or even violent action.

B. CIVILIANS SUBJECTED TO RULES FOR COMBATANTS

1. Persecution of civilians during combatant seizure of control over territory

The armed conflict is accompanied by successive changes of local political power. Changes in the political leadership occur either by force or by the resignation of the previous authorities.

a) Violent dismissal of non-loyal authorities and business actors

So-called LPR/DPR authorities use repression as a way of taking control of political institutions and the local administration. Non-loyal Ukrainian public servants, elected politicians and powerful local personalities are primary targets of this kind of political repression. Specific forms of abuse target the management of local businesses.

Volodymyr Veselkin was a head of the Zaytsevo settlement near Horlivka (an area currently occupied by DPR) and openly expressed his pro-Ukrainian views.²⁸ Veselkin’s family owned a bakery. After Hirlivka was seized by DPR armed groups in April 2014 he was forced to move away from the city on 9 May 2014. Soon after, his bakery was “nationalised” by DPR, and given to so-called DPR “member of parliament”, Valerii Otchenko. A DPR media transmission later stated that Veselkin’s seized private

23. “Йошкаронец воеует в ополчении на Украине”, 16 July 2014, available at: <http://kragrad.ru/clauses/persona-grata/yoshkarolinets-vouyet-v-opolchenii-na-ukraine/>.

24. “Убит на войне, которой нет”, 25 June 2014, available at: <http://fn-volga.ru/article/view/id/212>.

25. National Security and Defense Council of Ukraine Press release subsequent to the results of the meeting of National Security and Defense Council of Ukraine, 2 September 2015, available at: <http://www.rnbo.gov.ua/news/2253.html>.

26. <http://www.rbc.ua/ukr/news/poroshenko-lyudi-okkupirovannoy-territorii-1434033141.html>

27. <http://life.pravda.com.ua/columns/2015/08/27/199146/>

28. Interviewed by CCL in September 2015 by phone

property has been named the “Horlivka Bread Factory” by Otchenko²⁹ According to information from his former neighbors, until September 2015 Veselkin’s apartment in Horlivka has been occupied by four DPR fighters who live there constantly.

b) Settling of scores between competing groups

A plurality of armed groups described below compete for control over the LPR/DPR-controlled territories. Competition and conflict between these groups lead to “internal” persecution targeting the opposite group, its supporters and property.

c) Civilians persecuted for violating “administrative” rules imposed by combatants

Disciplinary coercion directed towards combatants and civilians is present on both sides of the conflict.

Released detainees of LPR/DPR armed groups, testified that they had been detained for alleged administrative violations, such as violating curfew, drug and alcohol abuse and other minor “infractions”, like photographing impermissible objects and ‘listening to music too loudly’. The detainees describe having been detained together with locals loyal to the armed groups and even members of the armed groups. The use of preventive or punitive coercion as a means for self-proclaimed authorities to enforce their power, seems widespread since summer 2014.

Former Donetsk student, Volodymyr N., describes a week-long detention in an illegal detention centre in Donetsk in September 2014. He says he was detained with different members of illegal armed groups; two were locals, one was a Russian citizen. These detainees were kept in one small room with another 7-8 persons for “administrative rule violations”. Members of DPR armed groups were even more frequently subjected to torture than civilians. Volodymyr’s detainees did not know about his pro-Ukrainian views; rather he was arrested for violating the curfew. He therefore assumes that he was not kept in the area for “political” prisoners and was not beaten as heavily as he might have been. At this moment Volodymyr is living in Kyiv.³⁰

Larysa Bilotserkivets, born on 1954 in Makiivka town (Donetsk region), is a pensioner and a pro-Ukrainian activist. She was kidnapped on 17 August 2014 by the “Mech” battalion. They kept her in a former military commissariat in Makiivka. It was one of the biggest detention facilities in the city. When Larysa was brought there, she was placed with roughly 40 other people, including four persons kept for political reasons (supporting the unity of Ukraine). The rest of the people were kept in detention for so-called administrative violations like alcohol or drug abuse. As Larysa claims that one of the prisoners was arrested after being denounced by his own wife. Another prisoner was arrested immediately after taking a picture of a bomb. Larysa says she was also told about a Chechen who was arrested for being a “betrayal”, as he also took pictures of one of the bombs. There were many women. For instance, two women were arrested for waiting for a taxi during the curfew. Their hair was cut off and they were bald headed.³¹

29. <https://www.youtube.com/watch?t=157&v=gMSS07KleiE>

30. Interviewed by CCL on October 2014 in Kyiv, available at: https://youtu.be/yoX_7nBNcoc.

31. Interviewed by CCL on February 2015.

d) Resolution of private disputes by violent means

Many testimonies point to the use of armed violence and coercion to solve private conflicts or secure the illegal seizure of property. Denunciations made by neighbors, internal conflicts within armed groups or with opposing members of different armed groups, and illegal confiscation of property can lead to arbitrary detention, violence or even murder. Such crimes mostly remain unpunished.

C. THE DIVERSITY OF COMBATANTS ENDANGERS CIVILIANS

1. Actors on the s.c. LPR/DPR side

Ongoing conflict and a high turnover of the forces and groups involved make it difficult to give an exhaustive list of the groups involved on the LPR/DPR side. Some commanders controlling certain groups of people are self-proclaimed heads of the cities or towns controlled (sometimes with self-proclaimed military grades). Others are Russian nationals with various military experience (sometimes quite high-ranking) or Russian volunteers, or other external actors. Some are groups of armed locals. Most commanders act under pseudonyms and some even sign “death penalty verdicts” that result in extrajudicial executions, under the following names: Baloo, Nose, Grey one, Lawyer (see Annexes).

A useful attempt to identify groups involved on the LPR/LDR side and individuals responsible for international crimes was made in a recent report by the International Partnership for Human rights, called *Fighting impunity in Eastern Ukraine*.³²

a) Links between persons acting in Crimea and the so-called LPR/DPR

The structure of armed groups in the insurgent regions is complex, combining a set of local battalions and non-local armed groups cooperating with local police structures and volunteers.

Substantial evidence points to links between events taking place in Crimea and those occurring in Donbas as regards the actors involved. Russian human rights organization Memorial suggests that Igor Girkin (Strelkov) participated in the Chechen war as a representative of the Russian federal forces and might be responsible for the enforced disappearance of Chechenians.³³ Igor Girkin (Strelkov) was again seen on a video from Crimea in March 2014.³⁴ Later, Girkin himself confirmed his presence in Crimea starting from 21 February 2014. He did so in a video-interview in which he further stated that groups headed by himself were forcing members of the local Crimean parliament to vote for the separation of the peninsular from Ukraine.³⁵ After leaving Donbas for Moscow, Girkin further confessed that the occupation of parts of Donetsk and Luhansk would not have been possible without his group, stating “No one wanted to fight”.³⁶

32. IPHR, *Fighting impunity in Eastern Ukraine*, October 2015, p. 156-167, available at: <http://iphronline.us2.list-manage.com/track/click?u=e45983a2e74cbf5621416e8b3&id=64f94dad31&e=27b23894f4>

33. <http://echo.msk.ru/blog/shalommani/1324504-echo/>

34. <https://www.youtube.com/watch?v=kYIsWFBwf5A>, 12.08.2014

35. <https://www.youtube.com/watch?v=hPSUUNngoQk>, 25.01.2015

36. <http://zavtra.ru/content/view/kto-tyi-strelok/>, 20.11.2014

Another personality linking events in Crimea with those in Donbas is a man who fought under the name of “Samvel” and was identified by some as Armen Martoyan. According to victim testimonies, “Samvel” was involved in the beating and kidnapping of activists and journalists in Crimea. One of the kidnapping victims in Crimea, pro-Ukrainian activist, Mykhailo Vdovchenko,³⁷ said he communicated with “Samvel” during his detention. “Samvel” later fought with one of the DPR armed groups in Horlivka.

Whereas in Crimea two main forces (the so-called “Crimean self-defense” force and the Russian military without insignia) were engaged in the take-over of the peninsula, in LPR/DPR-controlled areas different groups share the territory and cooperate, but also compete or even fight against each other.

b) Local armed groups

Both LPR and DPR armed forces consist of several groups. These appear to act in a relatively disorganized way, though DPR fighters seem at least more hierarchically structured than LPR.

Many groups were already acting in the LPR from the very beginning of the armed conflict and were competing for influence. The murders of commanders are examples of this bloody competition. For instance, Alexei Mozgovoy (commander of Prizrak (Ghost) battalion) was killed on 23 May 2015,³⁸ Alexei “Batman” Bednov (chief of staff of the 4th Brigade of the so-called LPR) was killed on 2 January 2015³⁹ reportedly by the “people’s militia” of so called LPR.⁴⁰ Evgueni “Maloletka” Ishchenko (Russian paramilitary Cossack group leader in Pervomaisk) was killed on 23 January 2015.⁴¹ All of these deceased persons acted within the LPR’s area. Despite these killings, rivalry remains ongoing, a matter particularly confirmed by foreign observers.⁴² The latest example of this is the “takeover” that took place in the so-called DPR on 5 September 2015,⁴³ which resulted in the dismissal and arrest of Andrei Purgin, the “parliamentary speaker” of the so-called DPR.

Nevertheless, competing groups do seem able to coordinate for specific missions, such as seizing control of local electoral commissions during the Presidential election in May 2014.

On 22 May 2014, three days before the presidential elections (25 May 2014), a CCL representative witnessed an attempt to kidnap the head of electoral commission No. 43 in Donetsk from electoral commission property. Men in camouflage ran into the building, seizing office equipment and bringing out the head of the electoral commission, Ruslan Kudriavtsev, outside. Whilst no initial attempt was made to kidnap him during this incident, these assailants returned later in the day in an attempt to take him hostage. They appear to have been driven to do so by his alleged support for one of the candidates representing the pro-Ukrainian nationalist movement, Pravyi Sektor. CCL later learnt that Kudriavtsev had been detained for five days and was forced to leave the city after his release.⁴⁴

37. Vdovchenko was interviewed by CCL in July 2015 in Kyiv, see <http://www.radiosvoboda.org/content/article/27118502.html>.

38. <http://www.unian.net/war/1081348-glavar-boevikov-prizraka-mozgovoy-ubit-smi.html>

39. <https://www.youtube.com/watch?v=KHohBmLvSNE>

40. <https://www.youtube.com/watch?v=KHohBmLvSNE>

41. <http://www.unian.net/war/1035567-ubit-glavar-kazakov-pervomayska-boevik-po-kliche-malyish-smi.html>

42. Press conference of Pierre Sautreuil, journalist at Le Nouvel Observateur, 20 August 2015, available at: <https://www.youtube.com/watch?v=ScXhvjUYgoY>. This might be compared to the latest information on the situation in the so-called DPR by Paul Gogo, “Liberation” journalist, available at: <https://www.youtube.com/watch?v=gMiU7Avqk6Q>

43. http://vlada.io/vlada_news/na-miting-v-podderzhku-purgina-vyishla-sotnya-donchan-vlasti-dnr-prignali-na-aktsiyu-titushek/, 5 September 2015

44. The CCL obtained this information during a phone call with Kudriavtsev, though he refused to give an interview.

Such instances have occurred in both the Donetsk and Luhansk regions in local and regional electoral commissions. One CCL representative herself was not able to fulfill her mission as an electoral observer in the city of Artemivsk because on voting day (26 May 2014) the polling station had been rendered inaccessible by DPR fighters placing a mine-thrasher near the entrance of the building of the electoral station to intimidate would-be voters. As a result, the presidential elections were not held in Artemivsk at all. The fact that such disruption of the elections was not an accident but an organized campaign is evidenced by the fact that the policy of electoral disruption was spread all over the Luhansk and Donetsk regions and executed using the same methods: kidnappings of electoral committee representatives, stealing electoral documentation and seals, stealing office equipment from polling stations, and armed attacks on polling stations.⁴⁵

According to testimonies collected by CCL, local combatants seem to be lower ranking than commanders originally from Russia. This is confirmed by a number of interviews with released DPR/LPR captives who claim in particular that it is Russian commanders who take decisions on whether to release prisoners.

Information about Russian citizens taking leading roles in armed groups is also confirmed by the testimonies of armed group representatives captured by Ukrainian forces. A captured "Russian volunteer", who was in fact is an officer in the Russian army, described the hierarchy as follows: every local commander has a Russian military deputy controlling the decision making process but who is not officially involved. Every single battalion and division has three officers. The officer providing this information was sent to Donbas in March 2014 and was interviewed on 29 July 2015. He claimed that the corps commander of the so-called DPR was a Russian general, but that his name was not known by the officers. The captured men knew only the name of one of the deputies of the commander – Russian lieutenant colonel Ryzhkovich.⁴⁶

c) Non-local armed groups

Armed groups arriving from the Russian Federation have been involved in the Donbas conflict since the very beginning.

For instance, car mechanic from Rubizhne (Luhansk region), Volodymyr Kozyuberda, captured by an armed group of the so-called LPR in late June 2014 and taken to their headquarters in a glass factory in Lysychansk, reported the involvement of "Russian soldiers" there. In response to a CCL question on how he could identify them as Russian, Volodymyr replied: *"They were 95% Russians, and they were not even hiding this fact. They said, that they were Russians and that they had come to defend b*tches like me who just sit and don't do anything to protect Donbas from "banderovtsy" and "pravosyeki". They showed me their passports with Rostov and Belgorod registrations. The Russians were holding modern weaponry, with the latest optical rifles. They made raids every night and went out as quietly as they came – trying to be invisible and unnoticed. Those military men wore Russian chevrons. As they drove us to clean toilets, corridors etc., we saw that"*.⁴⁷

Some of the groups coming from Russia were so-called "Cossacks", paramilitary troops using pre-Soviet symbols of the Cossack movement and often strongly adhering to the Orthodox religion. These battalions consist mostly of voluntarily engaged Russian citizens and are often referred to in testimonies as combatants involved in the Donbas armed conflict.

45. General information on attempts to disrupt the elections is provided by the Opora electoral observing initiative and is available at: <http://opora.org.ua/en/vybory/vybory-prezydenta-2014/article/5802-pidsumkovyj-zvit-za-rezultatamy-gromadskogo-sposterezhennja-opory-pid-chas-pozachergovyh-vyboriv-prezydenta-ukrajiny-2014-roku>.

46. Questioning filmed by the Security service of Ukraine, 29.07. 2015 <https://www.youtube.com/watch?v=ZvBBhhB5Jw>

47. Interviewed by CCL on December 2014 in Rubizhne (Luhansk region)

Nikolai Kozitsin, commander of one of the most active Cossack units, is a Russian citizen originally from Rostov. He is officially heading the International Union of Public Associations, The Great Army of Don. His unit has been actively engaged in the armed conflict from the very beginning. Last summer their headquarters were located in the House of Culture of the city of Perevalsk (Luhansk region). This building was used as a place of illegal detention for kidnapped people. Three such captives were interviewed by CCL in the winter of 2014 in Kyiv. One, Sergii Zaharov, activist, was a volunteer who rendered assistance to Ukrainian army units. The second captive was chaplain Otets Valentyn, whilst the third was a journalist from Lviv Jurii Leliavsky. These men had been travelling in the same car and accidentally trapped at a check point controlled by the Cossacks. They were detained on 24 July 2014. All confirm having been subjected to torture by the Cossacks. They spent more than two months in captivity and were released in October 2014.

Kozitsin is the main competitor of Igor Plotnitckiy, head of the “Council of Ministers” of the so-called LPR. Kozitsin and his unit claim that the LPR “is a gang”, “robbing the region”, “stealing humanitarian aid”, and “killing field commanders”.⁴⁸ Later in an interview with Ukrainian media, Jurii Lelyavskij said that the “leaders of LPR don’t know what to do with Kozitsin. He has become a kind of “people’s avenger”. Formally his unit belongs to the so-called LPR, but they act according to their own rules”.⁴⁹ Cossack units consist of Russian and Ukrainian citizens. One Russian citizen involved in the Cossack units was filmed by the Security service of Ukraine and published online.⁵⁰

Other significant armed groups are originally from North Caucasus and are described as “Chechen battalions” by locals, even if they are not exclusively composed of Chechen fighters. In summer 2014, the Russian NGO Memorial published a report partly dedicated to “the Chechens in Donbas”. The report pointed to numerous proof of the involvement of North Caucasian armed groups in the Ukrainian conflict.⁵¹ According to some information, their presence is much less important in 2015. In July 2015, the head of the Chechen Republic, Ramzan Kadyrov, announced that Chechen fighters had returned back home.⁵²

A CCL activist personally witnessed the arrival of one of these groups in the city of Donetsk on 25 May 2014 – the day of the Presidential Election in Ukraine. The motivation of these fighters, as the abovementioned Memorial Report underlines, is mixed between loyalty to their openly anti-Ukrainian government and their pursuit of gain, evaluated as being up to 350 USD a day.⁵³ Other foreign or “international” battalions, composed of volunteers from other European countries are periodically reported in the press⁵⁴ but are difficult to evaluate in terms of their numbers or periods of presence.

Testimonies collected by CCL describe regular Russian army soldiers as more respectful of prisoners and less violent. This is in contrast to “Cossack” units whose actions are described as the most cruel and ruthless.

Mykola Golikov was with the Aidar battalion, a Ukrainian volunteer battalion created in May 2014 which became part of the Ministry of Defense from August 2014. He was interviewed by the CCL in June 2015 about his captivity in August 2014. Golikov was captured in Khriashchuvate near Luhansk on 26 August 2014 by the Russian military, presumably by Pskov paratroopers. He claimed that the name of the commander who took him into captivity was the call sign Leshyi (presumably his name is Alexandr

48. <https://www.youtube.com/watch?v=spk9ylp0Y8E>, 26.01.2015

49. <http://www.telekritika.ua/profesija/2014-10-27/99737>

50. <https://www.youtube.com/watch?v=su3vSXuhPHM>, 9.08.2015

51. <http://www.memo.ru/d/211293.html>

52. <http://ria.ru/society/20150731/1155970257.html>

53. <http://www.memo.ru/d/211293.html>

54. <http://www.novayaqazeta.ru/society/67041.html>

Serov). Golikov said his captives were wearing paratrooper tokens and had paratrooper tattoos. First, Golikov was transferred to Krasnodon (Luhansk region). The next day he was transferred in a KAMAZ car to the territory of the Russian Federation. Golikov was certain that he had seen how the column illegally crossed the border somewhere near Izvaryno (Luhansk region). He was brought first to a military camp in the field. There, he was questioned by paratrooper officers with Russian chevrons (though they didn't introduce themselves) about the positions of the Ukrainian side. Then he was taken away by his captors and taken to another military camp. On the journey there, Golikov said he saw a sign saying "156 kilometers". There was a military technician without insignia and a tank. Golikov attributes the respectful attitude shown towards him during this initial period of his captivity to the mistaken belief on the part of his Russian captors that he was a conscript and not a volunteer. Later, after it was discovered through social media that he was an Aidar fighter, he was tortured and beaten. In particular, he was tortured by "Major Igor" (his rank identified by Golikov via his shoulder straps/ epaulettes) using an electric current. He was also beaten by people who arrived later and who called themselves "Luhansk Berkut". "Berkut" is a former Ukrainian riot police division which was the main perpetrator of human rights violations during the Maidan events. After Maidan finished, this division was officially disbanded. Golikov was kept in a field camp on the territory of the Russian Federation for three days. After that he was taken back to Ukrainian territory in Krasnodon city in the trunk of an armored NIVA car at night. Next day, after his transfer to Krasnodon, "drunk Russian soldiers" beat Golikov on his head causing him to suffer traumatic brain injury. Golikov spent a few more days there. On 2 September, Golikov was transferred to the Krasnodon bullpen where he was registered by law enforcement representatives. There, together with other prisoners of war (reportedly soldiers of the 80th brigade of Ukrainian Army), Golikov was forced to give an interview for the Russian LifeNews channel. He was kept there for one more month, and in the beginning of October 2014 was taken to Donetskoe (Donetsk region) and exchanged by one of the civil volunteer groups.

Many of the combatants and leaders coming from abroad have already been involved in other post-Soviet conflicts in places such as the Crimea, Chechnya, Abkhazia and South Ossetia,⁵⁵ and Transnistria.

One striking case is that of Vladimir Antufeev (Shevtsov), a former enforcement officer from Latvia. In the early 1990s, Antufeev joined the de facto Republic of Transnistria. Over a number of years, he headed the Security services of this "republic". Now, Antufeev has reappeared in the so-called DPR as one of its "Ministers".⁵⁶

d) Coordination and conflicts

Numerous conflicts are reported between different military units controlling LPR/DPR areas; some of them go as far as armed confrontation.

The Ukrainian blogger and writer Olena Stepova, inhabitant of Sverdlovsk in LPR-controlled region, has described violent fights occurring in the city between different battalions, though the Ukrainian armed forces did not seem to be involved. She described the events of summer 2014: the successive arrival of and fights between concurrent armed groups, with different flags representing different pro-separatist groups flown in the city in successive order – an anarchist flag with skull and crossbones, the green Russian Monarchist flag, Cossack flags, etc.⁵⁷

55. One of the arrested fighters in the ATO zone appeared to be the Deputy Minister of Defence of South Ossetia, see: <https://www.youtube.com/watch?v=hnKGGcjcJ3c> <http://echo.msk.ru/blog/shalommani/1324504-echo/>.

56. Interview with Russian human rights organization Memorial representative, Alexandr Cherkasov, on 6 August 2014, available at: <http://www.day.kiev.ua/ru/article/podrobnosti/offshor-dlya-terroristov>.

57. Interview for the documentary "Rejection. Fight for Ukraine" produced by CCL, availability online forthcoming.

The assistant to the former governor of the Luhansk region, Svyatoslav Halas, reported in an interview with CCL in Severodonetsk (Luhansk region) in March 2015, that one internal conflict between different pro-Russian armed groups resulted in a failure to evacuate several hundred local civilians from the town of Chornukhine during the heavy fighting for nearby Debaltsevo on 10 February 2015. Debaltsevo is on the border between DPR and LPR zones. On the DPR side alone, says Halas, DPR military units, Russian regular army units and Cossack armed groups acted simultaneously, with Chornukhine itself occupied by one “Cossack” group. At the beginning of February, in order to evacuate civilians from Chornuhyna the opening of a “corridor” was negotiated with armed groups, with Russian officers from the Joint Center for Cease-fire Control and Coordination also entering into the talks. Logistics and transport were provided by Luhansk Regional State Administration and 10 February had been appointed as the date for evacuation. However, on the day, the evacuation was blocked by an armored vehicle and pro-Russian fighters and the highway was constantly shelled with “Grad” from the LPR side.

This example testifies that the rivalry between separatist groups aggravates human rights violations.

e) Cooperation of local power institutions

In the conflict area, police officers had differing attitudes towards separatist armed groups. Some police officers seemed to actively cooperate with the DPR/LPR authorities, whilst others tried not to get involved by taking holidays or medical leave. Some were repressed for their pro-Ukrainian loyalty. The majority of police representatives seem to have adopted a waiting position, not interfering in so-called LPR/DPR activities.

The Ukrainian head of Slovyansk city police department testifies that only 36 policemen were present in the city when Ukrainian forces regained it. Around 60 policemen have permanently moved to other regions, or to Crimea or Russia. There is a serious suspicion of collaboration with the so-called DPR authorities regarding at least five policemen, who have probably joined the illegal armed forces.⁵⁸

2. Actors on the pro-Ukrainian side

a) A multiplicity of actors

The first armed pro-Ukrainian groups taking part in the conflict were the self-created volunteer battalions, which partly emerged from Maidan self-defence voluntary units. More than 30 battalions, composed of between several dozen to several hundred people each, were involved in the conflict in Donbas. Until May 2015, these armed units were self-managed and self-equipped, with sizable popular support but little real control from Headquarters. Lack of military experience, indiscipline, poor recruitment selection, and lack of military training and information about the laws of war mean that these battalions have contributed to various human rights violations. Since May 2014, the Ukrainian government has tried to regain control of these military units and to put them under the control of the Interior and Defence Ministries.⁵⁹

In the first year of the armed conflict, Ukrainian forces in Donbas were diverse and not necessarily well coordinated or well controlled by the central military command.

58. Interview for the Ukrainian-Russian human rights mission in July 2014 in Slovyansk <http://www.pravda.com.ua/articles/2014/07/21/7032574/>

59. On the volunteer battalions, see Rosaria Puglisi, “Heroes or Villains? Volunteer Battalions in Post-Maidan Ukraine”, Istituto Affari Internazionali, IAI Working Papers, March 2015, URL: <http://www.iai.it/en/publicazioni/heroes-or-villains>; Agnieszka Góralaska, “Volunteer battalions. Origin, operation, controversies”, Open Dialogue Foundation, URL: <http://en.odfoundation.eu/a/6448,report-volunteer-battalions-orig-in-operation-controversies>

In the beginning of the armed insurgency in Donbas, the Ukrainian Army under the control of the Ministry of Defense appeared unable to face such a conflict. Waves of military mobilization, however, saw the Ukrainian regular army gradually become the main military actor on the central Ukrainian government's side. The Ukrainian regular army has conducted major military operations while several dozen volunteer battalions under the Ukrainian Armed Forces and Interior Ministry, and some battalions under the Volunteer Ukrainian Corps or Special Purpose National Guard battalions, were in the process of being organised in 2014-2015. These groups were mostly supposed to control frontline areas and perform a supporting role.⁶⁰

b) Pro-Ukrainian forces abuses: no longer a taboo issue?

Human rights abuses perpetrated on the pro-Ukrainian side have been a neglected issue in Ukraine since the beginning of the armed conflict. The main reason for this neglect was political. Ukrainian society and the central authorities considered their armed forces to be heroes fighting pro-Russian separatists in Donbas. It was difficult to recognize that crimes could have been committed by those who risk their lives for their country and thus criticisms and investigations into allegations were impeded. Moreover, NGO, international observer and government focus was primarily on the massive abuses perpetrated by the pro-Russian side. Pro-Ukrainian human rights violations eventually became a powerful propaganda tool.

For instance, in September 2014, Russian media reported the discovery of mass graves in territories in the Donetsk region that had previously been controlled by Ukrainian forces. The Russian Foreign Minister Lavrov claimed that these graves could contain as many as 400 bodies. However, Amnesty International, who visited the site a few days later discovered the bodies of 4 men buried in 2 graves. Whilst these graves pointed to extra-judicial killings by either regular Ukrainian armed forces or volunteer battalions, Amnesty denounced the disinformation spread not only by the Russian media but also by highest levels of authority in Russia concerning these graves.⁶¹

Another example is a story about a "crucified boy" in Slovyansk, which was broadcast by the main Russian state channel Perviy Kanal.⁶² Russian media themselves discovered that the story was fake.⁶³ After the scandal of the falsification broke out, Perviy Kanal had to acknowledge that information on the crucifixion was not based on any evidence.⁶⁴

In September 2014, Amnesty International Ukraine broke the taboo surrounding Ukrainian side violations by presenting a report on abuses by the Aidar battalion: "Members of the Aidar territorial defense battalion, operating in the north Luhansk region, have been involved in widespread abuses, including abductions, unlawful detention, ill-treatment, theft, extortion, and possible executions".⁶⁵ In the following months, a limited number of cases involving Aidar fighters were revealed by the media and investigated by police forces (see below).

60. Know your volunteer battalions (INFOGRAPHIC), in Kyiv Post, September 9, 2014, at <http://www.kyivpost.com/content/ukraine/know-your-volunteer-battalions-infographic-363944.html>

61. "Eastern Ukraine Conflict: Summary Killings: Misrecorded and Misreported", Amnesty International, October 2014, <https://www.amnesty.org/en/latest/news/2014/10/eastern-ukraine-conflict-summary-killings-misrecorded-and-misreported/>.

62. <http://www.1tv.ru/news/world/262978>

63. <https://www.youtube.com/watch?v=W9BjogewWXk>

64. <http://www.1tv.ru/news/about/274369>

65. "Ukraine: Abuses and war crimes by the Aidar Volunteer Battalion in the north Luhansk region", URL: <https://www.amnesty.org/fr/documents/document/?indexNumber=EUR50%2F040%2F2014&language=en>

For example, on 8 June 2015, a list of 65 crimes allegedly committed by members of the voluntary battalion Aidar was made public by the governor of the Luhansk region, Gennadi Moskal. The allegations were based on complaints submitted to the Ukrainian security services. Abduction, murder, physical violence and extortion are the most frequently cited cases. According to Moskal,⁶⁶ the document presents only the most serious crimes, representing 25% of total complaints targeting the Aidar Battalion. Criminal investigations are open against the perpetrators.

According to the information received by the CCL from ICRC representatives, Ukrainian Armed Forces members receive basic training on International Humanitarian Law, whereas the combatants engaged in volunteer battalions lack such awareness.

A former fighter of Tornado battalion (under the Interior Ministry of Ukraine. Established on September 2014 and dissolved on June 2015) gave an anonymous interview to CCL in June 2015. He described illegal arrest, physical violence perpetrated on prisoners and the use of prisoners as slaves as an integral part of the warfare. "Working with prisoners" or "making them understand that they are not right" were the terms he used in describing these practices. He seemed completely unaware of any special rules regulating the use of violence in war. "Why wouldn't we do that?" he asked in response to concerns about the use of prisoners as slaves.

The uncertain status of the armed conflict deepens misunderstanding of the rules and legislation applicable:

The former Deputy Commander of Tornado battalion, Mykola Tsukur, pointed out this uncertainty: *"What is sure for us is that everybody talks about anti-terrorist operations, but what is actually going on is a war. You know that in a state of war, different laws apply. Detention and other things, all is different. I understand that there is the status of war prisoner; but a war prisoner is no more a detainee."*⁶⁷

It was not clear during the interview whether the Deputy Commander was referring to specific legislation in choosing how to treat the prisoners. Regardless, his comments highlight that the unclear legal status of the conflict sees combatants seek to escape their obligations under international humanitarian law.

Tornado battalion, which proved not to be selective in its recruitment, was publicly accused by Ukraine's Chief military Prosecutor, Anatilii Matios, of being infiltrated by organized criminal groups and common criminals. As such, it was subsequently dissolved. In June 2015, Matios declared that 43 out of the 170 Tornado fighters present at that time in Luhansk district, had previously been charged and brought to justice for criminal offenses.⁶⁸ The former Tornado fighter interviewed by the CCL in June 2015 and who requested anonymity, corroborated this claim.

By contrast, the lawyer defending the Sich and Tornado battalions alleges that these criminal cases can be seen as the imposition of political pressure on armed groups that have become too disruptive for the power institutions. He claims that such cases are poorly investigated.⁶⁹

66. See [Censor.net.ua](http://censor.net.ua), http://censor.net.ua/news/339178/moskal_peredal_v_gpu_i_mv_d_perechen_prestupleniyi_sovershen_nyh_tak_nazyvaemyi_dobrovoltzami_ayidara.

67. Mykola Tsukur was interviewed by the CCL at the Tornado battalion base in Pryvillia city (Luhansk region).

68. <http://www.business.ua/articles/ukraine/Matios-batalonu-Tornado-dali-vremya-sdatsya-bez-shturma-102123/>

69. Vitalii Pogosyan, "Volunteer battalions, patriots or villains?" (in Ukrainian), available at: <http://www.khpg.org/index.php?id=1435048785>.

The Ukrainian Ombudsman for human rights, Valeria Lutkovskaia, has reported cases of violence by police officers against the Tornado fighters arrested by them.⁷⁰

Currently, several cases of violations committed by volunteer battalions are being investigated: one against the “Aidar” battalion (about 400 cases of abuse) and its former commander Serhii Melnychuk, who is accused of operating an organizing gang.⁷¹ Another case is against the “Tornado” battalion (8 persons have been detained) and in particular its commander Ruslan Onyshchenko, who is currently in prison and faces similar charges to those levelled at Serhii Melnychuk.⁷² One of the volunteer battalions – Shakhtersk – was disbanded by the Interior Minister, Arsen Avakov, after cases of looting were reported.⁷³ According to Dnipropetrovsk lawyer, Oxana Tomchuk, as of July 2015, there were at least a hundred members of Ukrainian battalions in detention facilities in the eastern Ukrainian city of Mariupol alone.⁷⁴

70. <http://www.ombudsman.gov.ua/ua/all-news/pr/zdijsneno-monitoring-dotrimannya-prav-zatrimanix-pratsivnikiv-roti-tornado/>

71. http://espreso.tv/article/2015/05/13/quotnedokombatquot_za_scho_mozhut_daty_dovichne_melnichuku

72. <http://tsn.ua/video/video-novini/vismoh-osib-batalyonu-specialnogo-priznachennya-tornado-zareshovano.html?type=1551>

73. http://www.ukrinform.ua/ukr/news/spetsbatalyon_shahtarsk_rozformovano_za_maroderstvo___avakov_1982056

74. This information was given by O.Tomchuk to the CCL in September 2015

PART II.

CATEGORIES OF CIVILIANS TARGETED

A. CIVILIANS TARGETED IN LPR/DPR-CONTROLLED TERRITORIES

According to testimonies collected by the CCL, the persecution of civilians by DPR/LPR factions show signs of a widespread and systematic policy. Kidnappings, detention and torture of particular groups (listed below) are well organized and large scale. Such conduct is engaged in by all armed groups in all illegal places of detention FIDH is aware of throughout the Donetsk and Luhansk regions (see the maps above). Moreover, special force units have been created in the so-called DPR and the so-called LPR. These are called the MGB and the SMERSH division of the KGB in the DPR and the LPR, respectively. These titles have been derived from the names of repressive units under the USSR – “Ministry of state security” for MGB in the DPR,⁷⁵ and counterintelligence unit of the Second World War times “death to spies!” (abbreviation SMERSH) in the LPR.⁷⁶ The main task of these groups is the detection and liquidation of civilians who support or allegedly support Ukrainian state sovereignty.

For instance, an announcement reproduced below and signed by the “Headquarters of rebels in Horlovka” says that the Head of the Zaytseve settlement near Horlivka, Volodymyr Veselkin, is a “dangerous criminal” and offers 130 000 hryvnia for those who catch him alive. Veselkin himself has been forced to flee the city, which has become too dangerous for he and his family.

These groups are also composing so-called liquidation lists. Such policy is fulfilled openly and consciously with the aim of gaining control over the region.

Some segments of the population are being particularly targeted:

1. Pro-Ukrainian activists

Visible and well-known activists and Maidan participants were the primary targets of persecution during the first stages of the conflict. A pro-Ukrainian comment on social networks, the display of pro-Ukrainian symbols in public, or denunciation by anyone as being pro-Ukrainian is sufficient to attract arbitrary detention. According to the CCL database,⁷⁷ such cases run into the hundreds.

Larisa Belotserkivets, 60 years old, living in Makiyivka (Donetsk region), was known for her active pro-Ukrainian position. She took part in pro-Maidan demonstrations in Donetsk and Kyiv and was mentioned several times in media reports on these demonstrations. Armed men, later identified as members of the Makiyivka-based illegal



Announcement reads “WANTED: Dangerous criminal Veselkin Volodymyr Yurevich, b. 1978 (until 9 May 2014 held the position of the Head of Zaytsevo village). Person(s) who deliver Veselkin V.Y. alive will receive a bounty of 130 000 hryvnia. Headquarters of rebels in Horlovka.” Picture taken in August 2014. Source: gorlovka.ua.

75. <http://dnr-sovet.su/zakon-dnr-o-mgb/>

76. <http://rian.com.ua/society/20140618/353511979.html>

77. Presently only available for consultation upon request. For more information, contact CCL.

armed group “Mech”, detained her on 17 September 2014 at home. Belotserkivets was kept for 20 days in the local Military Commissariat and questioned only once. She suffered from cold, was forced to clean and cook for the group keeping her. She managed to escape from detention.⁷⁸

Nataliia Honcharova from Lysychansk (Luhansk region) and her husband Dmytro Skomorokh were known for their pro-Ukrainian position and had expressed their views on social networks since spring 2014. Nataliia works at the Lysychansk Executive Committee in the Office of Children’s Services. After the separatists took control of Lysychansk, in retaliation for her pro-Ukrainian stance, she received threats: her colleagues passed her “greetings” from unknown people and advised her to remain silent. In the end, persuaded by the colleagues who supported her yet also feared of their safety (“they will come to take you, and then me”), she removed all pro-Ukrainian content from her social network page. In late April 2014, unidentified armed people in camouflage uniforms approached Nataliia and her husband’s residence in a grey vehicle and threatened them, saying that *“they knew that a man from western Ukraine lives here”*. *“We called our neighbours and asked them to confirm that we were locals and that none of us came from western Ukraine”*, Nataliia testified. *“Finally, they went away, and we decided to express our opinions less publicly.”* Yet on 4 July 2014, Dmytro was abducted by camouflaged men who came on a UAZ of the “Prizrak” battalion.⁷⁹ He was released heavily injured five days later.⁸⁰

The period between spring and autumn 2014 can be considered a peak of repression on an ideological basis. After this, most people supporting pro-Ukrainian views chose either to leave the region or not to express their opinion.

Apart from Maidan participants, several political groups and actors are subject to persecution and kidnappings. These persons and groups are composed of all those seen as pro-Ukrainian or pro-European. For example, “Svoboda” party members (nationalist and pro-Ukrainian) have been prime targets, leading to the closure of the party’s activities in Donbas.

In the city of Kostiantynivka, Donetsk region, two members of the party were detained for their political opinion: Yaroslav Malanchuk was arrested on 29 April 2014 and remained in prison for more than two months. Artem Popik was kidnapped the following day, questioned, beaten and detained until 30 May 2014.⁸¹

In Makyivka, local Svoboda party activist Aleksei Demko was arrested at home on 8 May 2014. He was later found badly injured in the street the following day, but immediately kidnapped again from hospital. He was released on 10 June 2014, after negotiations so-called DPR authorities.⁸²

“Batkyvshina” pro-European party is also targeted for its pro-Ukrainian position. At least two local MPs (Volodymyr Rybak and Ivan Reznychenko) have been killed and many party members were reportedly forced to leave the region to avoid persecution. Anything that can lead to information about a person’s belonging to this political group makes him or her vulnerable to abuse.

78. Interviewed by the CCL in February 2015 in Kyiv.

79. UAZ is a Russian automobile company based in the city of Ulyanovsk. Its name is Ulyanovskii Avtomobilnyi Zavod, meaning Ulyanovskii Automobile Factory. UAZ specializes in manufacturing all-terrain SUVs, light trucks and vans.

80. Interviewed by the CCL in December 2014 in Lysychansk.

81. Interviewed by CCL in December 2014.

82. Interviewed by CCL in August 2014.

In Severodonetsk, Luhansk region, a businessman was arrested because a congratulation letter (for business achievements) signed by Yulia Tymoshenko, (Batkyvshina chairperson) was found in his office together with a small Ukrainian flag. The man spent 23 days in captivity.⁸³

Another political group subject to persecution and given a quasi-mythical status in DPR/LDR controlled areas is "Pravyi Sektor" (Right Sector), an extreme-right pro-Ukrainian group. This group is an openly nationalistic political force that emerged from Maidan under the leadership of Dmytro Yarosh. It immediately became a symbol of the anti-Russian movement in the Russian media. Fear of the Pravyi Sektor, presented as the main enemy, was nurtured by Russian media and is consequently widespread among the conflict zone population. People without a link to the organization are often targeted simply because of a suspicion that they belong to or support it.

2. Civilians providing humanitarian aid in conflict zones

In regions under the control of the so-called LPR and DPR, civilians providing assistance to Ukrainian armed forces are primary targets, but volunteers delivering humanitarian assistance are also threatened. Some are kidnapped and even disappear. Most often they are being detained on suspicion of spying for the Ukrainian side, although humanitarian aid coming from Ukrainian controlled territory remains a crucial means of survival. According to a French journalistic investigation,⁸⁴ humanitarian aid coming from the Russian side has become a significant source of corruption for DPR/LPR leaders, with approximately 50% of such humanitarian aid being stolen and subsequently sold on a black market.

A volunteer from Kyiv, whose name cannot be made public, was working for an association distributing humanitarian aid in conflict affected areas. She was kidnapped on 12 June 2015 whilst staying at her mother's home in Donetsk working for a humanitarian mission. She is seriously ill and was pregnant at the time of the event. She was kidnapped by the DPR's MGB (Ministry of State Security) and accused of being a sniper belonging to the Pravyi Sektor (Extreme right pro-Ukrainian group). She was beaten and tortured even after MGB found that she is pregnant. She spent approximately 2 months in captivity and was released in August 2015.⁸⁵

Vasil Kovalenko, director of the holiday club "Birusa" in Donetsk region was kidnapped by armed men in a DPR-marked vehicle on 29 September 2014.⁸⁶ In the months preceding the kidnapping, Kovalenko had offered shelter to refugees from the conflict areas at his holiday center. More than 250 people were simultaneously hosted in the shelter free of charge. This was not the first time that DPR armed groups apprehended Kovalenko, according to his daughter.⁸⁷ He was asked to follow his captors in his own car. Two days later, the same car without a registration plate was seen being used by an armed group. Kovalenko has reportedly not been released or found to date.

Four volunteers from Poltava, a middle-aged group of three men (Victor Kalashnikov, Volodymyr Matlash, Borys Misurenko) and one woman (Iryna Boyko), disappeared in the Luhansk region near Rovenki on 21 June 2014. Ms Boyko, released in September the same year,⁸⁸ confirmed that they were abducted. Borys Misurenko was shot dead.

83. Interviewed by CCL in December 2014.

84. <https://www.youtube.com/watch?v=ScXhvjvUYgoY>

85. Interviewed by the CCL in September 2015 in Dnipropetrovsk.

86. The CCL got this information from colleagues from the Donbas SOS initiative, who were cooperating with Vasil Kovalenko and staying in contact with his family members.

87. "Под Мариуполем в безымянном похищен человек", 7 October 2014, available at: <http://www.0629.com.ua/news/636139>.

88. "Спасение волонтера Бойко: путешествие туда и обратно", 9 October 2014, available at: <http://maidan.org.ua/2014/10/spaseniye-volontyora-bojko-puteshestvye-tuda-y-obratno/>.

No information about the fate of the two other men – Ralashnikov and Matlash – could be found.

On 5 January 2015 in Donetsk city center, armed men abducted four volunteers working for the “Responsible Citizens” initiative, which collects and dispatches humanitarian help in the conflict zone. News of the kidnapping was immediately disseminated through media and social networks by the initiative coordinators. The armed group released the four volunteers the next day, on January 6.⁸⁹

3. Journalists

The abduction of journalists by so-called LPR/DPR authorities is frequent. Reporters without Borders included Donbas in its top 5 most dangerous areas for journalists in 2014, especially for locals. It stressed that journalists are “regarded with suspicion and pressured to support the enemy’s cause” being “subject to constant intimidation”. In 2014, RSF reported 47 cases of arrests of journalists in Ukraine.⁹⁰

Ukrainian TV journalist for Espresso TV channel, Egor Vorobiev, was detained on 30 August 2014, whilst covering the Ilovaisk battle. He was taken together with his cameraman, Taras Chka, and civic activist, Roman Shaposhnikov, and later transferred to a DPR armed group. Egor Vorobiev and Ruslan Shaposhnikov provided evidence that they were first detained by the Russian military.⁹¹ Shaposhnikov and Chkan were released a few days later, but Vorobiev remained in detention until 7 October 2014, when he was released during the exchange between Ukrainian and DPR side prisoners in Enakiyivo. The Vorobiev case was under the control of the Ukrainian president,⁹² negotiations concerning his release were held by different people including MPs and journalists. According to Egor, before his release he was questioned by one of the best known DPR commanders, Igor Bezler (Bes). Vorobiev was accused of collaborating with pro-Ukrainian forces and regularly beaten; his arm and hand were broken.⁹³

Journalists are sometimes being used as hostages by various armed groups for propaganda purposes, being forced to work for their kidnappers as reporters and to record propaganda videos.

Pro-Ukrainian activist and journalist Dmytro Potekhin was offered the ability to work for LifeNews channel whilst being detained in the former art-center of Izolyatsia, which was then a prison. He was captured on 13 August 2014 and released on 27 September 2014. The proposal that he work for the LifeNews channel came from “MGB”, claimed Potekhin. He was offered pay for that work, but refused.⁹⁴

The risk of being taken captive as an enemy supporter makes it dangerous for Ukrainian journalists, especially non-residents of the Donbas region, to cover the conflict in the region. Russian and foreign journalists are normally allowed to work in LPR/DPR-held territories, but are also subject to abuse.

89. http://zn.ua/UKRAINE/volontery-organizacii-otvetstvennye-grazhdane-pohischeny-v-donecke-aktivistka-163441_.html.

90. “Round-up of abuses against journalists 2014”, Reporters Without Borders, available at: <http://en.rsf.org/files/bilan-2014-EN.pdf#page=5>

91. https://www.youtube.com/watch?v=9t_VqQJqk0w, 3.09.2015

92. http://espresso.tv/news/2014/09/25/poroshenko_poobicyav_vzyaty_na_osobystyy_kontrol_zvilnennya_zhurnalista_espresotv_yehora_vorobyova

93. Interviewed by CCL in January 2015 in Kyiv.

94. Interviewed by CCL in January 2015 in Kyiv.

Pavel Kanygin, a journalist from the Russian independent Newspaper “Novaya Gazeta”, was arrested in DPR on 16 June 2015 for a missing accreditation, aggressively questioned over 5 hours and beaten by men in camouflage clothing. He was later expelled to Russia.⁹⁵

One of the emblematic cases mentioned in the report *Missing persons during the conflict in Ukraine* of the Parliamentary Assembly of the Council of Europe (PACE) is the following story of Lera Kulish’s family from Luhansk:

“At 4 in the morning on 8 August 2014, 8 armed persons forced their way into the house of my parents in the town of Peremozhne of the Luhansk region. I was away, but my parents and my grandfather were at home. The terrorists were searching for weapons, but did not find any. So they took my mother, Elena Kulish and my stepfather, Vladimir Alekhin as well as two of our cars parked in the courtyard. My mother had created a web blog giving news from the town to the relatives living outside the occupied territory. I presume that because of this activity my parents were abducted. In December, I was called by the s.c. LNR [LPR] authorities to identify the bodies, but it was impossible to do so, as the bodies were in a very poor condition. The authorities are not handling the bodies and will not take DNA samples. They promise to send them to Rostov oblast in Russia for the metric expertise, nevertheless nothing happens.”⁹⁶

Luhansk journalist Mariia Varfolomeeva has been kept in detention since January 9 2015 to date. She is accused by the so-called LPR security services of being a Pravy Sektor spy.⁹⁷

4. Civil servants and State representatives

Abuses committed against civil servants have to be distinguished from the general persecution of those with dissenting positions and views. Pre-conflict officials in areas under LPR/DPR-control have been subjected to pressure since the very beginning of the conflict. This pressure is aimed at forcing them to support the new de facto authorities under threat of violence.

The presidential election in May 2014 appeared to be a specific moment of repression targeting civil servants, who were subjected to threats, kidnapping, violence and other pressure. Regardless of political opinion, the very fact of taking part in the organization of the electoral process within the framework of Ukrainian legislation was interpreted as manifesting a pro-Ukrainian position.

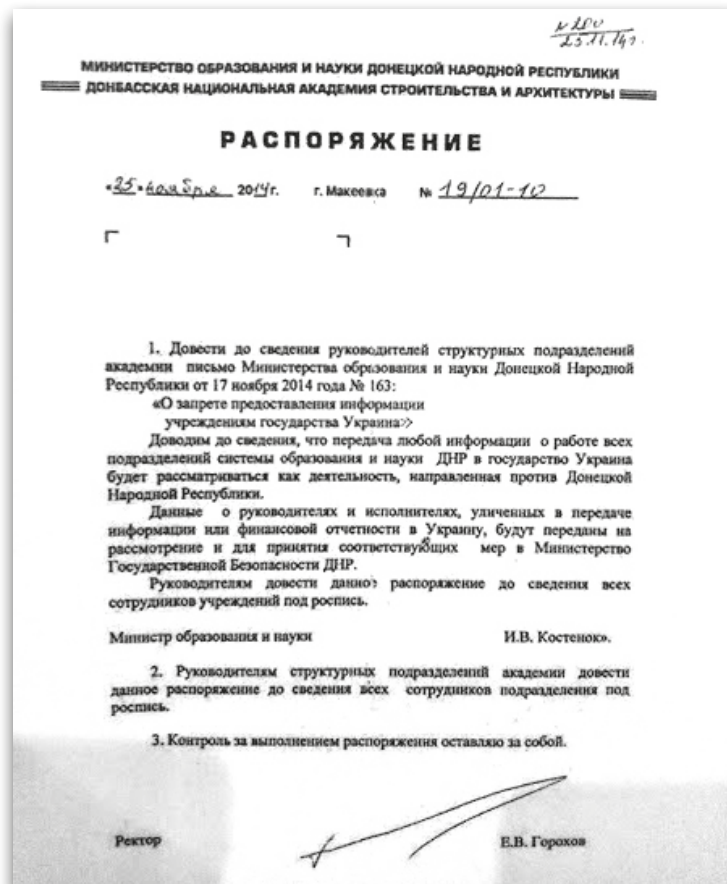
In Donetsk, in spring 2014, armed intrusions into the electoral commission offices and the confiscation of election equipment and documents were frequent in the pre-electoral weeks. The election could not take place in 24 out of 34 electoral commissions of the region.

One reported case concerned Antonida Melnikova, an under 60 year-old head of the territorial election commission n°110 in Lysychansk, North Luhansk region. Before the presidential elections in May 2014, the Prizrak (Ghost) battalion, which was fighting on the so-called LPR side and was located in Lysychansk between April and June 2014, took Ms Melnykova captive. Melnykova was badly treated in detention, being beaten and

95. “Спецкор Новой газеты” Павел КАНЫГИН: “Он направил на меня пистолет и спросил, я за них или за “укропов”. Когда я сказал — за мир, мбшник сразу дал мне кулаком в глаз”, 16 June 2015, available at: <http://www.novayagazeta.ru/news/1694538.html>.

96. “Missing persons during the conflict in Ukraine”, 8 June 2015, Parliamentary Assembly of the Council of Europe, Committee on Migration, Refugees and Displaced Persons, <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=21795&lang=en>

97. <https://www.youtube.com/watch?v=245PdpOoZxY>, more on Maria’s fate <http://informator.lg.ua/?tag=мария-варфоломеева>



Decree by the de facto Ministry of Education and Science of the so-called DPR (25 November 2014). Source: CCL; document obtained in December 2014 during a monitoring mission to Rubizhne (Luhansk region). For English translation of the document, see Annex 2.

5. Businessmen

The persecution of businessmen should be understood in the general context of the economic functioning of territories under the control of LPR and DPR groups.

Whilst it is difficult to evaluate the amount of financial support received by the so-called LPR/DPR from abroad, the region's economy nevertheless relies to a certain extent on taxes paid by local businesses. These "official" taxes require the re-registration of businesses within the LPR/DPR administrative system, as they are otherwise still paid in Kyiv. Business managers who don't accept such re-registration or refuse "unofficial" payments are subjected to threats, detention, violence and murder.

During a journalistic investigation published by the Russian economic media Rbc.ru, the author witnessed a meeting between the Head of the so-called DPR, Zakharchenko, and directors of regional coal mines. The director of the Trudovskaia mine was missing – his colleague explained that he had been arrested the previous day and "taken to a basement" to be charged with illegal possession of weapons and forging documents. Zakharchenko is then reported to have "suspected an error" and to give the instruction to call the responsible warlord and order the release of the manager⁹⁹.

Business is also subject to extortion by armed groups on the DPR/LPR side. The military bases of irregular armed groups are often located in industrial buildings occupied by the force. These sites also become detention places. However, whether these sites are given up voluntarily or under threat is unclear in most cases.

Stripping businessmen and top managers of their property – cars, computers, and valuable items – has reportedly become routine in the DPR/LPR.

99. <http://daily.rbc.ru/investigation/politics/15/06/2015/5579b4b99a7947b063440210>

6. Local and foreign NGO representatives

NGO representatives, mostly acting as observers, or representatives of official international observation groups also face threats.

On 26 May 2014, a group of four OSCE observers of Swiss, Danish, Estonian and Turkish citizenship were captured in Donetsk region. According to one local DPR representative, Andriy Purgin, the observers were detained in Severodonetsk as human shields to prevent any Ukrainian attacks on the city. The prisoners were released on 29 June 2015.¹⁰⁰

On 8 August 2015, four OSCE armoured vehicles belonging to the OSCE's Special monitoring mission to Ukraine (SMM) were destroyed overnight in apparent arson attack at the SMM Donetsk residence. The SMM denounced such actions¹⁰¹ The head of the SMM, Ambassador Ertugrul Apakan, later stated that over the previous few months the *"security of the Mission itself was under threat on an unprecedented level... It looks like a direct attack on the Mission to inhibit its activity"*¹⁰².

7. Religious Authorities

A specific report on persecution based on religious beliefs was published by the CCL/ IPHR in April 2015.¹⁰³ Whilst religion is not the basis for the conflict, it has been invoked within the rhetoric of persecution employed by irregular combatant groups, targeting religious representatives who don't belong to the Russian Orthodox Church of Moscow Patriarchate. Some pro-Russian armed groups operating in LPR/DPR-controlled areas act under religious banners, namely the Russian Cossack movement "The Great Legion of Don", or the "Russian Orthodox Army".

Religious affiliation other than with the Moscow Patriarchate is sometimes interpreted by armed groups as a sign of being anti-Russian. Representatives of the Ukrainian Orthodox Church of the Kyiv Patriarchate, Ukrainian Greek Catholic Church, Ukrainian Roman Catholic Church, Protestant Church and the Evangelical Church, were reportedly victims of the prohibition on religious practice, abduction, illegal detention, torture and sometimes murder.

In March 2014, in Donetsk, about 60 local religious groups present in the city, except the Moscow Patriarchate Orthodox Church, united for a daily collective prayer in one of the city squares, called the "Prayer Marathon". The participants prayed for peace, end of violence, but also for the unity of the country, which made the event pro-Ukrainian in spirit. The organizers experienced numerous threats and attempts to destroy the prayer tent, but managed to come to an agreement with local armed group until the arrival of Igor Girkin (-Strelkov), who was at the time the DPR defense minister. Later, the situation deteriorated and some 14 religious representatives among the organizers were abducted and some physically abused.¹⁰⁴

The Catholic priest Father Tykhon (Serhiy) Kulbaka, one of organizers of the above mentioned Prayer Marathon in Donetsk, was abducted by pro-Russian combatants at gunpoint on 4 July 2014. He was blindfolded during the ten days he spent in

100. <http://www.reuters.com/article/2014/06/27/us-ukraine-crisis-hostages-idUSKBN0F200T20140627>

101. <https://www.facebook.com/oscesmmu?fref=nf>

102. <https://www.facebook.com/oscesmmu/photos/a.316304135187965.1073741828.316016908550021/529529757198734/?type=1&theater>

103. More details in this regard you can see in the report prepared by CCL together with IPHR – "When God Becomes The Weapon" http://ccl.org.ua/wp-content/uploads/2013/07/When-God-Becomes-The-Weapon_6May2015_closed-for-editing.pdf

104. More details in this regard you can see in the report "When God Becomes The Weapon" http://ccl.org.ua/wp-content/uploads/2013/07/When-God-Becomes-The-Weapon_6May2015_closed-for-editing.pdf

captivity, denied medical care vital to treat his diabetes, and was not given enough water or food, despite his kidnappers knowledge that he had a chronic disease. As with several other priests, the fighters staged a mock execution by firing squad, which Father Tykhon recalls they considered entertainment. One of the jailers he talked with confirmed the religious nature of the persecution he was facing, calling him a heretic and stating that *“the enemy must be killed: all the uniates, schismatics and heretics”*¹⁰⁵.

8. Minorities, in particular Roma

In all conflicts minorities become an easy target of the hostilities. In its recent April 2015 report,¹⁰⁶ Russian FIDH member-organisation, ADC Memorial, illustrated how the sizable Roma population of this area has likewise fallen victim to the military conflict. Many Roma have become targeted victims of attacks, property seizure, violence or even organised pogroms, like in Slovyansk. When they have tried to leave the conflict zone either to Ukraine or Russia, in addition to the hardships they experience as refugees, they also face xenophobia and prejudice, which plagues society in both Russia and Ukraine. The governments of these countries are not taking sufficient measures to deal with the problems that refugees and internal migrants face. There are virtually no public initiatives in Russia aimed at migrants, and Ukraine does not have sufficient resources to deal with this issue. ADC Memorial experts travelled to all districts of Donetsk and Luhansk oblasts that were accessible in late 2014, as well as Kharkiv, Kyiv, and a number of settlements in South and Central Russia, where many former inhabitants of Romani settlements in Eastern Ukraine have moved.

The most known organised pogrom of Roma settlements happened in Slovyansk, Donetsk Oblast in April 2014. Representatives of the so-called “self-defense forces,” made up of armed formations under the command of Vyacheslav Ponomarev, “the people’s mayor” of Slovyansk and Igor Girkin, the commander of pro-Russian fighters in Slovyansk, were reportedly involved in the anti-Roma hysteria. Vyacheslav Ponomarev stated in an interview that “attacks against Roma in Slovyansk as such did not occur. We’re cleaning the city of drugs.”¹⁰⁷ The report quotes the testimony of P. from Slovyansk: “Roma were led out of their homes. Their gold, money, all their valuables, were taken from them and then they were locked in their basements. That’s what happened with almost all the Roma, not just the ones near the railway station. The separatists drove by my home several times, but they didn’t touch me because I don’t really look like a Rom and they can’t tell which homes are Romani and which aren’t. ... I was told that doctors would not receive people who had been beaten at hospitals because they did not want any problems with the separatists. This went on for about a month-and-a-half until the separatists left [the town].”¹⁰⁸

Impunity, aggravated by xenophobic sentiment, is even greater concerning abuses against this community. The report recalls the story of a Romani woman whose husband was abducted in Dzerzhynsk in July 2014. He apparently died in a fire in the Oblast Executive Committee, where he was reportedly being kept, during the storm of the city. As she was trying to find his whereabouts, his wife was told by the supervisor in the police station: “Do you know how many Russians have disappeared here? Why are you bothering us about your gypsy?”¹⁰⁹

105. *Ibid.*

106. ADC Memorial, Roma and War in Eastern Ukraine – refugees, displaced persons, victims of violence, April 2015, <http://adcmemorial.org/wp-content/uploads/RomaENGwww.pdf>

107. http://news.liga.net/news/politics/1445861-separatisty_po_svoemu_obyasnyayut_zachistku_Slovyanska_ot_tsygan.htm

108. ADC Memorial, Roma and War in Eastern Ukraine – refugees, displaced persons, victims of violence, April 2015, pp. 23-24 <http://adcmemorial.org/wp-content/uploads/RomaENGwww.pdf>

109. ADC Memorial, Roma and War in Eastern Ukraine – refugees, displaced persons, victims of violence, April 2015, p. 22 <http://adcmemorial.org/wp-content/uploads/RomaENGwww.pdf>

The report shows that when refugees return home, life in the Luhansk and Donetsk oblasts remains fraught with danger and violence, and is unsettled and difficult in material terms. Roma suffer from biased treatment and the perpetual suspicion of betrayal. For example, those who have returned to Slovyansk from Russia after Ukrainian control of the city was restored, are accused of being pro-Russian, whilst those opposed the Ukrainian government suspect these persons of supporting anti-Russian forces.

B. CIVILIANS TARGETED IN UKRAINE-CONTROLLED TERRITORIES

1. Perceived pro-LPR/DPR combatants

In Ukrainian-controlled areas, certain supporters or perceived supporters of LPR/DPR combatants are subject to illegal detention, physical abuse and threat.

However, abuses against civilians represented as LPR/DPR combatants reportedly almost always take place under the pretext of the fight against the terrorist groups and special ATO regulations.

2. Civilians presumed to be wealthy or able to pay a ransom

Self-seeking motives frequently characterize cases of illegal detention and violence. In the list of violations allegedly committed by combatants of the Aidar battalion in the second half of 2014, made public by Guennadi Moskal, 21 out of 65 cases include extortion and theft. Among those, most consist of illegal appropriation of cars, money and valuable personal belongings, combined with abduction. One case of kidnapping for ransom is presented in the list.¹¹⁰

According to the data from Severodonetsk city police authorities, referred to as the "Moskal list", Ms Zhenesku, who works as a judge in Luhansk, and her father, lead Architect of Luhansk city, were arrested at a check point in August 2014 by the Aidar battalion. Both father and daughter appear to be wealthy people who were actually accused of corruption. Ms Zhenesku was later released, but reported having received an SMS claiming a 20 000 USD ransom for her father a few days later. Mr. Zhenesku is reported to have been officially arrested for cooperation with "terrorists from Luhansk"¹¹¹.

110. <http://korrespondent.net/ukraine/politics/3524646-moskal-obnarodoval-spysok-yz-65-prestuplenyi-aidara>.

111. <http://rian.com.ua/video/20140817/356094902.html>

PART III.

THE MULTIPLE FACES OF HUMAN RIGHTS ABUSE

A. ARBITRARY DETENTION AND CAPTIVES

Arbitrary detention and captive taking are a relatively recent phenomena in Ukraine. They were marginally used in post-soviet Ukraine, as for instance, in the case of Ukrainian Journalist, Gueorgi Gongadze, kidnapped and murdered in 2000. The phenomenon started with the Euromaidan protest and the annexation of Crimea, becoming massive in the context of the Donbas conflict. Euromaidan SOS documented cases of disappearance and kidnapping in Crimea in March 2014.¹¹² Some of the disappeared activists remain missing.

The Minsk Protocol, signed on 5 September 2014, requires an “immediate release of all hostages and illegally detained persons”, offering an official recognition of the hostage problem. This commitment however was not fulfilled.

1. Arbitrary detentions by LPR/DPR groups

a) A widespread phenomenon

An estimation of the extent of the phenomenon of arbitrary detention in LPR/LPR-controlled territories is difficult due to extremely restricted access to these areas for Ukrainian or international observers. Most data is collected through the fact-finding missions conducted in the territories with restored control by Ukrainian forces, reports by some NGOs present in the East and from open sources and social media. Even in territories regained by the Ukrainian military, the scale of kidnappings is still a controversial issue, since no proper official investigation has been conducted.

A monitoring mission to Slovyansk (under the control of DPR forces from 12 April to 5 July 2014) by the Joint Ukrainian and Russian Human Rights NGOs Working Group, on 15 and 17 July 2014 found that captive taking was the most “closed to possible investigation” to conduct.¹¹³ The local police forces registered about 40 disappearance complaints, while a local journalist working on the issue mentioned about 100-150 people illegally detained every day.¹¹⁴

By spring 2015, the Donbas hostage/arbitrarily detained persons database of the CCL, mostly compiled by volunteers,¹¹⁵ listed approximately 1,200 mostly civilian names. These names represented those whose relatives had turned to CCL or other NGOs for help and those mentioned in open sources such as media or social networks. Most of

112. One example is outlined above – interview with Mykhailo Vdovchenko. Also see the interview of ,Vladislav Polishchuk, who spent around two weeks in captivity in Crimea in March 2014. He was interviewed by CCL on March 2014 in Kyiv – available at: <https://www.youtube.com/watch?v=NeZsP-u0DkA>. Another interview online is a talk with pro-Ukrainian activist in Crimea, Ihor Kiriushchenko, who was forced to flee from Crimea after threats from an organization called “Russian block”. He was interviewed by CCL on March 11 2014 in Kyiv. Interview available at: <https://www.youtube.com/watch?v=q2QFVzIHJzA>,

113. <http://ccl.org.ua/wp-content/uploads/2013/07/Slovyansk-10.11-1-11.pdf>

114. <http://ccl.org.ua/wp-content/uploads/2013/07/Slovyansk-10.11-1-11.pdf>

115. At the moment, the database is not publicly available but consultable upon request.

the detained have already been released, some others appear to still be missing. These figures are incomplete due to collection restrictions mentioned above.

According to Iryna Herashchenko,¹¹⁶ Ukrainian representative in the Trilateral contact group on the peaceful settlement of the situation in the Donbas, the number of detainees kept by both the DPR/LPR and the Russian Federation reaches 300 military and civilians, including those kept in official places of detention located in the Russian Federation. At least 11 Ukrainians are being kept in Russian detention facilities according to official figures.¹¹⁷ They stand accused of different crimes. Some of them have already been sentenced by the Russian court; in particular, Oleg Sentsov (20 years of detention), Olexandr Kolchenko (10 years of detention), Gennadii Afanasiev (7 years of detention), and Olexii Chirniy (7 years of detention).¹¹⁸

The problem of illegal detention and captive-taking is tightly interlinked with the issue of missing persons. Besides fighters who vanish during fights, there are a number of missing civilians in DPR/LPR controlled areas, and territories under government control. The phenomena is further complicated because various groups are in charge of exchange negotiations. Some of these initiatives are informal groups working in the negotiation process, with their own connections with representatives of the DPR/LPR. One of the most active groups is headed by former military officer, Volodymyr Ruban.¹¹⁹ Another group seeking the release of captives is called "Patriot", and is headed by Oleg Kotenko.¹²⁰ Some agreements are reached privately. At state level, the release of captives is an issue coordinated by the Interdepartmental Centre for Assistance in the Release of Captives and Hostages and the Search for Missing Persons, which was set up under the auspices of the State Security service of Ukraine (SSSU).¹²¹

There is no comprehensive list of missing persons. Such lists are scattered between those state bodies and volunteer groups researching the missing.¹²² As reported by the Donetsk region police in their newsletter dated August 2015, at the beginning of the ATO on the territory of Donetsk, 1,381 persons were alleged to be missing. Whilst 455 have since been found, the location of 926 people remains unknown. Of these, 362 were kidnapped – 24 by DPR actors. The circumstances surrounding the kidnaping of 158 persons remains under investigation by the Interior Ministry. According to the SSSU in their official reply to a CCL enquiry, during the period from 1 April 2014 to 12 May 2015, 1,330 persons were registered as missing. Out of this figure, 3 were journalists, 43 Internal Affairs staff, 481 military servicemen, 8 border guards, 14 fighters from volunteer regiments, 36 staff of the National Guard, 16 volunteers, 621 civilians and 108 unidentified persons.

Although the Centre for Assistance in the Release of Captives and Hostages and the Search for Missing Persons was set up under the auspices of the SSSU, many of those who have vanished are not on the Center's list. The Center operates on the basis of applications from the families of missing persons, but many people do not turn to official bodies for help, preferring social media for instance,¹²³ especially in territories outwith Ukrainian control. By 12 May 2015, the Centre had received 1,172 e-mail appeals, 1,390 hot-line calls and 1,033 personal visits.¹²⁴

116. <http://www.pravda.com.ua/news/2015/06/8/7070534/>

117. Ukrainians Illegally Detained in Russia, <http://mfa.gov.ua/en/page/open/id/4177>

118. <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/russia/sentsov-and-kolchenko-trial-outrageous-sentence-torture-and-rights>

119. <https://www.facebook.com/volodymyr.ruban?fref=ts>

120. <https://www.facebook.com/oleg.kotenko.94?fref=ts>

121. http://www.ssu.gov.ua/sbu/control/uk/publish/category?cat_id=130978

122. One example is the group called Peceful Sky which publishes announcements on missing persons. See: <http://vk.com/wall-85877364?own=1>.

123. <http://vk.com/public85877364>

124. *Missing persons during the conflict in Ukraine*, PACE Committee on Migration, Refugees and Displaced Persons, Rapporteur: Mr Jim SHERIDAN, June 2015.

b) Chronology of captive taking

Different phases of captive-taking have been observable in Donbas, distinguished by their intensity and the group targeted.

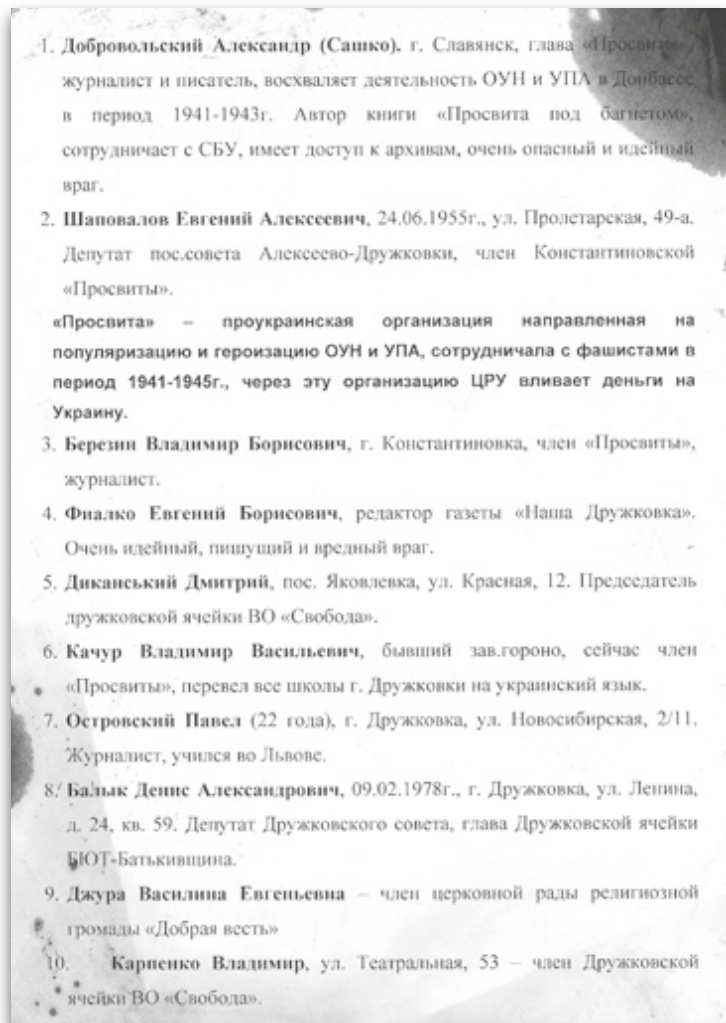
The first phase was observable at the beginning of the conflict in March, prior to the unrecognized referendums in Donetsk and Luhansk (11 May 2014) and the armed escalation. Capture of civilians was then occasional, targeting mostly pro-Maidan and pro-Ukrainian activists who were forced to flee their home cities after their release, having being warned to move to another part of the country and never come back. Kidnappings were not limited to the Donbas region and also occurred in Crimea, which is not considered in this report.

The second phase of civilian detentions is linked to the armed takeover of local administration buildings. Slovyansk, a city located within the perimeter of DPR-controlled territories (from 12 April 2014 until 5 July 2014), seems to be the most well-known (but not the only) locality to see the widespread capture of civilians armed actors seized local administration buildings. Repression targeted numerous categories of persons: local MPs, public employees, journalists, businessmen, pro-Ukrainian activists, random citizens. All were detained for their supposed or real opposition to the new self-proclaimed authorities, or for profit or ransom.

The Kyiv stage director, Pavlo Yurov, and art-manager, Denis Hryshuk, were kidnapped in Slovyansk on 25 April 2014 and detained for more than two month until the city was regained by the Ukrainian army on July 4. In an interview with Censor.net.ua website,¹²⁵ Yurov explained that they were arrested after claiming in a local café that Russian forces were occupiers. Both were regularly beaten; no trial or charges were brought against them.

These cases of illegal captive taking accompanied the extension of control by LPR/DPR armed groups elsewhere in Donbas. Soon after the start of such activities in Slovyansk, the widespread disappearance of pro-Ukrainian activists started in Donetsk and other cities in Donetsk region (early April 2014) and in Luhansk and the Luhansk region (beginning of May 2014). Some of those people were later released, some killed, and some are still on the list of the missing.

The document obtained in July 2014 in Slovyansk, in headquarters of the Russian Orthodox Army's run by Girkin-Strelkov. The document is presumably a black list of targeted pro-Ukrainian activists. Source: CCL. For English translation of the document, see Annex 3.



125. http://censor.net.ua/resonance/302054/silno_nas_bili_vsego_dva_raza_a_potom_odindva_udara_v_den_nanosili_profilakticheski_rejisser_pavel_yurov

A peak in kidnappings was reached in Donetsk around the time of the presidential elections in Ukraine in May 2015. These election could not be properly organized in this city and was immediately followed by armed clashes. As testimonies presented in this report show, the heads and members of electoral commissions, as well as representatives of candidates, were reportedly frequently illegally arrested and detained in the Donetsk region.

The third phase in captive taking, ongoing since early Summer 2014, corresponds to the installation of LPR/DPR groups as *de facto* enforcement authorities in the region. A whole range of persons have been subject to kidnapping and arbitrary detention sine this time.

Repressive DPR/LPR policies against civilians pursue different objectives:

1. The neutralization of potential “enemies of the republics”: pro-Ukrainian citizens, activists, civil servants, journalists, foreign and local NGOs representatives, and more recently, volunteers delivering humanitarian assistance.
2. Disciplinary detention: loyal local people accused of transgressing rules, pro-Russian armed men detained for disciplinary purposes. This category seems now to be the most important in quantitative terms.
3. Extortion and private conflict resolution: targeting businessmen, wealthy people and those arrested following a denunciation or a private conflict with a DPR/LPR representative.

2. Arbitrary detention and captives held by the pro-Ukrainian side

Testimonies on arbitrary detention perpetrated by volunteer battalions and regular Ukrainian forces vary, though cases have been reported in respect of both.

CCL data consists of testimonies regarding Aidar bataillon abuses in the North Luhansk region. According to the testimonies of local activists collected during CCL monitoring missions from December 2014 to July 2015, part of the Aidar battalion currently located in Lysychansk (previously in Rubizhne, also in the Luhansk region) has a link with the criminal world and local financial elites in Northern Luhansk. Being situated in a region with a complex network of powerful groups, the Aidar battalion has become an instrument in the hands of criminalized elites.

Valerii Beshenko, a Ukrainian activist, volunteer and former mayor of Pryvillya city, was abducted from his office in Lysychansk by armed men wearing balaclavas on 28 August 2014. Beshenko was about to present a sensitive report to the city council and the general city assembly about the separatist armed force takeover of the city and local elite involvement in aiding this takeover. Notably, the report addressed the role of a local elite representative and current member of the Ukrainian parliament, Sergij Dunaiev. The armed kidnappers, whom Valerii later identified as being Aidar battalion members, initially claimed that they were trying to protect him from harm. However, when he refused to go with them, he was forced into a balaclava and forcibly taken. He was released later the same day, after the end of the general city assembly. Local police later confirmed to him that his kidnappers were members of the Aidar battalion. According to Beshenko, the aim of his short kidnapping was to take him away from the city that day. Beshenko states: *“It’s a gang operating under the name of Aidar, linked to the political power”*. The activist underlines that the members of the battalions were not necessarily aware that they were being used: one of the abductors later revealed that he disagreed with his commanders on the use of such kidnappings.¹²⁶

126. Interviewed by CCL in late June 2015 in Pryvillia city (Luhansk region).

According to the testimony of Vitalij Shvedov (previously a pro-Ukrainian activist in Lysychansk, currently head of the civil-military administration of Troitske village near the frontline in Luhansk region), local Aidar fighters participated in the seizure of the local TV-channel “Accent” after the city was liberated by the Ukrainian army.¹²⁷ He confirmed that information in an interview for a local journalist and claimed that this section of Aidar is coordinated by Bairamov, an assistant of MP Sergui Dunaiev¹²⁸.

The boundaries between illegal detention and legal arrest have not always been clear to combatants on the Ukrainian side. The law “On the fight against terrorism” adopted in 2003 provides a legal basis for arrest and detention in the context of anti-terrorist operations (ATOs) (see above). According to the law, participants in ATOs are allowed to detain and deliver to police authorities people suspected of impeding the implementation of an anti-terrorist operation. In August 2014, the prerogatives of the armed forces implementing anti-terrorist operations were extended and reframed under a law adopted by the Ukrainian parliament.¹²⁹ The new article 15 states that preventive detention of persons involved in terrorist activity can last for over 72 hours and up to 30 days if there is reasonable suspicion that the person was committing terrorist activities. Preventive detention can be carried out on the grounds of a decision by the Security services and a criminal investigation has to be immediately started. Neither before nor after August 2014, when the above mentioned law was amended, were the detention practices of the Ukrainian military in conformity with this legal framework. Arbitrary detention, detention without the involvement of police authorities, detention over the permitted timeframe, an absence of criminal investigations or charges, use of violence, and indecent conditions of imprisonment are all referred to in several testimonies.

In the city of Dzerzhynsk, Donetsk region, a man, who testified on the condition of anonymity, was arrested at home on 21 February 2015 by people wearing balaclavas and no insignia. He was given an opportunity to call and warn his family only 5 days later. After returning home, he confirmed that the Sich battalion (under the Interior Ministry of Ukraine and established in June 2014) was the military unit that arrested him to verify his links with the LPR/DPR. Reportedly, he was not beaten but blindfolded.¹³⁰

The Donbas NGO “Vostok SOS” has registered some 40 cases of arbitrary detention of civilians by the Ukrainian armed forces. The NGO *Blakitny Ptakh* reports 57 cases of disappearance (though this does not necessarily mean illegal detention) of civilians in areas controlled by Ukraine. As mentioned above, much information on the ongoing and unpredictable conflict in this area is out of reach.

One of the unofficial goals of abduction by the Ukrainian side is the possibility to later exchange these prisoners for prisoners on the LPR/DPR side. These exchanges are not always officially framed by the Ukrainian security services and are sometimes organized locally.

127. Interviewed by CCL in January 2015 in Lysychansk (Luhansk region)

128. <https://www.youtube.com/watch?v=0336aVsbwhs>, 13.10.2014

129. <http://zakon4.rada.gov.ua/laws/show/1630-18>

130. Interviewed by CCL by phone on July 2015.

B. TORTURE AND ILL-TREATMENT

The indiscriminate use of violence towards prisoners, targeted civilians, and random members of the population is a widespread characteristic of armed conflict in Ukraine. Here, the unclear status of the conflict and the operating armed forces, as well as a lack of understanding on the part of belligerents about their obligations under specific legislation, are once again complicating factors affecting this phenomenon. On both sides, combatants seem to refer to local rules introduced by their commanders more than to national legislation or international humanitarian law. The degree of violence used is thus heavily dependent on the personality and legal awareness of those commanders.

1. On the LPR/DPR side

In almost every case of arrest reported to the CCL, victims describe the use of physical or psychological violence by their captors.

Alexander Chernov, born 1976, anesthesiologist and blogger from Yenakievo, was kidnapped on the 26 June 2014. He insists that his kidnapping was due to his work as a journalist for "Ostrov", a local pro-Ukrainian Russian language website. First his captors took him to a depot where they beat him for an hour before threatening him with murder and transfer to Slovyansk, which was at that time a hub for the illegal detention of DPR captives. Alexander recalls: "*Igor Girkin personally hit me a few times and announced the verdict: "to dig the trenches". I was immediately taken to Cherevkovka near Slovyansk, where I spent about 4 days.*" At first, he was placed in a hole in the ground with his hands tied behind his back. Later, Chernov together with about a hundred of other captives were forced to dig trenches and perform other work at the frontline. Chernov spent 10 days in captivity before he managed to escape when DPR fighters were leaving Slovyansk to Donetsk in the beginning of July 2014.¹³¹

In a report released in September 2015, a coalition of human rights NGOs refers to a map published by the State Security Service of Ukraine in October 2014. This map included markings of seven localities in the Donetsk and Luhansk regions where 26 places of confinement for military and civilian captives are located. Analysis of research data suggests that the number of places of detention in territories under DPR and LPR control is significantly higher than this. In fact, there is still a very extensive network of unofficial places of detention of a variety of types and controlled by a variety of actors in the territory outside the control of the Ukrainian government in Donbas.¹³²

Conditions of detention are usually very poor. All but one respondent – a journalist whose professional skills were used by his captors and who was detained in comparatively mild conditions – reported having been kept mostly in the basements of administrative buildings with no light, no fresh air, and insufficient space. Medication was not provided to people with chronic diseases and medical care was denied.

However, violence is not limited to ill-treatment and beating during interrogation. Many witnesses were victims or various of acts of torture.

131. Alexander Chernov was interviewed by the CCL in September 2014.

132. *Surviving hell: testimonies of victims on places of illegal detention in Donbas*, Justice for Peace in Donbas, a Coalition of Human Rights Organizations, September 2015, and Helsinki Foundation for Human Rights, available at: <http://www.osce.org/odhr/185431?download=true>.



One of the places of illegal detention in the city of Kostiantynivka (Donbas region), in the basement of the City Executive Council seized by the so-called DPR armed fighters on 28 April 2014. Picture taken in December 2014. Source: CCL.

Volodymyr Semystiaga, 65 years old, a history professor, publisher and civic activist was detained in Luhansk on 23 of June 2014 for 55 days. Throughout his detention, Semystiaga was threatened with murder. He was subject to several mock executions and had to watch his jailers torturing other prisoners. During the first weeks of his detention he was repeatedly beaten during interrogation, tortured with an electric current, had cigarettes extinguished on his neck, and forced to wear a gas mask with blocked air vents. The ways in which the beatings and torture were executed, the victim reports, appeared “quasi-professional”.¹³³

This and other testimonies collected by the CCL and its partners indicate that torture in detention is systematic and planned, and is not a spontaneous and improvised occurrence.

The most frequent types of torture are listed below.

Mock execution to exert psychological pressure

This practice is widespread in different places of detention. Such testimonies are reported from various places, for example, Donetsk, Makiivka and Slovyansk (before control by Ukrainian forces was restored in July 2014). Sometimes a death sentence was even read to a blindfolded victim before firing shots above their head. This was reported by one detained woman, Olga, who was captured for her participation in the electoral process for the presidential elections in Ukraine (May 2014).¹³⁴

Mock shooting was also used during the detention of Gennadii Lysenko, a man involved in the evacuation of civilians from war-torn Slovyansk. He was kidnapped together with his friend who was also assisting to evacuations organised by the local protestant community.¹³⁵

Use of knives and cutting instruments

Captors are reported to be inflicting knife injuries on detainees, especially during interrogations.

B., 24 years old, was abducted in May 2014 from his office in Donetsk. B. was not exactly an activist, but regularly attended pro-Ukrainian meetings. During his interrogation, his captor asked nurses present in the room to pass him a scalpel. He used this scalpel to cut a swastika into B's back, whom he then accused of being “fascist” and belonging to “Pravyi Sektor” movement. B also had his fingernails pulled out.¹³⁶

Fedir and Hanna, a couple whose case was detailed in last year's Amnesty International report,¹³⁷ were interviewed by the CCL shortly after their release from captivity. Hanna reports having been cut with a knife all over her body during her interrogation, including on her arms, hand, legs and breast. Fedir had a very deep wound on his forearm.¹³⁸

133. Volodymyr Semystiaga was interviewed by CCL

134. Olga was interviewed by CCL in June 2014 in Kyiv, more information on this case here: <http://www.kasparov.ru/material.php?id=53A3E25100278>

135. Both were interviewed by CCL in June 2014 in Slovyansk during the common mission of CCL with representatives of Russian human rights organization Memorial

136. Interviewed by CCL in September 2014 in Kyiv

137. “Abductions and Torture in Eastern Ukraine”, 2014, https://www.amnesty.nl/sites/default/files/public/ukraine_briefing_formatted_-_final.pdf

138. Interviewed by CCL in June 2014 in Kyiv, more information on this case you can read here <http://www.kasparov.ru/material.php?id=53A3E25100278>

Use of electric current

Victims in different detention places frequently reported this practice to the CCL and other observers.¹³⁹

Serhiy Shapoval, a Ukrainian journalist, was detained from 29 April to 19 May 2014 in Donetsk. Shapoval tried to “infiltrate” a DPR battalion, but the “recruiters” found his press card and his “status” changed from recruit to prisoner. He reports that among other torture to which he was subject during questioning, his captors used to put wet fabric on his shoulder and to apply an electroshock device. His arm has still not recovered from the consequences of this torture.¹⁴⁰

Oleksandr, a 19-year-old student from Luhansk was detained on 12 June 2014 in Luhansk near his own apartment. He reported being subjected to an electric current several times until his relatives managed to pay his ransom the next day.¹⁴¹

Other types of torture and ill-treatment

One of the most well known cases, widely reported in the media is that of Iryna Dovhan, a 52-year-old woman from Yasinovata who was arrested in September 2014 for her pro-Ukrainian views, which were discovered by DPR fighters on her Facebook account. Iryna was beaten and then tied to an electric pole and wrapped in a Ukrainian flag with a sign stating: “*She kills our children. Agent of the executioners*” fixed to her chest.¹⁴²

The aforementioned Olga, a middle-aged woman working in a Ukrainian electoral commission, was arrested on 22 May 2014 and spent five days in detention, blindfolded with scotch tape. She recalls the psychological torture to which she was subjected, which included not only mock executions, but also hearing tortured people around her: “*The most scary thing was to hear how they beat the others. And this sound of unwinding tape. Unwinding, unwinding, unwinding.*” She also remembers that, “*There was a man who was initially in the car with us [...] They beat him until he confessed to being member of “Pravyi Sektor”. Then I was taken outside again. They pointed a gun to his head and they asked me to give them my Golden bankcard.*”¹⁴³

Hanna, referred to previously, also reported having been forced to write “I love Donbas” with her own blood.¹⁴⁴

Physical and psychological torture are usually used during the interrogation phase, after which jailers keep their prisoners in the basement for some time (from a few days up to a few months) until they are exchanged or liberated after payment of ransom. However, former prisoners report that sometimes their captors lost control and subjected captives to beating and torture without any questioning.

139. “Survivors of hell: Testimonies of victims to illegal places of detention in Donbas”, 2015, report prepared by the human rights coalition “Justice for Peace in Donbas” and the Helsinki Foundation for Human Rights. <http://khpg.org/files/docs/1444128406.pdf>

140. Interviewed by CCL in June 2014 in Kyiv, for more detailed information check <http://www.kasparov.ru/material.php?id=53A3E25100278>

141. Interviewed by CCL in March 2015 in Kyiv

142. http://www.nytimes.com/2014/08/26/world/europe/russia-ukraine.html?_r=1

143. Olga was interviewed by the CCL in June 2014 in Kyiv. For more, see: <http://www.kasparov.ru/material.php?id=53A3E25100278>

144. Interviewed by the CCL in June 2014 in Kyiv.

2. On the pro-Ukrainian Side

Accusations of torture and ill treatment have been articulated mainly against voluntary battalions, notably the Aidar (under the Ministry of Defense) and Tornado (under the Interior Ministry) battalions.

In an article published in the Ukrainian online journal, TheInsider.ua, a fighter from the Aidar battalion reported that beating prisoners was ordinary practice.¹⁴⁵

A former Tornado battalion fighter interviewed by the CCL, and who asked to remain anonymous, confirms that the use of violence in interrogation is a considered a normal practice: *"Yes, we detain people. This is our work. It's illegal, but all our battalions are illegal. If we suspected someone of something, we could apply pressure."*¹⁴⁶

The same interviewee draws a parallel between their violent interrogation practices and the ones frequently used by Ukrainian police forces: *"These torture methods are the ones of an ordinary police station"*.¹⁴⁷

In general it is difficult to get information and verified data on these acts, though open sources frequently make reference to them, as well as to violations perpetrated by some other battalions, such as Azov or Pravyi Sektor group members.

The NGO "Vostok-SOS" has reported that on 1 July 2014, Igor, a 17 year-old boy, originally from Krasnoarmijsk (Donetsk region), was traveling by bus from Dnipropetrovsk region to Donetsk region. Stopped at a Ukrainian checkpoint, he was arrested on the bus and detained at the Azov battalion military base in Donetsk region (exact place unknown) for over 5 months until the beginning of December 2014. According to his mother, interviewed by the CCL,¹⁴⁸ the Azov battalion imprisoned her son, though did not formally charge him with any crime. Igor's mother did not know anything about her son despite appealing to all possible institutions in Ukraine and to actors of the DPR and LPR. It was only discovered after his release that Igor had been held in a hole in the ground, before being used as a slave for digging trenches. The boy was beaten on his head, ribs and legs. His captors made two tattoos on his forearms, one saying "It's better to die than to live in fear", the other "Made in USSR".¹⁴⁹ In December 2014, Igor was exchanged as an LPR fighter (under the fictitious surname of a dead fighter) and brought first to Luhansk and then to Donetsk. Here, there was an attempt to illegally detain him again, this time by DPR agents. Luckily, at the Donetsk "commandant's office" Igor met someone who knew his father. For this reason, he was released relatively quickly and was not detained and accused of being a spy, according to Igor's mother. Igor has suffered significant psychological trauma, which has resulted in a constant headache and bouts of aggression. In September 2015, Igor had been unable to continue his studies and has had to engage in psychological counselling. Igor and his family have refused to go to the police, saying that they *"do not believe in the justice system and are afraid of being persecuted for doing so"*.

During her interview, Igor's mother informed the CCL of three other cases of persons presumably kidnapped by Ukrainian forces. According to her, Evhen Kolesov (17 years old), Evhen Kosoukhov (about 26 years old), and Gres (name unknown, about 20 years old) are considered to have disappeared. All of them used to live in Krasnoarmijsk (Donetsk region) which is in territory controlled by the Ukrainian government.

145. <http://www.theinsider.ua/politics/54a9af9fa9f76/>

146. Interviewed by the CCL in July 2015 by phone.

147. *Ibid.*

148. Interviewed by the CCL on September 2015 by phone.

149. Vostok-SOS NGO representative was interviewed by CCL in June 2015 in Kyiv.

C. EXTRAJUDICIAL, SUMMARY AND ARBITRARY EXECUTIONS

The extent of executions conducted outside proper legal procedures and without allowing victims to exercise their right to defend themselves is extremely difficult to evaluate in the context of an ongoing conflict. The available data relies on testimonies of people who have witnessed an execution without knowing the identity of the victim or on the cases where victims have been found dead and identified, though no proper investigation could be conducted in most cases. No estimated figures can therefore be given so far.

1. On the LPR/DPR side

Cases of missing civilians whose bodies are later found with signs of violent death have been frequent in LPR/DPR-controlled territories since the beginning of the armed conflict. Executions appear to be mostly perpetrated on prisoners or arbitrarily detained persons. Those executed appear mainly to belong to a specifically targeted category: a religious minority, pro-Ukrainian volunteers or activists.

Volodymyr Rybak, member of Horlivka city council, was kidnapped by unidentified people on 17 April 2014, after his attempt to recover the national flag on top of the district council building in Horlivka, Donetsk region. His body, together with that of Yuri Poprawko, a 19 year-old student whose body showed signs of torture, were found in a tributary to the Siversky Donets river, near Slavyansk city. The Security Services of Ukraine have revealed a phone call recording that appears to evidence that “Strelkov’s” group, which acts in Donetsk region, and Russian Federation citizen, Igor Bezler (call sign “Bes”), a Main Intelligence Directorate colonel, were involved in Rybak’s murder. According to this phone call from 17 April 2014, Bezler gave an order to the self-proclaimed militia chief of Horlivka to neutralize Rybak. At the same time, Bezler ordered a member of his group, a Russian serviceman, to kidnap Volodymyr Rybak, put him in a car, deliver him to a designated area, and use physical violence against him.¹⁵⁰

On 8 June 2014, after the festive Trinity Sunday service at the Transfiguration Church in Slovyansk, pro-Russian gunmen detained four members of the church: the pastor’s two adult sons, Reuben Pavenko and Albert Pavenko, and two of the church’s deacons, Viktor Bradarsky and Vladimir Velichko. The men were taken to the former offices of the Security Service of Ukraine in Slovyansk, brutally beaten and killed. Their bodies were found in a mass grave near a local hospital for children after the Ukrainian armed forces took over the city.¹⁵¹

On 22 June 2014, Ivan Reznichenko, local MP in the city of Soledar in Luhansk region and head of the local professional miner’s union, disappeared. Seven months later, his body was found inside an old abandoned mine. An investigation conducted by his friend and colleague Roman Mahnyk (who found the body) seems to indicate that the MP was kidnapped and killed by a DPR armed group representative after claiming at a city council session that he had a list of local separatists, which was reportedly not true. The family of Reznichenko is unsatisfied with the investigation conducted by local police forces, claiming they are trying to cover up the identities of the killers.¹⁵²

150. Interview of Olena Rybak, the wife of Volodymyr Rybak to CCL in November 2014 in Kyiv.

151. Common CCL-IPHR report on religious persecutions

152. Case documented by CCL during March-May 2015 in Soledar Donetsk region, more details can be find here <http://www.radiosvoboda.org/content/article/26881639.html>, <http://www.radiosvoboda.org/content/article/27010463.html>

In Slovyansk (still under LPR control in 2014), insurgent authorities created quasi-courts to stage trials that could constitute a basis for executions. The verdict documents of these mock trials, which end in real death sentences, were found in Slovyansk during a monitoring mission and made public.¹⁵³ The procedural formalities of these trials are insufficient to consider their outcome a valid judgment.

According to an investigation conducted by journalist, Christopher Miller, a 31 year-old inhabitant of Slovyansk was sentenced to death by firing squad after stealing a pair of pants and two shirts from his neighbors' home. The death sentence was signed by the Russian commander Igor Girkin (Strelkov), amongst others, and refers to the Decree of the Presidium of the Supreme Soviet of the USSR 'on martial law' from June 22nd, 1941, as its legal basis.¹⁵⁴

2. On the pro-Ukrainian side

The first cases of civilian executions by pro-Ukrainian forces were made public in November 2014 and involved combatants of the Aidar battalion.

On 7 November 2014, Luhansk law enforcement officers reported the discovery of three male civilian bodies with signs of violent death in the basement of a house in Ukraine-controlled Starobilsk. Criminal investigation has shown that all of three were kidnapped in the city of Severodonetsk on 3 November 2014, then transferred to Starobilsk and killed. Aidar battalion combatants operating in the area have been charged with these murders. As of September 2015, press-officer of the Interior Ministry in Luhansk region, Tetyana Pohukai, reported that the investigation into these deaths has been finished and the case transmitted to the court.

The CCL has received information on a particular Aidar bataillon implicated in killings from Ukrainian lawyer, Evgenia Zakrevska. Zakrevska is handelling a case of the abduction and killing of a married couple in February 2015 in Shchastya (Luhansk region). Their bodies were found in July 2015. The relatives of the murdered couple suspect this crime to have been perpetrated by particular Aidar fighters, who also conducted an armed attack on the family home earlier in August 2014. On that occasion, they broke into the family home, shot at the woman and stole money, mobile phones and cars. They did not wear any insignia but the relatives are sure that they were Aidar fighters *"since no one else among the battalions was present in Shchastya"*. Notably, after this first attack, police representatives were afraid to register a report about the crime. By September 2015, one fighter from the Aidar battalion had been officially accused. The other participants in the attacks have not yet been identified.

The CCL has also received information about the suspicious death of an Aidar fighter, which was not directly related to the armed hostilities and happened on the Aidar military base in Lysychansk (Luhansk region).

On 26 March 2015, at the Aidar military base in Lysychansk, Aidar fighter, Dmytro Shabratsii (born 1987), was killed. According to copies of documents received by the CCL, the local police investigator officially claimed that this death was occasioned by suicide. However, copies of documents received by the CCL from the Shabratskii family, state that the medical expert found: *"a penetrating gunshot wound to the head with multiple fractures of the cranial and face"*. Dmytro was killed by a gunshot from a Kalashnikov and grenade exposure. According to investigators, he perpetrated these

153. <http://blogs.pravda.com.ua/authors/zakrevsckaya/543addc566bb5/>; <http://mashable.com/2014/07/10/evidence-of-execution-trial-discovered-in-the-rubble-of-rebel-headquarters-in-ukraine/>

154. <http://mashable.com/2014/07/10/evidence-of-execution-trial-discovered-in-the-rubble-of-rebel-headquarters-in-ukraine/>

ПРИГОВОР
ИМЕНИЕМ ДНР

22 июня 2014 года г.Славянск

Военно-полевой трибунал Донецкой народной республики в составе:

Председательствующего: Нос,
членов трибунала: Балуба,
Селого,
с участием обвинителя: Трифона,
защитника: Адвоката
при секретаре: Зубре,

рассмотрев в закрытом судебном заседании в помещении Славянского ГО ДНР дело по обвинению г.р., г. прож.: студента 1-го курса института ; не судимого;

УСТАНОВИЛ:

обвиняется в совершении преступлений, предусмотренных ст.ст.115, ч.1, 121 ч.1 УК Украины при следующих обстоятельствах.

02.06.2014 года , являясь членом , с целью проведения диверсионной операции, в 18.00 прибыл в г.Краматорск Донецкой области. Оттуда, получив задание на проведение диверсионной операции от старшего группы , выдвинулся с на машине последнего в район блокпоста НОД ДНР, находившегося на выезде из Краматорска в сторону г.Дружковск. Он должен был вести учет лиц, машин, бронетехники, проходящих через пост, а также совершить нападение на гражданских лиц в районе блокпоста. Примерно в 23.00 увидел в районе указанного поста двух мужчин, личность которых до настоящего времени не установлена, т.к. документы у них отсутствовали. Подсудимый принял решение напасть на них с целью причинения неизвестным телесных повреждений. В процессе нападения умышленно, создавая преступный характер своего деяния, обладая навыками ведения ножевого боя, с целью умышленного убийства одного лица и причинения тяжких телесных повреждений другому, нанес при помощи ножа неустановленным лицам телесные повреждения, в виде множественных ножевых ранений. В результате причинил смерть одному из мужчин и тяжкие телесные повреждения другому.

Подсудимый свою вину в предъявленном ему обвинении признал и показал, что 27.01.2014 года записался в Хотел бороться против русских и чеченских террористов на территории Донецкой области, отдать долг Родине. В середине мая 2014 в получил приказ от старшего группы выехать в г.Краматорск. Задача - вести учет людей, машин, бронетехники проходящих через блокпосты ополчения. В его группе 7 человек. Позывные: мой позывной - , остальных - . Каждому ставилась индивидуальная задача. Его действия курировал старший группы - , передвигался на ВАЗ 2109 светло-зеленого цвета. Салон заводской. Задняя панель чистая. Ножевым боем занимался самостоятельно. Командир

сотни об этом знал. «Работать» должен был ножом. Занятия по подготовке проводил инструктор - украинец в лагере в лесу в течение месяца. Учили ориентироваться на местности, оставаться незамеченным. Тренировалось до 20 человек. Русих высадил его в районе поста и поехал назад. Он фиксировал машины и людей в уме и по телефону должен был передавать. Ночью около 23.00 его «переклинило» - он напал на двух мужчин, гражданских лиц, и причинил им ножевые ранения.

На вопрос Балуба, шел ли убивать жителей Донбасса и прошел ли для этого диверсионную подготовку, утвердительно кивнул головой.

Анализируя собранные по делу доказательства в их совокупности, трибунал приходит к убеждению, что вина подсудимого в инкриминируемых ему преступлениях доказана полностью.

На основании изложенного, руководствуясь ст.369-371, 373,374 УПК Украины,-

ПОСТАНОВИЛ:

Признать виновным в совершении преступлений, предусмотренных ст.ст.115, ч.1, 121 ч.1 УК Украины и приговорить его к исключительной мере наказания - смертной казни через расстрел.

Председательствующий:

Судья:

(Handwritten signatures)

ШТАБ
ополчения ДНР в г.Славянске

ПРИКАЗ

Настоящим объявляю, что приговором военно-полевого трибунала ополчения ДНР от 22.06.2014 года за умышленное убийство и причинение тяжких телесных повреждений на основании Указа Президиума Верховного Совета СССР «О военном положении» от 22 июня 1941 года приговорен к исключительной мере наказания - смертной казни через расстрел: житель г. член «

Приговор приведен в исполнение.

Предупреждаю всех бойцов и командиров ополчения ДНР, а также жителей г.Славянска и Славянского района о том, что любые тяжкие преступления, совершенные в зоне военных действий и далее будут караться решительно и беспощадно.

Командованием ополчения ДНР и в дальнейшем будут пресекаться любые попытки нарушения уголовного законодательства на территории г.Славянска и Славянского района. Наказания за преступления будут неотвратимы, независимо от статуса и заслуг преступника.

Командующий ополчением ДНР
Полковник Штаб И.И.Стельков.
22.06.2014 года



Sentence issued by the military court of the so-called DPR on 22 June 2014 in a closed trial condemning a student to death for alleged subversive activity and alleged murder. Credit: Evgenya Zakrevska. Document obtained during a fact-finding mission co-organized by CCL in summer 2014. For English translation of the document, see Annex 4.

injuries on himself. At the same time, Shabratskii's parents claim that the de-facto commander of the Lysychansk Aidar battalion, Ihor Radchenko, was involved in their son's death.¹⁵⁵ This sentiment is echoed by Shabratsii's girlfriend who says she witnessed conflicts between Dmytro and his commander regarding some of the Aidar battalion's actions, which Shabratsii considered to be a misuse of the battalion.¹⁵⁶ The CCL tried to contact the former Aidar battalion colleagues of Shabratskii, but encountered difficulties. Most have been threatened, and don't want to meet to discuss the details of Shabratskii's death.¹⁵⁷ However, they did confirm that this Aidar unit is violating the rights of the civilian population, citing these violations as one reason that they decided to move to another battalion. At the moment, the Shabratskii case is being investigated by local Lysychansk police, though it should have been taken by the military prosecutor's office given that local police representatives are very easy to influence. All letters from Shabratskii's parents on the need to transmit the case from the local level to the top have been ignored. Indeed, the aversion of Lysychansk's local police to pursuing law enforcement is evident in that they appear to be attempting to conceal the fact that during the occupation of Lysychansk, its glass factory (which journalistic reporting indicates is 65% owned by incumbent Ukrainian member of parliament, S. Dunaiev) was turned into a base for one of the biggest gangs of Alexei Mozgovoi. Here, much military equipment was stored and captives were brought for beatings and torture.¹⁵⁸ In an official response to CCL enquiries, the Ministry of Interior has stated that it has received no information on such a seizure of the Lysychansk glass factory. This is despite the fact that this building was at that time the biggest military base in the city and the largest place of detention for civilian captives.

Human rights lawyer, Evgenia Zakrevska, also informed the CCL of a case relating to the Kyiv-2 battalion.

Volodymyr Nazdrychkin (born on 26 March 1965) was arrested by Kyiv-2 battalion fighters at a check point in Volnovakha (Donetsk region) in November 2013. He was allegedly robbed, tortured and killed right at the check point by the following identified persons: Yaroslav Kovalenko, Bogdan Voitsehivsky (commander of the battalion), and Vyacheslav Kryazh. The victim's car was detonated to hide traces of the crime.

As stated¹⁵⁹ by Dmytro Tzvetkov, former volunteer fighter for Kyiv-2, the fighters of this battalion were involved in at least three crimes of this kind. Among these are presumed to be the killing of two soldiers of the 72nd brigade (Viktor Petrenko, born on 1 January 1974, kidnapped on 22 November 2014; and Sergii Kostakov, born on 12 May 1972, dead body found in July 2015) and kidnapping in November 2014 of two civil volunteers, Galyna Obruch (born on 7 July 1952) and Anatolii Obruch (born on 11 September 1950).

155. Interviewed by the CCL in June 2015 in Pryvillia (Luhansk region)

156. Interviewed by the CCL in August 2015 in Kyiv.

157. Interviewed by the CCL in August 2015 by phone.

158. For more details see the CCL report, The "Chemical Triangle" of the Region of Luhansk during the occupation: hostages, tortures and extrajudicial executions, available at: http://ccl.org.ua/wp-content/uploads/2013/07/7_zvit-final-all-engl.pdf.

159. <https://www.youtube.com/watch?v=x4kClZYN850>

D. LACK OF INVESTIGATION ON GOVERNMENT CONTROLLED AREAS

Investigations into human rights violations in Donbas in territories under Ukrainian control are far from transparent in all cases: whether allegedly committed by Ukrainian or pro-Russian actors. Even in Slovyansk, which is the most famous (though not the only) place of illegal detentions, cases are meaning they are not concentrated in the hands of one investigative group,¹⁶⁰ which impedes effective investigation.

Lysychansk provides a further example: there are reasons to believe that the poor outcome of investigations into the activities of local LPR armed groups is related to the influence of these groups in the region. For instance, Ministry of Interior and State Security Service of Ukraine responses to CCL enquires concerning investigations into the use of Lysychansk glass factory as a place of illegal detention, shows that law enforcement officials have not even inspected the locality in question. This has been explained by these officials by reference to a lack of lawsuits from abduction victims. However, Antonida Melnykova (cited in part II.A.4 of this report), contradicts this claim, stating that local police recorded her testimony only a year and a half after her release from captivity following public pressure exerted on enforcement agencies to look into such cases.

¹⁶⁰ <https://www.youtube.com/watch?v=AJ9ykBicqJs>

CONCLUSION: URGENT NEED FOR PROTECTION OF CIVILIANS AND ACCOUNTABILITY

Civilians in the Donbas region are caught in a crossfire, whilst further being specifically targeted by combatants. The war has created a humanitarian crisis in Eastern Ukraine, where civilians suffer gross violations of their human rights and the rules of international humanitarian law on the part of all sides to the conflict.

In DPR/LPR-controlled territories, arbitrary detention and hostage taking is perpetrated in a widespread manner. Civilians are in constant danger of being arrested or taken captive by armed groups in control of these areas. Most arbitrary detention of civilians is motivated by political or disciplinary reasons. Hostage taking on the other hand, is motivated by profit and particularly targets wealthy civilians. Once arrested, these people are systematically subject to torture or ill-treatment. Testimonies and documentary evidence show the terrible methods of torture used by armed groups, including the use of knives, electric shocks, beatings, psychological torture through mock execution, sexual violence and so on. While some civilians are released from arbitrary detention and able to testify to what they suffered, many others remain among the missing. Dead bodies are also found in these territories, proving that some of those persons who are arbitrarily detained, are subsequently executed.

Beyond the apparent chaos and multiplicity of actors involved, our data identifies that armed groups are nevertheless engaged in the systematic targeting of specific categories of persons: namely, pro-Ukrainian citizens, volunteers and journalists, minorities, religious communities, and civil servants. The systematic persecution of these civilians has been implemented since the beginning of the conflict. Torture in detention is systematic, organised and planned.

Evidence collected by the CCL and its partners shows a high level of control and responsibility on the part of the Russian State in armed actions in the Donbas region. Collated cases show the direct involvement of the Russian military, which is evidenced in the testimony of prisoners who have come into contact with Russian officers. The existence of Ukrainian prisoners of war who have been transferred to Russia for further questioning by the regular Russian army further supports this contention.

In territories controlled by Ukraine, similar crimes are perpetrated, though on a different scale. Civilians are likewise in danger of being arbitrarily detained by Ukrainian forces or volunteer battalions. Some of these battalions in particular are responsible for grave crimes against civilians, including acts of torture and arbitrary executions.

The apparent inability of Ukrainian powers to investigate and prevent the serious crimes committed by the country's own armed forces or volunteers acting on its side must be highlighted with alarm. Likewise, for the State's inability to properly investigate violations by actors on the LPR/DPR side in government controlled areas. Such overall impunity encourages this behaviour.

All crimes documented in this report constitute serious violations of human rights law and grave violations of international humanitarian law. One must recall that Ukraine, as well as Russia, have obligations under international law.¹⁶¹

161. In addition to obligations emanating from treaties Ukraine and Russia have ratified, the armed conflict in Eastern Ukraine, be it international or non-international, is also regulated by customary international humanitarian law.

The Ukraine is a State Party to the Geneva Conventions of 1949¹⁶² and to both 1977 Additional Protocols,¹⁶³ as well as to the 2005 Additional Protocol III.¹⁶⁴ Russia is also a State Party to the Geneva Conventions of 1949 and the 1977 Additional Protocols. These conventions and protocols constitute the core of the protections afforded victims of armed conflict in international humanitarian law. They aim to ensure that persons not taking part in hostilities are protected from being targeted, killed, detained, or mistreated, etc.

Ukraine and Russia are also both State parties to several treaties related to the use of weapons during armed conflict, in particular the Convention prohibiting certain conventional weapons¹⁶⁵ and its five protocols,¹⁶⁶ as well as the Convention prohibiting chemical weapons.¹⁶⁷

In addition, Ukraine has a responsibility to ensure the protection of human rights on its territory. In that regard, Ukraine has ratified a number of conventions,¹⁶⁸ including the Convention against Torture and the International Covenant on Civil and Political Rights.

These violations of Ukraine's and Russia's obligations under international humanitarian and human rights law can be qualified as "international crimes", and in particular war crimes and/or crimes against humanity, as defined by the Rome Statute¹⁶⁹.

Crimes against humanity are crimes committed as part of a widespread or systematic attack directed against a civilian population. In the conflict in Eastern Ukraine, the CCL and its partners have documented crimes of murder, imprisonment, torture, enforced disappearance and persecution on political grounds, all of which may constitute the crime base of crimes against humanity under Rome Statute Article 7. Particularly, preliminary evidence of incidents involving the armed groups of the so-called DPR and LPR suggests these crimes may also adhere to a plan or policy to direct such attacks against the civilian population, consistent with the qualification of crimes against humanity.

War crimes are violations of humanitarian law committed in an armed conflict of an international or non-international nature. Individual incidents may themselves qualify as a war crimes, though war crimes are particularly of interest to the International Criminal Court when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

Cases of killings, torture or inhuman treatment, the willful commission of great suffering or serious injury to body, arbitrary arrest and detention and the taking of captives in

162. Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field ; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; Convention (III) relative to the Treatment of Prisoners of War ; Convention (IV) relative to the Protection of Civilian Persons in Time of War ; all adopted in Geneva on 12 August 1949.

163. Protocol Additional to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) ; both adopted in Geneva on 8 June 1977.

164. Protocol Additional to the Geneva Convention of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), adopted in Geneva on 8 December 2005.

165. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively injurious or to have indiscriminate effects, 10 October 1980.

166. Protocol on Non-Detectable Fragments (Protocol I), 10 October 1980; Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II), 10 October 1980 ; Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III), 10 October 1980; Protocol on Blinding Laser Weapons (Protocol IV), 13 October 1995 ; Protocol on Explosive Remnants of War (Protocol V), 28 November 2003.

167. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 13 January 1993.

168. Ukraine has ratified the International Covenant on Civil and Political Rights of 1976, the International Convention on the Elimination of All forms of Racial discrimination of 1969, the International Covenant on Economic, Social and Cultural Rights of 1976, the Convention on the Elimination of All Forms of Discrimination against Women of 1981, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1987, the Convention on the Rights of the Child of 1990 and the Convention on the Rights of Persons with Disabilities of 2008. All these conventions were already in force in Ukraine from the start of the conflict in late 2013. One must note that Ukraine also acceded to the International Convention for the Protection of All persons from Enforced Disappearance on 14 August 2015.

169. Crimes against humanity are defined under Article 7 of Rome Statute and war crimes are defined under Article 8 of the Rome Statute, establishing the International Criminal Court.

Eastern Ukraine may fall within the definition of war crimes under Article 8 of the Rome Statute. CCL and other observers have documented evidence consistent with these crimes from both sides. Further investigation is still needed.

It is crucial to ensure that these crimes do not go unpunished. Ukraine has a responsibility under its international obligations to investigate, prosecute and punish those responsible for such international crimes, and to provide reparation to victims. Several cases have already been brought before domestic jurisdictions with regard to crimes perpetrated by pro-Ukrainian volunteers. However, to date, there seem to be no domestic proceedings in respect of crimes perpetrated by forces operating under the auspices of the so-called LPR/DPR, and it is difficult to establish whether any investigation has been made into crimes committed by the Ukrainian military.

At the international level, the International Criminal Court (ICC) should also investigate and prosecute those most responsible for these crimes, as it now has jurisdiction over Ukrainian territory from the beginning of the conflict.

On 8 September 2015, the Ukrainian government lodged a declaration under article 12(3) of the ICC's Statute recognizing the ICC's jurisdiction over alleged crimes committed on its territory since 20 February 2014.¹⁷⁰

This was the second declaration under article 12(3) to be submitted by Ukraine. On 17 April 2014, Ukraine accepted the ICC's jurisdiction over alleged crimes committed on its territory between November 2013 and February 2014. Following this declaration, the Coalition of Public Organizations and Initiatives for Combating Impunity for Crimes against Humanity, a group of 13 member organizations and initiatives, including the CCL and supported by FIDH, submitted a communication to the ICC Office of the Prosecutor (OTP) on 2 January 2015.¹⁷¹

Over several missions to Ukraine, the CCL and FIDH called for an extension of ICC's jurisdiction, highlighting the very serious crimes committed in the East after the Maidan events, which had been left out with the scope of the ICC's preliminary examination. This second 12(3) declaration widens the scope of the ICC's jurisdiction to all crimes committed after 20 February 2014 on the entirety of Ukraine's territory.¹⁷²

The ICC Prosecutor can now establish whether "there is a reasonable basis to believe" that crimes under the ICC 's jurisdiction, such as war crimes and / or crimes against humanity have been committed in Ukraine since November 2013, and whether to request the opening of an investigation into this situation.

The ICC can investigate and prosecute any person allegedly responsible for international crimes committed in Ukraine since the start of the conflict. No status or nationality would prevent the ICC from acting against an alleged author of such crimes, irrespective of whether such persons are military personnel or volunteers, from the Ukrainian side or the LPR/DPR side, or of Ukrainian or Russian nationality.

FIDH and CCL will continue to contribute to the ICC OTP preliminary examination of the situation in Ukraine and to advocate for the ratification of the ICC 's Statute by the Ukrainian authorities.

170. "FIDH and the CCL welcome Ukrain's extension of ICC jurisdiction", 9 September 2015, available at: <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/ukraine/fidh-and-ccl-welcome-ukrainian-extension-of-icc-jurisdiction>

171. "Ukraine: Human rights group calls on the ICC to open an investigation on Euromaidan Case", 6 January 2015, available at: <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/ukraine/16736-ukraine-human-rights-groups-calls-on-the-icc-to-open-an-investigation-on>

172. See the declaration here: http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/comm%20and%20ref/pe-ongoing/ukraine/Pages/ukraine.aspx

RECOMMENDATIONS

The Ukrainian State Authorities should:

- Provide the conditions for a fair, transparent and complete investigation of all crimes committed in Eastern Ukraine by both sides. Ukraine should transmit all cases of human rights abuse and humanitarian law violations in Eastern Ukraine to the newly created body of the General Prosecutor's Office, the Board of Investigation into Crimes against Peace, Security of Humanity and International Rule of Law. This board should cooperate closely with the State Security Service of Ukraine (SSSU), the Ministry of Interior and the Ministry of Defense – a collaboration that should be legally enshrined and involve international experts wherever possible. Ukraine should also create a special temporary parliamentary commission to take official charge of ensuring progress in the investigation of grave human rights violations, crimes against humanity and war crimes.
- Fully cooperate with the International Criminal Court's preliminary examination underway pursuant to the jurisdiction granted by Ukraine's declaration under Article 12(3) of the Rome Statute. Ukraine should ratify the Rome Statute, and pass legislation to fully implement its provisions into national law for the investigation and prosecution of international crimes domestically.
- Fully incorporate volunteers in armed groups into the Ukrainian army and ensure their knowledge and respect of the international and national law via special training and other programs;
- Provide all Ukrainian combatants with accurate and mandatory training on the legal framework for the conduct of hostilities during armed conflict, and combatant rights and obligations, particularly towards prisoners and civilians.
- Pay special attention to the whereabouts and fate of disappeared persons. In particular, encourage the use of DNA tests for relatives of disappeared persons to improve the process of corpse identification. To improve investigations into missing persons, the government should create a joint center for the investigation such cases, including a hot line and regional infrastructure in government controlled areas. This activity should be coordinated with various volunteer and human rights organisations who have their own data on missing persons.
- Invite UN special procedure mandate-holders to monitor the situation in the Eastern Ukraine, including in areas outside effective Ukrainian state control.
- In particular, accept a visit by the UN special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in line with the standing invitation to all special procedures issued on 23 June 2006.
- Respond promptly and substantively, to the fullest of its investigation and documentation ability to individual communications from UN special procedures on human rights violations in the Donbas region, including urgent appeals and letters of allegation, taking into account the urgency of communications.
- Implement recommendations formulated by the UN High Commissioner and his Office, which maintains a presence in Ukraine and regularly reports to the UN Human Rights Council, on addressing outstanding human rights violations and abuses committed by all parties to the conflict.

- Commit to preparing and submitting in due time its initial report to the Committee on Enforced Disappearances and respect deadlines for the submission of periodic reports to other UN treaty monitoring bodies.
- Provide information on the steps taken to implement recommendations contained in the concluding observations of the Committee Against Torture in the follow-up report to those observations, due on 28 November 2015.
- Provide victims of human rights violations with different kinds of assistance (legal, psychological, financial etc.), in particular persons released from the captivity and those whose relatives are listed among the missing.

The “Authorities” of the so-called LPR and DPR, and all groups fighting on their side or controlling their territories should:

- Acknowledge that all parties of an armed conflict are subject to international humanitarian and human rights obligations.
- Immediately stop all targeted actions against civilians.
- Immediately stop all acts of torture, ill-treatment, kidnapping, arbitrary detention and arbitrary executions, as well as seizure of property and other forms of intimidation and illegal use of power in the territories under their control.
- Give unhindered and safe access to humanitarian aid, observers, NGOs and journalists.

The international community should:

- Firmly condemn the use of violence against civilians on both sides. Use all the diplomatic and political measures available to ensure that the Minsk agreements concerning the situation in Eastern Ukraine are given the fullest effect and to put an end to the occupation of Crimea by the Russian Federation.
- Use all possible diplomatic and economic methods of influence the Russian Federation to stop both the “undeclared war” in the Donbas and Russian ideological, political and military support for LPR/DPR organized armed groups.
- Publicly condemn the criminal practices of hostage taking, abduction and arbitrary detention of civilians, and torture, cruel and inhuman treatment of detainees and war prisoners, and firmly demand an “all for all” exchange.
- Call for a full and impartial investigation and prosecution of all violations of human rights on both sides. Express support for the mandate of the International Criminal Court (ICC) and call on all actors, in particular Ukraine and Russia, to fully cooperate with the ICC’s preliminary examination.
- Support the delegation of UN special Rapporteurs (with different themes and regional mandates) to monitor ill treatment, torture, kidnapping, killing, and the use of slavery in the Donetsk and Luhansk regions, including areas out of Ukrainian control.
- Support the idea of deploying a delegation of the European Committee for the Prevention of Torture of the Council of Europe to the Donetsk and Luhansk region of Ukraine, including to areas outside Ukrainian control.
- While communicating with the Ukrainian government, insist on the transmission of all cases potentially linked with military officials (in particular, the Shabratskii, Nazdrychkin, Petrenko, Kostakov cases) from local law enforcement officers to the

central Military prosecutor's office or military police. These actors should conduct a transparent and comprehensive investigation of these cases.

- Monitor particularly sensitive cases involving Ukrainian military suspects.
- Request from the Russian Federation a comprehensive and transparent investigation into the Russian citizens involved in the most violent actions in Donbas, namely Igor Strelkov (Girkin), Igor Bezler, Yevgenii Zhilin, Andrei Purgin and others, who according to present information, are living in Russia and are within the grasp of the Russian justice system.
- The UN Human Rights Council should request the Office of the UN High Commissioner for Human Rights in Ukraine to continue to regularly report to the Council on the human rights situation in the country and, on the basis of its findings, formulate recommendations on improving the situation, providing remedies to victims, and ensuring accountability for violations and abuses committed by all parties to the conflict.

In particular, the European Union should:

- Support judicial reform in Ukraine to ensure that the country assumes its responsibility under international law to investigate, prosecute and punish those responsible for international crimes, and provide reparation to victims.
- Within the context of support to the justice sector, use programme indicators on numbers of cases brought before the national Ukrainian jurisdiction and prosecuted concerning crimes committed both by pro-Ukrainian volunteers and LPR/DPR forces.
- Within the context of support to the justice sector, offer aid to the victims and NGOs to assist them to access remedies through the Ukrainian judicial system.
- Ensure that the future law on the general prosecutors' office, which the EU aims to support, includes full jurisdiction over the whole Ukrainian territory and guarantees adequate resources handle the cases of victims of the LPR and DPR.
- Back up this technical and financial assistance with strong political messages on the key role of Ukrainian jurisdictions in ensuring accountability for crimes committed in the East.
- Ensure that EU Member States playing a role in diplomatic negotiations concerning the settlement of the conflict prioritise the issue of fight against impunity (including through investigations by national jurisdictions and cooperation with the ICC) and firmly oppose the inclusion or implementation of amnesties for serious violations of human rights and humanitarian law.
- Ensure that the EU Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) effectively reinforces the capacities of law-enforcement agencies in the area of international human rights and humanitarian law and ensures that channels for effective contact with civil society and victims are put in place.
- Publicly condemn threats and attacks against civil society representatives, human rights defenders and journalists, as well as all violations of human rights and international humanitarian law.
- Support civil society in Eastern Ukraine in its activities monitoring of human rights violations.

The Russian State Authorities should:

- Immediately stop providing financial, political, technical, and military aid to so-called LPR/DPR armed groups and withdraw its regular troops and military equipment from Ukraine.
- Stop the brutal violation and illegal crossing of the Ukrainian state border by vehicles, equipment, and persons.
- Conduct effective investigations into Russian citizens accused of abductions, disappearances, beatings, torture, killing, and targeting peaceful pro-Ukrainian civilians, community activists, journalists, etc.
- Cooperate with the International Criminal Court Office of the Prosecutor 's preliminary examination on the situation in Ukraine, and ratify the ICC Statute
- Contribute to the immediate release by LPR/DPR forces of all civilian hostages detained in Donbas.
- Publicly condemn the organized system of mass kidnappings and torture of civilians carried out by the armed groups of the so-called LPR/DPR to establish control over the region, as well as torture and inhumane treatment to prisoners of war
- Stop the incitement to ethnic hatred between Russian and Ukrainian peoples, as well as the use of hate speech against Ukrainian people in official statements of the authorities of the Russian Federation. Also stop the use of the Russian media to aggravate the conflict
- Immediately release all Ukrainian citizens kidnapped from Ukrainian territory and transmitted to the Russian Federation (or illegally arrested in Russian Federation) for political motives in 2014, including combatants and civilians, namely Nadejda Savchenko, Oleg Sentsov, Olexandr Kolchenko, Gennadiy Afanasiev, Olexii Chirni, Mykola Karpiuk, Stanislav Klikh, Sergii Lytvynov, Jurii Soloshenko, Valentyn Vygivskii and Haiser Dzhemilev.
- Extend a standing invitation to all UN special procedure mandate-holders.
- Where applicable, respond promptly and substantively to requests for information, as a third party that may be in possession of relevant information, by special procedure mandate-holders investigating and reporting on human rights violations in the Donbas region.

The Office of the Prosecutor of the International Criminal Court should:

- Efficiently conduct a preliminary examination into crimes falling within the jurisdiction of the Court committed by all actors in the Ukrainian conflict, and open an investigation.
- In particular, conduct a preliminary examination into the following crimes committed on Ukrainian territory (non-exhaustive list):

Crimes against humanity constituted by:

- murder
- imprisonment
- torture
- persecution of an identifiable group or collectivity on political, national or religious grounds
- enforced disappearance of persons

- other crimes not documented in this report, in particular rape or any other form of sexual violence

As well as war crimes, including:

- willful killing
 - torture or inhuman treatment
 - willfully causing s great suffering or serious injury to body or health
 - willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial
 - taking of hostages
 - attacks directed against individual civilians not taking direct part in hostilities
 - other crimes not documented in this report, in particular rape or any other form of sexual violence, and use of weapons prohibited by international law
- Strengthen its efforts of “positive complementarity” towards the Ukrainian judicial authorities to ensure that individuals implicated in serious crimes committed in violation of international law are investigated and prosecuted according to international fair trial standards.

ANNEX 1

Non-official English translation of a black list (p. 30) of police officers and officers of the Ministries of Interior and Defense of Ukraine targeted by the de-facto Ministry of Interior of the LPR. Source: CCL.

In spite of the officially announced ceasefire, the Ukrainian junta continues to take hostile actions against residents of the Luhansk People's Republic. Armed provocations, the shelling of the positions held by the United Armed Forces of Novorossiia, the torture of soldiers, and the capture of peaceful citizens - these are the ways in which the Ukrainian government is attempting to intimidate the residents of Luhansk region. Diversionary groups of Ukrainian fighters, who are generally recruited from local residents, are also continuing with their activities. Unfortunately, many of these fighters are former police officers, who once took an oath to protect people from crime and have now gone against this vow and taken a path of lawlessness in betrayal of their people.

The following especially dangerous criminals who are former police officers are wanted by the Ministry of Internal Affairs of the Luhansk People's Republic.



KASHUTA, Dmitry Georgiyevich, b. 01.12.1973, former lieutenant colonel in the police force, head of the Juvenile Criminal Police of the Regional Office of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



VOYNOVA, Svetlana Yegorovna, b. 01.10.1967, former police major, worked for the personnel unit of a detached battalion of the Patrol Guard Service of the Police of Luhansk City Administration of Ukrainian Ministry of Internal Affairs in Luhansk Oblast



SMIRSKY, Vitaly Alekseyevich, b. 08.08.1976, former police major, head of the Public Security Division of the Artemovskiy District Office of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



BELONOZHENKO, Andrey Anatolyevich, b. 25.03.1974, former police major, head of the Human Trafficking Division of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



FILONOV, Yuri Aleksandrovich, b. 17.05.1961, former colonel in the police force, head of the Personal Crime Department of the Bureau of Criminal Investigation of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



NEGODA, Vladimir Vladimirovich, b. 14.01.1979, former police major, head of the Criminal Investigation Division of the Artemovskiy District Office of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



PARASHCHENKO, Sergey Aleksandrovich, b. 03.08.1973, former lieutenant colonel in the police force, deputy head of the district department - head of the criminal police of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



ZUBCHENKO, Dmitry Aleksandrovich, b. 23.04.1980, former police major, deputy head of the district department - head of the criminal police of the Artemovskiy District Office of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



RODIN, Aleksander Yevgenyevich, b. 18.03.1982, former police major, deputy head of the district department - head of the criminal police of the Leninsky District Office of Luhansk City Administration of the Regional Office of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



MASLOV, Aleksey Igorevich, b. 08.01.1986, former captain in the police force, senior investigator in the Criminal Investigations Division of the Leninsky District Office of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



KUDINOV, Aleksander Yevgenyevich, b. 15.07.1981, former major in the police force, head of Criminal Investigations Division of the Leninsky District Office of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



GUBANOV, Sergey Leonidovich, b. 21.06.1975, former lieutenant colonel in the police force, head of the Leninsky District Office of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



PANTYKIN, Leonid Leonidovich, b. 02.03.1975, former police major, deputy head of the district department - head of the criminal police of Zhovtnevskiy District Office of Luhansk State University of the Regional Office of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



POTURAYKO (ZHIZHILASHVILLI), Anton (Avtandil) Zakharyevich, b. 24.06.1976, former police major, senior investigator in the Gang Division of the Criminal Investigations Division of the Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



UDODOV, Aleksander Viktorovich, b. 28.08.1974, former lieutenant colonel in the police force, head of the Leninsky District Office of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



SIMONENKO, Taras Vladimirovich, b. 29.10.1980, former police major , deputy head of the Criminal Investigations Division of the Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast



BAKHTIZIN, Gennady Viktorovich, b. 24.01.1969, former lieutenant colonel in the police force, head of the Slavyanoserbsky District Office of Luhansk City Administration of the Ukrainian Ministry of Internal Affairs in Luhansk Oblast

Respected citizens! Should the location of these traitors be known to you, do not make any attempt to detain them yourselves -they are all armed and extremely dangerous. If you do locate any of these traitors, we ask you to immediately inform the nearest police precinct.

Press Service of the Ministry of Internal Affairs
Luhansk People's Republic

ANNEX 2

Non-official English translation of a decree (p. 31) by the so-called Ministry of Education and Science of the DPR (25 November 2014). Source: CCL.



No. 200
25.11.14

MINISTRY OF EDUCATION AND SCIENCE OF THE DONETSK PEOPLE'S REPUBLIC DONBASS NATIONAL ACADEMY OF CONSTRUCTION AND ARCHITECTURE

ORDER

25 November 2014

Makiivka City

No. 19/01-10

1. The department heads at the Academy shall be made aware of letter of the Ministry of Education and Science of the Donetsk People's Republic of 17 November 2014 No. 163:

“On Banning the Provision of Information
to the Government Institutions of Ukraine’

We hereby inform you that the forwarding of any information regarding the work of any institutions making up the system of education and science in the DPR to the government of Ukraine will be viewed as an activity directed against the Donetsk People's Republic.

Data about managers and employees caught forwarding information or financial records to Ukraine will be handed over to the DPR Ministry of State Security for review and the adoption of appropriate measures.

Heads shall inform all the employees at their institution of this Order and have them sign statements to this effect.

Ministry of Education and Science

I.V. Kostenok”

2. Department heads at the Academy shall inform all the employees in their departments of this Order and have them sign statements to this effect.

3. I reserve the right to monitor compliance with this Order.

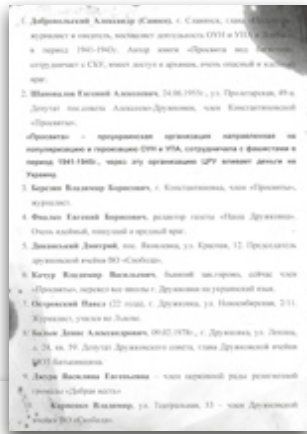
Rector
Gorokhov

[signature]

V.V.

ANNEX 3

Non-official English translation of the presumed black list (p. 37) of targeted pro-Ukrainian activists. The document obtained in July 2014 in Slovyansk, in headquarters of the Russian Orthodox Army's run by Girkin-Strelkov.



1. **Dobrovolsky Aleskandr (Sashko)**. Slavyansk, head of *Prosvita* [Enlightenment], journalist and writer, glorifies the activities of the Organization of Ukrainian Nationalists (OUN) and the Ukrainian Insurgent Army (UIA) in Donbas during the period of 1941 – 1943. Author of the book “Prosvita under the Bayonet.” Collaborates with the State Security Service of Ukraine, has access to archives, an extremely dangerous and committed enemy.
2. **Shapovalov, Yevgeny Alekseyevich, b.** 24.06.1955, 49-a Proletarskaya str. Deputy to the township council of Alekseyevo-Druzhkova, member of the Konstantinovskiy branch of *Prosvita*.
***Prosvita* – a pro-Ukrainian organization dedicated to popularizing and glorifying the OUN and UIA, collaborated with fascists during the period of 1941 – 1943, the CIA pours money into Ukraine through this organization.**
3. **Berezin, Vladimir Borisovich**, Konstantinovka, member of *Prosvita*, journalist.
4. **Fialko, Yevgeny Borisovich**, editor of the newspaper *Nasha Druzhkovka*. Extremely committed, prolific, and harmful enemy.
5. **Dikansky, Dmitry**, township of Yakovlevka, 12 Krasnaya str. Chair of the Druzhkovka cell of the all-Ukrainian organization *Svoboda* [Freedom].
6. **Kachur, Vladimir Vasilyevich**, former deputy head of the municipal Board of Education, currently a member of *Prosvita*, converted all schools in Druzhkovka to Ukrainian language.
7. **Ostrovsky, Pavel** (22 years old), Druzhkovka, 2/11 Novosibirskaya str. Journalist, studied in Lvov.
8. **Balyk, Denis Aleksandrovich**, 09.02.1978, Druzhkovka, 24 Lenin str., Apt. 59. Deputy of the Druzhkovka City Council, head of the Druzhkovka branch of Yulia Tymoshenko Bloc *Batkivshchina*.
9. **Dzhura, Vasilina Yevgenyevna** – member of the ecclesiastical rada of the religious gromada *Dobraya vest'* [Good News]
10. **Karpenko, Vladimir**, 53 Teatralnaya str. – member of the all-Ukrainian organization *Svoboda* [Freedom].

ANNEX 4

Non-official English translation of the sentence (p.47) issued by the so-called military court of DPR on 22 June 2014.



In case No. [redacted]/2014

SENTENCE

IN THE NAME OF THE DPR

22 June 2014

Slavyansk

The Military Field Tribunal of the Donetsk People's Republic, in a panel consisting of:

Chairman: Nos,
Tribunal members: Balu,
Sedoy,
with the participation of trial counsel: Trifon
defense counsel: Attorney
in the presence of court secretary: Zubre,

FINDS:

[redacted] is charged with committing the crimes stipulated in part 1 of Article 115 and part 1 of Article 121 of the Criminal Code of Ukraine under the following circumstances.

On 02.06.2014, [redacted], a member of [redacted], arrived in the city of Kramatorsk, Donetsk Oblast at 18:00 for the purposes of conducting a diversionary operation. After receiving an assignment to conduct a diversionary operation from group leader [redacted], he left from there [redacted] in the latter's car for the area of the checkpoint of the National Liberation Movement of DPR located on the road out of Kramatorsk in the direction of Druzhkovka. He was supposed to keep a record of the individuals, vehicles, and armored vehicles passing through this checkpoint and to commit attacks against civilians in the vicinity of this checkpoint. In this vicinity, at approximately 23:00 [redacted] he saw two men, whose identities have still not been established due to the absence of their documents. The accused made a decision to attack them in order to cause them bodily harm. During this attack, [redacted], knowingly, with awareness of the criminal nature of his actions, possessing knife-fighting skills, and for the purposes of deliberately murdering an individual and causing serious bodily harm to the other individual, used a knife to inflict bodily harm on these unidentified people in the form of multiple stab wounds. As a result, he caused the death of one of the men and serious bodily harm to the other.

The accused [redacted] admitted that he is guilty of the charges filed against him and indicated that on 27.01.2014 he signed up for [redacted]. He wanted to fight against Russian and Chechen terrorists in the territory of Donetsk Oblast and repay his debt to his homeland. In mid-May 2014 in [redacted], he received an order from his group leader [redacted] to leave for Kramatorsk. His assignment was to keep a record of the individuals, vehicles, and armored vehicles passing through the checkpoint of the people's militia. There were seven people in his group. Noms de guerre: my nom de guerre - [redacted], the noms de guerre of the others – [redacted], [redacted], [redacted], [redacted], [redacted]. Each person was assigned his own task. His actions were overseen by the group leader [redacted], he was traveling in a light-green VAZ 2109. Factory-produced interior. Clean rear panel. He practiced knife fighting on his own. The squadron commander knew about this. He was supposed "to work" with a knife. Training classes were conducted by a Ukrainian instructor in a camp in the woods over the course of a month. They were taught how to determine their location and remain unnoticed. Up to 20 people were being trained. Rusik dropped him off near the checkpoint and drove back. He committed the vehicles and individuals to memory and was supposed to communicate this by phone to [redacted]. At approximately 23:00 that night, something snapped – he attacked two men—civilians—and inflicted stab wounds on them.

To Balu's question of whether or not he was on his way to kill Donbass residents and if he underwent training for this purpose, he nodded his head in the affirmative.

After analyzing the totality of the evidence collected in this case, the tribunal is convinced that the accused's guilt in committing the crimes he has been charged with has been established without a doubt.

On the basis of the above and guided by articles 369 – 371, 373, and 374 of the Criminal Procedural Code of Ukraine,

RULES:

To find [redacted] guilty of committing the crimes stipulated in part 1 of Article 115 and part 1 of Article 121 of the Criminal Code of Ukraine and sentence him to the death penalty – execution by firing squad.

Chairman [signature]

Judges [signatures]



copy 1

HEADQUARTERS
DPR People's Militia in Slavyansk

ORDER

I hereby announce that on the basis of the Decree of the Presidium of the USSR Supreme Court "On Martial Law" of 22 June 1941, resident of [redacted] and member of [redacted] [redacted] was sentenced to the death penalty – execution by firing squad in accordance with the sentence issued by the Military Field Tribunal of the DPR People's Militia of 22.06.2014 for premeditated murder and the infliction of serious bodily harm.

This sentence has been carried out.

I hereby warn all fighters and commanders of the DPR militia, as well as residents of Slavyansk and Slavyansk District that any serious crimes committed within the zone of military actions will continue to be punished resolutely and relentlessly.

The command of the DPR People's Militia will continue to thwart any attempts to violate criminal laws in the territory of Slavyansk and Slavyansk District. Punishments for crimes cannot be avoided, regardless of the criminal's status or service.

Commander of the DPR People's Militia

Colonel [signature] I.I. Strelkov

22.06.2014

[seal: Command Headquarters No. 1
Donbass People's Militia]

ANNEX 5

Non-official English translation of the official reply from the Ministry of Interior of Ukraine to CCL's request sent on 14 August 2015.

<Letterhead>

Ministry of Interior Affairs of Ukraine

General Investigation Department
Bogomolitsya str. 10, Kyiv, 01024
Phone: 256-0333, www.centrmia.gov.ua

25 August 2015, No. 13M-213zi
Re: No. 266 14.08.2015

**To: Head of CSO
"Center for Civil Liberties"**

Matvyichuk O.

Baseina str. 9-G, office 25, Kyiv, 01004

The General Investigation Department of the Ministry of the Interior has, within the framework of its competence, reviewed your request to provide information regarding the presence or absence in the internal affairs investigation departments of any criminal proceedings based on the fact of the seizure of the territory of Lysychansk glass factory by the illegal armed groups. In that regard let us inform you on the following.

On 2.04.2014, the Investigation Department of Lysychansk city police (Luhansk region) opened a criminal proceeding based on the fact of damage to the property of the PJSC Lysychansk glass factory "Proletarii", carried out by unidentified individuals while conducting the ATO on the territory of Lysychansk. The criminal proceedings were opened on the grounds of a criminal offense under p.2 art. 194 (Intentional destruction and damage to property) of the Criminal Code of Ukraine.

Since, the aforementioned criminal proceeding was reclassified under p.2 art. 258 (Terrorist attack) of the Criminal Code of Ukraine.

In addition, on 21.08.2014 the Investigation Department of Lysychansk city police (Luhansk region) opened a criminal proceeding under p.2 art. 258 of the Criminal Code of Ukraine based on the fact that combat operations were conducted on the territory of PJSC Lysychansk glass factory "Proletarii", namely damage to the property of said factory as result of shelling.

On 23.09.2014, the cases listed above were combined into one and handed over to the Investigation Department of the State Security Service of Ukraine in the Luhansk region under Art. 126 (Investigative jurisdiction) of the Criminal Code of Ukraine.

At the same time, we inform you that the Investigation departments of the Interior Ministry in Luhansk region have not received any statements or notifications on the possible seizure of PJSC Lysychansk glass factory "Proletarii". Accordingly, no checks of this fact were carried out.

Deputy Chief I.V.Tsiupryk
<Stamp and signature>

V. Kovalenko



WHEN GOD BECOMES THE WEAPON

Persecution based on religious beliefs in the armed conflict
in Eastern Ukraine



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1. INTRODUCTION

The Center for Civil Liberties (CCL) was established in May 2007 to promote human rights and the values of democracy and solidarity in Ukraine and Eurasia. The NGO is based in Kyiv, Ukraine. Last year, the Center for Civil Liberties began documenting human rights violations during the EuroMaidan events and subsequently in Crimea and Donbas. CCL conducts this work by deploying mobile groups to different parts of the liberated areas in Donbas to gather and verify information on human rights abuses.

International Partnership for Human Rights (IPHR) is a non-profit organization based in Brussels. Founded in April 2008, its mandate is to support local civil society groups in their work to eradicate violations of human rights and help their concerns and efforts be heard at the international level. Currently, the IPHR team is investigating war crimes and crimes against humanity in Ukraine by interviewing victims of violence, inspecting sites of conflict and collecting evidence. The goal is to collect enough substantial evidence to fight against impunity for those committing human rights abuses and to help victims seek just satisfaction through legal proceedings at national and international levels.

Together, CCL and IPHR field teams have gathered numerous testimonies, evidence and proof of various crimes against humanity and war crimes that took place in eastern Ukraine during 2014-2015. Abductions, torture and other ill treatment, indiscriminate shelling and persecution for expressing individual views are among the atrocities that currently take place in the conflict zone. Analysis of these crimes has revealed the systemic and widespread character of persecution based on religious beliefs. Moreover, careful examination of many cases has shown that religion is one of the key motivations and justifications for criminal activity by the illegal paramilitary groups in the so-called Donetsk and Luhansk People's Republics.

The methodology used in preparing this report includes: witness and victim testimony, interviews with clergy from the region and church authorities, interviews with experts and specialists on religion, desk research, as well as an analysis of available audio and video material.

This report outlines the major crimes committed on the grounds of religious discrimination and demonstrates how religion has been invoked within the rhetoric of persecution employed by illegal combatant groups. We hope to attract the attention of international stakeholders to these grave crimes so that a common strategy can be implemented to put a stop to them.

2. EXECUTIVE SUMMARY

Following the occupation of Crimea by the Russian army in March 2014, the Russian-backed paramilitary groups seized control of several cities in the Donetsk and Luhansk regions and proclaimed the territories as the Donetsk People's Republic (DPR) and the Luhansk People's Republic (LPR). The Ukrainian government responded by launching an Anti-terrorist Operation in the region, sending National Guard troops and volunteer battalions to liberate the territories. With Russian military, financial and political support, the pro-Russian paramilitary groups held their positions and this military conflict remains unresolved.

Prior to the conflict, the religious make-up of Ukraine could be described as diverse, with a relatively religious population and freedom to practice one's faith of choice. In May of 2014 the so-called DPR declared the Orthodoxy of Moscow Patriarchy as the main religion of the region. This has led to attacks on churches, cases of abduction, torture and other ill treatment as well as the murder of clergy members and the prohibition of religious practice other than that of the Orthodoxy of Moscow Patriarchy in the region. Unlawful armed groups, under the banners of the Russian Orthodox Army and the Cossack Army, openly manifest their adherence to orthodoxy and have begun a "crusade" across the Donbas region. Evidence has come to light that several priests of the Ukrainian Orthodox Church of Moscow Patriarchate have, to varying degree, supported these unlawful paramilitary groups in their campaign against representatives of Protestant, Evangelical and Catholic Churches and Orthodox believers who do not recognize the Moscow Patriarchy.

3. THE RELIGIOUS LANDSCAPE OF UKRAINE

Ukraine's religious landscape is generally characterized as diverse with many religious believers and a high level of religious tolerance. Out of the estimated 45.5 million inhabitants¹, 67% declare themselves to be believers and almost three-quarters feel that every religion should be respected.² For the majority of Ukrainians, religion is an internal spiritual matter, and is therefore valued as an important part of the traditional and cultural context, rather than an institutionalized faith.

At the beginning of 2014, about 35 thousand registered religious organizations operated in Ukraine, along with an additional 1,653 unregistered organizations.³ The State Committee for National and Religious Affairs affirms that the Ukrainian religious network is made up of 55 denominations.⁴ Undoubtedly, the vast majority of these denominations are Christian. According to recent studies carried out by the Razumkov Center, an independent public think tank, 71% of believers identified themselves as Christian Orthodox. According to the same poll, about a quarter of people who declared themselves to be Orthodox identify with the Ukrainian Orthodox Church of Kyiv Patriarchate (UOC-KP) and the Ukrainian Orthodox Church of Moscow Patriarchate (UOC-MP); less than 1.5% adhere to Ukrainian Autocephalous Orthodox Church (UAOC), while 41% declare themselves as "Simply Orthodox". The three Orthodox churches are identical in their doctrine. The difference between them lies in their political views, with UOC-MP taking a pro-Russian stance, while

¹ State Statistics Service of Ukraine, data as of January 1, 2013

² Razumkov Center, April 2013

³ 2014 Report of State Committee of Ukraine on Nationalities, Migrations and Religion Affairs accessible at <http://risu.org.ua/ua/index/resources/statistics/ukr2014/55893/>

⁴ 2013 Report of State Committee of Ukraine on Nationalities, Migrations and Religion Affairs accessible at <http://mincult.kmu.gov.ua/mincult/uk/publish/article/327651.jsessionid=C576ABCB3D48CB82182949A7237D6CDE>

the UOC-KP and the UAOC are pro-Ukrainian in persuasion.

The Ukrainian Greek Catholic Church (UGCC) is the largest non-Orthodox church, claiming an estimated 5.7% of believers, while the Roman Catholic Church congregation is estimated to attract 1.4% of worshippers.⁵

Independent research agencies estimate the Muslim population at 500,000, with the large ethnic group of the Crimean Tatars accounting for the majority of this.⁶ There are an estimated 103,600 Jews in the country, but some local Jewish leaders estimate the number of persons of Jewish heritage to be as high as 370,000.⁷

The Protestant community is represented by the biggest range of religious organizations and this branch of Christianity has been actively growing in terms of its institutionalized network - about a quarter of all registered religious organizations belong to the Protestant denomination.⁸ Many Protestant churches operate in the east of Ukraine.

In the constitutional and legal context, Ukraine declares itself to be a secular state. The freedom to profess or not to profess any religion and to carry out religious activity is guaranteed by Article 35 of the Constitution (June 28, 1996).⁹ Non-discrimination based on religion is guaranteed by Article 24: “No privileges or limitations on the basis of race, skin color, political, religious, or other convictions, sex, ethnic or social origin, property status, place of residence, or linguistic or other traits, are permitted”. The Law of Ukraine on Freedom of Conscience and Religious Organizations was also passed in April 23, 1991 and grants religious organizations legal status with the right to acquire property, to stand before the court and to hold public worship. In 2006 this law underwent a detailed review by the Advisory Council on Freedom of Religion or Belief of the OSCE, which found that although some provisions were vague or unclear, the draft law met the requirements of international instruments and best practice concerning freedom of religion or belief.¹⁰

4. MILITARY CONFLICT IN THE EAST OF UKRAINE

Following the occupation of the Crimean peninsula by Russian military forces in March 2014, pro-Russian separatists along with large numbers of armed Russian nationals seized power over most of the territory of the Donetsk and Luhansk regions and declared them as the Donetsk People’s Republic (DPR) and the Luhansk People’s Republic (LPR). Prior to the escalation of conflict, Russian media had actively promoted the idea of separatism in southeastern Ukraine, alleging the prohibition of the Russian language, culture and Moscow Orthodoxy and thus inciting public outrage in Russia and in the southeastern regions of Ukraine where many Russians live.

In their turn, the Ukrainian government, local media and, to a large extent, their Western

⁵ Razumkov Center, April 2013

⁶ The Ukrainian Science Magazine accessible at: <http://social-science.com.ua/article/84>

⁷ Ukraine 2013 International Religious Freedom Report, US Department of State, accessible at: <http://www.state.gov/j/drl/rls/irf/2013/eur/222279.htm#>

⁸ In this report the Protestant denomination includes the following Christian groups: Evangelists, Baptists, Pentecostals, Seventh-day Adventists, Lutherans, Anglicans, Calvinists, Methodists, Presbyterians, Jehovah’s Witnesses, and members of the Church of Jesus Christ of Latter-day Saints (Mormons)

⁹ “Everyone has the right to freedom of personal philosophy and religion. This right includes the freedom to profess or not to profess any religion, to perform alone or collectively and without constraint religious rites and ceremonial rituals, and to conduct religious activity.” Article 35 of the Ukrainian Constitution, 28 June 1996

¹⁰ Andrew Sorokowski, Contemporary Ukraine on the Cultural Map of Europe, p.76

counterparts attributed the rise of violence in Donbas mostly to direct military intervention by Russia. They stressed that the rebellion in Donbas was started and led by armed Russian military units and Russian military intelligence agents from the beginning of the conflict in the spring of 2014. In the process of documenting war crimes in the region since October 2014, the IPHR and CCL mission teams have gathered numerous witness testimonies which support this claim. Mounting video footage available online also points to the fact that Russian nationals are taking part in combat and in several cases hold commanding or coordinating posts in the conflict.

5. THE RELIGIOUS DIMENSION OF THE CONFLICT

In March 2014, the heads of the largest churches and religious organizations in Ukraine, with the exception of the Moscow Patriarchate of the Ukrainian Orthodox Church, released a joint statement denouncing the allegations of Russian media: “In our country there is no harassment on the basis of language, nationality or religion. Therefore, we testify that all attempts of Russian propaganda to represent the events in Ukraine as a ‘fascist revolution’ and ‘the victory of extremists’ are completely untrue”.

Shortly afterwards, the Ukrainian Council of Churches and Religious Organizations (UCCRO) also released an official statement after the request by Russian President Vladimir Putin to send troops to Ukraine was formally approved by the Russian Parliament: “Bringing of foreign military forces to Ukraine is a threat not only for our country but for the peace and tranquility on the European continent as a whole.” The Council also underlined that it recognized the current government of Ukraine as legitimate.¹¹

The Moscow Patriarchate of Ukrainian Orthodox Church has generally avoided taking sides, denouncing aggression by both parties and calling for peace.



Ukrainian Council of Churches and Religious Organizations (UCCRO) deliver a joint statement on the military conflict in the east of Ukraine, July 2014

¹¹ The All Ukrainian Council of Churches and Religious Organizations, full text in Ukrainian: <http://ucreiro.org.ua/ua/statements/380-council-of-churches-statement-on-decision-of-russian-military-invasion>

On May 16, 2014, representatives of the so-called Donetsk Peoples Republic (DPR) released the text of its own “constitution”. Section 9 of the document specifies: “The leading and dominant faith is the Orthodox faith ... as professed by the Russian Orthodox Church (Moscow Patriarchate). The historical heritage and role of the Russian Orthodox Church (Moscow Patriarchate) are recognized and respected, including as a main pillar of the Russian World doctrine ”.¹²

The idea of a “Russian World”, which Vladimir Putin has often referred to as the basis of his policies in Ukraine, calls for the unity of people across the historical territory of ancient Rus, and for the preservation of the common values of Russian language, religion, spirituality and way of life. This concept has been strongly promoted by the Moscow Patriarch Kirill of the Russian Orthodox Church (ROC). The Patriarch has included former Soviet republics such as Ukraine, Belarus and Moldova when describing the concept. At the opening of the third annual Assembly of the Russian World in November of 2009 he stated, “It is necessary to clearly understand what the Russian World means today. I think that if we consider the Russian Federation with its present boundaries, then we have sinned against the historical truth and artificially cut off millions of people who are aware of their role in the fate of the Russian World and consider its creation their main deed. At the center of the Russian World are Russia, Ukraine and Belarus...”¹³

In August 2014, Patriarch Kirill wrote an open letter addressed to the Ecumenical Patriarch Bartholomew I, the most senior cleric of the Orthodox faith, in which he called the war in Donbas a religious war.

In his letter, the Moscow Patriarch accused representatives of the Ukrainian Greek Catholic Church and Protestant leaders of propagating hatred toward the Orthodox Church, taking over Orthodox shrines and attempting to eradicate orthodoxy from Ukrainian territory ever since autumn of 2013. He also accused the “uniates” and the “schismatics” [UGCC and Protestants] of taking up arms against the Orthodox clergy in the course of combat events in the east of Ukraine.

Initially published by the Department of Public Church Relations of ROC and circulated by the popular Russian portal “Orthodoxy and the World”, the letter was later removed from the Church’s official press center site.¹⁴

The heads of UGCC and the UOC-KP have denounced accusations by the Moscow Patriarch as unfounded and lacking any substantial proof. The head of the UOC-KP also denied claims that the war in Donbas is a religious war, instead calling it a war between Russia and Ukraine that has an “occupational character”.¹⁵

Following a period of relative silence since the summer of 2014, at the Supreme Church Council of the ROC on February 17, 2015, ROC Patriarch Kirill declared the military conflict

¹² Information portal of DPR, full text in Russian available at: <http://dnrespublika.info/o-республике/konstituciya-doneckoj-narodnoj-respubliki/>

¹³ Full text of the speech available on the official website of Moscow Patriarchate: <http://www.patriarchia.ru/db/text/928446.html>

¹⁴ Pravmir.ru, screenshot accessible at: http://webcache.googleusercontent.com/search?q=cache%3Ar_hsGnjb8FwJ%3Awww.pravmir.ru%2Fpatriarh-kirill-obratilsya-k-predstoyatelyam-pravoslavnyih-tserkvey-s-prosboy-vozvysit-golos-v-zashhitu-pravoslavnyih-na-vostoke-ukrainyi%2F+&cd=1&hl=ru&ct=clnk&gl=ru

¹⁵ Religion in Ukraine portal: http://www.religion.in.ua/news/ukrainian_news/26750-ugkc-i-upc-kp-nazvali-nepravdoj-zavavlenie-patriarxa-kirilla-o-situacii-na-Donbase.html

in Ukraine to be a civil war.¹⁶ The Patriarch reiterated that from the beginning of military action the ROC has not taken sides and has fully supported all peacemaking initiatives.

Thus, the majority of Ukrainian denominations have declared their position in support of the constitutional unity of Ukraine. The Moscow Patriarchate of the UOC remains understandably neutral in the light of the ostensibly nonpartisan stance of the governing Russian Orthodox Church.

6. RUSSIAN ARMED RADICAL GROUPS AND ORTHODOX DOGMATICS

Although the Russian Orthodox Church, like the Kremlin, has officially denied any role in stirring up or exacerbating the turmoil in Ukraine, evidence of close ties between the Moscow Patriarchate and the pro-Russian cause has accumulated since the pro-Russian combatants took over Ukrainian territories in the east in the spring of 2014.

Among the unlawful armed groups on the territories of the self-proclaimed DPR and LPR, two main Cossack battalions are using the canonical orthodoxy in their rhetoric. They fight under religious-themed banners, proclaim themselves to be defenders of Christianity and of the Russian World, terrorize religious communities, confiscate church property, and imprison and murder clergy. Open sources and witness testimony indicate that these armed groups also have local support from the clergy of UOC-MP and ROC.

In general, the Cossacks act as an ethno-cultural organization. The Russian Orthodox Church has a special Synodal Committee for the Cooperation with Cossacks¹⁷ and there is also a Council for Cossacks Affairs under the patronage of the President of the Russian Federation.¹⁸ The organization claims to defend orthodoxy and Russian World values, and its rhetoric has strong undertones of xenophobia and violence. As an example, Battle Gnomes, a paramilitary camp where young Cossacks are taught to use guns, was established in Crimea in 2010 under the patronage of the Synodic Committee of ROC.

The Cossacks also form a network of paramilitary groups along the southwestern border of Russia and Eastern Ukraine. For several decades, Cossacks have been involved in armed conflicts in the post-Soviet areas of Transdnistria, Abkhazia and Serbia. Nikolai Mitrokhin, one of the leading researchers on radical issues in the Russian Federation, ranks them as right-wing extremists made up of veterans of the “Slavic” wars of the first half of the 1990’s, as well as participants of the coup attempt in Moscow in October 1993 and their followers. The most notorious actions of the latter group include the grenade attacks on the U.S. Embassy in Moscow in 1995 and 1999, an assassination attempt on Anatoly Chubais, former Chief of Staff of the Russian president and now Chief Executive Officer of Russia’s Unified Energy Systems, and an explosion on a Grozny-Moscow train near Moscow in 2005.¹⁹

The direct involvement of the Cossack groups in the military conflict in eastern Ukraine has been widely known, if not promoted, since the very beginning of the conflict in April 2014. One of the most well-known media figures is Cossack Babaj, whose real name is Alexander Mozhajev. He came to Donbas from the Russian region of Kuban, which is situated close to

¹⁶ <http://www.patriarchia.ru/db/text/3996574.html>

¹⁷ <http://www.skvk.org>

¹⁸ <http://www.skvk.org/o-sovete>

¹⁹ http://eng.globalaffairs.ru/number/n_7324

the Ukrainian border and defines himself as a “famous defender of the Russian speaking population of Donbas and Crimea”.²⁰

6.1 The Most Glorious Legion of Don

The Most Glorious Legion of Don is a battalion in eastern Ukraine, made up of Cossack affiliates from the Rostov-on-Don region of the Russian Federation. In his “address and order” to the Cossack community, the battalion leader Nikolai Kozitsyn defined the armed conflict as “an occupation of Ukraine by the Poles, Romanians and Hungarians who exploit it for resources and aim to exterminate the local Slavic population”.²¹ The legion’s website encourages other Cossacks to join the ranks of the legion, “to stand up for our blood brothers” and declares one of its major goals as being to uphold Christian morals, and pledges complete support to the Russian Orthodox Church (although mutual respect for other religions is also stated).²² Natalya Goncharova, who in May of 2014 sought to establish contact with the unlawful military groups in the hope of finding her kidnapped husband, reported that the flag of the legion had an iconic portrayal of the face of Jesus and was set up at the entrance of the Prosecutor’s office in the city of Lysychansk. Testimony from victims who have been held hostage and tortured by Kozitsyn’s group and groups led by his former counterpart, Cossack leader Pavel Driomov, establishes that this unlawful military group is one of the most vicious currently operating in the eastern region of Ukraine.



Nikolai Kozitsyn, head of the Most Glorious Legion of Don (left). Insignia of the Russian Orthodox Army uniform (right)

6.2 The “Russian Orthodox Army”

The Russian Orthodox Army, one of the most active unlawful paramilitary groups, also propagates Orthodox motives. Their motto is “Warriors of the faith, brothers of the Great Russia, we will unite the whole Southeast”, and their flag depicts a Christian cross.²³ The unlawful paramilitary group was formed in February 2014 and proclaimed former Russian military officer Igor Girkin (Strelkov) as its leader. Countless cases of grave crimes (kidnappings, torture, ill-treatment and murder) were alleged to have occurred in their headquarters in the city of Sloviansk, which pro-Russian military groups occupied from April to June 2014.

²⁰ <https://www.youtube.com/user/KazakBabaj/videos>

²¹ <http://vvd2003.narod.ru>

²² <http://vvd2003.narod.ru>

²³ https://vk.com/rus_orth_army

6.3 UOC-MP Clergy Involvement in the Conflict

According to the testimony of the local people of Sviatohirsk, Donetsk region, the city's monastery, Lavra of the UOC-MP, provided its premises as living quarters for unlawful armed groups at the onset of the fighting. It was these groups that went on to storm and take over the administrative buildings in Sloviansk and Horlivka. According to the testimonies, it was here that Vyacheslav Ponomariov, later the self-proclaimed mayor of Sloviansk, and Igor Bezler, a.k.a. "Bes" (Demon), a former colonel of the Russian Armed Forces and prominent paramilitary leader, were deployed at the onset of the fighting.²⁴ The priests of the Lavra have denied the accusations.

Villa Maria, the UOC-MP cultural center in Sloviansk, is also accused of sheltering unlawful groups of combatants. According to witness Valery Stupko, an employee of the museum next to the cultural center, on April 12, 2014, heavily armed masked men emerged from the center and made their way through back alleys to Sloviansk's main police station. As the sequence of events would later show, these men seized the police station within minutes and thereby initiated a series of assaults on government buildings across the east of Ukraine.

Many priests in the Donetsk and Luhansk regions provide moral and spiritual support for the unlawful armed groups that have committed human rights abuses and violated the law in their persecution of Ukrainian authorities and citizens who express pro-Ukrainian opinions. Much photo and video material has been circulated on the internet portraying priests sanctifying flags, check-points, and fire-arms, and blessing the actions of the fighters against the "sinners", "schismatics" and "American agents".

Father Oleg of UOC-MP came to Sloviansk from Horlivka after the pro-Russian armed groups captured the city. He served at the Cathedral of the Holy Spirit on Revolution Square after its previous chaplain fled from the occupied city. He also served as a chaplain for the battalion of Igor Strelkov (Girkin) – a Russian former intelligence officer who commanded the illegally formed forces in Sloviansk. Father Oleg has sanctified the battle flags and blessed the pro-Russian fighters before battle. After the liberation of Sloviansk by the Ukrainian authorities, some of the local people complained about the actions of the priests, but Father Oleg has since denied the accusations of supporting the illegal combatants, claiming that he has only prayed for peace.²⁵



Father Oleg (left) together with combatants of the Russian Orthodox Army. Chief of the Russian Orthodox Army Igor Girkin (right) with ROA and DPR banners

²⁴ <http://www.unian.net/politics/908218-boevikov-v-slavyanske-priyutuli-v-mestnom-pravoslavnom-tsentre-shtepa.html>

²⁵ http://censor.net.ua/video_news/294730/tam_nelyudi_eti_nochevali_eli_i_pili_a_prihojan_nastavlyali_na_put_dnr_jiteli_slavyanska_obvinvyut

Father Vitalii Veselyi, the protoiereus at the Church of the Resurrection of UOC-MP and the head of the Centre for Slavic Culture “Presentation”, has also played a significant role in the anti-Ukrainian movement in the Donetsk region and the occupation of Sloviansk. For years, Father Vitalii has promoted the idea that Ukraine does not exist as a legitimate state. He has faced accusations that he, too, welcomed the rebels onto property owned by his church in order to help them prepare their initial assault in Sloviansk. He denies the allegations, stating he only found out about the imminent arrival of the armed fighters at the Centre from someone who called it in to the church. He insists that he had asked them to leave the Villa Maria building, but they refused and he claims that he was powerless against the armed fighters.

According to Father Volodymyr Koskin, a priest from Mariupol who was taken hostage during the Sloviansk occupation, one of the Donbas UOC-MP priests oversaw a punitive unit in the basement of his church where a torture chamber was set-up. After this fact caused public outrage, the UOC-MP stated that the priest had been banned from the church long ago. However, there are photos, which prove he served in this temple up until at least one week prior to the statement.

Another hostage held captive at the rebel controlled Secret Service premises in Donetsk (cited anonymously for safety reasons) testified: “The Orthodox priests came from Novosibirsk and got drunk with Butcher [a fighter of the unlawful military group]. They came to preach their faith since we are not canonical Orthodox, not the “right” ones. These priests put on Cossack hats, and took up sabers, saying all are Cossacks. They told us that Orthodox people from Novosibirsk parish had come to save the Russian people, to struggle for the faith. They were really drunk, they started to swing their crosses, yelling for us to get down on our knees and repent. He hit Lekha [Oleksii] with the cross several times - hit his head until blood came and he broke his cross.”

The concept of the Russian World brotherhood, defense of Canonical Orthodoxy and strong anti-Western sentiment undermine the official neutrality of the high authorities of the Russian Orthodox Church and Ukrainian Orthodox Church of Moscow Patriarchate. Over the past year, these rhetorical elements have combined to create a dangerous mix of radicalism, violence in the name of God, and general impunity in the face of the law, effectively masking Russia’s true political motives behind the military conflict.

7. PERSECUTION BASED ON RELIGION AND CONFISCATION OF CHURCH PROPERTY FOR MILITARY PURPOSES

7.1 The Inter-Faith Prayer Marathon, Donetsk

In March 2014, representatives of local churches united to form the Donetsk Council of Churches, comprised of some 60 churches of different denominations. As a local pastor from a Greek-Catholic Church recalls, the local clergy from the Moscow Patriarchate were also invited to join the organization, but declined the invitation saying that they didn’t have “permission from above”. The Council set up a daily Prayer Marathon in one of the main squares of the city—Constitution Square—with daily worship held for an hour in the evenings. At first, about 30 to 40 believers came to pray, but soon the worship attracted around one hundred people and the prayer hours began to be held during the day as well. A tent was set up to accommodate the worshipers and pastors from different churches were present to support those who came to pray. The prayers included pleas for peace, for an end to the violence in the region and for the protection of the unity of Ukraine. Therefore, the

gatherings, although religious in their nature, were pro-Ukrainian in sentiment. On several occasions local pro-Russian combatants vandalized the tent, threw national symbolic items into the nearby river, and threatened clergymen with violence. These attacks were accompanied by religiously motivated verbal slurs and statements that “uniates”, “schismatics” and “satanists” did not belong on Orthodox land. On May 23, about 15 gunmen from a local pro-Russian paramilitary group destroyed the prayer tent, took all the equipment and threatened to shoot anyone who came to pray there. Serhiy Kosiak, a local pastor from the Assembly of God Church and one of the organizers of the Prayer Marathon, sought discussions with the commander of the pro-Russian fighters immediately after the assault. He was detained and brutally beaten, allegedly for his pro-Ukrainian stance. The Prayer Marathon was allowed to take place, on the condition that there was no mention of Ukraine as a nation.



Protestant pastor Serhiy Kosiak after his “discussions” with pro-Russian fighters to allow for the Prayer Marathon to go ahead, May 2014

According to several pastors, the politics and general atmosphere in Donetsk changed considerably after Igor Strelkov, a Russian former intelligence officer who commanded the illegally formed forces in Sloviansk, fled to Donetsk in July 2014 and became “Defense Minister”. Several observers note that religion as a singular motive for assaults had previously been rather vague, whereas after the new regime was established in Donetsk, it became quite clear that anyone who was anything other than a follower of the Orthodox of Moscow Patriarchate was considered an enemy. Many pastors agree that before the arrival of Igor Strelkov they could find some sort of compromise with the local fighters because they knew so many personally. In the beginning of July, many more non-Slavs and Russian Cossacks started arriving in the city; the latter were especially suspicious of the prayer meetings, as they observe a particularly fanatical kind of Orthodoxy. Finally, in August 2014, the tent was forcibly dismantled by pro-Russian fighters and public worship was forbidden under the “unsanctioned meetings law”. Some 14 organizers of the Prayer Marathon have been captured at various points in time, and many were beaten and tortured in detention.²⁶

Aleksander Khomchenko, a pastor who was one of the organizers of the cross-denominational Prayer Marathon in Donetsk, was kidnapped on August 8, 2014, after leading a prayer on the city’s Constitution Square, and taken to the neighboring city of Makeevka. The fighters who detained him accused him of organizing unsanctioned meetings, helping the Ukrainian army and proselytizing a sect religion. Aleksander Khomchenko was told by his captors that, “There shall only be one religion on this land”. He spent four days in captivity and sustained excessive injuries from brutal beatings and torture by suffocation: “They hung me up on a rack and put a gas mask on my face. They would cover the opening at the tube’s

²⁶ Serhiy Kosiak, pastor at Assembly of God, Donetsk

end and block the airflow so I could not breathe. When I would almost lose consciousness, they would uncover the opening and cover it with a cloth soaked in ethanol. I would take a deep breath because I was nearly unconscious and feel a burning inside my chest. So I would start coughing and gasping for fresh air. That’s when they would start beating me with batons on my chest and back. This continued over and over again.” The pastor was also subjected to mock execution by firing squad, a torture method very popular among the pro-Russian fighters, according to numerous victims’ testimonies.

As of March 2015, prayers in are held in secret, in the homes of the very few pastors and congregation members that have remained in occupied Donetsk.



Pro-Russian combatants break up the Prayer Marathon in Donetsk Constitution Square, May 2014



Alexander Khomchenko was subject to torture by means of suffocation, extensive beatings and

7.2 Ukrainian Greek Catholic Church and Roman Catholic Church

Father Tykhon (Serhiy) Kulbaka, another organizer of the Prayer Marathon in Donetsk, was abducted by the pro-Russian combatants at gunpoint in a supermarket car park on Artema Street on July 4, 2014. The priest could not say where he was taken, as he lost consciousness due to ether given to him as he was kidnapped. He was then blindfolded for the remainder of his ten days in captivity. The priest was denied the medicine necessary to treat his diabetes, which resulted in serious health complications. He was also denied sufficient water and grave dehydration drove him to drink from the toilet. His ration of food for the day consisted only of bread, which the gunmen knew was deadly for a diabetic. As in the cases of several other priests, the fighters staged a mock execution by firing squad, which Father Tykhon recalls they treated as entertainment. He was taken outside three times, put up against the wall and told to say his last prayer. The gunmen shot into the air and the wall next to his ear, which caused a state of shock and subsequently led to a heart condition: “He [the pro-Russian fighter] pushed me and I hit the wall. He hit my head against the wall and ordered me to pray. I began to recite the Lord’s Prayer. Then came the sounds of the recharging of the gun and a series of automatic shots. My ear felt burnt from the hot air of the shots, and I understood that they are shooting right next to my head. I felt pieces of plaster from the wall falling on my head. It was really loud, almost deafening. I fainted. When I regained consciousness, I was lying on the wet ground outside. Everybody was laughing, I heard many voices, not just the two from outside my cell. They thought it was funny. Then they poured water on me, kicked me and ordered me to get up”.



Prior to his detention pastor Serhiy Kulbaka had received numerous threats by telephone. His car was vandalized in June 2014, Donetsk

Father Tykhon was also subject to demagogical “conversations”, during which a man, well-versed in religion and bible studies, lectured him on the righteousness of the separatist cause, the truth of Orthodoxy and the heretical nature of all other religions: “If somebody came out to pray for the Soviet Union in the center of Berlin during the second world war, what do you think would happen to these people? And you pray for Ukraine in the very center of Novorossia! You are our enemy and what should be done with the enemy? The enemy must

be killed: all the uniates, schismatics and heretics”.

Victor Vonsovych, a Catholic priest of the Sacred Heart of Jesus Christ parish in Horlivka was arrested and held captive for ten days by pro-Russian combatants. Upon release, he was threatened with execution should he ever return to Horlivka.²⁷

Polish Catholic priest Pavel Vitek, who took part in the “Prayer Marathon” event in Donetsk, was also abducted by the combatants. He spent a day in the infamous basement prison of the Security Service building controlled by armed DPR fighters.

In his address to the Aid to the Church in Need in September 2014, the Roman Catholic nuncio to Ukraine Archbishop Thomas Edward Gullickson stated: “At present, I have no news of Catholic priests or religious women either Greek or Latin serving in those parts of the war zone of Luhansk and Donetsk which are still under terrorist or Russian control; even the Exarch of Donetsk, Bishop Stefan Meniok, had to flee the fighting”.²⁸

7.3 Ukrainian Orthodox Church of Kyiv Patriarchate

According to Serhiy Gorobtsov, the Archbishop overseeing Kyiv Patriarchate parishes in the Donetsk and Mariupol regions, 30 of the 40 parishes on the currently occupied territory have stopped operating.²⁹ Most clergy and their families had to be evacuated from the region due to their names appearing on the “execution lists” of the DPR. Some of those who remain behind in the war zone organize clandestine gatherings for worship. There are also two separate reports of the destruction of church property.

In May 2014, a month after Sloviansk fell to the pro-Russian forces, a group of Russian Cossacks seized the property of the Ukrainian Orthodox church of the Kyiv Patriarchate on Karl Marx Street. The local head of the church, Archimandrite Savva, held a daily mass in Ukrainian and prayed for peace in his country. The combatants from the Orthodox Army called him a fake. The priest left the city after his name allegedly appeared on the “execution lists” and returned after the Ukrainian armed forces regained control over the city.³⁰

Alexander Shkumat, a priest from the Novoazovskiy district, has faced numerous threats for performing a funeral service for a family allegedly slain by pro-Russian fighters. The local church of the Kyiv Patriarchate was shot at, its windows were shattered, and the icons, literature and other ecclesiastical objects were burned in the churchyard. Father Alexander’s house was also ransacked and many personal belongings burnt.³¹

Two priests, Aleksander Shumin and Valeriy Lotorev, were abducted at gunpoint by combatants from the illegal paramilitary groups of DPR, taken beyond the city boundaries and brutally beaten for administering emergency medical aid to wounded Ukrainian soldiers.³²

Two other priests, Pavel Minkov and Yuriy Ivanov, were kidnapped, held in captivity and

²⁷ Institute of Religious Freedom, Kyiv, Ukraine:

http://www.irs.in.ua/index.php?option=com_content&view=article&id=1456%3A1&catid=34%3Aua&Itemid=61&lang=ru

²⁸ Zenit: <http://www.zenit.org/en/articles/nuncio-to-ukraine-gives-overview-of-church-s-most-pressing-needs>

²⁹ Information valid at the time of interview with Serhiy Gorobtsov in February 2015

³⁰ Testimony given by Archimandrite Savva

³¹ Testimony given by Archbishop Serhiy Gorobtsov

³² Testimony given by Archbishop Serhiy Gorobtsov

subjected to forced labor at the camps of pro-Russian forces.³³

Valentin Serovetskiy, the chaplain of the Aydar volunteer battalion fighting alongside the Ukrainian regular armed forces, was detained at one of the so-called LPR checkpoints in July 2014 and held captive for nearly two months in Luhansk. During his captivity he was beaten, forced to dig trenches and mass graves and hold ad hoc funeral services for the dead. He sustained broken ribs and has contracted Hepatitis C.

7.4 Protestant and Evangelical Church

Murder of Four Evangelists, Slovianks

On June 8, 2014, after the festive Trinity Sunday service at the Transfiguration Church in Sloviansk, pro-Russian gunmen detained four members of the church: the pastor's adult sons Reuben Pavenko and Albert Pavenko and two of the church's deacons, Viktor Bradarsky and Vladimir Velichko. The men were taken to the former offices of the Security Service of Ukraine in Sloviansk, brutally beaten and killed.³⁴ Their bodies were found in a mass grave near a local hospital for children after the pro-Russian fighters had left the city and the Ukrainian armed forces took over.



Memorial service for the four slain Evangelists Vladimir Velichko, Viktor Bradarsky, Reuben Pavenko and Albert Pavenko. Sloviansk, June 2014

*The Kind News Church, Sloviansk*³⁵

The Kind News Church in Sloviansk came under attack by pro-Russian fighters numerous times. At the end of April 2014, gunmen stormed and searched the building, seeking proof that the church was supporting Praviy Sektor – a Ukrainian volunteer battalion labeled as fascist by the Russian media. The clergy and the congregation were made to lay face down on the ground while gunmen searched the premises. The fighters soon discovered that the rooftop of the church allowed excellent visibility of the city and was an effective shooting

³³ Testimony given by Archbishop Serhiy Gorobtsov

³⁴ Interview of Col. Igor Rybalchenko, Sloviansk Police to Vice News: https://www.youtube.com/watch?v=UBsEkF_GY0E

³⁵ Testimony of the Kind News Church pastor Petr Dudnyk and parishioner Yevhen Tkachov

position. On several occasions in late April and early May of 2014, gunmen from pro-Russian troops led by Igor Strelkov broke into the church at night and took positions on the roof, as evident from broken locks and windows leading to the rooftop. They finally took over completely and an Orthodox priest, who later appeared in videos shot by the so-called DPR forces, came to the church and declared that from that point on, the church shall be Orthodox. At first, about 10 to 15 fighters were stationed at the church. These were later joined by some 40 members of the Cossack Army and local thugs. Altogether around 100 combatants stayed at the church. On June 8, they brought artillery equipment NONA-C onto church territory and shelled Ukrainian forces' positions, all the while accompanied by the prayers and chanting of the Orthodox priest.³⁶

When the pro-Russian fighters retreated from Sloviansk, the Ukrainian army recovered three truckloads of weapons from the church.

Among the detained clergy and congregation members of the Church of Kind News were the heads of the Evangelical association Church of God, Bishop Oleksiy Demidovych and Gennadiy Lysenko. The latter was held captive and interrogated about the church governance structure while his hands and head taped with heavy-duty scotch tape. He was stabbed with a bayonet knife, beaten, and threatened with being shot in the head.



Snap shots from the video made available by the illegal pro-Russian combatants of NONA-C systems firing from the Kind News church property (left) and the prayers of Orthodox priests which accompanied this (right), Sloviansk, June 2014

Word of Life Church, Torez, Shakhtarsk, Donetsk

On June 19, the Torez premises of the Evangelical Church, Word of Life, were captured by gunmen bearing Cossack battalion insignia. The militants allegedly threatened the believers and the clergy with a firing squad and insisted that Evangelism is a sect religion.³⁷

The same church in Shakhtarsk was overrun by militants just two days later. Pastor Nikolai Kalinichenko was detained and warned that if he were to continue his religious activities he would be shot.³⁸

Witness testimony suggests that the churches in Shakhtarsk and Torez were used as pro-Russian deployment positions with barricades and weapons on church territory. On August 13, the Donetsk premises of the Word of Life Church were also taken over. VICE News correspondent Simon Ostrovsky traveled to Donetsk to attend secret Protestant church

³⁶ Video shot and made available by the pro-Russian combatants: <https://www.youtube.com/watch?v=ljFKNeuL6qQ>

³⁷ Serhiy Kosiak, pastor at Assembly of God

³⁸ Institute of Religious Freedom, Kyiv, Ukraine:

http://www.irs.in.ua/index.php?option=com_content&view=article&id=1456%3A1&catid=34%3Aua&Itemid=61&lang=ru

services and spoke with fighters of the Donetsk People's Republic. One of the rebels interviewed outside the Word of Life Church in Donetsk declared that Baptism is a sect and that he personally has taken up arms to create an Orthodox state.³⁹

Donetsk Christian University, Donetsk

On July 8, 2014, the Donetsk Christian University complex was taken over by pro-Russian fighters. The acting Director of the University, Oleg Stein, was given an order from the "Ministry of Donetsk People's Republic" to vacate the property within two days, leaving all items except for personal belongings behind. The complex includes a kindergarten, middle school, university, administrative building, dormitory, family units for university employees, garages, storage rooms, tennis courts and much equipment. To this day, the complex is used as the military base for DPR with checkpoints, barricades, weapons and military vehicles, including tanks.

The Seventh Day Adventist Church, Debaltseve, Horlivka

The Seventh Day Adventist Church in Debaltseve was destroyed as a result of artillery fire during intense fighting between the DPR forces and the Ukrainian National Guard as they battled for control over the city at the end of July 2014. According to the official website of the Seventh Day Adventist Church in Ukraine, pro-Russian fighters stationed themselves at an administrative building 50 meters away from the church and positioned MRLS (Grad) and other artillery weapons nearby.⁴⁰ The church was almost destroyed in the crossfire. The church's priest, Serhiy Kobzar, and his wife Tatiana who lived in the same building, hid from the shelling in the basement without electricity, food and with very little drinking water for two days.

On September 27, DPR combatants forced their way into the Seventh Day Adventist church during mass in Horlivka. They ordered a halt to the ceremony and told the congregation to leave. When some of the believers had the courage to question the combatants' authority, they were told to mind their own business and that "this is Orthodox land and there is no place for sects". The pastor, Serhiy Litovchenko, was taken to an unknown location.⁴¹ He was held captive by the DPR forces for 20 days.

Pentecostal Church, Donetsk

In August 2014, during a service at the Pentecostal church in Donetsk, pro-Russian gunmen ordered a halt to the service and forbade the congregation to come back to the church in the future. Around 60 people subsequently fled the region and found shelter in Mariupol, the frontline town under the control of the Ukrainian authorities. Ivan Pryadka, a Pentecostal pastor, provided the following account of events: "I was in Donetsk in August 2014 to conduct a service, there was a building which we rented in the center of the city. A jeep pulled up and 30 guys with assault rifles showed up. They introduced themselves and started interrogating us at the entrance to the building. They asked about our teachings and they said that we were wrong. I said that we only teach good things. At the end they said 'If you gather

³⁹ VICE News report Secret Protestant Churches in Donetsk: Ukraine's Religious War, March 2015, available at: <https://www.youtube.com/watch?v=mhEe2PSaEW0>

⁴⁰ Testimony of Serhiy Kobzar; the official website of Seventh Adventists in Ukraine: http://www.adventist.org.ua/news_vk_debaltsovo2014razrushen_mol_dom.html

⁴¹ The official website of Seventh Adventists Church in Ukraine: http://www.adventist.org.ua/news_vk_gorlovka2014_pohitili_advent_pastora.html

here again we will shoot you'. The gangs from the DPR have selected these buildings to house their soldiers in them". The pastor added that most prayer meetings in Donetsk are held in secret, because people have been threatened and many have been beaten.⁴²

Bethany Baptist Church, Donetsk

According to various open sources and testimony, the vast majority of Baptist churches have been appropriated by the pro-Russian battalions across the occupied territories of Luhansk and Donetsk. These buildings are often used as camps, as in the case of Bethany Baptist Church. As of March 2015, pro-Russian militants have been using the building as an infirmary for their sick combatants, as a place for exercise and rest and as a kitchen. In his report for VICE News, an American reporter was allowed inside the church building and was able to document the presence of illegal combatants occupying the church premises. In the auditorium, where the large congregation once prayed, the fighters had hung a punching bag and demonstrated their physical fitness in front of the camera.⁴³

Petrovsky Church of Christ, Donetsk

In October 2014, armed gunmen of the so-called DPR took over the premises of the Church of Christ in the Petrovsky district of occupied Donetsk. According to Leonid Kryzhanovsky, an elder of the church, about a dozen fighters from the pro-Russian Oplot battalion camped in the congregation hall. The commanding fighter of the battalion accused the leaders of the church and the congregation of collaborating with the Americans and stated that, "We only support the Orthodox Church and your Protestant churches shouldn't be here". Before moving out two weeks later, they painted a black skull and crossbones and the name of their battalion "Oplot" in large letters on the exterior wall.

Another group of pro-Russian fighters occupied the church premises in November 2014, and as of March 2015 the building is still being used as a military camp.⁴⁴ Since the occupation of the church building, about 100 members of the congregation have been meeting to pray in secret locations scattered across the city of Donetsk. When asked if he's afraid that the illegal militias will stop the church congregation from worshiping in private homes, Krezhanovsky replied, "We're not afraid because the first Christians were also persecuted. And they weren't afraid to preach Jesus Christ."⁴⁵

⁴² VICE News report Secret Protestant Churches in Donetsk: Ukraine's Religious War, March 2015, available at: <https://www.youtube.com/watch?v=mhEe2PSaEW0>

⁴³ VICE News report Secret Protestant Churches in Donetsk: Ukraine's Religious War, March 2015, available at: <https://www.youtube.com/watch?v=mhEe2PSaEW0>

⁴⁴ Journalist Sabra Ayres was allowed to enter the building of the church and conducted interviews with the fighters and L. Kryzhanovsky in a report for Al Jazeera America. Full article along with some images of gunmen camp at the church is available at <http://america.aljazeera.com/multimedia/2015/3/in-rebel-held-donetsk-religious-intolerance-grows.html>

⁴⁵ VICE News report Secret Protestant Churches in Donetsk: Ukraine's Religious War available at: <https://www.youtube.com/watch?v=mhEe2PSaEW0>



A rebel fighter carrying a live round through the Church of Christ, Donetsk, March 2015.
Photo: Francesca Volpi for Al Jazeera America

Other cases of confiscation of Protestant churches, detention and torture of clergy

On 15 June 2014 armed militants of the self-proclaimed DPR looted the premises of the New Generation Evangelical Church in Horlivka. They stole computer equipment and legal documents from the office.

On 17 June 2014 at approximately 3:00 am, about 30 combatants from the illegally formed pro-Russian battalion, “Vostok”, stormed the Evening Light Christian Rehabilitation Center in Donetsk and kidnapped 27 people. The hostages were accused of collaborating with Ukrainian volunteer battalions, but were later released.⁴⁶

On 26 June 2014 militants searched the premises of the Evangelical Church of Victors in Druzhivka, confiscated the office computer, documents and money and held pastor Pavlo Lisko and his wife captive for a week. They were accused of collaborating with the Americans and assisting those who want to leave the conflict zone.

There are other reports of violence against the clergy and congregation members of the Protestant faith that are currently pending verification by the IPHR mission team. Monitoring the crimes in the occupied territories is extremely difficult. Many victims and witnesses have family or congregation who live in the occupied territories, others frequently visit the conflict zone and out of fear for their safety and safety of those they care about, they refuse to testify about the crimes.

⁴⁶ Testimony of Serhiy Kosiak, Oleg Stein and ProChurchInfo website: <http://prochurch.info/index.php/news/more/29617>
The curator of the Rehabilitation Center could not be reached for testimony

8. CONCLUSION

The evidence presented in this report shows that non-Orthodox religious believers living in the conflict-affected areas of Ukraine are being subjected to widespread and systematic attack by the rebel groups. While persecution on the grounds of religious belief is closely intertwined with persecution based on political affiliation, whereby non-Orthodox believers are associated with pro-Ukraine political persuasion and are targeted for this reason, this report primarily focuses on the persecution based on religious beliefs.

Persecution based on religious belief appears to be part of a well-coordinated policy and has a strong Orthodox connotation. Only the believers of Moscow Patriarchy Orthodoxy are free from persecution and are able to practice their religion freely. Moreover, the Orthodox religion is used as an ideological foundation of ‘state building’ by the rebel groups and anything that is non-Russian Orthodox is seen as alien. The essence of the project of the Donetsk People’s Republic is summarized in one paragraph, taken from the end of the preamble to their constitution: “...establishment of a sovereign independent state, based on the restoration of a unified cultural and civilizational space of Russian World, on the basis of its traditional religious, social, cultural and moral values, with the prospect of becoming a part of ‘Greater Russia’ as halo territories of the ‘Russian World’.”

Russian nationalism is indicated as the foundation of the new state. The phrase “Russian World”, for example, is found in the “constitution” several times. Some of the illustrative quotes include: “...feeling an integral part of the ‘Russian World’ as Russian civilization...thinking about the indivisibility of fate of the whole ‘Russian World’ and still willing to remain its partakers...remaining dedicated to ideals and values of the ‘Russian World’ and honouring the memory of their ancestors ...”

Article 9(2) of the constitution of the Donetsk People's Republic states that the “leading and dominant belief is the Orthodox faith (Christian Orthodox Catholic faith of Eastern Confession) professed by the Russian Orthodox Church (Moscow Patriarchate).” Besides the special privileged status of the Russian Orthodox Church, any “unwanted” religions can be outlawed, and according to the Article 21 of the same document “... nothing in this Constitution limits the Donetsk People’s Republic’s right to protect the public from the activities of religious sects according to the law.”

The scale and magnitude of the attacks that the civilian population is subject to in the southeastern parts of Ukraine, is sufficient to qualify them as crimes against humanity as defined in international law. Monitors dispatched by CCL and IPHR were able to collect evidence which proves that non-Orthodox believers have been subject to murder, torture, forcible transfer, imprisonment and severe deprivation of liberty in violation of the fundamental rights set out in international law. Since the conflict began, dozens of places of worship have been seized and are currently under the control of paramilitary groups. The increasing frequency of physical attacks have forced believers to flee or to practice their religion in secret.

CCL and IPHR observers were not able to find proof of effective investigations being conducted in relation to the above mentioned crimes. As the evidence is mounting of the direct involvement of the Russian Federation in the ongoing conflict in southeastern Ukraine, Russia bears responsibility for preventing and investigating the crimes described in this report. Due to the political and practical obstacles that can hamper the effective investigation of such crimes, CCL and IPHR urge the Ukrainian authorities to formalize the process of instituting a declaration under Article 12(3) of the Rome Statute, which would confer jurisdiction to the International Criminal Court for the prosecution of crimes against humanity committed on Ukrainian territory. This will serve the interest of the victims affected by the conflict and will help put an end to rampant impunity in the region.

For the sake of one name



Search for missing persons and identification of unidentified victims of armed conflict in Donetsk and Luhansk regions

The report is prepared by the Center for Civil Liberties
under the auspices of the Coalition of Public Organizations
and Initiatives "Justice for Peace in Donbas"

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INTRODUCTION

MONITORING GROUP AND SPECIFIC CONCEPTS

During May-June, 2015 Center for Civil Liberties monitors with the support of the UNDP in Ukraine under the framework of the Coalition of Public Organizations and “Justice for Peace in Donbas”¹ together with the public organization “Peace Coast” conducted a monitoring mission concerning respect for human rights during the armed conflict in eastern Ukraine.

The goal was to document the search for missing persons: civilians, soldiers and civil society volunteers who worked in the ATO zone and identification of bodies found in the ATO zone. Special attention was focused on the work quality of the Ministry of Internal Affairs in the areas of the Luhansk and Donetsk regions that are under government control, and the use of DNA analysis to identify bodies in the ATO zone, including in the areas that are currently under control of illegal armed groups of “DPR” and “LPR”.

The monitoring group consisted of 3 subgroups working in different parts of the anti-terrorist operation zone, carrying out 5 field trips to investigate cases known from open sources or during previous trips to Ukrainian controlled areas of Luhansk and Donetsk. Each group included 10 monitors including CCL employees, civil society activists, lawyers, volunteers who conduct missing person searches, and Russian human rights activists from the Committee against Torture in Chechnya.

By “illegal armed groups of “DPR” and “LPR” (hereinafter IAG) we mean proxy agents of the Russian Federation whose relationship is predicated on material, technical and military support. DPR and LPR members include both locals and citizens of other countries (first of all — the Russian

Federation) who participate in military operations on the side of so-called “DPR” and “LPR”, and Russian military formations who periodically participate in the conflict.

Based on the Advisory Opinion of the International Court of Justice titled at the UN in respect of legal consequences of construction of the wall in the occupied Palestinian territory², monitors consider the Russian Federation to be the state that actually occupies and controls certain territories of Donetsk and Luhansk regions, and consequently, is responsible for control and protection of human rights in these territories in compliance with international humanitarian law.

During visits, monitors communicated with the relatives of missing persons, witnesses, local human rights activists, journalists, volunteers, soldiers, representatives of the International Committee of the Red Cross, representatives of local governmental bodies, and employees of the bureau of forensic medical examination, health care departments, and law enforcement agencies. Numerous interviews were conducted by phone. More than 200 persons were interviewed.

The same as before (in the case with the previous reports on the kidnapping and torture of people in north of Luhansk region) the part of interviewees who agreed to communicate with the monitors refused to tell their names, referring to security concerns; some persons who are at the temporarily occupied territories refused to communicate at all, even by phone and even on condition of anonymity for fear that they may be tapped. This seems logical, taking into account the on-going armed conflict with its usual high level of violence and intimidation and unpredictability of further development, in particular, the likelihood of capture by illegal armed groups of “DPR” and “LPR” of new Ukrainian territories.

¹ The purpose of work of the Coalition “Justice for Peace in Donbas” that includes 14 public organizations and initiatives is documentation and creation of the unified electronic database that in the future can be a source of primary data on the committed crimes within national and international investigation, and also the publication of regular thematic reports concerning human rights violations and restrictions of fundamental freedoms.

² Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Advisory Opinion of 9 July 2004 [Электронный ресурс]. — Режим доступа: www.icj-cij.org/docket/files/131/1671.pdf



SETTLEMENT OF THE ISSUE OF MISSING PERSONS IN INTERNATIONAL HUMANITARIAN LAW

Because of any armed conflict, people go missing, including both soldiers and civilians. Relatives of the missing live in constant anxiety. Lack of information about a person can be explained differently. In the majority of cases, a person goes missing in relation to gross violations of international humanitarian law and human rights.

International humanitarian law provides for the respect and support of the right of people to know about fate of their missing relatives. The main responsibility for preventing persons from going missing, and accounting for those who have gone missing lies with the state. States must take all feasible measures to provide family members with any information about missing persons.³

Missing persons are those whose family members have no information about after one's disappearance in armed conflict or situations of violence.⁴ However, the official definition does not take into account the despair of families looking for information on the whereabouts of their missing relatives⁵. International humanitarian law provides for the right of family members to know about the fate of missing relatives⁶. (*Art. 32 of Additional Protocol I*) and the obligation of belligerent parties to use all means available to provide such information (*Art. 33 of Additional Protocol I*)⁷.

The Fourth Geneva Convention requires that parties to a conflict must respond to enquiries by persons looking for disappeared family members. In particular, Art. 26 of the Convention

stipulates, "Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting".

Forced disappearance of persons because of armed conflicts and the provision of aid has been contemplated by the United Nations. In 1979, Resolution No. 33/173 "Disappeared Persons" was adopted by the United Nations General Assembly, in which the Assembly expressed concern about forced or involuntary disappearances of persons reported from different regions of the world. The General Assembly suggested the United Nations Commission on Human Rights consider this question and to provide appropriate recommendations. Then it urged governments to allocate appropriate resources

3 "Accompanying family members of persons missing in connection with armed conflicts or other situations of violence" — a reference book The International Committee of the Red Cross Regional Information Centre in Moscow (CSC EURASIA)

4 September 12, 2007 1406 International Committee of the Red Cross Report, "Missing: a hidden tragedy those of whom have forgotten"

5 Martens FF Modern international law of civilized nations. — T. 1. — P. 327. 2 International Red Cross: Missing / per. with English and French. — M: the International Committee of the Red Cross, 2003. — S. 5. 3 of the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto. — 3rd ed.. — Moscow: International Red Cross. — 2003—344

6 Missing // International Committee of the Red Cross. Central Tracing Agency and Protection Division. 2003. — S. 4. 2 Meet — ICRC // International Committee of the Red Cross. Office of Publications, marketing and distribution. — 2004. — P. 26—27.

7 Geneva Conventions of 12 August 1949 and the Additional Protocols thereto. — 3rd ed.. — Moscow: International Red Cross. — 2003. — 344 p.

and to make urgent and impartial investigations of forced or involuntary disappearances, and to hold law enforcement bodies and security services accountable. Such accountability had to include legal responsibility for unjustified abuse of power leading to forced or involuntary disappearances or to other human rights violations. In the Resolution on assistance and cooperation in accounting for persons who are missing or died in armed conflicts adopted in 1974, the United Nations General Assembly called upon the parties to armed conflicts, regardless of their character, “to take such action as may be within their power... to provide information on those who are missing in action”⁸. The right of families to have information on the fate of their relatives is confirmed by the Resolution of the European Parliament and by the Parliamentary Assembly of the Council of Europe. Cases of the European Court of Human Rights concluded, “Withholding information from the families of persons detained by security forces, or silence in the case of persons missing during armed conflict, attained a degree of severity that amounted to inhuman treatment”⁹. In Resolution 20 (XXXVI), passed on February 29, 1980, the United Nations Commission on Human Rights decided, “to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons”. Thus, the Working Group became the first thematic implementation mechanism of the United Nations Human Rights Programme. Before, the working groups and special rapporteurs were observed human rights in



particular terrorizes named in individual mandates¹⁰.

The new International Convention also contemplates the right to information on missing relatives for the Protection of All Persons from Enforced Disappearance, which Ukraine joined on June 17, 2015¹¹. The Convention states that everything, which contributes to disappearances, is illegal, and relatives should be immediately informed of capture, wounding or death of family members.

Conclusions

Basic rules of international humanitarian law and principles of human rights aim to prevent enforced disappearances of people in armed conflicts. If parties to a conflict treat civilians, patients, wounded and enemy prisoners of war, armed groups and other persons as provided by international humanitarian law, and humanitarian organizations have

access to the population, the number of missing persons will be considerably reduced and families of the dead will be informed of the fate of their relatives.

State practices establish this as a rule of customary international law. The duty to clarify the fate of missing persons, prohibits enforced disappearances, requires respect for human life, and to registration of all available information about burial¹². Therefore, it is necessary to take legislative, regulatory and practical actions for implementation obligations under international law. States must recognize the right of each family member to know the fate of missing relatives. In addition, it is necessary to provide criminal punishment for illegal concealment of available data or for refusal to make an effort to provide information on the causes of death when enquired on by the relative of the missing person.

⁸ Missing persons — relatives should know the truth. — www.icrc.org/web/rus/ siteruso.nsf / iwplListz/News? OpenDocument 2

⁹ Law of the European Union: a textbook for universities / ed. SY Kashkina. — Moscow: Jurist, 2006. — S. 307. 3 Working Group on Enforced or Involuntary Disappearances. — www.un.org/ russian / hr /

¹⁰ The Working Group on Enforced or Involuntary Disappearances. — www.un.org/ russian / hr

¹¹ www.w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55551 — The law is expected to accede to the International Convention for the Protection of All Persons from Enforced Disappearance

¹² LI Fesechko “Problems search persons missing as a result of armed conflict”



RELEVANCE OF THE PROBLEM

According to the Parliamentary Committee on Public Health on December 24, 2014, 1667 members of the Armed Forces of Ukraine have gone missing during the ATO.

According to the International Committee of the Red Cross, the organization registered more than 300 search enquiries from families of missing persons¹³.

For June 2015, the Commissioner of the President for Peaceful Settlement of the Situation in Donetsk and Luhansk Regions, Iryna Gerashchenk of the humanitarian subgroup of the Trilateral Contact Group, stated during a PACE meeting that the SBU estimates 1200 are missing persons while the Red Cross estimates 1300 are missing. It takes into account missing persons from both parties, which explains statistical discrepancies¹⁴.

According to the Coalition “Justice for Peace in Donbas,” as of 22.07.2015, 2763 persons have been released from captivity, including 1226 civilians, 27 journalists, 36 volunteers.

The greatest problem of calculating missing persons is that most are captured by illegal armed groups (hereinafter “IAG”) which do not provide information on how many and what types of citizens are in captivity.

As there is a practice of prisoner exchange, some governmental and volunteer institutions can approximate the number of captured members of the military and National Guard. Approximating the number of captured civilians is far harder. Therefore, enquiries relatives of missing civilians of are more difficult to respond to given the incomplete informational picture.

Special government institutions that search for missing persons and engage in prisoner exchange are as follows:

- The Interagency Centre for Assistance in the Release of Captives and Hostages and the Search for Missing Persons at the State Security Service of Ukraine¹⁵ keeps track of and searches for all of categories of missing citizens. Civilians are searched for based on the

relatives’ enquiries. Searching for missing soldiers occurs based on enquiries from the General Staff of the Armed Forces of Ukraine, the State Border Guard Service of Ukraine, and Main Department of National Guard. Searches for volunteers of territorial battalions occur under enquiry from the Ministry of Defense and the Ministry of Internal Affairs¹⁶.

- Civil-military cooperation groups¹⁷ export bodies from the anti-terrorist operation zone.
- Medvedchuk’s group (leader of the “Ukrainian Choice” social movement and special representative on humanitarian issues within Trilateral Contact Group on peaceful settlement of the situation in Donbas)¹⁸ works on the release of soldiers and volunteers from IAG captivity within the Minsk negotiation process.

Since September 6, 2015, 1290 citizens enquired to the Interagency center requesting assistance on release of captured prisoners, hostages and searches

13 www.ua.icrc.org/2015/04/15/2015-2/

14 www.zaxid.net/news/showNews.do?na_donbasi_bezvisti_znikli_ponad_1300_osib&objectId=1356243 “In the Parliamentary Assembly of the Council of Europe (PACE) said that the list of missing persons in eastern Ukraine has more than 1,300 people https://www.facebook.com/permalink.php?_rdr=p&id=100002334671715&story_fbid=831848966902918

15 www.sbu.gov.ua/sbu/control/uk/publish/article?art_id=130969

16 www.memorybook.org.ua/units/other.htm

17 www.cimic.com.ua/www.news.eizvestia.com/news_politics/full/528-gruppa-medvedchuka-organizovala-osvobozhdenie-4-volonterov-v-odnostoronnem-poryadke

18 www.ssu.gov.ua/sbu/control/uk/publish/article;jsessionid=38F74A71A00C9891D09E7316EEA2E128.app1?art_id=131137&cat_id=130978

19 Missing persons during the conflict in Ukraine. Report for PACE. Committee on Migration, Refugees and Displaced Persons. Rapporteur: Mr Jim SHERIDAN (United Kingdom, SOC)

of missing persons. 122 requests were made in person at SBU Center in Kiev. The SBU call center hotline received 640 requests, and 528 requests were by email. The database includes about 700 names, and is constantly updated¹⁹.

According to the Security Service of Ukraine, 1330 persons were reported missing from April 1, 2014, to May 12, 2015. This number is composed of 3 journalists, 43 employees of law-enforcement bodies, 481 military members, National Guardsmen, 16 volunteers, 621 civilians and 108 unidentified persons. The number of missing persons constantly changes.²⁰

On August 5, 2015, the Press Center at the the Ministry of Internal Affairs of Ukraine in Donetsk²¹ reported that since the beginning of the ATO in the territory of Donetsk region, 1381 people were put on the missing list, 455 were found. Searches for 926 residents are ongoing. The Ministry of Internal Affairs of Ukraine in the Donetsk region registered 564 missing persons and 362 kidnapped persons (since the beginning of the ATO). It has been established that members of the “DPR” IAG kidnapped 204 men. The circumstances surrounding the disappearance of 158 more people are still being clarified. Criminal proceedings are predicated on Art. 146 of the Criminal Code of Ukraine, which criminalizes “unlawful imprisonment or kidnapping.”

The following civil society institutions are engaged in missing person searches and prisoner exchanges:

- The Captive Release Center, “Officer Case,” is headed by Vladimir Ruban, — and focuses on the exchange of captured military personnel and volunteers. Civilians are not included in its mandate.²²
- Patriot Group coordinates²³ — the exchange and release of prisoners of war.
- Black Tulip Group, part of the All-Ukrainian public organization “National Memory Union”, exhumes and transports bodies²⁴.
- NGO “Peace Coast”²⁵ — provides a web portal to ascertain the status and location of missing persons.
- “Blue Bird”²⁶ volunteer organization — accounts for and searches for missing civilians.
- “Humanitarian Operations Center” NGO — accounts and searches for missing civilians by uniting volunteer bases and actions.

According to “Humanitarian Operations Center,” 500 to several thousand Ukrainian citizens are held captive by IAG in NGA. Civilians are detained on different charges; the most widespread charge is support of Ukraine. Also in some cases, terrorists capture close relatives of Ukrainian soldiers when they try to have the prisoners released independently. Quite often, search volunteers in the ATO are taken hostage.

Some volunteer groups are actively collecting detailed information on

Ukrainian citizens who are detained and reported missing. Therefore, opportunity to aggregate and analyze the collected data to aid in the release civilian hostages. In the temporarily occupied territory, there are many instances of kidnappings motivated by financial gain²⁷.

Conclusions

Disappearances and kidnapping cases are underreported, resulting in under publication of the considerable scale of the problem and need for action by relevant government institutions, international organizations, CSOs and volunteers. There are large discrepancies in the reported. This results from the fact that different structures collect data on different categories of missing persons. For example, the Red Cross considers both parties while the Ukrainian official institutions are engaged primarily in searches for persons who disappeared from Ukrainian controlled territory. It is worth noting that the main problem is the search for civilians.

Databases on missing soldiers are controlled by the military. A considerable part of the search for missing persons was assumed by CSOs, however, they are overwhelmed and need full support from the state. At the same time, law-enforcement bodies must search for civilians. As discussed later, a separate procedure to register those missing due to armed conflict does not exist.

20 www.unian.ua/society/1108218-militsiya-rozshukue-926-jiteliv-donetskoji-oblasti-zniklih-za-period-ato.html

21 <https://www.facebook.com/CentrZvlnennyia>

22 www.newsradio.com.ua/2015_06_03/Kotenko-Zniklih-u-zon-ATO-n-hto-ne-rahua-pro-polonenih-d-zna-mosja-v-d-r-dnih-0760/

23 www.naidy.org.ua/

24 www.mb.net.ua/novoe/

25 www.ukr.obozrevatel.com/crime/79642-volonter-rozpovila-skilki-tsilivnih-perebuvayut-u-poloni-u-teroristiv.htm

26 https://www.facebook.com/Center.h.missions/info/?tab=page_info

27 According to the Decree of the Central Office of Security Service of Ukraine of 05.09.2014 № 560

“On establishment of a permanent Interdepartmental center for nationals in respect of the release of prisoners, hostages and finding the missing”



ORGANIZATION OF SEARCH FOR MISSING PERSONS BY UKRAINE



Work of the Interagency Centre for Assistance in the Release of Captives and Hostages and the Search for Missing Persons

The Interagency Centre for Assistance in the Release of Captives and Hostages and the Search for Missing Persons was created²⁸ by order of the President of Ukraine on September 02, 2014, to assist citizens seeking the release

of captives and hostages, and to coordinate the search for missing persons.

The Interagency Center is the main institution responsible for securing the release of captives and hostages and searching for citizens who have gone missing during the ATO.

28 www.ssu.gov.ua/sbu/control/uk/publish/article?art_id=130972&cat_id=130971



The main tasks of the Interagency Center are as follows:

- compile a list of Ukrainian soldiers who were injured or killed participating in the ATO since April 07, 2014;
- coordinate divisions of the Main Department, bodies, institutions and establishments of the State Security Service of Ukraine, Anti-Terrorist Center at the State Security Service of Ukraine, provide offers to other government bodies on release of prisoners, hostages and search for citizens who have gone missing during the ATO;
- answer applications, enquiries and messages from citizens of Ukraine, foreigners, media regarding the release of prisoners, hostages and searches for missing citizens during the ATO.²⁹

The Interagency Center works together with volunteers, civil society activists, independent journalists.³⁰

Work of law-enforcement agencies of Ukraine (LEA) in the search for missing persons

Employees of LEA are guided by national legislation, departmental orders of the Ministry of Internal Affairs of Ukraine, and internal instructions on searches for missing persons.

After relatives of a missing person file an application about a disappearance, that person's information is entered into a unified registry of pretrial investigations. The investigator ascertains whether a premeditated murder occurred.

As practice shows, police officers take all the following stages of investigation formally, and do not implement a number of investigative

measures concerned with search for missing persons.

Investigators do not always check the information provided by relatives of the missing person, nor do they call witnesses, nor do they plan or carry out (with rare exceptions) investigative work on missing persons.

The efficiency of LEA investigators also depends on the armed conflict situation, which is uncontrollable. In addition, investigators receive no cooperation from Russian Federation LEA.

There are also other factors, which prevent an effective search for missing persons:

1) Groundless reassignment of criminal proceedings within the LEA system under a far-fetched scheme requiring family members to address materials to the applicant's or missing person's place of registration;

2) Lack of coordination between members of different LEA bodies.

29 www.ssu.gov.ua/sbu/control/uk/publish/article?art_id=131137&cat_id=130978

30 Overview of the ICRC on February 2015 r. – www.ua.icrc.org/2015/04/15/2015-2/

Exchange of information is hindered by complexity of documentary registration and incompetence. The investigator has no power to independently send a missing person's family members a DNA test without permission of the prosecutor;

3) There is no quick response by LEA investigators and employees to phone calls reporting of missing persons, calls from relatives reporting that one is in captivity, or to calls reporting threats to missing persons. Identifying the location of phone calls is not carried out for weeks, if at all;

4) Also investigators and employees of LEA do not always wish to cooperate with non-governmental organizations that draw attention to the problem of missing persons or to those who are engaged in searches;

5) All divisions of Ukrainian LEA collect statistical data on the number and investigations of missing persons, on how many statements of disappearance were received and investigative results. This data is sent to the Ministry of Internal Affairs of Ukraine. The Ministry does not publish this data in due time nor is it provided to non-governmental organizations who are engaged in the search for missing persons. This is a negative reflection on the cooperation between LEA and non-governmental organizations, and

reflects the inefficiency in LEA decision-making on disappearances.

Our monitoring group counted more than 10 similar cases of inaction by the Ministry of Internal Affairs in the anti-terrorist operation zone concerning the search of missing civilians. In addition, it is problematic to search for missing soldiers and exhume bodies of the dead from the anti-terrorist operation zone. Examples of investigative inefficiency and searches for the disappeared are provided in Annexes.

It should be noted that law-enforcement agencies qualify criminal cases of citizens GONE missing during the military conflict, as well as in normal circumstances, on p.1 Art. 115 of CC of Ukraine – premeditated murder. It is voluntary manslaughter when none of qualifying circumstances are present.

Conclusions

LEA reacts inefficiently to reports of missing people.

Families of missing persons have the right to know what happened to their relatives, but such information is usually provided incompletely if at all. Most often families of missing persons communicate with the investigator of LEA no more than once and only when providing data on the missing person.

A more effective approach is needed, based on cooperation between and interaction of different law enforcement agencies and carrying out the procedural actions provided for by the national legislation on the search of missing persons and informing relatives.

There is an urgent need to eliminate LEA mistakes when communicating with families of missing persons, when carrying out explanatory and educational work, and when providing psychological support for the families.

It is also necessary to completely reconsider the approach to disappearances. Classical investigative inquiries and slow witness interrogation should be replaced with more modern and mobile techniques – electronic communication, creation of a unified coordination mechanism for missing person searches, which would collect information not only from government bodies, but also from volunteer organizations and citizens. Uniting efforts between state and non-state actors is urgently needed. At this time, each volunteer organization has its own list of missing persons, methods and ambitions. The centralized mechanism would provide the greatest accessibility, and optimum (but in certain cases obligatory) confidentiality, which would help to avoid duplicative work and create a clearer picture of the true magnitude of this tragedy.



ORGANIZATION OF MISSING PERSON SEARCHES BY VOLUNTEERS AND INTERNATIONAL ORGANIZATIONS

The main organization that conducts work on the search for missing persons during armed conflicts is the International Committee of the Red Cross. In Ukraine, the organization closely cooperates with ICRC of Ukraine concerning registration of missing persons and providing family members responses to missing person enquiries. At the request of both parties to the conflict in the territory of Ukraine, the ICRC acted as a neutral observer in the course of transferring bodies of lost Ukrainian soldiers and aiding in forensic medical examinations. The ICRC played a major part in returning bodies of the Ukrainian soldiers who perished at the Donetsk airport³¹.

More than 1000 people are still considered missing in connection with the conflict in eastern Ukraine. The ICRC offers its services to people who are trying to find their relatives. On request from family members, the organization



works on clarifying the fate and whereabouts of the missing person. For this time, the ICRC and Ukrainian Red Cross Society conduct work on clarifying the fate of more than 380 people.

Support is provided to the families of missing persons who not only endure emotional difficulties, but

also difficult social and economic conditions. The ICRC provides the most support — including economic security programs aimed at helping families find new sources of income, legal, administrative, and emotional support. The ICRC also helps families establish the fate of the missing.

³¹ International Day of missing people: ICRC calls for more effort to collect and record the information on the fate of persons missing www.ua.icrc.org/2015/08/28/411/



The ICRC constantly monitors national efforts concerning the search for missing persons. According to the organization, the Government and civil society must do more to collect and register information on the fate and whereabouts of persons gone missing during the conflict or under other circumstances, and provide more effective support to their families³².

Among the Ukrainian public initiatives engaged in the search for missing persons and return of bodies, it is worth noting the Black Tulip initiative. The initiative was created in September 2014 after the

Ilovaysky copper. On September 3, 2014, the first lost soldiers were brought home. Today more than 600 bodies of missing soldiers were retrieved and returned home. In the search for the bodies of lost soldiers, the Ukrainian party cooperates with representatives of search groups in the NGCA. Thus, in the “DPR,” the initiative cooperates with Lilia Radionova, who heads the commission for missing persons. Representatives of the initiative are met and accompanied to the “territory” of the “DPR” where they carry out searches. The bodies of the Ukrainian soldiers,

which are found, are then exported to Dnipropetrovsk.

Conclusions

Volunteer initiatives are highly efficient. However, they need state support, particularly financial support. The international organizations have more power than the Ukrainian governmental, particularly when searching in the NGCA.

Therefore, state should provide full cooperation to international organizations activity and fulfill their recommendations concerning improvement of the situation.

32 www.obozrevatel.com/crime/80765-po-dnk-identifitsirovani-418-propavshih-bez-vesti-v-zone-ato-bogomolets.htm



SEARCH ORGANIZATION AND IDENTIFICATION OF BODIES

Work of DNA centers

Due to the aggravation of the armed conflict in Donbas, in September 2014 the body identification system was launched. Legislation authorizing DNA centers under jurisdiction Ukrainian LEA was passed in October 2014.

Centers for collecting DNA samples are in all regions of Ukraine. The procedure is free. For delivery of DNA samples, the family members need the police station address, submit a form regarding the disappearance of a loved one in the ATO zone, and the investigator then makes a referral to collect DNA samples.

Due to the work of DNA centers, a large number of bodies of the dead were identified. According to information from the Adviser to the President of Ukraine, the People's Deputy, Olga Bogomolets as of September, 2015, 1671 fragments of bodies have been received; 758 persons to whom isolated DNA profiles belong 1283 DNA profiles of family members have been uploaded into the database; 418³³ DNA matches have been established.

From the beginning of the ATO, 1129 bodies of lost soldiers have been delivered to the Dnepropetrovsk

regional bureau of forensic medical examination. Family members visually recognized 730 bodies while 235 bodies were identified from genetic testing³⁴.

Thus, the centers for collecting DNA samples have already proven their efficiency.

However, the centers' work are not always accurate and still require considerable improvement. One of disputed issues, which monitors faced, is the high level of state mistrust of DNA testing.

First, many relatives were told about so-called "partial match" in 30–70% of DNA sample matching.

After consultation with experts, monitors found out that the concept of "partial match" is irrelevant. In the DNA testing procedure here, the relevant concept is a "possible match" — the possible match of the DNA sample. To receive 99.9% accuracy it is necessary to receive a match from a second relative to pass DNA testing. At the first match, the results are provided to the investigator who invites the second relative to provide a DNA sample. If there is no opportunity to invite a second relative, it is possible to carry out DNA testing with the use of the missing person's personal belongings (a toothbrush, a crest, a cap, a sweater).

Only after repeated matching are family members informed of the identification of their loved one.

Therefore, there is a question of why relatives of the missing person were informed about "partial matches" or unidentified bodies having simultaneous DNA matches with samples from different families. Monitors heard about these cases directly from relatives of missing persons.

Second, many relatives complained of incorrect messages regarding the death of the missing persons. Monitors found that despite the existence of LEA psychologists, DNA testing results were reported to the family members by investigators via phone. In our opinion, the method of informing relatives requires special care.

In spite of the fact that DNA centers have been in operation since October 2014, there are still a large number of unidentified bodies. We believe that it is connected with insufficient understanding of the DNA testing procedure and state mistrust of DNA testing. Family members often state that if they give DNA samples, they receive the wrong body. We consider that mistrust could be reduced through creation of a hotline and a series of informational programs on the DNA procedure.

33 www.espreso.tv/news/2015/09/15/ekspertyza_dnk_dopomogla_vstanovyty_imena_235_zagybylykh_biyciv_ato

34 www.ukraineunderattack.org/19840-parye-uhvalyly-rezolyutsiyu-pro-poshuk-znyklyh-na-donbasi.html



Conclusions

Unfortunately, LEA of Ukraine make little effort to explain the DNA testing procedure. Many family members searching for relatives complain that they do not understand what type of results are credible and whom to consult regarding disputed issues. Now, there is no DNA testing hotline where such questions can be addressed and all issues are directed to the investigator. However, not all investigators have enough knowledge to address such issues. Searching family members often consult volunteers who mediate between them and the investigators. In our opinion, this situation is inadequate and state representatives should provide greater knowledge of questions commonly associated with DNA testing. For this purpose, we believe the State should create a DNA testing hotline.

The organization of missing person searches and identification of bodies in the territories under control of the so-called LPR and DNR.

Searching for and identifying bodies in NGCA territories is a very difficult and demands special attention. Now there are a number of volunteer organizations engaged in the export of bodies from the occupied territories. Additionally, searching for mass graves

and identifying bodies in the occupied territory is problematic too given the difficulty of transporting samples for DNA testing.

In the territory of the “LPR” and the “DNR”, metric examinations are used to identify bodies. Metric examinations are primitive means and require measuring the body, shoe size, and distances between parts of the face. If in the “rebels” opinion, the body accords with the written description, it is provided to relatives. The majority of unidentified bodies are in mortuaries located in NGCA. Volunteers and relatives who conducted independent searches repeatedly told us about the existence of these mortuaries. In addition, even if the body is provided to family members after the metric examination, collecting subsequent DNA samples becomes problematic, as it requires removing tissue samples and delivering them for DNA testing. In addition, here the relatives face a third problem — the export of biological samples from the conflict zone.

At the international level, this issue has been the subject of international legislation; Resolution for 25.06.2015 by the Parliamentary Assembly of the Council of Europe, concerning the increasing number of missing persons

reported in the zone of military operations in certain districts of the Donetsk and Lugansk regions of Ukraine, and from the occupied Crimea. Before voting for the resolution the Parliamentarian from Great Britain, Jim Sheridan, presented the report about persons going missing because of the conflict in eastern Ukraine. One of provisions of the resolution of PACE urges fighters to guarantee access for international humanitarian missions to places where captives are held, and international organizations, such as the ICRC — to promote the search and identification of unknown bodies of the dead, both soldiers and civilians. In addition, it is noted, “the Assembly further urges the authorities of the Russian Federation to release all prisoners illegally captured in Ukrainian territory; conduct an effective investigation and prosecute perpetrators in cases of abduction, enforced disappearances, torture and politically motivated killings of Ukrainian activists and members of the Crimean Tatar community”.

Besides, PACE urges Russia to pressure the separatist groups, which control the occupied territories in the Donetsk and Luhansk regions for the immediate release of all civilians held in custody on the territory under their control and for the exchange of prisoners. PACE urges the Russian Federation to create a national mechanism to deal with the issues of captured and missing persons during the conflict in Ukraine. In addition, the Assembly urges the families of missing Russian soldiers to be provided with accurate information on the fate and whereabouts of their missing relatives; immediately grant access to the territory of occupied Crimea to international human rights monitoring missions.³⁵

Conclusions

Today we see the solution to this problem only by promoting the work of international organizations such as the ICRC. In addition, the world community must lobby for DNA sample collection in the occupied territory and transport of these samples to Ukraine for DNA testing.



RECOMMENDATIONS

1. For the Verkhovna Rada of Ukraine:

- To adopt the special law about missing persons that would grant missing persons “victim of war” status at the legislative level and guarantee the right of families to know what happened to their loved ones who have going missing due to the armed conflict.

2. For the Cabinet of Ukraine:

- To create a specialized governmental body responsible for the search, exhumation and identification of bodies in the anti-terrorist operation zone and work in close coordination with government institutions, international organizations, and volunteers.

3. For the Interagency Centre For Assistance in the Release of Captives and Hostages and the Search For Missing Persons:

- To create and maintain a unified database of missing persons connected with the armed conflict, inclusive of both soldiers and civilians irrespective of the status of the territory where the disappearance occurred. Such database must contain the combined

information from international organizations, volunteers and government institutions.

4. For law-enforcement agencies:

- To make a new order regarding the search for missing civilians categorizing the missing, which would reduce bureaucratic red tape, provide for cooperation with volunteers, and protect the interests of missing persons and their relatives.
- To provide a transparent and public search process at all stages while providing appropriate protection of personal information. To provide full information to relatives concerning searches.
- To support communication with the family members of the missing and decrease emotional pressure placed on relatives. To train investigators on how to communicate with relatives and families. Cooperation with international structures and organizations would be beneficial in this respect. To end the practice of reporting the death of missing persons to relatives by phone. To increase participation by psychologists of law-enforcement agencies and specialized psychological initiatives.

- To create a hotline for DNA testing issues, to carry out a series of explanatory information programs, to disseminate information materials about DNA testing, procedures, and possible results.

5. For the Ministry of social policy and local governments:

- To provide psychological and social aid to families of all missing persons. To provide these families with social and financial support from the state.

6. For international organizations:

- To promote access of expert groups, in particular, of the International Committee of the Red Cross, to the occupied territory for DNA sample collection, and allow these samples to be transported to Ukrainian controlled territory for DNA testing.

7. For CSOs and mass media:

- To cognize the necessity of civil control of effectiveness of missing persons cases investigation, and their actual search. To include such activities in their strategy for action.





ANNEXES



Case 1



Viktor Kalashnikov (01.01.1962).



Misyurenko Boris (09.07.1975) Matlashov Vladimir (31.05.1965)



Group of civils volunteers

VANISHED



DATE: June, 20-21, 2014



LOCATION:

Rovenki vil. (Lugansk region)
(currently it's under the control of the armed groups of LNR)



CIRCUMSTANCES:

Civilians. Vanished when by 2 cars drove from Poltava to Lugansk with humanitarian aid. The group was of 5 people, two of whom were separately captured and released on an exchange.

On May 28, 2015, monitoring mission met the investigator of the Investigation Department of Regional Department of the Ministry of Internal Affairs in Poltava region. According to the investigator during 2014, 21 petitions for missing citizens were registered. During 2015, 10 petitions were registered in the region. Thereafter, 10 criminal proceedings upon Art. 115 of Criminal Code of Ukraine (premeditated murder) were started. Besides, the investigator reported that one police officer was identified as deceased and one police officer is gone missing³⁶.

For today, there are 7 missing soldiers and 3 missing civil citizens-volunteers (Kalashnikov V., Matlash V., Misyurenko B.) in Poltava region. In addition, woman who disappeared on June 20 2014 together with the volunteers stated above was released from captivity on September 28, 2014.

These cases of four persons are combined into one proceeding by qualification: hostage-taking, unlawful imprisonment, unlawful acquisition of a vehicle (also 2 cars volunteers drove disappeared), and illegal acquisition of other property. Besides, after medical examination of woman released from captivity will be undertaken crime

qualification by the article, which contemplates, amenability for torture will be added (according to investigator, at the present moment, moderate body harm was established, although, as the matter of fact, serious body harm was done to her). Also mentioned above missing people are identified in the database as "captives".

The investigator reported about active cooperation with the DNA centers, that they instantly report about data matches. Besides, he declared that during the investigation he interacts with other bodies (SBU (Ukrainian service of state security), prosecutor's office) concerning missing persons issues through Ministry of Internal Affairs. Concerning interaction with the Interagency Centre volunteers did not receive information. Every month the investigator directs the built data, report on missing persons to the Ministry and the corresponding analysis and distribution of information is carried out there.

No cooperation with Russian Federation in the realm of missing/captured in ATO zone is implemented. Yet for the usual issues (criminal proceedings that are not related to the armed conflict, ATO) — extradition is performed in the usual way (through the General Prosecutor's Office).

Case 2

During the field visit to Chervonoarmiysk the monitoring group saw an examples of certain cases that official investigations are not actually conducted.

Circumstances of the case of O. Uzakov, born on 05.11.1987, lived in the city of Donetsk along with his wife Svetlana (she works as a health worker in Donetsk in one of medical institutions). Approximately, at 10 pm 02.06.14 Uzakov left home and drove away in business. Further, the car was found on the police compound of Donetsk DAI (traffic police). During artillery, shelling of Donetsk, his car, as well as other cars there was destroyed.

The wife filed missing person report to Donetsk Department of the Internal Affairs, which was accepted and registered on 04(05).06.2014 and criminal proceedings were initiated. Several following attempts (including appealing to the Chervonoarmiysk Department of Internal Affairs in Donetsk region where the missing person was officially registered) was in vain. Criminal proceedings were initiated upon p.1 of Art. 115 of CC of Ukraine. Law enforcement agencies only established such fact and entered it to the unified register.

According to relatives, no investigative action was carried out since then. Responses from People's Deputies and local authorities actually duplicated oral answers of local

law enforcement authorities like "We've done a maximum, wait for further notice".

The situation complicates due to the circumstance that Uzakov disappeared in the territory that is under control of the terrorist organization "DNR" and that it is engaged in "search" by forces of "police". In response to the address of relatives, government bodies refer to this circumstance, namely – the territory is not under control to the Government of Ukraine, at the same time, disappearance took place before seizing Donetsk by pro-Russian gunmen. It is also necessary to note that such passive situation concerning search is a widespread practice among investigators who refer to the difficult military-political situation in the region.

Typical for similar situation is also complete absence of investigating process itself. Only persistence of family members is a prerequisite for investigators or operative officers to perform any procedural actions. Activity of Uzakov's relatives is insignificant, owing to objective circumstances: his family is an aged grandmother and mother whom due to their age and fear "to do something wrong and cause harm to the missing son and the grandson" do not address with the corresponding complaints against investigators' inaction and cannot make their own investigation. As a result, the process of investigation is slowed down. In addition, almost not happening.

Case 3

Another case in Chervonoarmiysk investigated by monitoring group concerns disappearance of three young men.

Facts of the case. In Chervonoarmiysk, Donetsk region, in July of 2014 three citizens gone missing, whose parents reported to the police, namely Chervonoarmiysk Department of the Internal Affairs, which accepted the petition and started establishing the whereabouts of missing men to what the news in the local mass media testifies³⁷. The missing persons are Evgeny Kosoukhov (23.10.1986); Sergey Gres (23.08.1987); Evgeny Kolesov (22.09.1996). On the day of disappearance, they were seen together in the local market where they had a conflict with the acquaintance of one of three. Then they in 2-3 hours left at the direction of one of roadblocks of the UAF (Armed forces of Ukraine) and they got in touch with their relatives by phone for the last time. During this conversation, one of them noted that they “are arrested”. Where exactly and by who exactly he did not tel. Further, relatives of the missing could establish that the person who had the conflict with them also was at the roadblock. After that last call, there were no contacts with the missing men.

The family members filed a report to the police. Law enforcement agencies established the disappearance fact, initiated proceedings upon Art. 115 of CC of Ukraine and entered it to the unified register. However, only independent investigation by the relatives led to uniting cases of different young people in common proceedings, to the place where crime was possibly committed, and persons they suspect.

For a long time law enforcement agencies performed specific procedural actions. Only because of relatives guidance. After a long period, representatives of law enforcement agencies appealed to court for permission to track mobile phones through the operating system. However, having got such

permission, law enforcement authorities actually ignore its results, as they do not “suit” investigators.

It comes to probable participation in disappearance of voluntary battalions of the UAF. Moreover, phones of the missing persons were tracked to the Dnipropetrovsk region. Besides, informal talk of the relatives with representatives of law-enforcement system shows inconsolable results concerning aspiration of police officers to find the truth in this story since the first results indicate “earnings” of certain representatives of voluntary battalions through system of abduction “to order” or “by arrangement”.

The fact that disappearance of three young men did not cause corresponding reaction from the management at once and it was not brought under control by officials of regional level (or state) is an indicator of systemic in nature of this problem.

Another aspect of this question is deliberate slowdown of search process. Thus, for example, having results of mobile movement, the confirmed facts of guys’ stay at the roadblock at certain period of time, LEA officers refers to impossibility to establish and interrogate the certain military personnel due to military confidentiality system. But in case file there is no even slightest allusion to attempt to obtain such permission and establish personal data of people who were at that time on watch duty, through SBU or military prosecutor’s office - bodies that have legitimate right to receive necessary data. And if we put on the scales guys’ life and “inconvenience” caused by making proper request(which undoubtedly is perceived negatively by military servicemen), without any doubt the first one has priority.

In this case the relatives of the missing people are active and united by the common goal, have sufficient financial opportunities to leave city boundaries, to employ lawyers, etc. Despite the made efforts whereabouts of the guys remains unknown.

Case 4

Vadym BYLYI

VANISHED



DATE: DECEMBER, 24, 2014



LOCATION:

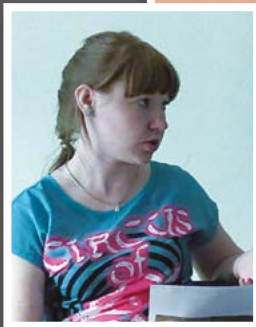
Kramatorsk (Donetsk region)
(currently it's under the control of The Ukrainian arm)



CIRCUMSTANCES:

Civilians. Vanished when by car drove past the checkpoint of DNR's armed groups. Was gone together with two colleagues.

He is looking
for his wife
Anne



Born on 30.05.1990, driver-forwarder

During work in Kramatorsk, the monitoring group was acquainted with the following missing person's case: the head of trade enterprise Yury Ostanin (03.05.1967) and his subordinated forwarding agents - Vadim Bely (30.05.1990) and Alexey Zaytsev (18.12.1984). Three men disappeared on December 24, 2014, on the way from the territory controlled by the illegal armed group of DNR to Kramatorsk where they lived. The purpose of their visit to uncontrollable to the UAF territory was collection of money from their own shops and forwarding of goods, therefore they had more than 50 000 UAH with them. The last time relatives spoke to them when they drove up to DNR checkpoint.

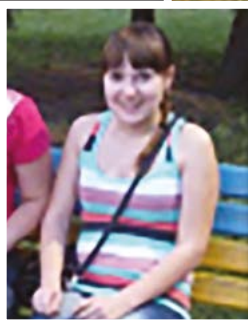
Their wives filed missing person reports to the local Kramatorsk department of the Ministry of Internal Affairs at once. Petitions were accepted, however, no investigation

actions were carried out. Now when in May 2015 Anna Belaya met the mobile group and told about her husband's disappearance, they applied to Kramatorsk city department of the Ministry of Internal Affairs. Only then, the woman learned that the criminal case was submitted to the city department of the Ministry of Internal Affairs of Slovyansk 2 months ago. Any communication to the petitioner did not happen. In addition, nobody could tell her which investigator ran the case in Slovyansk.

Families had to conduct search actions independently, they even applied to so-called "investigation authorities of DNR", risking their safety as they had to cross front lines. Now no new information on official requests from our organization regarding this case to the city department Ministry of Internal Affairs of Slovyansk was provided and no investigative actions are carried out.

Case 5

He is looking for his daughter Katerina



Born on 24.12.1958, builder

Igor GAIDENKO

VANISHED



DATE: June, 18, 2014



LOCATION:

Slavyank (Donetsk region)
(currently it's under the control of The Ukrainian arm)



CIRCUMSTANCES:

Civilians.
Vanished when by car drove past the checkpoint of DNR's armed groups

In Slovyansk, the monitoring group met Igor Gaydenko's (24.12.1958) daughter who lived in Slovyansk and disappeared on June 18 in 2014. Igor left Slovyansk by his own car and disappeared after passing the roadblock of so-called DNR near Donetsk. After that, he managed to call his family members and to report that he was driving on the road to the village where his mother lived.

Both his wife and daughter filed the petition: in Izyum (in the wife's residence) and Slovyansk city department of the Ministry of Internal Affairs — in 4 days after disappearance.

The only search actions on this case (except primary interrogation) at the request of the daughter of the missing man were conducted by the search group "Platsdarm" — the volunteer organization that specializes on search and exhumation of soldiers of World War II and at the moment

it is engaged in exhumation of burials of time of Slovyansk and Kramatorsk occupation by Igor Girkin's gang. At the time of monitoring visit in May, they managed to find, at first, the car of the missing man and a little later, nearby the car — a grave in which several bodies were buried. One of these bodies had some specific signs that Igor Gaydenko had, but the daughter could not recognize him because the body was much harmed. However, just now, at the time of the publication of this report, the DNA analysis of the body specified that it was Igor.

During all this time, Slovyansk city department of the Ministry of Internal Affairs in this case conducted no investigative action. Although the work of the "Platsdarm" group shows that it is entirely possible, even on the territory controlled by the so-called "DPR".

Other materials that were presented by the Centre for Civil Liberties and Euromaidan SOS at the sitting of the Parliamentary Assembly of the Council of Europe in April 2015 during the presentation of the report: "Missing persons during the conflict in Ukraine".³⁸



Born on August 08, 1974 MILITARIAN

Yaroslav ANTONYUK

VANISHED



DATE: August, 12, 2014



LOCATION:
Nykyforove vil. (Donetsk region)
*(currently it's under the control
of the armed groups of DPR)*



CIRCUMSTANCES:
During the battle



Born on March 19, 1976 CIVILIAN

Sergiy GALDUN

VANISHED



DATE: July, 10, 2014



LOCATION:
Donetsk
*(currently it's under the control
of the armed groups of DPR)*



CIRCUMSTANCES:
Unidentified

³⁸ Original text: www.assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=21970&lang=EN



Born on December 12, 1972 MILITARIAN

Mykola KACHKALDA

VANISHED



DATE: **January, 28, 2015**



LOCATION:

Vuglegirsk (Donetsk region)

(currently it's under the control of the armed groups of DPR)



CIRCUMSTANCES:

During the battle



CIVILIAN

Olexandr KOROSTYNSKYI

VANISHED



DATE: **August, 8, 2014**



LOCATION:

Marynivka vil. (Donetsk region)

(currently it's under the control of the armed groups of DPR)



CIRCUMSTANCES:

During the battle

He is looking
for his
daughter



Born on April 21, 1990 MILITARIAN

Artem ABRAMOVYCH

VANISHED



DATE: August, 12, 2014



LOCATION:
Nikiforovo vil. (Donetsk region)
*(currently it's under the control
of the armed groups of DPR)*



CIRCUMSTANCES:
During the battle

Vasyl KOVALENKO

VANISHED



DATE: September, 29, 2014



LOCATION:
Bezimenne vil. (Donetsk region)
*(currently it's under the control
of the armed groups of DPR)*



CIRCUMSTANCES:
**Kidnapped by the armed group
of 2 men wearing camouflage,
driving DPR-colored car**



Born on Desember 12, 1957
Local civil activist, provided with
the living space and basic facilities
more than 1000 the IDPs



Born on 23.03.1967,
homemaker, homeless
animals care volunteer



Born on 12.09.1973,
software developer



Their daughter —
Valeria Kulish

Olena KULISH & Vladimir ALEKHIN

VANISHED



DATE: August, 10, 2014



LOCATION:

Lugansk

*(currently it's under the control
of the armed groups of DPR)*



CIRCUMSTANCES:

**Civilians. Kidnapped from their
house by the armed group of
8 men wearing camouflage.
Vladimir was wounded.**



Unknown people from mass graves



DATE: from April till July, 2014



LOCATION:
Slovyansk (Donetsk region)



CIRCUMSTANCES:

After the liberation of the town were found three mass graves of people, both civil and Ukraine arm volunteers. In one found 14 corpses, in second — 38, in third — 26. Some of the bodies had signs of torture. Only 50% were identified by DNA analysis. The rest were reburied as unknown.



The inscription on the cross:
“An unidentified man”



The inscription on the cross:
“An unidentified woman”

Annexes №1

The Resolution of the Parliamentary Assembly of the Council of Europe about results of the report “Missing persons during the conflict in Ukraine” produced by Jim Sheridan (United Kingdom).³⁹

RESOLUTION 2067 (2015)

Missing persons during the conflict in Ukraine

Parliamentary Assembly

1. The Parliamentary Assembly is seriously concerned about the growing number of missing persons reported in the zones where military operations are under way in certain areas of the Donetsk and Luhansk regions of Ukraine, as well as in occupied Crimea.
2. Since the beginning of the Russian aggression in Ukraine, in early 2014, more than 1 300 persons have been reported missing. This figure, which only takes into account data collected by the Ukrainian authorities, is in reality certainly higher. Among the missing persons are not only soldiers, but also civilians, including volunteers who were helping victims of the conflict. Their fate and whereabouts are unknown and difficult to determine as their most likely location is in the territory which remains under the control of separatist groups.
3. The Assembly welcomes the efforts undertaken by the Ukrainian authorities with a view to determining the fate and whereabouts of missing persons. In particular, it commends the establishment of an Interagency Centre for Assistance in the Release of Captives and Hostages and the Search for Missing Persons under the responsibility of the State Security Service and the creation of a unified register of pretrial investigations (including a database of DNA samples of unidentified bodies and the relatives of missing persons) within the Ministry of Internal Affairs, which have significantly facilitated the identification procedure of missing persons.
4. The Assembly deplores the decision of the President of the Russian Federation to classify information on casualties among the personnel of the Armed Forces of the Russian Federation incurred in special operations during peacetime.
5. At the same time, the Assembly considers that the issue of missing persons requires a more comprehensive approach at governmental level and should include the co-ordination of the work of various volunteer and human rights organizations with regard to tracing and collecting information on missing persons. Furthermore, the medical, social and financial assistance offered to the families of missing persons is largely insufficient.
6. The Assembly emphasises that the problem of missing persons can only be solved through the joint efforts of all sides of the conflict. The Assembly therefore urges Ukraine, the Russian Federation and the separatist groups controlling the occupied territories of Donetsk and Luhansk region to:
 - 6.1. provide an efficient response, in terms of investigation and support for families, to all reported cases of missing persons, in compliance with international humanitarian law;
 - 6.2. share information on the fate and whereabouts of missing persons and return unidentified bodies, where appropriate, to the respective sides of the conflict;
 - 6.3. establish a joint mechanism (working group) to deal with the issue of missing persons, and ensure its functioning, with a view to:
 - 6.3.1. collecting and processing information on missing persons;
 - 6.3.2. creating a consolidated list of missing persons;
 - 6.3.3. introducing effective measures enabling tracing, recovery and identification of the human remains;
 - 6.3.4. ensuring access to burial places;
 - 6.3.5. providing exhaustive information to the relatives of missing persons on the progress on their cases;
 - 6.3.6. involving and co-ordinating action of non-governmental and volunteer organisations dealing with tracing missing persons;
 - 6.4. systematically collect post-mortem data from unidentified bodies, as well as DNA samples from the families of missing persons;
 - 6.5. accelerate the process of identification of exhumed bodies using all available means, including DNA matching, the matching of ante and post-mortem data and visual identification, as determined by forensic experts;
 - 6.6. provide financial, medical and social assistance to the families of missing persons;
 - 6.7. facilitate access and the work of civil society and international humanitarian organisations tracing missing persons;
 - 6.8. encourage the mass media to attract public attention to the problem of missing persons.

³⁹ Assembly debate on 25 June 2015 (26th Sitting) (see Doc. 13808, report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Jim Sheridan). Text adopted by the Assembly on 25 June 2015 (26th Sitting). – www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21795&lang=en

7. The Assembly further urges the Ukrainian authorities to:
 - 7.1. create a dedicated governmental mechanism, tasked with the co-ordination of the work of all governmental and non-governmental bodies working on the issue of missing persons, and in particular to:
 - 7.1.1. ensure sufficient budgetary funds for the functioning of the mechanism;
 - 7.1.2. create and maintain a unified data register with regard to persons reported missing during the conflict in Ukraine;
 - 7.1.3. provide adequate funding for tracing operations;
 - 7.1.4. set up a mechanism of State compensation and support to the families of missing persons and ensure that the families concerned are informed about the existence of this mechanism;
 - 7.1.5. include in its work non-governmental organisations, volunteer associations and representatives of the families of missing persons;
 - 7.2. introduce into the legislation a provision ensuring the right of families to know what has happened to relatives who remain unaccounted for in connection with armed conflicts and internal violence, in compliance with the relevant provisions of international humanitarian law;
 - 7.3. strengthen legal measures dealing with the problem of missing persons, in particular to consider the adoption of a specific law on missing persons which would introduce a legal status of “missing person” and “war victim”, allowing the families concerned to benefit from financial, social and legal assistance, including a mechanism of State compensation;
 - 7.4. address the needs of single heads of families of missing persons, taking into consideration specific needs of women and children;
 - 7.5. further develop national capacities in forensic and tracing expertise and encourage those who work in these fields to assimilate the experience of the International Committee of the Red Cross (ICRC) in this respect;
 - 7.6. provide adequate legal and awareness-raising training for all officials concerned with regard to the implementation of legal provisions and administrative procedures when addressing the rights of the families of missing persons.

8. The Assembly urges the separatist groups which control the occupied territories in the Donetsk and Luhansk regions to:
 - 8.1. release all prisoners and hostages;
 - 8.2. engage effectively with the work of appropriate working subgroups of the Trilateral Contact Group in accordance with the Minsk Agreements, with a view to dealing with the issues of captured and missing persons and identifying possible grave sites;
 - 8.3. grant access for international humanitarian missions to places of detention of prisoners.

9. The Assembly further urges the authorities of the Russian Federation to:
 - 9.1. release all prisoners illegally captured in Ukrainian territory;
 - 9.2. conduct an effective investigation and prosecute perpetrators in cases of abduction, enforced disappearances, torture and politically motivated killings of Ukrainian activists and members of the Crimean Tatar community;
 - 9.3. exercise pressure over the separatist groups which control the occupied territories in the Donetsk and Luhansk regions for the immediate release of all civilians held in custody on the territory under their control and for the exchange of prisoners;
 - 9.4. create a national mechanism to deal with the issues of captured and missing persons during the conflict in Ukraine;
 - 9.5. provide the families of missing Russian soldiers with accurate information on the fate and whereabouts of their missing relatives;
 - 9.6. immediately grant access to the territory of occupied Crimea to international human rights monitoring missions.

10. The Assembly also calls on the member States to provide:
 - 10.1. financial and technical assistance to the Ukrainian authorities responsible for exhumation and the identification process;
 - 10.2. necessary assistance to deal with the psychological effects on the families of missing persons;
 - 10.3. financial assistance to the associations of families of missing persons and non-governmental organisations tracing missing persons.

11. The Assembly encourages the International Committee of the Red Cross (ICRC) to make available their expertise to Ukrainian institutions, in particular in:
 - 11.1. training national specialists in the documentation of missing cases, the consolidation of lists and the assessment of and response to the needs of the families;
 - 11.2. providing technical assistance, in particular in setting up the DNA laboratory in Dnipropetrovsk and supplying reagents for the DNA tests;
 - 11.3. informing the Ukrainian population about the main aspects of international humanitarian law.

12. The Assembly invites the Council of Europe Commissioner for Human Rights to follow the problem of missing persons during the conflict in Ukraine.

Justice in exile



**Observance of the right to a fair trial
in the east of Ukraine, including the territory
that is temporarily not controlled
by the ukrainian government**

The report is prepared by the Center for Civil Liberties
under the auspices of the Coalition of Public Organizations
and Initiatives "Justice for Peace in Donbas"

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INTRODUCTION. MONITORING GROUP AND METHODOLOGY

During December 2015 – January 2016 a group of monitors of the Center for Civil Liberties with the support of the UN Development Program in Ukraine in the framework of activities of “Justice for the Sake of Peace in Donbass”¹ Coalition of NGOs and civic initiatives conducted the next stage of the study of human rights during the armed conflict in the East of Ukraine. The group consisted of 10 monitors and besides the employees of the Center for Civil Liberties it included lawyers, community activists, volunteers.

The aim of the presented research work was the study of the situation with respect to the right to a fair trial and the conditions of access to court in the territory of the East of the country, which emerged as a result of armed conflict in the territory of Luhansk and Donetsk Oblasts of Ukraine. The main **tasks** were the evaluation of the suitability of existing courthouses for regular operation, their staff completeness, archives maintenance and local infrastructure ramification in view of citizens’ unhindered access to court. Special attention was given to the collection of available information about the observance of the right to a fair trial and the operation of the courts in Ukraine’s non-controlled areas of Luhansk and Donetsk Oblasts, as well as to the operation of the courts during the warfare and occupation.

The monitoring group, which consisted of 2 sub-groups that worked simultaneously at different places in the area of ATO,

visited the Territorial Directorate of the State Court Administration of Ukraine in the Donetsk and Luhansk Oblasts, courts in Krasnoarmiisk, Dobropillia, Dzerzhynsk, as well as Popasna, Lysychansk and Novoaidar. During the visits, the group met with judges, court administration staff and visitors, as well as conducted its own observations of the situation. In the course of work the group engaged technique of unstructured interviews, observation maps, photo and audio documenting. The group also handled a number of public sources, including the website of the judicial branch. Part of the interlocutors, who provided consent

to communicate with monitors, refused to call their names, referring to safety concerns², which corresponds to the general situation with carrying out human rights monitoring in the region due to the ongoing armed conflict with its immanent high level of violence and intimidation, as well as unpredictability of further development of events.

As known, due to the ongoing warfare part of the courts turned out in the Ukraine’s non-controlled area, there are also courts, the operation of which was suspended in order to preserve the life and health of judges, office personnel and visitors to the court, and consideration of the defendants’ cases was transferred to other courts in peaceful areas³. Appellate courts and district administrative courts were moved from Donetsk to Artemivsk, Sloviansk, Kramatorsk, and those from Luhansk were moved to Severodonetsk, economic courts of the oblasts resumed their work



1 The aim of the “Justice for the Sake of Peace in Donbass” Coalition, which includes 14 civic organizations and initiatives, is data documenting and creating a unified electronic database that could serve as a source of primary information about the committed crimes within the framework of national and international investigations, as well as publishing regular thematic reports regarding human rights violations and restrictions of fundamental freedoms.

2 A similar situation was traced in the previous reports of the monitoring group with regard to shelling of the «green corridors», abductions and torture of people in the north of Luhansk Oblast, searching for missing people and operation of DNA centers.

3 The order of the Chairman of the Supreme Special Court of civil and criminal cases dated 02.09.2014/ No. 27/0/3814 – www.sc.gov.ua/ua/rozporjadzhennja_vssu_pro_viznachennja_teritorialnoji_pidsudnosti_sprav.html-3814.

in Kharkiv. A significant number of courts of Donetsk and Luhansk Oblasts stopped and resumed their operation, consideration of cases being moved to other courts. There are courts that have undergone this procedure several times transferring their cases to various courts. At least 15 courts of Donetsk and Luhansk Oblasts besides their own cases handle the cases of 2 or more other courts. The situation is directly linked to the presence of Ukraine's control over a certain territory or inhabited locality and the availability of appropriate security for the operation of the court in view of the warfare progress and its geography. Information on transfer of cases is available on the website of the judicial power⁴. According to its data there was compiled Table of Court (or Case Consideration) Transfers in the ATO zone that is presented in the Annexes.

It is obvious that in such a situation there appears a number of problems, which were singled out to explore. Monitoring group based on the assumption that there may be problems of 4 categories: court premises, court office personnel and judges, maintaining archives, infrastructure and access to the court from remote areas. Accordingly, it was admitted that access to courts and implementation of the right to a fair trial are complicated by the following factors:

- **Premises** – premises of a court that are not suitable for additional workload (due to case transfer) or damaged during the warfare;
- **Court administrative personnel and judges** – understaffed, the workload on the existing judges increased, additional funding in view of cases transferred from the dangerous areas is not provided;
- **Archives maintaining** – archives partially remained in non-controlled areas or were not saved;
- **Infrastructure** – operation of long-distance transport, post office and banking system in the area remains unsatisfactory, that often renders applying to court impossible for residents of those areas where the court operation is terminated and the consideration of cases is transferred to another court.

Among other things, the monitoring group was trying to find out:

1. Have proper justice proceedings in the Donetsk and Luhansk Oblasts been established to date or not?
2. What happened to the cases that were already open before the time of the occupation?
3. How can currently a resident of the occupied territories apply to court?
4. Which courts were moved?
5. How the respective archive is transported and distributed?

6. What is the workload on judges and is there enough staff available?
7. Do the court premises match the minimum requirements for carrying out justice proceedings?
8. Where the courts were during the time of occupation and had they made any decisions?
9. Did the judges pass a qualification assessment after the occupation?
10. Is there a possibility of official correspondence with the ATO zone?
11. Which way is the execution of a court's decision provided on the occupied territory?

Separately highlighted was the issue of delivery of justice in the Ukraine's non-controlled areas. Here it is worth noting that in the territory controlled by the so-called "LNR" (Luhansk People's Republic) and "DNR" (Donetsk People's Republic) before September 2014, the courts made decisions "in the name of Ukraine" and cases appeared in the Unified State Register of Court Decisions.

As a matter of fact, this study is a snapshot of the situation and do not pretend to be a fundamental and all-round. Collected materials confirm the hypothesis of the existence of the problem and illustrate its manifestations, which enables focusing government and public efforts on resolving it. Analytical data is the first attempt to assess the situation regarding courts operation in the East of the country and describe the difficulties caused by the warfare that cannot be eliminated by the court system alone. It is obvious that among the number of outlined issues there is a row of issues common to the whole judicial system of Ukraine, existence of which does not depend on the warfare in the region and case transfer to other courts. Most of these issues are associated with low availability of courthouses for groups of limited mobility and people with disabilities, inadequate level of awareness about the court operation, the lack of understanding of the necessity of taking into account the basic needs of visitors and the poor logistics of the workflow. These issues have also found their reflection in the monitoring report, but they were not the subject of the key consideration.

It is worth noting that the monitoring group did not set a task of revealing the separatist sentiments, promoting lustration of judges and any assessment of the quality of their work, but only a description of problems that the judges, the court personnel and its visitors faced in connection with the warfare and how it affects the performance of its obligations by the State of Ukraine in part of ensuring the right to a fair trial and unhindered access to court for everybody. Judging from the data of the monitoring visits, one can make a simple conclusion that the situation with respect to the right to a fair trial in Luhansk and Donetsk Oblasts will for a rather long time require careful attention of the human rights community and detailed monitoring of specific problem situations that are described below.

4 court.gov.ua



THE FUNCTIONING OF COURTS IN THE DONETSK AND LUHANSK OBLASTS

Donetsk Oblast

The Territorial Directorate of the State Court Administration of Ukraine in Donetsk Oblast is located in the premises of the Sloviansk District Court of Donetsk Oblast. Staff of the institution numbers 12 employees. Court premises availability—full. The premises of the TDSCA are warm, dry and clean. Renovation is not needed. Access to the premises is not equipped for persons with disabilities; it is located on the third floor of a high-rise.

According to Tetiana Tsyhankova—Chairman of the Territorial Directorate of the State Court Administration of Ukraine in the Donetsk Oblast, all courts of the Donetsk Oblast before transfer of jurisdiction with regard to certain courts in September 2014, operated in the ordinary course. Illegal armed formations did not intervene in the courts' operation.

After transferring the jurisdiction of certain courts in the occupied areas, they cease to function as courts of Ukraine. No one tried to take the archives of those courts out of the occupied territory, because it would be dangerous for the life of the court employees. No one passed

over the current case proceedings from the occupied territories. According to unofficial messages, presently the facilities of the courts in the occupied areas are used for conducting quasi-proceedings on behalf of the so-called “DNR” involving some former judges of Donetsk Oblast.

After transferring jurisdiction, staffing of the courts, to which new jurisdiction was transferred, was increasing not in proportion to the additional jurisdiction, but only within the limiting number of these courts established by law. For example, the approved quantitative structure of the judges within the oblast area varies from 3 to 22 persons⁵. At that, to this day 19 court vacancies in the oblast are open.

Judges from the occupied territories were transferred not in accordance with the transferred jurisdiction, but across the whole Ukraine to fill the available vacant positions.

Due to transfer of jurisdiction of other courts, the workload on the judges of the existing courts has increased approximately twofold. There are not always enough available courtrooms, part

of the sessions being run in the chambers of the judges. There are not enough available individual rooms for judges, assistants and secretaries. The judges work in the same premise with assistants and secretaries.

Justice is carried out in the usual way. The cases regarding the citizens living in the area controlled by Ukraine, as well as those living in the occupied area are considered. For submitting claims and other documents the inhabitants of the occupied territories have to travel to the territory under Ukraine's control, and apply to the Office of the Court in person or by mail sent from the territory of Ukraine. Payment of court fees and costs is carried out through bank branches and the terminals located in the Ukraine's controlled territory, as well as through the Internet with a bank card at the judiciary web portal without leaving the occupied territory.

Copies of decisions and other procedural documents are issued only for those cases that are available in existing courts. For other cases, copies of decisions and other procedural documents are issued only through the procedure of recovery of the lost case proceedings.

5 www.dsa.court.gov.ua/userfiles/file/DSA/2014/Nakaz133/Nakaz133.pdf.



Krasnoarmiysk City and District Court



Krasnoarmiysk City and District Court

To this Krasnoarmiysk City District Court the jurisdiction of the Maryinka District Court of Donetsk Oblast since 06.04.2015 and that of the courts of the occupied territory, namely the Budionivsk District Court of Donetsk and the Kirov District Court of Donetsk since 02.09.2014.

1. The condition of the building and the premises of the Court

According to the results of the external review and opinion of the court employees, the building is in satisfactory technical condition. Recently the premises were redecorated, the heating was repaired. The premises of the court are warm, dry and clean. The front stairs need repairing. On the existing steps a ramp for persons with disabilities cannot be installed. The ramp was purchased, presently it is stored in the courthouse in disassembled condition.

From the outside the courthouse is not guarded. In the entrance area inside the building there is a security desk, where at the time of a visit in December 2015, there was one security guard. The windows of

the first and second floors of the court are barred from the outside.

In the visitors area there are information boards available for visitors, which contain information about the work hours of the court, the judiciary schedule, case statuses, as well as samples of the procedural documents. Also there is a sufficient number of chairs and benches for visitors. In one of the courtrooms designated for the consideration of criminal cases, there is installed a cage for defendants that does not comply with the international conventions and the CPC of Ukraine. There is a toilet room for staff. Toilet room for visitors is not available.

According to the employees of the court, logistical support of the court is insufficient. Due to transfer of jurisdiction of other courts, the workload on the judges has increased approximately twofold. There are not enough available courtrooms, part of the sessions being run in the chambers of the judges. There are not enough available individual rooms for judges, assistants and secretaries. The judges work in the same premise with assistants and secretaries. For the organization of the court operation

in a normal manner, at least two more courtrooms and two chambers for judges are needed. It is desirable to arrange individual rooms for judges, their assistants and secretaries.

2. Judicial corps and Staff

Judicial corps consists of the Chairman of the Court, the Deputy Chairman of the Court, and eleven judges including one female judge transferred by the Presidential Decree from the Maryinka District Court of Donetsk Oblast. There are two vacancies of judge available.

Three judges of the Maryinka District Court were transferred by the Presidential Decree to other courts of Ukraine.

06.11.2015 there was issued the President's Decree on changing the location of the Maryinka District Court from Maryinka to Kurakhove. Currently organizational actions are being implemented, such as personnel recruitment and equipment of suitable premises for the purpose of resuming operation of the said court. It will allow transferring some of the cases from the

Krasnoarmiysk City District Court, reducing the workload on it, improving access to justice of the inhabitants of Maryinka District and improving its quality.

3. Access of citizens to justice

Justice is carried out in the usual way. The cases regarding the citizens living in the area controlled by Ukraine, as well as those living in the occupied area are considered. For submitting claims and other documents the inhabitants of the occupied territories have to travel to the Ukraine's controlled territory, and apply to the Office of the Court in person or sent from the territory of Ukraine by mail. Payment of court fees and costs is carried out through bank branches and the terminals located in the Ukraine's controlled territory.

Correspondence with the occupied territories is not carried on, the procedural documents are not sent to there, the court decisions in the occupied territories are not executed. Information about the time and place of the case consideration with the participation of the persons residing in the temporarily occupied territories, is hosted exclusively on the court website. According to the opinion of the court employees, they are not aware whether the courts on the occupied territory operate and whether the court decisions are executed.

Taking into consideration the specifics of the location of residential areas of Maryinka District of Donetsk Oblast,



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Krasnoarmiysk City and District Court

inhabitants not of all settlements are able to get from the Ukraine's controlled territory to Krasnoarmiysk by public transport.

4. Transfer of cases in connection with the warfare

Regarding the Budionivsk District Court of Donetsk and the Kirov District Court of Donetsk, the jurisdiction of only new cases was transferred to Krasnoarmiysk Court of Donetsk Oblast. Case proceedings in all cases which have been opened before 02.09.2014, as well as the archives of these courts were not passed passed.

Regarding the Maryinka District Court of Donetsk Oblast, only those cases which were in proceedings of the Pokrovske District Court of Dnipropetrovsk Oblast by 06.04.2015 were transferred to Krasnoarmiysk City District Court of Donetsk Oblast. Accordingly, only criminal cases which were in proceedings of the Maryinka District Court of Donetsk Oblast by 02.09.2014 were transferred to Pokrovske District Court of Dnipropetrovsk Oblast. Cases of other jurisdictions as of 02.09.2014 were not passed over to the Maryinka District Court, and the proceedings in them are not carried out. Resolutions on the suspension of the proceedings were not adopted. Archive of the Maryinka District Court was left in locked premises in Maryinka. The building of the Maryinka District Court is partially damaged by shellings, the case hearing in it without prior repairing is not possible. Any purposed protection of the courthouse in Maryinka is not provided. During the time since 02.09.2014 from the said building the unknown persons stole some pieces of office equipment.

Copies of decisions and other procedural documents are issued only for those cases that have been taken to the Krasnoarmiysk District Court. For other cases, copies of decisions and other procedural documents are issued only through the procedure of recovery of the lost case proceedings.



FROM THE ARCHIVES OF MOBILE MONITORING GROUPS OF CCL



Dobropil District Court



Dobropil District Court

The consideration of the cases of the Avdiivka City Court and the Khartsyzsk City Court of the Donetsk Oblast were transferred to Dobropil District Court.

1. The condition of the building and the premises of the Court

Two-story building from the outside gives the overall positive impression: the building is clean, with new windows, the surrounding territory is well groomed. The impression is that in the recent past it was renovated.

One can enter the building without hindrance, security personnel is absent, identity of the visitors is not ascertained. The courtroom is light. The hallways are wide, information board, which is readily visible from the entrance, contains a wide range of information, in particular, reception hours, sample applications, available infographic drawings explaining principles of judicial system operation, etc. Also in front of the information wall there are tables and chairs, which simplifies the use of provided information by the visitors. The building is adapted for people with disabilities, there is a ramp at the entrance, and on the first floor there is a courtroom, the doors of which, in particular, allow entry for a wheelchair. The court has four courtrooms, three of which

have been renovated and redecorated, have a transparent defendant dock – not just a barred cage. The courtrooms are equipped with wide enough benches for visitors, individual seats for observers are not available.

2. Judicial corps and staff

The Dobropil City District Court under the directive of the Chairman of Higher Specialized Court caters to the residents of the territory of Khartsyzsk and Avdiivka City Courts of Donetsk Oblast. In connection with the transfer of territorial jurisdiction its staff was not increased and consists of 13 judges, 9 of which actually work, the rooms are designed only for 10 ones. There are not enough available courtrooms to satisfy the needs of even existing 9 judges, especially, with a significant increase in the workload in connection with the transfer of the territorial jurisdiction of Khartsyzsk and Avdiivka City Courts of Donetsk Oblast. Secretariat personnel numbers 45 people. President and spokesperson of the court noted that there are vacancies only for non-specialized positions: secretariat, office personnel, but according to the information of Judicial Power web portal, there are vacancies for three secretaries of

court and one secretary of court session. Perhaps, the relevance of the information provided on the website can be questioned.

All judges are residing in the Ukraine's controlled territory. One judge was transferred from the Crimea.

According to the President and the spokesperson of the court, the lustration was held in the strict compliance with the requirements of the Law of Ukraine on Cleansing of the Authorities and Restoration of Trust to Judicial Power. No claims and issues as for lustration performance were reported.

3. Access of citizens to justice

Accordingly, the opportunities of engaging witnesses, other participants to the court process, notices of case hearings, etc. are extremely limited and taken through the media of the official printed or online sources. Forced bringing to court is not possible. Citizens have the opportunity to pay court fees only in the Ukraine's government-controlled territory, or upon availability of access to the Internet. Cases of citizens coming to the court from the territories of the Avdiivka and Khartsyzsk City Courts are extremely rare.

4. Transfer of cases in connection with the warfare

The court has an opportunity to consider only the new cases from the temporarily occupied territories, or those, decisions on which were challenged and transferred for reconsideration by a higher authority, since the archives of Khartsyzsk and Avdiivka City Courts of the Donetsk Oblast were not relocated, no closed cases, nor open ones by the time of the occupation. There is no information about the archives status at the moment, nor about attempts to destroy them.

The lack of archives and any connection with the courts in the occupied territories causes a significant complication to recover lost proceedings what became common practice after the transfer of the territorial jurisdiction from the occupied territories, a reconsideration of the cases of Khartsyzsk and Avdiivka City Courts of the Donetsk Oblast appealed in a higher court, as well as cases where party (-ies) is/are residing in the occupied territories, possess controversial property, etc.



Dzerzhinsky City Court



Dzerzhinsky City Court

Dzerzhinsky City Court under the directive of the President of Higher Specialized Court caters to the residents of the territory of Proletarsky and Leninsky Districts of Donetsk.

1. The condition of the building and the premises of the Court

A two-storeyed building located next to the building of Dzerzhynsk City Police Department. The exterior shows minor damages to the building, there are some broken windows. The courtroom is not readily available to people with disabilities, ramps are absent, hallways are narrow.

The security guard is missing, one can enter the court unchecked, and no one is trying to identify visitor's person, nor the purpose of the visit, which is unsatisfactory in view of the immediate proximity of the town to the line of delimitation. Premises are badly lit, the information board contains a limited amount of information, and is hard to see without using one's own light source. The courtrooms are equipped with row seats for visitors and participants of the process and the isolated defendant dock, individual seats for observers are not available. One can find out the office operation hours only by asking. Copies of

the court decisions shall be issued only on Tuesdays; in the opinion of the Chairman of the Court, it is due to lack of staff and the significantly increased load on the court. Access to the office is free, there was no queue at the time of monitoring. In the corridors there are benches for waiting. Access to the toilet is free, but it is in poor condition.

2. Judicial corps and staff

The court was allowed to add 4 vacancies of judges, that increased the judges staff from 10 to 14, but these vacancies are not filled. At the time of monitoring 6 judges were at work (commission of the rest, according to the usual staff schedule, had expired, and one judge is under indictment as per article 368 of the Criminal Code of Ukraine), which is not enough due to increase of workload per judge at least twofold (exact data at the time of monitoring was not available, since the annual report was in the process of preparation). At the moment there are vacant positions of: 4 judges, 4 assistants for them, 4 secretaries of the court sessions, 2 masters of the court and technical staff.

All the judges reside in the Ukrainian government controlled areas and are local inhabitants.

Primary lustration was held in the form of interviews, questionnaire surveys, there was created a Commission, which did not deal with the judges, but only with the court office personnel. No claims as for primary lustration performance, according to the Chairman of the Court, were reported.

3. Access of citizens to justice

The court has an opportunity to consider only the new cases from the temporarily occupied territories, or those, decisions on which were challenged and transferred for reconsideration by a higher authority, since the archives of Proletarsky and Leninsky District Courts of Donetsk were not relocated. There is no information about the archives status at the moment, nor about attempts to destroy them. Access to the occupied territories does not exist, including a postal connection. Accordingly, the opportunities of engaging witnesses, other participants to the court process, notices of case hearings, etc. are extremely limited and taken through the media of the official printed or online sources. Forced bringing to court is not possible. Citizens have the opportunity to pay court fees only in the Ukraine's government-controlled territory, or upon availability of access to the Internet.

4. Transfer of cases in connection with the warfare

The lack of archives and any connection with the courts in the occupied territories causes a significant complication for consideration of cases regarding recovery of the lost proceedings that became common practice after the transfer of the territorial jurisdiction from the occupied territories, reconsideration of the cases of Proletarsky and Leninsky District Courts of Donetsk appealed in a higher court, as well as issuing copies of their judicial decisions. However, there appeared practice, if a judicial decision is registered in the Unified State Register of Judicial Decisions, of issuing copies of the decisions of these courts under the court's seal.

In the period of the occupation the court considered only civil cases; consideration of the criminal ones was not possible because the law-enforcement agencies did not function.

Luhansk oblast

According to Igor Savchenko, Chairman of the Regional Office of State Court Administration in the Luhansk Oblast (located in the city of Rubizhne), consideration of legal cases is in accordance with the procedural rules. 99% of the courthouses are adapted, including the ones that were rebuilt to comply with the regulations and standards as for courthouse buildings. That is, 14 courts that operate in the Ukrainian government controlled areas (the 15th Stanichno-Luhansky District Court is out of operation), are adapted to court proceedings requirements.

At the time of monitoring the courts do not have substantial problems with premises and office equipment. The judges, who have moved from the occupied territories, rent housing at their own cost, as the official accommodation for them is not available.

In the area close to the line of collision, are Popasnyansky, Stanichno-Luhansky District Courts. The latter court is out of operation, two-thirds of its archives were relocated. In Popasna during the shelling the court staff had to hide in the basement. Despite the threat, by the decision of the TDSCA, operation of the court is renewed. One of the reasons is the need to provide financial support to court employees, for whom their work for the court is the only source of income. So even on days when shellings were going on, there always was a judge on duty along with several members of the staff. By the decision of the Chairman of the TDSCA Popasna District, the court

was furnished with three positions of night-time watchmen and one position of day-time master of court.

The number of judges in the Ukrainian government controlled areas increased (it is about courts, which were given the jurisdiction to consider cases from the courts located in the occupied territories). The staff of courts in Luhansk Oblast increased in number: on the orders of SCA of Ukraine No. 135, No. 133 the staff of courts in Luhansk Oblast increased in number by 34 staff positions, of which 32 are filled with judges who moved from non-government controlled areas. There remains 2 vacant positions. At present 113 judges moved in total to the government controlled area of the Luhansk Oblast.

All the judges exercising jurisdiction on the territory of Luhansk oblast, are to pass lustration and anti-corruption check, fill out and submit the property ownership and income declarations. Cooperation with the judges, who remained on the temporarily occupied territory, is not maintained. The exact number of judges remaining in the non-government controlled area of Luhansk Oblast, as well as the number of those who are collaborating with the so called "LNR" is not exactly known.

Due to the increase in personnel numbers of the courts, available space does not comply with the requirements established by the law. To resolve this issue, additional construction or reconstruction of the court premises is required, however, in the 2013–2015. capital expenditures for such purposes are not envisaged.

Luhansk oblast courts are financially secured. All the funds provided for the functioning of the judicial system in 2015 had to be used before December 28–29. Courts and judges are fully provided with consumables, postal stamps, office paper, computers, judges' robes, lapel badges, symbols of State power.

October 31, 2014, 22 of 25 employees resigned from the TDSCA in Luhansk Oblast. After the Directorate moved from Luhansk to Rubizhne, new staff was formed consisting of 16 persons, 8 of which are migrants.

Griffon unit, which is currently liquidated due to the reorganization of the Ministry of Internal Affairs (MIA), provides protection to only part of the courts. For example, the unit does not provide protection of Popasna District Court. Since the unit is formally liquidated, the issue of creation of the State Security Service within the judicial system is being resolved. To date the formation of the management of the judicial security service is underway, the issue of funding is being resolved. Currently, the Gryphon unit remains only in 9 courts of the Luhansk oblast.

Only due to personal relations of the Chairman it was able to save $\frac{2}{3}$ of archives transported on the military vehicles from the District Court of Stanitsa Luhanska. Other courts did not have such an opportunity. No one possesses true and full information on what happened to the archives and current proceedings documents. Proceedings of the district courts remained in the occupied territory.



Popasna District Court

The court worked in the ordinary course until July 2014, although at the moment the authorities of Popasna were actually controlled by the illegal armed formations. Authorities, including courts, continued to operate. No one ever came to the Popasna District Court with any demands. The Court rendered decisions in the name of Ukraine. The situation changed after the liberation of Popasna, which was accompanied by warfare. In August-September of 2014, the court was almost out of operation. When the situation had normalized, cases increased in number. People however were not coming back. The work load in the second half of 2014 was much less. In January-February 2015 the hostilities resumed—Popasna was almost deserted. The court, however, kept working. In case of necessity, when there were urgent matters related to criminal proceedings, the judges went to work to extend the period of detention, to take urgent actions, etc. In March 2015, the situation settled down again. The Court started working again in a standard mode.

To date proceedings cover quite a lot of cases. The territories, which geographically belonged to the jurisdiction of the Pervomaisky District Court, in particular, villages Zolote, Toshkivka, Novotoshkivka, added up. Reducing the activity of the citizens is compensated by the increase in its number.

Criminal cases where individuals are under arrest, the District Court forwards to the Appellate Court of Luhansk Oblast for determining their jurisdiction, because currently, the Court is not capable of providing adequate protection.

Temporary detention facility (TDF) is still not working due to security issues.

Problems with delivery of the defendants began in May 2014. According to the police representatives, police could not provide escorting, because their weapons were taken away at the nearest checkpoint. In this regard, it was impossible to deliver the accused to the court sessions. Today the accused are delivered from Starobilsk.

To resolve the issue with the delivery of the accused, the Court developed the practice of considering cases via videoconferences with the consent of the person. But there are also such cases, where persons refuse from video conferencing.

Despite these organizational actions, the issue of ensuring criminal process, especially the delivery of the accused to the courtroom, is an acute problem.



Popasna District Court

1. The condition of the building and the premises of the Court

Under the infrastructure and material security angle of view, the Court has all the necessary features for the proper proceedings. First of all, the Popasna District Court during 2014–2015 has not had to change the premises of the Court. Today there is enough room for judges and court office personnel in the court premises. All judges have private rooms equipped with office equipment, furniture, consumables, symbols of State power.

There are no queues in the hallways, although this is due to two independent of the Court's operation quality factors: its proximity to the line of collision and massive departure of the population to other areas.

In the Court there is a fully equipped and well-adapted courtroom.

Windows which had been damaged as a result of the bombardment in autumn 2014 and winter 2015 were replaced. According to an employee of the archive, the archive premises is suitable for preservation of legal documents. In the archive's operation no problems were detected.

It is worth noting that the premises of the Court is old, there are multiple cracks that need to be eliminated. However, humidity level in the premises, in particular in the archives, is not too high to be a threat to the Court's documentation.

Although, according to Chairman of the TDSCA there is security in the Court,

the monitoring group have not proved it in fact. Access to the premises of the Court is unimpeded.

The building is partially accessible for people with disabilities. For example, there is a ramp. However, the hallways in the building of the Court are narrow.

2. Judicial corps and staff

Judges staff composition has not changed. One vacant position is taken by a judge from Pervomaisk. The court staff composition has changed by half. Most of the posts occupied by persons displaced from Pervomaisk formerly employed in the Pervomaisk Court.

Since in the area there is no specialized police force, it was proposed to the Court administration to provide additional financing to hire watchmen for the monitoring period (3 full time employments).

3. Access of citizens to justice

President of the Court reported that there were cases when the Court previously sentenced persons to the real terms of punishment, but, due to the fact that they were serving punishment in the occupied territories, it happened several times that these individuals were subsequently seen at large (they of course were detained when there was a possibility, but the issue of serving punishment remains open, after all, it is not known from which date they

are at large, whether this action of theirs should be included in the sentence term, or whether it is an issue of the re-conviction for avoiding punishment, etc).

Popasna District Court considered two cases of ascertaining the fact of birth and two cases of ascertaining the fact of death.

Cases, territorial jurisdiction of which belongs to Pervomaisk District Court, were handed over to Rubizhansk City Court. While the Supreme Specialized Court of Ukraine was redistributing the territorial jurisdiction of the courts, the issue of prolongation of commission of the Popasna District Court was not resolved.

Delivery of persons from the non-government controlled areas is impossible. One of the judges had a case where it could potentially become a problem, however it was started before the war and all the witnesses had been interviewed.

Notifying of the parties is carried out under general rules via the press. Often there occurs a problem of notifying people even residing in the Ukrainian government controlled areas, owing to the fact that postal is not always available.

The Court also uses the following means and methods of notifying the parties: 1) providing contact information of the defendant, bringing the defendant to court; 2) notifying the party through a telephone message; 3) notifying the party through a message on the website of the Court.

If the person does not appear, he/she shall be informed basing on the place of residence by all possible means.

The Court takes a decision, but handing in a copy of the decision through the press



is impossible. There is a problem: the plaintiff, on the one hand, has the right to a fair trial, which includes the execution of judicial decisions, and on the other hand, the law does not answer the question, what is to be done when a copy of the decision is not delivered to the address of residence of the defendant. Essentially, the plaintiff loses the right to a fair trial.

The Court made a decision on the notifying the defendant of its decision through the website. The Court tried several times to deliver the decision by mail. If the person becomes aware of the decision, he/she has the right to apply for cancellation of the judgement by default. One of the judges had a case when a person applied for the cancellation of the judgement by default a year later. The appeal period was recommenced. Thus, the decision can be taken, but the person must be provided with the right to effective retrial in his/her participation.

4. *Transfer of cases in connection with the warfare*

The Chairman of the Popasna District Court pointed out that during the occupation the District Court “missed” attention of terrorists. Thus, neither archive, nor other judicial documents (decisions, proceedings, etc.) had not been affected. Even Ukrainian flag and coat of arms in her office remained intact. At the same time, for the said District Court there is a problem of ensuring proper protection.

During the hostilities only one civil case was gone from the Popasna District Court.





Novoaidarivsk District Court



Novoaidarivsk District Court

Since November 2014 it resumed its operation.

1. The condition of the building and the premises of the Court

Two-storey separate building that looks pretty tidy from the outside, at the entrance there are small damages to the flower beds and stairs visible.

In the entry hall there is a security guard, who inquires about purpose of the visit, requests to produce a photo identification and makes a record in the log of visitors (in accordance with the regulations on the procedure for the admission of visitors to the premises of the Court).

The premises of the Court is warm, light, no wetness felt, audibility is good, space is newly redecorated, information and document samples board is in plain view, along the entire hallway there are wooden benches for the waiting. Access to the office is free, no queues present. Office operation hours are adhered to as scheduled by the Court.

The court room is not readily available to people with disabilities, ramps are absent, hallways are narrow. Public toilet with a free access.

Each judge disposes of an individual room, judges' assistants are in a separate room, also there are available separate premises for all court employees, archive is in a separate basement premises, there are three furnished courtrooms for hearings with special equipment and a defendant's dock.

2. Judicial corps and staff

Litigation in the district is organized in full accordance, staff lists 4 judges, 3 of them constantly are in the workplace (live in Novoaidar), one position of judge is vacant, since as a result of the occupation of Luhansk, judge Inna Malchenko moved to the occupied territory and did not returned to her official duties, her place of stay is uncertain, according to some reports she moved abroad.

The load on judges grew for several reasons: there is understaffing of judges, settlements of Triokhizbenka, Sokolniki, Krymske, Shchastya have been reassigned to the Court for servicing, as well as judges have to constantly consider additional cases involving military personnel (desertion, disobeying the leadership, bodily injury and administrative protocols for alcohol drinking).

By the time of monitoring none of the judges had passed qualifying assessment, nobody fell under lustration.

3. Access of citizens to justice

The inhabitants of the occupied territories can apply to court visiting it personally, and the consideration of the case and announcing decision with consent of the participants of the hearing can be made via online conferences or in absentia under general terms, about what a resolution is taken and an announcement in the official press is made.

4. Transfer of cases in connection with the warfare

The Court worked continuously, except for the work suspension during the bombardment from 4 September 2014 to September 14, 2014. Documents and court employees for all time of ATO were not evacuated. The archive did not move to anywhere, the cases were never gone from the archive. The archive room is in good condition, warm and bright, with specialized shelves and tables.

By the moment, a plan for evacuation in case of emergency has been developed.

The main issue is pre-trial detention of Stakhanov and Bryanka, whose cases were forwarded to the Appellate Court of Luhansk before its occupation, and after the occupation started to the present time the case has not returned, so taking final legal decision as for these detainees is not possible for the Court.

Cases, files of which were under consideration in the judges, and the detained were waiting for decisions while being in the occupied territory, does not have there logical completion. As it turned out later, the defendants, the decisions on their serving sentences had already entered into force, in the occupied territories were released from custody unpunished.

The cases, which involve property in the occupied territory, are improperly dealt with, because even the execution writ cannot be forwarded — postal service is not available, and there is no one to mail it to, because it won't be executed. Therefore, the Court is not able to enforce its decisions on the occupied territory.

Some documents delivered from the occupied territory were on the official forms and contained formerly valid seals with an additional notation "LNR", but without entering them to the registry.



Lisichansky City Court



Lisichansk City Court according to its jurisdiction, considers also cases that are within jurisdiction of courts from the occupied territories of Bryansk, Alchevsk and Perevalsk Districts. The Court operates 10 judges, whereas the staff structure of the court envisages 15 judges.

Judge of the Lisichansk District Court Subbota Nikolay Ivanovich, transferred from the Pervomaisk District Court, agreed to communicate with the monitors and informed that he was one of those judges who after the occupation of the Pervomaisk District transferred to another court. Since he lived in the Popasna District and was employed as a judge of the Pervomaisky District Court, the issue of obtaining accommodation was not relevant for him. After the occupation of Pervomaisk, he never went to work and submitted an application for transfer to another court. During his stay in the forced “vacation” he received a regular fixed salary (fte). In addition, the judge Subbota confirmed the information provided by the Chairman of the TDSCA, as for provision of a working place and necessary office equipment for him. As for the workload, the distribution of cases is carried out by the authoring system.



PROCEEDINGS IN THE “DNR” AND THE “LNR”

In areas that are controlled by so-called “LNR” and “DNR”, there were left many legal cases and materials of the criminal proceedings.

The information database of the MIA of Ukraine, when queried, outputs information that pre-trial restrictions on certain persons were imposed as late as in 2013–2014. And sometimes even earlier (CPC of Ukraine of 1962). At present, pre-trial restriction is still in effect. However, neither the pre-trial investigations nor courts do not consider such cases as the materials are missing and by order of the MIA of Ukraine the investigative bodies were liquidated.

At the same time investigative bodies of “LNR”/“DNR” transferred these cases in accordance with their “own” legislation, i.e., the CPC of Ukraine of 1962, the CC of the Russian Federation. Thus, the challenge will be recovering materials of such cases even after the liberation of the territories.

In 2009 a crime was committed, which is qualified under section 4 of article 187 of the Criminal Code of Ukraine.⁶

In may 2013, the sentence of the Budyonivsk District Court of Donetsk, was cancelled by Appellate Court of Donetsk Oblast, and the case was sent out for the pre-trial investigation. The initial pre-trial restriction was changed to written undertaking not to leave the place of residence (CPC of Ukraine of 1962). In the autumn of 2013 already under the CPC of Ukraine of 2012 the case is once again sent to the Budyonivsk District Court of Donetsk. The trial continued

until the occupation. The case remained in the building of the Court. The defendant moved to the territory controlled by Ukraine.

In the “DNR” the case has been “redone” as per their legislation, the defendant is placed on an “international wanted list”.

On the territory of Ukraine the case is not considered due to the fact that case files are missing. Despite the fact that the CPC of Ukraine of 2012 contains rules about the restoration of the missing proceedings, the pre-trial restriction is still in effect.

Besides, since these cases are not covered by the legislation of the “LNR”/“DNR” at the time, they considered by the so-called judges “in the name of Ukraine”, although at the moment no court of Ukrainian jurisdiction on this territory officially exists.

The Kyiv District Court of Donetsk passed a decree, under which five people are under arrest since 2009. The Court considers the case under the regulations of CPC of Ukraine of 1962⁷.

The case now is considered by the Court of “DNR” that released all the five from custody. The case under the old charges, is considered “in the name of Ukraine”. To date, the consideration of the case in the “DNR” is suspended. Case files are transferred to the “Supreme Court of ‘DNR’” for transferring them to Ukraine. Moreover, people cannot leave for the territory controlled by Ukraine, because according to

the information of Ukraine they are in pre-trial detention center. Defendants would be happy to have their case considered in Ukraine, however, the case was considered under the CPC of Ukraine of 1962, and the procedure of restoration of proceedings is not foreseen there. Therefore, case consideration without its files is impossible.

One should take into account that the criminal legislation of the Russian Federation is very much different from that of Ukraine. Sometimes people of average, in view of Ukrainian legislation, severity of crime now can be sentenced for over 10 years of imprisonment. In addition, unlike the Criminal Code of Ukraine, the Criminal Code of the Russian Federation and that of the “LNR”/“DNR” contain death penalty as a capital punishment.

Especially difficult in view of justice is the situation regarding the persons for whom the courts of Ukraine decided a pre-trial restriction in the form of detention before the occupation of the territories. By courts of “LNR”/“DND” most of these people are released from custody. However, according to the data of the Information Center of MIA of Ukraine, their pre-trial restriction in the form of detention under custody is still in effect. So, while crossing borders they should be arrested and put in pre-trial detention center. Moreover, under our law they have to face a threat of additional charges of escape. And it is so despite the fact that these persons did not commit such crime, and their case files proving their guilt or innocence are missing in Ukraine.

6 According to the information from attorneys

7 According to the information from attorneys

In 2004 a crime was committed, which is qualified under section 3 of article 187 of the Criminal Code of Ukraine.⁸

In 2009, there were detained four people who faced charges and a pre-trial restriction in the form of detention in custody.

17.03.2014 the Appellate Court of Donetsk Oblast cancelled the verdict of the Kyiv District Court, and the case was sent out for the pre-trial investigation, the initial pre-trial restriction was changed to written undertaking not to leave the place of residence (CPC of Ukraine of 1962).

In December 2015 – January 2016 it was informed that Kyiv Police District Department is eliminated. The case record is made in the Register ex post. No person received a notice of suspicion. The investigation is not conducted, because the case files remained in the building of the Kiev Police District Department.

At the same time, according to the data of the Information Center, these individuals are still under pre-trial restriction (according to CPC, of 1962 its effect is unlimited).

By order of the Chairman of the Supreme Special Court of Civil and Criminal Cases dated 02.09.2014, cases, assigned to the jurisdiction of the Kyivsky District Court of Donetsk to be transferred to Pavlograd City District Court of Dnipropetrovsk Oblast.

In this connection there was filed a petition for the cancellation of the pre-trial restriction. The case is pending.

In open sources the information concerning the proceedings in the “DNR” and the “LNR” is almost non-existent. Under the legislation of Ukraine, all the decisions in the cases handled by the courts of Ukraine, are placed in the public domain on the website of the Unified State Register of Court Decisions. However, the courts are located in the occupied territories and are subject to the “DND”/“LNR” do not place information on their decisions neither to USRCD nor in any other open source.

Information in the media about handling cases in the courts of the “DNR” and the “LNR” is extremely fragmented and does not allow to establish the order of the proceedings⁹.

The only open source that provides at least some information about the proceedings in the occupied territories, is the website of the “Supreme Court of ‘DNR’”, which contains general statistical data and generalization of practice in the form of “Decisions of the Plenum”¹⁰. As for the “Supreme Court of ‘LNR’” this information is completely absent.

Also in open sources one can find separate “legal acts” of “LNR” and “DNR”, regulating the operation of their judicial systems, such as the “Constitution”, the “criminal code of ‘DNR’”¹¹, “rules of criminal proceedings in the ‘DND’”¹², the “regulations on military courts of ‘DND’”¹³.

As the Chairman of the Territorial Directorate of the State Judicial Administration in the Luhansk Oblast explained, they keep track of news concerning judges who remained in the occupied territory, including through the “decrees of the chairman of the ‘LNR’”.

Analysis of data and information, though limited, but from the “official” source, gives reason to speak about the efforts of the “LNR” to establish its own judicial system.

“Official website” of the “Head of ‘LNR’” Plotnitsky¹⁴ informs of the organization of the operation of several courts and his appointment of judges. The active phase in the judicial system began in 2015 with “Decree” “On Approval of Regulations of Qualification Board of Judges of the Luhansk People’s Republic” (registration date 14.08.15). What was before this is impossible to imagine, at least basing on the “official” publications (only “official legal proceedings” are meant). October 01, 2015 there was registered “Decree” “On Appointment of Judges”¹⁵, which appointed “presidents”, “deputy presidents” of the military and district courts of the “LNR” and appointed judges of these courts.

October 24, 2015 there issued another “Decree” “On the Commencing Operation of Courts of the Luhansk People’s Republic”¹⁶. November 02, 2015 there appeared a new “Decree” “On Appointment of Judges”¹⁷, which appointed judges of the Rovenkivsky City Court (president and two judges). November 16, 2015 there were issued two “Decrees” “On Staff ID Cards of Court Office Employees of Luhansk People’s Republic”¹⁸ and “On Staff ID Cards of Judges of Luhansk People’s Republic”¹⁹.

December 2015 turned out very “fruitful” in terms of “decrees”, which regulate the activity of the “justice”, in particular, 4 “regulatory enactments”. December 03, 2015 – “On Commencing Operation of Rovenkovsky City Court”²⁰, December 25, 2015 – “On Appointment of Judges” which appoints 6 persons for the positions of presidents, deputy presidents and judges of Rovenkivsky and Stakhanovsky City Courts²¹, December 28, 2015 – “On Commencing Operation of Stakhanovsky City Court”²², December 28, 2015 – “On Changing Territorial Jurisdiction of Cases Handled by the Courts”²³.

That is, the activity of the “Chairman of ‘LNR’” regarding the formation of the “judicial power” features a prominent energy in the background of the “decrees” related to other spheres of life of the occupied territories. The documents issued by the “Chairman of ‘LNR’” list the names of judges, and therefore, the question arises, how many persons from those named in Plotnitsky’s “decrees”, are former judges of the Ukrainian courts. And the main thing – whether they really are former? Will turn so that judges who “administer justice” on the occupied territories by this time are still deemed to be judges of Ukraine and receive a salary instead of a criminal case with regard to themselves? This by all means needs to be found out for a full and objective picture of Justice in the occupied territories, because there arises a question of liability, and in particular, of the legal one. To do so, one needs to make queries, with copies of Plotnitsky’s

8 According to the information from attorneys

9 Examples of descriptions of the work of the courts in the media www.06242.com.ua/article/962127 www.obozrevatel.com/crime/06425-v-dnr-zapretili-upa-lyashko-i-igil.htm www.admin-gorlovka.com/news/1138-ispolnenie-reshenij-sudov-ukrainy-na-territorii-dnr

10 www.supcourt-dnr.ru/sdep/stat/obshchie-pokazateli-raboty-verhovnogo-suda-i-sudov-doneckoy-narodnoy-respubliki-pri-0

11 www.advokaty.dn.ua/criminal-codex-dnr

12 www.xn-80aafh5ax4a2e.dn.ua/publ/ugolovnoe_pravo/ugolovnoe_pravo_uk/pravila_ugolovnogo_sudoproizvodstva_dnr_doneck/75-1-0-108

13 www.constitutions.ru/?p=10200

14 www.glava-lnr.ru/arhiv

15 www.glava-lnr.ru/sites/default/files/pdf/502011015.pdf

16 www.glava-lnr.ru/sites/default/files/pdf/563011015.pdf

17 www.glava-lnr.ru/sites/default/files/pdf/587011115.pdf

18 www.glava-lnr.ru/sites/default/files/pdf/601011115.pdf

19 www.glava-lnr.ru/sites/default/files/pdf/600011115.pdf

20 www.glava-lnr.ru/sites/default/files/pdf/641_bez_pechati.pdf

21 www.glava-lnr.ru/sites/default/files/pdf/jpg2pdf_3.pdf

22 www.glava-lnr.ru/sites/default/files/pdf/695_1_12_15.pdf

23 www.glava-lnr.ru/sites/default/files/pdf/695_01_bez_pechati.pdf

“decrees” enclosed, to the bodies of the SBU (Security Service of Ukraine), the Prosecutor’s Office as well as the State Court Administration of Ukraine and the Higher Qualification Commission of Judges of Ukraine with questions whether the persons administering “justice” in the “LNR” belong to the judiciary corps.

The court fee in the “DNR” is charged on the basis of the Law “On Court Fees” of 20.03.2015²⁴. Fundamentally it is similar to the Ukrainian Law “On Court Fees”. The main difference is the one in the methods of calculating fees. On some positions the fee amount is fixed (in Ukraine, the amount of the fee depends on the price of the claim or is calculated as a share of minimum wages).

Payment of the court fee is carried out through the “Central Bank of “DNR” with the details provided by a particular court, which handles the case²⁵. In addition, according to the information on website of the “Supreme Court of “DNR”, payment of the court fee is possible both in Ukrainian hryvnias and in Russian roubles at the discretion of the person who pays. Information regarding payment of the court fee with a bank card or online in the open sources is not available.

The official correspondence of the courts with the parties in the cases and between themselves is carried out

exclusively in paper form through a branch of the State Enterprise “Mail of Donbass”, or, in some cases, “Ukrposhta”²⁶.

Information on the procedure of collection of court fees and correspondence between the courts in the territory, which is under the control of the “LNR”, is not available.

As one can see, the so-called the “DNR” and the “LNR” significantly advanced in making semblance of state power and its legislative support that relates also to operation of courts. However, the one example (the case files were presented at the Conference of OSCE in Warsaw in 2015) explicitly demonstrates falseness of this legislation and disrespect toward it on the part of the bodies of terrorist groups.

The facts according to the information given in the text of the “sentence”: The person was detained 02.06.2014 at the “DND” checkpoint in the area of Kramatorsk. On the defendant’s own confession, he belonged to the Ukrainian paramilitary organization. As a member of subversive-intelligence group, he received a task to monitor the movement of the “DNR” armed forces in the area of the checkpoint. Being near the checkpoint, the defendant for unknown reasons with a knife attacked two people, whose identity has

not been established and inflicted serious injuries on the two men as a result of which one of them died.

The composition of the Court: Nos, Balu, Sedoi (judges), Zubr (Secretary). Parties to the case: Trifon (for the prosecution), Advokat (for the defense)²⁷.

Applicable law: The Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine, the Decree of the Presidium of the Supreme Soviet of the USSR “On Martial Law” dated 22.06.1941.

The sentence: Death penalty by shooting. The sentence enforced 22.06.2014.

It may be stated that the decision and the procedure not only violate Ukrainian legislation and international law, but also the own “law” of artificial republics. So, according to the “law” of the “DNR” itself, at the time of the pronouncement of the “sentence”, such body as a “Military-Field Tribunal” did not exist, the regulation “On the Military Courts” was adopted by only 17.08.2014. In addition, the death penalty is prohibited by their internal “Constitution.” The persons who made the sentence most likely did not have status of the judges and any special legal training, but they are “DNR” militants.

24 www.dnrsovetsu/zakon-dnr-o-sudebnom-sbore.

25 www.fromdonetsk.net/evgenii-kizernis-o-notariate-v-dnr.html www.supcourt-dnr.su/sudebnyy-sbor.

26 www.advokat-donetsk-jurist.dn.ua/statyi/31-kak-podat-v-sud-zhitelyam-donetska-i-donetskoj-oblasti-kotorye-ostalis-v-dnr-konsultatsiya-yurista-kuda-perenesli-sudy-iz-donetskoj-oblasti.

27 Obviously these names imply noms de guerre of the DNR militants.

CONCLUSIONS AND RECOMMENDATIONS

Courts in the territory of Luhansk and Donetsk Oblasts have the same problems that most Ukrainian courts – too small rooms, understaffing, insufficient funding, premises not suited for people with disabilities, etc. However, in the mentioned areas, all these problems grow more acute and critical. Added is the problem of the violation of the transport, postal and banking infrastructure of the oblasts in areas close to the line of delimitation, and there, where military operations went on.

All of this together makes impossible the implementation of access to justice for residents of such areas because there are no real opportunities to physically get to court or communicate with it remotely, even if the court keeps operating due to its relocation to another, safer place.

1. The transfer of courts from the occupied territories in practice has led to a significant increase in the workload on the individual courts in the Ukrainian government controlled parts of Luhansk and Donetsk Oblasts.
2. The courts, despite the increase in workload twofold, remain understaffed, that is simply unacceptable taking into account the existing queue of those wanting to take a position of a judge.
3. In the courthouses, where the courts from the occupied territories were moved to, there are not enough courtrooms, individual rooms for judges, which greatly complicates the delivery of Justice.
4. Security provision of the courts is inadequate. Although a free access to court is a natural component of the right to a fair trial, in conditions close to war, it makes sense to introduce additional security measures.
5. Unresolved is the problem of transportation of archives that remained in the occupied territories, what leads to the violation of the right to a fair trial and other fundamental human rights.
6. The region's infrastructure, including transport, mail and banking services, requires urgent renovation.

In general, this situation may last only temporarily and needs immediate strategic decision-making for the proper solution of the issue.

The Verkhovna Rada Of Ukraine:

- to support legislatively the initiatives ensuring the right to a fair trial in Luhansk and Donetsk Oblasts. In particular, the provision of opportunities to recover lost proceedings for cases that were handled under old CPC, for example, through the use of analogy of justice.
- To regulate legislatively the procedures that would have allowed judges to consider cases in which the parties or the case files are in Ukraine's temporary non-controlled area.

- To resolve legislatively the issue of notifying citizens about court proceedings in cases, when notifying in the usual way is impossible due to the situation of an emergency nature.

The State Judicial Administration:

- to develop a strategy aimed at recovery of availability of justice in Luhansk and Donetsk Oblasts. This strategy should be based on analysis of the situation in each of the courts, on the basis of which either new premises for operation of the courts

must be sourced, or the staff of the courts, which are already in operation, must be made up to fit the demand. While developing the strategy one should proceed from the fact that the number of courts must meet the real demand of the population in the ATO area in defending their rights and interests.

- To resolve the issue of providing service accommodation to the judges, who were forced to leave temporarily occupied areas. To develop a mechanism for the provision of service

accommodation in accordance with the amendments to the law that were adopted in 2014, which give judges the right to such housing.

- To consider the opportunity to provide employment to judges, who were forced to leave temporarily occupied areas, in particular, through employing them in the courts that were transferred/relocated.
- In front of the Parliament and the Government to raise an issue of the necessity of legislative regulation of additional monetary incentives for judges and court office personnel of the courts in Luhansk and Donetsk Oblasts.
- To promote development of video conferencing in courts and provide the courts with all necessary technical equipment in accordance with the data received from analysis of needs of each of the courts.
- To revise the security measures taken in the courts located in the areas close to the line of delimitation, and to complete court security staffing in full.

The Ministry of Infrastructure of Ukraine

- To consider urgently the issue of recovery of infrastructure and providing residents of areas close to the line of delimitation with opportunities of visiting the court personally and communicating with it by mail. In particular, to provide Internet connection in these areas and create postal service pick-up points.

National Bank of Ukraine:

- To promote recovery of operation of banking outlets in the areas close to the line of delimitation.

Ombudsman (The Verkhovna Rada Commissioner for Human Rights):

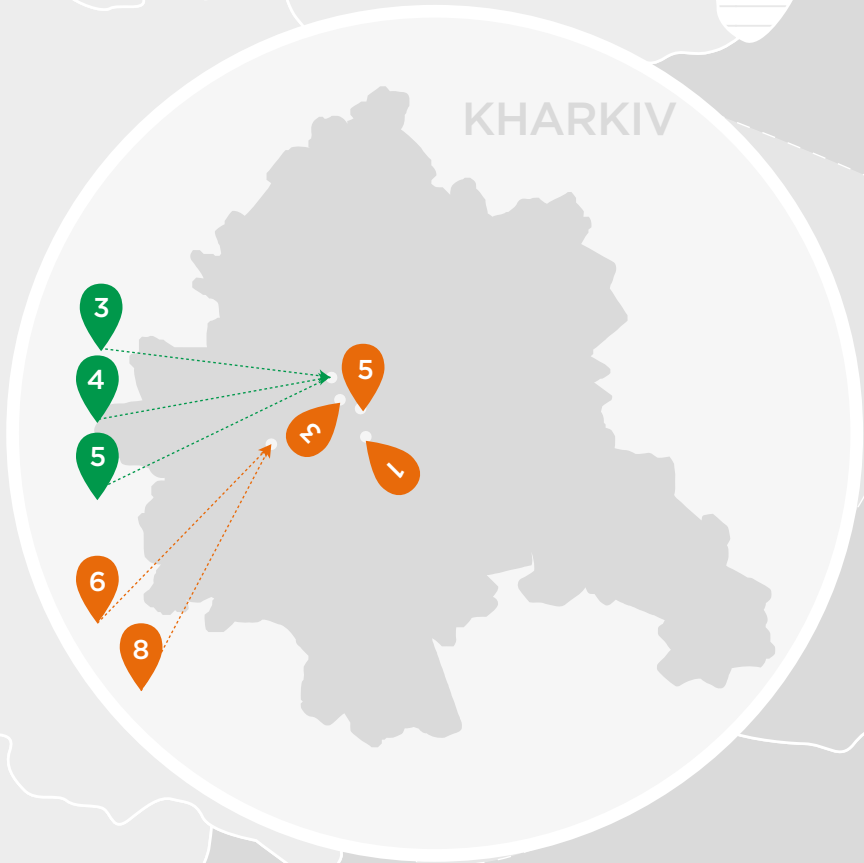
- To carry out monitoring of accessibility of justice in Luhansk and Donetsk Oblasts, basing on the monitoring results to prepare Ombudsman's special report.

International organizations:

- To urge continuously the representatives of organized armed groups of the so called "LNR"/"DNR" and those of the Russian Federation to stop the gross violations of the right to a fair trial of people who are in Ukraine's temporary non-controlled areas.
- To participate in the negotiations as for the return of the archives of the courts of Ukraine, which remained in Ukraine's temporary non-controlled areas.
- The Contact Group on peaceful settlement of situation in the East of Ukraine
- To look for ways to return the archives of the courts of Ukraine, which remained in Ukraine's temporary non-controlled areas. To include this issue in the list of topics for discussion during the meetings of the trilateral contact group in the Minsk process.

Civic organizations:

- To take an active part in monitoring the situation in Donetsk and Luhansk Oblasts, primarily to determine the problems of each court, and in the development of strategies to restore the accessibility to justice in these areas.



KHARKIV

KHARKIV

DNIPRO

44

PAVLOHRAD

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POKROVS

ZAPORIZHIA



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ORIKHIV

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POLOHY

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TOKMAK

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CHERNIHIVKA

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BERDIANSK

PRYMORSK

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PRYAZOVSKIE

EXPLANATORY NOTES

Appellate Courts of General Jurisdiction, Administrative and Economic Courts

Local Courts of General Jurisdiction of Luhansk Oblast

Local Courts of General Jurisdiction of Donetsk Oblast

Temporary dislocation



56

56

Original location



56

56

Current location



56

56

The restored original position



56

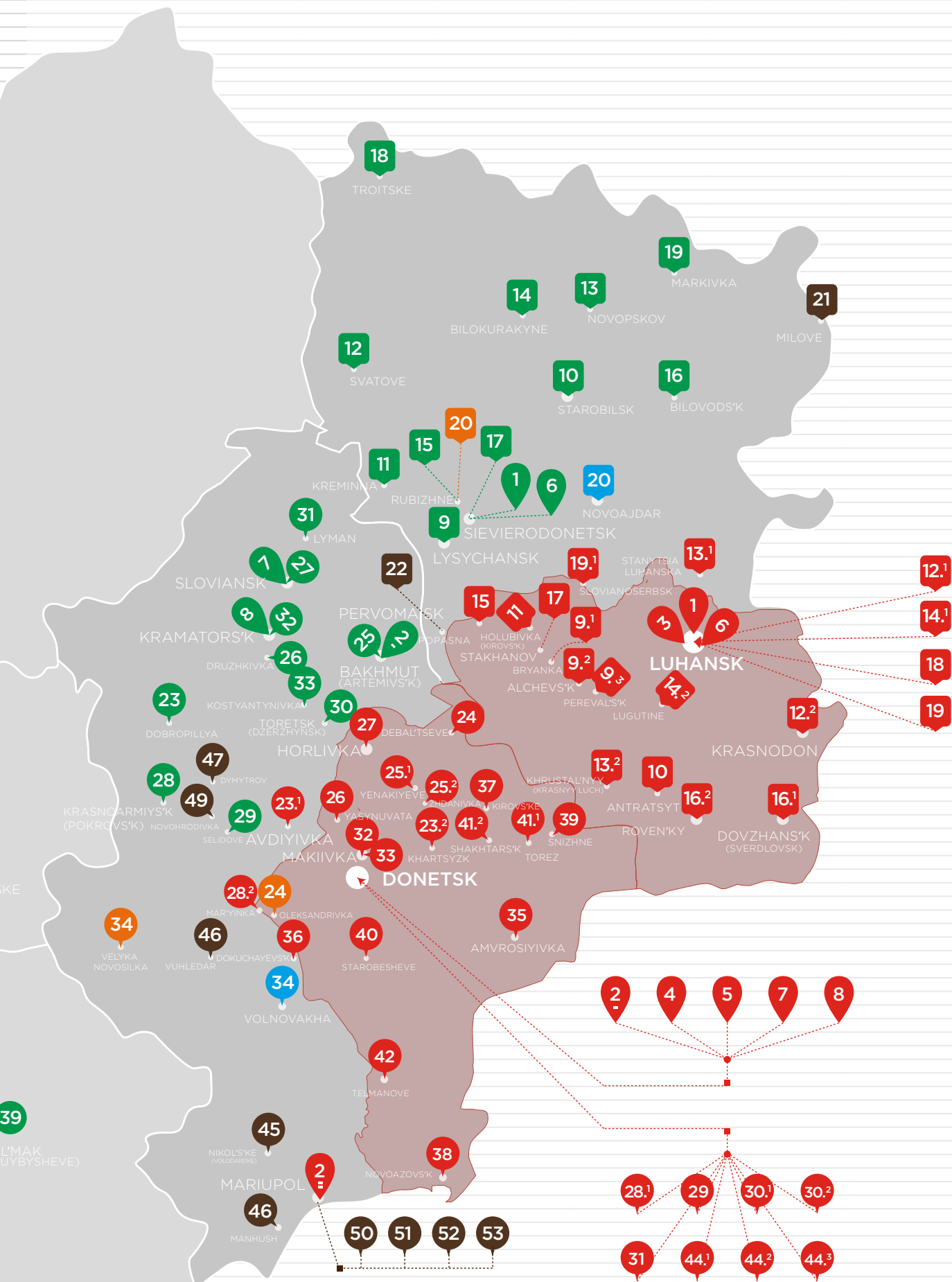
56

Location unchanged



56

56



CHANGE OF JURISDICTION AND RELOCATION OF COURTS FROM NON-GOVERNMENT CONTROLLED AREAS

APPELLATE COURTS OF GENERAL JURISDICTION, ADMINISTRATIVE AND ECONOMIC COURTS

№	NAME OF THE COURT	WHERE AND WHEN WAS JUSTICE EXECUTED
1	Luhansk Oblast Court of Appeals	since 02.09.2014 – Kharkiv Oblast Court of Appeals since 17.02.2015 – operation resumed at the address of 93404, Luhansk Oblast, Sievierodonetsk, 16 Lenina St.
2	Donetsk Oblast Court of Appeals	2.1 Mariupol, 1a Lenina Ave. – operation never suspended 2.2 from 02.09.2014 – to 21.05.2015 (except for cases, criminal proceedings that are subject to or under consideration of Donetsk Oblast Court of Appeals stationed in Mariupol, Donetsk Oblast) – Zaporizhia Oblast Court of Appeals since 21.05.2015 – operation resumed at the address of Donetsk Oblast, Artemivsk, 10 Lenina St.
3	Luhansk Oblast Economic Court	since 02.09.2014 – Kharkiv Oblast Economic Court з 02.04.15 відновлено роботу за адресою м. Харків проспект Леніна, 5
4	Donetsk Oblast Economic Court	since 02.09.2014 – Kharkiv Economic Court of Appeals since 09.04.15 operation resumed at the address of Kharkiv, 5 Lenina Ave.
5	Donetsk Economic Court of Appeals	since 02.09.2014 – Kharkiv District Administrative Court since 27.03.2015 operation resumed at the address of 93411, Sievierodonetsk, 18 Kosmonavtov Ave.
6	Luhansk District Administrative Court	since 02.09.2014 – Kharkiv District Administrative Court since 27.03.2015 operation resumed at the address of 93411, Sievierodonetsk, 18 Kosmonavtov Ave.
7	Donetsk District Administrative Court	since 02.09.2014 – Zaporizhia District Administrative Court since 22.12.2014 operation resumed at the address of Sloviansk, 2 Dobrovolskogo St.
8	Donetsk Administrative Court of Appeals	since 02.09.2014 – Kharkiv Administrative Court of Appeals since 14.11.2014 operation resumed at the address of Kramatorsk, 15 Marata St. (building of School of Art)

LOCAL COURTS OF GENERAL JURISDICTION OF LUHANSK OBLAST

№	OPERATING COURTS	COURTS THAT CHANGED THEIR TERRITORIAL JURISDICTION
9	Lysychansk City Court of Luhansk Oblast	since 02.09.2014 – Btianskiv City Court of Luhansk Oblast, Alchevsk City Court of Luhansk Oblast since 08.12.2014 – Perevalsk District Court of Luhansk Oblast
10	Starobilsk District Court of Luhansk Oblast	since 02.09.2014 – Anratsyt City District Court of Luhansk Oblast
11	Kreminna District Court of Luhansk Oblast	since 02.09.2014 – Kirov City Court of Luhansk Oblast
12	Svativ District Court of Luhansk Oblast	since 02.09.2014 – Leninskyi District Court of Luhansk, Krasnodon City District Court of Luhansk Oblast
13	Novopokrovsk District Court of Luhansk Oblast	since 02.09.2014 – Stanychno-Luhanskyi District Court of Luhansk Oblast, Krasnolutskyi City Court of Luhansk Oblast
14	Bilokurakyne District Court of Luhansk Oblast	since 02.09.2014 – Artemivsk District Court of Luhansk, Lutugyne District Court of Luhansk Oblast
15	Rubizhne City Court of Luhansk Oblast	since 02.09.2014 – Pervomaisk City Court of Luhansk Oblast since 12.09.2014 – по 14.11.2014 Novoaidar District Court of Luhansk Oblast
16	Bilovodsk District Court of Luhansk Oblast	since 02.09.2014 – Sverdlovsk City Court of Luhansk Oblast, Rovenky City Court of Luhansk Oblast
17	Sievierodonetsk City Court of Luhansk Oblast	since 02.09.2014 – Stakhanov City Court of Luhansk Oblast
18	Troitske District Court of Luhansk Oblast	since 02.09.2014 – Zhovtneve District Court of Luhansk
19	Markiv District Court of Luhansk Oblast	since 02.09.2014 – Kamianobridskyi District Court of Luhansk since 12.09.2014 – Sloviанoserbskyi District Court of Luhansk Oblast
20	Novoaidar District Court of Luhansk Oblast	since 14.11.2014 – operation resumed (from 12.09.2014 – to 14.11.2014 jurisdiction area changed for Rubizhne City Court of Luhansk Oblast)
21	Milove District Court of Luhansk Oblast	Location did not change
22	Popasna District Court of Luhansk Oblast	Location did not change

LOCAL COURTS OF GENERAL JURISDICTION OF DONETSK OBLAST

N ^o	OPERATING COURTS	COURTS THAT CHANGED THEIR TERRITORIAL JURISDICTION
23	Dobropilsk City District Court of Donetsk Oblast	since 02.09.2014 – Авдіївський City Court of Donetsk Oblast, Khartsyzk City Court of Donetsk Oblast
24	Oleksandrivsk District Court of Donetsk Oblast	from 02.09.2014 – to 14.11.2014 Debaltsevo City Court of Donetsk Oblast
25	Artemivsk City District Court of Donetsk Oblast	since 02.09.2014 – Yenakiieve City Court of Donetsk Oblast, Zhdaniv City Court of Donetsk Oblast
26	Druzhkivka City Court of Donetsk Oblast	since 02.09.2014 – Yasynuvata City District Court of Donetsk Oblast
27	Sloviansk City District Court of Donetsk Oblast	since 02.09.2014 – Kalynivka District Court of Horlivka, Mykytivka District Court of Horlivka, Tsentralno-Miskyi District Court of Horlivka
28	Krasnoarmiisk City District Court of Donetsk Oblast	since 02.09.2014 – Budionivsk District Court of Donetsk, Kirov District Court of Donetsk since 06.04.2015 – Mariinka District Court of Donetsk Oblast
29	Sediliv City Court of Donetsk Oblast	since 02.09.2014 – Voroshyliv District Court of Donetsk
30	Dzerzhynsk City Court of Donetsk Oblast	since 02.09.2014 – Leninskyi District Court of Donetsk, Proletarskyi District Court of Donetsk
31	Krasnolymanskyi City Court of Donetsk Oblast	since 02.09.2014 – Petrovskyi District Court of Donetsk
32	Kramatorsk City Court of Donetsk Oblast	since 02.09.2014 – Kirovskyi District Court of Makiivka, Sovietskyi District Court of Makiivka, Girnytskyi District Court of Makiivka
33	Kostyantynivskyi City District Court of Donetsk Oblast	since 02.09.2014 – Tsentralno-Miskyi District Court of Makiivka, Chervonogvardiyskyi District Court of Makiivka since 16.02.2015 – Debaltsevo City Court of Donetsk Oblast (from 14.11.2014 to 16.02.2015 operation of Debaltsevo City Court was resumed)
34	Volnovakha District Court of Donetsk Oblast	since 26.11.2014 – operation resumed (from 02.09.2014 to 26.11.2014 jurisdiction area changed for Velyka Novosilka District Court of Donetsk Oblast) Velyka Novosilka District Court of Donetsk Oblast (02.09.2014 – 26.11.2014)

N ^o	OPERATING COURTS	COURTS THAT CHANGED THEIR TERRITORIAL JURISDICTION
35	Orikhiv District Court of Zaporizhia Oblast	since 02.09.2014 – Amvrosiivka District Court of Donetsk Oblast
36	Pologiv District Court of Zaporizhia Oblast	since 02.09.2014 – Dokuchyevsk City Court of Donetsk Oblast
37	Chernigiv District Court of Zaporizhia Oblast	since 02.09.2014 – Kirov City Court of Donetsk Oblast
38	Pryazovsk District Court of Zaporizhia Oblast	since 02.09.2014 – Novoazovsk District Court of Donetsk Oblast
39	Kuibyshevskyi District Court of Zaporizhia Oblast	since 02.09.2014 – Snizhnyansk City Court of Donetsk Oblast
40	Tokmak District Court of Zaporizhia Oblast	since 02.09.2014 – Starobeshiv District Court of Donetsk Oblast
41	Berdiansk City District Court of Zaporizhia Oblast	since 02.09.2014 – Torez City Court of Donetsk Oblast, Shakhtarsk City District Court of Donetsk Oblast
42	Prymorsk District Court of Zaporizhia Oblast	since 02.09.2014 – Telmanivskyi District Court of Donetsk Oblast
43	Pokrovske District Court of Dnipropetrovsk Oblast	з 02.09.2014 – по 06.04.2015 Mariinka District Court of Donetsk Oblast
44	Pavlograd City District Court of Dnipropetrovsk Oblast	since 02.09.2014 – Kyivskyi District Court of Donetsk, Kalyninskyi District Court of Donetsk, Kuibyshevskyi District Court of Donetsk
45	Volodarskyi District Court of Donetsk Oblast	
46	Vugledar City Court of Donetsk Oblast	
47	Dymytrovskyi City Court of Donetsk Oblast	
48	Pershotravnevnyi District Court of Donetsk Oblast	
49	Novogrodivka City Court of Donetsk Oblast	Not relocated
50	Prymorsky District Court of Mariupol	
51	Zhovtnevnyi District Court of Mariupol	
52	Illichivsk District Court of Mariupol	
53	Ordzhonikidze District Court of Mariupol	

IN SEARCH OF JUSTICE



**INVESTIGATION OF CRIMES RELATED
TO VIOLATION OF THE RIGHT TO LIFE,
THE RIGHT TO FREEDOM
AND PERSONAL INVIOABILITY,
FREEDOM FROM TORTURE,
committed in the area of ATO: the shortcomings
of the investigation performance and recommendations
of the human rights activists**

The report is prepared by the Center for Civil Liberties under the auspices
of the Coalition of Public Organizations and Initiatives "Justice for Peace in Donbas"

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INTRODUCTION

In public space one can often hear the assertion that the so-called “liberated territory” (*areas of Donetsk and Luhansk Oblasts which in summer 2014 Ukraine returned under its control*), will be “a showcase of Ukraine”.

Partly these claims are justified: in the case of, for example, city of Sloviansk, which now experiences quite active formation and expansion of civil society bodies and heightened interest in connection with its emblematic stand in the context of the events of 2014–2015; or when it comes to mechanical comparison of territories occupied by illegal armed groups and the areas of Donbas controlled by the Ukrainian government.

However, we must honestly admit that so far Ukrainian Donbas “showcase” is not too attractive. Also due to instances of impunity for those who committed crimes during the occupation of the region by illegal armed groups, as well as during the time of its being already under the control of Ukraine.

In the resolution of the Parliamentary Assembly of the Council of Europe no. 2112 of April 2016, it is stated that “the Assembly with deep concern notes the messages about cases of violations of the right to freedom and the right to a fair trial of those who were detained by the Ukrainian special services or other Ukrainian military battalions, including the volunteer ones. We urge the Ukrainian authorities to investigate all such cases and punish the perpetrators according to the Ukrainian legislation”. The Assembly also notes the need to effectively investigate all cases of gross violations of human rights, regardless of their performers, “to conduct an effective investigation and criminal prosecution of all offenders in cases of

abduction and taking prisoner, as well as to investigate cases of extortion, bribery and corruption, related to the release of captives”¹.

Impunity has been and remains one of the key issues in the functioning of the legal system of Ukraine, as well as shortcomings of compliance with the requirement for transparency, independence, thoroughness, and other criteria for the effective investigation of cases of violations of fundamental human rights. It is recognized in a number of decisions of the European Court of Human Rights, what was repeatedly stated by the authoritative international intergovernmental organizations, directly pointing to “a widespread sense of impunity” among the representatives of law enforcement bodies of Ukraine. It is, above all, about practicing tortures and ill treatment with regard to detainees at the level of district police precincts. In this context, it is appropriate to recall also a number of high-profile assassinations of political and public figures, journalists, which were never properly investigated, and the offenders (*except for a few ones*) still go unpunished.

National Strategy for Human Rights, last year approved by the President of Ukraine, recognizes ineffective investigation into cases of people’s deaths as a systemic problem². This Strategy also noted the lack of effective investigations of crimes involving torture and ill-treatment of detainees, as well as cases of enforced disappearances (*abductions, seizure as hostages*). Ensuring appropriate arrangements for the effective investigation of the violations of the human rights to life, freedom and personal inviolability, as well as protection from torture, was defined as a strategic goal.

Definitely, after the Maidan events 2013–2014, Ukraine faced the issue of impunity and proper investigations in a new way. Currently, the amount of material on various offense episodes during the Maidan events, according to representatives of the victims, contains over 3,000 volumes. The Ukrainian law enforcement system for the first time faced with a large number of crimes that have been committed within the framework of a large-scale and systematic offensive of the government, with the mass deaths of the victims, many victims of violence and a considerable number of unidentified perpetrators.

On the background of unfolding events of the Russia’s “hybrid war” against Ukraine (*2014–2015*) the problem of investigations and impunity has all the more worsened. The amount of offenses committed during the Russia’s annexation of Crimea, and especially with the de facto occupation of the individual areas of Donetsk and Luhansk Oblasts by Russia together with created and supported by it illegal armed groups (*separatists*), is unprecedented for Ukraine.

As is well known, officially Anti-Terrorist Operation (*hereinafter referred to as ATO*) in the East of Ukraine began April 14, 2014. At the same time, the facts of abduction and torture of a significant number of persons in the area were reported since March of that year, since the start of the brutal attacks on pro-Ukrainian rallies under the conditions of mainly inactivity of local law enforcement bodies. Since May 2014, the armed clashes in Donbas with greater or lesser intensity do not stop up to now.

As with any armed conflict, this one is characterized by the violation of the

1 www.eurointegration.com.ua/rus/news/2016/04/21/7048214/

2 www.zakon3.rada.gov.ua/laws/show/501/2015#n15

rights of civilian population, in particular, the rights to life, health, personal inviolability and freedom. These facts have been repeatedly addressed in the reports of both Ukrainian and international human rights organizations. In particular, Center for Civil Liberties in the joint report with the International Federation for Human Rights (FIDH)³ noted that violations of rights of civilian population in Eastern Ukraine constitute both crimes against humanity and, sometimes, war crimes. And this means, among other things, that the investigating units of the National Police of Ukraine (NPU), the Security Service of Ukraine (SBU) and the General Prosecutor's Office of Ukraine (GPU) have to deal with the category of crimes with which they did not deal before these events. The situation complicates the legal controversies caused by the lack of consistent assessment of the events in Donbas as an armed conflict and consistent recognition of all legal consequences of this fact.

One of the indicators of lack of efficiency in conducting investigations in the ATO zone may be the fact that the European Court of Human Rights have begun to receive complaints about crimes of the Ukrainian ATO forces, which claim that the State of Ukraine does not provide effective investigations of the facts of abduction, torture and murder of civilians (e.g. *The Mikhaylov and Others vs. Ukraine Complaint*, No. 60522/15)⁴.

However, the European Court of Human Rights is likely to have to consider complaints against Ukraine, associated not only with the offenses on the part of the ATO forces.

Although the occupied areas are unavailable for the Ukrainian law enforcement bodies and the judiciary (however, the crimes committed there are also registered

by the Ukrainian law enforcement bodies), further on, the international court bodies theoretically could hold Ukraine liable for human rights violations in the armed insurgents controlled areas, which de jure are under the jurisdiction of the State. In particular, in the part of failing to provide necessary actions for the protection of persons, i.e. as for the positive obligations of the country – as it was in the case of a decision of the European Court of Human Rights in the “Ilashku and Others vs. Moldova and Russia” Case (No. 48787/99)⁵. It is about the case of a person illegally detained and sentenced, who was kept on the territory of Transnistria. Although the Court acknowledged that “the territory of Transnistria was actually under the control of Russia due to the hosted there its military detachments and military equipment, as well as its support provided to the “separatists”, “Moldova should be held liable for the specified violations because it had not taken adequate action to stop violations of human rights”.

Even given the fact that in the case of Ukraine, the Verkhovna Rada approved a resolution with a statement on Ukraine's retreat from some obligations specified by the International Covenant on Civil and Political Rights (hereinafter referred to as *the Covenant*) and the Convention on the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as *the Convention*) for the period till complete termination of armed aggression of the Russian Federation⁶, however, this does not absolve the State from liability for non-compliance with the fundamental rights, the inadmissibility to retreat from which is fixed in the Article 4 of the Covenant (*the right to life, prohibition of torture, prohibition of slavery, illegal imprisonment, the principle against the retroactive law,*

the right to recognition of the legal capacity, the right to freedom of thought, conscience and religion) and the Article 15 of the Convention (*right to life, except for cases of death due to legitimate military operations, as well as prohibition of torture, prohibition of slavery and prohibition of punishment without law*).

The occupation of parts of the territory of Ukraine by the representatives of the so-called “DNR” and the “LNR” does not mean that Ukraine “automatically” is not in the least liable for violations of human rights in this territory. Even given the conditions of the armed conflict, the ECHR affirmed that “obligation to investigate exists even in difficult and dangerous conditions, including the conditions of a military conflict”. Including the cases when the events leading to the necessity of investigation take place in an atmosphere of overall violence, and investigators must work in the face of obstacles and difficulties that are forcing them to resort to the less effective methods or cause delays, since the Articles 2 and 3 of the Convention require taking of all necessary actions to ensure effective and independent investigation (*which is a positive obligation of the State*). Even if the complaint in this regard is absent, the investigation must be carried out accordingly upon availability of evidence of ill treatment in the circumstances that make it possible to admit the involvement of representatives of the State. The main goal of such investigation is the effective application of national laws that ensure the right to life and prohibit torture, inhuman and degrading human dignity treatment and punishment in cases related to the State authorities or representatives of the State, and ensuring that the latter to have been made liable for cases of death and ill treatment in which they are guilty.⁷

3 www.fidh.org/IMG/pdf/eastern_ukraine-ld.pdf

4 www.facebook.com/nikolay.zboroshenko/posts/10207821045475447?pnref=story

5 www.zakon3.rada.gov.ua/laws/show/980_344

6 www.zakon5.rada.gov.ua/laws/show/462-19, of 21.05.2015

7 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802f038c>

FOCUS OF THE REPORT

This Report examines the situation of investigations of crimes committed against the civilian population (it is about the violation of the right to life, freedom, personal inviolability and the prohibition of torture) in the conditions of armed conflict in the East of Ukraine. Besides, the Report analyzes the investigation of several events that have signs of crimes associated with the so-called non-combat casualties, i.e. with deaths of combatants (military personnel) that were not caused by the warfare actions.

During the monitoring study in the Ukrainian government controlled areas of Donetsk and Luhansk Oblasts, as well as in other cities of Ukraine there were interviewed persons competent to provide information concerning the investigation of the **following categories of cases:**

With the purpose of preparing this Report in November-December 2015, there were made **4 monitoring visits** by teams of volunteers of the Center for Civil Liberties **to the Ukrainian government controlled areas of Donetsk and Luhansk Oblasts.** In the course

- 1. The investigation of crimes against civilians committed by members of the illegal armed groups** (hereinafter referred to as IAG) of the **so-called “DNR” and “LNR”** in the areas that for a certain period were under their control.
- 2. The investigation of crimes against civilians committed by AFU (Armed Forces of Ukraine) and the National Guards of Ukraine** in the Ukrainian government controlled areas.
- 3. Investigation of non-combat casualties.**

of these on-site visits there were interviewed victims, their relatives, lawyers, representatives of the NPU, GPU, who immediately conduct pre-trial investigation. Further on, the monitors liaised with some of these respondents for updates about the progress of investigation of the relevant incidents. The Report materials also included data from the studies on a relevant topic previously conducted by the representatives of the Center for Civil Liberties. In addition, the Report included materials collected from open sources, as well as the information provided by competent authorities in response to requests of the authors of the Report.

The following below is a list of criminal proceedings that were examined in the framework of this Report. At the same time, it is worth noting that in this list there are specified those cases, which monitors pay their special attention to. Other cases that also attracted the attention of the researchers are mentioned in passing in the study.

Topics that have not been addressed in this report, but require additional study

1. The investigation of the crimes of similar categories committed within the line of delimitation, i.e. de facto in a war zone.
2. The investigation into possible criminal offenses regarding the Russian citizens detained in Ukraine. It should be noted that the message in the mass media with reference to the information sources of the SBU and the GPU⁸, as of February 2016, 136 citizens of Russia were convicted in committing crimes under the articles of the Criminal Code of Ukraine, which assume responsibility for crimes against the basics of national security of Ukraine, attempted disruption of its territorial integrity and inviolability, terrorist activity. In this regard, the cases against 36 of them were brought to Court, as well as 7 convictions were delivered. The author of the referred material, a Russian journalist Yegor Skovoroda, at the same time notes that it is often impossible to identify whether the convicted (detained) persons stay up to this time in Ukraine, or have been released in exchange and transferred to the Russian Federation.
3. The investigation of crimes committed in the areas occupied by the IAG as for which information, statements or claims are coming to law enforcement bodies of Ukraine.

THE AIM OF THE REPORT

The presented Report does not claim to be absolutely complete and all-round, in the first place, because of the vast array of crimes that are in the focus, and a rather scarce resource of researchers, and, secondly, because of the limited access to the information concerning the performance of pre-trial investigations.

The aim of the Report is not criticism for the sake of criticism, but a constructive impact on the situation through analysis of trends in the investigation of specific crimes related to the violation of human rights in the context of the armed conflict in the East of Ukraine, as well as the elaboration of recommendations to enhance the effectiveness of such investigations. Further on, it implies their implementation by the competent authorities of Ukraine.

In addition, **the Report focuses on those criminal proceedings, the investigations of which are considered flawed**, which does not mean the absence of successful investigations. But the purpose of the study is not to highlight successes of investigators, but to identify problem areas, as well as in further finding ways to eliminate them.

OVERALL SUMMARY

The investigation of the crimes, which have become the subject of the study, **whoever they were committed by, currently do not meet the criteria of effective investigation as specified by practice of ECHR.** It is associated with both objective and subjective reasons.

THE OBJECTIVE REASONS

The **objective reasons** lie, above all, in the lack of capacity – technical, material and human resources, as well as experience of conducting pre-trial investigation of such scale and categories of international crimes. In addition there is a general problem of insufficient qualifications of the investigators and the functional incapacity of the pre-trial investigation agencies against the background of the complexity of the events in the East of Ukraine (“a hybrid war”) and the unpredictability of the situation in these areas. The bulk of the crime investigations in the Donetsk and Luhansk Oblasts falls on the shoulders of local law enforcement bodies in the Ukrainian government controlled areas, where the level of availability and competence is rather low even compared with the relatively moderate level of the capital city, the staffing of the law enforcement officers, including investigators, after the events of 2014 (*conversion of some law enforcement officers to the side of the so-called “DNR” and the “LNR” as well as a partial dismissal from service*), by this time has not been completed, reevaluation of employees has not been held.

THE SUBJECTIVE REASONS

Among the **subjective reasons** is the lack of motivation on the part of law-enforcement system due to unpredictability of the ongoing armed conflict, mutual protection among law enforcement officers, unclear prospects for implementation of amnesty for certain categories of persons, as well as corruption and the presence of a system of personal off-duty (*family, friendly*) relations with the potential performers of crimes.

It is important to emphasize that the named reasons cause shortcomings of the investigation of criminal offenses committed both by the IAG of so-called “DNR” and “LNR” and members of the ATO forces.

It should be emphasized that a high level of political bias is still inherent to the pre-trial investigation officials, regardless of what cases it is about. Among law enforcement officers and investigators there are few of those who are willing to investigate without regard to the political situation. This significantly hangs in balance the ability of investigating bodies to conduct quality investigations and complicates the process of restoring justice. And the lack of structural and

institutional changes in the economy of the region, though not immediately related to the subject of this Report, is directly connected with the problem of impunity, since it provides a monopoly of certain groups of influence, which through the agency of certain powers controlled by them can be privy to the most serious violations of human rights in recent years both on the part of illegal armed groups and pro-Ukrainian forces.

Under such conditions it is difficult enough to speak reasonably of a **process of national reconciliation. The risks associated with a possible announcement of amnesty under Minsk Agreement** are also increasing in view of the considerable number of unidentified performers of acts that could potentially qualify as crimes against humanity or war crimes. To conduct an amnesty that does not admit any chance of impunity for persons who committed felonies, **a quality investigation and fair legal proceedings** for all the facts that have taken place must be provided. Thus, Ukraine must urgently take actions to enhance the effectiveness of the investigation of crimes in the area of ATO.

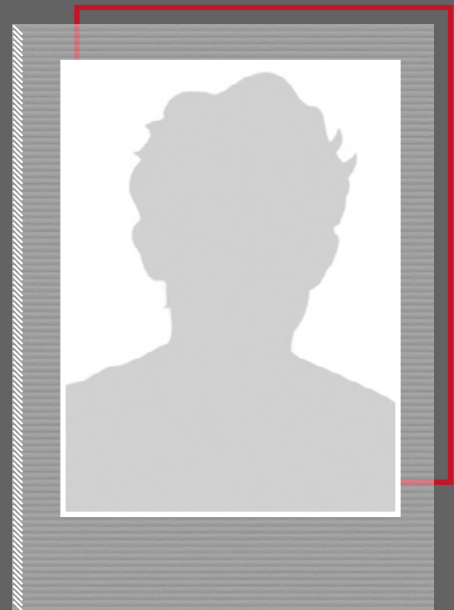
PROFILES OF VICTIMS

(IN ALPHABETICAL ORDER)

The **GLADCHENKO** Case

Repeatedly during the period from the summer to winter 2014 faced with extortion of money from him on behalf of local legal counsel Ch. (from who O. Gladchenko borrowed funds for sowing season), as well as beatings and threats of physical violence over all his family with the participation of “people in uniform armed with automatic guns, who introduced themselves as AFU”. O. Gladchenko claims that these were the persons who belonged to the Aydar battalion (one of them introduced himself by the name of Aram, who according to the victim is a local resident and was previously involved in next-to-criminal circles, and was acquainted with Ch.). Documents of theirs they never produced, however, their car plates with Aydar sign identified them as belonging to the battalion, as well as the appropriate signs on their camouflage uniform. Though, during one of the visits they introduced themselves as “Pravyi Sektor” (Right Sector) battalion. Included in the above, these armed individuals assaulted O. Gladchenko by beating, engaged pressure with the use of physical force and threats. This practice managed to stop due to the intervention of other fighters of Aydar battalion that contributed to the police efforts resulting in the arrest of three persons of those participated in criminal acts (Aydar battalion stated that these people do not belong to the battalion). However, what happened next with the investigation of the case (and whether at least any kind of investigation was made) neither de facto the victim nor his representative are not aware of. According to the victim, as of mid-April 2016 the detained persons were not kept under custody (but O. Gladchenko had not been officially notified of it), none of them was given a writ of suspicion of committing a crime. Participants in the attacks, according to some information sources, continued serving in various military units.

№1



GLADCHENKO
Oleksandr
Oleksandrovych



B.: 1983



PLACE: Bilokurakine
Luhansk Oblast



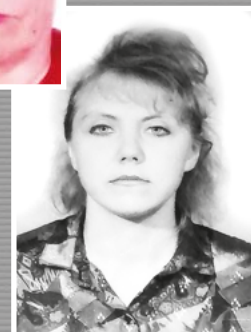
businessman

The **DOROHINSKYI**

Family Case

June 14, 2015 Zinaida Mykolaivna Dorohinska and Ganna Ivanivna Dorohinska, residents of Luhanske, Bahmut Diŝtriĉt of Donetsk Oblaŝt, were killed by shots in the head with automatic weapons. According to the Prosecutor's Office, the murder was committed by two members of the AFU – B. and K. with the weapon, which was assigned to K. Before they made an illegal entry into a dwelling of Dorohinskyis – according to their words, with the purpose of finding members of illegal armed groups. The police and the Prosecutor's Office have different versions as to who exactly made the shots in both women that caused their deaths. According to the police version it was B., according to the Military Prosecutor's Office it was K. An adolescent child, a relative of the murdered women, is recognized as the victim in this case. Both of the suspects are currently in pre-trial detention facility of Bahmut, the lawsuit is continuing.

№2



The case was investigated by the Bakhmut PD MONP (*Police Department of National Police Head Office*) of Ukraine in the Donetsk Oblast. Proceedings guidance is provided by the Military Prosecutor's Office of the Donetsk garrison. Qualification: items 1, 12 of part 2 of article 115 of the Criminal Code of Ukraine (*hereinafter referred to as the CCU*) («*Intentional wrongful causing death of two persons, committed under prior conspiracy of a group of persons*»), part 2 of article 162 of the CCU («*Illegal entry into a dwelling with the engagement of violence*»).

DOROHINSKA

Zinaida Mykolaivna



B.: 1970

DOROHINSKA

Ganna Ivanivna



B.: 1938



PLACE: **Luhanske**
Bahmut District
of Donetsk Oblast

The **KOZIUBERDA** Case

Volodymyr Ivanovych Koziuberda, resident of Rubizhne of Lugansk Oblast was abducted on June 22, 2014, by the members of the IAG "Prizrak" ("ghost"), was kept on the territory of JSC "Lysychansky Glass Factory, along with his son, who was taken in captivity with the purpose to lure out Volodymyr himself. V.I. Koziuberda was demanded to fight on the side of the so-called "LNR." He was released from captivity on June 26, after long beatings and torture, which, however, did not force the man to agree to take part in the war operations. The pre-trial investigation in criminal proceedings on the fact of illegal imprisonment of V.I. Koziuberda and his son is being performed under part 2 of article 146 of the Criminal Code of Ukraine. A.V. Kharchenko, who is suspected of committing the crime, is currently a fugitive from the investigation. According to the Prosecutor of Rubizhne, police is carrying out operational search actions aimed at identifying his location. According to V.I. Koziuberda himself, Kharchenko was involved in his abduction. However, whether any investigative actions are being currently taken to investigate into what was happening after abduction - namely the illegal detainment in the premises of the glass factory, torture, beatings, the victim is not notified of.

№3



KOZIUBERDA
Volodymyr Ivanovych



B.: 1960



PLACE:
Rubizhne
of Lugansk Oblast



businessman, car mechanic

The investigation is conducted by the Rubizhne City Dept. of NPU in Luhansk Oblast. Qualifications: part 2 of article 146 the CCU ("Illegal imprisonment or abduction committed against a minor or with selfish motives, against two or more persons, or by prior conspiracy of a group of persons, or in a manner dangerous to the life or health of the victim, or so that is accompanied with causing physical suffering, or with the use of weapons, or exercised for a long time").

The **Koštakov** Case

№4

Serhii Yuriyovych Koštakov, b. 1972, senior soldier of reconnaissance unit of the 72-nd mechanized infantry brigade, disappeared November 22, 2014 in the area of ATO in Volnovakha, Donetsk Oblast. S.Yu. Koštakov was an active public figure, known under the call sign “Maestro”, had a heightened sense of justice and repeatedly warned commanders about his intentions to disclose information about their illegal activities. On the day of disappearance (22.11.2014) it was the last time Serhii communicated with his wife, informed via phone that he has drawn up a transfer from the 72nd Brigade to the newly formed 81st Airborne Troops Brigade. On the night of 22 to 23 November 2014 Serhii was last seen alive at the checkpoint on the 177 km of the Slaviansk-Donetsk road (city of Volnovakha) which was protected at the time and is protected now by employees of the “Kyiv-2” special purpose battalion of patrol militia force. Serhii was beaten and cuffed to a radiator. Six months later, on June 2, 2015, in the Volnovakha District near the village of Prokhorivka there was found a body of a military with present in the skull holes of at least 20 bullet hits, indicating intentional murder, the hands were cuffed.

Criminal proceeding on this fact was investigated by the Prosecutor’s Office of the Donetsk Oblast, at the moment – it is under examination by the General Prosecutor with the purpose of determining its jurisdiction. Qualifications: article 115 of the CCU («premeditated murder”).



KOSTAKOV Serhii Yuriyovych



B.: 1972



PLACE:
Volnovakha
Donetsk Oblast



senior soldier
of reconnaissance
unit of the 72-nd
mechanized infantry brigade

The **Melnykova** Case

Antonida Fedorivna Melnikova, b. 1957, resident of Lysychansk of Luhansk Oblast, head of the DEC (*District Election Commission*) of the territorial electoral district No. 110 on the election of the President of Ukraine (*May 2014*), was abducted on the eve of the election day on May 24, 2014 by the members of the IAG of "LNR", namely "Prizrak" group, which at the time based on the territory of JSC "Lysychansky Glass Factory". She was released on the same day after she handed over the seal of the DVC to the militants. During her time in captivity the woman suffered physical injuries. A.F. Melnikova filed a statement about the crime committed against her on the 5th day after the liberation of the city, on July 29, 2014. According to the woman, after that she was questioned, but at this point the investigation stalled until there appeared critical materials in the press. Eighteen months after the crime was committed she was again questioned with visiting the premises of the glass factory.

№5



The accident is investigated by Lysychansk OP GUNP in Luhansk Oblast. Previous qualifications: art. 157 of the CCU («*Obstruction to the exercise of electoral right*»), later on, the qualification was changed for art. 146 of the CCU («*Illegal imprisonment or abduction of a person*»).

MELNIKOVA Antonida Fedorivna



B.: 1957



PLACE:
Lysychansk
Luhansk Oblast



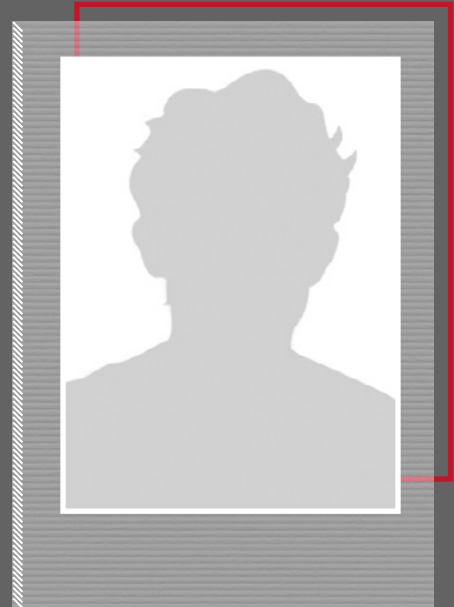
lawyer

The **Moskaliuk** Case

Oleksandr Gryhorovych Dudnik, b. 1974, and his wife Olga Semenivna Moskaliuk, b. 1974, the residents of Shchaſtia, Luhansk Oblast, September 17, 2014 became a victims of violent armed attack. According to the representatives of the injured party it was committed by the soldiers of the Aydar 24th battalion of territorial defense, E. and a soldier with a call sign "K.". Threatening with weapons, they stormed into the courtyard of the house of the victims in Shchaſtia, 29 Pervomaiska St., wounded Olga Moskaliuk with a gunshot, abducted Oleksandr Dudnik, took away their car, money in the amount of 5000 UAH, property owner's documents. The next day the same persons tried to steal other valuable things from the same house. Then, under the threat of committing to victims further criminal offences, for a month period of time E. had been demanding Alexander Dudnik to buy an apartment for his mother-in-law Natalia Dudnik, who is also an ex-wife of Oleksandr. When this demand had not been satisfied on February 16, 2015, E. together with two other militants with call signs "S." and "B.", armed with assault rifles, again invaded the house of the victims, abducted them and transported to a forest plantation located near the village Peredilsk of Stanichno-Luhanskyi District of Luhansk Oblast. They murdered Oleksandr and Olga by shooting with an automatic gun. In a while Natalia Dudnik moved into the house, where the murdered persons lived before. For a long time the victims were considered missing. Their bodies were found only in June 2015.

Criminal proceedings under conviction of E. were performed by the Military Prosecutor's Office of Luhansk garrison of the Southern Region of Ukraine (located in the city of Rubizhne, Luhansk Oblast), the charge on one of the three attackers was transferred to the Novopetrovsk District Court. However, the defense of the accused put forward a legal refusal over the whole composition of the Court, which was granted with the case sent to the Court of Appeals of Lugansk Oblast for determining its jurisdiction. Qualification: art. 115 of the CCU («Intentional murder»), art. 146 of the CCU («Illegal imprisonment or abduction of a person»).

№6



DUDNIK
Oleksandr Gryhorovych



B.: 1974

MOSKALIUK
Olga Semenivna



B.: 1974



PLACE:
Shchaſtia
Luhansk Oblast

The **Nazdrychkin** Case

Volodymyr Mylolaievych Nazdrichkin, b. 1965, 20.11.2014, was detained near the checkpoint "Bugaz" (Volnovakha, Donetsk Oblast) by the servicemen of the "Kyiv-2" special purpose battalion of patrol militia force". According to representatives of the injured party, the soldiers of this battalion, brought the man to the checkpoint, chained to a radiator, brutally beaten. Beaten and battered V.M. Nazdrychkin died of injuries. His body was driven out and thrown in a place across the village Dmytrivka, Volnovakha Diŝtriĉt, Donetsk Oblast, where the body was found November 21, 2014.

Nº 7

Criminal proceeding on this fact is under examination of the General Prosecutor's Office for establishing its jurisdiction. Qualifications: article 115 of the CCU («premeditated murder”).



NAZDRICHKIN Volodymyr Mylolaievych



B.: 1965



PLACE:
Volnovakha
Donetsk Oblast

The Petrovskyi Case

Oleksii Volodymyrovych Petrovskyi, b. 1978, currently a resident of Irpin, Kyiv Oblast, by the beginning of ATO resided in Donetsk. He was brutally beaten on July 7, 2014 while crossing the “border” between Donetsk and Dnipropetrovsk oblasts after being checked at the Ukrainian checkpoint. The persons who carried out the attack, were in the black Jeep off-roader, which blocked the road for the victim’s car. The attack was carried out by about 12 persons armed with automatic guns and bats with no ID signs. In the accident, the persons who carried out the beating, voiced charges on him that he allegedly stole the car, in which he was driving out of Donetsk, since the vehicle did not belong to him, though O.V. Petrovskyi had all documents and a duly executed power of attorney. In addition, they accused him of separatism. This group was managed by a person with a call sign Khan. Also in the group there was some person called Kušt (possibly, «Hušt»). After getting beaten O.V. Petrovskyi with a bag on his head was brought to the basement of a residential building where he was kept by armed persons without distinguishing marks, some of them were in a civilian outfit. Among those who were guarding him, there was some person called Gnom. Probably, it can be about the person who later turned out in the grip of the “Pravyi Sektor” (“Right Sector”) . On the third day the man was freed, the car and his personal belongings were returned, except for a netbook, mobile phones, terrestrial telescope and money in the amount of three thousand UAH (total material damage amounted to UAH 8100). According to the victim, it was exactly the “Pravyi Sektor” he was held up by, presumably in the premises of a recreation facility owned by Communal Enterprise “Vodokanal” on the outskirts of Dnipropetrovsk. The victim claims that while in the basement, he heard how the recruits were administered an oath, of what he also informed the investigator when interrogated. While being released O.V. Petrovskyi was informed that he matched the “orientation” on some of the kidnappers of children, and that the soldiers “overdone”.

№8



PETROVSKYI
Oleksii Volodymyrovych



B.: 1978



PLACE:
between Donetsk
and Dnipropetrovsk
oblasts

The investigation is performed by the NPO (National Prosecutor's Office) of Ukraine in Dnipropetrovsk Oblast. Qualifications: December 10, 2015, on the application of O.V. Petrovskyi criminal proceedings were launched, the preliminary qualification – part 2 of article 146 of the CCU (“Illegal imprisonment or abduction committed against a minor or with selfish motives, against two or more persons, or by prior conspiracy of a group of persons, or in a manner dangerous to the life or health of the victim, or is accompanied by causing him physical suffering, or with the use of weapons, or exercised for a significant period of time”).

The **Podushkin** Case

Dmytro Podushkin, b. 1967, a resident of Kramatorsk, Donetsk Oblast, is the owner of the Kramatorsk airport, in which in spring 2014 there were deployed certain units of the AFU, special forces of the SBU (“Alpha” and “Omega” units) and the headquarters of the ATO. May 10, 2014 D.V. Podushkin was captured by unknown individuals at a checkpoint, controlled by the so-called “DNR” His detention took place, judging from available information, in connection with “blacklisting” of his name. D.V. Podushkin was delivered to the premises of Kramatorsk temporary detention facility. In this premise the man together with other people was held for 56 days, and was released July 5, 2014, on the day when the Ukrainian government regained its control over Slaviansk.

Nº 9



The accident is investigated by the Kramatorsk PD MONP (*Police Department of Main Office of National Police*) of Ukraine in Donetsk Oblast. Procedural supervision is carried out by the Kramatorsk local Prosecutor’s Office. Qualifications: part 2 of article 146 of the CCU (*“Illegal imprisonment or abduction committed against a minor or with selfish motives, against two or more persons, or by prior conspiracy of a group of persons, or in a manner dangerous to the life or health of the victim, or is accompanied by causing him physical suffering, or with the use of weapons, or exercised for a significant period of time”*).

PODUSHKIN

Dmytro



B.: 1967



PLACE:

Kramatorsk
Donetsk Oblast



owner of the
Kramatorsk airport

The Victim from Pisky Case

The Victim from Pisky Case, b. 1977, a resident of village of Pisky, Donetsk Oblast (during the period of military operations he left for Dobropillya due to complete destruction of his housing as a result of the warfare), was abducted, in his own words, by the soldiers of "Pravyi Sektor" battalion on September 11, 2014 and brought to the premises of the "Evroplast" plant. There he was given an order to disassemble equipment of the enterprise presumably for its evacuation. After his refusal he was beaten by two military men, and the third one released a burst of gun fire on the feet of the victim. As a result, A. got a splinter fracture in the right ankle, displacement and fracture of the right humerus, one bullet still remains in his leg (he cannot get due surgery treatment because of a lack of funds), the two other bullets went right through. He was delivered to a hospital in Selidovo by a representative of the same battalion - commander of the soldiers, who committed violence against him. During his stay in the hospital the victim was visited by enforcement officers of Selidovo, who registered the criminal proceedings. Further on, the proceedings were transferred to Druzhkiv Prosecutor's Office Administration in Donetsk Oblast for investigation.

№ 10



(the name is not disclosed
for victim's security reasons)

Within the framework of the criminal proceedings the case is investigated by the Druzhkiv Prosecutor's Office Administration in Donetsk region. Qualifications: part 2 of article 15, part 1 of article 115 of the Criminal Code of Ukraine ("Attempted murder").



PLACE:
Dobropillya
Donetsk Oblast

The **Reznichenko** Case

Ivan Ivanovych Reznichenko, a resident of Soledar, Donetsk Oblast, Deputy of Soledar City Council from the “Batkivshchyna” Party, head of the Independent Trade Union of Miners of Ukraine at “Artiomsil” State Enterprise, was renowned for his pro-Ukrainian position. Disappeared during the occupation of the area by the illegal armed groups on June 21, 2014 (although the city of Soledar has not been under severe control of militants, but they came here in fact unhindered, also here the so-called «referendum» was held), the body was found only 7 months later, on January 18, 2015, due to the own investigation of his close associate, a Deputy of the Soledar City Council, Roman Makhnyk. The body was found in one of the depleted gypsum mines in the farmstead of Striapivka, with traces of firearms injuries and knife hits in the neck.

Members of Reznichenko’s family were not informed of any single court session held with regard to this case. They were also not recognized as an injured party.

The accident is investigated by the Bakhmut Police Department of MONP of Ukraine in the Donetsk Oblast. Qualifications: part 1 of art. 115 and part 1 of art. 289 of the CCU (“Premeditated murder combined with illegal acquisition of a vehicle”). Proceedings guidance was performed by the Bakhmut local Prosecutor’s Office, the decision in the case was made by the Bakhmut City District Court.

№ 11



REZNICHENKO

Ivan Ivanovych



B.: 1960



PLACE:
Soledar
Donetsk Oblast



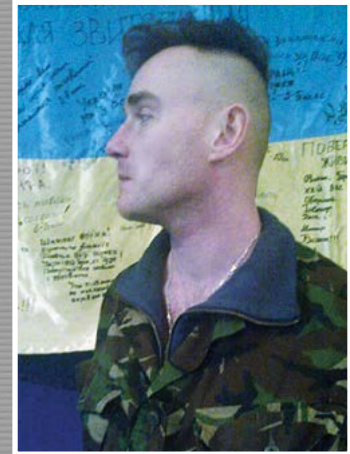
Deputy of Soledar
City Council

The **Shabratskyi** Case

№12

Dmytro Sergiyovych Shabratskyi, military serviceman of the 24th Independent Assault Battalion (*pseudo name - Aйдap*), squad leader of the 3rd subversive-intelligence company, was found dead in the territory of a military unit that was based in the premises of a service station on the outskirts of the city of Lysychansk (*345 Chervona St.*) March 26, 2015 (*Military Unit B-0624*). The Certificate on cause of death says: “a penetrating firearms perforating wound in the head with multiple skull fractures over the brain and face areas.” The death was caused with a gunshot in the head with a Kalashnikov assault rifle, as well as the explosion of a grenade, in the medical examination statement there is also a mention of a gunshot wound in the thigh. D.S. Shabratskyi’s parents insist that their son was murdered, and the death is related to his conflict with the *de facto* leadership of the company, which was based in Lysychansk at that time. The investigators allegedly checked a version of premeditated murder, but from the beginning it stood for a version of suicide. At the time when this Report was already completed, we became aware of the closure of the criminal proceedings on the fact of death of D.S. Shabratskyi. The investigator made his decision based on the ground of the alleged absence of *corpus delicti* (*item 2 of part 1 of article 284 of the CCU*), claiming that “D.S. Shabratskyi’s death came as a result of suicide”. The victim party’s counsel challenged the closure of criminal proceedings.

Pre-trial investigation on signs of offenses stipulated by part 1 of article 115 (“*Premeditated murder*”) and art. 120 (“*Driving to suicide*”) of the CCU is carried out by the Lysychansk PD MONP (*Police Department of Main Office of National Police*) of Ukraine in Lugansk Oblast. Procedural guidance is performed by the Military Prosecutor’s Office of Luhansk garrison of Southern region of Ukraine (*located in the city of Rubizhne, Luhansk Oblast*). An occupational investigation on the circumstances of the D.S. Shabratskyi’s death was not conducted.



SHABRATSKYI Dmytro Sergiyovych



B.: 1987



PLACE:
Lysychansk
Lugansk Oblast



military serviceman
of the 24th Independent
Assault Battalion (Aidar)

PRE-TRIAL INVESTIGATION AND THE CRITERIA OF ITS EFFECTIVENESS

Today in Ukraine there are four State agencies in operation, investigative units of which are authorized to carry out the pre-trial investigation: The National Police of Ukraine, Security Service of Ukraine, bodies that exercise control over the observance of tax legislation and the State Bureau of Investigation (before the moment of its formation – Prosecutor’s Office). The Prosecutor’s Office supervises and provides procedural guidance during the pre-trial investigation, which is conducted by other investigative bodies, and supports State prosecution in court.

The progress of pre-trial investigation is determined by the Criminal Procedural Code of Ukraine. It begins as soon as the Prosecutor or investigator logs the information into the Unified Register of Pre-Trial Investigations within twenty four hours after the receipt of notice of an event that incorporates signs of alleged commission of a crime. NPU conducts pre-trial investigation of all criminal offenses, other than those attributed to the jurisdiction of other bodies of the pre-trial investigation. The SBU (*Security Service of Ukraine*) investigates, in particular, statements about alleged crimes committed against national security, peace, international order and territorial integrity of the State.

Upon receipt of sufficient evidence that allows assuming the identity of the suspect in a criminal case, the suspect is given a written notice of suspicion. A pre-trial investigation ends in case of closure of criminal proceedings, or when the Court receives one of the following documents – a bill of indictment, a request for application of coercive actions of medical or educational character, or a petition for the release of a person from criminal liability.

It should be noted that in criminal proceedings subjected to the analysis in the course of this study, the majority of the above criteria has not been met.

This algorithm simultaneously has to meet the minimum criteria of efficiency of investigation, stipulated by certain practices of the ECHR¹⁰:

- independence and impartiality (objectivity),
- efficiency and thoroughness (bona fides),
- timeliness and the absence of delays in time,
- adequate competence,
- the involvement of the victim,
- sufficient awareness of the public.

10 www.info-prensa.com/article-1107.html Criteria for the effectiveness of the investigation of the facts of ill treatment: a review of the case practices of the European Court on Human Rights, in particular in cases against Ukraine. V. Kasko

GENERAL ASSESSMENT

In order to understand how to change the scope of registration and pre-trial investigation of criminal offenses (and whether they've changed at all), the researchers applied to the **Prosecutor's Office in Donetsk and Lugansk Oblasts, the Main Office of the National Police of Ukraine in both oblasts, as well as to the regional offices of the State Court Administration of Ukraine in Luhansk and Donetsk Oblasts** with inquiries on the number of applications and criminal proceedings registered in the URPI (Unified Register of Pre-Trial Investigations) on the facts of commitment of crimes stipulated in the following articles of the Criminal Code of Ukraine: 146 ("Illegal imprisonment or abduction"), 121 ("Intentional grievous bodily injury"), 122 ("Intentional moderate bodily injury"), 125 ("Intentional slight bodily injury"), 126 ("Beatings and battering"), 127 ("Torture"), as well as on the number of completed pre-trial investigations and approved sentences in these categories of proceedings **during the period from January 1, 2012 to November 01, 2015.**

Responses to these queries we have at our disposal, allow to make the following conclusions¹¹.

¹¹ Original documents provided in the Ukrainian version of the Report
www.bit.ly/29V9Q2r

LUHANSK OBLAST

Local general courts of Luhansk Oblast during the year of 2012 and a period of up to the end of 2015 had delivered no single judgement of not guilty on these articles. But, without grasping the context of the events of the last time, from the overall statistics it would be difficult to conclude that in the area there is an ongoing armed conflict with massive violence to the civilian population. At least the information on the delivered judicial sentences almost does not bear any trace of it.

Particularly noteworthy is the fact that, despite the scale of abductions and torture in Luhansk Oblast, over the period of 2014–2015 the local courts delivered only one sentence under the art. 146 of the CCU (“Illegal imprisonment or abduction”) and — under article 127 of the CCU (“Torture”).

This data is worth comparing to the information provided by the National Police in Luhansk Oblast.

In statistics of the law enforcement bodies the application of the article 127 of the Criminal Code (“Torture”) is limited to some rare cases. Unlike the Donetsk Oblast (*see below*), in Luhansk region in 2013 there were recorded 4 cases of such offenses, pre-trial investigation materials on the same offenses were delivered to Court with indictment. But in 2014, contrary to events in the region, there were reported only 3 offenses. At that, none of the cases was sent to court, which corresponds to the information of the State Court Administration. In 2015 the number of recorded cases rises to 7. At that, one of the proceedings is closed, one is sent to Court. At the same time, as the data from the judicial statistics show, no judicial sentences as of the end of 2015 were delivered.

At the same time, the number of recorded criminal offenses under art. 146 (“Illegal imprisonment or abduction”) in Luhansk region rises dramatically along with the beginning of the ATO. As of May 2014 it is 40 cases, in June their number rises to 105, in July — to 202, in October — to 539. Further on, growth rates are slowing down considerably (*as of December 2014 there are only 569 recorded offenses that is 33 times more than statistics of 2013 under the same article of the Criminal Code*). At that, the number of closed proceedings is growing proportionally (*before the end of 2014, there are nearly 100 of them*), but to Court only a few ones were delivered — 9 materials of criminal proceedings for the whole year of 2014. In 2015 the number of recorded criminal offenses under art. 146 of the CCU is reduced fourfold — to 143 (*although we have statistics for part of the year, namely, for 10 months*). Performance indicators of the specified kind of criminal offences still remain high (*almost 10 times higher*) if compared with “pre-war” time. At the same time, consistently low is the number of completed pre-trial investigations sent to Court with indictment (*during a part of 2015 there were 6 of them, while 16 proceedings were closed*).

Returning to judicial statistics, it is worth reminding that for two years there has been delivered only one conviction, where the remaining criminal cases have gone remains a mystery.

Paradoxically, the number of convictions under art. 126 of the CCU “Beating and torture” is significantly reduced compared with “pre-war time”: 9 and 2 respectively in 2014 and 2015 as compared with 14 in 2013. This trend is also reflected in the statistics of the NPU. The number of recorded offenses qualified as “Beating and torture” surprisingly decreases from

233 in 2013 to 84 in 2014. To Court only 34 cases were delivered (*in 2013–118*) and 166 proceedings were closed. In 2015 these are already rare cases, their number reaches the level even lower than that in pre-war time (*as of October, 2015–8 cases, materials of 3 proceedings directed to Court, 30 proceedings are closed*).

In 2014 the intensity of the recorded offenses related to bodily injuries of varying severity also decreases. While in 2013 those were about 4600, at the end of 2014 around 2500 were on record. Also significantly fewer proceedings were brought to Court: 600 as compared with about 1800 in 2013.

In 2015, the amount of the recorded offenses under articles 121, 122, 125 of the CCU is significantly reduced. For example, as of the middle of the year (*June*) their number equals the number of the recorded offenses only for one month of 2014 (*even before the beginning of armed conflict*). As at October 2015, their total number reached 230 (*for comparison, as of October 2014 it was about 2460 cases*), materials of only 231 proceedings were sent to court that is three times less as compared with the statistics of the previous (2013) year and almost 3 thousand proceedings related to bodily injury were closed.

Number of judicial sentences in cases of causing light bodily injury is same way dropping in 2014–2015 accordingly: 253 in 2013, 182 in 2014 and 151 in 2015. Regarding the judicial sentences related to bodily injury of medium severity, their peak same way falls upon the year of 2013 (32), and in 2014 and 2015 the number of sentences decreases to 22 and 19 respectively. The number of sentences under art. 121 (“Deliberate grievous bodily injury”) remained essentially stable: 2013–36, 2014–32, 2015–37.

DONETSK OBLAST

Interesting is the fact that, for comparison, the courts of the Donetsk Oblast in 2012 did not delivered any sentence under any of the specified articles. But statistics changes dramatically in 2013.

Same way as in the Luhansk region, in the Donetsk area there is sharp increase of registered in URPI (Unified Register of Pre-Trial Investigations) proceedings under art. 146 of the CCU (“Illegal imprisonment or abduction”) right with the beginning of the armed conflict (in March 2014–8, in June – 131, in July – 178, in August – 209 (peak). Further on, the trend is decreasing (December 2014–97, March 2015–58, October 2015–20), which corresponds to the level of the “pre-war time. At the same time, these relatively high numbers concern purely URPI, but when it comes to bringing cases to court, then their number is extremely low: in total from June 2014 to October 2015 only 12 cases under article 146 of the CCU were completed and brought to Court with an indictment. One can compare these figures with statistics of registered criminal proceedings—the latter prevail

in more than 110 (!) times—and namely, 1438. At that, the number of sentences becomes minimal: 2 in 2014 and 7 in 2015. These figures, the level of which corresponds to the data of the Lugansk region, one way or another, are scant on the background of the real number of abductions and people held in captivity in Donetsk Oblast. It is about thousands of such cases.

The situation similar to the Lugansk Oblast is also with the investigation and judicial consideration of the crimes that qualify under article 127 of the UCC (“Torture”). Even the number of crimes registered in URPI is minimal: in 2013–9, in 2014–2015 – even less: 5 and 6, respectively. During the years of 2014–2015 only in one criminal proceeding the pre-trial investigation was completed and brought to Court with an indictment. As for the number of sentences, in 2014 and 2015 only one conviction was adopted (by the way, in comparison with the previous year of 2013 the number of sentences decreased fourfold).

The unclear tendency (still similar to the Luhansk region) is observed with

article 126 “Beatings and battering”. The number of registered proceedings becomes several times less: in 2014–225 (as compared with 1090 in 2013), and continues to decline in 2015 (74). In 2014, 234 of pre-trial investigations were completed, but their number decreased dramatically in 2015 to 89. At the same time, under this article a relatively few cases were brought to Court: during 2014–2015 there were 48 and 12 of them respectively.

A similar situation is with crimes related to the delivery of bodily injuries of varying severity. The number of proceedings registered in the URPI in 2014 remained at the level of 2013, but with a noticeable jump in March-September 2014 (543, 529, 559 reported cases in, respectively: April, June and July). During the 2015 the number of registered crimes declined (on average – about 200 registered crimes per month). But only a small amount of materials of criminal proceedings was directed to Court: from September 2014 to October 2015, i.e. one and a half years, in total there were 800 of such cases, which corresponds to

Data regarding the number of indictments delivered to Court and persons brought to justice by the Military Prosecutor’s Head Office of Ukraine including by the Military Prosecutor’s Office of the ATO Forces during 2014-2015 and 3 months of 2016

Without account for repeated decisions		No. of Indictments in Court, persons brought to justice					
		2014		2015		3 months of 2016	
		Indict-s	Persons	Indict-s	Persons	Indict-s	Persons
Total of Indictment Bills delivered to Court		1002	1060	3579	3671	1051	1083
Including those committed by the employees of	Of them:						
	the Military Prosecutor’s Office of ATO Forces	X	X	201	203	206	217
	the National Guard of Ukraine	X	X	293	295	75	75
	Of them:						
	On the proceedings completed by Prosecutor’s Office of ATO	X	X	22	22	14	14
	the Security Service of Ukraine	10	10	20	23	6	6
Of them:							
On the proceedings completed by Prosecutor’s Office of ATO	X	X	—	—	2	2	

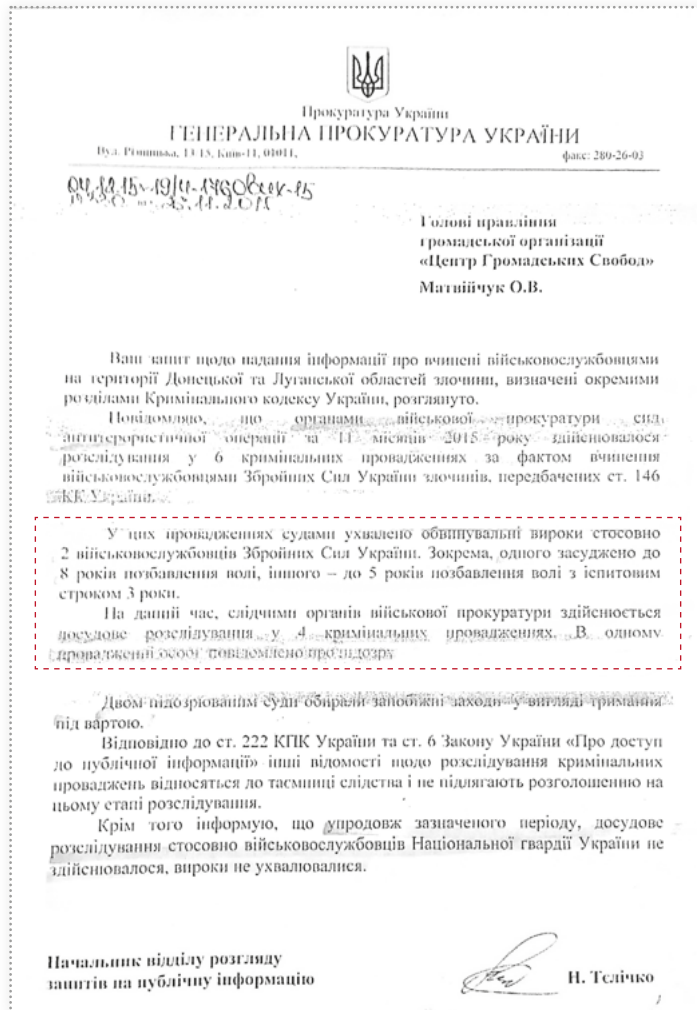
one and a half month statistics of registered crimes in the “hot” period. At that, the number of **convictions for serious and severe bodily injuries** in 2014–2015 years is **reduced by more than half** compared to the year 2013 (323 and 189).

Thus, there are grounds to assert the existence of a **trend of growing gap between statistics data as for pre-trial sentences under specified articles of the CCU and the real development of events in Donetsk and Luhansk Oblasts**. At the same time, if within the limits of article 146 of the CCU, at least we can trace a jump in the number of statements on offenses and cases registered in URPI (Unified Register of Pre-Trial Investigations), this number decreases dramatically when it comes to judicial consideration of cases under this article of the CCU. Judging from the statistics, tortures in armed conflict are not applied at all, which contradicts the reality; and the number of bodily injuries in the Donetsk and Luhansk Oblasts since 2014 significantly decreased, which does also not correlate with the real situation. The answer to a question on “how to interpret these statistics?” – should be the subject of a separate study. However, in our opinion, one of the most probable explanations may be flaws in the work of the law enforcement system.

Definitely, the above statistics gives inaccurate picture about the general condition of fighting these kinds of crimes, since the issue is not just exclusively on crimes committed in the context of armed conflict, but also on the total number of crimes, including purely criminal. It is advisable in this case to refer to the statistics of the General Prosecutor’s Office.

As regards criminal proceedings concerning **crimes committed by the Ukrainian military from the ATO units**, in response to the information request of December 4, 2015, the **Ukrainian General Prosecutor’s Office** noted that the **bodies of Military Prosecutor’s Office of the anti-terrorist operation forces within the period of 11 months of 2015 the investigations were carried out in 6 criminal case proceedings** on the fact of the crimes committed by servicemen of the Armed Forces of Ukraine, **envisaged by art. 146 of the CCU (“Illegal imprisonment or abduction of a person”)**.

The courts endorsed **indictments regarding the 2 servicemen of AFU**: one sentenced to 8 years in prison, the other – to 5 with a probation period of 3



Response of the General Prosecutor’s Office of Ukraine to the CCL’s request for information on the number of the criminal cases against the Ukrainian military servicemen who are suspected in committing crimes on the territory of Donetsk and Luhansk Oblasts. As stated in the document, the number of the convicted representatives of the Ukrainian Armed Forces is 2. As of December 04, 2015 the Military Prosecutor’s Office conducted pre-trial investigations in 4 criminal cases.

years. Now investigative authorities of the Military Prosecutor’s Office carry out pre-trial investigation in **4 criminal case proceedings**, in one of which one person is notified of the suspicion, two persons are in custody as a preventive measure.

As for the representatives of the National Guard of Ukraine, according to the reply of the GPU, **“during the specified period of time no pre-trial investigation in respect of military personnel of the National Guard of Ukraine was carried out, no judgments were delivered”**. Moreover, *“To date, Main Directorate for Investigations received no information on criminal proceedings delivered to investigative units of the National Police with regard to crimes committed by military personnel”*. And this means that none of the case proceedings, involving military personnel of the National Guard, were investigated by the Military Prosecutor’s Office.

However, within a few months, as of April 2016, we already see very different statistics.

In response to the information request of the Centre for Civil Liberties of April

2016, the GPU has provided information on the **number of bills of indictment delivered to Court by the Main Military Prosecutor’s Office of Ukraine and brought to account persons from among the National Guard of Ukraine and the Security Service of Ukraine**. The data as for servicepersons of the AFU in reporting are not singled out. We submit the information of the GPU in a table form as provided by the Office.

In response to the information request of the Center for Civil Liberties, GPU also reported on the status of the investigation of the crimes committed by the members of the IAG of the so-called “DNR” and “LNR”. Here it is worth noting the positive tendency to combine episodes of committed crimes in the framework of one criminal case proceeding. In the GPU’s response it is indicated that the Main Military Prosecutor’s Office carries out pre-trial investigation in **criminal proceeding** on the grounds of the crimes stipulated by part 1, 2 of art.438 (“Violation of the laws and customs of war”), part 1: “The ill-treatment of POWs or civilians, the expulsion of the civilian population for

forced work, looting national treasures in occupied territory, the application of means of warfare prohibited by international law, other violations of the laws and customs of war stipulated in international agreements, consent to be bound with which is given by the Verkhovna Rada of Ukraine, as well as the issuance of the order of committing such acts”, part 2: “The same acts, if they are combined with the intentional murder”), **item 1 of part 2 of article 115** (“*Intentional murder of two or more persons*”), **part 3 of art. 258** (“*Terrorist act that led to the death of a man*”), **part 1 of article 258–3** (“*Creation of a terrorist group or terrorist organization, the leadership of such a group or organization or participation*

in it, as well as organizational or other assistance in the creation or activity of a terrorist group or terrorist organization”). As a result of pre-trial investigation it was established that **during the years of 2014–2015 members of the IAG in the occupied territory created 62 camps and other places of unlawful detention of Ukrainian military servicemen and civilians**; there were identified **2,998 people unlawfully deprived of freedom**, almost all of them were **subjected to ill-treatment and torture, held in inhumane conditions**; besides, the General Prosecutor’s Office established the facts of **murdering 2 people during their unlawful detention**. Within the framework of

these proceedings there were **admitted and interviewed 592 victims**. As for the efficiency of pre-trial investigation the GPU reports not too comforting statistics: “**One participant of the terrorist organization** is informed of suspicion. He is declared wanted, and the Court issued an authorization for his arrest and delivery to the Court in custody to define precautionary measures”. The reply does not specify who namely it is all about of. At the same time the GPU claims that all the evidence obtained in the pre-trial investigation, have been handed over to the International Criminal Court to address the issue of the opening of proceedings regarding the events in the East of Ukraine.

COMMON OBSTACLES TO EFFECTIVE PRE- TRIAL INVESTIGATION

Investigation of each of the above mentioned categories of crimes has certain inherent problems and obstacles of its own. At the same time, there are also common problems of pre-trial investigation, which, in our view, are inherent to investigation of all categories of crimes and that point out the fact that reasons for insufficient quality of investigation are not limited to the circumstances of the war, but also represent a general problem of pre-trial investigation authorities failing to act effectively. This situation, in turn, creates serious risks that are formulated at the end of this Report.

1. The problem of capacity and proper motivation of investigation

Lack of **Capacity** of the material and human resources is a clear objective reason of inefficiency of investigation, including those that were the subject of this study.

This problem induces a range of far-reaching consequences that manifest in careless approach to investigation – an effort to quickly close the proceedings or predisposition to develop the most “probable” for the investigator version, which is more promising as to faster completion of the investigation. At that, all other possible realistic versions are ignored and simultaneous testing of their validity is not performed, witnesses and victims of a crime are not timely detected and not interviewed, and the

materials of criminal proceedings are “deposited” in the offices of the investigators as a “dead weight”.

The investigators also often lack the proper base material (*ranging from office equipment to cars*), which makes effective investigations almost impossible. Sometimes volunteers lend a helping hand, but this practice is episodic because of the extremely low level of confidence in the law enforcement system on the part of society.

Overload of investigators of criminal proceedings accompanied with miserable pay for their work has long been and remains a serious problem for Ukraine. In the liberated areas of Donetsk and Luhansk Oblasts, where the volume and complexity of cases increases multi-fold, and also in the presence of other demotivating factors, this issue gains a great scale. Most investigators on condition of anonymity share that even with that

existing low salary of theirs they are not paid in time.

According to the Head of the Main Office of the NPU in Donetsk Oblast of Ukraine Viacheslav Abroskin¹², “**the police understaffing in average is 30%, in «frontline» Avdiivka – 70%; the police officers actually work without days off**”. It is about **understaffing of 2000 police officers in Donetsk area and about 1000 police officers in Luhansk region**¹³. This can be explained not only by the complexity of the work environment, and in particular, by the fact that for those who agrees to work in these oblasts, there are no additional motivating conditions created. At the same time, the leadership of the National Police of Ukraine stated its intention to direct for service in Donetsk and Luhansk Oblasts those of former law enforcement officers who failed to pass reassessment within the framework of the MIA’s reform. According to V. Abroskin, it is about those employees who “lacked one or two points in the process of reassessment”. According to the Press-Secretary of the NPU Artem Shevchenko, “obviously compromised persons will not get to the service, the chance will be only of those who simply failed to pass tests or failed a job interview”, moreover, after 1–2 years of their service they will have to pass their second reassessment with final conclusions. However, the prospect of such a way of resolving the problem of understaffing arouses indignation in the public sector¹⁴.

Investigator of the Military Prosecutor’s Office in Luhansk Oblast, who the monitors managed to talk with, carries out procedural supervision of approximately 400 criminal cases. At that, he is not provided with any fleet vehicle, which significantly hampers the performance of his official duties.

One of the investigators of the National Police Office of Ukraine in Luhansk Oblast in the city of Kreminna, has, in her own words, about 150–200 cases in proceedings. However, now, she says, the situation is not as complicated as in 2014, when instead of 16 persons to be on staff in the investigative unit there were only 5 employees.

As the mobile team became aware, in the investigative unit of SBU in Kramatorsk the facts regarding seizure of the facilities of the **Kramatorsk City Dept. of MIA of Ukraine** and premises of other government bodies, committing terrorist attacks, etc. by the members of armed groups of the so-called “DNR”, are combined in one criminal proceeding, but are almost not investigated. The case file, in response to the assignment to establish all relevant circumstances, contains formal noncommittal responses about the impossibility of their determination. The reason is a too small staff of the Department, which consists of 5 investigators. They are fully loaded with case proceedings associated with holding the so-called “referendum” in Kramatorsk in May 2014. As for the operational unit of the SBU, its priority field is identifying offenses committed by the police employees, and not by the members of illegal armed groups. Thus, there is just nobody available to address the investigation of seizure of the City Dept.

12 www.facebook.com/Vyacheslav.Abroskin/posts/1563107103981958?pnref=story

13 www.facebook.com/artem.shevchenko.9/posts/10208839573889108

14 www.facebook.com/gromady.dn.ua/posts/852088644920896

2. Lack of experience of working in the conditions of armed conflict

As noted in the preface to the Report, the law enforcement system for the first time faced the crimes of this magnitude: in the intensity, in the number of victims, in the features of performers' network, etc. On the territory of our present-day state until now there have never been any mass armed conflicts and that is why the law enforcement agencies have no experience in such conditions and with criminal offenses of such specifics. Moreover, it is not about a common, linear war, but the so-called "hybrid war", which involves countless number of factors and tactics. Investigators lack qualifications, experience of using the already developed typical methods of investigating such crimes, and the ability to analyze and associate a significant amount of information. There are also no technical means (*available IT technologies*) to simplify the process and make it more efficient. These factors

One of the problems with which investigators in the Donetsk and Lugansk Oblasts face in their daily work and which is caused by the combat operations is the absence of expert institutions in the occupied territories. Some expert institutions were relocated to settlements of the liberated territories, with some issues we have to address in the nearby oblasts. For example, investigators of Luhansk Oblast apply for cytological expert examination to a forensic lab in Kharkiv. This even more complicates and slows down the process of investigation.

are greatly complicating the process of investigating criminal offenses in the area of ATO.

The combat operations, de facto — the war that unfolded in Eastern Ukraine, in fact greatly complicates work of investigators. On the other hand, this fact is often

manipulated, justifying their failure to act by the complex military-political situation in the region. A marker in this case is the absence of the very process of investigation and appropriate effort of an investigator as for taking investigative actions.

3. Common problems of the system of criminal justice

From the viewpoint of researchers there is a number of other factors and reasons that generally inhibit the work of the pre-trial investigation bodies, regardless of the geography and category of crimes.

Certainly, the reform of the system of criminal justice and the implementation of legislative acts, which are designed to implement this reform is vitally essential for Ukraine.

However, sometimes, the implementation of the reform of the criminal justice sector creates temporary, but extremely serious problems that affect the overall efficiency of conducting pre-trial investigations. In particular, it is about a certain "paralysis" of the work of the police operational units (*in particular, the Criminal Investigation Department of the National Police of Ukraine*), as well as of crime expert units. One has also frequently to hear complaints from the

employees of law enforcement agencies, the Prosecutor's Office about the shortcomings of the implemented in 2012 Criminal Procedure Code of Ukraine, which, in their opinion, are in the too intense judicial control over the actions of an investigator. However, the validity of such complaints, according to some experts, is often associated with deficiencies in the system of training and improving skills of investigators and prosecutors.

4. The qualification of the use of torture and other shortcomings of the national legislation

The problem of a complex investigation has another dimension associated with the imperfection of national legislation. Human rights organizations have repeatedly pointed to a noncompliance of section 20 of the Criminal Code, “Crimes against peace, humanity and international law”, with the international humanitarian law, including the Rome Statute of the International Criminal Court (*and on the initiative of the Ukrainian human rights organizations the relevant recommendation was included in the resolution of PACE of April 21, 2016*). This negatively affects the efficiency of the investigation because of the impossibility of proper qualification of the criminal actions as war crimes and crimes against humanity.

As an example, one can cite torture, which should be qualified as a corresponding international crime stipulated by section 20 of the Criminal Code of Ukraine, given the massive scale and systemic nature of this phenomenon in the course of armed conflict. Instead, torture is still qualified under article 127, prescribed in another section of the Criminal Code of Ukraine. Part one of this article defines torture as an offense of medium gravity and envisages 2 to 5 years of imprisonment. These actions become a serious offense only in case of their repetitiveness or committing torture by prior conspiracy of a group of persons, or for reasons of racial, national or religious intolerance, and then they shall be punishable by a term of 5 to 10 years in prison.

Thus, in the hands of investigator there is wide room for abuse while qualifying a criminal act. This situation not only does not meet international standards, but also could allow performers of abductions and torture of civilians to be amnestied under the Minsk Agreements, even if the performers of serious crimes, as it has been repeatedly stressed in the public statements of officials, are not eligible for amnesty.

Additional problems are the facts that in their reports forensic experts do not account for the traces of torture on the bodies of the victims, and investigators do not question or task them with this regard; in addition, investigators do not prescribe forensic-medical examination for determining the signs of torture.

5. Dependence on the situation of the local or national level

Factor of dependence of investigators upon the leadership of local or higher level, in essence, is a **violation of the abovementioned principle of independence and impartiality (objectivity)**, relevant for all categories of investigations, analyzed in the Report, and regardless of who namely according to investigations commits offenses. For this very reason, in this section of the Report, we do not divide criminal offenses and respective proceedings into the ones committed by the IAG of the so-called “DNR”, “LNR” and those committed by the ATO forces. Instead, their classification is made on the basis of the shortcomings of the pre-trial investigation identified in the course of research.

As for the crimes committed by the forces of ATO, the hundreds of detained participants of the ATO, as well as several demonstrative cases (*such as “The Aydar*

One of the lawyers told the monitors about investigators, who in a personal communication asked him for tips as for how to deal with crimes, committed by pro-Ukrainian forces of ATO: whether to investigate or turn a blind eye to them.

One of the female investigators of the Luhansk Oblast investigating a case, where the accused is a combatant of Aydar battalion, complained that those who yesterday were “bandits” — today are “heroes”. From her words it was possible to conclude that such a transformation affected the position of the investigation.

Case” and “The Tornado Case”) are not indicative of the overall efficiency of investigations of crimes committed by Ukrainian forces against the civilian population. Through the example of the examined during preparation of this Report cases we see selectivity in

making certain perpetrators criminally liable. Thus, against a background of sufficiently high statistics as for number of bills of indictment delivered to court and individuals made liable, there remain cases, investigations of which are difficult to call unbiased and effective.

1. The Gladchenko Case:

during one of the arrivals of racketeers O. O. Gladchenko called the police, but the law enforcement of Bilokurakino took no action to stop the unlawful actions. According to the victim, detention of criminals became possible only with the participation of other members of the same Aydar battalion. After the detention, the victim applied with a statement to the law enforcement body, was questioned by them, as well as by the representatives of special services. Later on the police called and questioned witnesses. But, as it turned out, the then head of investigative department of the Administration of MIA was in a close family relationship with Ch., whom O. O. Gladchenko calls the one who ordered the asset-grabbing attack on him. After the appointment of a new head of the investigative department, the case got off the ground, however, further investigation of the case was hindered by regional Prosecutor's Office for its inaction. Last time the investigative actions in this case were carried out in April 2015. Notably enough that the borrower Ch., who, in the words of the victim, was an employee of the police and the Prosecutor's Office in the 1990s, when communicating with the father of the victim, who is a victim of the banditry too, advised him not to apply to anywhere, because "he's got the police in his left hand, the Prosecutor's Office in the right hand, and the Court is in here – and pointed to the groin." The victim believes that they are trying to "hush up" the case, he claims that the investigators openly tell him that "the case will be buried here."



Photo illustrations to the article "In Starobilsk region a gang is arrested, members of which claim to belong to the Aydar battalion" on the web-site of Informator.lg.ua. As stated in the article, these were the people who attacked Gladchenko

Despite the presence of a large number of materials on crimes against the civilian population committed by the Aydar battalion, in the northern part of Luhansk Oblast, there is not sufficient information about the specific circumstances that give a deeper understanding of the context of these crimes and their rooting into the local situation. According to the information obtained in the course of numerous trips of monitors to the northern part of Luhansk region, individual units of the Aydar battalion were used as a de facto private paramilitary units. Despite an official belonging to the ranks of the AFU and possessing military service cards, they fulfilled, in fact, private orders, including abductions of people, execution of asset grabbing attacks ("reiderstvo"), performing functions of private guards for the local financial and industrial elite, etc. Such cases have still not been effectively and duly investigated.

Converting individual volunteer units into "private armies" under the control of the local elites blocks investigations carried out by local law enforcement officers who are also dependent on those elites. At the same time, the military units to which offenders claim to be belonging, deny any connections with the criminals, or do not acknowledge their membership in the battalion.

6. The Moskaliuk Case:

in the indictment materials, which are under consideration of the court, E. is not in the status of a serviceman since he is charged with desertion. In addition, the Prosecutor's Office did not produce the charges in one of the episodes: E. is not charged with a violent robbery attack against the victims in September 2014 (in the period when the E. still was a military serviceman).

The territory of Donetsk and Luhansk Oblasts, returned under control of Ukraine, in part, however, continue to be controlled by the same financial and industrial groups of influence who in control of them also before the start of combat operations. Neither their role in the process of occupation of the territories by the illegal armed groups, nor in the subsequent events, according to the authors of the report, are not investigated by the law enforcement authorities.

Pre-trial investigation sometimes was carried out formally (“for show”), i.e. imitation of conducting investigative actions to fulfill the formal requirements of the CPC (Criminal Procedural Code), which violates the criteria for effective investigation embodied in the decisions of the ECHR.

The Monitoring team for many times met with complaints of victims of crimes and their advocates about the fact that representatives of law enforcement bodies, **allegedly carrying out the investigation, in fact only imitate it to meet the formal requirements of the criminal procedure legislation.** In fact, the quality investigation is not happening, and the efforts are directed to “destroying the case”. That is to say that the documents are executed, requests for information are forwarded, but these materials are vague in nature and, in addition, have an overstretched time frames.

As the Center for Civil Liberties managed to find out in the course of its own investigation, during the occupation of the northern Luhansk region by the members of the IAG of the so-called “LNR” on the territory of JSC “Lysychanskyi Glass Factory” there was housed a base of “Prizrak” group under the command of Oleksii Mozgovyi killed last year. On this base, in particular, military machinery, heavy arms were kept, civilian hostages were brought here, and here they were tortured and used as slaves. However, as it becomes clear from the responses to the CCL’s requests for information, the law-enforcement bodies and the SBU are not investigating the events at Lysychanskyi Glass Factory from this point of view, instead, they are investigating shooting attacks, as stated in the official responses to our queries, “by the unidentified persons”, qualifying it as a “terrorist act”. In addition, it is a well-known fact that these shooting attacks were carried out by the Ukrainian Government forces as part of the operation to liberate Lysychansk. It should be noted that the de facto the factory company is controlled by former Mayor of Lysychansk, close to one of the most influential representatives of the Opposition Bloc. How exactly the militants gained access to the territory of the enterprise, the law enforcement bodies, judging by the received by the CCL responses and in spite of public statements by officials, do not investigate. According to the local activists, the same persons from among the local elites controlled (or, at least, carried out a partial control) one of the platoons of the Aydar battalion, which was based in Lysychansk immediately after the liberation of the city and up to mid-2015.

9. The **Podushkin** Case:

According to a representative of the victim, criminal proceeding as for abduction of his client is filled with a large number of documents which do not belong to the procedural ones, are of pointless and frankly incomprehensible nature – correspondence with the victim in response to his complaints, suggestions and comments. This increases the number of papers in the case, but gives no evidence of any efficacy of the investigation.

In cases related to abductions of people, the investigation actually ceases from the moment when the person was found. Further on, investigative actions to further bringing the persons guilty of abduction to criminal liability, law enforcement bodies do not actually carry out.

Specific shortcomings of the work of the investigators:

Neglecting their duty regarding the timely establishing and interviewing witnesses and other urgent investigative actions.

According to the Criminal Procedural Code of Ukraine (*hereinafter referred to as CPCU*), the investigator is obliged to take certain procedural actions in the investigation of the case. To such actions belongs also questioning witnesses. But sometimes investigators do not adhere to this commitment.

5. The **Melnikova** Case:

Investigators had never questioned witnesses who saw the moment of capturing the woman by the members of the IAG. Their contacts the victim submitted to the investigators, even having received a prior consent of the witnesses to communicate with the investigation, but despite repeated reminders, these witnesses were not questioned.

11. The **Reznichenko** Case:

The investigation had never interviewed for the record one of the main witnesses in the case of Roman Makhnyk, a colleague of I. I. Reznichenko, as well as a Deputy of the City Council of Soledar. Although it was he who found the body of I. I. Reznichenko and, later on, in his own words, repeatedly insisted on his questioning as a witness, as well as on contributing important materials to the case. These requests were ignored by the investigation.



The dead body of Ivan Reznichenko was found in this salt mine

10. The **Victim from Pisky** Case:

Since the submission of the statement about the offense none of the priority investigative actions were taken, for example, over a year and a half the victim had never been questioned, no forensic-medical examination was held despite the existence of serious injuries.

In one of the studied cases of a victim of the abduction by the militants of the so-called “LNR”, the forensic-medical examination was prescribed one and a half years after the submission of the victim’s statement about

her abduction. Of course, during this time, traces of the beatings have disappeared. Moreover, in a private conversation the doctor asked the victim, “why should she need it”, referring to her insistence on the need to investigate the case.

Neglecting the duty as for thorough collection of all possible physical evidence.



Basement of the Kostiantynivka City Council (Donetsk Oblast) in December 2014. It looks like law enforcement did not collect any evidence of unlawful detention of people in here

12. The Shabratskyi Case:

according to the materials of the case, There was not carried out an obvious ballistic examination to determine whether it was the Shabratskyi's automatic gun to have released the bullet found at the crime scene, whether all cartridges were released from this very weapon, and if not – then from which one?

In a number of cases, investigators ignored the need to collect possible evidence in the places of unlawful detention of individuals who were captured prisoners. At least this

concerns Slaviansk (*former premises of the SBU*), Lysychansk (*JSC “Lysychansky Glass Factory”*) and Kostiantynivka (*premises of the Executive Committee*), which were visited by the mobile teams of researchers.

The probable destruction of information base of possible evidence

9. The Podushkin Case:

Mobile team received an information that all documentation on the Kramatorsk TDF (*Temporary Detention Facility*) was destroyed. After all, it was specified in the log books, when and who of the employees of the MIA entered on duty in the time the city was under the rule of the illegal armed groups.

Since an example of such actions we met only once, it is difficult to make generalizations. However, noteworthy is the fact that it is about the alleged attempt to hide the crimes of the representatives of the law enforcement bodies themselves, which were committed exactly in the period of the occupation of the settlement by the illegal armed groups.

Designating status of witnesses to the victims, which creates a significant limitation in their procedural rights, but simplifies the work of investigators.

For such an “artificial” change of the procedural status, the investigators resort to different techniques. For example, divide a single criminal proceeding into several different ones, conduct extra

interrogations of the person within the related proceedings. Procedural status of a witness compared to the procedural status of a victim considerably narrows the rights of individuals, in particular, excludes the possibility of submitting petitions,

familiarization with the materials of the case, a refusal to give evidence without the risk of being punished for such refusal. Such actions, in our opinion, **violate the fixed in the ECHR's principle of engaging the victim into the process of investigation.**

Falsification of possible evidence

Instead of conducting transparent and qualitative investigation of crime in some cases law enforcement bodies resort to a strategy of de-facto destroying the materials of criminal proceedings—when, despite the availability of proper information, in the procedural documents the investigators deliberately do not record the data relating to the suspect’s identification, who the victim directly points at. Instead, some neutral wordings from the stock of generic common formulations are used: “unidentified persons”, “policeman”, etc. According to the authors of the study, there are grounds to regard such actions to be an attempt of falsification of evidence and materials of criminal proceedings—in general.

One of the victims of abduction by the militants of the “LNR” in the course of investigation, informed the investigator that she recognized a number of individuals who had been involved in her abduction and applied to her physical violence. One of them is still in the city. As the woman managed to find out herself, it is a former Commander of the Patrol-Sentry Service of the MIA. “After the liberation of the city he again worked in the police, walked around with an automatic gun and in the police uniform. Now he is just fired, and he works as a taxi driver” the victim says. She also claims that in the summary of her interview the investigating officer did not specify this person’s last name, did not indicate that the victim recognized him, but mentioned about him as of an unidentified policeman. In reply to a question about why he does not mention the name, the investigating officer referred to his unwillingness to “engage his colleagues” and that “he would not get away with it”. One of the victims, which was a captive of the so-called “DNR” in Slaviansk, recognized the policeman who took part in his capture, but this fact was not entered to the summary of interview.

From the victims in separate criminal proceedings the researchers became aware of attempts of the de facto falsification of evidence base **in the form of planting munitions or weapons that is claimed by the victims themselves. In such cases, the issue is not about investigating crimes in which these persons were recognized as victims, but about facts of pressure on them by “unknown persons”.** This behavior significantly reduces the confidence of the injured persons in their righteousness and legal safety and discredits them.

7. The **Nazdrychkin** Case:

The car of V. M. Nazdrychkin in the night 21.11.2014, according to representatives of the injured party, was blown up for a re-enactment of the terrorist attack on the checkpoint by the order of the Commander V. of the “Kiev-2” battalion, what was recorded on video. This fact is not examined in the case of the murder of Nazdrychkin, but is investigated (*more precisely – should be investigated, but in fact it is not under investigation*) in a separate proceeding.



Screenshots of the news video about the explosion of the car of Nazdrychkin

1. The **Gladchenko** Case:

during the first visit to O. O. Gladchenko of armed with assault rifles people in military uniform, they have said about the need to inspect the warehouse facility seemingly to appreciate the possibility of storing weapons there for the AFU. Having entered there without presence of the owner, one of the armed men came out with 2 grenades in the hands, accusing the owner in possession of weapons for illegal armed groups.

12. The **Shabratskyi** Case:

the parents of a murdered Aydar combatant shortly after the death of their son were visited by persons who introduced themselves as the prosecution officers. As a result of their inspection of their home and yard (*lawful warrant for conducting a search they did not have, but they got verbal consent for the inspection from the scared owners*) they allegedly found ammunition there, where, according to Shabratskyi, it never was before. The victim lawyer, when trying to find out within which proceeding this visit took place, was informed that in the framework of criminal proceeding upon the death of Shabratskyi no such search was conducted. The fact the inspection had not been procedurally fixed. The family itself believes that the “finding” these ammo rounds was aimed at discrediting their deceased son.

The use of the status of a procedure supervisor for “inhibition” (delay) of the terms of pre-trial investigation

In public prosecutor’s offices of Donetsk and Luhansk Oblasts there has not been any rotation of prosecution employees, who carry out procedural guidance of a pre-trial investigation (*with the exception of the Military Prosecutor’s Office*). Probably, it is this fact that affects their creating such artificial obstacles as procrastination of the study of criminal proceedings materials or the terms of concordance of investigative actions and producing a notice of suspicion. Such a tactic is used, as a rule, in cases with investigating officers who come into the ATO zone from other areas and are interested in uncovering the crime and punishment of the perpetrators that leads to a situation when the term

1. The Gladchenko Case:

according to the victim and his representative, at some period of the investigation, after appearance of a new Head of Investigative Dept., the case got off the ground, however, the obstacle to further investigation became a regional Prosecutor’s Office. In particular, on the petition of the victim regarding the transfer of the investigation to the Starobilsk Police Department (*due to the impossibility of an objective investigation in the Bilokurakino PD*) the regional Prosecutor’s Office did not even care to provide a response.

of their business trip expires and for the Prosecutor’s Office taking a proper procedural decision is no longer needed.

Such actions are examples of the obvious **violation of the principle of timeliness and the absence of the delay.**

The use of the unavailability of investigators’ access to suspects as a pretext for the non-conduction of the necessary investigative actions



3. The Koziuberda Case:

investigation of the proceeding concerning abduction most actively occurs in the part concerning the very episode of seizure of the victim in hostage. However, this is not the only thing that deserves attention in his case. After the abduction, he was taken to the headquarters of the Prizrak battalion, where he was subjected to torture, including, in his words, by the citizens of the Russian Federation. However, as the official response to the request for information as well as communication with the investigating officer may indicate, this is no longer investigated by the law-enforcement bodies. According to the victim himself, position of the investigation is the following “There is no one to investigate. All are on the other side. At the Glass Factory there were almost only the Russians, the Chechens, we cannot get anyone at all.”

Response of the Rubizhne local Prosecutor’s Office (Luhansk Oblast) to the CCL’s request, which tells about the fact that one of the persons suspected in the abduction of Mr. Koziuberda – Mr. Kharchenko, is accused of committing a crime under Art. 146, p. 2 of the Criminal Code of Ukraine. At the moment he is put on a wanted list, since his location remains unknown

In some cases the unavailability of investigators’ access to suspects becomes a pretext for failure to fulfill their duties in further investigation and determination of other persons involved in the offense.

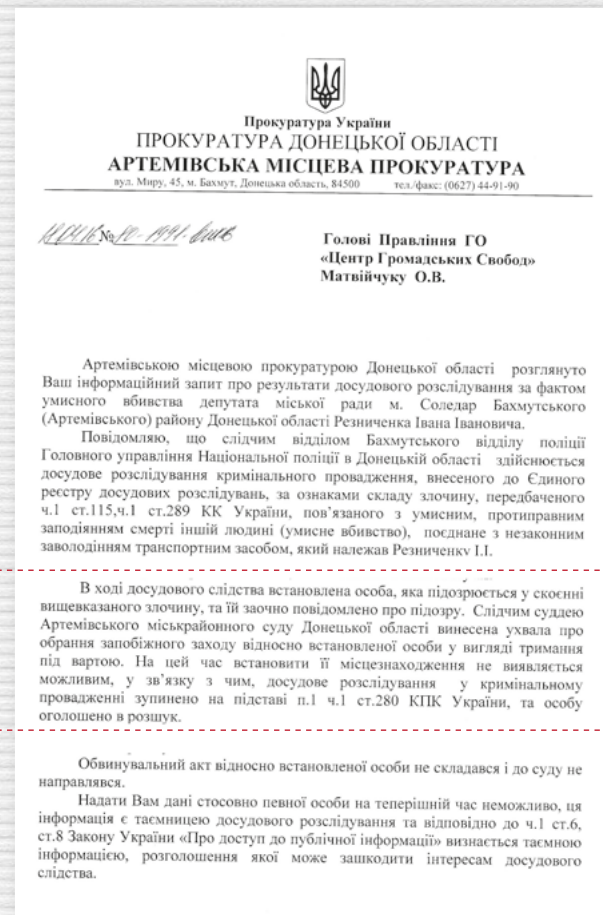
In the worst outcomes **the culprits are “appointed” (and are announced on the wanted list) the well-known odious persons who are in the non-government controlled areas.**

11. The Reznichenko Case:

First, on suspicion of the murder of I. I. Reznichenko two employees of SE Artemsil were detained, who brought Roman Makhnyk to the mine, where he found the body of a former ally. The Head of the Interior Ministry Head Office in Donetsk Oblast Viacheslav Ambroskin then reported¹⁵ about the detention, but of only one person. In this case, it was claimed that it is about “a militant of the “Donetsk people’s Republic” terrorist organization”. According to our information, the second person was immediately re-qualified as a witness. Now, according to the same sources, it is in the lists of the missing persons, and de facto is in the Russian Federation, where his relatives reside. Later on, through allegedly absence of evidence, the second suspect was released. The charges against him were re-qualified as early as in spring 2015 from the intentional murder (part 1 of art. 115 the CCU) to part 1 of art. 396 of the CCU (“Not preliminary promised concealing of a grievous or extremely grievous crime”), he was released from custody under partial home detention. At that, the allegations in the action as a militant of a terrorist organization, which were announced in the statement of the Head of Police of Donetsk region, were not even expressed in officially produced to him indictment. Instead, wanted on suspicion of the murder of I. I. Reznichenko (under art. 115 of the CCU), according to our sources in law enforcement bodies, is Arsen Ivanovych Pavlov, better known as an active participant of IAG with the call-sign “Motorola”. At that, no evidence of his involvement in the murder, according to the monitors, was present in the case, and the available evidence regarding the primarily detained employees of “Artemsil” were ignored. Judging from it all, it is “Motorola” who is meant in the response to our query of Bakhmut local Prosecutor’s Office: “In the course of pre-trial investigation there was established identity of the person suspected of committing the above offense, and in absentia the person is notified of the suspicion... decision on precautionary measure for the established individual in the form of detention. To establish location of this person is not currently possible ...”. Here it is worth noting that the Artemsil State Enterprise keeps constantly getting in the center of corruption scandals, it was also associated with high ranking officials of the former “Party of Regions”- the Kluiev brothers. In addition to that, the murdered, I. I. Reznichenko, had a conflict with the leadership of this company for which he had been working for all his life and had been heading its Trade Union.

Response of the Artemivsk local Prosecutor’s Office (Donetsk Oblast) to the CCL’s request for information about issuing a warrant for the arrest of the person suspected in murder of Ivan Reznichenko. The document claims that this person (without disclosing the name) at the moment is put on a wanted list, since his location remains unknown. A friend of Reznichenko, who conducted his own investigation, claims that law enforcement falsified the evidence and deliberately accused one of the most ill-famous “DNR” militants, who is inaccessible for the Ukrainian justice

15 www.ukranews.com/news/153809.Militiya-zaderzhala-boevika-DNR-po-podozreniyu-v-ubiystve-deputata-Soledarskogo-gorsoveta.uk



6. The lack of will or fear of local law enforcement officers in investigating the crimes of their former/ current co-workers or military

This factor could be attributed to the paragraph of “General Problems of Criminal Justice”, however, we consider it necessary to draw special attention to it.

As you know, the occupation of the individual areas of Donetsk and Luhansk Oblasts was accompanied by massive involvement in the unlawful actions of law enforcement agencies (*especially police*) and the participation of their employees in illegal armed groups. Quite often it were they, who were performers of abductions and torture of civilians. In the stories of many of the former prisoners one can find episodes of violence that are “traditionally” used by employees of the Internal Ministry agencies in Ukraine. Some of these officers today are mentioned in the NPU’s lists of wanted, namely in the section of “Wanted Participants of Illegal Armed Groups”¹⁶.

After the return under government control of part of the occupied territories, the society confronted with the problem of the investigation of the activities of these persons to be carried out by their former colleagues. The Monitoring group is aware of several cases where the present representatives of the NPU frankly say that they do not intend to investigate the criminal acts of their yesterday’s colleagues.

An additional argument is the fact that the situation in the liberated territories is far from stability, for several years, there periodically appears unverified information that a certain city (*village*) will again be invaded by the illegal armed groups (*IAG*). This is why **local law enforcement agencies and even courts often try to psychologically adapt to the situation, so that in the future they will not occur among the “enemies” of those who in the long run will get the power in the region.** There are cases known when judges who carry out judicial proceedings in the Ukrainian government controlled area, on weekends keep visiting their families living in the occupied territory. In such circumstances, it is difficult to expect bold and independent decisions from them.

9. The Podushkin Case: :

For all the time of stay in Temporary Detention Facility (*TDF*) in Kramatorsk, from a window of his cell D. V. Podushkin saw persons in balaclava helmets who guarded the premises of TDF, were lining up on the drill field. They were read their daily tasks, they were armed, well-informed of the premises details and performed their functions professionally. The victim has no doubt that the mentioned individuals were Interior Ministry employees, whose place of service was Kramatorsk TDF. On the fact of the abduction of D. V. Podushkin, on July 12, 2014, a pre-trial investigation was launched under art. 146 part 2 of the Criminal Code of Ukraine (“*Illegal imprisonment or abduction*”) and 365 part 1 of the Criminal Code of Ukraine (“*Abuse of power or official authority by a law enforcement officer*”). Given the fact that with regard to the police employees, the investigation is conducted by the bodies of the Prosecutor’s Office, November 12, 2014 there was launched a criminal proceeding of the Prosecutor’s Office in Donetsk Oblast “on the fact of possible unlawful actions of the officers of Kramatorsk City Dept. of Interior Ministry Head Office in Donetsk Oblast”. Therefore, the investigation concerning employees of TDF is lead by their own colleagues, with respect to personnel of the whole Interior Ministry institution, rather than to individuals.

7. The **Nazdrychkin** Case:

According to representatives of the injured party, despite the availability of direct testimonies about the involvement the leadership of the battalion "Kiev-2" in the murder, law enforcement authorities have not tested a version as for their involvement in the commission of crime, primary investigative actions were not conducted, the quality of the examinations is unsatisfactory. Despite the presence of specific evidence and witnesses, there are no suspects and detained persons in this case. Initially the information about the murder of Nazdrychkin was voiced by the former volunteer of the "Kiev-2" battalion Dmytro Tsvetkov. In his own words, he was forced to emigrate in order to avoid physical altercation because of his disclosure of information about the abuses of the battalion: ranging from bribes at checkpoints to the mentioned killing of a civilian¹⁷. According to him, after his appeal to the Interior Ministry, the GPU and the President's Administration there was not any reaction and no checks were carried out.

At the same time, local law enforcement agencies are either afraid or unwilling to investigate some crimes committed by the Ukrainian forces of ATO.

During the study monitors received information about a likely case of physical violence on the part of the representatives of the law enforcement agencies against the injured person who filed the application about the kidnappers from among the volunteers.

10. The **Victim from Pisky** Case:

Investigating officer of Druzhkiv Police Office in the Donetsk Oblast was not able to reach the victim A. over the telephone, and therefore gave the order to police of Dobropillya to establish his location. After that, in April 2016, in his own words, police officers of Dobropillya arrived to the home place of A. and ordered to pack his personal belongings ("pack your stuff and out you go"). He refused, locked in the house and did not open the door. After that for two weeks he had been living at his parents'. And when he returned home on April 19, on the way to a shop he was stopped by the same police officers, who came to his home. They beat the man (*strikes and hits delivered to liver and kidneys*), blaming him for being a "separatist" and daring to complain about his captors. At that, an investigating officer in the case, who gave instruction to establish A.'s location, had never contacted the victim further on.

With a lack of independence of the investigation one can also associate the challenges of the definition of jurisdiction that in many criminal proceedings is controversial. In a good number of cases, the investigations of crimes allegedly committed by the military, are carried out by National Police, and not by military prosecutors. Most investigators try to explain this situation by the overload of Military Prosecutor's Office. But, at the same time, sometimes there occur situations when establishing jurisdiction of NPU, certain crimes are artificially diverted from the context of the armed conflict of the ATO zone and are transferred to the category of domestic crimes. There are known cases when with the use of the procedural means of "dubious legality" the law enforcement agencies change the status of criminals from active military personnel to "former" military, i.e. ordinary citizens.

It can also be about the cases, where the accused are representatives of other bodies participating in ATO and take part in combat operations. For example, the State Border Guard Service of Ukraine (*hereinafter referred to as SBGS*). There is reason to believe that the cases against them are investigated same way inefficiently.

February 15, 2015, close to the city of Girnyk of the Donetsk Oblast, six servicemen of the 10-th mobile border squad of Operational Military Dept. "Velyka Novosilka" of the SBSU killed a local taxi driver Roman. That day he gave a lift to some AFU servicemen to their military base. Immediately after disembarking of the passengers near the military base the servicemen of the SBSU opened gunfire in the vehicle with intent to kill. As a result of the received gunshot wounds the victim died on the spot, one of the military passengers was injured. According to the lawyer of the family of the deceased Yulia Naumenko, the case file says that employees of SBSU "took them for separatists" and tried to protect themselves, though, according to the lawyer, "there was no misconduct on the part of the taxi driver or his military passengers". The servicemen of AFU held in the case

One of the cases of a person disappearance and abduction of a vehicle, the suspect in which is the former combatant of Aydar battalion, is investigated by the investigating officer of the Interior Ministry Head Office of Ukraine in Kreminna, Luhansk Oblast. As the investigating officer said herself during our communication, this is due to the fact that at the time of committing the crime the suspect was a volunteer and officially did not belong to any military unit. Therefore, while determining jurisdiction, the fact that at the time of committing a crime (August 2014) in this region there was armed conflict in progress, was not taken into account.

7. The **Nazdrychkin** Case:

criminal proceeding as for the murder of a civilian person, contrary to the CPC, for a long time had been investigated by the police units, who were under the influence (*bullying*) of Kiev-2 battalion located in Volnovakha, Donetsk Oblast. This is the battalion, on which the representatives of the injured party lay the responsibility for the death of V. M. Nazdrychkin.

10. The **Victim from Pisky** Case:

The Military Prosecutor's Office does not carry out any control or procedural guidance in this case. According to the representatives of the injured party, it happens this way in most cases, in which volunteers were probably involved.

of a murdered taxi driver as witnesses, say that they heard no issues from the border guards. SBSU instead, claim that they repeatedly warned the passengers of the car that they are going to open fire on them. The Military Prosecutor's Office of the Donetsk garrison February 17, 2015 launched a proceeding on a fact of negligent handling of a weapon and murder (part 2 of article 414, item 1 of part 2 of article 115 of the CCU). The perpetrators were established but no one was produced a notice of suspicion. At the

moment the case is closed on the ground of corpus delicti in the criminal offense on the basis of the disciplinary investigation conducted by SBSU. Ruling on closing the case is challenged by a lawyer of the family. The latter claims that there were attempts on the part of SBSU to coax the family of the deceased "to compromise" and abandon claims to the border guards. Currently, the Court of Appeal of Donetsk Oblast reversed the resolution on the closure of criminal proceedings and sent the case to a pretrial investigation.

In addition, in some cases doubtful also is the criminal legal qualification of the offenses under the current CCU.

The problem of jurisdiction also affects qualification of crimes associated with abductions and torture committed by the members of the IAG of the so-called “DNR” and “LNR”.

«VostokSOS» Charitable Fund is litigating in courts transferring by the Security Service of Ukraine the statements about the abductions and torture of civilians by the militants of the so-called “DNR” and “LNR” to the Ukrainian National Police. At that, the SBU did not pay attention to the fact that the performers of crimes are terrorist organizations, and therefore ignores the qualification under art. 258-3 of the CCU (“Creation of a terrorist group or terrorist organization”), which belongs to the SBU’s jurisdiction. “VostokSOS” already has several precedents of the positive decisions of courts, which would obligate just the Security Service to enter data on the relevant crimes to URPI and, accordingly, to carry out pre-trial investigation in these cases. The activists say that for them such precedents are important, in view of, in the first place, the distrust to the police and its ability to investigate such cases professionally and independently, and secondly, because in view of the presence of signs of the crimes stipulated by art. 258-3 of the CCU, it is the legal duty of the Security Service of Ukraine. Thirdly, through the experience of investigating the Maidan cases, in particular, it is about the creation of, within the General Prosecutor’s Office of Ukraine, the Department of Special Investigations, which adheres to a comprehensive approach to the investigation of the events of end 2013—beginning 2014, as opposed to a long and inefficient investigations as for each individual victim by different investigators without any coordination between them.

A shortcoming in the form of “handling of corporate solidarity” among law enforcement agencies takes effect not only on the territory of Donetsk and Luhansk Oblasts, but also in the adjacent ones. For example, in Dnipropetrovsk Oblast.

1. The **Gladchenko** Case:

armed assault, threats address to the victim and his family, unlawful trespassing into the territory of his private property and brutal beating – all was qualified by the local law enforcement authorities as “Forcing to performance or non-performance of the civil law of obligations” (article 355 of the CCU).

8. The **Petrovskiyi** Case:

After the disappearance of her husband, his wife called the police and filed a statement about the missing person. O. V. Petrovskiyi was informed about it by the policemen themselves of the Dnipropetrovsk District Police Department in the village of Yuvileine, Dnepropetrovsk Oblast, who called him after his release and asked to visit them and give evidence. According to the statements of the victim, law enforcement officers revealed no enthusiasm when it was found out what was the cause of the disappearance of the man. However, he was questioned and promised to continue the investigative actions later on, but soon asked the victim to come again. During intercourse the same law enforcement officer, who interviewed O. V. Petrovskiyi earlier, asked him to refuse from the testimony, referring to the fact that a man supposedly at the moment “was in a state of fatigue and could not think properly.” “As a result of fears that the police of the Dnipropetrovsk District Department can act in conjunction with the captors, I wrote a statement of rejection of the evidence,” tells the victim himself. The statement on the commission of a criminal offense was filed by O. V. Petrovskiyi to the Internal Ministry Head Office of Ukraine in Kiev at the end of 2015. In January 2016, his case was transferred to Dnepropetrovsk, to the place of the crime scene. The victim was informed of that by the investigating officer of the National Police Head Office of Dnipropetrovsk Oblast. Since then, the victim has not been informed of any investigative actions.

6.1. Problems in investigation of non-combat casualties

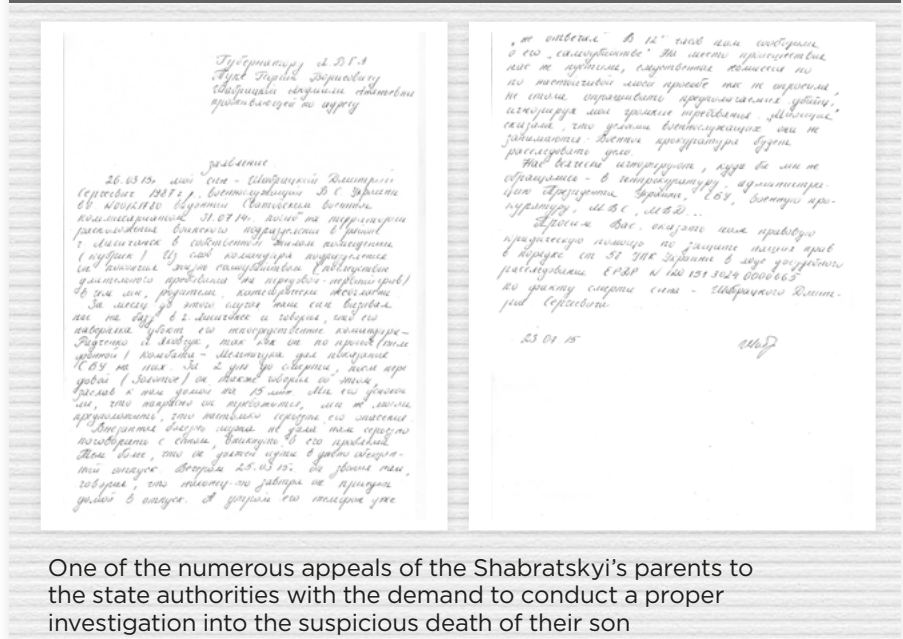
With the lack of will on the part of law enforcement agencies or the presence in them of fear for their safety or employment status one can associate also the improper quality of investigation of non-combat casualties¹⁸.

Despite the fact that in this case the issue is not about the civilian population but military personnel, for researchers it was important to establish that this category of deaths sometimes has signs of intentional murders (to which there can be involved persons who commit also crimes against civilians). Characteristically, these events are also investigated in non-transparent and ineffective way. In particular, it is about the **cases where the death of a serviceman are preceded by his remarks or activity aimed at fighting corruption, unwillingness to participate in illicit schemes or other forms of abuse or violations of the law, what is happening in the area of ATO, as well as threats to disclose such information or to bring it to the attention of competent authorities and require a due investigation.** About conflicts between servicemen in the area of ATO on this very ground volunteers have repeatedly reported in social networks. Sometimes, this leads to serious clashes with the use of weapons. "In each unit there are always those who try to resist looting and "bespredel" (lawless behavior beyond any moral limits). I know cases when between the men were incidents of exchanging fire. Some tried to stop others from robbing someone else's property," writes one of the female volunteers¹⁹.

The authors of the Report believe that exactly to similar conflicts there can be related **two cases** which got into the focus of attention of the monitors and which are being investigated improperly. According to the authors of the Report, the reason for this is the context of the offense.

12. The Shabratskyi Case

According to the testimony of his fellow servicemen in the battalion, Dmytro had conflicts with the leadership of the platoon, repeatedly intended himself (and called to join others) to report abuse of the leadership to competent authorities. According to his parents, he even gave evidence against these people to the representatives of the Security Service of Ukraine. Many of his former colleagues, with whom the human rights defenders had to communicate, and who stand out entirely anonymous, believe that it was exactly murder, not a suicide, a version of which is supported by the investigation. They also confirm that this military subunit violated the rights of civilians that caused in particular their own decision to leave the battalion. However, they do not agree to talk about it publicly, believing that this can expose them to a serious danger. The situation is complicated by the fact that the individuals who de facto carried out the management of this subunit at the time of the Shabratskyi's death, are associated with local oligarchic financial circles, and, probably, because of exactly this, the investigation, carried out by the local law enforcement officers, is inefficient and being inhibited.



One of the numerous appeals of the Shabratskyi's parents to the state authorities with the demand to conduct a proper investigation into the suspicious death of their son

18 The phenomenon of non-combat casualties accompanies any war. Ukraine is no exception. As of the end of Summer 2015 (starting from April 14, 2014), the Ministry of Defense of Ukraine registered www.theinsider.ua/rus/politics/55f15a4fefef8/528 deaths of servicemen not related to combat operations. Among them: suicide - 145, accident-killing - 125, intentional murders - 92 (including by military - 73, by civilians - 19), as a result of road accident - 80, a violation of safety rules - 72, other cases - 14. At the end of January 2016 the General Military Prosecutor of Ukraine Anatoly Matios stated that the number of non-combat casualties during the ATO amounted to more than a thousand persons, i.e. approximately half of the total losses of military personnel (total, according to the General Staff of the AFU, in the list of the deceased there are 2673 servicemen, including missing in action). [www.dt.ua/UKRAINE/za-chas-ato-zaginuli-1915-ukrayinshk-viyskovosluzhbovciv-185322_.html](http://www.dt.ua/UKRAINE/za-chas-ato-nebovovi-vtrati-zsu-perevishchili-tisyachu-osib-matios-198206_.html)

19 www.facebook.com/o.reshetylova/posts/1043950868970401

The disappearance of combatants of the 72nd Brigade, and later on finding one of them dead, probably one can associate with deployment of "Kiev-2" Battalion next to one of the Brigades.

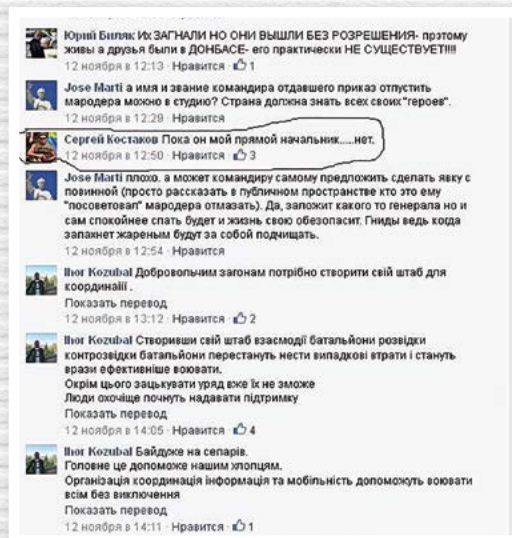
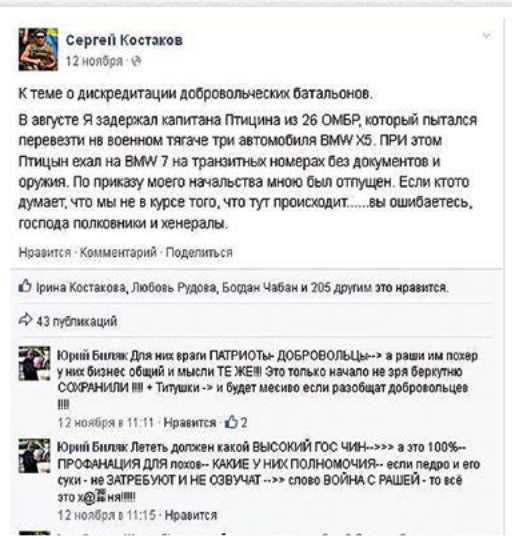
Viktor Anatoliiovych Petrenko, combatant of the 72nd special mechanized infantry brigade, disappeared in the night of October 08, 2014 from the location of the military base in the city of Volnovakha, Donetsk Oblast. He was dressed for sleep, and had no intention to go out. Simultaneously with Victor, in part of the base where there were detected no enemy SIGs (subversive-intelligence groups) a machine gun disappeared. At this time, Victor is considered missing. In the press his relatives who do not lose hope for finding their loved one, publish notices, which also contain information about the probable murder of Petrenko by other military. "His fellow servicemen reported that he had a conflict with the military from the B0136 military base, who temporary were on the territory of their base. They threatened him with physical reprisal. For what reason is unknown. And on October 9, after they left the location of their base, his brother disappeared too. His fellow servicemen gave official testimony, that the military of the mentioned military base can be involved in violent disappearances and even murder of Viktor".²⁰

20 www.fakty.ua/208592-polevaya-pochta-faktov

4. The **Kořakov** Case:

S. Yu. Kořakov became quite famous well before his disappearance, since he published messages in the social networks that might be an indication of a gathering conflict with his leadership (it is about the Kiev-2 Battalion, which became part of the 72nd Brigade). This refers, in particular, the charges against marauding. On the night of 22 to 23 November 2014 Sergei was last seen alive at the checkpoint building at the 177th km of the road Slaviansk-Donetsk (Volnovakha), in which at that time the soldiers of the Kiev-2 Special Patrol Service Battalion. Sergei was seen beaten and handcuffed to a radiator. The witnesses, who had already given evidence in the case concerning the murder of Sergei, according to monitors, are subjected to constant intimidation and pressure. Other witnesses refused to give any testimony until this investigation will be not in the proceedings of the Police of Donetsk oblast, because of moral pressure from persons concerned. According to the lawyer in this case Yevgeniya Zakrevska, interviewing witnesses was focused not on the clarification of the circumstances of the offense, but on the clarification of the list of other potential witnesses to this crime. In this case, the leadership of Kiev-2 Battalion Bohdan A. Voitsekhivskiyi (call sign Soty), Yaroslav M. Kovalenko (call sign Utios), Viacheslav Kriazh (call sign Makhno) for a long time hadn't been removed from their posts. In six months of carrying out pre-trial investigation on the fact of murder of S. Yu. Kořakov no person was produced a notice of suspicion.

Screenshots of the Facebook page regarding the killed volunteer fighter Kostakov. In his posts he was accusing his direct commanders of smuggling.

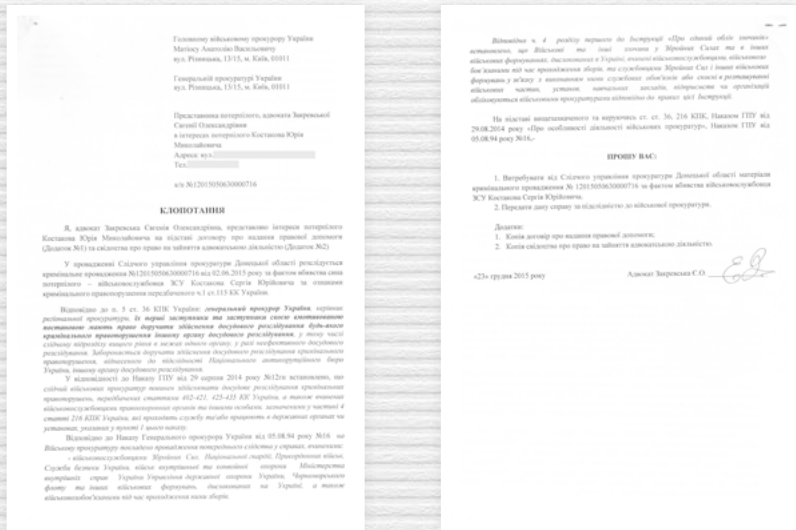


The investigation of the studied events that are associated with a non-combat casualties in the ATO zone have specific flaws:

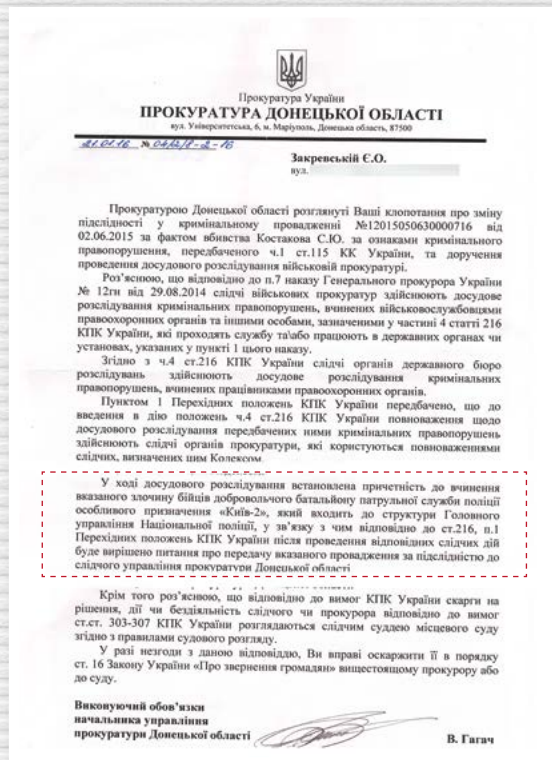
For example, contrary to the prescriptions of CPCU, the event is not investigated by Military Prosecutor's Office that would be fair to both the Kostakov case and Shabratskyi case. However, in the latter case, the Military Prosecutor's Office in Luhansk Oblast performs procedure supervision in the criminal proceeding.

4. The Kostakov Case:

the Military Prosecutor's Office did not even took upon itself the procedural guidance in this case, although there is a number of reasons to believe that precisely the military are involved.



Request of lawyer Zakrevska and response of the Prosecutor's Office of Donetsk Oblast claiming that investigative bodies established the involvement of the Kyiv-2 battalion in the killing of Kostakov. Despite this fact, Military Prosecutor's Office rejects the requests on investigating this case.



The lack of a disciplinary investigation of facts of deaths of servicemen.

4. The **Koštakov** Case:

A disciplinary investigation as for possibility of the involvement of the leadership of the Kiev-2 Battalion in the death of Koštakov and other unlawful activity has not been carried out;

12. The **Shabratskyi** Case:

On the request for information, the lawyer of the parents of the victim in this case was informed that the disciplinary investigation on the fact of the Shabratskyi's death was not conducted. Accordingly, any verification of the fact of possible involvement in the case of the soldiers of the battalion, in particular R. and Ya., at who the parents of the deceased expressly point referring to the repeated complaints of their deceased son about threats on the part of these individuals.

Ignoring by the pre-trial investigation authorities the requirement for immediate and urgent investigative actions;

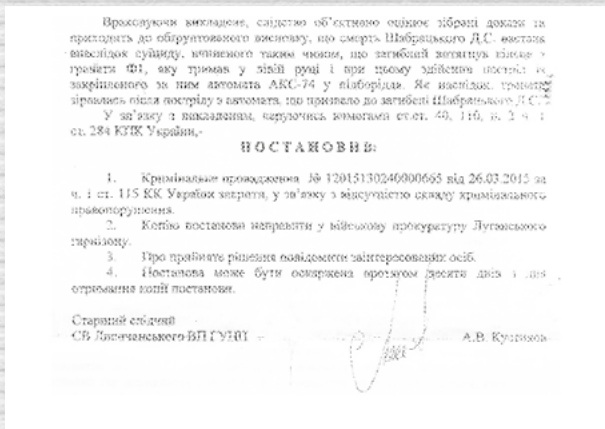
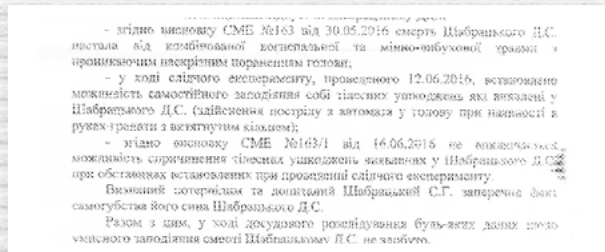
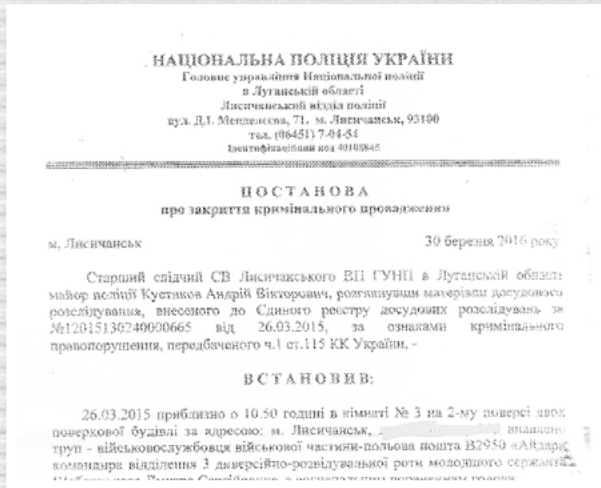
12. The **Shabratskyi** Case:

in the course of investigation there has not been established, from which weapon the bullets and cartridges found at the place of Shabratskyi's death were fired. According to the materials of the case, on site there were found 3 cartridges caliber 5.45 mm and 2 bullet cores.

Premature closure of a criminal proceeding, despite the absence of sufficient grounds for this

12. The Shabratskyi Case:

Already at the stage when the Report was completed, the monitors became aware of the closure of a criminal proceeding on the fact of the murder of Dmytro Shabratskyi. At that, even the resolution itself on the closure of the proceeding contains referring to testimonies of the witnesses that contain discrepancies in the extremely significant detail, for example, as to where the Kalashnikov, with which Shabratskyi allegedly caused his death, was kept (*one of the witnesses cited in the resolution, said that the AK gun lay "on the chest of D. S. Shabratskyi's ... barrel to his face", another claims that when the corpse of a soldier was found, the weapon "lied alongside nearby"*). In addition, although the resolution on closure of the criminal proceeding indicated "the lack of information about the intentional causing of death to D. S. Shabratskyi", it did not take into account the fact that, according to the testimony of parents the deceased, the day before the death of their son he called his father and said that his life is at risk and that he can get killed. At that, the investigation did not examine the telephone traffic of the deceased. The investigating officer did not take into account the fact that shortly before the Shabratskyi's death he was interviewed by SBU as for the probable crimes of the commander of his company.



Resolution of the National Police Office in Luhansk Oblast about the closure of the criminal proceedings on the Shabratskyi's death. They refer to the fact that the law enforcement didn't find any evidence of the violent death of Shabratskyi. The latter is obviously in contradiction to the reality. After the lawyer's appeal, the court dismissed the decision of to the police to close the case. Investigation has to be continued.

The lack of security guarantees for witnesses.

12. The **Shabratskyi** Case:

Former soldiers of the company, in which the Shabratskyi serviced, in the communication with the monitors refuse to comment on the cause of "Aydar combatant's" death referring to the danger to their own life. Some of them openly say that it was murder, not a suicide, however, to speak in detail about the events that caused the death of a soldier they refuse. Even those of them who have moved on to other units of the AFU or got discharged and are resid in another region of the country, believe that in case of publishing their comments, they and their families could be subjected to danger.

7. The low level of confidence of crime victims to the law-enforcement system and investigators

A low level of confidence of crime victims and their representatives to the law-enforcement system is characteristic of the investigations of all crimes without exception regardless of where and by whom they are committed. Quite often people refuse from the idea to submit a statement of offense, which completely eliminates the likelihood of effective investigation. Some people do not submit statements, considering law enforcement authorities inefficient by default, some people are wary of their integrity and impartiality. Even if the statements are submitted, the majority of victims, who the monitors communicated with, are skeptical of the ability of the law enforcement officers to adequately investigate crimes, as well as of the ability of the judiciary to render a fair verdict.

Distrust regarding the investigation concerns both crimes committed by the IAG of the so-called “DNR/LNR” and the Ukrainian forces of ATO.

According to the law enforcement officers themselves, interviewed during the study, the existing distrust affects also the efficiency of conducting investigations. *For example, witnesses refuse to assist the investigators in providing relevant information: those who were relocated from the areas occupied by the illegal armed groups – because of distrust, and the investigating officers arriving to the ATO zone for a short term – due to the fact that they don’t see any point, because soon these law enforcement officers will go.*

Even in the cases, when a criminal case is investigated and brought to court, the injured party complains about poor quality of investigation and does not exclude the potential impact of the suspects or their relatives on the investigators.

Valeriy Beshenko, a volunteer, activist, former Mayor of Pryvillia, the Lugansk Oblast, was abducted from his own office in Lysychansk, in his own words, by a platoon of soldiers of Aydar battalion stationed in Lysychansk. The abduction took place in July 2014, after return of Lysychansk under Ukrainian control, exactly on the day when the session of the City Council of Lysychansk was scheduled, during which the facts regarding the implication of local financial and industrial groups and their henchmen to capture of the city as well as a requirement for a dissolution of the Council was to be declared. V.I. Beshenko was to take floor during this session. The captors grabbed his phone devices, put two Balaklava helmets on his head, delivered him to Polovynkin. On the motives of his detention there were different versions voiced, for example, “we possess information that you are in danger, you have to go with us”, and “there is information that you are involved in separatism”. He was returned to the city on the same day, after a session of the City Council had gone. V.I. Beshenko personally knew one of those who abducted him. It was he who later told him that after participating in Beshenko’s abduction he came to his commanders, accusing them that “with our hands you pull round patriots, earning money on this.” Beshenko did not submit a statement to the police because he does not believe that “someone is likely to sort out this bustle.”

10. The **Victim from Pisky** Case:

A. decided not to submit a statement on the beating by law enforcement officers because of fear of revenge from their side.

2. The **Doroginskyis** Case:

The representative of the person recognized as a victim in the case, believes that the suspect, having a solid financial resource, makes attempts to exercise his influence on the investigation. In addition, the woman believes that conducted polygraph examination of both defendants was falsified. After petitioning by the Military Prosecutor’s Office, the court appointed a repeated examination.

8. Failure to comply with the criterion of sufficient public awareness

Informing the public of Ukraine concerning crimes committed in the area of ATO, is done selectively – exclusively within the framework of those cases for which there is political expediency. Partly this approach is due to objective reasons associated with the investigatory privilege. At the same time, this state of awareness of society is usually the result of an atmosphere of secrecy and reluctance to allow the public to oversee investigations of even significant accidents. This was particularly evident after the publication of the material, dedicated to the citizens of Russia, detained in Ukraine for accusations of terrorism and/or participation in illegal armed groups. Qualitative information on such cases (*even as for Russian citizens who take part in the fighting on the side of the so-called “DNR/LNR”, not to mention citizens of Ukraine accused in the crimes committed in the Government controlled areas*) are

replaced with information throw-ins that are winning in terms of news promotion, sometimes even with the performances of the Chief Military Prosecutor in the high-rating social and political talk shows. **With selectiveness in the provision of information, the authors of the Report faced directly, when applied to the Prosecutor General’s Office of Ukraine with the request to provide meaningful information on the violations of international humanitarian law in the areas of ATO, committed by the parties to the conflict, as well as the results of their investigation, which, as the Center for Civil Liberties became aware, was transmitted in the framework of the human rights dialogue to the Office of the European Union Representative in March 2016. In response from the GPU we received a letter of rejection, in which there was no single argument on the legal reasons for the**

impossibility of providing a Ukrainian public organization with the information that has been transferred to the EU representative. If, as stated in the letter, this report in fact contains “information about the status and results of pre-trial investigation in specific criminal proceedings stating the circumstances of the crimes committed, obtained in the course of investigation evidence, personal data of suspects and victims, as well as other information of pre-trial investigation”, which, according to the same letter, “are related to the investigatory privilege and not subject to disclosure” – then the General Prosecutor’s Office in accordance with the same article 222 of the CPC of Ukraine, to which it refers, has committed a criminal offense, passing this information to third parties who are not participants in criminal proceedings.

The flaws inherent in the investigation of crimes on the part of the illegal armed groups of the so-called “DNR/LNR”

a. Lack of coordination and problems of jurisdiction

In conversations with members of mobile teams the investigating officers confirmed the presence of a large number of “mixed” cases, i.e. those that contain the elements falling within jurisdiction of both the police and the SBU, as well as the Prosecutor’s Office. The events that occur around the one injured person, or the actions of one and the same IAG can simultaneously be investigated by both the national police and the SBU, and the Prosecutor General’s Office. If the first investigate, for example, murder and abduction committed by a specific group, the SBU is concerned with crimes against national security, and the GPU is investigating the activities of the law enforcement bodies and Government officials implicated in the crimes, committed in the context of the armed conflict in the East of Ukraine. This distribution, which eliminates the complex approach to the investigation, on the one hand, greatly

reduces the efficiency of the investigation, and on the other hand, makes an investigation “manageable”.

This problem again raises the issue of necessity of the comprehensive investigation at least in Donetsk and Lugansk Oblasts (*and if possible, also in the Crimea*) and creation of the appropriate inter-agency group, what have been repeatedly emphasized by human rights defenders and civic activists.

During a meeting with representatives of the Center for Civil Liberties and the International Federation for human rights (FIDH) in October 2015, representatives of the General Prosecutor’s Office of Ukraine assured that they have chosen a different tactics – namely, “the judgement of the individual convictions, and then combining them into one “picture”.

Instead of coordination, sometimes one can see, on the contrary, the competition of different departments. The

competition not in the quality of the investigation, but in the possibility to receive awards or material benefits.

Opportunities of the Office for Investigation of Crimes against Peace, Security and Mankind and International Crimes created in the framework of the Military Prosecutor’s Head Office are limited.²¹ As it became known during the mentioned meeting with representatives of the General Prosecutor’s Office of Ukraine, in the created Office there are employed only 34 persons, with 10 prosecutors and 18 investigators among them. According to the Head of the Office O. Prokonov, this body is dedicated exclusively to investigation of crimes associated with offenses against national security and waging aggressive war against Ukraine. In particular, under its jurisdiction there were cases of citizens of Russia Yevhen Yerofeyev and Oleksandr Alexandrov, who were detained by the AFU in August 2015.

After the lawyer’s of victims and human rights defenders’ applying to the Interior Ministry Head Office of Ukraine in the Donetsk Oblast as for creation in the Interior Ministry HIO (Head Investigatory Office) of Ukraine an inquest operatives group for comprehensive investigation into crimes committed by the militants of the so-called “DNR” in Slaviansk, this application was kicked to the level of the Donetsk Oblast authorities, which informed about their inability to resolve such issues and take appropriate decisions. Thus, the investigation of crimes of the Russkaya Pravoslavnaya Armiya (“Russian Orthodox Army”) terrorist group, the coordination of which was carried out by a citizen of the Russian Federation Igor Girkin, is conducted scattered between several agencies – SBU, the Interior Ministry and the Military Prosecutor’s Office that significantly and adversely affects the quality of these investigations. The only positive result of the efforts on the part of the representatives of the injured party is the creation of a team of investigating officers within the Head Investigatory Office of the NPU, but its activity is limited to investigation exclusively of the murder of Volodymyr Rybak, Yuri Popravka and Yuri Diakovskiy. At that, the persons who were abducted by the Girkin/Strelkov group, and released later on, are not recognized as victims by them.

21 www.gp.gov.ua/ua/news.html?_m=publications&_t=rec&id=161672

b. The dilemma of “mobile” investigators teams

As evidenced by the experience of several cases monitored by the members of mobile teams, more professional and independent compared with local police are the investigators sent on a mission to Donetsk and Luhansk Oblasts from other regions of Ukraine.

Although the statement about the effectiveness of investigators from other oblasts is not always also confirmed too, because many are the times when arrived on mission law enforcement officers and investigating officers perform their duties formally. Collecting the documents and materials, they come back from a mission trip without passing the information obtained to their successors, who have to take investigative actions from the start, referring to the same people for the same materials and information. In addition, important is the problem of lack of time to conduct an investigation for those who are sent on a mission to the liberated territories temporarily.

The monitoring team managed to communicate with the investigating

9. The Podushkin Case:

the victim's lawyer notes that, despite the frequent change of investigators in the criminal proceeding, only one of them has proved effective and he arrived on a mission from a different Oblast. According to the lawyer, his work is better in terms of the level of holding interviews, detailing, persistent correspondence with the Prosecutor's Office, which at the beginning of the process of the investigation refused to provide additional documents or to introduce the results of the investigation with the charges of the employees of TDF (*temporary detention Facility*).

officer, who several times has been a member of such teams. One of them worked in Donetsk Oblast within 2 months, the second one – within one month, the third one – within one week. The main task outstanding in front of these teams was the distribution of all available proceedings for a certain period into “domestic offenses” and offenses associated with military operations, as well as separatism and terrorism. Further on, it was the second group of cases the investigating officers have to handle.

According to a law enforcement officer, who we managed to communicate with, according to the results of a two-week case screening in one of the cities of Donetsk Oblast there passed about 1000 cases through his hands, most of them turned out to be from the second category, that is, of those cases that are this way or another related to the activities of the so-called “DNR” Short term of mission travels, as well as the poor quality of local investigators prevented, he said, to bring to Court even simple cases.

Among the shortcomings of the work of the investigator teams involved for a the short terms the member of them himself names the following (it is worth to note that they reflect also general systemic problems of the investigation, primarily, targeting not at the outcome, but at formal indicators of work):

- in a short time frame they try to build up work indicators (in the form of notices of suspicion produced), seeking for the obvious crimes and do not conduct investigative actions, aimed at verifying the information regarding which there are “investigators leads”, a similar situation occurs in cases, which require to carry out large amounts of investigative actions, because they don't have enough time for it;
- render in absentia resolutions on announcement of suspicion to identified persons (who committed crime without “masks”), but the actions that may lead to the establishing persons who are accessories to crime (persons whose identity they failed to establish) are not taken;
- witnesses and victims are interviewed hastily and only on one obvious fact of the crime, while with more detailed interviewing there can appear “leads” helping to establish accessories to crime or solve other crimes committed by the same persons;
- ignorance in dates, events and local personalities that causes errors in the process of collecting evidence base information;

c. The lack of investigators' access to suspects

Most of those who committed the gravest crimes left the areas, over which the Ukrainian army returned control, in advance. Many such individuals currently are wanted (*in particular, Igor Strelkov/Girkin*), whereas they themselves are either in still occupied areas of the so-called "DNR" and "LNR" and in the Crimea or in the territory of the Russian Federation.

This is confirmed by the response of the GPU on the request for information of the Center for Civil Liberties: "Taking into account the persons being involved in the commission of the specified crimes (*it is about the proceedings concerning crimes of the so-called "DNR" and "LNR" stipulated by part 1, 2 of art. 438, i. 1 of part 2 of article 115, part 3 of article 258, part 1 of article 258-3 of the Criminal Code of Ukraine, — editor's note*), in the non-Government controlled area, the persons within the criminal proceeding have been not detained, and indictment bills have been not delivered to Court".

Remarkable in this sense is the liberation of the town of Slaviansk. When Ukrainian Government forces were approaching the city in early July 2014, a column of armored vehicles along with militants and captured hostages left the town in the direction of Donetsk. In particular Igor Strelkov/Girkin was among them. His person is directly linked with a host of evidence about the torture of hostages captured by the so-called "Russian Orthodox Army", newly found by the monitors at the headquarters of the Girkin group documents, which attest the fact of "tribunals" and sentences of death rendered by such tribunals, as well as, presumably, with the death of a Deputy of the City Council of Horlivka Volodymyr Rybak. Strelkov-Girkin himself is now engaged in active public activities in Russia, being on the list of wanted persons in Ukraine. At the same time, "Interpol" refuses to put him on the wanted list referring to a political motive in the request of Ukraine.

The same applies to Luhansk Oblast. For example, the so-called Prizrak battalion ("Ghost") left Lysychansk, where it was based since the spring of 2014, during the liberation of the city by the AFU and battalions of Interior Ministry. About the criminal activities of the battalion, in particular, the abductions and torture, human rights activists collected a lot of evidence, but access to major figures is not yet possible.

5. The Melnikova Case:

In response to the request for information of the Center for Civil Liberties on the investigation of the case of Antonida Melnikova the Luhansk Oblast Prosecutor's Office refers to the fact that "working in that direction is complicated by the commission of offenses by the members of the illegal armed groups, who have the possibility to hide in the temporarily occupied areas of Luhansk and Donetsk Oblasts".

It should be noted that a separate accounting of the crimes committed in the occupied areas by the law enforcement bodies of Ukraine and their respective oblasts is not conducted; they are registered in a general order on the standard procedure in the law enforcement bodies of the Ukrainian Government controlled areas. Almost all of them settle down as “a dead weight” because, first of all, lack of access by investigators to the crime scene. However, even victims or their relatives receive information on “investigations” carried out by “the investigative bodies” of “DNR/LNR”.

A volunteer, in the past known TV-host Olena Kulish and her husband Volodymyr Aliokhin, who helped the Ukrainian army, were abducted from their home by eight armed men in camouflage in the early morning of August 10, 2014 in the village of Peremozhne, the Luhansk Oblast. At that time this village regularly got under shooting and shellfire attack, carried out by the “LNR” militants in the direction of

the Luhansk airport. The captors burst into the house of the family, grabbed 50 thousand dollars, home appliances, all documents, two cars. They brought out Olena and Volodymyr in front of their children eyes, pushed in one of the stolen cars, drove in the direction of the village of Pervozvanivka and murdered them. The bodies were buried on the spot. For more than half a year the relatives did not know about the fate of the abducted Olena and Volodymyr. The bodies were found in early January 2015 in the village of Piatygorivka, Lutugino District of Luhansk Oblast by the so-called “law enforcement authorities” of the “LNR”. As it was reported to the family of victims by the “Prosecutor’s Office of the LNR”, persons who had been detained in another case (Oleksii Volodymyrovych Gerikh with the call sign “Medved”, Chief of Staff of “Odessa” OBRON, citizen of Russia, from the city of Rostov-on-Don, and Oleksii Oleksiyovych Fominov with the call sign “Foma”, “Odessa” OBRON Commander, also a citizen of Russia, but from the

Krasnodar Krai), themselves pointed to the place of burial. It is difficult to predict what might be the progress in this case.

In the case of the murder of the family of Kulish it is obvious that an obstacle for the investigation of such cases becomes lack of access not only to the crime scene, but even to the body of the murdered person.

After repeated refusals, only at the end of June 2015 (i.e., almost a year after the murder) the relatives of the executed Kulish family, managed to bury the bodies and take DNA samples. DNA samples of Olena Kulish confirmed the identity of the body, the DNA samples of Volodymyr Aliokhin are still under examination.

The widow of Volodymyr Rybak, Olena still cannot get the body of her husband, which immediately after its finding in 2014, was buried in the currently occupied city of Gorlivka. None of the teams involved in the negotiations with the IAG, as well as in the transfer of the bodies of the victims from the occupied areas, for a year and a half have been unable to help Olena.

Response of the State Security Service of Ukraine to the request of a lawyer claiming that there is no separate registration kept for the citizens’ appeals from the occupied areas

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Прим. № _____
Скорбачу Олексію Івановичу

На № _____ від _____ року

Головним слідчим управлінням розглянуто Ваш запит на доступ до публічної інформації від 05.11.2015 року.

Повідомляємо, що у Головному слідчому управлінні не ведеться окремий облік звернень громадян із окупованих територій з заявами про вчинення злочинів.

Поряд з цим повідомляємо, що у Головному слідчому управлінні СБ України усі звернення громадян із заявами про вчинення кримінального правопорушення розглядаються в установленому законом порядку та за результатами цього розгляду відповідно до ст. 214 КПК України, не пізніше 24 години, слідчим вносяться відомості до Єдиного реєстру досудових розслідувань.

Відповідно до ст. 218 КПК України досудове розслідування здійснюється слідчим того органу досудового розслідування, під юрисдикцією якого знаходиться місце вчинення кримінального правопорушення.

Заступник начальника
Головного управління

Б. Тивозар

d. Uncertainty about the prospects of application of amnesty, as well as “hidden amnesty”

The format and conditions of the amnesty provided by the Minsk Agreements remain uncertain. Item 5 of this document is blurred, it speaks of “pardon and amnesty by adopting a law, prohibiting the prosecution and punishment of persons in connection with the events that have taken place in some areas of Donetsk and Luhansk Oblasts of Ukraine”.

It should be remembered that the amnesty applies only to the convicted in criminal procedure that should be the result of a fair judicial process. Then, each individual case of committing a crime cannot be just “pardoned” or forgotten. A proper judicial procedure in accordance with national regulations in compliance with international standards of human rights must take place, and only after this procedure completion and the establishment of the degree of guilt the person may be recognized as such, who falls under the amnesty, according to the Minsk Agreements. Any other option of exemption from liability for crimes committed will strengthen the existing today in the non-Government controlled areas impunity and in no way will provide for restoring justice and peace.

Designed to perform the Minsk Agreements the Law of Ukraine “On preventing prosecution and punishment of persons-participants of the events on the territory of Donetsk and Luhansk Oblasts”²² was voted for by the Ukrainian Parliament in September 2014 despite intense criticism of its provisions the human rights organizations. This law has never been signed by the President (*status of the document at the moment on the website of the Verkhovna Rada – “being prepared for signature”*). Thus, the issue of amnesty as for the liability of certain categories of citizens of Ukraine remains unresolved, and the prospects of it are unintelligible. Although officials at various levels have repeatedly stressed that the amnesty will not affect those who have committed serious crimes, crimes against humanity and war crimes²³. Because of the acuteness of the political moment the resolving of this issue is postponed and it is recently not

commented in public space (*most of the comments about it were voiced in autumn 2015*). Along with this, the prospect that persons whose acts now are being investigated, will eventually be officially exempt from liability, deprives the law enforcement officers of the remains of enthusiasm about the conduct of any quality investigative actions against acts of these individuals.

However, in parallel with the resolving the issue of amnesty in the course of the Minsk negotiations, the exemption from criminal liability of participants of the IAG takes place in Ukraine within other procedure. It is about the program “Waiting for You at Home,” which was launched by the SBU August 18, 2015 and aimed at “bringing to the participants of illegal armed groups of the so-called “DNR/LNR” the provisions of the legislation that provide for the possibility of exemption from criminal punishment”. According to the secret service, as of April 2016, “more than 60 former militants of the illegal armed groups have benefited from the program”.

This process requires a separate study in view of the potential risks, which in practice may lead to a de-facto “covert amnesty” for serious crimes.

SBU argues that “If a person commits another crime, not associated with his participation in the illegal armed groups, such as robbery, intentional murder, then of course these acts will be qualified separately. At the same time, the low quality of investigations of crimes committed against the civilian population of the so-called “DNR/LNR”, makes no warranty that the facts of some person being involved in the serious crimes will be established. According to a representative of the secret services, the profile of each person is verified in operative ways (*“people are checked through the operational capabilities of our service”*), as well as through other program participants, former members of the illegal armed groups. But there are no data on applying for clarification of this information to the National Police (*and it is the authority that holds most of the investigations for torture, illegal*

detentions, murders of civilians), as well as to the General Prosecutor’s Office (*which, as noted, is investigating a big proceeding combining almost three thousand victims of the crimes of the IAG of the so-called “DNR/LNR”*).

These fears are confirmed also by the information that the mobile team received from one of the investigating officers. As of October 2015, there were declared 61 sentences in different oblasts of Ukraine for the persons who were in the ranks of the so-called “DNR”. It is possible that it is about people who have benefited from the opportunities of the specified program of the SBU. But the concern is that the wordings of sentences of the district courts of different oblasts do not contain data about what exactly, when, where and under what circumstances has been done by these individuals. There was only brief mentioning the person’s name, a reference to the fact that he/she voluntarily came to collaboration with the “DNR”, stood on a checkpoint inspecting documents, then – the sincere repentance and deal with the investigation. The verdict is approved by the Court, as a rule, “5 to 3” – that is, five years of imprisonment with a probation term of 3 years. The only exception of those on more than 60 cases was the sentence of “4 to 1”.

The fact that it is about different oblasts of Ukraine, respectively, different courts, and at the same time about the same type of “standard” sentences with blurry fuzzy wordings, gives reason to question both the good faith of the carried out investigation, and the justice of judicial decisions. And under such conditions, to be certain that the person did not commit grievous crimes, is quite difficult.

Another problem, which requires a separate study is the extra-legal practice of forming an “Exchange Fund”. It is in the suspending delivery of decisions on suspicion to the members of illegal armed groups who have committed grievous crimes, with the purpose of further removing from them the preventive measure and exchanging for the Ukrainian prisoners of war and illegally held civilians who are in the grip of so-called “DNR/LNR”

22 www.w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=52183

23 www.ukr.segodnya.ua/regions/donetsk/klimkin-obyasnil-komu-iz-dnrlnr-svetit-amnistiya-655935.html

CONSEQUENCIES OF INEFFICIENT CONDUCT OF PRE-TRIAL INVESTIGATION

Overall reform and modernization of the power structures in the Ukrainian Government controlled territories of Donbas, formulated by the leadership of Ukraine as one of the main tasks and constantly declared, is **impossible in conditions of impunity**.

The continuation of the tradition of impunity, when the issue is not just about covering each other's backs, but about the gravest violations of international criminal law, such as crimes against humanity and war crimes, creates the **risk for not only occupied areas, but also liberated ones to turn into the zone of impunity with unpredictable scenarios of the situation development** (*up to moving under the so-called "DNR"/"LNR"*)—instead of "showcase of a free country", which all hoped for.

Among other things, this means **the loss of a chance for renewal and**

improvement of the system not only on a local level, but also at the level of the whole country. In addition to that, it creates conditions for a **rematch of the so-called "old system"** at the general level, as well as at the level of specific personalities.

Impunity gives rise also to a high level of public frustration, **making reconciliation impossible**, and to the contrary, rather promotes the growth of tension in society.

The reverse side of this situation may be the **emergence of people's avengers and "courts of Lynch"**. Although it is worth noting that in Ukraine, this danger is not clearly expressed, however, there are cases when citizens try to commit mob rule, believing that investigative authorities remain idle or even cover those whose actions, they believe, led to the capture of the territory by the illegal armed groups.

One of the negative consequences of the inefficient conduct of a pre-trial investigation consists in the fact that

there is a need of increased initiative on conducting investigation on the part of the victims, their lawyers and human rights activists. If the victim himself, his representatives, as well as activists and journalists do not insist on the investigation of the case and do not attract attention of the public to it, there is almost no chance that it gets off the ground and will be properly investigated into, and the guilty will be brought to justice. In the situation of sometimes downright sabotaging investigation on the part of investigators, the obligation to monitor it falls on the victims themselves: they have to require interviewing them, as well as interviewing witnesses, to engage in their search, to request expert examinations. If the injured person has no lawyer or someone who provides public resonance of the case, the person may be refused from access to materials of the case, that is unlawful. And inherent to almost all of the examples mentioned in this Report.

One of the hostages, who was held by members of the illegal armed groups at one of the captured facilities, now is subject in a criminal case, and in the local press he is spoken of as “the people’s avenger.” Local law enforcement authorities parallel to a case about his abduction investigate proceeding regarding his own actions associated with “revenge to the local separatists”, in particular the arson of a car and a dwelling house, shooting at the housing (qualification: attempted murder, intentional destruction of or damage to property). Regarding the criminal case that was launched against him, the man said that he was prompted to resort to the radical unlawful actions by the idleness of the law enforcement authorities in bringing to criminal liability the major, in his opinion, culprits who are to blame for the beginning of the war—both organizers and direct performers (those who created the checkpoints, provided weapons and physically transferred funds to militants, organized trips of “titushki” to the Antimaidan rallies, etc.), who presently are in the liberated territories. “I asked the policeman who I communicated with: “Have you imprisoned at least one of them within a year and a half? No, we haven’t”. So I started sorting it out myself” Although it is worth noting that, in the words of our interlocutor, there still are criminal cases launched against some of these people. The first precautionary measure for this person was chosen in the form of home arrest, but the second time it was not extended. According to the man, combatants and local patriotic organizations came to the defense of him. That is also a characteristic feature.

So, often the victims themselves, their attorneys, and human rights activists are the driving force that makes the unmotivated investigation work.

10. The **Victim from Pisky** Case:

If it were not for the lawyer to appear in the case, there is reason to believe that it would be “buried”, because not a single action on the part of the law enforcement officers was taken in a year and a half. Certain steps were made only with the advent of requests by the representative of the injured party.

5. The **Melnikova** Case:

only after reminders on the part of the victim Antonida Melnikova, as well as after repeated submitting the victim’s statement, investigators started a criminal proceeding in her case. She also initiated numerous investigative actions, which should have been initiated by the investigating officers in the framework of the execution of their immediate duties.

9. The **Podushkin** Case:

while law enforcement agencies conducted a meaningless correspondence, the victim and his attorney constantly pointed out for the investigating officers, who should be interviewed, informed of the circumstances that had significant value and contributed to the materials of the case with screen-shots of the social network personal pages of the suspects in abduction (*persons who were on the “checkpoint”*). Only due to their demand two individuals were put on a wanted list, and the materials from a social network (*primarily for identifying these people by their photos*) were added up as evidence.

RECOMMENDATIONS

For the attention of the Verkhovna Rada Of Ukraine

- To ratify the Rome Statute of the International Criminal Court with the purpose of prevention of committing crimes against humanity and war crimes on the territory of Ukraine in the future, as well as to promote the development of effective national system of criminal justice.
- To fulfill the recommendation of the PACE Resolution No. 2112 (2016), according to which the Assembly calls on the Ukrainian authorities “to bring its national legislation, including the Criminal Code and the Criminal Procedural Code, in accordance with the provisions of international criminal law and, in particular, include provisions on the status of a captured person and to define torture as a grievous crime”.
- To adhere to the principles of international humanitarian law when implementing the amnesty provided for by the Minsk Agreements. With this purpose, it is necessary to fix legislatively a procedure according to which, the amnesty can be applied only after conducting full investigation and establishing all the circumstances of the crimes and the guilty persons in the course of a trial; amnesty will not apply to persons who committed grievous and especially grievous crimes under the Criminal Code of Ukraine; amnesty will not apply to crimes which, under the Rome Statute, may fall under the definition of “war crimes” and “crimes against humanity”

For the attention of General Prosecutor’s Office of Ukraine

- To form in the body of the General Prosecutor’s Office of Ukraine a unit, which would conduct comprehensive investigations (*based on the example of the Special Investigations Office “for the Maidan affairs”*) of armed aggression of the Russian Federation and international crimes committed in its framework, starting from the events of the annexation of the Crimea. To engage in its work representatives of other investigative bodies, in the first place NPU and SBU. To provide the unit with powers as for coordination and control over performance of criminal proceedings that are started on the facts of the crimes committed in the ATO zone on the part of the so-called “DNR” and “LNR” and the Russian Federation. Corresponding functions can be foreseen, for example, for already existing Office of Investigation of Crimes Against Peace and Security of Mankind, to expand its staff and allocate the necessary resources.
- In the framework of the implementation of Recommendation 1, to organize a systemic operation of regional investigators, in particular, to develop a system of reporting before the main center of investigations as for outcomes of the investigations at the local level. To start a training program for regional investigators, who are directly involved in the process of investigating the aggression of the Russian Federation against Ukraine. It is worth to continue the practice of engaging in the investigation on the territory of Donetsk and Luhansk Oblasts the investigators from other regions, at the same time taking into account the shortcomings specified in the Report.
- To consider opportunities to attract international assistance for creation of an efficient model of national justice with an international element, which allows foreign experts working alongside experts, investigators, prosecutors and judges of the national authorities. We would like to emphasize that, in our view, the implementation of the international element is essential not only at the level of the administration of Justice, but also at the stage of pre-trial investigation.

For the attention of the National Police of Ukraine

- To identify as a priority issue the establishment of an effective operation of law enforcement agencies in the area of ATO. To consider a possibility of formation of law enforcement reserve to fill the staff of Luhansk and Donetsk Oblasts. To foresee additional motivational mechanisms for employees at the local level. To implement the policy, according to which the employees of law enforcement bodies, who failed to pass re-assessment, cannot be sent to the area of ATO and adjacent territories.

For the attention of Security Service of Ukraine

- To conduct a proper investigation into cases of unlawful detention and holding by the officers of the Security Service of Ukraine the people suspected in “separatism”, who later on were transferred to the occupied territory of the Donetsk and Luhansk Oblasts with the purpose of exchanging them that, among other things, prevents the collection of evidence to confirm the aggression of the Russian Federation and international crimes committed in its framework.

For the attention of the General Prosecutor’s Office of Ukraine, National Police of Ukraine and the Security Service of Ukraine

- To regularly publish information, in particular statistical data on the case status of investigated crimes committed in the area of ATO, including those that were committed by Ukrainian forces of ATO.

In General, all government agencies should follow the principle of “legal certainty” and provide a definitive legal assessment of the events in Donbas as an armed conflict with the Russian Federation, not ranking it for “internal” and “external” use.



VIOLATION OF LGBTI RIGHTS IN CRIMEA AND DONBASS: THE PROBLEM OF HOMOPHOBIA IN TERRITORIES BEYOND UKRAINE'S CONTROL

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INTRODUCTION

Discrimination on the grounds of sexual orientation and gender identity (SOGI) continues to be an issue in today's world, despite the fact that in recent years this topic has started to reverberate for the first time: same-sex marriage has been legalized in more than 20 countries, and more and more states are enshrining it in their laws. Meanwhile, however, same-sex relationships are still punishable by death in some African and Asian countries, and a number of states stipulate life imprisonment for LGBTI people. Society's outsized reaction to the emancipation of LGBTI people frequently takes the form of outbreaks of homophobia. Perfect examples of this are the homophobic laws that have been adopted in the Russian Federation and that have unfortunately spread to territories controlled by the Russian government, including in neighboring countries.

In these circumstances, it is particularly important to understand what is happening in regions of Ukraine that are under *de facto* Russian control. This question has not been examined in any great depth by any human rights group. In fact, the situation for LGBTI people in Crimea has only ever been mentioned once—in a 2015 report by the Ukrainian NGO Nash Mir (Our World). The Anti-Discrimination Coalition, which includes Crimea in its work, has not dealt separately with the violation of LGBTI rights there, and, like many other human rights structures, the Crimean Human Rights Field Mission does not address the LGBTI situation in Crimea in its informational materials because it has trouble obtaining verifiable information and developing regular contacts in this sphere. Russian human rights organizations (for example, the Russian LGBT Network) do not investigate the situation for minorities in Crimea, since they do not include Crimea in their (purely Russian) activities. Thus, the LGBTI problem in Crimea has not been really investigated and does not receive the amount of attention it deserves.

As we look at the situation of LGBTI people in Crimea and Donbass, it is important to understand the changes that have occurred there over the past two years. The critical phase of the conflict between Russia and Ukraine began in the first half of 2014. Numerous experts classify this as a hybrid war,¹ where military actions combined with informational propaganda led to the secession of Crimea and parts of Donetsk and Luhansk oblasts from Ukraine. These actions have had more than just political consequences—civilians have suffered more than anyone else, and the situation has particularly deteriorated for vulnerable groups that experienced difficulties prior to the conflict. People who have faced discrimination on the grounds of SOGI face an especially dangerous situation.

In early 2014, Russia inserted troops into Crimean territory and later declared it Russian territory under a special law (No. 6² of 18 March 2014 “On the Accession of the Republic of Crimea to the Russian Federation and on the Formation of New Constituent Entities of the Russian Federation—The Republic of Crimea and the Federal City of Sevastopol”). This was a critical moment for residents of Crimea, which was declared a “constituent entity” of the Russian Federation along with the city of Sevastopol. The international community did not recognize this annexation, and on 27 March 2014, the UN General Assembly adopted a resolution³ supporting Ukraine's territorial integrity. The majority of UN member states (100 out of 193) voted to adopt this resolution, and 11 countries (Armenia, Belarus, Bolivia, Venezuela, Zimbabwe, North Korea, Cuba, Nicaragua, Russia, Syria, Sudan) voted against it, thus recognizing Russia's annexation of Crimea.

¹ <http://www.svoboda.org/content/transcript/26731166.html>

² http://www.consultant.ru/document/cons_doc_LAW_160618/

³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/455/19/PDF/N1345519.pdf?OpenElement>

Beginning 18 March 2014, Russian laws began to be applied de facto in Crimea. These laws included the homophobic norms of administrative law that had been condemned by the international community.

In 2013–2014, Ukraine experienced historic events (Euromaidan, which called for greater integration with Europe, mass protests against corruption, etc.) that led to a change in power, the flight of the former president Yanukovich, and the arrival of new leaders. Southeastern Ukraine was ambivalent about the new reality: many people spoke out against the events in Kiev, criticized the Ukrainian government, and lent their support to the rhetoric of separatism. In February 2014, the Verhovna Rada attempted to repeal the law “On the Principles of State Language Policy” of 3 July 2012 no. 5029-VI,⁴ which granted Russian the status of “regional language,” a move that was viewed in an extremely negative light by residents of southeastern Ukraine. Even though this hasty decision was revoked just two days later, it provoked a growth in anti-government and separatist attitudes in the Russian-speaking regions, where residents were apprehensive about the possible loss of their language rights.

In a situation provoked by Russia’s propaganda campaign and direct support, parts of eastern Ukraine ended up under the control of self-proclaimed republics (DNR and LNR): military actions were launched in Donetsk and Luhansk oblasts, and on April 6 protesters seized the administration building in Donetsk and adopted a “declaration on the sovereignty of the DNR.” In Luhansk, the building of the Ukrainian security service was seized on April 6, and the “LNR Republic” was proclaimed on April 28. This all took place in a situation of de facto war, where government troops faced both local separatist fighters and numerous “volunteers” from Russia, who were under the direction of active Russian soldiers.

The self-proclaimed republics, however, were not recognized by Russia: besides themselves, the only entity to recognize them was South Ossetia, which is also not recognized by most countries.

The so-called DNR and LNR adopted their own constitutions and laws. Many of the norms in effect in these territories copy RF laws in whole or in part. At the same time, there are many relationships that are not regulated by law, and in fact Russian norms and Ukrainian procedural law are frequently in effect in the same branch of law at the same time. Even though these “laws” are not considered legitimate, people in areas of these oblasts that are not under Ukrainian control are forced to obey the new rules. Thus, it is extremely important to analyze both the norms of Russian law and the “laws” of the self-proclaimed republics in the context of examining the problems LGBTI people face in Crimea and Donbass.

It must of course be acknowledged that homophobia exists in Ukraine as well, in spite of the persistent efforts of the human rights community and the appearance of anti-discriminatory norms. According to research conducted by the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), from 2014–2016 the index reflecting compliance with LGBTI rights in Ukraine remained extremely low (in the range of 10–13 percent⁵). There are regular manifestations of violence against LGBTI people both at public events⁶ and against individuals identified by their outward appearance. Homophobia, which had previously existed in Ukrainian society, intensified in eastern Ukraine with the start of conflict there, and the military actions supported by Russia did little to improve the situation. To begin with, the appearance of armed people developed into a free-for-all that threatened the life and well-being of people from vulnerable groups. As a result of anti-European rhetoric, widespread homophobia, and the transfer of power to armed people, shootings and torture on the grounds of SOGI became a reality throughout the territories of the self-proclaimed republics of Donetsk and Luhansk. Violence against LGBTI people became the norm and was encouraged by representatives of government structures.

Another order of circumstances that arose in these territories as a result of their “secession” from Ukraine included a worsening economic situation and the inability to purchase food and other necessary products. For transgender people, a particular problem was the lack of medication required for hormone therapy. Also, transgender residents were denied humanitarian aid because their documents did not match their appearances. Finally, entry into and departure from these territories became not only more dangerous, but also more expensive and several times slower.

⁴ <http://zakon5.rada.gov.ua/laws/show/5029-VI>

⁵ <http://www.ilga-europe.org/rainboweurope>, http://www.ilga-europe.org/sites/default/files/Attachments/side_a_rainbow_europe_map_2015_a3_no_crops.pdf, <https://rainbow-europe.org/country-ranking>

⁶ <https://amnesty.org.ru/ru/2015-06-06-ukraina/>

In Crimea, many small businesses and pieces of real estate were not restructured in accordance with the requirements of Russian law. As a result of this, and also of the blocking of Visa and MasterCard payment systems, many people lost their jobs. Residents of Crimea state that buildings that could have been rented previously are frequently abandoned, making it difficult to find locations for LGBTI events or offices for NGOs working in thematic areas, especially against a background of the sharp rise in homophobia.

All of the circumstances listed above have led to a significant deterioration in the situation for LGBTI people in Crimea and Donbass. This situation is worse in comparison not just with Ukraine, but even with Russia due to lawlessness, political changes, economic problems, and the presence of armed formations.

However, even in these difficult circumstances, people have been able to find the strength in themselves to remain in their homeland and even gain the acceptance of people close to them. For example, a medical worker from Luhansk recounted how colleagues who knew about his orientation started to respect him for staying after the start of the war and continuing to provide people with medical assistance.⁷ In another case, a gay man living in the so-called LNR reported that people he knows who work for the republic's administration are aware of his orientation but respect him and do not persecute him.⁸ Finally, a woman from Crimea, whose orientation became known to her relatives shortly before the annexation, spoke about how her relatives first threatened to kill her for being a lesbian, but then came to recognize that in doing this they were ceding to the influence of propaganda calling on people to reject European values, including LGBTI rights. Two years later, this woman's sister asked for her forgiveness and accepted her.⁹ Many people interviewed spoke about how the opinions of their family members changed over time, with some family members even acknowledging that they had fallen under the influence of propaganda, including homophobic propaganda. Some LGBTI people have participated in the war, even though they fully recognize the risk of "exposure" among armed people. There have been instances of this in the so-called LNR and DNR, and also in Ukraine. One gay man admitted that he was fighting on the side of Ukraine because he and his partner decided that the first one to be called up would go to fight. None of his fellow soldiers know about his orientation, so he knows his comrades will help because of their team spirit. If they did know about his orientation, however, their relationship would change. Even though this man cannot come out right now, he is ready to participate in gay parades side-by-side with veterans groups when the war is over.¹⁰ These and many other cases describe the complexity of the situation surrounding the conflict between Russia and Ukraine.

It is particularly alarming that Russia's interference in the internal affairs of another country has caused the formation of so-called grey zones and has greatly increased the risk that the conflict in Donbass will continue to simmer. A situation where these territories remain beyond the control of Ukraine is disturbing both in terms of continued violations of human rights and in terms of the worsening situation for LGBTI people. In this respect, a particular cause for concern is the harsh reaction Russian authorities had to Ukraine's statement of its intention to "retake Crimea and Donbass": without concealing their support for separatism in eastern Ukraine, senior RF officials did not allow even for the thought that "Russia's territorial integrity" could be violated and that Crimea might not be recognized as one of its regions. "Separatist leanings" displayed by Crimean residents who do not recognize the annexation is punishable by criminal prosecution and years in prison.

Below we will attempt to examine the realities of life for LGBTI people in this new legislative environment. The situation of people remaining in these areas is complicated by armed conflicts, persecution of dissenting views and the overall authoritarian environment, the power of armed people, homophobic violence, and an atmosphere of fear and terror. All of this will lead to a rise in denunciations against LGBTI people in Crimea and the parts of Donbass that are not under Ukrainian control.

⁷ Interview with S., Luhansk Oblast

⁸ Interview with A., Luhansk Oblast

⁹ Interview with M., Crimea

¹⁰ http://upogau.org/ru/ourview/ourview_3308.html

Chapter 1

THE SPREAD OF HOMOPHOBIC LAWS IN ANNEXED CRIMEA AND EASTERN UKRAINE

Russia and Ukraine have historically had similar legal norms relating to same-sex relationships. Recently, however, these norms have taken different directions: laws in Ukraine are generally becoming less discriminatory, while laws in Russia and their application are becoming more homophobic in nature.

Accordingly, the situation for LGBTI people has deteriorated in both annexed Crimea, where Russian laws and enforcement practices are now in effect, and in the so-called DNR and LNR, whose laws usually mirror Russian laws and are sometimes even more discriminatory.

Even though the Minsk Protocol labels the DNR and the LNR as “certain areas of the Donetsk and Luhansk regions of Ukraine,”¹¹ approved laws in these territories differ from Ukrainian laws. The authorities of the so-called DNR and LNR nominally follow laws adopted by the “republics” themselves that frequently copy Russian laws, with a mix of Ukrainian norms that were previously in effect in the Donetsk and Luhansk regions of Ukraine (there are also laws that do not have any direct analogues in Ukraine or Russia, for example DNR Law No. 23-INS “On Special Legal Regimes” of 24 April 2015). However, in practice DNR courts continue to use Ukrainian norms of procedural law. The possibility to conduct cases in this way was enshrined in Resolution of the DNR Council of Ministers No. 9-1. The first version of this resolution was adopted in June 2014. Given the absence of a legal framework in the DNR and the need to regulate legal relationships, this resolution established that courts could, at their own discretion and in the absence of DNR laws, “apply the laws of Ukraine or the laws of other states insofar as they do not contradict the Declaration of Sovereignty of the Donetsk Peoples Republic or the DNR Constitution.”¹² However, this clause was amended in early January 2015. The current version of this resolution establishes the absolute precedence of Ukrainian laws in effect “in the territory of the DNR before the DNR Constitution entered into force”¹³ to the extent that they do not contravene the Constitution.

In general, justice in these so-called republics is administered haphazardly. The over 160 prisoners held in illegal prisons in these territories are testimony to this¹⁴ (there are no police officers or prosecutors, “people’s courts” are held sporadically and spontaneously, “field commanders” or members of the administrative staff of the DNR and LNR make decisions on an arbitrary basis). The population is poorly informed of current laws and rules. According to one member of the LGBTI community in Luhansk, “*when laws are adopted in a normal country, the press writes about them, there’s a constitution, some kind of register. We had all of that, but now it’s all based on rumors*” (L).¹⁵

¹¹ <https://www.facebook.com/events/26367163706645/permalink/266891303654231/>

¹² <http://gkgtn.ru/info/ukazy-postanovleniya/> Resolution No. 9-1 of 2 June 2014 “On the Application of Laws in the Territory of the DNR during the Transition Period,” <http://www.gb-dnr.com/normativno-pravovye-akty/204/243/>

¹³ <http://www.gb-dnr.com/normativno-pravovye-akty/204/>

¹⁴ <http://jfp.org.ua/rights/analytika/reports/coalition>

¹⁵ From this point onward, quotes are from interviews conducted by ADC Memorial with members of the LGBTI community recorded in December 2015–March 2016. The relevant region is given in parentheses (D – Donetsk Oblast, L – Luhansk Oblast, C – Crimea). With certain exceptions, the informant’s information is not given due to safety concerns. Complete recordings of the interviews are kept in ADC Memorial’s archives.

A COMPARATIVE ANALYSIS OF THE LAWS OF RUSSIA, UKRAINE, THE DNR, AND THE LNR WITH RESPECT TO DISCRIMINATION ON THE GROUNDS OF SOGI AND THE PROBLEMS OF PROTECTING LGBTI RIGHTS

General constitutional norms of equality

In general, most legal acts in Ukraine and Russia establish a ban on limiting the rights of an individual based on a certain ground. The fundamental law of the state, the Constitution, proclaims that everyone is equal before the law and the court in both Ukraine (articles 21 and 27 of the Constitution) and Russia (Article 19 of the Constitution). Even the constitutions of the so-called DNR and LNR contain similar norms (Article 13 of the constitutions of both republics), which were copied from the RF Constitution. It is true, however, that none of these normative acts list SOGI as grounds for inequality or use the term “discrimination.”

Neither Russian nor Ukrainian laws have norms that are explicitly homophobic or that would prosecute same-sex relationships as such. In Soviet times, criminal liability for “sodomy” was on the books in all Soviet republics, and in the almost 60 years of its existence (Article 154, and later Article 121 of the RSFSR Criminal Code) almost 60,000 people in the RSFSR alone were sentenced for same-sex relationships.¹⁶ This article was frequently used as a tool of repression against dissidents.¹⁷ Even though after 1991 the criminal codes of the RSFSR (Article 121) and the USSR (Ukrainian Soviet Socialist Republic) only stipulated punishment for “sodomy” and “lesbianism” combined with violence or threats of violence, these terms continued to be perceived in a negative light. The formulations “sodomy” and “lesbianism,” which have historically had a negative connotation in the criminal laws of both countries, are still used in Russia (Article 132 of the RF Criminal Code) and are reminiscent of the notorious Article 154 (Article 122) of the RSFSR Criminal Code. In Ukraine’s Criminal Code, however, these words were replaced with the formulation “violent unnatural gratification of sexual desire” (Article 153 of the Ukrainian Criminal Code), which is of course still not quite right.

A return to the Soviet practice of prosecution for same-sex relationships can be observed in the DNR and the LNR. Even though for the most part their laws copy Russian and Ukrainian laws, where there is no ban on same-sex relationships, and even though Article 14 of their constitutions establishes each person’s inalienable right to life and bans torture, violence, and harsh treatment, a proposal was made in the LNR in September 2014 to introduce the death penalty for homosexual sex. This initiative was not approved, but it cannot be excluded that this failed “legal norm” has not been applied in practice.¹⁸

Witnesses to the events of 2014 who were interviewed by ADC Memorial stated that people in the DNR and LNR were prosecuted for same-sex relationships:

“Flyers were put up all over Gorlovka: ‘Homosexuality is an abomination and must be prosecuted under DNR laws’” (D).

“Homophobic norms and punishment for sexual orientation were introduced into the draft of the Constitution [DNR]” (D).

“There was an article for LGBTI people, people were shot during the first wave [the period of the spring and summer of 2014, when armed people seized power and there were frequent acts of arbitrary violence]” (L).

¹⁶ Valery Chalidze (The Advocate, December 3, 1991) and Sergey Shcherbakov (Collected Materials of the Sexual Cultures in Europe Conference, Sexual Cultures in Europe, Amsterdam, 1992)

¹⁷ Khili, D. *Gomoseksual'noe vlechenie v revoliutsionnoi Rossii*. Moscow, 2008, p. 297.

¹⁸ Based on interviews conducted by ADC Memorial with LGBTI people living in the DNR and LNR, December 2015–March 2016.

*“A ban on non-traditional sexual orientation was enshrined in the DNR ‘Constitution’.”*¹⁹

The ban on same-sex relationships was later removed from the DNR “constitution,” and this article is not present in the current version²⁰ of this document.

Currently, Article 48 of the DNR and LNR “constitutions” (versions of 14 May 2014 and 24 September 2014²¹, respectively) establishes that: “human and civil rights and liberties may be restricted [...] only to the extent required for the protection of the foundation of the constitutional system, morality [...]” This norm mirrors the text of Article 55 of the RF Constitution.²²

Ukraine’s new anti-discriminatory law and the lack of an analogous law in Russia

With the exception of the Constitution and several normative acts establishing the basic principles of equality for all citizens, Russia lacks any special anti-discriminatory law.

In Ukraine, however, Law No. 5207-VI “On Principles of Prevention and Combating Discrimination in Ukraine,”²³ has been in effect since October 2012. In May 2014, normative act No. 1263-VII²⁴ introduced additions to this law and defined the terms of direct and indirect discrimination. According to Article 1 of the law, discrimination is defined as “decisions, actions, or inactions aimed at restrictions or preference in relation to an individual and/or group of individuals... if these restrictions or preferences make it impossible for human and civil rights and liberties to be realized and exercised on equal grounds.” The law established the principle of non-discrimination in the laws of Ukraine regardless of “certain grounds” (Article 2). Even though the adoption of this non-discriminatory law must be viewed as a positive step, it is unfortunate that the list does not include discrimination on the grounds of SOGI.

Clause 105.1 of Ukraine’s “Action Plan to Implement a National Human Rights Strategy for the Period up until 2020”²⁵ envisages adding a ban on discrimination on the grounds of SOGI to the list of grounds, introducing the concept of victimization, and regulating a ban on multiple discrimination and discrimination by association. According to this document, these changes were to have been developed in the first quarter of 2016, but no information about this has been made available to the public yet. Therefore, methods of protection against discrimination envisaged in the law like the abilities to appeal decisions and discriminatory actions or inactions and to receive compensation for material and emotional damages caused as a result of discrimination (articles 14 and 15 of the law) unfortunately do not apply to LGBTI people in Ukraine.

RF administrative laws: laws on “propaganda” and “harmful information”

In Russia, homophobic norms entered federal law with the adoption in 2013 of Federal Law No. 135-FZ (similar regional laws emerged prior to this), while amendments were made to a number of normative acts at the same time. Law No. 436-FZ “On Protecting Children from Information Harmful to their Health and Development” was supplemented with wording about

¹⁹ Svyatoslav Sheremet, director of «Gay Forum Ukraine» <http://www.depo.ua/rus/life/gei-rasskazali-za-chto-ih-nenavidyat-terroristy-dnr-24062014152700>

²⁰ <http://dnrsovet.su/zakonodatelnaya-deyatelnost/konstitutsiya/>

²¹ <http://lug-info.com/documents/one/12>

²² <http://www.constitution.ru/10003000/10003000-4.htm>

²³ <http://zakon3.rada.gov.ua/laws/show/5207-17>

²⁴ http://search.ligazakon.ua/l_doc2.nsf/link1/T141263.html

²⁵ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

harmful information “promoting non-traditional sexual relations.” At the same time, Article 6.21 “Propaganda of non-traditional sexual relations among minors” was added to the RF Code of Administrative Offences.

These homophobic norms of Russian law spread to Crimea at the time of its annexation and, somewhat later, to the DNR and LNR. The DNR law “On Protecting Children from Information Harmful to their Health and Development” No. 79-INS of 2 October 2015 mirrors Russia’s law No. 436-FZ of the same name.²⁶ Under Article 5 of both laws, information “rejecting family values” and “promoting non-traditional sexual relations”²⁷ cannot be distributed to minors. The current version of a similar LNR law does not mention these kinds of bans,²⁸ but draft law No. 146-PZ/15 of 6 November 2015 “On Amendments to the Law of the Luhansk People’s Republic ‘On Protecting Children from Information Harmful to their Health and Development,’”²⁹ proposes additions related to “propaganda of non-traditional sexual relationships.”³⁰

The term “promotion of non-traditional sexual relationships among minors,” which is enshrined in the RF Code of Administrative Offences (CAO), is intended to describe actions “expressed in distribution of information that is aimed at the formation among minors of non-traditional sexual attitudes, attractiveness of non-traditional sexual relations, misperceptions of the social equivalence of traditional and non-traditional sexual relations, or enforcing information about non-traditional sexual relations that evokes interest to such relations.” An individual prosecuted for committing a violation under Article 6.21(1) of the RF CAO faces punishment in the form of a fine in an amount ranging from 4,000–5,000 rubles, while legal entities face a stiffer fine in the amount of 800,000 to one million rubles or suspension of activities for a period of 90 days.³¹ Committing any of these actions with the use of the media is treated in part 2 of this article, while parts 3 and 4 address the commission of these actions by a foreign citizen.

Even though the self-proclaimed republics lack important norms necessary for regulating various spheres of relationships, these absurd bans on gay propaganda and so forth were adopted in the DNR and LNR. In March 2016,³² the LNR adopted its Code of Administrative Offences. This document copies the RF CAO, including Article 6.18, which sets liability for violating the law to protect children from “harmful” information, and Article 6.22, which matches Article 6.21 of the RF CAO and sets liability for distributing propaganda of non-traditional sexual relations among minors. Additionally, in the LNR “foreign citizens” must pay a large fine for committing these actions: at 50,000 rubles, the upper limit for this fine is 10 times higher than the Russian limit. Even though the DNR uses Ukraine’s Code of Administrative Offences (in accordance with Resolution of the DNR Council of Ministers No. 2-22 of 27 February 2015),³³ which does not contain any provisions on “the propaganda of relations,” it has still established punishments for these actions. Clause 5–8 of Article 24 of the DNR Law “On Protecting Children from Information”³⁴ (which matches Article 6.21 of the RF CAO word for word) establishes liability for “propaganda of non-traditional sexual relations among minors.”

The formulations used in Russian homophobic laws is extremely vague. Under this norm, prosecution is stipulated for “distributing information” for the purpose of “the formation among

²⁶ http://www.consultant.ru/document/cons_doc_LAW_108808/9083b03e61777d3fe172fb3ef707a10e10688262/

²⁷ Law “On Protecting Children from Information Harmful to their Health and Development” No. 79-INS of 2 October 2015 <http://dnrsovet.su/zakon-dnr-o-zashhite-detej-ot-informatsii-prichinyayushhej-vred-ih-zdorovyu-i-razvitiyu/>

²⁸ <https://nslnr.su/zakonodatelstvo/normativno-pravovaya-baza/1093/>

²⁹ https://nslnr.su/upload/iblock/a16/146-ПЗ-15_06.11.15_О_внесении_изменений_О_защите_детей_от_информации_причиняющей_вред_их_здору.pdf

³⁰ https://nslnr.su/zakonodatelnaya-deyatelnost/zakonoproekty/2094/?sphrase_id=69735

³¹ <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=197587>

³² https://nslnr.su/zakonodatelnaya-deyatelnost/zakonoproekty/2733/?sphrase_id=83571

³³ <http://supcourt-dnr.su/postanovlenie-soveta-ministrov-doneckoy-narodnoy-respubliki-o-vremennom-poryadke->

³⁴ <http://dnrsovet.su/zakon-dnr-o-zashhite-detej-ot-informatsii-prichinyayushhej-vred-ih-zdorovyu-i-razvitiyu/>

minors of non-traditional sexual attitudes.” But Russian law does not contain such a concept as “non-traditional sexual attitude,”³⁵ so the objective element of this action is ambiguous, which means that courts interpret this norm arbitrarily.

Higher courts have repeatedly commented on these questionable norms: in its decision No. 151-O-O of 19 January 2010, the RF Constitutional Court denies that these norms are discriminatory: “Such limitations do not in any way fortify measures to ban homosexuality or formally condemn it and do not contain any grounds for discrimination.” Ruling of the Judicial Division for Administrative Cases of the RF Supreme Court No. 1-APG 12–11 of 15 August 2012 established that not all public actions can be viewed as propaganda and indirectly recognized the right to discuss LGBTI issues in the open: “The ban on gay propaganda does not prevent exercise of the right to receive and distribute information of a general and neutral nature on homosexuality, or hold public events following the procedures stipulated by law, including open public debate on the social status of sexual minorities, without enforcing a homosexual attitude towards life among minors as individuals who are not capable of assessing this information independently due to their age.”³⁶ In its judgment in the case “Aleksyev v. Russia” of 21 October 2010,³⁷ the European Court for Human Rights noted that there is no scientific evidence of the negative consequences of mentioning of homosexuality, or of having open public debates about sexual minorities’ social status.

However, in practice this law is used as a tool of repression against organizations and individuals who robustly express their rejection of homophobia. The consequences of the adoption of homophobic laws created a threat to virtually any public LGBTI actions. Thus, any actions taken in this field can be deemed propaganda due to the vague and ambiguous nature of the law. Even people who are not LGBTI can be charged with violating the “gay propaganda” law:

In January 2014 in Khabarovsk, A.A. Suturin was convicted under Article 6.21(2) of the RF CAO of publishing the article “History with Gayography” in a newspaper. This article described how the geography teacher A. Ermoshkin was fired from his job due to his sexual orientation and in disregard of the norms of labor law and the RF Constitution. A professor at the Department of Special Psychology and a doctor of pedagogical sciences “explained that, as a member of the public expert council under the children’s rights Ombudsman for Khabarovsk Krai, she participated in the study... publication..., which, in her opinion helps draw the attention of adolescents to this problem, and, since they do not have a mature sexual identity because of their age, it is possible that this might raise doubts about their own sexual identities. She believes that this publication committed a violation of freedom to choose sexual identity.”³⁸ The court was critical of Suturin’s arguments that “the publication did not contain any promotion among minors of non-traditional sexual relations and that the goal of the article was to call society’s attention to discrimination and violation of the law”³⁹ and sentenced him to a fine in the amount of 50,000 rubles.

The so-called “promotion among minors of homosexuality” has also become a reason to carry out repressions against civil society: almost all the leading NGOs in Russia working on LGBTI rights have been entered in the foreign agent register. Others have been forced to work in a more closed format to protect themselves from administrative prosecution resulting in large fines or suspension of activities. Since the activities of LGBTI activists in public space—debates, viewing and discussion of films, criticism of homophobic laws—may be interpreted as “propaganda,” the possibilities for activists advocating for LGBTI rights have dwindled.

The situation stands differently in Ukraine, where NGOs are not persecuted and have a voice they can use to criticize legislation. The “Action Plan to Implement a National Human Rights Strategy for

³⁵ <http://www.garant.ru/ia/opinion/havanskij/479268/#ixzz47srKAWb7>

³⁶ http://www.gay.ru/misc/docs/0/92_913558.pdf

³⁷ http://www.gayrussia.eu/campaigns/echr_aleksejev_russia.php

³⁸ <https://rospravosudie.com/court-sudebnyj-uchastok-25-centralnogo-rajona-g-xabarovska-s/act-213787391/>

³⁹ <https://rospravosudie.com/court-sudebnyj-uchastok-25-centralnogo-rajona-g-xabarovska-s/act-213787391/>

the Period up until 2020,⁴⁰ which has a number of clauses aimed at expanding anti-discrimination laws, was the result of work done by civil society. Also, an anti-discrimination coalition has been active in Ukraine over the past several years. Its goal is to protect the rights and interests of vulnerable categories of people and to further and develop anti-discrimination laws.

Criminal laws: the problem of protecting victims of homophobic violence

In both Russia and Ukraine, hate is practically never considered as a motive during the classification of violent crimes committed against LGBTI people, and in these situations these people are especially vulnerable.⁴¹ Even though Russian law lacks a *corpus delicti* for inciting hatred against LGBTI people, Article 282 of the Criminal Code does provide for classification on the basis of social group. A similar classification is contained in Article 328 of the DNR Criminal Code and Article 343 of the LNR Criminal Code. Article 161 of Ukraine's Criminal Code, which establishes liability for inciting enmity and hatred, contains no direct mention of discrimination on the grounds of SOGI and does not stipulate classification on the basis of social group. Since 2012, police officers and investigators have been required to enter information on statements about crimes, including a brief description and the relevant articles, in the Ukrainian register of pretrial investigations. However, they usually leave out information on hate motives on purpose—they try to avoid reflecting this in their paperwork and investigating hate crimes. Instead, as is the case with Russian practice, the case is classified as hooliganism, which results in a lighter punishment and a total lack of information on hate crimes based on homophobia.

Even though it is virtually impossible when classifying crimes to prove that LGBTI people belong to a social group that incites hatred on the part of aggressors, the defendants themselves sometimes make a statement to this effect. In the case of the murder of the journalist D. Tsilikin, which occurred in Russia in April 2016, the suspect admitted he killed Tsilikin because of his hatred for gay people. There are also more pragmatic calculations: the killers of a gay person in Kiev in 2015 stated they specifically picked an LGBTI person to assault because society does not accept gay people, which means that gay people will not appeal to the police for help.⁴² One of the measures included in the Ukraine's "Action Plan to Implement a National Human Rights Strategy for the Period up until 2020"⁴³ envisages establishing liability for hate crimes committed on the basis of a number of characteristics, including sexual orientation and transsexuality. The plan proposes adding this text to a number of Criminal Code articles.⁴⁴ There are no proposals to make similar changes to Russian laws in the near future.

Decisions issued by both Russian and Ukrainian courts generally do not take the motive of hatred for sexual minorities into account, which results in an increasingly vulnerable situation for LGBTI people and a sense of impunity for people who commit homophobic violence.

Laws regulating family relationships

Current Russian and Ukrainian laws do not permit same-sex marriages. Under Article 21 of Ukraine's Family Code, marriage is a "family union between a woman and a man, registered with a bureau of vital records." The parties to a marriage are considered to be a woman and a man, a

⁴⁰ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

⁴¹ Interview with O. Guz, expert at the NGO Insight

⁴² Ibid.

⁴³ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

⁴⁴ Article 67(3), Article 115(2), articles 121, 122, 126, 127, 129, and 293

husband and wife (Article 7(3) of the Ukrainian Family Code). Article 12 of the RF Family Code specifies that “to enter into a marriage the voluntary consent of the man and the woman entering into it is necessary.”

In practice, it is not possible to enter into a same-sex marriage in Ukraine or in Russia, even though it has been attempted.⁴⁵ In cases where a marriage was officially registered, the people getting married had different genders listed on their documents. For example, in 2014 a biological woman was able to marry a transgender woman because, according to her documents, the latter was still a man⁴⁶ (there is a risk that this marriage certificate will be declared invalid after the male documents are exchanged for female ones). A similar marriage between a transsexual woman and a biological woman was registered in Ukraine in 2015.⁴⁷

Norms of Ukraine’s Family Code are in effect in the territories of the so-called DNR⁴⁸ and LNR.⁴⁹ The question of developing its own Family Code was raised in the DNR in the fall of 2015, but a draft was never created. A draft of the LNR Family Code, which was adopted in July 2015, mirrors the RF Family Code in many ways, namely Article 12, which is identical to the corresponding article of the RF Family Code that defines a man and a woman as the participants in marital relations. In October 2015, deputies of the People’s Council introduced amendments to the draft law stipulating an explicit ban on same-sex marriage and the adoption of children by foreign citizens in same-sex marriages.⁵⁰ These amendments cannot be found on the official website of the LNR People’s Council, even though articles about them in the media are accompanied by statements of LNR government representatives to the effect that “Same-sex marriage will be explicitly banned. It is amoral and incorrect.”⁵¹

In July 2015, the Provisional Regulations on Rules for Registering Vital Events entered into effect in the so-called DNR.⁵² These regulations envisage the procedure for entry into marriage by a man and a woman (articles 3.31, 3.32) and stipulate that an application for state registration of a marriage can only be submitted on behalf of a man and a woman (Regulation No. 7 of the Provisional Regulations). A similar document adopted in the LNR — LNR Resolution No. 02-04/403/15 of 22 December 2015 “On Handling the State Registration of Vital Events in the Luhansk People’s Republic”⁵³ — approved provisional rules for registering vital events, which regulate the procedure for entry into marriage after “a woman and a man” submit an application (Article 1, Chapter 4). This is exactly the same as the procedure envisaged in the DNR’s Provisional Regulations on Rules for Registering Vital Events. This norm is copied from Article 14(1) of Law of Ukraine No. 2398-VI of 1 July 2010 “On the State Registration of Vital Events.”⁵⁴ These provisional regulations of the DNR and LNR differ from one another, although they do have some similar clauses borrowed from the abovementioned Ukrainian law. The norms of RF Law No. 143-FZ of 15 November 1997 “On Vital Events” look somewhat different.⁵⁵ Only Article 28(2) of this law, which relates to the recording of last names, indicates that a husband and wife must be the participants in a marriage.

⁴⁵ There have been at least three attempts in Russia—in 2005, 2009, and 2013.

⁴⁶ <http://www.rosbalt.ru/piter/2014/11/07/1335428.html>

⁴⁷ http://news.siteua.org/Украина/575668/ФОТО__В_Киеве_зарегистрирован_первый_нетрадиционный_брак

⁴⁸ Information from the law company Advokat Donetsk, advokat-donetsk.com.

⁴⁹ Interview with E.V. Tuzhilkina, head of the Department of Vital Records, LNR, <https://xxivek.net/article/40784>

⁵⁰ lug-info.com/news/one/proekt-semrinogo-kodeksa-lnr-predusmatrivaet-zapret-odnopolykh-brakov-karyakin-7544

⁵¹ <https://lnr.today/index.php/news/lnr/6882-novyj-semejnyj-kodeks-lnr-predusmatrivaet-zapret-odnopolykh-brakov>

⁵² http://makeyevka.ru/images/docs/DokumentyDNR/DokumentySovetaMinistrovDNR/Postanovlenia/PostanovN13_17_22.07.2015.pdf

⁵³ <http://sovminlnr.su/akty-soveta-ministrov/postanovleniya/941-ob-obespechenii-provedeniya-gosudarstvennoj-registracii-aktov-grazhdanskogo-sostoyaniya-v-luganskoy-narodnoy-respublike.html>

⁵⁴ <http://pravocenter.com/zakonodatelstvo/1016-o-gosudarstvennoj-registracii-aktov-grazhdanskogo.html>

⁵⁵ <http://www.varna.mid.ru/doc/z8.htm>

Even though current Ukrainian laws regulating family relationships remain limited in terms of LGBTI rights, the adoption of the “Action Plan to Implement a National Human Rights Strategy for the Period up until 2020”⁵⁶ as a result of the advocacy efforts of NGOs and activists is without question a positive development. Clause 105.6 of this plan envisages the introduction of anti-discriminatory norms, including the development of a draft law on same-sex marriage by the summer of 2017.⁵⁷

Unfortunately, it does not appear that similar norms will appear in Russia anytime soon. On the contrary, against the background of the state’s encouragement of homophobia and its failure to apply ideas of equality on the basis of SOGI, draft laws are being proposed that would place even greater limits on LGBTI rights. These include “bans on coming out” (introduction of administrative liability for the “public expression of non-traditional sexual relations”, 2015)⁵⁸ and deprivation of parental rights for those who “have non-traditional sexual relations” (proposed addition to Article 69 of the RF Family Code, 2013).⁵⁹ Russia has also criticized Ukraine’s proposal to legalize same-sex marriage, and authorities in Crimea have expressed their homophobic position separately.⁶⁰

Labor law

Labor relations are a sphere that does not contain direct bans on the grounds of SOGI, but the reality is that LGBTI people frequently face discrimination when searching for employment or in certain positions.

For a long time, Russian and Ukrainian labor laws only contained general bans on discrimination in the sphere of labor. Recently, however, Ukraine has seen positive changes in the law: since November 2015, Article 2-1 of the Ukrainian Labor Code (Code of Labor Laws) has directly banned any discrimination “in the sphere of labor, namely violation of the principle of equal rights and opportunity and a direct or indirect limitation of the rights of workers based on race, skin color, political, religious, or other beliefs, gender, gender identity, sexual orientation, ethnic, social, or foreign origin, age, state of health, disability, suspicion or presence of HIV or AIDS, family and material situation...”

These amendments were finalized after letter No. 10-644/0/4-14 of 7 May 2014 of the Supreme Court of Ukraine for Civil and Criminal Cases was issued. In this letter, the Court clarified that “in order to properly ensure equal labor rights for citizens during the resolution of disputes arising in the sphere of labor relations, we must bear in mind that the list of grounds on which no preference or limitation can be placed on the exercise of labor rights is not exhaustive.”⁶¹

RF laws proclaim only general principles of non-discrimination in the sphere of labor corresponding to Article 26 of the International Covenant on Civil and Political Rights, which establishes the equality of all persons before the law and prohibits “any discrimination.” The position of the RF Constitutional Court is that: “In its decisions regarding the labor and social rights of citizens, the Constitutional Court of the Russian Federation has repeatedly noted that compliance with the principle of equality, which guarantees protection from all forms of discrimination, signifies, inter alia, a ban on introducing such differences into the rights of individuals belonging to one and the

⁵⁶ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

⁵⁷ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

⁵⁸ <http://www.interfax.ru/russia/476299>

⁵⁹ [http://asozd2.duma.gov.ru/addwork/scans.nsf/ID/D0D578378D6D92F343257BDD002A705F/\\$File/338740-6.PDF?OpenElement](http://asozd2.duma.gov.ru/addwork/scans.nsf/ID/D0D578378D6D92F343257BDD002A705F/$File/338740-6.PDF?OpenElement)

⁶⁰ <https://lenta.ru/news/2016/03/11/bluelight/>

⁶¹ <http://obozrevatel.com/politics/61702-otnyine-v-ukraine-seksualnaya-orientatsiya-cheloveka-ne-mozhet-byit-priznakom-ogranicheniya.htm>

same category for which there is no objective or rational justification.”⁶² But unlike the Ukrainian Labor Code, the RF Labor Code (Article 3) does not contain a direct ban on discrimination on the grounds of SOGI (even though it does list other grounds for discrimination).

Existing general norms establishing equal rights are not applied to protect people from discrimination on the grounds of SOGI in the sphere of labor: in recent years many instances of violations of the labor rights of LGBTI people have been documented in Russia, along with refusals to hire them and illegal dismissals.

For example, LGBTI people have trouble getting hired for jobs requiring a medical examination: homosexuality was classified as a “psychological illness” in Russia until 1999, and many medical institutions are not prepared to remove diagnoses recorded in documents issued prior to 1999 and declare the candidate mentally healthy.⁶³

There are also examples where LGBTI jobseekers have been arbitrarily denied employment:

In July 2015, D. Oleinik was refused a job because of his sexual orientation. The employer, who understand from postings on social networks that Oleinik was gay, stated that “the ideology of the program and the management is such that we adhere to a traditional point of view on a number of issues.”⁶⁴ A court did not find this discriminatory rejection to be illegal.

The situation is much more complicated for teachers who work with children and young people (including teachers at institutions of higher learning whose students are under the age of 18). Homophobic activists bully them by compiling a dossier on them and submitting this to the city administration and the head of the educational institution. In recent years teachers have been persecuted by the aggressive “activist” Timur Isayev (real last name Bulatov), whose illegal actions have already caused several people to lose their jobs. Increasing homophobic propaganda in the media has also played a negative role and turns parents against LGBTI teachers.

In the summer of 2013, O. Bakhayeva, a schoolteacher from Magnitogorsk, was forced to resign because of the homophobic bullying she was subjected to for her social media posts. The principal stated that Bakhayeva had to “disappear from all LGBT groups, stop adding this information to her wall, and stop participating in discussions on this topic,” and to “choose what is more important — the profession of teacher or activist opinions.”⁶⁵ A statement was filed against Bakhayeva at the prosecutor’s office, and an unknown woman asserted that her minor son was subjected to “propaganda of non-traditional sexual relations” when he read his teacher’s social media posts.

In September 2013, LGBT activist A. Ermoshkin, a schoolteacher from Khabarovsk, was subjected to bullying. The “Social Movement against the Propaganda of Sexual Deviation” (MPSD)⁶⁶ appealed to the Khabarovsk Krai Ministry of Education and Science: these “social activists” were outraged that “school principal N.S. Polyudchenko has no intention of firing this gay activist because he is a good teacher.” Numerous complaints had their effect on the school administration, and Ermoshkin was forced to sign a statement that he was resigning voluntarily. The statement was backdated. When Ermoshkin tried to complain that he was not able to retract his statement, the court decided that an audio recording of his conversation with the principal, who urged Ermoshkin to backdate his statement, did not qualify as sufficient evidence.⁶⁷

62 <http://www.garant.ru/products/ipo/prime/doc/12054561/>, Decision of the RF Constitutional Court of 15.05.2007 No. 378-O-P

63 <http://www.gay.ru/news/rainbow/2005/09/22-5938.htm>

64 <http://comingoutspb.com/upload/iblock/8ab/8ab4975b7c17329fa4f08d2fbec3e7b4.pdf>

65 <https://www.facebook.com/straights.for.equality/posts/405262122908700>

66 https://vk.com/club56667484?w=wall-56667484_40

67 <http://www.gayrussia.eu/russia/9712/>

In 2014, at the initiative of the prosecutor's office and the Federal Security Service Directorate, teachers O. Klyuyenkov and T. Vinnichenko were fired from their jobs at Arkhangelsk Northern Federal University for their work with the LGBTI NGO Rakurs. Vinnichenko was told that if she wanted to work at the university, she would have to stop participating in any and all social activities.⁶⁸ Klyuyenkov was fired for allegedly skipping work, but the real cause for his dismissal was pressure applied to the university's administration.

In December 2014, a music teacher at a special school in Saint Petersburg was fired after homophobes reported her to the district and school administrations. The ground for her dismissal was her sexual orientation — this was labeled “an immoral deed making it impossible for her to continue her job functions” (Article 81(8) of the RF Labor Code). A court supported the employer's position and stated that its decision was justified due to “immoral and unethical behavior in the music director's private life,”⁶⁹ which was allegedly recorded in photographs that had been uploaded to the internet.

Professional activities that do not show any bias against LGBTI people have also become grounds for dismissal. In the summer of 2015, D.D. Isayev, the head of a commission on sex change and the head of the Department of Clinical Psychology, was fired from Saint Petersburg State Pediatric Medical University after a bullying campaign resulted in an inquiry by the prosecutor's office and pressure on the rector.⁷⁰ Later, this medical commission working on transgender issues as dissolved.

Even though employers never give sexual orientation as an official cause for dismissal, in reality sexual orientation is a reason for being passed over for a job or for dismissal. Many LGBTI people are forced to conceal their orientation in fear of being fired. As a result of discriminatory practices, the rights are violated not just of LGBTI people themselves, but also of a wider circle of people that includes staff members at LGBTI organizations and activists advocating for non-discrimination on the grounds of SOGI and working on issues of the LGBTI community.

Russian labor laws that are imperfect in terms of non-discrimination of LGBTI people (and the accompanying homophobic practices) are now being implemented de facto in Crimea and also in the DNR and LNR, where laws regulating labor relations mirror Russian laws. In March 2015, the LNR's own Labor Code took effect, replacing the Ukrainian Labor Code. Even though Article 3 of this Code formally prohibits discrimination in the sphere of labor, like its analogous article in the RF Labor Code, it does not mention SOGI as grounds. In the DNR, labor laws are limited to a series of adopted laws that do not make any provision banning discrimination.⁷¹ Meanwhile, the DNR Labor Code is still in the stages of development and will apparently mirror the RF Labor Code, at least in regards to discrimination.⁷²

In conclusion, it appears the LGBTI rights will be expanded in Ukraine: an anti-discriminatory approach, including on the grounds of SOGI, has been added to recent Ukrainian laws regulating labor relations; in the area of family law, a deadline has been set for developing a draft law on same-sex partnerships (by the summer of 2017), and an anti-discrimination law has been adopted, even though it does require some tweaking. In Russia, on the other hand, years of efforts by civil society and experts to create a comprehensive anti-discrimination law have remained fruitless.

⁶⁸ <http://www.lgbtnet.org/ru/content/grazhdanskiy-aktivizm-kak-prichina-dlya-uvolneniya-prepodavateley-severnogo-arkticheskogo>

⁶⁹ <https://www.zaks.ru/new/archive/view/140299>

⁷⁰ <http://comingoutspb.com/upload/iblock/8ab/8ab4975b7c17329fa4f08d2fbec3e7b4.pdf>

⁷¹ http://dnr-consulting.at.ua/Trudovie_otnosh/Zakon_DNR_Ob_oplate_truda.pdf (Law on Compensation),
http://dnr-consulting.at.ua/Trudovie_otnosh/Zakon_DNR_Ob_okhrane_truda.pdf (Law on Occupational Safety and Health),
http://dnr-consulting.at.ua/Trudovie_otnosh/Zakon_DNR_Ob_otpuskakh.pdf (Law on Leave)

⁷² <http://dnrsovet.su/komitet-po-sotsialnoj-i-zhilishhnoj-politike-prodolzhaet-rabotat-nad-trudovym-kodeksom/>

The discriminatory norms of Russian laws spread to Crimea from the moment of its annexation, and these norms are mirrored or even tightened in the laws of the so-called DNR and LNR. Residents of these territories, where more progressive Ukrainian laws should be in effect, cannot assert their rights in accordance with the law to combat discrimination.

RF, DNR and LNR laws, which do not aim to protect people from discrimination on the basis of SOGI, are not the only causes for concern—the homophobic practices that have spread with these flawed laws are also extremely worrying.

Chapter 2.

THE SITUATION OF LGBTI PEOPLE IN CRIMEA AND DONBASS

This chapter describes the situation of LGBTI people in Crimea and Donbass based on the materials from interviews conducted by ADC Memorial with experts and LGBTI people from Crimea and Donetsk and Luhansk oblasts from December 2015 to March 2016 (many of these people were forced to leave their places of residence for other regions of Ukraine). Except in certain cases, information about the source is not provided after excerpts from the interviews due to safety concerns. The region is referred to with the letters D (Donetsk Oblast), L (Luhansk Oblast), and C (Crimea). Complete records of the interviews are stored in the ADC Memorial archives.

THE SITUATION IN DONBASS PRIOR TO THE MILITARY CONFLICT AND IN CRIMEA PRIOR TO ANNEXATION

The situation for LGBTI people in Donbass and Crimea prior to Russia's expansion into these territories was already quite vulnerable and the level in homophobia was quite high. People rarely displayed their sexual orientation or gender identity openly.

According to experts and LGBTI people interviewed, in Donbass it was difficult to openly display one's homosexuality, and in general any "irregularity" was greeted with animosity.

"...even informal groups of Anime fans and cosplayers were harassed for being unusual. Most of the guys in those groups were gay, but no one spoke about this openly." (L).

"It was impossible to display your orientation in public" (D).

"While you're still in the closet, everyone puts up with you, you don't bother anyone."⁷³

Even though a famous "gay resort of the CIS" was located in Crimea, attitudes towards LGBTI people there were far from tolerant. According to people interviewed, open displays of homosexuality were more the exception than the norm and occurred only among women. However, respondents noted that a neutral attitude towards the fact that, for example, women were holding hands was based not on tolerance for LGBTI people, but on the fact that holding hands was not viewed as proof of a same-sex relationship between women. There was only one openly gay person among those interviewed in 2016, and this person did not know any other openly gay people in Crimea. Respondents from other cities in Crimea confirmed this: *"I have never seen gay men on the streets, I don't know anyone who's out" (C).*

In Donetsk and Luhansk oblasts, the level of openness was lower among women too. A respondent who fled Donetsk Oblast explained: *"When my girlfriend in Zaporozhe took my hand, I hid it and said, 'Don't touch! People will get ideas.' In Donetsk, I wouldn't even allow myself to do that" (D).*

"Our neighbors asked who we were, why were we living this way, why we were together. I didn't say anything about how we couldn't even allow ourselves to hold hands. Because the closet in the norm here." (D).

"I would have never thought that I could speak openly [about my orientation]. I felt like this would be punishable somehow in Donetsk. It wasn't like it was in Kiev there" (D).

⁷³ Opinion of the expert Yu. Frank (NGO Insight) on the situation in Donetsk.

Feeling constant animosity, LGBTI people were forced to carefully hide their orientation, not just by refraining from living openly, but also by creating a “cover.” Gay people from Donetsk Oblast reported that speaking about their orientation *“was simply not possible for many people: some people had connections, someone had a father somewhere. You lead a double life—some people had fictitious marriages, some people didn’t”* (D).

Attempts by men to live more openly have resulted in threats to life and well-being. A gay man who later left Luhansk Oblast described incidents that occurred when he and his partner were walking hand-in-hand: *“We were stopped and asked ‘How are we to understand this?’ I said that my leg was hurting and that he was helping me walk. I didn’t risk it again after that. I was sorry for myself and for the authorities”* (L).

LGBTI people who did not live a secret life were subjected to harassment, scorn, and abuse:

“The abuse and threats started when I was still in school. Shouts followed me when I walked around the city” (L).

A woman living in Donetsk spoke about how *“people mocked me, said that I was a shameless lesbian.”* At the gym, young men would point her out, saying, *“Look, there’s a lesbian”* (D).

Buyers regularly threatened a young female store worker: *“What, are you with your girlfriend? Can I be your third? I would love to hold both of you down”* (D).

Respondents stated that their labor rights had been violated in the form of illegal dismissals and rejections of applications for work:

“Speaking openly [about my orientation] would have guaranteed a conflict and problems. Some of my friends were able to turn their back on me. Some people are frightened by this, shocked, either someone in the collective or someone from management. If you worked at a metallurgical factory, you could be fired” (D).

“In 2012, a gay person was refused a position. He had almost all his papers in order, but one woman said she had seen him at a theme party, and she told the director that he was gay. The director objected, saying that he needed a good specialist, but then he ended up not hiring this person” (C).

People interviewed reported numerous hate attacks against LGBTI people. These were generally committed by “regular” local residents with no particular political views or ideologies:

“The young people, they took me into the corner, beat me” (D).

“They’re just plain-old thugs. They say homophobic slurs, they don’t like how you look” (D).

“It’s harder for gay men, because they’re surrounded by a thug culture” (C).

Homophobia mixed with racism was the cause of a number of attacks committed against gay foreigners in Donbass and Crimea.

“This Arab, they started messing around with him, asking why he wasn’t hanging out with women, how many women he’d had. There’s a very negative attitude towards Arabs in Donbass, they get beaten up all the time. It was Airborne Forces Day, the paratroopers wanted to show off. The Arab was wounded, the police were summoned, but they said ‘It’s Airborne Forces Day, what did you expect?’”

A gay man who was beaten in Crimea said that his attackers shouted homophobic and racist slurs. *“I felt them hit my neck with a stick, they beat me and called me a nigger”* (C).

The victims rarely appealed to law enforcement for protection out of fear for their safety if the true motives for the attacks—their sexual orientation or gender identity—became known.

Transgender people are in a particularly vulnerable position because it is difficult for them to hide signs of their identity. An expert from a human rights LGBTI organization described the difficulties transgender

people face in society: “You have a greater chance of being beaten, rejected, and fired.”⁷⁴ Transgender people interviewed for this report asserted that “the level of transphobia is quite high” (D).

Several transgender people forced to flee Donetsk Oblast complained that they were not accepted by society or even their own families:

“I wasn’t even able to go get diagnosed, because all the top doctors know each other and my father [also a doctor] would have found out within five minutes” (D).

“I got a job in Donetsk. I came out to my mother. She helped me quit my job, and then came to an agreement with the department head that I would be given a false diagnosis that would prevent me from transitioning. We appealed this in Kiev” (D).

People interviewed believed that one of the causes of homophobic behavior was lack of information, especially in small towns. They noted that neither Donbass nor Crimea have large-scale awareness projects for questions about SOGI. According to an LGBTI person from Donetsk, “no one here has ever even worked on this, has worked on providing some more or less quality information. There just weren’t any specialists who could dispel homophobic myths. The saddest thing is that even young people repeat these stereotypical phrases and this is transmitted from mouth to mouth” (D).

THE SITUATION FOR LGBTI PEOPLE IN CRIMEA AFTER THE ANNEXATION AND IN THE SO-CALLED DNR AND LNR

In early 2014, the situation for LGBTI people in both Crimea and Donbass changed abruptly. According to one person, “the situation was on the brink, it was emotionally very draining” (D).

Many LGBTI people saw the annexation of Crimea as a tragedy because it signified the spread of the homophobic norms of Russian law and discriminatory practices to the area. The LGBTI community saw the day Crimea was officially declared a part of Russia—18 March 2016—as a line marking the end of their ability to live openly:

“On March 18, I took off my rainbow bracelet when they passed FZ No. 6⁷⁵ [“On the Accession of the Republic of Crimea to the Russian Federation and on the Formation of New Constituent Entities of the Russian Federation — The Republic of Crimea and the Federal City of Sevastopol”]” (C).

One informant from Crimea described that a result of this was “that the LGBTI community became more secretive after the ban on same-sex relationships came out” (C).

According to people interviewed, Crimean society changed under the influence of Russian homophobic propaganda:

“A large group of people started to get worked up and treat [LGBTI people] aggressively because of this propaganda. Everyone started using veiled speech, started fearing that someone would find out that something was being organized somewhere. Again, thanks to the TV, thanks to Milonov, this topic was raised and homophobia started to grow” (C).

A main component of homophobic propaganda became the juxtaposition of “traditional values” with “European pseudo-human rights.” An informant from Crimea stated that “At the start of Maidan, posters appeared reading ‘Europe is same-sex families.’ I was even afraid to take a picture. My sense of self-censorship was activated” (C).

Anti-European homophobic rhetoric continued to spread in Crimea after the events of the spring of 2014. Sources reported that “even in [our small town] there were small posters: ‘We won’t have another Maidan like in Kiev; We don’t need Gayrope.’”

⁷⁴ Interview with Yu. Frank of the NGO Insight

⁷⁵ http://www.consultant.ru/document/cons_doc_LAW_160618/

Sources from Donbass also reported heightening homophobia in society as the result of well-directed propaganda: public opinion began to express negative feelings about European values, the most odious of which was declared to be freedom of sexual orientation and gender identity. According to one person from Donets, *“slogans about Slavic values naturally influenced everyone. These values were drummed into everyone’s heads, and even pro-Ukrainian or pro-Russian people who were neutral about the LGBTI issue started saying: “No, just not Gayrope!” And once they notice something about you, once they guess about your sexual orientation, their relationship naturally starts to change”* (D).

A source in Luhansk also reported that society was changing under the influence of homophobia: *“Television has worked great miracles: they reported about everything, they showed everything, and now everyone understands right away who you are”* (L).

The situation in Crimea since the spring of 2014

In Crimea, which has been poisoned with homophobic propaganda, aggressive groups have moved from threats to violence with the encouragement of the homophobic authorities.

Nationalists from Russia began to appear in Crimea right before the referendum. According to sources, *“these groups used violence against foreigners”* (C). International students were warned that it was unsafe for them to be in the city. One of them reported: *“We were told not to go outside alone and to always take our passports with us* (C). Since the people who commit racist attacks are usually the same ones who commit homophobic attacks, many LGBTI people *“were scared to be in the city”* (C). We know of some LGBTI people who suffered from these attacks. According to one man, in the spring of 2014 his *“friend was caught on his way home. He was beaten, punched, the attackers shouted homophobic slurs. He had to stay in the hospital with a head injury and broken ribs. Nobody ever found anyone. Nobody even looked”* (C).

The level of homophobia in Crimea dropped after the summer of 2014, when nationalists from Russia left the area. One source from Crimea said that *“before the referendum, people didn’t pay attention [to open displays of SOGI], it was normal to kiss a woman. But now people notice things, they start getting upset and shouting homophobic slurs”* (C). The *“imposed trend of homophobia”* (C) noted by people interviewed resulted in more frequent hate speeches and new attacks. LGBTI people in Crimea asserted that they were *“frequently beaten on the streets”* (C). Members of the LGBTI community who have remained in Crimea report that intolerance of gay men is greater: *“The aggression starts right away when they see two guys together, they usually don’t react like that to girls, but they throw themselves at men and beat them* (C).

People interviewed recounted several typical stories that describe instances of violence against gay people.

[In mid-2014], “my boyfriend and I were walking in the park. He took my hand. A group of people came up to us. They started fighting, screaming homophobic words. I became more frightened after that” (C).

[In the spring and summer of 2015] “a gay couple was taking a walk, these idiots decided to beat them because they saw them holding hands. This couple was thinking about leaving Crimea because they were apprehensive about how people would start reacting to LGBTI people here. They left Crimea after this attack” (C).

[In October 2015 in a park] “a couple of young people were following us. They could see us embracing. Then there were six of them and they attacked us. They pushed A. and he fell into the river. I helped him out of the water and took him to the hospital. I was very cold. He was freezing and his hands were shaking. He had some bad bruises and cuts on his shoulder. When the doctor asked what had happened, we said that he had fallen into the river himself. When the police came, we didn’t know what to say. We ended up having to say that it was an accident” (C).

Women also frequently encounter manifestations of homophobia in Crimea. One woman from Crimea recounted an event from the spring of 2016: *“people came up to me at work and started to offend me, they confused me with a guy and said homophobic words (C).* Two lesbians living as a family were repeatedly addressed with homophobic slurs and were taken to be gay men. Hate speech quickly grows into violence against these women. As one victim reported, in March 2016, *“I rented a room in a dorm in [a Crimean city]. Some guys who knew about my orientation and didn’t like it approached the landlord. They forced their way onto our floor, one thing led to another, and I was hit in the face” (C).*

Violence against “unusual looking” people who could be LGBTI (Crimea, DNR, LNR)

LGBTI people are not the only ones who encounter manifestations of aggression. People who, in the opinion of others, resemble LGBTI people in some way or could be LGBTI also face violence. This problem occurs in both Crimea and Donbass. Crimean residents assert that *“now even guys with unusual hairstyles are the objects of homophobic slurs” (C).*

Sources described typical cases of homophobic aggression related to the victims’ external appearance. For example, in Crimea in April 2016 P. was attacked because *“he was wearing an earring. This guy noticed and started with him: ‘What? Are you one of them? What are you? A fag?’ P. answered: ‘What difference does it make? That’s personal.’ The guy started beating him up” (C).*

One source spoke about the immediate homophobic reaction people in Donetsk had to her friend’s brightly colored pants: *“He was called a fag five times in 10 minutes” (D).*

With the appearance of armed people in Donetsk in the spring of 2014 *“anyone who somehow didn’t look normal was beaten.”*⁷⁶ A witness from Donetsk Oblast described how he *“saw people beating a boy with dyed hair. They beat him because he was somehow not dressed right. They classified this as gay. I’ve heard at least five similar stories: someone wasn’t dressed right, someone looked at someone else the wrong way, someone was wearing an earring. Everyone tried to look as ‘normal’ as possible until they got out of there.”*⁷⁷

According to an expert, *“there [in the DNR] they can beat you and assault you because it seems to someone that you’re homosexual” (D).*⁷⁸

Violence by organized groups of homophobes (Crimea, DNR, LNR) tracking LGBTI people through social media

Most of the attacks described in Crimea were committed by “regular” residents who were prejudiced against people of a different SOGI. But there is another group of homophobes that tracks LGBTI people on the streets and online. An example of this is the so-called movement Occupy Pedophilia, which has been active in Crimea, and LGBTI people remaining there say that *“attempts were made to track and find people through social networks” (C).* In particular, gay people were set up on false dates and beaten and humiliated when they arrived. Frequently the attacks were even recorded on video.

There was one case when a gay man was tracked and attacked near his home. He and his partner left Crimea after this.

One source living in Crimea spoke about an incident during a false date that was made online: *“There were five aggressive homophobes in the apartment. They undressed him, took him to the shower, beat him, forced him to lick the toilet bowl, to drink vodka, and they recorded all of this on a camera. He was a foreigner. He didn’t know what to do. Then they uploaded this video online. This traumatized him greatly” (C).*

⁷⁶ Interview with Yu. Frank from the NGO Insight.

⁷⁷ Interview with Yu. Frank from the NGO Insight.

⁷⁸ Elena Shevchenko, head of the NGO Insight, <http://www.depo.ua/rus/life/gei-rasskazali-za-chto-ih-nenavidyat-terroristy-dnr-24062014152700>

There is also information that similar groups exist in the DNR and LNR. During dates arranged by these groups, victims may be beaten or handed over to armed people:

“There were rumors that Occupy Pedophilia was operating at a new level in the LNR. Cossacks were supposedly involved in this. Two or three people wrote me through Vkontakte, hinting they wanted to meet for sex. I didn’t even respond to this purely out of a sense of self-preservation. So I haven’t had any sexual contact in over a year, but I’m alive” (L).

LGBTI people noted that some members of the Muslim community had displayed homophobic aggression: *“They started to react very aggressively... they attacked LGBTI people” (C)*. One woman living in Crimea said that she *“spoke with a Crimean Tatar who said that the guys were trying to meet people on social networks using fake pages so they could track LGBTI people surreptitiously” (C)*. When he learned that this woman was a lesbian, he started to threaten her over the phone and online. In the summer of 2015, he wrote her: *“I will find you, cut you up, and kill you, I will rape your girlfriend” (C)*.

Violence committed by armed fighters in the DNR and LNR

In the current situation of lawlessness and impunity, all residents of the so-called DNR and LNR face the risk of aggression from armed formations, but these fighters pose a special and absolutely real threat to LGBTI people. According to one witness, this was a *“territory of anarchy, they can do whatever they want with you, the risks grow to the level that they can just take you and shoot you” (D)*. Most people interviewed stated that their lives and well-being would be in danger if they returned to the DNR or LNR: *“My parents stopped inviting me because they’re scared for me. I won’t go there because I’m scared for my own well-being” (L)*. In addition, the homophobic actions of armed fighters provoke homophobic aggression in people who previously had a neutral attitude towards LGBTI people.

There are several reasons why information about violence against LGBTI people in Donetsk and Luhansk oblasts is so scarce. The primary reason is the threat of death if fighters learn about a witness’s sexual orientation or sympathy for LGBTI people. According to LGBTI people remaining in Luhansk Oblast, *“any activity that even tangentially alludes to LGBT is dangerous” (L)*; *“they’re scared that they’ll be stabbed around the corner and that will be that” (D)*. An informant from Donetsk stated: *“I lived each day in fear for my life. They dug a trench at the exit of my house, they were gathering to meet the Ukrainian army. They were wasted, drunk, vile-smelling, with automatic weapons. I thought before I said anything. You could lose your life like that” (D)*. Many LGBTI people remaining in Donbass have stopped having any communication whatsoever with other members of the community, with the exception of their closest friends. While secret meetings of LGBTI people were possible in Crimea, they were not possible in the DNR and LNR.

Another problem was the lack of electricity and communication lines from the spring to the fall of 2014: *“Say I knew for a fact the V. was beaten, that he was taken off to a basement, but I couldn’t communicate this to anyone because we didn’t have any communication lines” (D)*.

A final reason for the scarcity of information is the psychological difficulties that a person experiences after living through violence and degrading treatment. As one witness to this situation said: *“Who wants to brag about that?” (L)*.

Nevertheless, there is information about the violence and harsh treatment that LGBTI people have suffered at the hands of armed people. One informant who left Donetsk asserted that *“my friend witnessed how one gay person was shot and buried in some vegetation behind the Yasinovatsky checkpoint” (D)*.

A witness from Donetsk Oblast who travels periodically to the DNR recounted how illegal formations tracked LGBTI people and took them “prisoner.”

“How did they catch people? If you’re gay, that means you’re a fan of Europe. Ukraine wants to be part of Europe, so that means you’re for Ukraine. Some people are caught easily on the street, and some people inform on others, tell where they live. Then a car drives up to the

building, they wait in the entry, than take the person, and that's it. One person was taken in late November 2014, near the cathedral, on the street, where people gather in the evening. Another person was informed on. Armed people grabbed a young boy when he was smoking. Instead of punishing him, they told him: 'Bring us two people.' And he gave up his two brothers. They were taken at different times" (D).

A source who left Donetsk said that if armed people learned about a person's orientation, they took that person off to *"a basement, they put him there to scare him, to get ransom for him, to get free labor. They debased and humiliated him there in that cellar" (D).*

Former residents of Donetsk reported that *"if there was no ransom paid, people were sent to the trenches" (D).*

"To the trenches—that means you're cannon fodder. There are checkpoints with snipers, they send these people there to dig trenches. That's how these people left [died]. A person could come back from the trenches after a couple of months, frozen, starving. They were generally released after this, but they were no longer people, they were broken inside and outside" (D),

"I had a friend, he had an operation on his kidneys. Three months later he was taken to the basement because he was informed on. He was held in some sort of basement, where he was fed like a dog, in some bowls that they shoved at him with their feet. The prisoners were treated terribly. They beat him with a metal stick and humiliated him because he was gay. He said he would have died if they had hit him on his kidneys. When they used homophobic slurs against him, his brother, who had also been informed on, learned about his orientation. Maybe they harassed him sexually too, I don't know. I don't think any of us would actually talk about such things. He spent a month and a half there starting in late October or early November [2014]. You had the feeling they were just trying to exterminate such people" (D).

According to sources, FEMEN activist S. Nemchinova was subjected to persecution: *"She is openly gay. There were attempts to persecute her, but she was able to avoid them. One person on patrol took her passport and found out her address, but she escaped to friends and lived with them for a month. They dressed her up as an old woman when they drove her out. Her wanted poster was put up on poles..." (D).*

People interviewed noted that some armed formations were notable for their extreme homophobia: *"There were tons of groups, each one had its own laws" (D).* A source from Luhansk Oblast reported that *"Chechens were at Nikitovka, 'the Russian Orthodox Army' was at Peski, Oplot was at Yasnivatsky, Cossacks were at Gorlovka. They were the strongest in the south of the oblast (Krasny Luch, Rovenki, Anratsit, Sverdlovsk, part of Krasnodon). Even before the war, all the gay people tried to leave these districts as quickly as possible" (L).*

People interviewed also asserted that LGBTI people served in the ranks of armed formations of the DNR and LNR:

"That there are gays in the militia—we know about that."⁷⁹

"Naturally, they conceal this. It's also really easy to get a bullet in the back from your own people" (D).

"Some guys [gays] joined the DNR. They're there with their machine guns, their uniforms, it's pretty, it looks good. I saw something about two of them on Facebook, but I don't know how many there are" (D).

"An LGBT person I knew even fought for this republic, so to speak. They killed him. He hid his orientation" (D).

Because she needed money, one young woman "joined the DNR, but then they just took her and beat her so badly that she couldn't leave her house for two weeks. She wanted to leave for Ossetia, but one of the DNR people was from there himself. He found out and beat her. If they had found out she was gay as well, they would have just shot her" (D).

⁷⁹ Interview with Olga Olshanksaya, Shelter project coordinator for the NGO Insight.

The people interviewed asserted that if any members of the armed formations had found out that one of their members was gay, that person would have been “*used as cannon fodder*” (D).

According to sources who used to live in the DNR or LNR, all the LGBTI people remaining in these territories have no choice but to hide their orientation and their lives are in constant danger. All the people interviewed said that the greatest risk was from fighters. The power of these armed gangs means that criminals can operate with impunity and victims become increasingly vulnerable, especially considering the absence of a functioning legal system.

Homophobic propaganda spread by the authorities in Crimea, the DNR, and the LNR

Representatives of government structures in Crimea and the self-proclaimed republics have repeatedly expressed their homophobic views. According to Yu. Frank, an expert at the NGO Insight, “*homophobic speeches have been given by DNR and LNR officials, by members of the militia, there were publications, video recordings.*”⁸⁰ Here, for example, is a statement made by the head of the so-called DNR Alexander Zakharchenko: “*...this generation is being raised on democracy, which implies that a family can have two fathers or two mothers. To me, this is categorically unacceptable.*”⁸¹ Even more bigoted is this statement by the deputy minister for political affairs of the so-called DNR: “*A culture of homosexuality is spreading... This is why we must kill anyone who is involved in this.*”⁸²

Crimean leaders have stated outright that violence must be used against LGBTI people. V. Ilichev, a deputy of the Simferopol city council issued a call to “*shield children from gays,*” “*to shut off the oxygen supply to people with a non-traditional orientation,*” to hit them “*right in the eye.*”⁸³ Protecting children is the pretext for promoting openly homophobic views. For example, the Crimean leader Sergey Aksenov stated: “*Government bodies will not allow the promotion of anything that contradicts the moral values of the Crimean people and arouses revulsion and disgust in the majority of Crimeans. There’s no discrimination here at all—we’re not trying to intrude on their personal lives: let them live how they want. But we must shield people, particularly young people, from actions aimed at destroying the moral health of our nation.*”⁸⁴

Tentative attempts to hold public LGBTI events have aroused particular antagonism on the part of the Crimean authorities. The Crimean vice-premier D. Polonsky recommended that LGBTI people “*set off for freedom-loving Gayrope and walk calmly through the streets of European capitals, which are teeming with tolerasts.*”⁸⁵ S. Menyailo, governor of Sevastopol, said that as long he holds the position of governor, he intends to “*protect the true values of the Russian people. We will not allow gay parades in our glorious hero city.*”⁸⁶

Speeches made by government representatives also contain clear threats against LGBTI people. For example, S. Aksenov stated in this regard that “*Crimea doesn’t need people like this, and they will never hold any public events. The police and the self-defense forces will quickly... explain to them what orientation they should have.*”⁸⁷

Local residents cannot help but be influenced by the homophobic rhetoric employed by government representatives. The fact that homophobia is not only not condemned by the authorities

⁸⁰ Interview with Yu. Frank of the NGO Insight

⁸¹ <http://dnr-online.ru/my-dolzny-donesti-svoim-detyam-tradicionnye-cennosti-glava-dnr-aleksandr-zaxarchenko/> official website of the DNR

⁸² Deputy Minister for Political Affairs of the so-called Donetsk People’s Republic, July 2015 <http://www.ridus.ru/news/191031> Ridus Civil Journalism Agency

⁸³ https://tvrain.ru/news/stohotvoreniye_deputat-408417/ Dozhd’ TV channel

⁸⁴ <http://www.c-inform.info/news/id/37995> Krym-inform News Agency, S. Aksenov, head of Crimea

⁸⁵ <http://www.c-inform.info/news/id/37983>, Krym-inform News Agency, D. Polonsky, vice-premier of Crimea.

⁸⁶ <http://echo.msk.ru/blog/amountain/1754460-echo/> Ekho Moskvyy Radio, S. Menyailo, governor of Sevastopol

⁸⁷ <http://thekievtimes.ua/society/397424-v-krymu-geev-net.html>, The Kiev Times

but also actively supported by them instills a feeling of impunity in homophobes and encourages them to commit new acts of violence against LGBTI people.

Fear of openness. "Double life." Firings.

All the people interviewed noted that the homophobic propaganda and rhetoric of the authorities, "ordinary" people's growing hatred of LGBTI people, and the risk of violence and even death have all forced members of the LGBTI community to hide their sexual orientation and gender identity more than before.

"No one says 'LGBT' in public. You can't speak about this around other people" (C).

"I used to be more open on the streets and in public places, but I'm not now" (C).

"You can only see people walking with their arms around each other in Simeiz, and then only in the evening" (C).

"Many lesbians used to be open, but now almost everyone tries to hide her orientation" (C).

"Anyone who's unhappy with this, anyone who wants to live more openly, emigrates" (C).

"Deep down you understand that you could really suffer if you're not careful. So I take more precautions." (L).

"People tried not to broadcast their orientation, they only talked with people in their circle; they left when this started to become dangerous for their lives."⁸⁸

"If I came out to my parents, I would either be killed or sent to the nuthouse with a diagnosis of schizophrenia" (transgender woman, D).

People interviewed said they felt apprehensive around outsiders who knew about or guessed at their orientation and that this feeling intensified around armed fighters. Many started to fear their colleagues, neighbors, and relatives, because they were the ones who most frequently voiced homophobic threats, including threats to tell the militia about their orientation.

There have even been cases where homosexual people were evicted by their roommates: *"...I lived in a communal apartment in Donetsk, and at one point my roommates said, 'We'll hand you over to the DNR fighters.' And one roommate said: 'Get the hell out of here'" (D).*

There is evidence that LGBTI people themselves have informed on their acquaintances in an attempt to hide their own orientation out of concern for their personal safety. According to one source, *"if the threat of discovery is hanging over them, they'll give up their own, point their fingers at them. People who were betrayed were sent to 'the hole,' which is the basement of the state security building in Donetsk" (D).*

Lesbians face the risk of violence if they refuse to have relations with men, especially if this is due to their orientation. A lesbian who fled Donetsk reported that: *"Even the most ordinary neighbor, who lived across from me, joined the militia. He used to get offended if you didn't notice how handsome he was, but later you had to pay attention to him, otherwise—I have a gun" (D).*

A gay person who lived in Luhansk Oblast said: *"We have inherited memory in our veins, after all, there was recently a criminal prosecution, and we all remember that very well. As soon as these actions started it became clear that there was no joking with these people" (L).*

To avoid suspicion, LGBTI people who have remained in Crimea and the self-proclaimed republics have stopped communicating with other members of their community and frequently fake or actually enter into heterosexual relationships. According to people who fled Donetsk, *"many guys [gays] started meeting with women, and women [lesbians] started seeing men. And they all knew everything. If they hadn't done this, they would have been shot" (D).*

⁸⁸ Interview with Yu. Frank from the NGO Insight

Sometimes people who are both LGBTI pretend to be in a heterosexual relationship. One lesbian from Crimea reported that her girlfriend went out with a gay man “for cover”: *“These gay friends we had were having problems with their parents. We went out with them as if we were two couples. Our parents spoke with each other and didn’t suspect anything”* (C).

Right now, many LGBTI people in Donbass and Crimea are entering into heterosexual marriages under pressure from society and their family. A gay man living in Crimea spoke about marriages he knew were “for cover” that have taken place over the past two years: *“Five or six young people got married because they ‘had to.’ The mother was pressuring, the father was pressuring. Why upset your parents? Two of these couples already have children.”*⁸⁹ An activist from Crimea noted that: *“There are people who get married to mollify their parents. Some got married because their parents would never understand. V. (a gay man) and S. (a lesbian) want to raise children, but they each have their own personal lives and share the child. People who are a bit younger are in a different situation: one dad promised his son that he would give him an apartment after he got married. His lesbian friend decided: ‘I’ll help my friend, and things won’t be bad for me either’”* (C).

People forced to live a double life experience tremendous stress. In spite of any “covers” they have, there is still a risk that their sexual orientation or gender identity will become known. If this happens, the results can be terribly tragic and range from psychological trauma caused by a break with their parents or the betrayal of close friends and family members to violence committed by armed formations and homophobes, evictions, and deprivation of the ability to see their own children.

Another cause for concern is that LGBTI people may be dismissed from their jobs if their employers learn about their SOGI. Many LGBTI people are warned of the possibility of losing their jobs by their close friends and family: *“you won’t be able to work, and if people find out worse things will happen than losing your job”* (C). A source from Luhansk Oblast that *“if they learn [about your orientation] at work, you’ll probably lose your job. There have been precedents for this”* (L). A gay person living in Crimea reported that *“everyone leads a hidden life. These laws add pressure to the atmosphere, the situation. Before you could pretty much openly say who you were and no one had the right to fire you or do something else to you. Now they can”* (C).

Some of the first people to experience homophobic hysteria and its consequences were people who could not conceal their SOGI: *“If I had tried to come out as transgender, I would have been fired right away”* (D). According to an expert, a transgender person from the so-called DNR *“was forced to resign. Their management changed and the new owners were Russian. They said: ‘You understand, we’ll have problems, it’s better for you to leave on your own.’”* He was scared that there would be physical violence at work. He heard something about someone threatening him.⁹⁰

Teachers and education workers are another group that is in an exceptionally dangerous situation, especially considering the Russian practice of applying homophobic norms against “propaganda” and the spread of these laws to Crimea and the so-called DNR and LNR. An egregious example is an incident that took place in Crimea in 2014, when *“students saw their university professor on the street holding hands with his partner. They attacked him, undressed him, and started asking him homophobic questions and taking pictures of him. Then we was fired just because of the person he chose to love”* (C).

In Donbass, the danger for teachers is not just connected with dismissal, but, to a greater extent, with the high risk of violence. LGBTI people working in education explained that in Crimea *“teachers are being baited online. We have deleted all our information on social networks. We have moved to a closed regime”* (C). Dismissal for sexual orientation, even if there is no prosecution for propaganda, means that teachers will not be able to work again in education.

Government workers in these territories face the same repressions that teachers do. Right now, this kind of work has prospects and is stable in both Donbass and Crimea, so people really do not want to lose their jobs. According to sources who have remained in Crimea, *“government agencies get*

⁸⁹ Interview with V., Crimea.

⁹⁰ Interview with Yu. Frank from the NGO Insight

the best funding right now. Government workers are obviously living better. Everyone can see how small business is dying. Most freelancers are without work. This makes people dependent on the government” (C). A lesbian from Crimea recounted: “My acquaintances who work for the government are all single [LGBTI women who refuse to communicate with the LGBTI community], because they are desperately scared that they will be fired and then they’ll lose everything: a stable salary, social guarantees, a job with a future” (C). Some of the potential sources in Crimea refused to be interviewed because they feared that their orientation would become known at their places of employment in government agencies.

LGBTI people have stopped socializing as much in fear of violence and repressions

One of the most important problems in Donbass and Crimea is the difficulty LGBTI people have communicating. Members of the LGBTI community have been forced into hiding—informants from Crimea assert that *“it is only possible to meet in secret places, and only when it is dark” (C)*. One place where gay people in Simferopol were able to meet was destroyed by unknown people presumed to be homophobes (C). In the so-called DNR and LNR, meetings were possible only at home and with extreme caution. A gay person living in the so-called LNR reported: *“I try not to go outside at all. And if it were only me. Luhansk shuts down at 7PM. The streets are empty, even though the curfew is 10PM” (L)*.

LGBTI people have started to feel apprehensive about socializing with unknown people, not just in real life, but online as well. They fear that they will be spied on and persecuted by unofficial aggressors and groups, as well as by government representatives, who could apply homophobic norms against them.

A founder of the Vkontakte group “Simferopol LGBT” said: “At first there were a few posts...now, after one and a half years, nothing has changed” (C).

“They monitor Facebook, we try not to write anything there” (C); I used to be able to post about [LGBTI] topics, but I can’t do that now” (C).

“I try not to post anything honest on Facebook, especially since some of my friends have positions in the propaganda sphere of the LNR” (L).

Lesbians from Crimea fear “guys who monitor social networks” (C).

Participants in a video on society’s reaction to a gay parade were forced to restrict access to this video, “because they were afraid of the repercussions of Russian law” (C).

“Maybe there’s a man sitting there in epaulets. You come to meet him and he beats you, blackmails you, etc.” (L).

“My sister said to me: “But you survived somehow in Soviet times, you hid,” But in Soviet times, I was still able to meet people, and now I can only set up a date with someone online. So I get there, and maybe someone’s waiting for me” (L).

“Maybe they won’t shoot me. They might ask for ransom, make fun of me, send me to perform hard labor with no pay” (L).

According to sources, the fact that members of the LGBTI community had varying political views led to irrepressible conflicts and made further interaction impossible. LGBTI people are afraid of surveillance, denunciations, violence and harassment, even on the part of members of their own community:

“When the lights came back on, we were all afraid to talk to anyone. My next door neighbor, I know he’s gay. I’m bored, he’s bored, he said: ‘Come over, let’s hang out and have some tea.’ Well, will I really go over to his house? How do I know what his position is? We will of course talk about how everyone is doing, but I’m half-Ukrainian. Maybe he will call his friends and say: ‘There’s a pro-Ukrainian, and they’ll come to me at night and arrest me’” (L).

“Meeting friends from the Facebook group in real life is just not possible. You just can’t shake the feeling that a person might be an agent who was planted to monitor the group” (L).

“We corresponded, but we were never able to meet. We have been pro-Ukrainian for a long time. But now there’s no one to talk with. You’re for Ukraine, I’m for Ukraine, let’s get together, but he always refuses. Because LGBT people who are pro-Ukraine have twice as much fear of meeting anyone at all” (L).

“A guy online set up a meeting with me. I said: ‘So, it’s dangerous to meet there, Russian soldiers are there.’ He wrote: ‘Oh, so you’re a Ukrop [pro-Ukrainian]? Why don’t you take a hike to your Ukropia? You’re a fascist, I’ll stab you to death when I see you.’ So how can you say that you can meet with someone?” (L).

“Even if an actual gay person wants to meet, I’ll meet him and then he’ll start going on about the great Luhansk People’s Republic. What will I do with him?” (L).

[A gay person who supports the separatists] “recognized me from a photograph on another site and started threatening me because I support Ukraine. I decided that I wouldn’t meet or socialize with anyone” (L).

LGBTI people in Donbass and Crimea are more isolated than ever. People interviewed stressed that *“an important way to survive these kinds of situations is to have people you can speak honestly with, people who have been checked out so you can unburden yourself” (L).* But this is precisely the opportunity that most LGBTI people in the DNR and LNR are missing. Meeting with other LGBTI people could have various negative consequences ranging from homophobic slurs to violence. The never-ending pressure on LGBTI people leads to psychological difficulties, depression, nervous breakdowns, which were observed as this research was being collected. The following statement made by an informant in Crimea characterizes the situation well: *“You’re haunted by paranoia that someone is following you. I feel how much energy I spend trying to get myself out of this panicked state” (C).*

The situation of transgender people

The situation of transgender people, whose appearance and documents do not always match, is cause for particular concern. These people are constantly risking their lives and well-being. For example, in the DNR and LNR, officers regularly check IDs, particularly those of men, and documents are required to cross the line of demarcation. This means that transgender people have had to remain in the conflict zone: *“I couldn’t go anywhere because of the discrepancy between my appearance and my documents. I had no opportunity at all. Regular patrols started in the city, there were lots of soldiers” (D).*

People who had valid documents in Crimea were supposed to obtain RF passports. Obviously, though, this is impossible to do when appearance and documents do not match. In a situation like this, many people choose to remain without documents, which can have tragic results: *“I had to show my new registration, who I was, what I do. But what can I show them? The documents of a woman? They would have just called the patrol officers and I would have been taken in.”⁹¹*

There have also been documented cases of the arbitrary arrest of transgender people: *“This boy from Khartsizsk, he’s transgender. His documents identify him as female, but he looks like a man. He spent three months sitting at home with his mother. He went out once—and soldiers grabbed him. Maybe his acquaintances, his neighbors gave him up. He left with assistance from the UN.”⁹²*

A transgender person forced to remain in Donetsk described the danger and poverty that he had to live with. *“I had to run away several times. I had confrontations with patrol officers. There was an exchange of fire. They shot because I was running. I was scared that if I stopped,...they could pick me up. People were disappearing. I ran, I sat in a filthy, stinking ditch. In the middle of the night, when I was already freezing, dirty, I crawled out and went home taking small lanes and alleys. There was a second confrontation...they started asking me: ‘Show us your documents.’ One of them was able to hit me in the stomach with the butt of his gun, breaking some of my ribs...I ran*

⁹¹ Interview with M. from Donetsk Oblast conducted by the NGO Insight.

⁹² Interview with Olga Olshanskaya, Shelter project coordinator for the NGO Insight.

away without even understanding the situation. I could feel blood flowing...it was very difficult to run, I had a sharp pain in my abdomen. I understood that my ribs were broken. But, again, I couldn't go to the hospital" (D).

There was even a case when a transgender person in the so-called DNR was denied humanitarian aid: "Registered people were given rations. OK, they were small. OK, it was only once a month. But I was not able to receive them. I had to show...my passport. They said: 'What, are you joking? Bring a girl and she can receive it.' They starting looking at me with closer attention: whose documents are these, where did you get them, you probably stole them, where is this girl? I had to run away somehow" (D).⁹³

Some transgender people started the process of changing their gender and documents before the war, but are unable to continue this process in Crimea, the DNR, or the LNR:

"If it hadn't been for these events in eastern Ukraine, I would have done the operation, and, of course, I would have changed my documents without any problem. But terrible things started happening, and the DNR checkpoints went up. They started checking documents" (D).

"We couldn't behave the way we wanted, we couldn't start treatment openly. So we were treated in secret" (D).

"There are virtually no medicines, forget about hormones (D)."⁹⁴

"V., who had been receiving hormone therapy since 2012, was getting ready to transition. She stayed there and went into denial [stopped taking hormone therapy], because, first of all, it was dangerous, second of all, it was expensive, third of all, there wasn't enough medication. Finally, she used to work out, but she stopped because she could be taken [armed people could detain her] for her sexual orientation" (D).

Transgender people in the Donbass region suffer serious psychological difficulties from the horrors they have lived through:

"The first...shooting, when I went down [into the bomb shelter] in desperation, for the first time in my life. And these whisperings started: who am I, what am I. I sat there in the corner like a baited animal" (D).⁹⁵

"I had no job, my passport didn't match my appearance, I planned to commit suicide" (D).

[A transgender woman who arrived from the DNR for several days] "had perpetual fear in her eyes. This was a totally different person. She had become so closed, so tense, she was scared to say anything at all. It was really a deep depression. She came to Kiev to breathe some fresh air, but she had to head right back. These people are fundamentally alone because they can't show their individuality there" (D).

The situation for LGBTI children and children from LGBTI families

LGBTI children have been extremely vulnerable since the annexation of Crimea and the formation of the so-called DNR and LNR. They have no way of receiving suitably prepared information about "non-traditional" sexual orientation: propaganda demonizes LGBTI people, there are no specialists qualified to provide information or psychological assistance to these children, and their parents rarely have the right skills to help these children and may even be in the grips of the prejudices conveyed in the media. In the opinion of one source, *"the formative years are much more complicated and difficult for this generation. But now it's an entirely different situation when they say on television that LGBT people must be burned, their hearts must be torn out, like Kiselev in his columns" (L).* An informant from Crimea recounted how *"The*

⁹³ Interview with M. from Donetsk Oblast conducted by the NGO Insight.

⁹⁴ Ibid.

⁹⁵ Ibid.

parents of a minor female named K. prevented and forbid her from talking with a girl, they took away her phone. So she ran away from home. Thanks to psychologists from an NGO in Kiev for returning her home” (C).

Government representatives have declared organizations for LGBTI children outside the law, thus depriving children of the right to receive the information and support they so desperately need. For example, on 28 April 2016 the round table “Threat to Traditional Families—Children-404” was held in Simferopol. Meanwhile, Children-404 is the only project in the Russian Federation aimed directly at LGBTI children. It has continued its activities online in spite of numerous bans.

Teachers and psychologists who have built trusting relationships with children cannot make up their minds to speak about LGBTI problems with them because of the risk of being prosecuted under homophobic laws on “gay propaganda among minors.” According to one respondent, *“children just have nowhere to go. There is no center like the one I want to set up. And an adolescent isn’t going to raise this topic himself. How can children manage this situation? They can’t. They remain by the wayside. They need good psychologists, and we have them. But they won’t take this on in their offices” (C).* According to a teacher from Crimea, *“teachers are torn between their duties as human beings and teachers and the administrative code” (C).* People interviewed spoke about the lack of any real mechanisms to help children: *“Even if a child tells a psychologist about this, because of the laws, the psychologist can only show sympathy” (C).*

The ability of teachers and psychologists to help children is limited even when a child’s life or well-being is in danger:

“When a child is bullied, a teacher can’t stand up for him, that will be propaganda” (C).

“There is suicide among LGBTI children. Children get information from peers or from the media. And it says online that if you’re not a certain way, that’s bad. As the saying goes, where there’s propaganda, there’s pressure on these children, who somehow don’t feel quite right and don’t know where to go with this. The question of personal identity is not reflected anywhere” (C).

People interviewed predicted that the situation for LGBTI children will worsen: *“They’re transmitting this idea of a strict norm, and if anyone doesn’t fit into it, they will remain alone with themselves. So we get suicides and all the rest of it. Adolescents don’t have positive role models. This kind of child will look for an organization, a group of friends, a gathering of other adolescents who will understand him. I’m not talking about some human rights organizations. He will find something not very good [drugs, promiscuity], because he doesn’t have any other options. So then he’ll have to hide it even more. And then LGBTI children will be associated with fringe scenarios because they don’t have any support” (C).*

In the DNR and LNR, there is such a wall of silence around this issue that even members of the LGBTI community do not have any information about the situation for minors.

Children from LGBTI families also face difficulties. Two gay men living as a family spoke about how they sensed “warning signs” of the growing homophobia and of the dangers for their son as the child of LGBTI parents. They said that there were being treated differently by friends and neighbors: *“People write denunciations of their neighbors just to show how patriotic they are... These are all signals for us. They tell us that we may become the target of attacks” (C).* Even the most run-of-the-mill situations are fraught with dangerous consequences for LGBTI children: *“you have to describe your family at school. You end up lying because you can’t tell the truth. This is terribly painful for a child” (C).*

Limited opportunities for LGBTI activism

Prior to the military conflict, Donbass and Crimea lacked virtually any specialized NGOs working to protect human rights on the grounds of SOGI, although activists did operate in these areas.

The Luhansk-based human rights center Our World, founded in 1998, moved to Kiev several years ago, thus putting a stop to its work in Luhansk. According to one expert, *“In recent years I*

haven't heard about anything going on there. Activism was the only thing holding things together."⁹⁶ Existing human rights organizations in Crimea were not active in supporting LGBTI people, and the only thematic NGO mentioned was Gelios: *"they provided psychological help, organized parties at their office. The organizers left exactly when Russia arrived because people were starting to point fingers at them"* (C). Members of the community turned to NGOs in Kiev and Kharkov for help when they needed it.

With the arrival of Russian power, LGBTI people were not only deprived of any support from NGOs, they also found themselves living in fear of homophobic actions by pro-Russian groups. In comparing the situation before and after the annexation, Crimean activists noted: *"The situations were totally different before and after: before you could connect with human rights defenders, but now it's all different, now they can hunt down social activists"* (C). In Donbass, there was some activism in regards to LGBTI rights before the war, but this kind of activism became impossible after the war began. According to one source in Donbass, *"before the war started, there was a YouTube channel Voices of LGBT."*⁹⁷ *This was like a little piece of the European world, where we would be accepted. But it ended as quickly as it started because of the situation. The project had to be cancelled because it was too difficult to work"* (D).

The change in power also meant that NGOs could not find premises to rent due to the conversion of property. For example, an HIV prevention organization in Yalta has not been able to find an office for over a year. NGOs must have a lease agreement to open a settlement account, so this organization—the only organization that has held events in support of LGBTI people—cannot obtain funding or operate, including on technical grounds. An activist from this organization reported that: *"The head of the Social Services Center for Family and Youth said: 'I would advise you not to try to apply for state support for LGBTI issues at first'"* (C).

Places where LGBTI people could gather informally have ceased to exist. For example, in June 2014 armed bandits vandalized the Babylon night club (also known as California)⁹⁸ in Donetsk, and visitors were beaten and robbed. According to one informant, *"in the middle of the night, around 3 or 4 AM, people ran in in military uniforms, fighters with automatic weapons, screaming 'lie on the floor.' They took everyone's money, memory cards (from their phones), in case someone was recording. The most amoral thing they did was when they took everyone out onto the street, they arranged them in a line, turned on their video cameras, and ordered everyone to kiss. If you don't want to, we'll shoot you. Anyone who can't run away in the next 10 seconds gets a bullet in the back. After that all these kinds of establishments shut down. People tried to come up with something, to lease some space, but nothing worked out. All you can do there is be silent. It's terrifying"* (D).

According to informants, the establishment Kunderbunt in Donetsk closed because of threats of violence against LGBTI people: *"When organizers started to understand that this was utter lawlessness, that there were no laws whatsoever, that the police were on the DNR's side, that they [the aggressors] would be treated with impunity, there were no more cultural events"* (D). Informants said: *"There was no question of any parties. Lots of young guys arrived. They walked around the city in balaclavas, carrying bats"* (D).

In Donetsk, the art space IZOLYATSIYA, which supported artists and activists fighting for LGBTI rights, was ransacked. According to one member, *"We had several projects about LGBT rights with Masha Kulikovskaya. Her sculptures were on our territory. One was the distinctive figure of a woman cast from the artist's body."*⁹⁹ *The people who had taken the territory started destroying it right away. It probably offended them. Masha's performance connected with these sculptures was held at the Saatchi Gallery, and DNR fighters left some feedback on it."*¹⁰⁰

⁹⁶ Interview with A.M., a coordinator at the Our World center.

⁹⁷ <http://novosti.dn.ua/details/228117/>

⁹⁸ https://www.lgbt.org.ua/ru/news/show_1520/

⁹⁹ http://www.mariakulikovska.com/homo-bulla/nggallery/image/dsc_9917/

¹⁰⁰ Interview with A., IZOLYATSIYA Foundation, Donetsk

Indeed, criticisms of M. Kulikovskaya's performance appeared almost immediately on the online media outlet *Russkaya vesna*, and the article was tagged with "homosexuality and propaganda" and "perverts."¹⁰¹ Kulikovskaya attracted the attention of armed people representing the DNR not least for the fact that she registered a same-sex marriage in Sweden in early 2014. This information spread quickly not just through so-called Novorossia, but also through Crimea, where this artist lived. Now Kulikovskaya cannot travel to Crimea because she fears for her life. She said: *"I see a real connection between Crimea and Donetsk. There's very little tolerance for me there. There's nowhere to run from that peninsula, there are many people who said something they shouldn't have and ended up in the sea, dead."*¹⁰²

Witnesses to the seizure of ISOLYATSIYA recounted how *"people with weapons came in and showed us a paper stating that the territory had to be handed over for DNR needs, to store humanitarian aid from Russia. Humanitarian aid—that's actually weapons and prison space where sentences are carried out. It's not just a place where people are confined and tortured, it's also a place where people are killed. The Ukrainian journalist Dmitry Petekhin served time at ISOLYATSIYA. Actually, they made a prison in the basements where we had our exhibits. Journalists from Kiev served time there, they were tortured. Now all of that is basements and bomb shelters."*¹⁰³ According to M. Kulikovskaya, *"DNR fighters shot people to death in the garden where the sculptures stood. Someone I know served three months there in the cellar. He was tortured and sent to perform forced labor: pick up the cigarette stubs and clear the garden of dead bodies. He saw parts of my sculptures in the garden."*¹⁰⁴

Kulikovskaya learned from journalists for the television station *Dozhd'* that the person in charge of shooting her sculptures explained that this was "their performance." *"That's how they showed what would happen to people who did not support the events in the DNR,"* she explained.¹⁰⁵

In Crimea, the only places LGBTI people can talk informally are thematic parties, but sources say that there are fewer and fewer chances to get together: *"Everyone is on their guard, they've gone into hiding, and nothing is going on"* (C). People have also encountered difficulties renting space for meetings, which is what happened with Q-bar: *"the building was directly across from the Rada. The club didn't advertise itself a gay club, but everyone knew that the owners were gay"* (C). *"Someone whispered to the city's new leaders that a gay bar was right under their noses. Then the bar had a visit from fire inspectors and the tax authorities. The establishment was fined and issued an official reprimand. That's when the managers understood that they were no longer welcome in the city."*¹⁰⁶ The owners left Crimea, primarily because they feared for their child's safety.

Other gay-friendly places closed in other parts of Donbass and Crimea:

"Before the war, everything was much simpler, much more open. We had places where we could meet in the open, and clubs, cafes" (D).

"It became really hard to make contacts once the cafes closed. I can't correspond with young people online, it's a different time. It was easier to meet people at cafes" (C).

"We [organizers of LGBTI parties] had the same place for several years, but now it's closed and we're looking for a new one" (C).

In Crimea, the search for meeting spaces is made all the more difficult by the intensifying homophobia (*"everyone knows that Russia doesn't like LGBTI people. No one wants to connect with LGBTI people. Only desperate people who have nothing left to lose agree to work"* (C)) and for technical reasons (*"no paperwork connected with real estate has been reissued, so even though there are lots of empty spaces, there's nowhere to hold an event"* (C)).

¹⁰¹ <http://rusvesna.su/news/1448637105>

¹⁰² Interview with the artist M. Kulikovskaya.

¹⁰³ Interview with A., ISOLYATSIYA Foundation, Donetsk

¹⁰⁴ Interview with the artist M. Kulinkovskaya.

¹⁰⁵ Ibid. See also the report by Dozhd TV: https://tvrain.ru/teleshov/i_tak_dalee_s_mihailom_fishmanom/territoriya_izoljatsii_kak_donetskie_separatisty_zahvatili_sovremennoe_iskusstvo-371586/

¹⁰⁶ <http://www.gay.ru/society/phobia/time-predstaviteli-gey.html>

There is now only one meeting place for LGBTI people that is still operating in Crimea, but it is advertised neutrally as “a café for leisure activities” (C). The owners noted that the number of LGBTI people visiting the café plummeted in the summer of 2015. One source reported that the café organizers *“started having problems after the referendum: people from Ukraine were scared to come perform. Everyone was told that they might not be allowed to leave, that they would be killed at the border (C).* The number of “regular” tourists has also fallen: a vacation in Crimea has become too expensive for Russians, and people don’t visit from Ukraine for safety reasons and because of the political views. Nevertheless, the LGBTI community in Crimea greatly values this club.

Compelled departure of LGBTI people from Crimea

Many LGBTI people have felt compelled to leave Crimea and the so-called DNR and LNR. An important consideration for choosing a new place of residence became the homophobic laws in effect in Russia: *“many LGBTI people left for Ukraine so that could live in better, safer conditions. They left for a better life” (C); “some people left for Ukraine from Dzhankoy and Simferopol because they understood that these Russian laws would set the masses against us, that people would treat us with more aggression” (C).*

The mass departure of LGBTI activists from Crimea was in many ways conditioned by the government’s repressive policies: by 2014, public events supporting LGBTI rights, which had until recently been possible, were totally banned.¹⁰⁷ The well-known activist M. Khromova, who organized a number of actions, fled Crimea in 2014. The fragmentation of the LGBTI community and the lack of mutual support were also reasons for leaving. As a source remaining in Ukraine noted, *“people who previously tried to something separately from one another found that it was easier to work together. I don’t think many people would have left” (C).* According to members of the community, it is now extremely dangerous to speak openly about LGBTI rights and get involved in activism in Crimea.

One difference for the LGBTI community in Crimea is that this community is now fairly isolated from NGOs in both Russia and Ukraine. Ukrainian LGBTI people frequently condemn people who stayed in Crimea. Sources conveyed the words of LGBTI people from Ukraine: *“they say, I’ll never come to Crimea again because now you’re Russia, you betrayed a nation” (C).* Respondents from Crimea asserted: *“Many people from Ukraine don’t want to communicate with us as if we were traitors. But no one actually asked us” (C).* As one lesbian from Crimea stated: *“if a person wants to leave, then he will. If he stays in Crimea, that means he supports the Russian government” (C).* Ties between Crimean LGBTI people and Ukrainian people are also weakening because it has become harder for Ukrainian citizens to visit Ukraine: visits are not welcomed by the Ukrainian government or by pro-Ukrainian activists (who are frequently conservative and even homophobic). There is even evidence that people returning to Ukraine from Crimea have met with violence at the border.

On the other hand, Crimean LGBTI people *“do not want to make any contact with Russia [Russian NGOs], they’re scared. Because the situation became even worse with Russia’s arrival. They’re just scared that someone might find something out, that they might be arrested” (C).* Meanwhile, Russian LGBTI organizations do not recognize Crimea’s annexation and do not believe it is possible to conduct human rights work there.

Problems LGBTI people face trying to leave the conflict zone

Most of the LGBTI people interviewed fled DNR and LNR territories because of the combat. Danger threatened the lives of all the people who escaped from the war:

[They attacked] “even the cars and busses carrying children, that didn’t stop anyone” (D).

¹⁰⁷ <http://rus.azatutyun.am/media/video/25387619.html>

“The most frightening was when we were on the train. We understood that they were blowing up the track bed. You thought maybe you should have gone on foot” (D).

“The most important thing was to get there. There was no time to be afraid. You had to react to the situation in time: when they said shut up, you shut up” (L).

During inspections at militia checkpoints, there was a risk of violence, arbitrary detention, denials to enter Ukraine, and blackmail: *“When they pull people out of the bus, well, nothing good can come of it. They’ll send you to the trenches or, if they see they can get money out of you, they will, they’ll shake you down until they shake it all out. And there is only one law — the machine gun” (D).*

People attempting to leave tried to make sure that they didn’t have anything with a Ukrainian symbol on it, and they tried to take as little with them as possible to hide that they were leaving the DNR or LNR for good. One respondent who fled Donetsk recounted the following: *“Once, in front of me, an old woman tried to intercede on behalf of one man. She said to them in Ukrainian: ‘What are you, little boys?’ And they said ‘Shut your mouth, bitch.’ And I spoke in Surchik. I thought, I’ll just shut my mouth with my Ukrainian” (D).*

Some of the people interviewed used the services of carriers. The cost of their trip was higher, but the connections they had made it more certain that they would get through the checkpoint quickly. There is also evidence that militia members were given bribes by people trying to cross the demarcation line. One person interviewed asserted that some bus companies regularly present “payments” at checkpoints. According to this informant, the bus company *“pays the militia at a checkpoint a dollar amount every month, plus they [the militia members] write up a list of what they need. Namely, this is expensive liquor and technology that must be bought. And such a list appears twice a month, when there’s a scheduled run. If something on the list is missing, then no one gets through” (D).*

Transgender people have particular difficulties departing from DNR and LNR territories because documents are checked both at DNR and LNR checkpoints and when entering territory controlled by Ukraine. It can be very dangerous if the photograph on the document does not match the appearance of the person leaving. One transgender person interviewed reported that before his departure, *“my appearance was nothing like the photographs on my documents. They could have said I was a spy, they could have shot me, they could have sent me to the cellar” (D).* When possible, transgender people tried to look like their photographs as much as they could by changing their clothes and hair and using makeup.

In some cases, the only way to get a person out of the conflict zone is by using a middleman. This is how one transgender person was saved: *“International organizations reached an agreement with the DNR to allow a convoy of its cars to escort an OSCE car, and that is how they brought him to our border. Our people were given advance notice” (D).*¹⁰⁸

¹⁰⁸ Interview with A., a volunteer who helped a transgender person leave DNR territory.

CONSEQUENCES OF THE INVOLUNTARY RESETTLEMENT OF LGBTI PEOPLE FROM DONETSK AND LUHANSK OBLASTS

LGBTI people who moved to Ukraine face the same difficulties as “regular” temporarily displaced persons, including fraud on the housing rental market and reluctance of landlords to rent to displaced people. According to one source who moved from Donetsk Oblast, *“there are landlords who have no problem renting to anyone as long as they are decent people and able to pay. But there are other landlords who adamantly refuse and don’t want anyone with a Donetsk registration”* (D).

There is also the problem of a negative attitude towards displaced persons even within the LGBTI community. An informant who moved from Luhansk spoke about his interactions within a circle of LGBTI people: *“They had a negative attitude towards displaced persons. They didn’t offend me, but they asked uncomfortable questions which I was supposed to answer for everyone”* (L).

However, it is admittedly more difficult for LGBTI people to find housing and jobs: activists from the NGO Insight spent a long time looking for a place to have a shelter (*“Again, when they learn that the displaced people are from the zone of the anti-terror operation and are LGBTI on top of that, [they refuse]”*).¹⁰⁹ A member of the LGBTI community who came to Kiev from Luhansk changed jobs in the restaurant business more than 20 times—he was fired without pay as soon as his employers learned of his orientation (L).

Transgender people continue to face problems finding work and renting housing because their appearances do not match the photographs on their documents. This situation is complicated not only by financial difficulties, but also by the fact that the commission that adopts decisions on sex changes is temporarily not meeting in Kiev in connection with changes in the law and procedures.

Many times, LGBTI people who have left decide to start working at non-governmental initiatives to assist displaced persons in need. One person interviewed explained that: *“The first thing I did after I moved was to go volunteer at a hotline for displaced people. I got the idea that I wanted to help people who had lived through experiences similar to mine.”* (D).

LGBTI displaced persons say that there is not enough psychological help available aimed specifically at them: *“No one asked: ‘Are you a displaced person? Maybe you need something?’ I don’t have anyone to talk to, anyone to hang out with. Do you think anyone talked to me?...”* (L).

¹⁰⁹ Interview with Olga Olshanksaya, Shelter project coordinator for the NGO Insight.

CONCLUSIONS

Thus, the main problems LGBTI people from the conflict zone (known in Ukraine as the zone of anti-terrorist operations and by the separatists as the DNR and LNR) and the Crimean peninsula are as follows:

- **homophobic legal norms in effect within the territories of these entities:**

In Donetsk and Luhansk oblasts, as in Crimea, more progressive Ukrainian laws were in effect prior to the events of 2014. Over the past two years these laws have undergone significant changes aimed at overcoming discrimination against LGBTI people. After the annexation of Crimea and the proclamation of the DNR and LNR either Russian laws with homophobic norms or even more discriminatory norms came into effect in these territories.

- **violence, threats, and summary punishments inflicted by armed gangs and homophobic groups:**

Armed formations in the DNR and LNR unquestionably present a danger to local residents. But given the homophobic hysteria, LGBTI people in particular have become targets for armed criminals. Consequently, their lives and well-being are under threat every day. In Crimea, hate crimes against LGBTI people and activists by organized homophobic groups have been registered.

- **consequences of violence and lawlessness in the form of the persecution of LGBTI people by people close to them—neighbors, colleagues, relatives:**

LGBTI people experience regular homophobic attacks by people close to them. This means that there is absolutely no way to live openly and it forces LGBTI people to continue living in fear. Members of this community face not just violent actions, but psychological pressure and the threat of dismissal and eviction as well.

- **difficulties leaving for other regions of Ukraine:**

Many LGBTI people cannot freely leave for other regions of Ukraine due to the risks connected with passing through demarcation zones. People can be prevented from leaving the conflict zone, and they can also be taken prisoner or treated with violence. Crimean border guards have treated some Ukrainian citizens with aggression and violence upon their return from Crimea.

- **lack of support for LGBTI children and children from LGBTI families:**

The situation of LGBTI children and children from LGBTI families is particularly alarming. Instead of educating the population in these territories about SOGI issues, government authorities spread homophobic propaganda. Any deviation from the “norm,” including being LGBTI, is condemned by society and declared unnatural. Because new homophobic norms classify any discussion of SOGI problems by teachers as “gay propaganda,” minors have been deprived of any real opportunity to ask adults for help and support. Children face rejection at home, at schools, and from their peers, which can be accompanied by depression, nervous breakdowns, and suicide. Children from LGBTI families risk bullying, rejection, and violence.

- **vulnerable situation of transgender people:**

The problem of discrepancies between transgender people’s documents and appearance is particularly acute. It is very hard for these people to get a job, rent housing, or receive benefits. People who began the transition process cannot complete it in their new places of residence due

to lack of funds, medicine, and competent doctors. In some situations, it is not possible to hide gender identity. Transgender people are forced to lead a secret lifestyle because they fear they will be subjected to threats and violence.

♦ **activities of LGBTI activists and LGBTI rights defenders in Crimea and the so-called DNR and LNR:**

Under conditions where the authorities promote homophobia, there are no longer any NGOs protecting LGBTI rights in Crimea, the DNR, or the LNR, and holding any actions to protect LGBTI rights is out of the question. Many activists and members of this community have been forced to flee their places of residence. LGBTI people who have been able to flee the conflict zone for places of relative safety are still subjected to biased treatment as both displaced persons and on the basis of SOGI: it is hard for them to find work, housing, and friends. Displaced people must invest massive efforts in creating conditions for life in other cities. At the same time, they are frequently condemned for fleeing the territories of the self-proclaimed republics.

RECOMMENDATIONS

To the governments of Russia and Ukraine:

Revoke all the homophobic norms of RF laws;

Find the laws of the so-called DNR and LNR invalid, return these territories to Ukraine's legal system;

Educate members of the Russian and Ukrainian law enforcement and judiciary communities about LGBTI rights, including by holding seminars and training sessions on recognizing and investigating hate crimes against LGBTI people;

Conduct, without delay, effective and fair investigations and trials of hate crimes against LGBTI people;

Prosecute people who have committed hate crimes against LGBTI people in Crimea and Donbass;

Ensure that human rights defenders have ready access to Crimea and Donbass, create the opportunity for collecting human rights information in safe conditions;

Create conditions for transgender people to complete transitioning, including in Crimea and Donbass, ensure that they can obtain IDs unhindered;

Provide free psychological help to LGBTI people who have fled the territories of Crimea and the so-called DNR and LNR and to those who remain there;

Ensure that Ukraine citizens can enter and depart Crimea freely by guaranteeing their security when they cross the border;

Ensure that Ukraine carries out its Action Plan to Implement a National Human Rights Strategy for the Period up until 2020 in accordance with the deadlines set forth in it, paying special attention to improving anti-discriminatory laws.

To international organizations:

Devote special attention to the situation for LGBTI people in Crimea and the so-called DNR and LNR, conduct regular monitoring of the situation with LGBTI rights, with a particular focus on the situation of LGBTI children and children from LGBTI families;

Assist transgender people with departing the territories of Crimea and the so-called DNR and LNR, devote particular attention to the situation of transgender people who have been deprived of the chance to complete their transitions and remain without valid IDs.

