

# **VIOLENT CRIMES**

**COMMITTED DURING THE ARMED CONFLICT  
IN EASTERN UKRAINE BETWEEN 2014-2018**



**KHARKIV  
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Kharkiv Human Rights Protection Group and «Shore of Peace», non-governmental nonprofit human rights organizations, present to the reader a report containing various information about violent criminal acts committed during the military conflict in eastern Ukraine between 2014–2018.  
The authors perceive in these acts the signs of numerous crimes against humanity and war crimes in accordance with the Rome Statute of the International Criminal Court.

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*The views, expressed in this publication, are those of the authors and may not coincide with the official position of the UNDP, Ministry of Foreign Affairs of Denmark, National Endowment for Democracy, International Renaissance Foundation.*

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# THE LIST OF ABBREVIATIONS

- AI — Amnesty International;  
ATO — Anti-Terrorist Operation;  
CC — Criminal Code of Ukraine;  
CMA — Civil-Military Administration;  
CMPO — Chief Military Prosecutor’s Office;  
CP — Checkpoint;  
CPC — Criminal Procedural Code;  
EXCP — Entry-Exit Checkpoint;  
DSA — District State Administration;  
ECHR — European Convention on Human Rights;  
ECtHR — European Court of Human Rights;  
GC — Geneva Convention(s) of 12 August 1949;  
HRMM — UN Human Rights Monitoring Mission in Ukraine;  
HRW — Human Rights Watch;  
ICC — International Criminal Court;  
IDP — Internally Displaced Persons;  
IAF — Illegal Armed Formations;<sup>1</sup>  
KHPG — Kharkiv Human Rights Protection Group;  
LGB — Local Government Body;  
LAF — Legal Armed Formations;<sup>2</sup>  
MD — Ministry of Defense of Ukraine;  
MI — Ministry of Interior of Ukraine;  
MLRS — Multiple Launch Rocket System;
- MTOT — Ministry of Temporarily Occupied Territories and Internally Displaced Persons;  
NGO — Non-Governmental Organization  
NPU — National Police of Ukraine;  
OTDLR — Occupied Territories of Donetsk and Luhansk Regions;  
OSCE — Organization for Security and Cooperation in Europe;  
PLWHA — People Living with HIV/AIDS;  
RSA — Regional State Administration;  
RS — Rome Statute;  
LNR — the self-proclaimed “Luhansk People’s Republic”;  
DNR — the self-proclaimed “Donetsk People’s Republic”;  
SLC — Strategic Litigation Center;  
SMM — Special Monitoring Mission;  
SP — NGO “Shore of Peace”;  
SSU — Security Service of Ukraine;  
UAF — Ukrainian Armed Forces;  
UHHRU — Ukrainian Helsinki Human Rights Union;  
UNSDC — Ukraine’s National Security and Defense Council;  
URPTI — Unified Register of Pre-Trial Investigations;  
VRU — Verkhovna Rada of Ukraine.

<sup>1</sup> “Illegal armed formations” is a cumulative term that signifies the pro-Russian separatist (anti-government) groups operating in eastern Ukraine.  
<sup>2</sup> “Lawful armed formations” is a cumulative term that signifies the Ukrainian armed forces and law enforcement agencies (e. g. National police, National Guard, Security service, etc.).

# 1. SUMMARY

Two Ukrainian non-governmental nonprofit human rights organizations, the Kharkiv Human Rights Protection Group (KHPG) and the Shore of Peace (SP), present the report, which contains information about the alleged crimes committed during the armed conflict in eastern Ukraine between 2014–2018.

KHPG and SP find that the crimes enumerated in this report constitute crimes against humanity and war crimes within the jurisdiction of the ICC. There are reasonable grounds to believe that these crimes qualify as crimes against humanity under articles 7 (1) (a), (e), (f), (g), (h) and (i); and as war crimes under Article 8(2) (a) (i), (ii), (iii), (iv), (vi), (b) (i), (ii), (iv), (v), (ix), (xxi), (xxii), (xxiii), (c) (i), (ii), (e) (i), (ii), (iv) and (vi) of the RS.

The report includes information on all the crimes which is supported by the evidence available to KHPG and SP.

Section 2 (Introduction) provides a brief overview of the work of KHPG and SP, and expresses gratitude to the international donor organizations that supported our efforts, as well as to the partner organizations that participated in the collection of evidence.

Section 3 (Methodology) describes methodology that has been used in preparation of this report, in particular: (1) SP and KHPG databases; (2) methodology of the monitoring visits to the areas located on the territory controlled by the Ukrainian government; (3) interviews with the victims of crimes; (4) methodology underlying the process of collecting, verifying and consolidating information about the territory controlled by the Ukrainian government; and (5) methodology underlying the process collecting, verifying and consolidating information about OTDLR.

Section 4 (Facts) briefly outlines the timeline of the armed conflict in eastern Ukraine. It provides general information about the context, in which the crimes have taken place, as well as demonstrates both widespread and systematic nature of those crimes.

Section 5 (Alleged Crimes) includes information about the following crimes:

- 1) Murder (extrajudicial killings, torturing to death, killings of civilians as a result of isolated attacks);
- 2) Attacks on the civilians and the destruction of civilian objects (intentional attacks, indiscriminate attacks, deaths as the result of explosions — mines, trip wire etc., the destruction and damage of buildings and infrastructure);
- 3) Willfully causing great suffering, or serious injury to body or health;
- 4) Extensive destruction and appropriation of property, not justified by military necessity, and carried out unlawfully and wantonly;
- 5) Use of protected persons as «human shields»;
- 6) Imprisonment or other severe deprivation of physical liberty in the unlawful places of detention (separately in relation to military personnel and civilians);
- 7) Torture and inhuman treatment (separately in relation military personnel and civilian);
- 8) Sexual and gender based violence;
- 9) Outrages upon personal dignity (parades of captives, forcing detainees to eat insignia of their military uniforms, forcing detainees to reinter decomposed corpses of Ukrainian military servicemen, etc.).

The report also lists crimes that require more detailed consideration in separate prospective reports to the ICC Office of The Prosecutor, such as enforced disappearances; persecution against an identifiable group on discriminatory grounds (Roma, members of the LGBTI community, religious believers who do not recognize by the Moscow Patriarchate); crimes committed against convicts/prisoners in the OTDLR (willfully depriving protected persons of the right to a fair trial, violations of article 3 common to the four Geneva Conventions of 12 August 1949).

Section 6 (Ineffectiveness of the Investigation of Crimes) refers to the inability and unwilling of the State to investigate the committed crimes).

Section 7 (Conclusion) summarizes the report and draws conclusions.

# 2. INTRODUCTION

KHPG and SP provide information on the crimes committed in the context of the armed conflict in eastern Ukraine between 2014–2018, calling upon the Prosecutor of the ICC to open an investigation into the situation of Ukraine. This is the first joint communication to the Office of the Prosecutor prepared by the two organizations.

KHPG was registered in 1992 and has acted as a human rights group of the Kharkiv Association 'Memorial' since 1989. KHPG's work focuses on (1) upholding and protecting the rights of individuals who suffered human rights violations, handling up to 3,000 written submissions on the annual basis, (2) keeping the Ukrainian government and society informed about the human rights violations, (3) analyzing Ukraine's compliance with human rights and fundamental freedoms. KHPG strives to improve the human rights situation in Ukraine, in particular with respect to the protection of the right to life, prohibition of torture, prohibition of arbitrary detention, freedom of expression, the right to privacy, the human rights of marginalized groups, such as prisoners, PLWHA, drug addicts, asylum seekers and others. KHPG's Strategic Litigation Center (SLC) established in 2003, is handling up to 200 strategic cases per year both in the national courts and the ECtHR. The Center's lawyers won more than 120 cases in the ECHR with respect to the violations, *inter alia*, under Articles 2, 3, 5, 6, 8, 13 of the ECHR. More than 400 cases are pending determination by the ECtHR, including more than half of them with respect to the crimes committed during the armed conflict in eastern Ukraine. In 2016–2018, KHPG carried out 46 monitoring missions to the residential areas along the line of contact with the purpose of gathering information about these crimes.

SP was established in 2014 by a migrant from Lugansk, Gennadiy Shcherbak, for the purposes of monitoring and documenting such crimes as extrajudicial killings, enforced disappearances, torture,

and unlawful imprisonment. SP documentators have already carried out 72 trips for interrogation of victims and witnesses who were held in captivity by the LNR and DNR authorities. SP created its own database, which is one of the most comprehensive and accurate in Ukraine in relation to the documented crimes that have been committed on the territory of eastern Ukraine since the beginning of the conflict. As of September 1, 2018, the database contains information on more than 19,000 people — prisoners, missing persons, dead and injured in hostilities and in captivity; victims of torture and unlawful detention; witnesses to crime(s); and suspects of crimes (members of IAF). SP communicated information contained in its database to the national authorities of Ukraine — Chief Military Prosecutor's Office, General Prosecutor's Office, National Police of Ukraine, the Security Service of Ukraine in the Volyn region, and numerous public organizations. SP members provide legal advice to the victims of crimes and family members of servicemen who were killed or injured, represent their interests and litigate in cases heard in national courts. The organization is headquartered in Lutsk.

The report was authored by the staff members of KHPG, namely Yuriy Aseev, Volodymyr Hlushchenko, Anna Ovdienko, Natalia Okhotnikova, Ole-na Richko, Pavlo Shvab, Yanina Smelyanska, Igor Sosonsky, Gennadiy Tokarev, Anastasia Yegorova, Yevgeniy Zakharov, together with staff members of SP, namely, Boris Knyrov, Gennady Shcherbak, and Martha Vovk.

KHPG and SP express their sincere gratitude to the international and national donor organizations that supported our efforts in collecting and documenting information on crimes in eastern Ukraine, and preparing this report, in particular, the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Program in Ukraine, the International Foundation 'Renaiss-

sance’, the National Democracy Foundation (USA), the US Embassy’s Democracy Promotion Fund in Ukraine, and International Human Rights Organization ‘Frontline Defenders’.

KHPG and SP collaborated with the members of the Coalition “Justice for Peace in the Donbass” — UHHRU, Luhansk Regional Center for Human Rights ‘Alternative’, the Public Committee for the Protec-

tion of Constitutional Rights and Freedoms, ‘Donbass SOS’ on various aspects of information gathering. We extend thanks to our colleagues for the fruitful cooperation.

We would like to express our special thanks to Dr. Iryna Marchuk, associate professor at the University of Copenhagen, for her valuable advice and consultations.

## 3. METHODOLOGY

### 3.1. SOURCES

The sources of information that were used in preparation of this report are as follows:

- a) Daily official reports on the situation in the area of hostilities, human casualties, the extent of destruction, etc.; reports from other information resources, including the local ones, about the conduct of hostilities;
- b) Daily reports of the SMM OSCE, HRMM, reports of international and national human rights organizations, such as AI, HRW, Human Rights Center “Memorial”, UHHRU and other human rights organizations in Ukraine;
- c) Official replies to information requests obtained in accordance with the Law of Ukraine “On Access to Public Information”, which were sent to the police and national authorities on the territory under the control of the government in eastern Ukraine;
- d) Monitoring trips to Donetsk and Luhansk regions to the areas under the control of the government of Ukraine for the purposes of verifying and following up on the official replies received in response to information requests; interviewing victims and witnesses of human rights violations; and collecting photo and video evidence;
- e) Relevant information channels that regularly publish information on the situation in the zone of the armed conflict;
- f) Information provided by informants residing in OTDLR;
- g) Materials of cases initiated by KHPG’s SLC as the result of the human rights violations in the conflict zone;
- h) SP and KHPG databases.

In 2016, KHPG authored and submitted 322 information requests to local municipalities and regional authorities on the territory controlled by the

government in Donetsk and Luhansk regions. We requested to provide information on (1) the number of dead and injured civilians in hostilities in 2014–2015; (2) the date, place, causes and surrounding circumstances of deaths and injuries, etc., (3) the extent of damage and destruction of the buildings and infrastructure objects (social, communal, educational, medical, industrial etc.) within the territory of the administrative areas of LGB, some of which have been restored; sources and the amount of financing; (4) information on whether communal institutions or other buildings were used for the deployment of the units of UAF, and whether financial and organizational matters were settled in such cases; (5) whether the damages were restored; specifics on the degree of the damages to land, roads, bridges etc. In addition, the official requests sought information on other widespread human rights violations — extrajudicial killings, torture and inhuman treatment, enforced disappearances, unlawful imprisonment, appropriation of property without a court order, etc., committed by the group members of the DNR/LNR and/or Ukrainian authorities, including the Ukrainian armed forces, SSU, the Ministry of Internal Affairs, the National Guard, and the volunteer battalions. In general, around half of LGB(s) and authorities responded. Regrettably, not all replies were informative enough.

For the second time, KHPG submitted information requests to LGB located along the line of contact and the respective authorities in these territories in November 2017. When forming the list of LGB(s), to which information requests were addressed, KHPG included (1) LGB(s) on territories that either directly bordered with the line of contact, or were located in a strip of width not more than 25 km from line of contact and fell into the shelling zone by heavy weapons, or (2) LGB(s) that for some time have been under the control of IAF. There was compiled a list of 102 LGB(s), district and regional administrations

and councils that covered 93 populated areas along the line of contact. Not all addressees of information requests responded. KHPG received only 64 official replies.

In February 2018, 61 information requests were prepared and sent to the schools located along the line of contact. 28 requests were sent to medical institutions in Donetsk and Lugansk regions. Further 16 requests were sent to the city and district departments of NPU, as well as 18 requests to the regional prosecutor's offices of Donetsk and Lugansk regions. In July 2018, requests were sent to the main departments of NPU in the Donetsk and Luhansk regions, as well as to the Donetsk and Luhansk Region CMA.

In 2018, in order to investigate the extent of missing persons who were abducted, or taken hostage, and find out about pre-trial investigation of those criminal offenses, MB sent requests to the Luhansk and Donetsk regional departments of NPU, the General Prosecutor's Office inquiring about (1) the number of registered applications from citizens; (2) the number of criminal proceedings initiated under Articles 115 ("Murder", with an additional mark in the URPTI "Missing"), 146 ("Illegal deprivation of liberty or abduction of a person"), 147 ("Capture of hostages") of the Criminal Code, committed by IAF as well as LAF; (3) the number of victims of crimes; (4) completed criminal proceedings and sent to the court with a conviction. In addition, information requests were submitted to the territorial departments of the State Judicial Administration of Luhansk and Donetsk regions regarding the number of sentences passed in the specified categories of cases for the period from 01/01/2014 until the second quarter of 2018. Unfortunately, the answers received from law enforcement agencies were incomplete; moreover, some questions remained unanswered. The addressees of information requests denied access to information justifying it by the absence of an approved form of reporting that would allow for disclosure of the requested information. Such actions constitute a serious breach of the procedure ensuring the right to access information laid down in the Law of Ukraine "On Access to Public Information".

The KHPG database is a relational database on civilian casualties and the destruction of residential buildings and infrastructure, which is based on MySQL as the standard user and application programming interface. The software based the MySQL interface allows to verify the correctness of spelling of the addresses of residential buildings; to establish repetitions of the same episodes; and to protect personal data through automatic coding and storage of information in the database in the encrypted form. Only by entering the access key, personal data is decoded and therefore can be processed. The software enables to filter episodes based on the time period, location and the type of incident, as well as in the combination of any of those search filters. It also allows generating reports that display summary information in tabular form (division of episodes based on the time period, location, sustained casualties/incurred damage and the type of incident) and in graphical form — as maps generated via GoogleMaps. As of September 1, 2018, the database contains data about 3,144 dead and 3,350 injured civilians; 20,001 destroyed and damaged buildings and 2,502 infrastructure objects.

SP DB is a relational database containing information collected by SP about victims of crimes committed during hostilities or in captivity and the alleged perpetrators of those crimes. The main source of information are petitions of family members of the victims who were captured and went missing, collected during 72 monitoring visits, as well as information received from authorities, public organizations, and open information resources. Each episode is linked to documents, interviews, relevant photos and videos, and is automatically cross-linked to other episodes that contain the same individuals and/or other data. The software enables to perform a variety of searches and extract information from the database by using aforementioned filtering criteria. As of July 1, 2018, the database contains information on 8,531 combatants affiliated with UAF, 3,586 combatants affiliated with IAF, and 8,216 civilians, including 7,972 dead, on 1,572 injured and 1,297 missing persons.

### 3.2. METHODOLOGY UNDERLYING COLLECTION OF EVIDENCE DURING MONITORING TRIPS

The purpose of monitoring visits is to collect and verify previously received information on human rights violations, provide legal advice to the affected population, conduct photo-, video-shooting of the destroyed buildings and infrastructure, and conduct interviews with the victims of crimes and other residents in the affected areas. As a general rule, each monitoring group comprises of 3–4 persons, at least one of them being a lawyer. The trip normally lasts trips for a week, during which several sites are visited. Having previously received an official reply to the information request, the group verified the information received during the follow-up interview. If no official replied had been received, the group attempted to collect information from other sources i. e. setting up meetings in advance with the already known victims of human rights violations. The group also examined whether the affected population had access to public utilities, medical care, food, as well as looked into the living conditions of IDPs residing in certain areas, etc. Following the trip, proactive actions were taken to improve the human rights situation.

As for shelling incidents, the monitoring groups attempted to establish from which side the shelling began, to identify the type of weapon used, to estimate the extent of the destruction; to establish a number of victims and subsequently identify them (if possible); to establish the date, location and cause of death/injury (artillery fire, small arms, mines, trip wires, etc.); to search for family relatives of the victims, and (if possible) to conduct with them follow-up interviews and questionnaires.

Following each monitoring trip, the group prepared the report outlining its results, specifying the areas visited, the number of communications in each area, the issues the members of the monitoring group were consulted on, the number of completed questionnaires, an overview of possible strategic cases to be taken to the courts, as well as attaching relevant digital evidence (photo, audio and video footage) obtained during the trip.

Monitoring trips to the most affected conflict areas (Stanytsia Luhanska, Popasna, Avdiivka, Mariinka, Krasnohorivka, Volnovakha, Zolote, etc.) were repeated as many times as necessary to record all the spectrum of human rights violations and conduct interviews with victims. It is worth mentioning that some victims did not immediately agree to give testimony and were only convinced to give evidence on the second or third arrival of the monitoring group, when they realized that the purpose of those trips was to address their situation.

These are major outcomes of the KHPG 46 monitoring visits in 2016–2018 and the SP 734 visits in 2014–2018 to the 92 areas located in the zone of hostilities in 2014–2015:

- 1) 734 witnesses, victims and their family relatives along the line of contact were interviewed,
- 2) approximately 700 locations of shelling and explosions were recorded,
- 3) 1,100 videos and thousands of photographs were recorded (some were collected on Internet),
- 4) 542 procedural documents were obtained and authored,
- 5) 219 questionnaires were filled out, documenting killings, executions, missing persons and injured military personnel and civilians,
- 6) 47 questionnaires were completed with the residents of the areas located in proximity to the line of contact; and
- 7) 103 questionnaires with respect to the places of detentions in OTDLR were completed.

### 3.3. METHODOLOGY UNDERLYING THE PROCESS OF COLLECTING, VERIFYING AND CONSOLIDATING INFORMATION ON THE TERRITORIES UNDER THE CONTROL OF THE UKRAINIAN GOVERNMENT

The data, which was obtained by KHPG and SP in the information requests provided by the authorities and LGB, was compared and cross-checked during

monitoring trips when conducting interviews with victims, their family members and other residents of the affected areas using the questionnaires.

Information obtained through the information requests, as well as collected during monitoring trips and received from other sources, was included in the SP and KHRG databases. This enabled to consolidate information on widespread human rights violations, to obtain statistical information from a variety of sources concerning the victims and the alleged perpetrators (i. e. types of crimes, , time, location, and the manner in which the crime had been committed etc.).

The residential areas along the line of are administratively linked to seven districts — Stanichno-Luhansky, Popasniansky, Novoaydyrsky, Mariinsky, Volnovasky, Bakhmutsky, Yasinuvatsky, as well as the cities of Avdiivka and Mariupol. Information on the recorded human rights violations in each district is presented in a separate report in accordance with a geographical location. Special attention has been paid to the crimes, which form part of this report to the ICC Office of the Prosecutor. As of September 1, 2018, two separate reports were prepared for the Stanichno-Lugansky and Popasniansky, which are respectively included as appendices to this report.

### 3.4. METHODOLOGY UNDERLYING THE PROCESS OF COLLECTING, VERIFYING AND CONSOLIDATING INFORMATION ABOUT OTDLR

For the purposes of collecting data on human rights violations in the occupied territories, KHRG relied upon the following Internet resources:

<http://poisk.derzhava.today/pogibshie/list>  
<http://map.ombudsmandnr.ru/>  
[https://nekropole.info/ru/person/list?category\\_id=319](https://nekropole.info/ru/person/list?category_id=319)  
<https://docs.google.com/spreadsheets/d/txrvxU5367rsISXchEHnLGQ/htmlview>  
<http://crimes.dnr-online.ru/>  
<http://www.novorossia.org/novoross/7134-spisok-pogibshih-svyaschennikov-i-razrushen-nyh-hramov-novorossii.html>  
<http://rigort.livejournal.com/1030769.html>  
<http://od-novorossia.livejournal.com/tag/%D0%BF%D0%B0%D0%BC%D1%8F%D1%82%D1%8C>  
<http://forum-novorossia.ru/index.php/topic/273-memorial-pogibshikh-opolchentcev-novorossii/>  
<http://gruz200.zzz.com.ua/>  
and others.

In addition, KHRG relied upon the following sources of information:

- 1) testimony with the prisoners of war and civilians taken as hostages who were released from captivity by the IAF through exchange or otherwise;
- 2) direct communication with OTDLR by e-mail and other means of communication seeking assistance;
- 3) information provided by individuals who reside in the occupied territories about human rights violations committed in their residential areas.

KHPG and MB employees cross-checked the data published in the Internet or received by other means, searched the data on the social media pages, in order to make an objective and credible assessment of the data with respect to the victims of human rights violations, witnesses and perpetrators.

## 4. FACTS

### 4.1. THE TIMELINE OF EVENTS IN EASTERN UKRAINE

The armed conflict in Donetsk and Luhansk regions unfolded at the backdrop of the events that took place in February 2014 in Kyiv. The report briefly outlines the timeline of events that are relevant to the escalation of the armed conflict in eastern Ukraine.

For the purposes of mapping the timeline of the conflict in eastern Ukraine, information was collected on hostilities in Donetsk and Luhansk regions during the period between April 2014 and May 2018; as well as the maps were generated to mark the territories on which hostilities took place in 2014–2015. These territories include: all districts in Donetsk region, with the exception of Velikono-vosilkivskiy, Dobropilya, Mangush, Nikolske, Olexandrivka, Pokrovsk, as well as except the towns of regional subordination Mirnograd, Vugledar, Novogrodivka, Selidove, Pokrovsk; all districts in Luhansk region, with the exception of Troitske, Bilokurakyne, Bilovodskiy, Milovskiy, Markivskiy, Starobilsk, Svativskiy and Kremine.

#### March — May 2014

In March 2014, protest groups were formed from the local population in some cities of Donetsk and Luhansk regions, which were inspired by the “Anti-maydan” anti-government movement. The protests were coordinated by a number of persons who were backed by several Russian politicians. The part of local population in those areas disagreed with the removal of the former President Viktor Yanukovich from his office. As a result, secessionist movements emerged in Donetsk and Lugansk regions, with the view of declaring independence from Ukraine. Active steps were undertaken to hold a referendum on secession of Donetsk and Luhansk regions from

Ukraine. In a number of towns, over 30 buildings of the Ukrainian national authorities were seized, such as the buildings of local and regional councils and state administration, the departments of MIA, SSU etc.<sup>3</sup> The eyewitnesses noted the presence of the armed groups without insignia. There were calls to mobilize and seize power. New internet media outlets emerged that provided daily distorted “picture” of the events in the region. The project “Russian Spring”<sup>4</sup> was initiated.

In April 2014, the Ukrainian government stated that several areas in Donetsk and Luhansk regions were taken under control by the armed individuals whose work was coordinated by the Russian special services. The territories over which the Ukrainian government lost its control as of April 2014 included Donetsk, Mariupol, Kurakhovo, Avdiivka, Kostyantynivka, Bakhmut, Sloviansk, Kramatorsk, Lyman, Severodonetsk, Lysichansk, Pervomaysk, Alchevsk, Luhansk, Sverdlovsk, Rovenki, Krasniy Luch, as well as other populated areas within the perimeter of the map.



“Russian Spring” rally

<sup>3</sup> “The seizure of the prosecutor’s office in the Donetsk region prompted the initiation of the criminal investigation”, Sudovo-yurydychna hazeta(online), 12 April 2014, <<https://sud.ua/ru/news/ukraine/62722-po-fakty-zakhvata-zdaniya-prokuryry-donetskoj-oblasti-nachato-rassledovanie>>.

<sup>4</sup> «На Украине позорятся на весь мир» [Ukraine is shame to the world], Ruskaia vesna (online), <<http://rusvesna.su/>>.

As of April 2014, the border control was carried out by the border service in the regular regime.

On 14 April 2014, NSDCU officially declared the beginning of the anti-terrorist operation.<sup>5</sup>

In April 2014, the administration of ATO adopts the decision to allocate the armed divisions of UAF and MIA in the vicinity of Sloviansk, Kramatorsk and Mariupol. In the end of the April, the armed hostilities began on such territories as Semenivka, Bylbasivka, Donetsk, Sloviansk, Kramatorsk and Mariupol. The armed divisions were blocked from entering the towns within the perimeter of “Russian Spring”. The relocation of the UAF divisions alongside the routes of Donetsk and Luhansk regions was blocked by the religious believers and the supporters of “Russian Spring”. The heightened presence of “tourists” from RF was observed. Bus columns with organized groups onboard crossed into the border of Ukraine. Non-locals participated in the mass disturbances, maintaining blockade of national authorities in Donetsk and Luhansk regions.

There are documented single cases of the exchange of fire in the residential areas of Donetsk, Luhansk and Sloviansk. There are reported incidents of the injuries of civilians on the highways.

In May 2014, the geographical scope of hostilities extended significantly. Serious fighting erupted between the battalions of UAF and MIA in the residential areas of Sloviansk, Semenivka, Bylbasivka, Kramatorsk, Yasnohirka, Liman, Rubizhne and Mariupol. The exchange of fire in Krasnoarmiysk (Pokrovsk) on 11 May 2014 claimed the lives of two civilians<sup>6</sup>.

On 25 May 2014, 2 civilians died and 3 were injured as a result of the exchange of fire between UAF and IAF in Novoaydar. Armed clashes erupted in the

suburbs of Stanitsa Luhanska and Izvarine. There were documented the first cases of mass killings of civilians and military personnel in Donetsk, Karlivka and Olginka. On 9 May 2014, the armed groups took over the city department of MIA in Mariupol. There was the exchange of fire in the entire city, which led to the death of 7 civilians and 6 members of the law enforcement agencies<sup>7</sup>.

Following the takeover of the state department of MIA in Mariupol, the ATO management decided to order all forces to leave the city. Mariupol was recaptured and turned back under the control of the Ukrainian Government on 13 June 2014.<sup>8</sup>

In May 2014, the parties to the conflict attempted to take control over the main transport infrastructure of the regions, such as railroad, overpasses, bridges, and strategically advantageous high grounds.

Then the Ukrainian government together with the ATO management began consolidating its forces to the north of the line that goes from Krasna Talivka in Luhansk region bordering with Russia, through the populated areas of Novoaydar, Kreminna, and further in Donetsk region — Drobysheve, Sviatohirsk, Dolyna, Novomykolaivka, Olexandrivka, Dobropilya, Krasnoarmiysk (Pokrovsk), Kurakhovo and Volnovakha.

The provisional border of control over the territories of Donetsk and Luhansk regions by IAF stretched from the border with Russia in Luhansk region from the town of Chervonopartizansk through Sverdlovsk, Rovenki, Antracite, Krasniy Luch, Snizhne, Torez, Shakhtarsk, Zuhres, Ilovaysk, Mospyne, Larine, Olexandrivka, Maryinka, Donetsk, Avdiivka, Kostyantynivka, Druzhkivka, Kramatorsk, Sloviansk, Lyman, Rubizhne, Severodonetsk, Tryokhizbenka, Shyastya, Nizhnyoteple and Stanitsa Luhanska,

<sup>5</sup> «Про рішення Ради національної безпеки і оборони України від 13 квітня 2014 року „Про невідкладні заходи щодо подолання терористичної загрози і збереження територіальної цілісності України“» [On the decision of the Council of National Security and Defense of Ukraine dated 13 April 2014 “On urgent measures directed against the terrorist threat and maintaining the territorial integrity of Ukraine”, Legislation of Ukraine (online), 13 April 2014, <<http://zakon5.rada.gov.ua/laws/show/405/2014>>.

<sup>6</sup> «Стрілянина в Красноармійську на референдумі 11 травня» [Shooting in Krasnoarmeysk on 11 May referendum], Youtube (online), 07 August 2017, <[https://www.youtube.com/watch?v=Zoc\\_vnP2Ewo](https://www.youtube.com/watch?v=Zoc_vnP2Ewo)>; <[https://www.youtube.com/watch?v=W4joK6D\\_-Wc](https://www.youtube.com/watch?v=W4joK6D_-Wc)>.

<sup>7</sup> «В Мариуполе открыли мемориальную доску погибшим в городе 9 мая 2014 года украинским воинам» [Mariupol was presented a commemoration plate in honor of the soldiers who died in the city on 9 May 2014] CenzorNET (online), 19 May 2015, <[https://censor.net.ua/photo\\_news/335460/v\\_mariupole\\_otkryli\\_memorialnuyu\\_dosku\\_pogibshim\\_v\\_gorode\\_9\\_maya\\_2014\\_goda\\_ukrainskim\\_voinam\\_fotoreportaj](https://censor.net.ua/photo_news/335460/v_mariupole_otkryli_memorialnuyu_dosku_pogibshim_v_gorode_9_maya_2014_goda_ukrainskim_voinam_fotoreportaj)>.

<sup>8</sup> «Бой в Мариуполе 13 июня: как это было» [Fighting in Mariupol: how it unfolded], Кореспондент НЕТ(online), 13 July 2014, <<https://korrespondent.net/ukraine/comunity/3377650-boi-v-mariupole-13-yuinia-kak-eto-bylo>>.

also including other populated areas within the perimeter of the map.

Also, in May 2014, there was serious fighting taken place in the suburbs of Sloviansk and Kramatorsk, with no fewer than 7 civilians died.

The territories controlled by IAF in Donetsk region as of May 2014 encompassed no less than 13,500 square kilometers (out of 26,500 km<sup>2</sup> of the total area of the region), with the population of no less than 3,9 million people. In Luhansk region, the areas controlled by IAF covered no less than 11,000 km<sup>2</sup> (out of 26,7 thousand km<sup>2</sup> of the total area of the region), with the population of no less than 1,6 million people.

There were incidents of the attacks of the armed groups of the supporters of “Russian spring” on the Ukrainian border units. The use of barrel artillery was not documented in May 2014.



*Customs control zone vicinity near Izvarine*

## June 2014

June 2014 may be considered as the starting point of the armed conflict in Donetsk and Luhansk regions. In June 2014, hostilities became widespread and covered the entire territory around the belt of the areas controlled by IAF.

In June 2014, the Ukrainian forces took under control the town of Schyastya and a number of villages of Novoaydar district in Luhansk region. In Donetsk region, the towns of Liman, Yampil and Mariupol were liberated. There were hostilities in the suburbs of Sloviansk and Kramatorsk, with the death toll of the civilians no fewer than 64 persons as of June 2014 (according to the data collected by

KHPG), most of them — in Sloviansk, Mykolaivka, Stanitsa Luhanska, Metalist and Luhansk).

On 3 June 2014, the town of Liman was taken under the control of Ukrainian forces.<sup>9</sup> On 13 and 14 June 2014, the towns of Mariupol<sup>10</sup> and Schyastya were taken under control<sup>11</sup>.

Intense hostilities took place on the territories of Sloviansk, Semenivka, Bylbasivka, Kramatorsk, Yasnohirka, Donetsk, Olenivka, Mariupol, Schyastya, Stanitsa Luhanska, Metalist, Kambrod (Luhansk), Stukalova Balka, Verhunka, Tryokhizbenka (suburbs), Slovianoserbsk, Rubizhne, Liman, Yampol and Izvarine.

As of June 2014, the communication became much more difficult with the Ukrainian border units and UAF, which controlled the border between Ukraine and Russia in the area between Izvarine and Dolzhanske. In order to unblock the border units, the ATO management decided to allocate the armed divisions for strengthening of the Luhansk region along the line Dokuchayevsk — Starobesheve — Amvrosiivka — Marynivka — Dmytrivka — Dyakove — Zelenopilya — Biryukove — Panchenkove. In doing so, they attempted to take under their control the border from Marinivka through Dovzhanskiy to Izvarine. As of 31 June 2014, the points of crossing of the state border “Izvarine” and “Dovzhanskiy” were fully controlled by IAF of the self-proclaimed LPR.<sup>12</sup>

<sup>9</sup> «3 июня 2014 года. Первая успешная наступательная операция сил АТО» [3 June 2014. The first successful attack of the ATO forces] ЦензорНЕТ (online), 04 June 2016, <[https://censor.net.ua/resonance/391762/3\\_iyunya\\_2014\\_goda\\_pervaya\\_uspeshnaya\\_nastupatel'naya\\_operatsiya\\_sil\\_ato](https://censor.net.ua/resonance/391762/3_iyunya_2014_goda_pervaya_uspeshnaya_nastupatel'naya_operatsiya_sil_ato)>.

<sup>10</sup> «13 июня — День освобождения Мариуполя» [On 13 June — The day of liberating Mariupol], Українська правда (online), 13 June 2015, <<https://blogs.pravda.com.ua/authors/gerashchenko/557be6e7f30d9/>>.

<sup>11</sup> «Украинские военные выбили террористов из города Счастье» [Ukrainian soldiers pushed out the terrorists from the city of Schastiye] Fakty (online), 14 June 2014, <<http://fakty.ua/183235-ukrainskie-voennye-vybili-terroristov-iz-goroda-schaste-foto-video>>.

<sup>12</sup> «Боевики в Донбассе отказались освобождать пункты пропуска» [Illegal armed forces in Donbass refused to leave checkpoints] Сегодня (online), 27 June 2014, <<https://www.segodnya.ua/regions/donetsk/boeviki-v-donbasse-otkazalis-osvobozhdad-punkty-propuska-532251.html>>.

The transfer of the armed divisions of UAF was carried out along the local border road, Amvroshivka — Tarany — Marinivka — Dyakove, leaving the uncontrolled territories in the north. The divisions of UAF were mostly located in the countryside, while IAF advanced towards close to the line of city agglomeration Sverdlovsk — Rovenki — Antracite — Snizhne — Shakhtarsk — Kharcizsk — Mospyne — Donetsk (the southern line of control of the self-proclaimed DPR).

The Ukrainian armed forces had to block five main roads, which could be used by DPR and LPR to communicate with Russia (checkpoints Uspenka, Marinivka, Dolzhanske, Chervonopartizansk and Izvarine). The penetration of the planned operation was supposed to be no less than 150 km. During the operation, it was also intended to establish the fortified defense positions that could use the artillery fire and roadblocks not only to prevent the movement along the highways, but also in the steppe areas between them.

The Ukrainian divisions were not able to establish the control over the high grounds of Donetsk ridge and the main roads in the uncontrolled areas, because the attacking divisions moved by using the lower steppe soil roads along the border.

The territories controlled by IAF in Donetsk region as of late June 2014 encompassed no less than 9,400 km<sup>2</sup> (out of 26,500 km<sup>2</sup> of the total area of the region), with the population of no less than 3,3 million people. In Luhansk Oblast, they encompassed no less than 8,400 km<sup>2</sup> (out of 26,700 km<sup>2</sup> of the total area of the region), with the population of no less than 1,5 million people.

The dividing line of control over the territories was located to the west of Kramatorsk, to the south, through Sergiivka, Novoekonomichne, Novohrodivka, Karlivka, Krasjogorivka, Maryinka, Olenivka, Mospyne, Zuhres, Shakhtarsk, Torez, Snizhne, Miusinsk, Antracite, Rovenki and Sverdlovsk (out of all those areas, hostilities only took place in the suburbs of Sverdlovsk in June 2014<sup>13</sup>). The UAF armed

<sup>13</sup> «Из-за боев приостановили работу шахт вблизи Сverdlovска» [Due to hostilities mining factories stopped working near Sverdlovsk], Комментарии.юа (online), 20 June 2014, <<https://donbass.comments.ua/news/98887-iz-za-boev-priostanovili-rabotu-shaht.html>>

divisions were allocated to the suburbs of Chervonopartizansk (checkpoint “Chervonopartizansk”, Biryukove) in order to strengthen the border control. The checkpoint “Izvarine” (Krasnodon) in late June came under the full control of IAF. The part of the border between CP Izvarine and to the north to CP “Krasna Talivka” was not controlled by the Ukrainian armed forces anymore (no representatives of any of the conflict parties were present on the border stretch between Stanitsa Luhanska and Krasna Talivka). In June 2014, the fighting over the control over the state border in Luhansk region took place in Uralo-Kavkaz, Izvarine, Panchenkove, Biryukove, Khmelnytskyi and Zelenopilya.

### July 2014

In July 2014, the Ukrainian armed forces started a wide scale offensive on Sloviansk. At the same time, the armed divisions started to advance in the directions of Schastya — Olexandrivsk, Rubizhne — Severodonetsk — Lisichansk, Novoaydar — Tryokhizbenka — Slovianoserbsk, Liman — Yampil — Siversk-Popasna, Krasnoarmiysk (Pokrovsk) — Avdiivka, Kurakhovo — Maryinka.

In July 2014, LAF regained control over the following areas: on 5 July — Sloviansk, Kramatorsk;<sup>14</sup> on 6 July — Druzhkivka,<sup>15</sup> Bakhmut; on 8 July — Kostyantynivka; on 20 July — Rubizhne;<sup>16</sup> on 21

<sup>14</sup> «Четыре года назад освободили Славянск и Краматорск: как уехали боевики и что после себя оставили» [Four years ago Sloviansk and Kramatorsk were liberated: how the terrorists escaped and what they left behind], UNIAN (online), 05 July 2018, <<https://www.unian.net/war/10176023-chetyre-goda-nazad-osvobodili-slavyansk-i-kramatorsk-kak-ubegali-boeviki-i-cto-posle-sebya-ostavili-foto-video.html>>

<sup>15</sup> «Силы АТО освободили Артемовск и Дружковку и подняли государственные флаги Украины» [The ATO forces liberated Artemovsk and Druzhkovka and raised Ukrainian flags] TSN (online), 06 July 2014, <<https://ru.tsn.ua/politika/sily-ato-osvobodili-artemovsk-i-druzhkovku-i-podnyali-gosudarstvennye-flagi-ukrainy-375436.html>>

<sup>16</sup> «Українська армія увійшла у Рубіжне на Луганщині. На черзі Сєвєродонецьк» [The Ukrainian army entered Rubizhne in the Luhansk region. Severodonetsk is the next in line] Espresso (online), 20 July 2014, <[https://espreso.tv/news/2014/07/20/ukrayinska\\_armiya\\_uviyshla\\_u\\_rubizhne\\_na\\_luhanschni\\_na\\_cherzi\\_syevyeredoneck](https://espreso.tv/news/2014/07/20/ukrayinska_armiya_uviyshla_u_rubizhne_na_luhanschni_na_cherzi_syevyeredoneck)>

July — Toretsk (Dzerzhinsk);<sup>17</sup> on 22 July — Svitlodarsk, Popasna, Severodonetsk;<sup>18</sup> on 24 July — Lisichansk; on 28 July — Avdiivka; and on 29 July — Debaltsevo<sup>19</sup>.

On 15–19 July 2014, UAF had already been in control of Donetsk, Sentyanivka, Zlovianoserbsk, Zymohirya and Rodakove.

On 20–28 July 2014, UAF took under the control Olexandrivsk, Bile, Georgiivka, Lutuhine, Bilorichenskiy, Chelyuskinets, Vrubivskiy, partially Kirovsk and Pervomaysk.



*Outskirts of Pervomaik in Luhansk oblast*

The active hostilities took place along the entire line of offensive, including in the populated areas.

On 15 July 2014, the southern line of the division of control over the territories stretched along the following line: from Donetsk through Mospyne and further along the line of Ilovaysk — Stepano-Krynka — Blaho-

<sup>17</sup> «„Мы, это... Дзержинск взяли“: волонтер напомнил о важной победе украинского оружия четыре года назад» [We ... captured Dzerzhinsk: a volunteer reminds about the important victory of the Ukrainian armed four years ago] Hlavred (online), 21 July 2018, <<https://glavred.info/ukraine/517634-my-eto-dzerzhinsk-vzyali-volonter-napomnil-o-vazhnoy-pobede-ukrainskogo-oruzhiya-chetyre-goda-nazad.html>>

<sup>18</sup> «Как освобождали Северодонецк и Лисичанск: трогательные истории от украинских бойцов и жителей» [How Sloviansk and Lysichansk were liberated: sentimental stories told by the soldiers and civilians], depo.ua (online), 23 July 2017, <<https://www.depo.ua/rus/war/yak-zvilnyali-syevyeredoneck-i-lisichansk-zvorushlyvi-istoriyi-vid-ukrayinskih-biytiv-i-meshkanciv-20170723610467>>

<sup>19</sup> «Силы АТО освободили Дебальцево» [The ATO forces liberated Debaltsevo], segodnya (online), 29 July 2014, <<https://www.segodnya.ua/regions/donetsk/sily-ato-osvobodili-debalcevo-540568.html>>

datne — Velyke Mishkovo — Manuyilivka — “Donetsk ridge” park — Pervomayskiy — Peremoha — Brazhine — Girnytske — Miusinsk — Esaulivka — Nizhniy Naholchik — Yegorivka — Grybuvakha — Naholno — Tarasivka — Kalininskiy — Panchenkove.

The entire territory to the south of that line was under the control of LAF.

On 16 July, the UAF lost its control over the villages of Marinivka, Uspenka, Tarany (the line of the division of control was going through Krynycjki, Semenivske, Gryhorivka, Novopetrivske, as well as from Kozhevnyia up along the riverbed of Mius river to Nyzhniy Naholchik), thus blocking the supply routes for Ukrainian divisions in the district of Dmytrivka — Dibrivka — Dyakovo — Grybuvakha — Khmelnytskyi — Panchenkove.

On the southern border of the territories controlled by IAF, there was formed a long and narrow (under 10 km wide) stretch controlled by LAF. At the same time, LAF found themselves in a seriously disadvantageous situation, since all supplies were carried out via a single border road. The only available location to cross Mius River was the ford in Kozhevnyia, which was constantly shelled, whereas the roads to Dyakove, Chervonopartizansk and Dolzhanske were mined by the adversary. The armed forces could not maneuver and had been under continuous shelling.

The most vulnerable directions were located alongside Dmytrivka — Kozhevnyia and Stepanivka — Marinivka on the south of Donetsk region. On 15 July, IAF assumed control over Stepanivka, on 16 July — over Marinivka. As a result, the supplies for the Ukrainian armed forces were fully paralyzed.

On 17 July, the representatives of IAF stated that they surrounded the group of the Ukrainian armed forces. LAF were cut off from the communication, fire support, had been exposed to continuous artillery and mortar shelling and, as a result, sustained great losses<sup>20</sup>.

On 27 July, near 40 members of armed forces of the 51<sup>st</sup> mechanized brigade of UAF crossed the bor-

<sup>20</sup> «Ополчение ЛНР окружило подразделения украинской армии в Луганской области» [The LPR rebels encircled the Ukrainian armed forces in the Luhansk region], TASS (online), 17 July 2014, <<http://tass.ru/mezhdunarodnaya-panorama/1323599>>

der with RF in Izvarino<sup>21</sup>. On the same day, the operation began to unblock “Sector D”, which involved the divisions of 30<sup>th</sup>, 51<sup>st</sup> mechanized, 95<sup>th</sup> and 25<sup>th</sup> aero mobile brigades<sup>22</sup>. During the operation to unblock the divisions that protected the Luhansk airport, UAF assumed control over Bile, Lutuhine and Georgiivka.

On 28 July, Stepanivka was taken under control by UAF, the divisions of the 72<sup>nd</sup> mechanized brigade were unblocked near the border.

On 22 July, SAU was launched at CP Dovzhanskiy, RSVF “Grad” was launched at Krasnopilya. On the same day, there were hostilities taken place within the triangle Dmytrivka — Dyakove — Dibrivkaand. IAF took positions along the line Kozhevnyia — Dmytrivka — Girnytske.

On 23 July, the hostilities were taken place along the line of Zhytenko — Olexiivske — Grygorivka, in Dmytrivka and Starobesheve. UAF moved towards Ilovaysk and Blahodatne from the direction of Kuteynikove.

On 23 July, SAU was launched at Bondarivske. IAF moved to the state border with RF and assumed control over CP “Marinivka”.

On 24 July, UAF re-assumes control over Kozhevnyia. There were ongoing hostilities in the villages of Taran, Dibrivka and Blahodatne.

On 27 July, an armored column of UAF started moving from Debaltseve to Shakhtarsk. In the district of Stepano-Krynky, UAF attempted to break the IAF’s defensive line. IAF launched “Grad” system at UAF in the area of Chervonopartizansk.

On 30 July, UAF attacked Latyshevo and assumed control over CP “Marinivka”.<sup>23</sup>

On 31 July, the fighting between UAF and IAF continued in the area between Shakhtarsk and Torez. UAF retreated from the village of Rebrykove (north of Rovenki).

On 31 July, IAF shelled from “Grad” the military position of the 25<sup>th</sup> UAMBR<sup>24</sup> in the suburbs of Shakhtarsk.

The territories controlled by IAF in Donetsk region as of late July 2014 encompassed no less than 4,100 km<sup>2</sup> (out of 26,500 km<sup>2</sup> of the total area of the region), with the population of no less than 2,4 million people. In Luhansk region, it covered no less than 6,100 km<sup>2</sup> (out of 26,700 km<sup>2</sup> of the total area of the region), with the population of no less than 1,2 million people.

In July 2014, the area of hostilities included the following territories: Shakhtarsk, Marinivka, Stepanivka, Torez, Panchenkovo, Dovzhanske, Zelenopilya, Snizhne, Sloviansk, Kramatorsk, Bakhmut, Popasna, Lisichansk, Zolote, Pervomaysk, Svitlodarsk, Debaltseve, Olexandrivsk, Stanitsa Luhanska, Tarany, Saurivka, Maryivka, Grybuvakha, Dyakove, Dmytrivka, Marinivka, Stepanivka, Biryukove, Kozhevnyia, Savur-vysota, Kuteynikovo, Mospyne and some others.

### August 2014

On 3 August, UAF was fighting for high grounds of Saur-Mohyla. The operation of withdrawing the units of 24<sup>th</sup>, 51<sup>st</sup>, 72<sup>nd</sup>, 79<sup>th</sup> brigades from the encirclement began.

On 4 August, the group of 438 members of the Ukrainian forces (274 members of the armed forces of the 72<sup>nd</sup> mechanized brigade and 164 border guards) entered unarmed the territory of RF by using

the humanitarian corridor. The Russian media reported that they sought asylum in Russia. The Ukrainian media reported that they were forced to retreat to the territory of Russia due to the lack of ammunition and inability to take part in hostilities, however, neither changed their allegiance nor sought the refugee.<sup>25</sup> Some members of the 72<sup>nd</sup> mechanized brigade attempted to make a breakthrough to the main divisions of the Ukrainian army through the corridor to Marinivka, which was the subject to constant shelling.

On 5 August, the divisions of the 72<sup>nd</sup> brigade joined the divisions of the 79<sup>th</sup> brigade that were located near Dyakove (almost on the border with Donetsk and Luhansk regions, 20 km away from Marinivka).

On 6–7 August, the withdrawal of unblocked troops was finished, however, the Ukrainian armed sustained serious losses under continuous artillery fire while making a breakthrough.

On 5 August, the Ukrainian aviation bombed the positions of IAF under Shakhtarsk in the village of Serdite. UAF left Shakhtarsk and went to Debaltseve. At the same time, there were hostilities taken place in Kuteynikovo, Starobeshevo, Orlovo-Ivanivka and Serdyte.

On 6 August, UAF were making a breakthrough to Kozevnyia and Dmytrivka from the direction of the village of Taran. They continued the assault further to the north from Savur-Mohyla to the nature reserve “Leontyevo — Bayratske tract” in the two directions — through the villages of Saurivka and Stepanivka and through Dmytrivka. There were also attacks on Dmytrivka from the direction of Dyakove, with the aim of uniting the encircled group with the main armed forces. Some UAF divisions were able to leave for Miusinsk, which were also joined by the armored column of UAF from Stepanivka.

The assault continued to take place in the direction between Snizhne and Dmytrivka, to Latyshevo and further on to Rozsypne.



After the battles in Debaltseve

On 7 August, UAF took Miusinsk and blocked the road between Snizhne and Krasniy Luch.<sup>26</sup> IAF controlled the border between Izvarine and Marinivka. IAF advanced to Kuteynikovo from the direction of Agronomichne.

On 9–19 August, from the direction of Debaltsevo towards Vakrushevo, UAF attempted to break the IAF’s line of defense and create the passage for its the forces that were encircled in the area of Krasniy Luch. UAF (24 AMBR) attempted to re-unite with its Debaltsevo forces from the south (from Miusinsk). The assault operation continued on Antracite, Krasniy Luch and Vakhrusheve.

On the same day, UAF (30 AMBR, 95 AB, TB Dni-pro) led the assault on Saur-Mohyla. There were hostilities taken place in Olexiivske, Semenivske, Grygorivka, Dibrivka and Stepanivka. UAF continued its assault on Yenakiyev from Debaltseve through Vuglehirsk.

On 11 August, IAF assumed control over Miusinsk. UAF assumed control over Panteleymonivka.

On 12 August, IAF left for the state border in the district of Novopetrivske.

<sup>21</sup> «Военнослужащим 51-й бригады, которые перешли на территорию РФ, выдвинули подозрения: им грозит до 10 лет тюрьмы» [Soldiers of the 51st brigade who had defected to the enemy were indicted: they might get up to 10 years in prison], HET (online), 31 July 2014, <[https://censor.net.ua/news/296243/voennoslujaschim\\_51yi\\_brigady\\_kotorye\\_pereshli\\_na\\_territoriyu\\_rf\\_vydvinuli\\_podozreniya\\_im\\_grozit\\_do](https://censor.net.ua/news/296243/voennoslujaschim_51yi_brigady_kotorye_pereshli_na_territoriyu_rf_vydvinuli_podozreniya_im_grozit_do)>.

<sup>22</sup> «Офицер из сектора «Д»: «Причина поражения наших войск — профнепригодность руководства Генштаба» [An army officer from sector D: “The reason behind the defeat of our army is poor qualification of the management of the General HQ”], ЦензорНЕТ (online), 25 December 2014, <[https://censor.net.ua/resonance/317876/ofitser\\_iz\\_sektora\\_d\\_prichina\\_porajeniya\\_nashih\\_voyisk\\_profneprigodnost\\_rukovodstva\\_genshtaba](https://censor.net.ua/resonance/317876/ofitser_iz_sektora_d_prichina_porajeniya_nashih_voyisk_profneprigodnost_rukovodstva_genshtaba)>.

<sup>23</sup> «Мариновка. 30 июля 2014 г. уничтожен штаб сепаратистов» [Marinovka. On 30 July 2014, the separatists’ HQ were destroyed], Patriotbook (online), 2014, <<http://publisher.org.ua/marinovka-30-iyulya-2014/>>.

<sup>24</sup> «Ад в Шахтерске: трагедия 25-й бригады» [Hell in Shahtersk: the tragedy of the 25<sup>th</sup> brigade] fraza.ua (online), 09 September 2016, <<https://frazua.com/analytics/251087-ad-v-shahterske-tragediya-25-j-brigady->>.

<sup>25</sup> «Боец объяснил, почему их бригада отступила в РФ: Нас отстреливали из „Града“ десятками» [The soldier explained why their brigade retreated to Russia: we were heavily shelled by ‘Grad’], UNIAN (online), 04 August 2014, <<https://www.unian.net/politics/947460-boets-obyyasnil-pochemu-ih-brigada-otstupila-v-rf-nas-otstrelivali-iz-grada-desyatkami.html>>.

<sup>26</sup> «Освобождены Миусинск и Пантелеймоновка: два пути террористов перерезаны» [Miusinsk and Panteleymonovka were liberated: two terrorists’ routes were cut off], Podrobnosti (online), 08 August 2014, <<http://podrobnosti.ua/988131-osvobozhdeny-miusinsk-i-pantelejmonovka-dva-puti-terroristov-pererezany-obnovleno-karta.html>>.

As of 13 August, UAF assumed control over Novosvitlivka and Khryaschuvate<sup>27</sup>.

On 14 August, IAF assumed control over the village of Verkhnya Krynka during the fighting. UAF advanced to Khartsyzsk from the direction of Ilovaysk, the hostilities were ongoing near the village of Shiroke. On the same day, UAF left Saurivka for Olexiivske, and also left Shiroke for Kuteynikove.

On 16 August, there was intense fighting in the area of Nizhnya Krynka. IAF advanced to the positions of the Ukrainian armed forces near the village of Uspenka (through Tarany from Marinivka). The confrontations took place in the area of Nizhniy Naholchik (to the south of Antracite). The fighting took place in the area of the Savur-Mohyla mound. IAF launched its offensive from Petrovske in the direction of Blahodatne (to the west of Savur-Mohyla). The fighting near the village of Grabske. UAF attempted to launch its offensive on Ilovaysk from Kuteynikove.

On 18 August, hostilities took place near the villages of Velyke Mishkovo and Siyatel. UAF launched an assault on Ilovaysk, the control over the southern part of the city had been assumed. Fierce fighting took place in the village of Stepanivka. IAF re-assumed their control over Rodakove, Sabivka and Zymogirya.

On 20 August, hostilities took place in Amvrosiivka and Kurteynikovo from the southern side of Maloorlivka (Yenakiyece). On 21 August, IAF took control over Petrivske and Manuilovka (Saur-Mohyla), the next day — over CP Uspenka.

On 24–25 August, IAF advanced its first group along the border from Uspenka through Petropavlivka, Novoivanivka, Ulyanivske, Kumachove, and the second group from Mospyne to Novokaterynivka, towards the first group, trapping the UAF divisions in cauldron in the area of Kuteynikove — Amvrosiivka.

On 25 August, IAF broke through the last line of the UAF's defense along the line Starobesheve-Kumachove and mounted the assault from the village of Roza Luxembourg and Markino to Novoazovsk and Sedovo. The fighting took place in Guselschikove under Novoazovsk. The second assault of IAF was mounted from Kuznetsovo — Mykhaylivka and Grekove — Olexandrivka on Telmanove.

On 23–24 August, the UAF divisions tried to leave from Kureynikove to Ilovaysk and Mospyne. On the same day, IAF launched an assault on Amvrosiivka.

On 25 August, UAF broke through the adversary's positions from Panteleymonivka to the south of Yenakiyeve to Kirovske, in order to unblock the UAF units in the village of Maloorlivka. Powerful artillery shelling was mounted on Kirovske from howitzers and mortars from the positions to the north of Maloorlivka.

The territory on which UAF found themselves encircled was located between Blahodatne through the reserve Berdyanskiy to Mnohopilya, then through Agronomichne, Volodarske, Kuteynikove, Voykovskiy, Olginske via the route along Amvrosiivka to Blahodatne.

On 24–25 August, in Nyzhnya Krynka, next Makiivka, shelling of the northern and northeastern districts, as well as the neighboring town of Khartsyzsk, took place. There were reported casualties and destruction.

On 26 August, fierce fighting took place in Starobesheve. Many buildings were damaged. There was no connection, electricity, gas or water.<sup>28</sup> The fighting took place between the divisions of NGU and IAF of the village of Peremoha (near Kumachove). The IAF divisions approached Granitne. IAF took over Dokuchayevsk and approached Novotroitsk, trapping UAF in Starobesheve.

On 27 August, IAF took control over the villages of Starognativka, Granitne and Starobesheve.

On 28 August, BTO “Vinnitsya” and “Khortitsya” in Novoazovsk retreated towards Mariupol after the shelling and the resulting sustained losses.



*After the battles. Granitne*

On 29 August, the UAF divisions moved from the area of Ilovaysk towards Komsomolske. The column was moving alongside the route Mnohopilya — Agronomichne — Novodvirske — Mykhaylivka — Andriivka — Gorbatenko — Chumaky — Novokaterynivka. In the area of Gorbatenko and Novokaterynivka, the UAF's column was shelled by IAF, as well as, according to witnesses, by the Russian armed forces. As a result, 366 persons died (according to the data provided by the UAF HQ), more than 400 persons injured, more than 300 military servicemen were taken hostage<sup>29</sup>.

In late August — early September 2014, the UAF divisions were ordered by the ATO administration and the UAF HQ to retreat from the bridgeheads taken in July-August to the positions which they occupied before the beginning of the assault.

The territories controlled by IAF in Donetsk region as of late August 2014 encompassed no less than 7,800 km<sup>2</sup> (out of 26,500 km<sup>2</sup> of the total area of the region), with the population of no less than 2,5 million people. In Luhansk region, it included no less than 11,400 km<sup>2</sup> (out of 26,7 thousand km<sup>2</sup> of

the total area of the region), with the population of no less than 1,45 million people.

In August 2014, the geographical scope of hostilities included the following territories: Starobesheve, Amvrosiivka, Nyzhnya Krynka, Kuteynikove, Blahodatne, Maloorlivka, Panteleymonivka, Kirovske, Petrivske, Stepanivka, Rodakove, Sabivka, Zymogirya, Velyke Mishkovo, Siyatel, Ilovaysk, Nyzhniy Naholchik, Grabske, Verkhnya Krynka, Miusinsk, Vuglegirsk, Debaltseve, Olexiivske, Semenivske, Grygorivka, Dibrivka, Stepanivka, Marinivka, Latysheve, Orlovo-Ivanivka, Serdyte, Saurivka, Lutuhine, Georgiivka, Novosvitlivka, Khryaschuvate, Novohannivka, Bile, Yasinuvata, Gorlivka, Guselschikove, Mnogop[ilya, Agronomichne, Gorbatenko, Novokaterynivka, Novoazovsk, Peremoha, Debaltseve, Vuglegirsk, Uspenka, Vakhrusheve, Yunokomunarynsk, Zuhres, Novy Svit, Maryivka, Krasnogorivka, Avdiivka, Zaytseve, Komisarivka, Chornukhine, Stanitsa Luhanska and some others.

## September 2014

At the beginning of September, the UAF divisions relocated from the bridgeheads near Lutuhine, Novosvitlivka, Luhansk airport, to the positions to the north of the channel of Siverskiy Donets. Several divisions broke out of the encirclement in the area of Starobesheve, Ilovaysk and Amvrosiivka and moved to the area of Volnovakha.

The negotiations on the cessation of hostilities began. On 5 September 2014, the Minsk Protocol was signed, in which the parties to the conflict in Donbas agreed on a package of measures to facilitate the cessation of hostilities in the presence of the OSCE representatives.<sup>30</sup> It was an important step towards conflict resolution through facilitating communications between the parties to the conflict in Donbas. During the second meeting in Minsk on 19 September 2014, the participants of the Trilateral Contact Group on Ukraine signed the memorandum aimed at securing the agreement regarding the

<sup>27</sup> «13 августа 2014-го. Окружение Луганска, трагедия Степановки, штурм Хрящеватого, удар по частям 18-ой мотострелковой бригады РФ» [On 13 August 2014. The encirclement of Luhansk, the tragedy of Stepanovka, offensive on Khryashevato, attack of the 15th Russian rifle brigade], CenzorNET (online), 13 August 2014, <[https://censor.net.ua/resonance/347619/13\\_avgusta\\_2014go\\_okrujenie\\_luganska\\_tragediya\\_stepanovki\\_shturm\\_hryashevato\\_udar\\_po\\_chastyam\\_18oyi](https://censor.net.ua/resonance/347619/13_avgusta_2014go_okrujenie_luganska_tragediya_stepanovki_shturm_hryashevato_udar_po_chastyam_18oyi)>.

<sup>28</sup> «На Донбассе боевики обстреляли три села, погибли десятки людей» [In Donbas, the militia shelled 3 villages, dozens of people died], Segodnya (online), 27 August 2014, <<https://www.segodnya.ua/regions/donetsk/na-donbasse-boeviki-obstrelyali-tri-sela-pogibli-desyatki-lyudey-snb-547483.html>>.

<sup>29</sup> «ГПУ: Под Иловайском в августе 2014 года погибли 366 и пропали без вести 158 украинских силовиков» [GPO: In Ilovaysk, in August 2014, 366 Ukrainian soldiers died and 156 soldiers went missing], Hordon (online), 14 August 2015, <<https://gordonua.com/news/war/gpu-pod-ilovayskom-v-avguste-2014-goda-pogibli-366-i-propali-bez-vesti-158-ukrainskih-silovikov-94117.html>>.

<sup>30</sup> Protocol on the results of the consultation of the Tripartite Contact Group concerning the steps to be taken to implement the peace plan. (online) <<https://www.osce.org/ru/home/123258>>.

bilateral cessation of the use of weapons and the forming of security areas.<sup>31</sup>

The UAF assault operation (July–August 2014) ended. All UAF divisions were brought behind the provisional line of contact — from the border with Russia at the junction of the rivers Siverskiy Donets and Derkul in Luhansk Oblast up along the riverbed of Siverskiy Donets through Stanitsa Luhanska, Schyastya, Tryokhizbenka, then from the village of Sokilnyky on land to highway R-66 (Lisichansk — Luhansk), along the route to the village of Novotoshkivske, then between Orekhove village and Golubovskiy town, between the town of “Rodina” mine (Zolote-4) and Maryivka railroad station, between Katerynivka and Molodizhne, between Novoolexandrivka and Kalynove-Borschuvate, between Troitske and Kalynove (Debaltseve bridgehead), between the villages of Veselogorivka and Hannivka, Polyove and Lomuvatka, between Borzhykivka and Komisarivka, Chornukhino and Centralne, Mius and Faschivka, between Nikishyne and Kumshatske, between Vilkhuvatka and Maloorlivka, Bulavinske and Yunokomunaryvsk, between Vuglegorsk and Yenakiyeve, between Molochne and Hurty (Debaltseve bridgehead), between Novoluhanske and Holmivske, between Bakhmutka and Zaytseve, Mayorsk and Mykytivka, between Pivdenne and Horlivka, between Novhorodske and Shyroka Balka, between Verkhnyotoretsk and Panteleymonivka, between Avdiivka and Yasinuvate, between the villages of Opytne and Spartak, between the village of Pesky and Kuybyshev district of Donetsk, between Krasnogorivka and Staromykhaylivka, between Maryinka and Olexandrivka, between the village of Taramchuk and Olenivka, between Novotroitske and Dokuchayevsk, between Mykolaivka and Styla, Bogdanivka and Petrovske, Starognativka and Bila Kamyanka, leaving near the village of Granitne to Kalmius river and further south along the riverbed by Granitne and Chermalyk to Pavlopil reservoir, then on land between the village of Pischevik and Verkhnesirokivske, between the villages of Pikuzy and Zayichenko, between Vodyane and Sakhanka, leading to the shore of the Sea of Azov in the village of Shirokino.

<sup>31</sup> Memorandum of Protocol on the results of the consultation of the Tripartite Contact Group concerning the steps to be taken to implement the peace plan. (online) <<https://www.osce.org/ru/home/123807>>.

## October–December 2014

Between October and December 2014, the geography of the conflict remained mostly the same. There were intensive hostilities among the entire line of contact, on some parts of the line local tactical regroupings took place. The UAF and IAF divisions strengthened their positions, occupied the most advantageous positions on the separate parts of the line of conflict.

The parties increasingly used heavy weapons to shell each other's positions, including the shelling of the residential blocks. The parties began placing landmine-explosive barriers within the boundaries of the security area, however, it led to an increased number of victims among the civilian population that continued to use the local roads and paths.

In the areas located near the line of contact, industrial objects or objects of social infrastructure were seized by the military for their own purposes. In turn, this posed serious risks for the civilians who lived near such objects, in case of the enemy's fire attack on the military targets.

The movement of civilians near the line of contact was significantly limited. There were documented cases of the destruction of the objects of infrastructure, such as detonation of bridges, overpasses, power lines, pipes etc.

## 2015

In January-February 2015, IAF started the assault on Debaltseve bridgehead.<sup>32</sup> IAF reached the village of Logvinove by route M-03 on the span of Luhanske-Debaltseve from the western direction of Horlivka through Hurty, via the corridor to the south of Vuglegirsk reservoir and to the north of railway road Debaltseve-Horlivka, and at the same time towards them from eastern direction, from Bryanka through Lomuvatka and the village of Polyove to the south of Mironivske reservoir and to the north of railway branch Debaltseve-Alchevsk. In doing so, IAF blocked the only transport corridor that connected Debalt-

<sup>32</sup> «Год спустя: как выходили из Дебальцево» [A year later: how we retreated from Debaltseve], BBC (online), 05 February 2016, <[https://www.bbc.com/ukrainian/ukraine\\_in\\_russian/2016/02/160205\\_ru\\_s\\_debaltseve\\_vj\\_anniversary](https://www.bbc.com/ukrainian/ukraine_in_russian/2016/02/160205_ru_s_debaltseve_vj_anniversary)>.

seve bridgehead with logistical support (Bakhmut town). IAF launched its offensive from Yenakiyeve and Horlivka to Vuglegirsk; from the direction of Zorivsk through Komisarivka, from the direction of Faschivka through Chornukhine — to Debaltseve<sup>33</sup>.

As of March 2015, the line of contact was drawn along the border with RF on the junction of the rivers of Siverskiy Donets and Derkul in Luhansk region up along the channel of Siverskiy Donets through Stanitsa Luhanska, Schyastya, Tryokhizbenka, then from the village of Sokilnyky on land to route R-66 (Lisichansk-Luhansk), along the route to the town of Novotoshkivske, then between the village of Orekhovo and the town of Golubovskiy, between the town of “Rodina” mine (Zolote-4) and Maryivka railway station, between Katerynivka and Molodizhne, between Novoolexandrivka and Kalynove-Borschuvate, between Troitske and Kalynove, between Myronivske and Pivdenne Lomuvatka, between the villages of Luhanske and Debaltseve, between Svitlodarsk and Vuglegirsk, between Novoluhansk and Holmivske, between Bakhmutka and Zaytseve, Mayorsk and Mykytivka, between Pivdenne and Horlivka, between Novgorodske and Shiroka Balka, between Verkhnyotoretsk and Panteleymonivka, between Avfiivka and Yasinuvata, between the villages of Opytne and Spartak, between the village of Pisky and Kuybyshev district of Donetsk, between Krasnogorivka and Staromykhaylivka, between Maryivka and Olexandrivka, between the villages of Taramchuk and Olenivka, between Novotroitske and Dokuchayevsk, between Mykolaivka and Styla, Bogdanivka and Petrovske, Starognativka and Bila Kamyanka, emerging near the village of Granitne to Kalmius river and further south along the riverbed by Granitne and Chermalyk to Pavlopil reservoir, then on land between the village of Pischevik and Verkhnesirokivske, between the villages of Pikuzy and Zayichenko, between Vodyane and Sakhanka, reaching the shore of the Sea of Azov in the village of Shirokino.

UAF began strengthening its line of defense along the line of contact. Several populated areas

<sup>33</sup> «Битва за Дебальцевский плацдарм» [Fighting for the Debaltseve bridgehead], Argument (online), 05 February 2016, <<http://argumentua.com/stati/bitva-za-debaltsevskii-platsdarm>>.

in the direct vicinity of the line of contact became the front line of defense.

The members of armed forces occupied empty residential buildings and industrial objects. They were often building fortifications on the very territory of the populated areas. Several populated areas became divided by the line of contact — Zolote-4, Verkhnyotoretske, Kominternovo (Pikuzy), Maryinka, Pivdenne and Pivnichne (Toretsk), Zaytseve. In such areas, the hostilities were taken place directly in the residential blocks, thus endangering the life and health of local inhabitants.



*Zolote-4. UAF took a residential building*

The armed conflict moved to the positional trench stage. The territories divided by the line of contact a high coefficient of urban agglomeration, therefore the areas that were located in geographical proximity to each other found themselves on different sides of the line of contact (e. g. Novotroitske — Dokuchayevsk, Maryinka — Olexandrivka, Krasnogorivka — Staromykhaylivka, Avdiivka — Yasinuvata, Verkhnyotoretske — Panteleymonivka, Novgorodske — Toretsk — Horlivka, Popasna — Pervomaysk, Tryokhizbenka — Slovianserbsk, Lobacheve — Zhovte).

The distance between the fortified positions of the parties to the conflict in some areas was sometimes as narrow as several hundred meters. The hostilities in densely populated areas posed the most significant risks for the civilians that have not left their homes for various reasons. In such situation, the military discipline and commander's control over the actions of subordinates were of great significance.

As of 2015, the territories controlled by IAF in Donetsk region encompassed no less than 8,200 km<sup>2</sup>

(out of 26,500 km<sup>2</sup> of the total area of the region), with the population of no less than 2,7 million people; In Luhansk region, it encompassed no less than 11,600 km<sup>2</sup> (out of 26,700 km<sup>2</sup> of the total area of the region), with the population of no less than 1,4 million people.

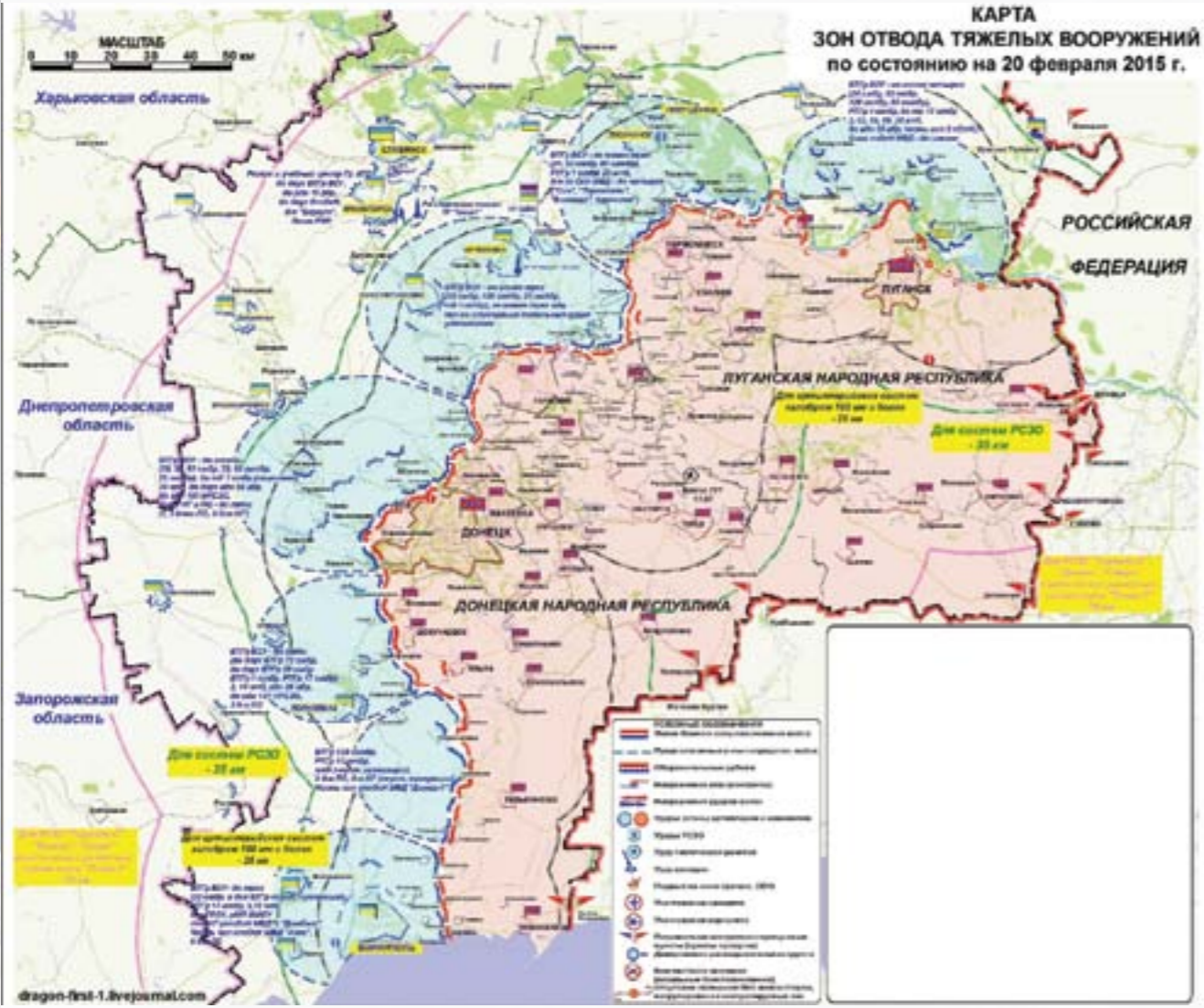
2016–2018

The geography of the frontline of the conflict did not change. The most intensive shelling was documented in the following areas: Avdiivka, Maryinka, Krasnogorivka, kominternivske, Novotroitske, Dokuchayevsk, Yasinuvata, Donetsk (Petrovskiy, Kuybyshev, Kyivskiy districts), Horlivka, Zaytseve, Troitske, Pervomaysk, Zolote, Krymske, Schastya, Vesela Hora and Stanitsa Luhanska.

The table below presents the episodes of the armed conflict, in which LAF suffered significant losses. The data presented in the table is docu-

mented in the MB database. Annex provides a brief description of the listed episodes, in addition to the well-known and well documented battle for Ilovaisk, the defense of the Lugansk airport, the defense of the Donetsk airport and the battle for Debaltseve.

It is worth mentioning the active participation of Russia in the armed conflict, as evidenced by the continuous supply of weapons, ammunition etc.; systematic shelling of LAF in July–August from the territory of the Russian Federation, including the use of MLRS; the direct participation of the military units of the Russian Federation in hostilities, in particular, in August 2014, in the fighting near Ilovaisk, and in February 2015 in the battles for Debaltsevo; directing certain parts of IAF by the Russian military servicemen (Girkin, Bezler and others); a large number of the Russian military servicemen who were captured.



Episode/incident	Time Period	Killed	Injured	Detained	Missing	Total
Battle for Sloviansk	12.04 — 05.07.2014	40	1	17	—	58
Battles for Kramatorsk	12.04 — 05.07.2014	2	—	—	—	2
Execution of the military servicemen near Volnovakha	22.05.2014	17	1	—	—	18
Battles for Savur-Mohyla	05.06 — 29.08.2014	25	12	7	—	44
The battles for the control over the state border (Marynivka)	05.06 — 14.08.2014	14	1	—	2	17
The battles for Chervonopartizansk	21.06 — 10.08.2014	9	—	—	—	9
Battles for Izvarine	12.06 — 07.08 2014	27	—	—	—	27
Battles for Dovzhanskiy	17.06 — 08.08.2014	27	—	—	1	28
Executions in Zelenopilya	11.07.2014	36	—	—	—	36
Battles for Shakhtarsk	30.07 — 05.08.2014	35	—	4	—	39
Battles for Stepanivka	15.07 — 04.08.2014	45	—	6	3	54
Defense of the Lugansk airport	8.04 — 01.09.2014	93	3	14	—	110
Defense of the Donetsk airport	26.05.14 — 21.01.15	167	13	36	8	224
Tragedy of IL-74	14.06.2014	51	—	—	—	51
Battle for Ilovaisk	24.08 — 01.08.2014	416	63	418	42	839
“The walk of shame”	24.08.2014	—	—	36	—	36
Events o 03.09.2014	02.09.2014	16	1	—	1	18
Events on 05.09.2014	05.09.2014	35	—	6	13	54
Battle for Debaltseve	24.07.14 — 18.02.15	295	8	42	32	377
The parade of the captured “Cyborgs”	21.02.2015	—	—	16	—	16

4.2. CONSEQUENCES OF THE ARMED CONFLICT

According to the HRMM’s data, during the entire period of the conflict, from 14 April 2014 to 15 May 2018, at least 2,725 civilians were killed: 1,568 men, 961 women, 93 boys, 47 girls and 56 adults whose sex is unknown. In addition, 298 civilians, including 80 children, were killed by the downing of the civilian plane MH17 on 17 July 2014, bringing the total death toll of civilians to at least 3,023 persons. HRMMU estimates the total number of the conflict-related civilian injuries to vary in between 7,000 and 9,000.<sup>34</sup>

According to the results of the monitoring trips carried out during that period by KHPG and MD, the following data on casualties was entered into their respective databases: 3,144 killed and 3,350 injured civilians (KHPG database); and 7,972 killed

and 1,572 injured military servicemen, as well as 1,297 missing persons (MD database).

According to NPU, for the entire period of hostilities, more than 7,400 Ukrainians went missing. As of late 2017, more than 1,800 persons were missing.

As of 20 July 2018, MMP identified over 3,500 persons that were illegally detained by IAF on the government non-controlled territories of Donetsk and Luhansk regions. Nearly 1,700 persons were civilians, others were military servicemen. Nearly all persons who were unlawfully detained were subjected to torture or inhuman treatment by IAF. Several hundred captives were killed.

The captives were detained in the facilities that were unsuitable for the purpose. They were deprived of food, water, the possibility to use the toilet and were denied access to medical assistance. The conditions of detention failed to meet the minimum standards, in most cases the conditions were degrading and humiliating. According to the report of MMP, during 2014–2018, IAF established 120 places of unlawful detention, which were used for detention of the captured Ukrainian military servicemen,

<sup>34</sup> Report on situation of human rights in Ukraine from 16 February to 15 May 2018)., OHCHR 2018 (online) <[https://www.ohchr.org/Documents/Countries/UA/ReportUkraineFev-May2018\\_EN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportUkraineFev-May2018_EN.pdf)>, p. 16.

civilians, including the journalists and volunteers.<sup>35</sup> The MD database contains information on 204 places of unlawful detention: 116 of them in Donetsk region and 88 in Luhansk region, with total number of detainees 3,736 persons, including 2,082 civilians and 1,654 military personnel.

As of late 2017, over 40,000 residential buildings were destroyed or damaged<sup>36</sup> as a result of the armed conflict since its beginning in 2014. This number does not include the buildings that were abandoned by IDPs, as well as the buildings that were damaged when being used for the military purposes.<sup>37</sup> Around 10,000 objects of infrastructure were seriously damaged. One of the main reasons of the deaths/injuries of the civilians and the destruction was the placement of the IAF artillery units in the residential blocks of the densely populated areas, in close proximity to the hospitals, schools, kindergartens etc., and shelling of the positions of LAF from those locations. Some LAF units acted in that way. The exploitation of the densely populated areas by the armed groups for conducting hostilities essentially meant the use of the civilians as “human shields”.

The KHPG database contains information on more than 20,000 destroyed or damaged residential buildings and more than 2,500 objects of infrastructure.

The provided data shows widespread and large-scale nature of crimes that were scattered over the entire territory of the conflict, as well as serious consequences of such crimes. A large region of Ukraine became affected by those crimes, with its population becoming the victims.

The takeover/occupation of the buildings of national authorities and other national institutions by

IAF, in particular, that of the law-enforcement agencies, military units, and the most important objects of infrastructure, essentially meant that of some of the populated areas of Donetsk and Luhansk regions became occupied. On 11 May 2014, in some of the populated areas of Donetsk and Luhansk regions, IAF held referendums seeking to secede from Ukraine and obtain independence for the self-proclaimed DPR and LPR, which were not recognized by the government of Ukraine. During those anti-constitutional developments, IAF worked in an organized way, which is evidenced by the coordination of their actions from a single control center. The coordinated actions of the armed people on the territory of two regions of Ukraine shows their organized nature. At the same time, IAF used violence as the main tool for seizing power, accompanied by violent punishments, and in the case of peaceful opposition — killings of those who were dissatisfied with the overthrow of the Ukrainian power in the regions. Those actions, and later on military operations during the armed conflict, were coordinated by military servicemen and special security officers of RF (Girkin, Bezler and others). The massive artillery shelling of the Ukrainian military units, including by the multiple-launch rocket systems, from the territory of RF; the participation of the military personnel of RF in hostilities in order for UAF in liberating the government non-controlled territories, strongly suggest that RF exercised effective control over the government non-controlled territories of Donetsk and Luhansk regions.

The organized nature of crimes, their number and scale, coordinated actions in choosing the objects of attacks, the coordination of hostilities from a single control center, point to the systematic nature of those crimes.



SSU building in Donetsk, occupied by the armed formations

<sup>35</sup> More than «Понад 3,5 тисячі осіб незаконно утримували на окупованих територіях — Військова прокуратура» [More than 3,500 persons were illegally detained in the occupied territories — The Military Prosecutor's Office], Radio Svoboda (online), 20 July 2018, <<https://www.radiosvoboda.org/a/news/29378209.html>>.

<sup>36</sup> Ukraine 2018 Humanitarian Response Plan (online) <<https://www.humanitarianresponse.info/en/operations/ukraine/document/ukraine-2018-humanitarian-response-plan-hrp>>.

<sup>37</sup> Report on situation of human rights in Ukraine from 16 February to 15 May 2018). Управління Верховного Комісара Організації Об'єднаних націй з прав людини, 2018 (online) <[https://www.ohchr.org/Documents/Countries/UA/ReportUkraineFev-May2018\\_UKRAINIAN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportUkraineFev-May2018_UKRAINIAN.pdf)>, para. 34.

## 5. ALLEGED CRIMES

### 5.1. MURDERS

#### General information on murders

During our work, we have documented 108 cases of murders in eastern Ukraine, which should be considered in the context of subparagraph (a) of part 1 of Art. 7 and p. i) p. a) part 2 of Art. 8 RS, in the period from April 2014 to August 2018. Most cases were committed in 2014 — 71 cases, but in subsequent years, the commission of such crimes continued (32 cases in 2015, 3 cases in 2016, 1 case in 2017). Among them, 17 cases related to the massacre of the civilian population (two or more people were victims during the incident). The documented murders were committed in the area of conflict along the contact line. The largest number was recorded in the following settlements: Donetsk, Luhansk, Vuhlehirsk, Toretsk, Slavyansk, Mariinka.

We also documented cases of the massacre of civilians in the city of Horlivka.

The number of committed murders indicates the magnitude of the crime, and the frequency, the existence of special places for committing such crimes, and the area, covered by the crime, indicates systematicity.

The victims of the massacres were 50 civilians and 68 militaries. The perpetrators of the crime committed them in the context of the armed conflict in eastern Ukraine. The recorded cases are directly related to the armed conflict in eastern Ukraine.

83% of our killings were committed in the occupied territory, and 17% in the government-controlled areas.

Extrajudicial executions, cases of separate murders and torture to death were among the murders.

#### Extrajudicial executions

##### General information on extrajudicial executions

The extrajudicial executions were massive from April 2014 and until the end of 2015 throughout the conflict. We detected 78 extrajudicial executions. Among them, 61% were committed in 2014, 35% in 2015, 3% in 2016, and 1% in 2017. Thus, in 2015 compared to 2014, the number of extrajudicial executions decreased by 1.8 times. However, the number itself, as well as the prevalence along the contact line (extrajudicial executions were committed in 57 cases in Donetsk Oblast and in 21 cases — in Luhansk Oblast), indicates the magnitude of these acts.<sup>38</sup>

Civilians (50%) and military personnel (50% of the total number of victims) were executed extrajudicially. When analyzing the nature of extrajudicial executions, we came to the conclusion that it is difficult to establish the actual number of deaths. Part of the territory remains occupied, which leads to a significant complication of access to reliable information. In addition, there is a high probability that missing persons in such areas were actually tortured or executed.

For the first time, international observers recorded cases of extrajudicial executions on April 19, 2014, when two bodies were found after a forced disappearance in Toretsk.<sup>39</sup> At the beginning of the conflict, finding the body of a person after some time

<sup>38</sup> MB database and KHPG database. See also Yuriy Aseev, Volodymyr Hlushchenko, Boris Knyrov, Natalia Okhotnikova, Anna Ovdienko, Olena Richko, Gennady Shcherbak, Pavlo Shvab, Yanina Smelyanska, Igor Sosonsky, Gennadiy Tokarev, Martha Vovk, Anastasia Yegorova, Yevgeniy Zakharov “Violent Crimes Committed During the Armed Conflict in Eastern Ukraine between 2014–2018”, KHPG (online), 26 October 2018, <<http://khp.org/files/docs/1544603247.pdf>>, p. 25.

<sup>39</sup> “Summary killings during the conflict in the Eastern Ukraine”, Amnesty International (online) 2017, <[http://amnesty.org.ua/wp-content/uploads/2014/10/EUR500422014UKR\\_FINAL.pdf](http://amnesty.org.ua/wp-content/uploads/2014/10/EUR500422014UKR_FINAL.pdf)>.

was the most common testimony to extrajudicial execution. At the same time, some of the missing were subsequently found dead. So, in the village of Stanytsia Luhanska (Stanytsia Luhansk district, Luhansk Oblast), during the conflict, 18 people disappeared. All of them were found dead later.<sup>40</sup>

Further, extrajudicial executions, in addition to a magnitude, have become systematic. A specific feature of these crimes is their commission in special places. The presence of special places for committing such crimes indicates their systematic nature.



*Illegal detention center in Stanytsia Luhanska uts.*

Information on extrajudicial executions was provided by international organizations, including HRMM, AI, HRW, in their reports. They prepared several special reports on this issue: “Responsibility for murders in Ukraine from January 2014 to May 2016”,<sup>41</sup> “Extrajudicial executions during the conflict in eastern Ukraine”.<sup>42</sup>

Among the unlawfully executed, the following categories were distinguished: dissenters who

expressed their views openly (2 cases), journalists and media representatives (1 case), religious figures (4 cases), entrepreneurs (3 cases).

59 of the recorded cases of executions took place in the NGCA, and 19 cases — in the GCA.<sup>43</sup>

In the so-called “DPR” extrajudicial executions were legalized by adopting the so-called “Criminal Code of the DPR”, which article established the death penalty as one of the types of punishment. This sentence is set for 28 different crimes. Four cases of a death penalty to the civilian population were reported.<sup>44</sup> The legal proceedings against such persons were characterized by a low level of legal assistance and accusatory way of the process, which excludes the fair trial. So these processes have become the character of punishment.

Such processes, as well as classical extrajudicial executions, were carried out for captured servicemen, as well as law enforcement and government personnel. The percentage of such executions to the total number recorded is 53% of cases, which indicates a significant prevalence of such cases.<sup>45</sup>

#### **Circumstances of committing separate crimes**

**An event of the disappearance of a person, whose body with signs of violent death was found on the territory controlled by the so-called “L/DPR”<sup>46</sup>**

*On April 10, 2015, in Lugansk, a person M. on a Toyota Land Cruiser took children to school about 7.50, after which he planned to go on business and stopped being in contact at around 9.00, did not answer calls by mobile phone, which was extremely unusual for him, as his professional activities were directly related to phone conversations.*

*In the afternoon, after 13.00, his daughter called home and said that her father had not come to pick*

*her up, which was completely unusual, because M. every day picked up his daughter by car from school because it was far to walk. After this call, it became apparent that M. was abducted or detained. The abduction happened due to the fact that the person M. adhered to the pro-Ukrainian position, and did not conceal it, expressing it both personally and in phone conversations with family and friends. He also engaged in entrepreneurial activity, and on the day of disappearing, he had about 10 thousand dollars with himself.*

*After the disappearance of M., his wife appealed to the internal affairs office of the so-called “LPR”; she was informed in an informal conversation that the person M. is alive, but there were a criminal proceedings by the ministry of internal affairs of the so-called “LPR” initiated against him; he was detained in the building of the office of the security service of Luhansk at address: Radyanska, 79 street, under the surname “Rudnikov” to complicate his searching.*

*On June 24, 2015, the so-called law enforcement authorities of the so-called “LPR” called the sister and wife of a person of M. for identification man’s body, which was found in the area of the treatment facilities of the “Crystal” enterprise in the area of the 30 Years of Victory street in Lugansk. As it was found, the cause of death was stabbing chest wounds with penetration into the region of the left lung.*

#### **An event of a lucrative killing<sup>47</sup>**

*09.09.2014 person M. V. with his six-year-old daughter Liana and mother-in-law, F. arrived in the village Shchotove (Antratsyt district, Luhansk Oblast) to check their property (sometime before they left to the Russian Federation). On the same day, six armed Cossacks (probably from the so-called armed group “Rus”) came to their house to check local rumors: “these Gypsies hid gold in their garden, and that is why they sometimes come back.”*

*After adult women began to argue with armed Cossacks, the criminals took them and the girl to the city of Antratsyt (then controlled by the Cossacks) to “interrogate”. As reported, the commander of the armed group “Rus” was informed by telephone over*

*the imprisonment of two Romani women and girls for “recusancy” and he ordered, “to scare well and release them.” On September 18, 2014, their relative made a post in the VKontakte social network, asking to provide any information about the missing.*

*In November 2014, the bodies of two women and girls were found in the forest belt near the village of Orihivka (Lutuginsk district of the Luhansk Oblast). OHCHR received the results of a forensic medical examination, according to which the victims died on September 10, 2014, from gunshot wounds to the head.*

#### **An event of the shooting of an opposition figure<sup>48</sup>**

*On August 29, 2014, a 42-year-old deputy of the village council, Major in retirement person Kh., was shot from an assault rifle in the courtyard of his own house for the fact that the man repeatedly claimed that the Krymske (Novoaydar district, Luhansk Oblast) will remain in Ukraine.*

*Before the shooting on the house of the man, the Ukrainian flag was constantly fluttering. And since he was not concealing his position from the local “militiamen”, several times the fighters, who were in the village at that time, warned the policeman that they would kill him and his family if he did not admit his guilt and will not go to their side. However, the victim did not take the threats seriously and continued to express his pro-Ukrainian position.*

*On October 24, 2014, the person Kh. was awarded posthumously with the Order “For Courage” III degree for the personal courage and heroism, manifested in the defense of state sovereignty and territorial integrity of Ukraine.*

*The person N. H., who is the wife of the person Kh., described the events of the detention of person Kh.: “I went to the work and after half an hour the neighbors came and said that I had to go home urgently... Neighbors did not see anything... Only heard shots... I came and Kh. laid dead. We even were afraid to search those who did it, because a month after the death of her husband, they came again when I was not at home. They threatened my mother with an assault rifle... They said that they*

<sup>40</sup> Yuriy Aseev, Volodymyr Hlushchenko, Boris Knyrov, Natalia Okhotnikova, Anna Ovdienko, Olena Richko, Gennady Shcherbak, Pavlo Shvab, Yanina Smelyanska, Igor Sosonsky, Gennadiy Tokarev, Martha Vovk, Anastasia Yegorova, Yevgeniy Zakharov, “Violent Crimes Committed During the Armed Conflict in Eastern Ukraine between 2014–2018”, KHPG (online), 2018, <http://khpg.org/files/docs/1544603247.pdf>, p. 25.

<sup>41</sup> The responsibility for killings committed in Ukraine from January 2014 to May 2016, OHCHR, (online) [https://www.ohchr.org/Documents/Countries/UA/OHCHRThematicReportUkraineJan2014-May2016\\_UA.pdf](https://www.ohchr.org/Documents/Countries/UA/OHCHRThematicReportUkraineJan2014-May2016_UA.pdf)

<sup>42</sup> “Summary killings during the conflict in the Eastern Ukraine”, Amnesty International (online), 2017, <https://www.amnesty.org/download/Documents/8000/eur500422014en.pdf>.

<sup>43</sup> Yuriy Aseev, Volodymyr Hlushchenko, Boris Knyrov, Natalia Okhotnikova, Anna Ovdienko, Olena Richko, Gennady Shcherbak, Pavlo Shvab, Yanina Smelyanska, Igor Sosonsky, Gennadiy Tokarev, Martha Vovk, Anastasia Yegorova, Yevgeniy Zakharov, Violent Crimes Committed During the Armed Conflict in Eastern Ukraine between 2014–2018, KHPG (online), 2018, <http://khpg.org/files/docs/1544603247.pdf>, p. 26.

<sup>44</sup> Ibid, p. 26.

<sup>45</sup> Ibid, p. 26.

<sup>46</sup> See MB data base, case No. P1102.

<sup>47</sup> See MB data base, case No. P561.

<sup>48</sup> See MB data base, case No. P1254.

would not repeat twice and forced her to give away the keys to the car and the garage. And then they took the car out of the garage and left. But the men from the village said that they were local, who were radically pro-Russian. I left the village and I do not want to be there anymore...“.

### Civilian deaths as a result of separate attacks (small arms, checkpoints, etc.)

#### General information on the deaths of civilians as a result of isolated cases

Since the beginning of the conflict in eastern Ukraine, we have recorded 6 cases of intended killings of the civilian population. Such actions were committed in various ways, the most widespread cases were murder by snipers, murders during armed attacks, sudden murders by armed soldiers. A large group of crimes committed during the crossing of civilian checkpoints. Such acts were spread throughout the conflict area, but most of them were committed in the Donetsk Oblast.

Such crimes were committed within the framework of a conflict with the main motive — the implementation of the policy of its participants.

Most of the above cases occurred in 2014 — 4 cases. Subsequently, the number of intended killings gradually decreased: in 2015 and 2016 — in 1 case, in 2017 and 2018 — no cases were recorded. The number and territorial prevalence of crime indicates their widespread and systematic nature.

### Several typical cases of intended killings that have occurred are listed below

#### Circumstances of committing separate crimes

*Event on the killing of firearms by the so-called “L/DPR” representatives<sup>49</sup>*

*On August 22, 2016, around 22:00, when the mother slept, the person S. heard a noise and loud crack. He went to her room in order to see what had happened. The window under which the bed of his mother was, was broken. She had her hand shot and the blood flowed. He quickly put the ropes on the*

*wounds. Only after that, the person S. saw that the bullet passed through the arm and chest. In a few minutes, the mother died.*

*When an expert group and ambulance arrived in the morning, police officers took the mother’s body to the Luhansk Regional Bureau of forensic medical examinations, where they diagnosed “massive external and internal blood loss, firearms bullet wounds, penetrating injuries to the chest”.*

### Tortured to death

#### General information about torture to death

The previous chapters described in detail the locations of torture, the number of cases recorded, the methods and some of the most typical cases. The perpetrators of the crime, in this case, had a direct intent to act — the use of physical violence to victims and indirect intent to the consequences — they did not want the death of the victims but deliberately committed it. Most of the deaths were military — 13 cases, less civil cases — 11 cases.

19 cases were recorded in the NGCA, 5 cases in the GCA.

Several typical cases of torture to death that occurred on the part of the parties to the conflict are listed below.

#### Circumstances of committing separate crimes

*An event of torture of the military to death by representatives of the so-called “L/DPR”<sup>50</sup>*

*September 5, 2014, about 14.00, on the Schastya — Metalist highway in the district of Tsvitni Pisky village, of the Slavyanoserbsky District of Luhansk Oblast, near the bus stop “Privitne”, the person Sl., carrying out the transportation of the personnel of the combined unit of 24 TDB “Aidar”, got into ambush, which was arranged by fighters of the shock troop “Rusich” under the command of the Russian mercenary Milchakov Alexei Yuriyovych (S5153), call sign “Serb”. The person Sl. was captured undamaged, without any injuries, alive and well. This fact is recorded in the video.*

*As it became known, the person Sl. was kept in the so-called military commandant’s office in the premises of the regional military commissariat of Luhansk, at the address of the Krasnodonsk, 6 street. The interrogation was conducted in a room with sports equipment (“gym”) and because of the fact that the person Sl. was the member of the “Aydar”, he was tortured. On September 7, 2014, between 09.00 and 11.00 hours, during interrogation, unable to withstand torture, he died. According to the witness, at the same time, several representatives of the IAG “Rusich” brutally beat the person Sl. with hands and feet, resulting in his death. For half an hour the body was carried out in an unknown direction.*



*The building of Luhansk military registration office*

#### An event about torture to the death of a police officer<sup>51</sup>

*On July 14, 2014, around 12.00, in the district of Horlivka, Donetsk Oblast, unknown armed men who called themselves the “DPR army” stopped the bus, in which was K. who was heading to Artemivsk, where he served in the special police patrol “Artemivsk”. According to the driver’s explanation, during the check of documents and passengers’ things, the militants found the uniform and a certificate of the police employee of the person of K., after which he was forcibly detained. There is evidence that the person K. was sent to the building of the management of the fight against organized crime in the city of Horlivka.*

*In general, there is not much to know about being in captivity of K., as on July 14, 2014, on the day of*

*his detention, after being interrogated and tortured, he was killed. The interrogation was conducted in the room of the so-called People’s Commissariat of Internal Affairs. This is confirmed by a video titled “The captive of the “Artemivsk” Battalion” — a testimony of “Bes”, which was posted on the Internet the evening of the same day. It is clear from the video that the interrogation of the person K. is carried out by Biezler’s secondary, and under this pressure he is testifying against himself. The father of the boy, person K2, claims that the person K. was under the influence of psychotropic substances, as evidenced by the absence of a defect of the language that he usually had, and the apparent inadequate mental state. At the end of the video, Biezler I. M. announces that he will destroy whoever did and told about all inhuman acts.*

*According to the testimonies of other prisoners, Biezler I. M. showed them a video of interrogating the person K., and one of the militants, call sign “Yakut”, on the same day reported that the person K. was executed. The witnesses saw a black bag carried from the so-called “room of the PCIA”, and they assumed it was the K.’s body. Also, according to witnesses, before the alleged execution person K. was tortured, also they took off his scalp and drilled his legs. The details of the subsequent fate of K.’s personality remain unknown and his location is not identified today.*

*Only the relatives were conducting a search for a victim. His father applied for the disappearance of his son to all authorized law enforcement agencies (SSU, PGO, Ministry of Internal Affairs). Criminal proceedings were opened on the fact of human abduction and were closed on 6/11/2014 due to the fact that the information did not find confirmation. As there were no information about K. for about 5 months, on December 9, 2014, his father applied a statement about the commission of a crime and after groundless lawsuit by the law-enforcement system, information about the criminal offense was brought to the Unified Register of Pre-Trial Investigations and the investigation started, namely: 13.08.2014 under Art. 146 (illegal confinement or abduction of a person); 05/24/2016 under Art. 115 (intentional murder) and under art. 146 (illegal con-*

<sup>49</sup> KHPG archive, SLC’s fund, inventory 1, file S-18.

<sup>50</sup> See MB data base, case No. P632.

<sup>51</sup> See MB data base, case No. 1247.

finement of liberty or abduction of a person); May 25, 2016, under Art. 115 (intentional murder).

#### Event on torture to death of religious figures<sup>52</sup>

In June 2014, after the Liturgy for the Trinity, pro-Russian separatists in Slavyansk abducted 4 Protestants. The reason for the abduction was that someone told the terrorists that the churchmen of the Church of the Transfiguration helped and nourish the soldiers of the Ukrainian Army and the National Guard, stood at the checkpoints around the Slavyansk and may report on the actions of the terrorists



The mass grave of civilians who were killed by the armed formations of "DPR" in Sloviansk

According to witnesses who survived, after being abducted, the captives were tortured in purpose to find some information about the Ukrainian army, and then they were shot the next day, June 9. "The bodies of the dead were buried by terrorists in a mass grave on the territory of the Children's Slavyansk Hospital, along with two dozen bodies of terrorists," said Anton Herashchenko, the head of the Interior Ministry's adviser.

#### Event on human death in the MSS of the "DPR"

At the beginning of April 2015, the person O. left the house and went to the place of his work, namely to the ore deposit in the city of Dokuchaevsk, Donetsk Oblast. By that time Dokuchaevsk was under the control of the IAG "DPR". His cell phone O. left at home and his wife had no connection with them.

<sup>52</sup> See MB data base, case No. 1156.

A few days later, the unknown with the call sign "Kot" called on the O.'s mobile phone, which was at home, and said that the person O. is with "them" and "they" can shoot him.

O.'s wife at that time did not understand what had happened and did not understand at all where her husband was. A few days later, they called O.'s wife again and said that her husband was in Donetsk and she could pick him up.

On April 12, 2015, the O.'s wife arrived in occupied Donetsk but did not find her husband. April 15, 2014, the O.'s wife went back to Donetsk, after which the "investigator of the MSS of the DPR" invited her to the morgue for identification. The person O. was killed on April 12, 2015, his body was found in a garbage can. The man's body was dressed in a pure military uniform of the Armed Forces and a white T-shirt. On the corpse of O., there were numerous marks of torture, and he lost body weight more than 40 kg. 04/18/2015 the wife took away the corpse of O. and buried him in the village Novotroitske.

Considering the large-scale and systematic murders, in eastern Ukraine, there have probably been crimes provided for in p. a) of part 1 of Art. 7, p. i) p. a) part 2 of Art. 8 of the Rome Statute.

## 5.2. DESTRUCTION OF CIVILIAN OBJECTS

According to the HRMM, during the entire period of the conflict, from April 14, 2014 to May 15, 2018, at least 2,725 civilians died: 1,668 men, 961 women, 93 boys, 47 girls, and 56 adults of unknown sex. According to HRMM estimates, the total number of civilians injured in the armed conflict is between 7 and 9 thousand.<sup>53</sup>

In addition, the HRMM emphasized that the continued use of inaccurate and/or explosive weapons by the parties to the conflict remained the main concern for the protection of civilians. HRMM em-

<sup>53</sup> Report on the human rights situation in Ukraine 16 November 2017 to 15 February 2018, HRMM, (online), 2018 <[https://www.ohchr.org/Documents/Countries/UA/ReportUkraineNov2017-Feb2018\\_EN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportUkraineNov2017-Feb2018_EN.pdf)>, para. 16.

phasizes that a significant number of civilians continue to live in villages and cities near the contact line. Although most of the civilian casualties caused by shelling and firefighting were reported as a by-product of incidents where civilians were not directly targeted; Civilian casualties are still a serious concern.<sup>54</sup>

In the period from April 2014 to June 2018, we recorded and documented a multitude of facts of massive indiscriminate bombardment. As a result of such bombardment, the authors documented and submitted to the KHRG database over 1800 deaths in the Donetsk Oblast and about 800 deaths in the Luhansk Oblast, 3955 cases of civilian casualties in the Donetsk Oblast, and 1310 wounded in Luhansk, more than 14 000 cases of damage to residential buildings and infrastructure objects in the settlements both in the government controlled area and, in the area, controlled by the so-called 'L/DPR'.<sup>55</sup>

According to the Luhansk Regional Administration, in total in Luhansk Oblast about 9,000 objects, including 7,000 residential buildings, 32 bridges, 94 medical establishments, 113 educational establishments, 14 industrial objects, 79 cultural and sports institutions were destroyed.<sup>56</sup>

According to the Donetsk Regional Military and Civil Administration, more than 7,000 residential buildings, 21 medical facilities, 27 general schools, 13 pre-school establishments, 7 vocational schools, 14 cultural establishments and 19 industrial facilities were destroyed in the Donetsk Oblast.<sup>57</sup>

We have objective reasons to consider that the described events fall within the characteristic of an armed conflict both international and non-international aspects (see Section 6).

The overwhelming majority of hostilities and attacks on civilians took place in settlements located directly in or in the immediate proximity to the contact line.

We are convinced that there are substantial grounds for believing that attacks on civilians are in accordance with the broad-scale criterion: the

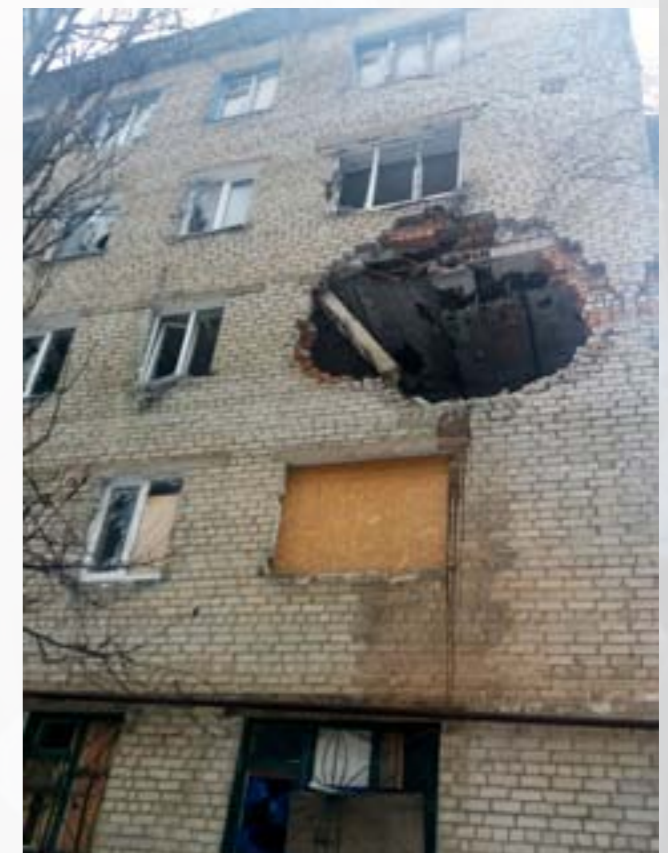
<sup>54</sup> Ibid sh. 19.

<sup>55</sup> Annex 10, p. 25, 26.

<sup>56</sup> Annex 10, p. 20.

<sup>57</sup> Ibid p. 21.

attacks were massive, characterized by high frequency, committed collectively at a high degree of severity, and also targeted at a significant number of civilian casualties. The criterion of 'large-scale' is evidenced by the geographical limits of the attacks, which cover about 25 km along the more than 400-kilometer contact line. In the areas indicated below, the scale of incidents and ruined property, injuries and murders was one of the highest throughout Ukraine. As a result, the number of victims was registered in Mariinka, Avdiivka, Yasinuvataya, Ilovaysk, Makiivka, Debaltseve, Gorlovka, Donetsk, Popasnaya, Pervomaysk, Stanytsia Luhanska and Luhansk districts, one of the highest among the indicators of the level of violence in the settlements along the contact line.



Avdiivka

Indiscriminate shelling in the Kramatorsk area led to the deaths of more than 40 people, causing bodily injuries to 140 people.<sup>58</sup> In the Avdiivka district, at least 90 people were killed and more than 1,000 residential buildings and more than 30 civi-

<sup>58</sup> Ibid p. 11, 12.

lian infrastructure were destroyed.<sup>59</sup> In the Mariinka region, we recorded 56 deaths and 106 wounded civilians, about 2000 civil infrastructure objects were damaged. Therefore, the authors believe that the attacks match criteria for the ‘large-scale’ test.<sup>60</sup>

In addition, the authors believe that there are significant grounds for believing that the attacks were ‘systematic’. The attack is systematic when it involves ‘the organized nature of the acts of violence and the inability of their accidental occurrence.’ It should be noted that the attacks on the civilian population were rather organized than spontaneous. The organization of attacks indicates their prevalence and diverse territorial orientation.

Only in the controlled area of the Donetsk Oblast, as at the end of February 2018, more than 10,000 objects were completely destroyed or partially damaged, in particular: about 7,500 private and communal property, 70 health facilities, 176 general schools, 86 pre-school establishments, 28 vocational schools and 19 higher educational establishments, 26 physical culture and sports objects, etc.<sup>61</sup>

As of January 20, 2018, as a result of military actions in uncontrolled areas of Donetsk Oblast, more than 26 thousand residential buildings were partially damaged or destroyed, in particular: more than 6800 in Donetsk, more than 260 in Debaltseve, more than 500 in Gorlovka, more than 300 in Yenakiyev, more than 1000 in Makiivka, 750 in Khartsyzsk, 580 in Yasinuvataya.<sup>62</sup>

#### **Circumstances of committing separate crimes**

In the future, we consider it necessary to highlight, in our opinion, one of the most flagrant cases of indiscriminate attack on the civilian population and civilian objects. To such cases, we attributed airstrikes to Ostrovsky Street in the Stanytsia Luhanska of Stanychno-Luhansk district of Luhansk Oblast, which happened on July 2, 2014, events on August 13, 2014 — a massive shelling of cluster bombs of children’s beach, city stadium, school No. 10 and experi-

mental thermal station in Zugres, Donetsk region, and events on October 14, 2014, when the funeral procession in Sartana was fired by the IAG.

#### **Events that occurred on July 2, 2014 in Stanytsia Luhanska**

On July 2, 2014 (when the settlement was under the control of the IAG), about 10 hours, cluster bombs were dropped from a Ukrainian plane to a police station located on the street Moskva-Donbas, and the building of the local court was damaged. About 11 o’clock (according to testimonies, airstrikes began at 10:45) another air raid was made, now the object of the shelling was the Ostrovsky street, located near the railway station ‘Stara Kondrashevka’ in the Stanytsia Luhanska. During the second raid, 9 people were killed as a result of the shellburst, 11 people were injured, and 7 buildings were damaged.<sup>63</sup>

Person **B-01** describes the events of that tragic day: ‘At the time of the airstrike, which occurred on July 2, 2014 at 10.40 AM, I was in the courtyard of my house, my wife went through the yard to the neighbors to get water.

*Before the explosion, we heard the sound of a flying aircraft, from the engine house, then there was a strong whistle. I sat down near the wall of my house, then there was a strong explosion, and the shatters of destroyed buildings fell down on my head. When I opened my eyes, it was dark as night because of burnt and dust. When the dust settled, I ran out to the street and tried to find a wife. Along the way, I saw the torn bodies of my neighbors: without hands, without legs, and those who was torn apart at all... They were hanging even on the trees.*

*After 10 meters I saw my wife. She was laying face down near the stand-pipe from which she was taking water. There were two torn off footsteps lying beside her. The wife was without consciousness and tied up from the head to the feet with shatters. She was taken to the hospital with a five-year-old boy. There they both died right away.*

<sup>63</sup> Annex 29, p. 5, 16, 17, 63–65.

*Our house was torn by an explosive wave. But something that did not break, still burned in the fire, which took up the explosion. As a result of the event, I stayed without a wife and house ...*<sup>64</sup>

Another eyewitness of the event, a person B-03, who survived the air strike just because of a happy event, but whose house was badly damaged, mentions events on July 2, 2014. ‘On July 2, 2014, during a massive shelling and air strike, a shell got into my house. I was at home and just because of a lucky chance I am alive. When I heard a buzz, I hid in the cellar that was in the house. I waited out a shelling there. When I finally got out, I saw that my house was almost completely destroyed. The direct hit of the shell knocked down all the windows in the house, the roof was broken, two walls were broken. In the house there was a fire, and it destroyed all household appliances and furniture. When I went out into the street, I simply lost my ability to speak: the houses burned, everything was in the soot and burnt, the puddings were hanging on trees like garlands. Going down the street, you could see bodies, or their parts: the leg, the arm were torn apart...’<sup>65</sup>

Person **B-02**, the direct witness of the events, remembers that fatal day: ‘On July 2, 2014, at about 11 am, my wife and I were at home when we heard the sounds of an airplane, they began landing and exploding shells on the Ostrovsky street and one of them hit my house. A fire started because of the explosion, I was injured by the shatters of the shell. The pieces of the shell struck me in both legs.

*At that time, my wife ran out of the house, because she was trying to hide in the summer douche, but she was killed by shatters. My son and I pulled our wife out of the shatters, but we could not help her, and she died. The house with all the furniture and documents remaining in it, burned down’.*<sup>66</sup>

Persons **B-01**, **B-02** and **B-03** appealed to law enforcement agencies of both Ukraine and the Russian Federation. Unfortunately, the guilty persons of his wife’s death have not been identified and

<sup>64</sup> KHPG Archive, SLC’s fund, inventory 8, file 6.

<sup>65</sup> KHPG Archive, SLC’s fund, inventory 8, file 8.

<sup>66</sup> KHPG Archive, SLC’s fund, inventory 8, file 7.

brought to justice, and the investigation is carried out formally.<sup>67</sup>

The person B-04 who lived on the Ostrovsky 8/2 street and suffered from airstrikes, describes the events as follows: ‘One morning, at 10 o’clock the police was bombed from the plane, and at 10:45 was Ostrovsky Street. I was at that moment on the veranda, preparing a dinner... I heard the buzz of the plane, people went out to the street to see where it was flying, the doors of the veranda were open and in a moment it was darkness, noise, crack, gas blew out, everything collapsed, it deafened me, and I did not hear anything and explosions too, came to life under the shatters, everything was wet (because of blood), broken knees, hands, face, all crippled with glass. Lord, how was it: the walls were broken, no windows and no doors, furniture was broken ...

*On the street everything burned, opposite the house O. E. held her son V., on July 1 he turned 5 years. He died in her hands. E.V died, he was a father of V. K. L. was killed walking for the water. K. M., I. S., S. D., all were rejected. K.M. was thrown on apricot tree, I. S. and S. D. — in the next yard. S. D. had no half of the head, I. S. had no arms or legs. V. M. was killed between the house and the shed... Behind the shed in the garden, they found A. P. still alive, and he died in the hospital. His son Y. was alive, but shell-shocked. G. T. and R. A. died at the hospital, their house was burned ...*<sup>68</sup>

Another witness of the event, person B-05 remembers that day ‘On the day of the air raid, I heard about the airplane buzz and explosions somewhere around 10-10:30. I asked a neighbor K. where the explosion was, and he said: ‘The planes dropped the bombs to the police, a friend called him, she worked there...’ I went to the house, lie in the bedroom and came to my senses when glass, doors and plaster fell down on me. I barely got out of the house. Everything rebounded — doors, windows ...

*On the street everything was burning, screams were everywhere, the neighbor M. shouted*

<sup>67</sup> KHPG Archive, SLC’s fund, inventory 8, files 6–8.

<sup>68</sup> KHPG Archive, SLC’s fund, inventory 8, file 9.

‘Valya... Valya...’, that was his wife, and she was dead.

The house next door burned, the barn burned. I asked a neighbour about his wife, and he replied: ‘she is killed’...<sup>69</sup>



Ostrovskogo Street after the airstrike

#### Events on August 13, 2014 in Zugres (Donetsk Oblast), controlled by IAG

We consider it necessary to report on the events of August 13, 2014, in particular the shelling of children’s beach, city stadium, school number 10 and thermal station in Zugres by cluster bombs, which caused deaths of 15 people, and other 19 injured in various degrees of severity. We do not have accurate information about the amount of property destroyed during this shelling, but one of the witnesses reported that part of the thermal station building was destroyed, glass was dropped out in houses in the area of fire, some of them rubbed with shatters.

On the territory of the tenth school two children who played tennis in the school yard were injured. One of the boys (16 years old) died right away from the fact that the shatters of the shell got into his flank, the second boy was injured.<sup>70</sup>

Person **B-06** remembers the events: ‘I was going home from my relatives, my house was located just opposite the tenth school. I saw the people, I asked them about what was there... The ritual car overtook me, and my neighbor said, there the D. G’s child was killed by a shell... I saw the grandfather

and grandmother, hugged her, and the D’s mother was pregnant for 7–8 months, she clutched on the fence and screamed... And nothing could help her... There were two boys there, one had a footstep severed, he was taken away (to the hospital), and D. was lying, because all the major arteries were damaged, he, apparently, even did not understand what happened...’.<sup>71</sup>

The largest number of civilian casualties was concentrated on the children’s beach, 14 people, including children, died right away because of explosion and another person died on the way to the hospital. Another 19 people were injured in various degrees of severity.<sup>72</sup>

Person **B-07**, who was seriously injured, describes the events that happened: ‘About 18 hours on August 13, 2014, me along with my son (born in 2010), as well as a neighboring girl who had Down syndrome, passed by a children’s beach... We stopped at the beach... There were a lot of people on the beach, I heard a loud sound, cluster bombs were falling from the sky... I did not see the plane. The first shell hit the water, the next fell straight to the beach. I grabbed the children and hid behind the concrete blocks... I covered my children with my body, the last thing I saw was the hand of my son...

I recollected myself in morgue, I was originally brought there, but when I showed the spark of life, I was transferred to the hospital. I was diagnosed with a craniocerebral trauma, a slaughter of the middle cerebral brain with a contusion of frontotemporal particles; multiple fractures of the base of the skull and the facial skeleton: of the coronoid process of the mandible on the left, the lower ridge of the maxilla to the right, the greater wing of sphenoid bone, maxillary antrum, the arches of the zygoma, the frontis to the right, subarachnoid hemorrhage, traumatic damage to the right eyeball, penetrating wounds of the abdominal cavity with the presence of embedment in the projection area of the stomach and duodenum; hepatomegaly, fractures of two ribs.

My son also suffered, the fragments hit the hand that fell from under me, and still they have not been

pulled out. He did not recognize me for a long time. He said that his mother died on the beach. Yes, how he could recognize me (shows a photo), even I could not recognize myself...’<sup>73</sup>

Another eyewitness of the events, the person B-06, who was at the moment of the shelling in the house and saw a flame, claims the following: ‘I was sitting opposite the window, and the window was closed with a metal sheet. It was so unexpected and loud that we immediately sat down... glanced at the window, and there was a flame from the side of Khartsyzsk (uncontrolled area)... And then everyone said ‘There was a plane and it bombed from the plane’ and I had only this picture in front of my eyes (the flame), I have not heard the buzz, peculiar to the plane. It was bombed from ‘Grad’, I saw shatters of the ‘cassette’ shell, such metal shatters like pencils, sealed in plastic...

I’m sure that it was not a plane, the planes did not fly at all, it was bombed by ‘Grad’ from the cemetery near Khartsyzsk... At night, at 12 o’clock, there went unknown people in uniform under windows, gathering shatters, and I thought why did they do it so urgently. Then I saw that they (people in the uniform) were standing, looking at the shell crater, and puddling blood, then pointing towards Khartsyzsk and laughing...

The next day I went to work, a car with representatives of the IAG went to the city and all of them said that yesterday it were bombed from Ukrainian plane...’.<sup>74</sup>



The monument for the people killed as a result of the airstrike on the children’s beach in Zuhres

#### Events on October 14, 2014 in Sartana (Donetsk region)

October 14, 2014, a peaceful burial procession fell for artillery shelling. About a hundred inhabitants of Sartana were returning from the cemetery, where they buried their fellow villager. About 14 o’clock the shelling began. Several shells hit directly into a crowd of people, resulting in 7 people died right away, and 17 received fragile injuries of varying degrees of severity. Witnesses claim that the shelling was held from the side of positions that were controlled at that time by members of the armed groups of the so-called ‘DPR’.

The shelling was not expected, 18 shells were thrown on the village, probably 4 of them hit directly in the funeral procession. Two shatters of shells were found at the scene of the crime.

According to witnesses, corpses and wounded persons after the firing were scattered at an area somewhere 50 to 30 meters near the Krajina and the General Kurichi streets crossing in Sartana.<sup>75</sup>

Person **B-08** describes the above-mentioned events: ‘At the beginning of the anti-terrorist operation in the east of Ukraine, I used to live with my sons Vitaliy, Danil, Maxim, and their mother, Halyna Volodymyrivna, in Sartana.

On October 14, 2014, about 100 residents of Sartana participated in the funeral procession, burying a fellow villager, Mariia Papush, and my mother was among them.

At about 4:00 pm, returning from the cemetery, the mourning procession was subjected to the artillery shelling from the side of the so-called ‘DPR’. My mother was torn with a shell, cutted down with shatters, laying in a puddle of blood at the crossing of the two streets. My son, Maxim, who received a psychological trauma, saw all of this, and he stopped to sleep at night, began to scream and cry...’.<sup>76</sup>

The direct victim, a person B-09, who was injured and whose aunt died on October 14, 2014, describes the events as follows: ‘On that day we buried Mariia and were already returning from the cemetery, going to the commemoration, when suddenly heard the explosions, then was the bright burst, and since

<sup>69</sup> KHPG Archive, SLC’s fund, inventory 8, file 10.

<sup>70</sup> KHPG Archive, SLC’s fund, inventory 8, file 11.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> KHPG Archive, SLC’s fund, inventory 8, file 12.

<sup>74</sup> KHPG Archive, SLC’s fund, inventory 8, file 11.

<sup>75</sup> KHPG Archive, SLC’s fund, inventory 8, file 14.

<sup>76</sup> KHPG Archive, SLC’s fund, inventory 8, file 15.

*then I did not remember anything. I came to my senses in the hospital, I had open penetrating craniocerebral trauma, broken parietal bone, all face cutted, hands and fingers deeply wounded...*

*Then I enquired that my aunt did not survive, died right away, bleed to death...*

*And I still feel guilty because I survived, but she died, and why six more died? Why?..<sup>77</sup>.*



*Sartana after the shelling*

So then, the above-described attacks go beyond the boundaries of simple non-selectivity. The wide spreading of documented attacks on these settlements indicates a clear neglect by attackers of the lives of civilians and the availability of civilian infrastructure. The intention to direct these attacks on civilians may be deduced from the inability of the perpetrators to distinguish the civilian targets from the military ones or the complete absence of proportionality in the use of weapons when choosing targets.

### 5.3. USING THE PRESENCE OF CIVILIANS OR OTHER PROTECTED PERSONS AS 'HUMAN SHIELDS'

During the armed conflict in eastern Ukraine from March 2014 to the present, we have documented and collected information on alleged war crimes. It is this collected information that gives grounds to believe that in the territory of armed conflict,

<sup>77</sup> KHPG Archive, SLC's fund, inventory 8, file 16.

controlled by Government of Ukraine, the so-called 'DPR' and so-called 'LPR' placed their combat positions, support points and fire points in the protected objects and/or in the residential areas in the HS located near the contact line. From these exact positions the parties to the armed conflict carry out shelling, using a protected object and/or a person to conceal military actions. Also, the ICC Prosecutor in his report outlined alleged war crimes, namely, 'during the armed conflict, hundreds of civilian objects including houses, schools and kindergartens were allegedly destroyed or damaged, mainly by fire, both in government controlled and non-government controlled areas. In some cases, it is assumed that the firing of such objects was intentional or indiscriminate, or that civilian buildings, including schools, were used improperly for military purposes.' Moreover, the OSCE SMM in its thematic report emphasized that 'the armed groups continued to deploy weapons and military equipment in populated areas. UAF also acted the same way.'<sup>78</sup> In this section, we provide information on probable war crimes by the parties to the armed conflict, namely the use of protected persons and objects that were inappropriately used for military purposes/actions and/or the concealment of military goals/actions as 'human shields'.<sup>79</sup>

ICTY in the Blaškić case concluded that 'the deployment of a combat position, a support point, a headquarters in settlements with local population, which does not accept participation in hostilities, serves as the use of a 'human shield'.<sup>80</sup> In international humanitarian law, the term 'hu-

<sup>78</sup> «Тематичний звіт Труднощі для постраждалих від конфлікту цивільних осіб на сході України» [Thematic report Hardship for conflict-affected civilians in eastern Ukraine], OSCE SMM (online), 16 February 2017, C(1)(ii) page 5, <<https://www.osce.org/ukraine-smm/300276?download=true>>.

<sup>79</sup> «Звіт про попередню експертизу» [Report on Preliminary Examination Activities] 2017, ICC (online), 4 December 2017, para. 106, <[https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf)>

<sup>80</sup> Tihomir Blaškić, Trial Chamber, ICTY (online), 03 March 2000, para. 716, <<http://www.icty.org/x/cases/blaskic/tjug/en/blatj000303e.pdf>>.

man shields' refers to 'civilians or other protected persons whose presence or movement is directed or used to provide a military purpose or defense against military operations.' The use of human shields, both in international armed conflicts and in non-international armed conflicts, is considered a violation of international law.<sup>81</sup> Pactional legislation prohibits such practices in international armed conflicts and indirectly in non-international armed conflicts.



*Stanitsa Luhanska*

The use of civilians and security objects as 'human shields' is systematic and widespread to the armed conflict, starting in 2014. The 'systematic' includes 'the organized nature of the act of violence excluding the probability of their accidental occurrence. Patterns of crime in the sense of not accidental repetition of similar criminal behavior on a regular basis is a general expression of such a systematic occurrence.'<sup>82</sup> Similarly, the term 'widespread' refers to 'the scale of the attack and the number of victims.'<sup>83</sup> The placement of combat positions, reference points or headquarters in the presence or in

<sup>81</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, CUSTOMARY, INTERNATIONAL HUMANITARIAN LAW, ICRC (online), 2005, rule 97, page 2285, <<https://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-ii-icrc-eng.pdf>>.

<sup>82</sup> Dario Kordić and Mario Čerkez, Appeal Chamber, ICTY (online), 17 December 2004, para. 94, <[http://www.icty.org/x/cases/kordic\\_cerkez/acjug/en/cer-aj041217e.pdf](http://www.icty.org/x/cases/kordic_cerkez/acjug/en/cer-aj041217e.pdf)>.

<sup>83</sup> Dragoljub Kunarac and others, Appeal Chamber, ICTY (online), 12 June 2002, para. 93, 97 <<http://www.icty.org/x/cases/kunarac/acjug/en/kun-aj020612e.pdf>>.

the middle of residential areas or protected objects in the settlements that are located on contact line, as well as in the areas controlled by armed groups, is observed in settlements: Luhansk, Horlivka, Yenakiyev, Donetsk, Pikuzy, Samiilove and in the government controlled areas: Stanytsia Luhanska, Avdiivka, Khlivodarivka, Luhanske, Svitlodarsk, Raihorodtsi. For more details on the systematic and widespread nature of alleged war crimes in eastern Ukraine, see Chapter 4.

### Circumstances of committing separate crimes

#### Luhansk, Luhansk Oblast

Detailed information about the dead, wounded and destroyed property in Luhansk during the armed conflict is given in Appendix 10. Since April 2014, the city is de facto controlled by the so-called 'LPR' and considered as its capital. Luhansk is included in the list of cities of temporarily occupied territory by VRU.<sup>84</sup> In June-July 2014, in the west from the center of Luhansk there were fighting between the parties to the armed conflict. Armed groups of the so-called 'LPR' set up a checkpoint and a reference point, from which they fired, in the city Gorky park,<sup>85</sup> near which at a distance of 200 meters there was a hospital.<sup>86</sup> Also armed groups of the so-called 'LPR' placed an artillery position<sup>87</sup> near the East

<sup>84</sup> «Постанова Верховної Ради України «Про визнання деяких регіонів, міст, селищ Донецької та Луганської областей тимчасово окупованими територіями» [Resolution of the Verkhovna Rada of Ukraine "On the recognition of some regions, cities, towns and villages of Donetsk and Luhansk Oblasts as temporarily occupied territories"], VRU (online), 17 March 2015, <<http://zakon5.rada.gov.ua/laws/show/254-viii>>.

<sup>85</sup> Gorky Park, Luhansk, Google Maps (online), <<https://www.google.com.ua/maps/place/Парк+Горького/@48.576762,39.2644655,1833m/data=!3m1!1e3!4m5!3m4!1s0x411fdb2981e927ed:0x4e261680740714f8!8m2!3d48.576797!4d39.2688704>>.

<sup>86</sup> Railway hospital, Luhansk, Google Maps (online), <<https://www.google.com.ua/maps/place/Залізнична+Відділкова+лікарня+станції+Луганськ/@48.576762,39.2644655,1833m/data=!3m1!1e3!4m5!3m4!1s0x411fdad82efc57f3:0x98b3683ded8b287d!8m2!3d48.5705643!4d39.2686558>>.

<sup>87</sup> «16 червня, обстріл Луганськ» [Video "on 16 June, shelling Luhansk"], Bignet.net (online), 16 June 2014, <<http://video.bigmir.net/show/460070/>>.

Ukrainian University,<sup>88</sup> which is located in a heavily populated district of Luhansk, and carried out shelling, covering with the civilian population.<sup>89</sup> In addition, the armed groups of the so-called 'LPR' used the roof of the school for shooting.<sup>90</sup> Due to the placement of combat positions in the immediate vicinity of the protected objects and persons, the armed groups of the so-called 'LPR' subjected civilians who did not participate in armed conflict to attacks by the enemy, which resulted in shelling and numerous casualties among the civilian population.

### Donetsk, Donetsk Oblast

See more about the dead, wounded and destroyed property in Donetsk during the armed conflict in Appendix 10. Since April 2014, Donetsk is de facto controlled by the so-called 'DPR' and VRU included it in the list of cities of temporarily occupied territory.<sup>91</sup> The contact line between the parties to the armed conflict runs directly in the vicinity of Donetsk,<sup>92</sup> and somewhere in its streets, so there

<sup>88</sup> Volodymyr Dahl East Ukrainian National University, Google Maps (online), <https://www.google.com.ua/maps/place/Восточно-Український+Інститут+Далі/@48.5656945,39.3756503,1147m/data=!3m1!1e3!4m5!3m4!1s0x0:0xb690bf73b3a9bce4!8m2!3d48.565354!4d39.3771176>.

<sup>89</sup> «Почалася боротьба за Луганськ, терористи тікають» [The cruel fight for Luhansk has started, the terrorists are escaping], Obozrevatel.ua (online), 13 July 2014, <https://www.obozrevatel.com/crime/76580-silyi-atonastupayut-na-lugansk-terroristy-begut.htm>.

<sup>90</sup> «Стріляба здійснюється з даху гуртожитку університету Далі» [The shooting is making from the roof of the dormitory of the Dahl University], 112.ua (online), 04 July 2014, <https://112.ua/obshchestvo/iz-kryshi-obscheshchitiya-universiteta-im-dalya-vedetsya-strelba-iz-pzrk-ochevidcy-83650.html>.

<sup>91</sup> «Постанова Верховної Ради України «Про визнання деяких регіонів, міст, селищ Донецької та Луганської областей тимчасово окупованими територіями» [Resolution of the Verkhovna Rada of Ukraine "On the recognition of some regions, cities, towns and villages of Donetsk and Luhansk Oblasts as temporarily occupied territories"], ВРУ (online), 17 march 2015, <http://zakon5.rada.gov.ua/laws/show/254-viii>.

<sup>92</sup> Наказ Кабінету Міністрів України «Про затвердження переліку населених пунктів, на території яких державні органи тимчасово не здійснюють свої повноваження, а перелік населених пунктів, розташованих на лінії зіткнення»

are two checkpoints near Donetsk.<sup>93</sup> Armed groups of the so-called 'DPR' are fighting positions and checkpoints in the middle of residential neighborhoods because of their proximity to contact line. For example, in the heavily populated residential district 'Shyrokyi'<sup>94</sup> on the outskirts of Donetsk there is a military position of the armed groups of the so-called 'DPR'. School No. 69<sup>95</sup> is located in the immediate vicinity of the fighting position from which the fire is carried out.<sup>96 97 98</sup> Civilians who are not involved in armed conflict have repeatedly confirmed that the armed groups of the so-called 'DPR' specially place military positions, support points and checkpoints in heavily populated residential neighborhoods, for the use of residents as

[Order of the Cabinet of Ministers of Ukraine "On approval of the list of settlements in the territory of which the state authorities temporarily fail to exercise their powers, and the list of settlements located on the line of collision], VRU (online), 07 November 2014, <http://zakon2.rada.gov.ua/laws/show/1085-2014-p>.

<sup>93</sup> «Перелік контрольних пунктів» [LIST OF CONTROL POINTS OF ROAD-TO-VISIT ON THE AUTOMOBILE PATHWAYS], SSU (online), 14 April 2017, <https://ssu.gov.ua/ua/pages/32>.

<sup>94</sup> Shyrokyi district, Donetsk, Google Maps (online), <https://www.google.com.ua/maps/place/Широкий,+Донецьк,+Донецька+область,+83000/@47.941733,37.764178,1472m/data=!3m2!1e3!4b1!4m5!3m4!1s0x40e096c10cb02a7d:0x738c3910970b1064!8m2!3d47.942477!4d37.7698347>.

<sup>95</sup> Comprehensive school no.69, Donetsk, Google Maps (online), <https://www.google.com.ua/maps/place/Школа+№69/@47.9415905,37.7667528,381m/data=!3m1!1e3!4m5!3m4!1s0x40e096c1708517b9:0x3c3dfdbdbeb29f79!8m2!3d47.9421942!4d37.7681298>.

<sup>96</sup> «Бойовики запускають ракети «Град» [Video: Militants are launching Grad rockets], YouTube (online), 01 December 2014, [https://www.youtube.com/watch?time\\_continue=75&v=-Jfog5e5WM4](https://www.youtube.com/watch?time_continue=75&v=-Jfog5e5WM4).

<sup>97</sup> «Відео: Донецьк. Бойовики запускають ракети „Град“ біля житлового кварталу», [Video :Donetsk. Militants are launching Grad rockets near the residential quarter. Shyrokyi district], YouTube (online), 09 December 2014, <https://www.youtube.com/watch?v=N1zbZZii5rs>.

<sup>98</sup> «Путін. війна. Злочини війни: росіяни знову стріляють з того ж житлового району Широкий [Putin@war, «WARCRIME: Russians firing AGAIN from same residential area Shirokiy»], Bloggers.com (online), 1 December 2014, <http://ukraineatwar.blogspot.com/2014/12/russians-firing-again-from-same.html>.

cover and concealment of hostilities.<sup>99</sup> It is known that the armed groups of the so-called 'DPR' also placed their combat positions (Appendix No. 28, Article 62) in the immediate vicinity of the heavily populated residential district of Donetsk on Biryuzova Street<sup>100</sup>. In this residential quarter there were compactly located high-rise buildings, two schools No. 91<sup>101</sup> and No. 98<sup>102</sup>, kindergarten 'Ladushki'<sup>103</sup> and city hospital No. 25<sup>104</sup>. At a distance of 500 meters north of this residential quarter, there is a Donetsk penal establishment No. 124<sup>105</sup>, which, due to similar actions by the armed groups of the so-called 'DPR' was often used as a 'human shield' to conceal

<sup>99</sup> «Житель Донецька: ДНР розстрілює» [Video: A resident of Donetsk: DPR is shooting], YouTube (online), 19 January 2015, <https://www.youtube.com/watch?v=1y8s0MJlnNA>.

<sup>100</sup> Biriuzova district, Donetsk, GoogleMaps (online), <https://www.google.com.ua/maps/place/вулиця+Бірюзова,+Донецьк,+Донецька+область,+83000/@47.9814188,37.6443352,735m/data=!3m2!1e3!4b1!4m5!3m4!1s0x40e099a335213bb1:0x44e6c7615d0cd084!8m2!3d47.9814152!4d37.6465292?hl=uk>.

<sup>101</sup> Comprehensive school no. 91, Donetsk, Google Maps (online), <https://www.google.com.ua/maps/place/НБК+з+ног+либленим+вивченням+іноземних+мов+№91/@47.9832613,37.6454734,382m/data=!3m1!1e3!4m5!3m4!1s0x40e0999675a8465b:0x3d339ce976d48244!8m2!3d47.983603!4d37.6468849?hl=uk>.

<sup>102</sup> Comprehensive school no. 98, Donetsk, Google Maps (online), <https://www.google.com.ua/maps/place/№98/@47.9827869,37.6574172,456m/data=!3m1!1e3!4m5!3m4!1s0x40e0999675a8465b:0x3d339ce976d48244!8m2!3d47.982511!4d37.6587296?hl=uk>.

<sup>103</sup> Ladushki kindergarten, Donetsk, Google Maps (online), <https://www.google.com.ua/maps/place/Ладушки/@47.9825478,37.6464313,390m/data=!3m1!1e3!4m5!3m4!1s0x0:0x53b6156ec3d0381e!8m2!3d47.9834019!4d37.6467991?hl=uk>.

<sup>104</sup> Hospital no. 25, Donetsk, Google Maps (online), <https://www.google.com.ua/maps/place/городско+й+больницы+№25/@47.9827115,37.6462379,390m/data=!3m1!1e3!4m5!3m4!1s0x40e0999803e867ef:0x6d9f1682744b1181!8m2!3d47.9827744!4d37.6480081?hl=uk>.

<sup>105</sup> Donetsk prison no. 124, Donetsk, Google Maps (online), <https://www.google.com.ua/maps/place/ДП+ПДПРИ+МСТВО+ДОНЕЦЬКОЇ+ВИПРАВНОЇ+КОЛОНІЇ+УПРАВЛІННЯ+ДЕРЖАВНОЇ+ПЕНІТЕНЦІАРНОЇ+СЛУЖБИ+УКРАЇНИ+В+ДОНЕЦЬКІЙ+ОБЛАСТІ/@47.9881299,37.6638878,736m/data=!3m1!1e3!4m5!3m4!1s0x0:0x2904442d7ca85ab9!8m2!3d47.9889029!4d37.6671799?hl=uk>.

military action in the event of fire<sup>106</sup> in the direction of the enemy, as reported by a P-02 person. (Appendix 22). Also, due to the close location of Avdiivka to Donetsk, armed groups of the so-called 'DPR' carry out shelling from residential neighborhoods located close, covering their military actions.



Block post within the borders of Donetsk city

### Horlivka, Donetsk Oblast

Detailed information about the dead, wounded and destroyed property in Horlivka during the armed conflict is given in Appendix 10. It is known that the armed groups of the so-called 'DPR' placed a fire position, from which the fire was fired in the direction of the enemy, near the Michurinska penal establishment No. 57<sup>107</sup>, located on the northwestern outskirts of Horlivka, close to the contact line. A person C-06 reported that 'military equipment was arriving near the penal establishment; from it the shelling was carried out in the direction of Toretsk. Such actions by the armed groups of the so-called 'DPR' were carried out frequently, and there were also bombardments in response' (Appendix 23). In addition, the person C-05 confirmed

<sup>106</sup> «Обстріл Авдіївки з житлових районів Донецька» [The shelling of Avdiivka from the residential districts of Donetsk], YouTube (online), 31 January 2017, <https://www.youtube.com/watch?v=KSHesFHKpg>.

<sup>107</sup> Michurinska prison no. 57, Horlivka, Google Maps (online), <https://www.google.com.ua/maps/place/МІЧУРИНСЬКА+ВИПРАВНА+КОЛОНИЯ/@48.3751656,37.9693264,14z/data=!4m5!3m4!1s0x0:0xaf8a35d156eaecc8!8m2!3d48.3740834!4d37.9768503?hl=uk>.

that ‘there were often tanks or some other artillery mount with heavy weapons near the establishment, and they were shelling in the direction of the enemy for a long time. Meanwhile, those who served sentences were forced to hide in the cellars because of the possibility of shelling in response ‘ (Appendix 24). Also, in Mykytivska penal establishment No. 87<sup>108</sup>, located in Horlivka, as claimed by the person C-04, ‘representatives of the armed groups of the so-called ‘DPR’ installed a self-propelled artillery platform and howitzers on the territory of the establishment in the industrial zone’ (Appendix 25). Another person, P-03, who served sentences in the Kalinin penal establishment No. 27<sup>109</sup>, said that ‘at the colony, representatives of the armed groups of the so-called ‘DPR’ placed a firing point and fired the enemy for the rest of the year, hiding behind the condemned as a human shield’ (Appendix 26).

Also, we provide some information on the location of checkpoints, support stations and military positions in the immediate vicinity of the civilian population, thereby hiding to avoid the enemy’s attacks. Armed groups of the so-called ‘DPR’ hosted ‘Grads’ and tanks near the walls of a Donetsk pre-trial detention center located in the central part of the city<sup>110</sup>, and fired in the direction of the enemy

covering by that establishment, said a person of C-01 (Appendix 27). Observers of the OSCE SMM recorded weapons and fire from residential areas of Horlivka, the settlement under the control of the ‘DPR’<sup>111</sup>. Moreover, members of the armed groups of the so-called ‘DPR’ and so-called ‘LPR’ appealed to local residents to use the roofs of their homes for placing fire positions. So, on July 4, 2016, the OSCE SMM recorded two explosions estimated as shots from a mortar from Horlivka, a residential area under the control of the so-called ‘DPR’. On August 30, 2016, in Pikuzy (formerly Kominternove) of Donetsk Oblast, the settlement under the control of the so-called ‘DPR’, the SMM recorded an anti tank guided rocket stuck in the roof of the building. On the roof were also found used cases from a grenade machine gun, which confirms the location of the fire position on the roof. In the settlement Samiilove<sup>112</sup>, controlled by the so-called ‘DPR’ members of the SMM patrol saw that two units were located near the school, which at that time did not work. A headquarters were located in the school building.<sup>113</sup>

In our opinion, there are reasonable grounds to believe that such actions of the armed groups of the so-called ‘DPR’, regarding the location of fire positions, support points and headquarters in the immediate vicinity of security objects can be qualified as a war crime.

### ***Stanytsia Luhanska, Luhansk Oblast***

Detailed information about the dead, wounded and destroyed property in Stanytsia Luhanska during the armed conflict is given in Appendix 10. After the Stanytsia Luhanska gone under the control of the Government of Ukraine, the Armed Forces of Ukraine were stationed, and subsequently began to be permanently based in the building of the settlement council, blocking the work of the local govern-

ment body. In this building, the UAF set up a support station, a warehouse of ammunition (military equipment) and fire positions. The adjoining streets were cordoned off by the Armed Forces of Ukraine (Appendix 28, Article 31). The building of the settlement council, which hosts the UAF, is located in the central part of the settlement.<sup>114</sup> There are music school<sup>115</sup>, kindergarten No. 1<sup>116</sup>, district employment center<sup>117</sup>, center for social services<sup>118</sup>, local branch of the Red Cross Society of Ukraine<sup>119</sup> in the immediate vicinity of the building of the settlement council. Also, within the radius of 200–250 meters from the building of the settlement council (municipality), which hosted the UAF, there are: ‘Ukrposhta’

Head Office<sup>120</sup>, Pension Fund Office of Ukraine<sup>121</sup> in the Stanytsia Luhanska district of Luhansk Oblast, Department of State Registration of Civil Status Acts<sup>122</sup> of Stanytsia Luhanska district and Branch of the ‘Oshchadbank’<sup>123</sup> of Ukraine. Also, in the ‘Report on human rights violations in the zone of an armed conflict in the Luhansk Oblast — Stanytsia Luhanska sector’ it is noted that the building of the school was destroyed due to the close placement of the artillery position of the UAF (Appendix 28, p. 29).



*One of the places of dislocation of military in Stanytsia Luhanska*

<sup>108</sup> Mykytivska prison no. 87, Horlivka, Google Maps (online), <https://www.google.com.ua/maps/place/Горлівка,+Донецька+область,+84600/@48.3571304,38.0127347,1031m/data=!3m1!1e3!4m5!3m4!1s0x40e077bc9e45bb6d:0xbc0a3f8a8969f640!8m2!3d48.3569934!4d38.0176089?hl=uk>.

<sup>109</sup> Kalininska prison no. 27, Horlivka, Google Maps (online), <https://www.google.com.ua/maps/place/Горлівська+міськрада,+Донецька+область,+84600/@48.3304696,38.1422491,2042m/data=!3m1!1e3!4m5!3m4!1s0x40e0711b68e75713:0x996b5b383f2d47dd!8m2!3d48.3313171!4d38.1490541?hl=uk>.

<sup>110</sup> Donetsk pre-trial detention centre., Donetsk, Google Maps (online), <https://www.google.com.ua/maps/place/Горлівська+міськрада,+Донецька+область,+84600/@48.3304696,38.1422491,2042m/data=!3m1!1e3!4m13!1m7!3m6!1s0x40e0711b68e75713:0x996b5b383f2d47dd!2z0JPQvtGAOLvRltCyOYHRjNC60LAg0LzRltGB0YzQutGA0LDQtNCwLCDQINC-OL3QtdGG0YzQutCwINC-OLHQu9CwOYHRgtGMLCA4NDYwMA!3b1!8m2!3d48.3313171!4d38.1490541!3m4!1s0x40e0711b68e75713:0x996b5b383f2d47dd!8m2!3d48.3313171!4d38.1490541?hl=uk>.

<sup>111</sup> «Тематичний звіт Труднощі для громадян, які постраждали від конфлікту на сході України» [Thematic report Hardship for conflict-affected civilians in eastern Ukraine], OSCE SMM (online), 16 February 2017, C(1)(ii) page 5, <https://www.osce.org/ukraine-smm/300276?download=true>.

<sup>112</sup> Ibid, C(1)(i) page 5.

<sup>113</sup> Ibid, C(1)(i) page 7.

<sup>114</sup> The building of the settlement council, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/@48.6439873,39.4940016,373m/data=!3m1!1e3>.

<sup>115</sup> Music school, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/Музична+школа/@48.6439838,39.4939827,382m/data=!3m2!1e3!4b1!4m5!3m4!1s0x411fc7e00a8872a3:0x41094609bc6a284!8m2!3d48.643982!4d39.4951079>.

<sup>116</sup> Teremok kindergarten no. 1, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/Дитячий+садок+№+1+»Теремок»/@48.6436726,39.4953474,382m/data=!3m2!1e3!4b1!4m5!3m4!1s0x411fc87aa3b3abd3:0x2f1dac801ded646d!8m2!3d48.6436708!4d39.496472>.

<sup>117</sup> District employment centre, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/Центр+зайнятості,+Районний/@48.6446891,39.494391,382m/data=!3m2!1e3!4b1!4m5!3m4!1s0x411fc7e00a8872a3:0xe27837e05210b3b9!8m2!3d48.6446873!4d39.4955156>.

<sup>118</sup> Centre for social services, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/Центр+зайнятості,+Районний/@48.6446891,39.494391,382m/data=!3m2!1e3!4b1!4m5!3m4!1s0x411fc7e00a8872a3:0xe27837e05210b3b9!8m2!3d48.6446873!4d39.4955156>.

<sup>119</sup> Red Cross Society of Ukraine, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/Товариство+Червоного+Хреста+України/@48.6447184,39.4943093,382m/data=!3m2!1e3!4b1!4m5!3m4!1s0x411fc7e00a8872a3:0xf88391592ce2cdd!8m2!3d48.6447165!4d39.4954608>.

<sup>120</sup> Ukrposhta post office, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/ЦЕНТР+ПОЧТОВОЙ+СВЯЗИ/@48.6430759,39.4913082,726m/data=!3m2!1e3!4b1!4m5!3m4!1s0x411fc87ad255555:0x8d919fea3286a17!8m2!3d48.6430724!4d39.4934969>.

<sup>121</sup> Pension fund office of Ukraine, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/Управління+Пенсійного+фонду+України+в+Станічно-Луганському+районі+Луганської+області/@48.6416677,39.4958154,373m/data=!3m2!1e3!4b1!4m5!3m4!1s0x411fc865102e744f:0x6cd136f252c1ce1e!8m2!3d48.6416659!4d39.4969408>.

<sup>122</sup> Department of state registration of civil status, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/відділ+державної+реєстрації+актів+цивільного+стану+станічно-луганського+районного+управління+юстиції/@48.6422795,39.4964605,1547m/data=!3m2!1e3!4b1!4m5!3m4!1s0x411fc8656aa44a09:0xb9d46f17a0718f51!8m2!3d48.6422776!4d39.4976119>.

<sup>123</sup> Branch of the Oshchadbank of Ukraine, Stanytsia Luhanska, Google Maps (online), <https://www.google.com.ua/maps/place/Ощадбанк/@48.6428182,39.4965564,682m/data=!3m1!1e3!4m5!3m4!1s0x411fc86540409533:0xf08eedb9ce4237b!8m2!3d48.6422968!4d39.4980121>.

### **Avdiivka, Donetsk Oblast**

Detailed information about the dead, wounded and destroyed property in Avdiivka during the armed conflict is given in Appendix 10. Due to its geographical location Avdiivka is a strategically important position, resulting in fights on the outskirts of the settlement. Starting from July 21, 2014, the city is under the control of the Ukrainian government, with positions of the Armed Forces of Ukraine. It is known that the Armed Forces of Ukraine placed their positions at the Tuberculosis Dispensary of the city of Avdiivka.<sup>124</sup> The medical facility is located in the private sector of the old part of the settlement, as well as in the immediate vicinity of the contact line. There is also a school No. 4<sup>125</sup> and post office 'Ukrposhta'<sup>126</sup> located 250 meters away. It is reasonable to assume that because of the location of the UAF in the premises of a tuberculosis dispensary, this medical institution, as a security object, is constantly subjected to shelling from the enemy's side.<sup>127</sup> Also, according to the media, since July 2015, UAF have placed a fire position and a checkpoint for artillery fire in the enemy's direction in the immediate vicinity of a heavily populated

neighborhood.<sup>128 129</sup> Houses adjacent to the UAF's firing positions are very damaged<sup>130</sup> due to constant bombardments, resulting in a fact that civilian population that does not participate in armed conflict, is constantly in the center of fighting between the parties to the armed conflict.<sup>131 132</sup>



Avdiivka

Also, information about the location of checkpoints, support points and military positions in close proximity to the civilian population, thus covering themselves to avoid attacks by the enemy is available. 'Observers of the OSCE SMM witnessed the deployment of fire positions in populated areas of Khlibodarivka of Donetsk Oblast, and residents expressed their concern about the weapons that

<sup>124</sup> Avdiivka tuberculosis dispensary, Avdiivka, Google Maps (online),

<https://www.google.com.ua/maps/place/Авдіївський+міський+протитуберкульозний+диспансер/@48.1270454,37.7580057,733m/data=!3m2!1e3!4b1!4m5!3m4!1s0x40e0838ad820aa59:0xed28b59f0b9059a!8m2!3d48.1270418!4d37.7601997>.

<sup>125</sup> Comprehensive school no. 4, Avdiivka, Google Maps (online),

<https://www.google.com.ua/maps/place/АВДІІВСЬКА+ЗАГАЛЬНООСВІТНЯ+ШКОЛА+І-ІІ+СТУПЕНІВ+№4+АВДІІВСЬКОЇ+МІСЬКОЇ+РАДИ+ДОНЕЦЬКОЇ+ОБЛАСТІ/@48.1288098,37.760616,733m/data=!3m2!1e3!4b1!4m5!3m4!1s0x40e083f478296453:0xf2fc866c9d8336dc!8m2!3d48.1288062!4d37.7628093>.

<sup>126</sup> Ukrposhta post office, Avdiivka, Google Maps (online),

<https://www.google.com.ua/maps/place/Укрпошта/@48.1278837,37.7558524,377m/data=!3m1!1e3!4m5!3m4!1s0x40e083f4bb31dbc9:0x27769f1e64c71b30!8m2!3d48.1274928!4d37.7565148>.

<sup>127</sup> «Газорозподільний пункт зруйнований і пошкоджені лінії електропередач в Авдіївці внаслідок обстрілу» [Gas distribution point destroyed and power lines damaged in Avdiivka due to shelling], 112.ua (online), 12 August 2015, <https://112.ua/ato/v-avdeevke-iz-za-obstrelov-unich-tozhen-gazoraspredelitelnyy-punkt-i-povrezhdeny-lep-sckk-251661.html>.

<sup>128</sup> The Living building, Avdiivka, Google Maps (online), <https://www.google.com.ua/maps/place/вулиця+Воробйова,+15,+Авдіївка,+Донецька+область,+86060/@48.1271672,37.7484436,379m/data=!3m2!1e3!4b1!4m5!3m4!1s0x40e0838daf9c0a3b:0x737918c3ba7ae1a7!8m2!3d48.1271654!4d37.7495769>.

<sup>129</sup> «Жителі Авдіївки протестують проти розміщення обладнання у Збройних Силах України в житлових районах» [Residents of Avdiivka protest against the placement of equipment of the Armed Forces of Ukraine in residential areas], Taimer (online), 28 July 2015, [http://timer-odessa.net/news/jiteli\\_avdeevki\\_protestuyut\\_protiv\\_razmescheniya\\_tehniki\\_vsu\\_v\\_jilikh\\_kvartalah\\_885.html](http://timer-odessa.net/news/jiteli_avdeevki_protestuyut_protiv_razmescheniya_tehniki_vsu_v_jilikh_kvartalah_885.html).

<sup>130</sup> Jerry 24\_it, Avdiivka, July 2015, LiveJournal (online), 18 July 2015 p.

<https://jerry24-it.livejournal.com/1041380.html>.

<sup>131</sup> Paincliff, Ukrainian checkpoint «Razukrashka» in Avdiivka, LiveJournal (online), 18 July 2015,

<https://paincliff.livejournal.com/353771.html>.

<sup>132</sup> «Відео: Обстріл Авдіївки: бойовики б'ють по живій будівлі» [Video: The shelling of Avdiivka: Militants are hitting the living building], YuoTube (online), 18 July 2015, <https://www.youtube.com/watch?v=ZzkUbE5vSTI>.

remain in the houses of the local population and that it could be the cause of the bomb attacks from which they will be forced to escape.<sup>133</sup> 'Since the end of June 2016, residents of Luhanske and Svitlodarsk of Donetsk Oblast, the settlements under the control of the Government of Ukraine, reported to the OSCE SMM that the UAF carries heavy artillery every night and place their fire positions in residential areas.<sup>134</sup> 'In Rayhorodka of the Luhansk Oblast, the settlement under the control of the Government of Ukraine, observers of the OSCE SMM recorded the presence of military facilities in the building near the kindergarten, at a distance of 15 m from the school. School staff told OSCE SMM observers that they had no access to the basement, as well as additional storage facilities, as they were occupied by armed groups using them in their needs.<sup>135</sup>

In our opinion, there are reasonable grounds to believe that the location, base and arrangement of the support points and the fire positions of the UAF is a war crime, namely the use of the protected objects and other socially important objects near, as human shields, to reduce or eliminate enemy attack.

In the actions of the IAG and the LAG in eastern Ukraine, there are likely war crimes and gross violations of the rules of warfare. The presence of a civilian population not involved in the armed conflict, as well as the use of other protected facilities protected by the Geneva Conventions (IV)<sup>136</sup> on August 12, 1949, to cover their hostilities may fall within the jurisdiction of the RS<sup>137</sup> and entail liability.

<sup>133</sup> «Тематичний звіт Труднощі для громадян, які постраждали від конфлікту на сході України» [Thematic report Hardship for conflict-affected civilians in eastern Ukraine], OSCE SMM (online), 16 February 2017, C(1)(ii) page 5, <https://www.osce.org/ukraine-smm/300276?download=true>.

<sup>134</sup> Ibid, C(1)(i) page 5.

<sup>135</sup> Ibid, C(1)(ii) page 7.

<sup>136</sup> The Geneva Convention (IV) of August 12, 1949, ICRC (online), article 28, 49, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/xsp/.ibmmmodres/domino/OpenAttachment/applic/ihl/ihl.nsf/AE2D398352C5B028C12563CD002D6B5C/FULLTEXT/ATTXSYRB.pdf>.

<sup>137</sup> Rome Statute of the International Criminal Court], ICC (online), article 8 (2)(b)(xxiii), [https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf).

### **5.4. IMPRISONMENT AND OTHER CRUEL OR UNLAWFUL DEPRIVATION OF PHYSICAL LIBERTY**

The 2017 Prosecutor's Office report states that 'it is presumed that in the context of the conflict in eastern Ukraine, all parties were arresting and holding in custody both civilians and the opposing party militants. According to available statements, the Ukrainian Security Services were holding in custody, without due process of law, both civilians and assertive members of armed groups, and the so-called 'DPR' and 'LPR' forces were arbitrarily detaining in custody and in many cases subjecting to ill-treatment civilians those suspected of supporting Ukraine, as well as servicemen of the UAF. According to reports, both pro-Ukrainian forces and anti-government armed groups used unofficial places of detention. During the conflict, hundreds of cases of detention took place. In many cases, persons deprived of their liberty were transferred to the other party in the framework of the mutual exchange of captives, often after long periods of detention.<sup>138</sup>

In the course of activities aimed at gathering information on human rights violations during an armed conflict, the KHRG, together with its partners, collected a large number of information about the fact, that during the armed conflict in the East of Ukraine there have been numerous cases of imprisonment or other cruel deprivation of physical liberty, which were used by both sides of the conflict in relation to both civilians and those who participated in the armed conflict.

Components of crimes related to the unlawful deprivation of physical liberty provided for in Article 7 of the RS (Crimes against humanity) — in relation to civilians and Article 8 of the RS (War Crimes) — in relation to persons who are not actively involved in military actions.

Considering that, in the opinion of the Prosecutor, the armed conflict in the East of Ukraine con-

<sup>138</sup> Report on Preliminary Examination Activities 2017. 4 April 2017, [https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf), para. 107.

tains signs of both non-international and international character, and there are reasonable grounds to believe that during the armed conflict in the East of Ukraine acts introduced in relevant paragraphs of Articles 7 and 8 of the RS were committed.

### General information on illegal and arbitrary deprivation of freedom of people during an armed conflict in eastern Ukraine

#### Places of unlawful detention

According to information received by the KHRG during the monitoring visits, as of August 2016, 246 personal stories of people in captivity and about 146 illegal places of detention were known, of which 79 were held in Donetsk Oblast, 62 in Luhansk Oblast, 1 place in the Kharkiv Oblast and 1 place in Dnipro city. 139 places of detention were created by the illegal armed groups operating in the occupied part of the Donbas with the support of the Russian Federation.<sup>139</sup> As a result of monitoring in the Donetsk Oblast, the places of detention were determined in 23 settlements: Donetsk, Horlivka, Toretsk, Dokuchaevsk, Debaltseve, Druzhkivka, Kostyantynivka, Kramatorsk, Ilovajsk, Makiivka, Slavyansk, Snizhne, Starobesheve, Chystiakove (Torez), Khartsyzsk, Shakhtarsk, Yasinuvata, Olenivka (Volnovakha district), Novokaterynivka (Starobesheve district), Kodema (Bakhmut district), Zaytseve (Bakhmut district), Chervonosil'ske (Amvrosiivka district), Dzerkalne (Amvrosiivka district), Debaltseve, Khartsyzsk, Kodema village (Bakhmut district), Zaytseve (Bakhmut district), Chervonosil'ske (Amvrosiivka district) — are new places compared to the previous research of the Coalition.<sup>140</sup> According to the database of the SP, in the Luhansk Oblast there

<sup>139</sup> «Підвали Донбасу. Жорстока правда про полон. Ті, що пережили пекло: Свідчення жертв ув'язнень на Донбасі» [Basements of Donbas. The cruel truth about captivity. Those who survived hell: Evidence of the victims of imprisonment in Donbas], 13 December 2016, <<http://khpg.org/index.php?id=1481630335>>.

<sup>140</sup> Volodymyr Shcherbachenko Ganna Ianova Olexandr Pavlichenko, Places of Illegal Detention in Eastern Ukraine During the Military Conflict, HDIM Warsaw, 2016, Coalition "Justice for Peace in Donbas", sh. 4. <[https://jfp.org.ua/system/reports/files/82/uk/Justice\\_for\\_peace\\_in\\_Donbas\\_EUCCI\\_Illegal\\_detention.pdf](https://jfp.org.ua/system/reports/files/82/uk/Justice_for_peace_in_Donbas_EUCCI_Illegal_detention.pdf)>.

were found places of detention in 17 HS, in particular: Luhansk, Alchevsk, Antratsit, Khrustalny (Krasny Luch), Sorokyne (Krasnodon), Lysychansk, Perevalsk, Pervomaysk, Rovenky, Sverdlovsk, Severodonetsk, Kadiivka (Stakhanov), Mikhaylivka.<sup>141</sup>

#### Violations by the IAG (in the non-government controlled areas)

In the vast majority of cases of imprisonment and other cruel or unlawful deprivation of physical liberty, irrespective of the specific form of such actions in any form (abduction, including for the purpose of ransom, illegal detention and holding in illegal places, capture of hostages) in the vast majority of cases was not an end in itself, but was combined with torture and other forms of ill-treatment.<sup>142</sup> And in a number of cases, with the murder of a person (torture to death), as indicated in the subdivisions '5.4 Torture and Inhuman Treatment' and '5.1 Kills' agreeably.

According to the information contained in the periodic reports of the HRMM,<sup>143</sup> starting May 15, 2014, the IAG increasingly violated human rights, including abduction, torture and ill-treatment, illegal detention and murder.<sup>144</sup>

May 26, 2014 OSCE SMM lost contact with one Donetsk team consisting of four people in Antratsyt city. May 29, contacts were lost by another team of four in the Luhansk Oblast. As of June 7, eight members of the SMM remained detained and their location was unknown.<sup>145</sup>

<sup>141</sup> Ibid sh. 4,

<sup>142</sup> «Підвали Донбасу. Жорстока правда про полон. Ті, що пережили пекло: Свідчення жертв ув'язнень на Донбасі» [Basements of Donbas. The cruel truth about captivity. Those who survived hell: Evidence of the victims of imprisonment in Donbas], 13 December 2016, <<http://khpg.org/index.php?id=1481630335>>.

<sup>143</sup> UN OHCHR, Reports on the human rights situation in Ukraine. <X>.

<sup>144</sup> UN OHCHR, Reports on the human rights situation in Ukraine. 15 May 2014, <<https://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>>, para. 58;

<sup>145</sup> UN OHCHR, Reports on the human rights situation in Ukrain. 15 July 2014, <[https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_Report\\_15July2014.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15July2014.pdf)>, para. 26.

Though most of the detainees are activists, journalists and city deputies, public organizations in Donetsk highlighted this phenomenon as a growing structure of the systematic persecution of civil society. According to them, fears in the Donetsk and Luhansk Oblasts are spreading with an increasing number of acts of intimidation and violence by armed groups targeting 'ordinary' people who support the unity of Ukraine or openly oppose any of the two 'people's republics'.<sup>146</sup>

On November 3, the head of the Luhansk regional administration announced the release of 26 people who were subjected to enforced disappearance or arbitrary detention in the government controlled areas. On November 17, 7 people arbitrarily detained on November 10–15 by the 'Aidar' battalion were released after the intervention of the Luhansk Regional State Administration.<sup>147</sup>

On November 19, 2014, the SSU reported that from the 2,027 people with an updated list of missing persons, about 1,000 were 'detected and released,' while 378 Ukrainian servicemen, two journalists and an unknown number of civilians were believed to have remained at the disposal of IAG. On November 20, the Public Center for the Liberation of the Prisoners estimated that the number of people held by the IAG exceeded 650. According to the SSU, by November 19, Ukrainian law enforcement agencies released 200 'fighters suspected of terrorism or related crimes' within the framework of exchanges of prisoners under the Minsk Protocol.<sup>148</sup>

The persecution and intimidation of people suspected of supporting the Ukrainian forces or simply having pro-Ukrainian sympathies (or perceived as such) remain widespread and include deprivation of liberty and property, humiliation in public places, and imitation of the death penalty.<sup>149</sup>

<sup>146</sup> UN OHCHR, Reports on the human rights situation in Ukraine. 15 June 2014, <<https://www.ohchr.org/Documents/Countries/UA/HRMMUReport15June2014.pdf>>, para. 20.

<sup>147</sup> Ibid, para. 207.

<sup>148</sup> UN OHCHR, Reports on the human rights situation in Ukraine, 15 December 2014, <[https://www.ohchr.org/Documents/Countries/UA/OHCHR\\_eighth\\_report\\_on\\_Ukraine.pdf](https://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf)>, nap. 44.

<sup>149</sup> Ibid para. 40.

On December 9, the head of the Main Investigation Department of the SSU announced that the IAG are holding 684 people. As of February 4, 2015, the number of civilians held by armed groups is estimated by the Government of Ukraine over 400.<sup>150</sup>

The length of the period for detainees varies considerably — some are held for several hours, others — for several months. In most cases, the release depends on factors such as the availability of something for exchange, for example, money.<sup>151</sup>

The motivation for abduction and arresting by armed groups is:

- exchange with detainees held by the government;
- getting some influence on the situation;
- extortion of property or money;
- a source of labour for digging trenches and preparing military barricades;
- opportunistic 'arrests' of people; and
- 'internal discipline' of the armed groups themselves.<sup>152</sup> With these actions, armed groups continued to execute their power over the population in rude and harsh ways.<sup>153</sup>

On the basis of the collected data, it is possible to conditionally categorize places of detention used by illegal armed groups for the apprehension of detainees in the following categories:

- premises of law enforcement agencies (Security Service of Ukraine — SSU, Interior Ministry of Ukraine — IMU, Prosecutor's Office);
- administrative buildings of local authorities (region, city and district councils, state administrations);
- military enlistment offices and military units;
- office premises;
- private houses;
- hotels, shared households;

<sup>150</sup> Ibid para. 41.

<sup>151</sup> UN OHCHR, Reports on the human rights situation in Ukraine. December 2014 to 15 February 2015, 15 February 2015, nap. 33, 34, <<https://www.ohchr.org/Documents/Countries/UA/9thOHCHRreportUkraine.pdf>>

<sup>152</sup> UN OHCHR, Reports on the human rights situation in Ukraine, 15 July 2014, <[https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_Report\\_15July2014.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15July2014.pdf)>, para. 42.

<sup>153</sup> Ibid para. 40.

- catering facilities (cafes, restaurants);
- enterprises (factories);
- auxiliary buildings (sheds, car boxes, etc.);
- others (drain covers, cages).

Most often detained persons are held in the buildings of law enforcement agencies, administrative buildings of local self-government bodies, premises of enterprises and catering establishments. Taking into account the status of these ‘republics’, all places of detention of people on their territory can be considered unofficial, even those that are specially equipped to perform these functions (for example, temporary detention facilities of the internal affairs agencies, pre-trial detention centres).<sup>154</sup>

The following places of detention of people by IAG with the greatest number of prisoners were documented:

- Office of the SSU (Donetsk city, Shchorsa street, 62) — more than 200 people;
- The former military unit No. 3037 (Donetsk city, Kuprin street, 1) — more than 190 people;
- Factory ‘Isolation’ (Donetsk city, Svitlyi shlyakh street, 3) — 190 people;
- The building of the Office of the SSU (Luhansk, 79 Sovetskaya Street) — more than 200 people.
- TDF near the Southern bus station (Donetsk city) — more than 400 people;
- The building of the SSU (Luhansk city, Soviet street, 79) — more than 200 people.

According to eyewitness accounts, those who were captured were staying in conditions not adapted for a long stay of people. The prisoners were held in musty spaces where daylight and fresh air were not available. Most often detainees were ‘in the basement’, where they slept on wooden boards, pallets, rags. Drinking water, as a rule, was brought in plastic bottles from the toilet. These recipients were mostly used for voiding, because they were released to the toilet not when they wanted to, but according to strict schedule.<sup>155</sup> Among the reasons

<sup>154</sup> Белоусов Ю. Л. та інші. Ті, що пережили пекло: Свідчення жертв ув’язнень на Донбасі [Those who survived the hell: Evidence of the victims of imprisonment in Donbass], Київ. 2015, <file:///C:/Users/Admo2/Downloads/ti-scho-perezhili-peklo.pdf>.

<sup>155</sup> Ibid.

for the detention were the following: violation of the curfew, suspicion of the use of alcohol or drugs; political views and suspicion in support of the UAF or volunteer battalions; abduction in order to obtain redemption; affiliation with the UAF or volunteer battalions.<sup>156</sup>

Since June 5, 2014, there have been cases where drug users (even those who are in remission) and people living with HIV/AIDS have been detained by armed groups because of their status. It is reported that some of them are tortured and held in basements. The families of detainees often have to pay a ransom of \$200 to \$1,000.<sup>157</sup>

‘Ministry of State Security (MSS)’ of so-called ‘DPR’ acknowledged that in 2017 it detained 246 people for ‘suspicion of espionage and lese-majesty’, of which 148 lived and worked in a territory controlled by armed groups. Persons detained by the ‘MSS’ of so-called ‘DPR’ and so-called ‘LPR’ were initially held in custody (up to 30 days) without communication with the outside world.<sup>158</sup>

According to information received by the Coalition of Organizations and Initiatives ‘Justice for Peace in Donbas’, 47.3% of the persons illegally deprived of freedom by IAG were civilians, 52.7% were military personnel of the UAF and 52.7% — volunteer battalion fighters.<sup>159</sup> Among such civilians, 79.3% were

<sup>156</sup> Coalition “Justice for Peace in Donbas”, Підвали Донбасу. Жорстока правда про полон. Ті, що пережили пекло: Свідчення жертв ув’язнень на Донбасі [Basements of the Donbas. The cruel truth about captivity. Those who survived the hell: Evidence of the victims of imprisonment in Donbass], 13 December 2016, <<http://khpg.org/index.php?id=1481630335>>.

<sup>157</sup> UN OHCHR, Reports on the human rights situation in Ukraine. 15 July 2014, <[https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_Report\\_15July2014.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15July2014.pdf)>, para. 45.

<sup>158</sup> «Підвали Донбасу. Жорстока правда про полон. Ті, що пережили пекло: Свідчення жертв ув’язнень на Донбасі» [Basements of the Donbas. The cruel truth about captivity. Those who survived the hell: Evidence of the victims of imprisonment in Donbass], Coalition “Justice for Peace in Donbas” (online), 13 December 2016, <<http://khpg.org/index.php?id=1481630335>>

<sup>159</sup> Bielousov I. L. and others. «Ті, що пережили пекло: Свідчення жертв ув’язнень на Донбасі» [Surviving hell: Evidence of the victims of imprisonment in Donbass], Coalition “Justice for Peace in Donbas” (online), 2015, <[https://www.hfhr.pl/wp-content/uploads/2016/01/SURVIVING-HELL\\_eng\\_web.pdf](https://www.hfhr.pl/wp-content/uploads/2016/01/SURVIVING-HELL_eng_web.pdf)> p. 28.

inhabitants of the territories controlled by the so-called ‘DPR’ and ‘LPR’, and 20.7%<sup>160</sup> — those who were temporarily in the zone of armed conflict.<sup>161</sup>

### Illegal deprivation of liberty on the part of LAG (on government controlled areas)

Among the documented cases of illegal detention, eight occurred on the government controlled area, from the representatives of the volunteer battalions and the National Guard of Ukraine. According to eyewitnesses, about 40 detainees are reported. Among the reasons for the detention were the following: suspicion of sympathy with the Russian-separatist forces; journalists and volunteers suspected of espionage; abduction in order to obtain ransom. In addition, monitors know about other categories of victims, who, however, refused to testify because of the fear of retaliation.<sup>162</sup>

In addition, some activists are detained by Ukrainian law-enforcement and voluntary battalions, who allegedly committed crimes under article 258 (terrorism) of the Criminal Code. The HRMM was not provided with any explanation as to the exact location of those detainees. It was also reported that the Right sector, in coordination with the UAF, detained a leader of one of the armed groups in the Donetsk Oblast on June 25.<sup>163</sup>

A lot of information on human rights violations came from volunteer battalion fighters. According to the results of monitoring visits to Stanytsia Luhanska, KHRG gained information about several places where local residents were illegally held by the volunteer battalions ‘Chernihiv’ and ‘Tornado’.

<sup>160</sup> Ibid sh. 29.

<sup>161</sup> Ibid, p. 29.

<sup>162</sup> «Підвали Донбасу. Жорстока правда про полон. Ті, що пережили пекло: Свідчення жертв ув’язнень на Донбасі» [Basements of the Donbas. The cruel truth about captivity. Those who survived the hell: Evidence of the victims of imprisonment in Donbass], Coalition “Justice for Peace in Donbas” (online), 13 December 2016, <<http://khpg.org/index.php?id=1481630335>>.

<sup>163</sup> UN OHCHR, Reports on the human rights situation in Ukraine. 15 July 2014, <[https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_Report\\_15July2014.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15July2014.pdf)>, para. 44.

Among them are: the railway hospital in Nova Kon-drashivka, the ‘Motobond’ shop, the service station at the entrance to the village, the storage premises in the center of the village, the storage premises of the ‘Ksenia’ store.<sup>164</sup>



*One of the rooms in Stanitsa Luhanska where the prisoners were held*

In general, several dozens of applications were made to law enforcement agencies about the crimes committed by soldiers of the ‘Tornado’ battalion. Approximately the same — against the ‘Chernigov’ soldiers. Most of the citizens who suffered from so-called ‘elimination’, refused to describe their stories in writing, fearing for their safety.<sup>165</sup>

In the course of the struggle with the ‘separatists’, almost every resident of the village passed through unlawful places of deprivation organized by ‘Tornado’.<sup>166</sup>

Some of the members of the UAF were kept in custody for up to 14 days, during which they were

<sup>164</sup> «Про порушення прав людини в зоні збройного конфлікту в Луганській області. Станція Луганська» [Reports on the human rights violations of the zone of armed conflict in Luhansk oblast. Stanitsa Luhanska sector], Kharkiv, 2016, sh. 21, <<http://khpg.org/files/docs/1530865045.pdf>>.

<sup>165</sup> «Підвали Донбасу. Жорстока правда про полон. Ті, що пережили пекло: Свідчення жертв ув’язнень на Донбасі» [Basements of the Donbas. The cruel truth about captivity. Those who survived the hell: Evidence of the victims of imprisonment in Donbass], Coalition “Justice for Peace in Donbas” (online), 13 December 2016, <<http://khpg.org/index.php?id=1481630335>>, p. 22 (translation from Russian).

<sup>166</sup> Yanina Smelyanska, «По місцях «бойової слави» батальйону „Торнадо“». Фоторепортаж» [Places of “military glory” of “Tornado” battalion. Photo report], KHPG (online), <<http://khpg.org/index.php?id=1480948008>>.

subjected to ill-treatment and released from the mandatory signing of the document that they had no complaints about those who detained them. According to Ukrainian NGOs, many such cases were associated with the Aidar battalion.<sup>167</sup>

UHHRU, 'Truth Hounds' NGO and KHRG documented the detention of 23 people. This information, obtained from various sources, allows us to conclude about the practice of detaining the local population of Donetsk and Luhansk Oblasts in 2014 and 2015 on suspicion of 'separatism'.<sup>168</sup>

After the return of a part of the settlements of Donetsk and Luhansk Oblasts that were previously captured by armed groups, from the middle of April to August 16, 2014, more than 1,000 people suspected of collaborating with armed groups or attaching to them were detained by the SSU, territorial battalions at the Ministry of Defense or special battalions at the Interior Ministry.<sup>169</sup> HRMM is still very concerned about the systematic reporting of people held by the SSU in unofficial places of detention that are not available to the National Preventive Mechanism and international organizations. Reliable messages from victims and their relatives indicate a widespread behavior pattern in several units of the SSU. From the very beginning of the armed conflict, a number of unofficial detention centers, often located in the basements of the buildings of the regional departments of the SSU, turned out because of a large number of reliable reports of the victims and their relatives.

According to HRMM, as of February 2016, from 20 to 30 people were illegally detained without contact with the outside world in the building of the Kharkiv

Regional Administration of the SSU. In response to questions about their fate and location, SSU employees systematically denied any involvement in this. According to the information gathered by the HRMM, the vast majority of persons detained at the Kharkiv Security Service of Ukraine were not arrested in a lawful manner and have not yet received any allegations, despite allegedly being held suspected in connection with the IAG. These detainees are in such conditions until they are issued by the IAG as part of the simultaneous release of the prisoners.<sup>170</sup>

HRMM documented a number of cases when SSU officers detained and allegedly tortured women, relatives of men suspected of belonging or being in contact with armed groups. These cases are not only a violation of the prohibition of torture, but are also concerning about arbitrary deprivation of liberty and gender-based violence. December 8, 2015 in Shchurev village SSU officers arrested a 74-year-old woman, seeking her son, at her home. She was detained in the building of the SSU in Mariupol, accused of 'terrorism', and beaten. Representatives of the HRMM visited her at the Mariupol pre-trial detention center<sup>171</sup>. The HRMM also documented the case of three women who were detained in May 2015 in a city under the control of the government in the Donetsk Oblast. Among the victims were the wife of the IAG commander and her daughter. The daughter, according to reports, was severely tortured, and both of them were threatened with sexual violence.<sup>172</sup>

While the perpetrators of most cases in 2014 and early 2015 were volunteer battalions (often in cooperation with the SSU), the cases from the end of 2015 and beginning of 2016 are mostly related to the SSU. Most of these cases involve detention without communication with the outside world in unofficial places of detention, where torture and ill-treatment are constantly practiced as methods of obtaining confessions, information, intimidation or

even punishment of victims. The SSU continues to deny the practice of holding in custody without connection to the outside world, and even the very existence of unofficial places of detention. Similarly, the SSU does not provide any information on the location and fate of certain missing persons. Officials of the SSU continue to consider the facts documented by the HRMM as 'groundless insinuations'.<sup>173</sup>

The cases of the HRMM indicate a violation of criminal procedural law during some of these arrests, in particular regarding custody by battalion volunteers. People are detained without any explanation, in particular, while they remain in the conflict zone and security operations, they are questioned without being brought to the law enforcement agencies.<sup>174</sup>

### The arbitrary deprivation of liberty for the purpose of exchange

In connection with the exchange of detainees ('captives') by parties to the conflict, there was widespread arbitrary deprivation of liberty of persons not involved in armed conflict, who were detained and illegally held in places of detention solely for the purpose of exchange.<sup>175</sup>

On May 5, 2015, the head of the Joint Center for Hostage Release the MD said that 2667 people were released. The HRMM found a discrepancy between official data or the non-transparent nature of 'simultaneous releases'.<sup>176</sup>

About 70 percent of the people proposed by the Government of Ukraine for exchange were 'civil', while only 30 percent were 'military' or 'political activists'. The interlocutors argued that the Government of Ukraine continues to detain and then release casual civilians in order to increase the number of released.<sup>177</sup>

According to the HRMM, a significant number of people are detained by the SSU arbitrarily and often secretly, as evidenced by former detainees to the exchange ('simultaneous release') from the IAG.<sup>178</sup>

In two cases, the members of the radical right-wing groups ('C14' and 'National Corps') assuming the role of law-enforcement bodies detained without legal grounds two persons, presumably former members of armed groups, and transferred them to the SSU.<sup>179</sup>

According to information from the SP database, the duration of illegal (arbitrary) deprivation of liberty in different cases is from 1-2 days to three years or more. Thus, on February 16, 2015, during the military operation under the Debaltseve, Mr. Korinkov, who was initially detained in the basement of the SSU's administration in Donetsk, and is now detained in the colony number 97 in Makiivka was arrested by IAG. Mr. Hlonder (3rd Special Forces Regiment), who personally called his family and reported that he was in captivity in the middle of April has also been detained until now.

### Statistical data on imprisonment or other cruel or unlawful deprivation of physical liberty

According to information contained in the database of the SP, as of August 15, 2018, there were only 1286 cases of illegal detentions (disappearances), 1024 people were abducted, 541 soldiers

<sup>167</sup> «Звіти про стан прав людини в Україні» [Reports on the human rights situation in Ukraine.] 17 August 2014, 29 August 2014, para. 46, <<https://www.ohchr.org/Documents/Countries/UA/UkraineReport28August2014.pdf>>.

<sup>168</sup> «Незаконні затримання та катування, здійснені українською стороною в зоні збройного конфлікту на Сході України» [Illegal arrests and torture committed by the Ukrainian side in the zone of armed conflict in the East of Ukraine], 2 June 2017, <<http://khp.org/index.php?id=1496406846>>.

<sup>169</sup> UN OHCHR, Reports on the human rights situation in Ukraine. 17 August 2014, 29 August 2014, para. 40, <<https://www.ohchr.org/Documents/Countries/UA/UkraineReport28August2014.pdf>>.

<sup>170</sup> UN OHCHR, Report on the human rights situation in Ukraine 16 November 2015 to 15 February 2016, 3 March 2016, para. 48, <[https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_13th\\_HRMMU\\_Report\\_3March2016\\_Ukrainian.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_13th_HRMMU_Report_3March2016_Ukrainian.pdf)>.

<sup>171</sup> Ibid para. 49.

<sup>172</sup> Ibid para. 50.

<sup>173</sup> Report on the human rights situation in Ukraine. 16 February to 15 May 2016], para. 31, <[https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_14th\\_HRMMU\\_Report\\_UKRANIAN.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report_UKRANIAN.pdf)>

<sup>174</sup> UN OHCHR, Reports on the human rights situation in Ukraine. 17 August 2014, 29 August 2014, para. 41, <<https://www.ohchr.org/Documents/Countries/UA/UkraineReport28August2014.pdf>>.

<sup>175</sup> UN OHCHR, Reports on the human rights situation in Ukraine. December 2014 to 15 February 2015, 15 February 2015, para. 41, <<https://www.ohchr.org/Documents/Countries/UA/9thOHCHRreportUkraine.pdf>>.

<sup>176</sup> UN OHCHR, Report on the human rights situation in Ukraine. 16 February to 15 May 2015, 1 June 2015, para. 52, <<https://www.ohchr.org/Documents/Countries/UA/10thOHCHRreportUkraine.pdf>>

<sup>177</sup> UN OHCHR, Report on the human rights situation in Ukraine. 16 February to 15 May 2015, 1 June 2015, para. 53, <<https://www.ohchr.org/Documents/Countries/UA/10thOHCHRreportUkraine.pdf>>

<sup>178</sup> Ibid para. 41.

<sup>179</sup> Report on the human rights situation in Ukraine. 16 February to 15 May 2018, 19 May 2018. <[https://www.ohchr.org/Documents/Countries/UA/ReportUkraineFev-May2018\\_UKRANIAN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportUkraineFev-May2018_UKRANIAN.pdf)>

detained/disappeared during combat operations, 76 disappeared on block posts, 18 persons disappeared in captivity, 2584 persons missing. During the armed conflict in eastern Ukraine, 1663 persons (1085 civilians and 578 military personnel) were illegally detained/disappeared in 2014, 873 (656 civilian and 217 military) in 2015, 948 (825 military and 123 civilians) in 2016, 250 (216 civilian and 34 military) in 2017, and 2 civilians — in 2018.

Based on the statistics and information presented above in this section, there are reasonable grounds to maintain that the illegal and arbitrary detention and subsequent holding of both the IAG and the LAG were of a large-scale and systematic nature.

### **Circumstances of committing separate crimes**

#### ***Prolonged detention in improper conditions the militants of the Armed Forces of Ukraine***<sup>180</sup>

Citizens of Ukraine Us., Ol., Sh., St., Mr. Sk., Yur., Vil., Sakh., Tob., Khr., Bab., Stas., Man., Pok., Lun., Dey., Tk., Gor., Mar., Kay., Kukh., J., Laz., Kakh., Tyn., Gun., Kush., Lun., Star., Fom., Shl., Kn., Pv., Gov., Naz., R. participated in the ATO in the Armed Forces. On August 29-30, 2014, in the course of a military operation near the Ilovajsk in the Donetsk Oblast, were captured under various circumstances by armed unknown persons in a Russian military uniform without identification marks and Russian-made military weapons, were firing with the military technique models defending the Armed Forces of the Russian Federation, which, because of their language, accent and external features, had the characteristics of Russians.

They were delivered by servicemen of an unknown unit to those who call themselves members of the so-called 'DPR' and held there from late August 2014 to December 26, 2014 (Mr. Pv. was released on January 31, 2015, and Mr. Kn. was released on February 22, 2015).

After a while, the detainees were taken to various places of detention: Mr. Bab., Stas., Man., Pok., Lun., Dey., Tk., Gor., Mar., Kay., Kuh., J., Laz., Kah., Tyn., Gun., Kush., Lun., Star., Fom., Shl.,

Kn., Pv. were delivered to the SSU control service in Donetsk. Mr. Us., Ol., Sh., St., Mr. Sk. were delivered to the Antratsyt, Luhansk region. Mr. Jur., Vil., Sakh., Tob. were delivered to the Snizhne of Donetsk Oblast, and Mr. Khr. was delivered to the Ilovaysk, Donetsk Oblast.

All detainees were searched, beaten and tortured. After that, they were questioned under the threat of murder because of pro-Ukrainian position. Russian journalists participated in the interrogation, asking a clearly mocking question and recording a questioning on the camera, such as: 'Why did not you refuse to shoot for peaceful people?', offending them, etc.

During detention, detainees were subjected to ill-treatment. Sometimes they were brutally beaten or threatened to be killed (executed) for no reason. They were also physically forced to perform destructive to health, hard work — to clean the toilets in houses destroyed by battles, search, exhumate and rebury the bodies at the last stages of their decomposition. The prisoners were not given any protective or sanitary facilities for their work.

On October 16, 2014, the detainees were separated: some of them were lost in the basement of the building of the SSU in Donetsk, and some were sent to institutions of temporary detention in the Ilovajsk.

The detainees were held in unsuitable conditions for life: overcrowded small rooms without heating, not weathered, without beds and places for sleeping. Prisoners were in a state of permanent depression due to the fact that those who followed them treated them violently: using mental and physical pressure methods. For four months, prisoners had extremely poor quality nutrition, they did not have access to drinking water, and were forced to drink technical water. Several times during the period of detention detainees were questioned in the same cruel way as during the first interrogation.

On December 26, 2014, all prisoners were exchanged for the members of the illegal armed groups.

Regarding the aggressive war of the Russian Federation against Ukraine, the Chief Military Prosecutor's Office of Ukraine conducts criminal proceeding No. 42014000000000457.

#### ***Detention and brutal holding of civilian — Ukrainian volunteers***<sup>181</sup>

On June 20, 2014, at the 17th checkpoint near Rovenky, the city in Luhansk Oblast and the territory under the control of the IAG, the so-called 'cosacks' detained four Ukrainian volunteers, men, Met, Kal. and Mis., and the woman B. — the head of their group, who delivered humanitarian aid to the 25th air cavalry brigade of the Armed Forces. The detainees were searched, picked up of things, including phones, brought to the premises of a compound feed mill in Rovenky and were interrogated with the use of brutal beatings, imitation of shooting, and so on.

A day later they were taken to the commandant's office (the former headquarters of the Party of Regions) in the Antratsyt, where they were interrogated and brutally tortured again, what guided a man named Alexander Chorny. June 22, 2014, under the escort of the Russian military (it was known from the point of view of their uniforms, as well as from the conversations of the guards) detainees, locked to the car body, were taken to Horlivka. When unloading from the car, the detainees were beaten again by the so-called 'militiamen' of the so-called 'DPR', and then thrown into the basement of the police station, where were two men and three corpses of the tortured men.

From this basement detainees were taken to interrogations, where they were beaten brutally again. Subsequently, the detained woman, along with one of the men, was taken to the prosecutor's office in Horlivka, and placed there in garages where the woman was brutally tortured, using bench tools. The next morning they repeatedly simulated the shooting ('Russian Roulette') to her.

In the garage, at first, Mrs. B. was held alone, gradually filling it with other detainees who were tortured on a daily basis, some of them to death, among them were Mr. Mis., her volunteer colleague, detained along with Mrs. B. She was forced to take his corpse away from the room at the prosecutor's office, which was then the office of the well-known leader of the soldiers, Bezler. The food was given in

<sup>181</sup> See MB data base, case No. P878.

very small quantities from once a day to one time for 5 and even 10 days, drinking was also given at a minimum.

It lasted for a month and a half, and in early September she was transferred to another garage. There were 15 people, including Mrs. B. and two more women. One time Mrs. I. had a heart attack, and she went on to take pills. She was never released for a walk. After some time, all of the garage was transferred to a barn where there was more space, but it was very moist. On September 28, 2014, she was given the opportunity to talk with her daughter by telephone. The next day she was fired, generally Mrs. I. stayed in captivity for 103 days.

On the fact of abduction and ill-treatment of Mrs. B. and others, a criminal case No. 12014170040001457 dated June 22, 2014 was provided.

For more information on physical and psychological violence to Mrs. B, see the section on 'Torture and Inhuman Treatment'.

#### ***The detention and holding of a journalist***<sup>182</sup>

The journalist of the 'Espresso-TV' channel Vorobyov Yehor Oleksiyovych together with other members of his crew and about 70 military personnel of the UAF was captured on August 30, 2014 by the soldiers of the Armed Forces of the Russian Federation, namely the Pskov amphibious division, the Kandemirivsky tank division, in the district of Mnohopillya of Starobishiv district of Donetsk region. After capturing the members of the shooting team, they were questioned about why they were there, what reports they filmed and for what purpose, and then took them to the truck in an unknown direction. At one of the stops, the journalist was unloaded from the truck, and other members of the crew were taken to the International Red Cross mission. The journalist Vorobyov, a few days after, was detained blindfolded in an unknown place surrounded by Russian military personnel.

09/02/2014 he was handed over to the members of the armed groups of the so-called 'DPR', which brought him to the "Kommunshlyakhavto" car depot in Makiivka, Donetsk region, which was a mili-

<sup>182</sup> See MB data base, case No. P945.

tary base of soldiers. There the soldiers of the so-called 'DPR' conducted the interrogations, during which broke the journalist two hands, injured his face, broke his head, and then putted in a separate ward — a shed of 17.5 square meters for storage of sealing balloons without electricity, water, toilet (for which the capron tube was used). They were given food once or twice a day, at will of the militants, they were not taken out for walks, after two weeks they gave him dirty things so that he was not frozen to death, and under such conditions the journalist was 23 days without contacts with the outside world.

Approximately 29.09.2014, the new leadership of the military base of the soldiers learned about a journalist being in the captive. After that he was questioned several times, even by citizen's press secretary Tigran Parsegyan. Since then, Vorobyov was kept in the same basement for more than a month.

On 06.11.2014 he was taken to Donetsk, and from there — to one of the hotels in the city of Horlivka, on the Gagarin street, 17, and 07.11.2014, militants made his exchange.

The information on this case is contained in the materials of the criminal proceedings No. 2201400 0000000475.

#### ***Illegal detention and holding of a civilian suspected of aiding terrorism<sup>183</sup>***

On January 23, 2012, six unknown persons on a black car — a Ford off-road car of dark color without registration numbers — came to the house of Mr. G, a resident of the Novotroitske village of the Volnovakha district of the Donetsk region, and as it turned out later, these were employees of the SSU Office in Donetsk Oblast. They beat him, threatening to shoot him right on a spot in front of his daughter's eyes, took money and valuables from the house, tied Mr. G.'s hands and brought him to the police station in Volnovakha, where he was placed in the basement. The same persons held a man in custody for ten days (until February 2, 2015) without procedural registration of his detention, while applying cruel physical violence to him: he was beaten by masked persons twice a day, tortured, including

by electric current, was not able to breathe by immersing the face in the water, and on January 31, 2015, he was taken out of the building and had a simulation of the shooting. Under the influence of torture, Mr G. gave an evidence of aiding in terrorist activities, which he did not really do, which subsequently formed the basis of his accusation under Article 258-3 of the Criminal Code of Ukraine. Only 02.02.2015 he was taken to the SSU Office in the Donetsk Oblast in Mariupol, where he had been drafted a report on his arrest on suspicion of committing a crime. After interrogation he was taken to the surgical department of the city hospital.

Later, Mr. G. applied for illegal actions by the SSU staff, after which the Donetsk Regional Prosecutor's Office opened criminal proceedings No. 42017050000000627 in which he was given the status of the victim. Numerous bodily injuries inflicted to Mr. G. during his unlawful imprisonment, including the fracture of the ribs, are confirmed by an act of forensic examination conducted within the framework of criminal proceedings.

In the course of the trial of his case, Mr. G. denied his involvement in the crime he was accused of, he complained about the illegal actions of the SSU employees, and on 25.10.2017, the Ordzhonikidze District Court of Mariupol admitted Mr. G. not guilty of committing a crime and he was released from guards in the courtroom.

On 07/27/2017, the neighbors of the house informed Mr. G. that a car arrived at his house again, similar to the one previously arrived by the staff of the SSU during his detention. Fearing revenge from the SSU employees, he was forced to leave his place of residence and go to the non-government controlled area. The return to his place of residence is a real threat to his life and health.

#### ***Arrest and detention of a civilian in unforeseen places during a criminal prosecution<sup>184</sup>***

On February 10, 2015, the pensioner M., who lived in the territory controlled by the so-called 'LPR', on a checkpoint in Stanytsia Luhanska of the Luhansk Oblast, was detained by soldiers from the

Lviv 'Tornado' battalion and the battalion of the special police station 'Chernihiv' under the leadership of the SSU staff. Immediately after the arrest, the man was undressed to his pants, searched, and beaten several times, took away personal belongings (jewelry, phone), and then put on handcuff, took away all the things, forcibly put in a jeep, put a hat on his eyes to make him unable to see, and was taken, as it later turned out, to the 'creamery' area in Stanytsia Luhanska. Any procedural documents about his detention or removal of his belongings or documents was not conducting.

A man was placed in a basement, where, in addition to him, there were eight more people. After some time, he was taken out of the cellar ('hole') and in a sitting position was beaten by unknown person with iron pipe on the legs and back. He was required to confess in making the explosion to a checkpoint, but he did not do it. After beating, a man was dragged to the 'hole', where he lost consciousness several times. After a brutal beating he was in a ailment condition and could not navigate in time, so he can not clearly remember the sequence of events, besides, he was in the dark in the basement and could not see the change of day and night. In addition, while in custody, he had illnesses of the nervous system, as well as psychiatric illnesses. An eyewitness of holding the man in the basement was the manager of the affairs of the Stanytsia Luhanska settlement council Mrs. Kh., who was kept in the same room for several hours and accidentally witnessed the ill-treatment of him. At night, the same day, the man was taken to Petrivka in the same Stanytsia Luhanska district, where the district department of internal affairs was temporarily located.

In the evening of February 11, 2015, the official protocol of the detention of Mr. M. was made on suspicion of an explosion at the checkpoint of 16.01.2015, and the old man spent the night in the building of the district police station. On January 12, 2015, the investigator handed him a written notice of suspicion of committing a terrorist act that led to the death of a person. On the same day, the investigating judge of the Novopskovsky District Court of Luhansk Oblast applied to him a preventive measure in the form of detention, with his detention at

the Starobilsk pre-trial detention center. Despite this, according to the verbal instruction of the SSU, the convoy took him to the Severodonetsk detention center, which was located on the ground floor of the building of the Severodonetsk City Department of the Interior Ministry of Ukraine in the Luhansk Oblast, so that the employees of the Office of the SSU in Luhansk Oblast, also located in Severodonetsk, could have unimpeded access to him and put pressure on him, which would be much more difficult when he was detained in a pre-trial detention place. After placing in isolated detention place, there were bodily injuries found on Mr. M.'s body.

Subsequently, officers of the SSU, fraudulently (by promising to exchange him for UAF soldiers who were in captivity to the IAG), forced Mr. M. to testify about his involvement in terrorist activities. Only on February 20, 2015, the detainee was transferred to the place of detention approved by investigating judge — the Starobilsk pre-trial detention center, where, upon his admission, were found injuries sustained on the day of his detention on February 10, 2015, which traces were preserved through 10 days after his arrest.

On April 22, 2015, acting in lieu of head of the HRMM, M. Bozhanik informed the Ukrainian authorities of possible violations by law enforcement officers of persons who were prosecuted in criminal proceedings, and Mr. M. among them. Perhaps he was visited by a member of the monitoring mission in the pre-trial detention, but he cannot accurately remember this event.

On May 8, 2015, the representative of the Authorized Representative for human rights of the Verkhovna Rada, Luhansk Oblast coordinator, V. Arkhipov, spoke with Mr. M. in the PTD, during which he described in detail the circumstances of his beating after detention. The information about results of the conversation with Mr. M. Arhipov was provided to the Authorized Representative Secretariat of the Human Rights of VRU.

On May 17, 2015, the second investigating department of the Luhansk Prosecutor's Office informed M. Bozhanik that a pre-trial investigation into criminal proceedings No. 4201513000000107 was initiated on the grounds of a criminal offense provided for in part 2 of Article 65 of the Criminal

<sup>183</sup> KHPG Archive, SLC's fund, inventory 8, file 20.

<sup>184</sup> KHPG Archive, SLC's fund, inventory 8, file 21.

Code of Ukraine (excess of power or official authority by a law enforcement officer which was accompanied with violence).

On November 30, 2015, criminal proceedings No. 42015130000000107 were closed due to the absence of a criminal offense in the actions of law enforcement officers.

## Conclusions

As has been noted above in this section, the IAG representatives, for various reasons (for the support of Ukrainian security forces or pro-Ukrainian political views, for the purpose of ransom or other forms of illicit enrichment, etc.) committed numerous arbitrary detention of civilians, followed by holding in custody.

Ukrainian armed groups, in particular, soldiers of volunteer battalions, committed numerous arrests of IAG soldiers, as well as civilians, and subsequently illegally detained them in unforeseen places. The SSU units held people in the zone contiguous to the area of hostilities in secret places (usually in basements, dilapidated buildings, etc.), and those who were illegally detained for the purpose of exchange — in the appropriate premises in the buildings of the territorial units of the SSU, incommunicado and concealing such facts.

All detentions of the civilian population committed by the IAG militants were illegal, as far as only law enforcement officials authorized to do it have a right to detain. Subsequent detentions took place in violation of the fundamental rights of detained persons. Under these circumstances, there are grounds for claiming that Articles 9 and 10 of the International Covenant on Civil and Political Rights were violated.

The executors of these crimes on the part of the IAG acted consciously, thus, committed these crimes deliberately. All these acts were committed in an armed conflict, a politic of the so-called 'DPR' and so-called 'LPR' was aimed at grabbing and retaining power in the East of Ukraine, and all the acts of systematic attack on the civilian population, which did not support the idea of separatism, and especially those who directly participated in armed conflicts on the side of Ukrainian authorities or

helped them, were directed and guided by the so-called 'DPR' and so-called 'LPR'.

The executors of these crimes on the part of the IAG also acted consciously, as law enforcement agencies had to comply with clear procedures prescribed by law, to observe fundamental procedural safeguards, including the rights of detainees to report on the fact and place of detention and the right to legal assistance, which was not complied, in detention and holding procedures, including those suspected of involvement in terrorist activities or crimes against the foundations of national security. The detention and subsequent imprisonment of persons for the purpose of the subsequent exchange of captives from Ukrainian armed groups were not just illegal, but arbitrary, because they occurred mostly in the absence of the grounds provided for this purpose by law.

The lion's share of crimes in the form of illegal deprivation of liberty provided for in Article 8 (2) (a) (vii) of the RS falls on IAF fighters along with Russian troops, who captured and detained hundreds of Ukrainian soldiers, in particular during hostilities under Ilovajsk in August 2014 (according to the database of the SP, 418 Ukrainian soldiers were captured) and under Debaltsevo in January-February 2015 (42 Ukrainian military detainees were detained on the basis of the SP database).

All these crimes were committed at the orders of the so-called 'DPR' and so-called 'LPR' authorities. Moreover, these military operations, which were the largest during the armed conflict in the east of Ukraine, were conducted with the participation of the troops and military equipment of the Russian Federation, and therefore, probably planned and guided by the military leadership of the Russian Federation. The interrogations of Ukrainian prisoners were conducted with the participation of the military and were promptly covered in Russian mass media. All such crimes were committed consciously, therefore, they had intentional character.

As has been noted above, in this and other relevant subdivisions of this submission, during the deprivation of physical liberty, in most cases, military and civilians were subjected to torture, cruel and inhuman treatment, intentional suffering or serious injury or other health damage, encroach-

ment on human dignity, in particular, offensive and humiliating behavior, and in some cases deliberate murder. Nearly in every case, the conditions for the detention of such persons were inadequate, without respect for elementary sanitary conditions, normal nutrition and medical care, in many cases they were simply unbearable. The perpetrators of these crimes were clearly realizing that such treatment of the captives grossly violates international humanitarian law.

## 5.5. TORTURE AND ILL-TREATMENT

The report of the Office of the Prosecutor for 2017 states that *«torture or ill-treatment was reportedly perpetrated by both sides in the context of the conflict, involving several hundred alleged victims. Beatings, electric shocks and other forms of physical abuse, as well as mock executions and other threats causing severe psychological trauma were allegedly inflicted on civilians, including persons suspected of allegiance to the opposing side in the conflict, and on members of both Ukrainian armed forces and armed groups. In the majority of the alleged incidents, torture or ill-treatment occurred in the context of detention, frequently in “irregular” detention facilities and often during interrogation. Torture and ill-treatment were reportedly used to attempt to extract confessions from detained persons or to force them to cooperate»*<sup>185</sup>.

According to previous conclusions in cases considered by the ICC, torture is one of the most serious forms of influence on the physical or mental integrity of a person. Torture as a criminal offense is not an act of violence without a specific purpose; it tries to achieve a certain result or goal by causing severe mental or physical pain.<sup>186</sup>

<sup>185</sup> Report on Preliminary Examination Activities 2017], par. 108.  
<[https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf)>

<sup>186</sup> Naletilić and Martinović Appeal Judgement, para. 299, affirmed by Brđanin Appeal Judgement, para. 251. ICTY (online), 3 May 2009, par. 299,  
<[http://www.icty.org/x/cases/naletilic\\_martinovic/acjug/en/nal-aj060503e.pdf](http://www.icty.org/x/cases/naletilic_martinovic/acjug/en/nal-aj060503e.pdf)>.

There is no exhaustive list of all actions or inactivity that may be torture. The statements of the use of torture should be considered on a case-by-case basis in order to determine whether severe physical or mental pain or suffering was caused as a result of the actions and the context of the commission. The actions that cause physical pain can be regarded as torture, even if they do not cause pain that accompanies a serious injury when there is severe pain or suffering.<sup>187</sup>

An offender must intentionally act in a way that, in the normal course of events, leads to severe pain or suffering of the victim (victims), physical or mental, in order to achieve one of the goals.<sup>188</sup> There is no specific requirement that an offender should act formally as a public official or another person in power.<sup>189</sup>

The prohibition of torture and cruel, inhuman and degrading treatment or punishment is absolute and applies to both parties to the conflict, and derogations from it are not permitted even in the cases of emergency, such as international or non-international armed conflict. RS defines torture and cruel, inhuman or degrading treatment as a war crime, as well as actions that can be equated with crimes against humanity.

Russia officially declares the absence of its armed representatives on the territory of the conflict. On December 17, 2015, Russian President Vladimir Putin stated that *“we have never said that there*

affirmed with Brđanin Appeal Judgement, ICTY (online), par. 251, 3 April 2007  
<<http://www.icty.org/x/cases/brdanin/acjug/en/brd-aj070403-e.pdf>>

<sup>187</sup> Brđanin Appeal Judgement, ICTY (online), par. 251, 3 April 2007  
<<http://www.icty.org/x/cases/brdanin/acjug/en/brd-aj070403-e.pdf>>

<sup>188</sup> Kunarac et al. Appeal Judgement, par. 153, ICTY (online), 12 June 2002  
<<http://www.icty.org/x/cases/kunarac/acjug/en/kun-aj020612e.pdf>>

<sup>189</sup> Kvočka et al. Appeal Judgement, ICTY (online), 28 February 2005, par. 284,  
<<http://www.icty.org/x/cases/kvočka/acjug/en/kvo-aj050228e.pdf>>  
affirmed with Kunarac et al. Appeal Judgement, ICTY (online), 12 June 2002 par. 148,  
<<http://www.icty.org/x/cases/kunarac/acjug/en/kun-aj020612e.pdf>>

*are no people involved in solving certain issues there, including in the military field, but this does not mean the presence of active Russian forces.*<sup>190</sup>

The IAG are not subjects of international law, which have judicial personality, but the prohibition of torture is absolute, and the lack of recognition of the IAG as subjects of international law does not deprive them of the responsibility for torture committed by them during an armed conflict in eastern Ukraine.

Ukraine has signed and ratified the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and has therefore committed itself to comply with these international treaties.

On October 20, 2015, the Government of Ukraine sent an official announcement to the UN Secretary-General that the application and enforcement by Ukraine of its obligations under the sixteen treaties, including the Convention against Torture, “is limited and not guaranteed” in territories deemed to be occupied and uncontrolled, and this situation will continue until the full restoration of Ukraine’s sovereignty over its territory.<sup>191</sup> However, this contradicts the absolute nature of the prohibition of torture provided for by international public law, and therefore this announcement cannot be taken into account and can not justify the possible violation of the rules of the RS, the Convention against Torture or other international documents that directly prohibit the use of torture for all parties to the conflict.

### General information about the collected data

Since the beginning of the conflict (official date — April 14, 2014) and until the end of 2015, tortures in

<sup>190</sup> Путин українському журналісту: росіяне на Донбасі «решають питання, в т. ч., і в військовій сфері». [Putin to a Ukrainian journalist: Russians in the Donbass «solve issues», including in the military sphere] YouTube (online), 17 December 2015 <<https://www.youtube.com/watch?v=H-TR85FMiBM>>.

<sup>191</sup> Report of the OHCHR «Human rights violations and abuses and international humanitarian law violations committed in the context of the Ilovaisk events in August 2014», par. 47. <[https://www.ohchr.org/Documents/Countries/UA/ReportOnIlovaisk\\_EN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportOnIlovaisk_EN.pdf)>.

the Luhansk and Donetsk Oblast were massive. This was due to the acute phase of conflict and the instability of the control over the areas. After the adoption of the Minsk accords in February 2015 and the reduction of the intensity of the conflict, the number of torture of detained persons has decreased and is not so massive.

In their reports, the OHCHR<sup>192</sup>, the AI, the HRW, and other international organizations pointed out the massive nature of torture committed by both parties to the conflict.

### Tortures by IAG

The number of people who have been tortured by both the IAG and the LAG (both representatives of volunteer battalions and the SSU) varies in the data. According to the Ukrainian authorities, 3224<sup>193</sup> people were released from the captivity by IAG, according to Irina Gerashchenko (a representative of the Ukrainian side in the negotiation process in Minsk) — each of the prisoners was subjected to torture by the part of the IAG.<sup>194</sup> These data are correlated with the data of independent observers, in particular, the OHCHR indicates the following: “Thousands have gone through these places of detention, undergoing inhumane conditions... with torture and ill-treatment.”<sup>195</sup>

During monitoring trips to the contact line (as representatives of the “Shore of Peace”, KHRG,

<sup>192</sup> “The 14th HRMMU report on the human rights situation in Ukraine 16 February — 15 May 2016”, HRMMU (online), <[https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_14th\\_HRMMU\\_Report.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report.pdf)>, para. 12.

<sup>193</sup> СБУ повідомила кількість звільнених українських заручників [The SSBU reported on the number of released Ukrainian hostages] TrueUa (online), 6 April 2018 <<https://trueua.info/news/sbu-povidomila-kilkist-zvilnenih-ukrainskih-zaruchnikov>>.

<sup>194</sup> Катували та гвалтували: Геращенко розкрила діагнози екс-полонених на Донбасі [Tortured and raped: Gerashchenko revealed the diagnoses of ex-prisoners in the Donbas], Fakty.ictv.ua (online), 23 July 2018 p., <<https://fakty.ictv.ua/ua/ukraine/20180723-katuvalyta-gvaltuvaly-gerashhenko-rozkryla-diagnozy-eks-polonenyh-na-donbasi/>>.

<sup>195</sup> The 14th HRMMU report on the human rights situation in Ukraine 16 February — 15 May 2016, par. 12 — <[https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_14th\\_HRMMU\\_Report.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report.pdf)>.

and in cooperation with the UHHRU and Truth Hounds), as well as the work of lawyers with former prisoners, more than 3000 cases of torture of prisoners (servicemen and civilians) that were committed by the IAG were collected and added to the databases<sup>196</sup>. In general, about 6 thousand people went through the places of detention of the IAG (data contained in the database of the “Shore of Peace”), which conditions of detention can be equated to torture and ill-treatment.

As a result of the information processed, it is possible to identify the places of the most massive violations of human rights, in particular, torture, which exists in a temporarily uncontrolled area:

- SSU building (Donetsk, Shchorsa street, 62);
- Former military unit number 3037 (Donetsk, Kuprin street, 1);
- Factory “Isolatsiya” (Donetsk, Svitly Shliakh street, 3);
- Temporary detention facility near the “Pivden-na” bus station (Donetsk);
- SSU building (Luhansk city, Radianska street, 79);
- A former police building in the city of Snizhne.

The detention of prisoners of war after capturing them at Ilovaisk in late August 2014 had a massive character. According to the GPO, about 300 Ukrainian volunteers and servicemen were captured during the events near Ilovaysk. Some of them were captured on August 28, 2014, but the majority — on August 29 and 30, during the retreat from Ilovaysk; Also, around 10 people were detained in early September when locals found them in nearby fields.

These servicemen and volunteers were eventually transported to four main places controlled by various armed groups: the captured police building in the city of Snizhne; The building, presumably lo-

<sup>196</sup> Незаконні затримання та катування, здійснені українською стороною в зоні збройного конфлікту на Сході України: Інформаційний звіт Української Гельсінської спілки з прав людини, Харківської правозахисної групи та неурядової організації “Truth Hounds” [Illegal arrests and torture committed by the Ukrainian side in the zone of armed conflict in the East of Ukraine: Information report of the Ukrainian Helsinki Human Rights Union, the Kharkiv Human Rights Protection Group and a non-governmental organization “Truth Hounds”] — Kyiv, 2017. — 28 p.

cated on the Bortsiv Revolutsii street; the captured building of the Academy of Internal Affairs; an captured building of the regional administration of the SSU in Donetsk. In October 2014, some detainees were taken back to Ilovaysk, where they were forced to work on the reconstruction of the city.<sup>197</sup> Detention of those prisoners of war took place in inhumane conditions (more in detail in section 5.7).

The actual composition of the committed crimes indicates that the perpetrators and organizers belong to the IAG. Often, they confirmed participation in the commission of such crimes themselves, admiring them in social networks, and posting videos on the YouTube network (beatings of the prisoners by the militant “Givi”, torture by militant “Motorola” of the captured soldiers and the execution of Igor Branovytsky).<sup>198</sup>

In the testimony of the militaries, as the executioners are mentioned both representatives of the so-called “DPR” and “LPR”, and Russian citizens who usually served as leaders.<sup>199</sup>

### The main types of torture used for prisoners of war on the part of the IAG

#### Physical Impact — Torture

1. Beating (the main parts of the body — the head, ribs, trunk).
2. Intended beatings of open wounds received in the previous battle.
3. Threats of torture, execution or shootings of certain parts of the body.
4. Torture by electrical shock (electric shocker, field-telephone, battery).
5. Passing through a living corridor of militants who attacked the captive.
6. Burning the skin with lighter, as well as the slacking a cigarette on the body part of the prisoners.

<sup>197</sup> Report of the OHCHR «Human rights violations and abuses and international humanitarian law violations committed in the context of the Ilovaisk events in August 2014», par. 94 <[https://www.ohchr.org/Documents/Countries/UA/ReportOnIlovaisk\\_EN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportOnIlovaisk_EN.pdf)>.

<sup>198</sup> See MB data base, case No. P736, case No. P735.

<sup>199</sup> See MB data base, case No. P769.

7. Cutting pieces of leather with tattoos on pro-Ukrainian themes or cutting off a hand with such a tattoo, cutting a swastika with a knife on the back.
8. Pulling out of the nostrils and the ear lops with pliers.
9. Cutting an ear with a knife.
10. The suspension on the ceiling by the neck.
11. Torture with the hot iron.
12. Artificial strangulation with wires or with a gas mask.
13. Dipping a head into a bucket of water.
14. Suspension to the pipe with handcuffs.
15. Cutting or squeezing the eye with a spoon or other handicrafts.
16. Affusion the genitals with boiling water.
17. Shooting from automatic weapons on the limbs.
18. The use of construction tools for torture (drilling legs, pulling out nails and toes with pliers, turning the tooth with a rasp-file).
19. Binding to a wooden cross and throwing into the lake, then taking out to breathe air and then sink.
20. Beating out teeth.
21. The suspension on the chin-up bar and beating all the body.

#### Inhuman treatment

1. Forcing a large number of physical exercises — pressing-up from the floor, squatting, as a result of which many of the captives blacked out.
2. Undressing and being naked or in underwear in the street in the winter.
3. Forcing to eat military chevrons of the Ukrainian Armed Forces.
4. Binding to the tree and leaving in the street at night.
5. Failure to provide medical aid to the injured, resulting in death.
6. The lifting of mines by captives.
7. Affusion with cold water.

#### Mental impact and humiliation

Forcing to get the bodies of the IAG and the bodies of the dead Ukrainian soldiers from the tilts in the Donetsk airport.

1. Threats of injection of an unknown fluid into the body.
2. Psychological pressure on family members.
3. Forcing to shoot the comrade (Person **E-03** was forced to shoot another prisoner of war<sup>200</sup>).
4. Setting the dogs.
5. Forcing to dig the grave for themselves.
6. The imitation of a shooting or other form of execution.
7. Intimidation of the captives with throwing a grenade without filler to them.
8. Forcing to eat the land.
9. The conditions of detention of all prisoners did not meet the minimum standards. According to eyewitness testimonies, the captives were in conditions not adapted for a long stay of people. The captives were kept in musty rooms, where there was no access to daylight and fresh air. Most often captives were “in the basement”, where they slept on wooden boards, pallets, rags. Drinking water, usually, was brought in plastic bottles from the toilet. These capacities were mostly served for depletion because the people were allowed to go to the toilet only according to the strict schedule.

As the separate examples of conditions, not adapted for the maintenance of people, can be mentioned the premises of the Donetsk SSU archives, the dog cages, a pit in the courtyard of the administrative building, a garage in Snizhne city, etc. More details — in subsection 5.7.

### Circumstances of committing separate crimes

#### Militaries related events

##### An E-01 Torture Event<sup>201</sup>

February 9, 2015, the person **E-01**, UAF soldier, was captured by representatives of the so-called “DPR”. The Battalion “Kryvbas”, among other military units of the Ukrainian Armed Forces, was pushed from its positions near Debaltseve, the roads were cordoned off by militants of the so-called “DPR”, the part of the battalion was wounded, and the part was captured. **E-01** was wounded in his hand.

<sup>200</sup> See MB data base, case No. P736.

<sup>201</sup> KHPG Archive, SLC’s fund, inventory 8, file 22.

Mr. **E-01** with his companions were riding along the Debaltseve — Artemivsk highway and got under ambush to the so-called “Don Cossacks”. Among them were both citizens of Ukraine and Russia, who were easily distinguished by stamps and military uniforms.

The militants brought **E-01** all the prisoners in Donetsk, placed them in the former “Nova Poshta” building, committed torture and other ill-treatment — beatings, psychological pressure, threats of murder, and beatings on wounded hands. All this was filmed on a professional video camera. The person **E-01** was threatened to be tortured and then killed if he did not give a testimony. He stayed in this room for about three months. Every day he was tortured, humiliated and threatened. He was kept with his companions in a basement, which had any conditions for living, they could not use the toilet and the shower, so they used improvised items to handle the natural needs. During the so-called interrogations, the militants used handcuffs, leather belts, guns.

The armed militants periodically went to the basement to the **E-01** and forced him to write by hand or talk on the video on the topic: “Why should I live?” In order to break the spirit of the person, they forced him to wear women’s clothing and filmed it on a photo and video, threatening to spread on the Internet. For the same purposes during interrogations they stubbed out burning cigarettes to the ear, and also cut his companion’s leg with a knife, forcing to watch for physical suffering.

After the end of three months, **E-01** and his companions were transferred to the building of the former SSU of Donetsk (Shchorsa St., 62), where they were held in archival premises that were not adapted for life. There, he and his companions were constantly beaten, humiliated, and forced into forced labor of a heavy nature.

On June 22, 2016, **E-01** and his companions were transferred to the Western Correctional Camp No. 97 in Yenakiyeve.

On December 27, 2017, the **E-01** was taken to the territory controlled by Ukraine and was exchanged.

#### The event of capture and further torture of the E-02<sup>202</sup>

On October 15, 2014, the person **E-02** together with his companions, went on the 32nd checkpoint “Bakhmutka”, between the village Smile and the settlement Frunze of the Slavyanoserbsky district of Luhansk Oblast for the combat mission. After setting a mission, the soldiers were told that they were sent to support the fighters of the 32nd checkpoint. On the way, they got into an ambush, in which organization, by the witnesses’ testimonies, except the separatists, the commander of the UAF took part. During these events, a battle took place, which resulted in the killing and wounding of both sides. Thus, six UAF soldiers were arrested by representatives of the 3rd motorized rifle brigade “Hooligan”, the 2nd brigade of the “People’s Militia” of the so-called “LPR”, and handed over (according to some reports — for a money reward) to the militants of the “Batman” rapid action team on the spot. Directly in front of the person **E-02**, the commander of the “Golden Troop” 24 TDB “Aidar” — Mr. P., call sign “Italian”, was shot dead. One of the representatives of the IAG hit his head about five times with a gun handle, which led to death.

After that, the “Batman”’s fighter put a knife to the heart of the **E-02** but then was stopped by someone among the “elders”. They presented **E-02** with a challenge, voicing it in a rude form — to cut off the genital organ, the ear, or to cut the heart. **E-02** was forced to choose — his ear was cut. During his capture, he has seen it more than once, because, in his words, they brought his ear five times in a bag from the instant soup “Mivina”, demonstrating it. In general, **E-02** was in captivity in the regional clinical hospital of Luhansk for about a month. He suffered numerous psychological bullying. He was threatened with murder, beaten up by other separatists, they lead the children who were wounded or have lost their parents, representing **E-02** as an enemy and murderer.

November 11, 2014 representatives of the so-called “LPR” released the **E-02** “as a sign of goodwill.”

<sup>202</sup> See MB data base, case No. P1255.

#### The event of capture during the Donetsk airport defense and further torture of the E-03<sup>203</sup>

The **E-03**, which carried out the combat mission on the protection and defense of the Donetsk airport, with an 80 air assault brigade, was captured on January 21, 2015, by militants of a scouting battalion “Sparta” which is part of the armed forces of the so-called “DPR”. This was preceded by the second super-powerful explosion that occurred on January 20 in a new terminal, which almost completely destroyed it. Part of the defenders of the airport was forced to make a decision to leave and did it at night. **E-03** and his companions, who later got into captivity, did not know about it. In the morning of January 21, after dawn, the **E-03** saw a white flag raised by some of the soldiers of the UAF. **E-03**, together with his companions, was forced to surrender in captivity, where he was kept for exactly one month, in order not to be ridiculously destroyed, because of the lack of means for continuing the defense. During this time, the serviceman had to suffer numerous tortures, bullying, and humiliation. From the first minute of the capture, they threatened: “Step to the left, step to the right — shooting!”, and beaten them regularly during convoys and during detention. From the words of **E-03**: “There immediately began to beat us all. Immediately. First, with legs and fists, then with sticks, and when the sticks broke with our bodies, I heard one phrase: “What do you beat them with?” They are the cyborgs! “- and submitted a metal square tube.” The captives were put on their knees, they forbade them to speak Ukrainian, forced to jump, unload coffins with the bodies of Ukrainian servicemen, threatened with the massacre of their loved ones. In addition, the person **E-03** had to witness the brutal murder of Igor Branovytsky, who was tortured by the militants of the so-called “DPR”: “They shot him to death. He was all in the blood, exhausted and, as I understood, with all the bones crushed, nothing was alive on him. He already had blood from his mouth and from the nose...They pulled me aside and said: “Look, it’s the consequences of the nonfulfillment of our demands!” Then the **E-03** was

<sup>203</sup> See MB data base, case No. P753.

forced to become a member of the simulated shootings, threatening to kill his friend in case of refusal. Here’s what he said about this: “He took me by the hair and neck, turned the face to Ihor and said:” You see? — and at that time beaten Slavko. “Your friend will lie the same if we do not film the material we need!”. He gave me a charged gun and ordered: “Shoot him, — and at that time all of us stood in a circle on our knees, — if you do not put the trigger now, then we will shoot Slavko!”, Slavko was beaten that time, I heard how this all happens, I heard Slavko himself. And in this case... I knew that the gun was discharged, I pressed the trigger. Here they laughed, ran and beat a few more times. And at this time, I lost consciousness, I vomited.”

**E-03** was released from captivity as a result of the exchange on 02/21/2015.

#### The event of capture and further torture of the E-04<sup>204</sup>

On August 29, 2014, the **E-04**, with the column of the Donbas battalion, were breaking out from Ilovay-sk, Donetsk Oblast, surrounded by armed groups of the Russian Federation, and around 10:00 was subjected to an artillery shelling near the village of Chervonosilske of the Amvrosiivka district of the Donetsk Oblast. They were falsely captured by representatives of the active forces of the Russian Federation. The captives were kept in the field almost a day, and then they were taken to Donetsk, to the courtyard of the SSU building in the Donetsk Oblast.

In the courtyard of the SSU, the captives were searched by three-person per captive. During the search, the militiamen beat the person **E-04** with hands in the chest, with legs in his legs, with hands in the liver. Forced the **E-04** to wipe boots on the Ukrainian flag, that assaulted his dignity. The person **E-04** refused to wipe his boots on the flag, for this he was beaten with weapons on the back, legs, and arms on the body.

After the search, the captives were lined up and the so-called “DPR” fighters gave Russian journalists the opportunity to film captives and the **E-04** on the camera, while journalists put questions that humiliated human dignity, namely: “Why do you shoot civilians?”

<sup>204</sup> KHPG Archive, SLC’s fund, inventory 8, file 23.

When the journalists finished filming captives on the camera and asking questions, the **E-04** was placed in the basement of the SSU. In the room, where the **E-04** was placed, were iron racks, it was an air-raid shelter. The room was about 2 by 3 meters in size, and there were 10 people, including the person **E-04**. The room was not equipped to hold people, there were no beds, the captives slept on iron racks, and if someone had not any place, on the concrete floor. **E-04** slept on a small table, mattresses and other sleeping items were not given to the captives.

In the room, there was no toilet, the only toilet was in the corridor and it became obstructed. 10 captives were taken to the toilet by militia once a day, and if someone wanted to the toilet another time, the militia did not pay attention to it, the captives used the sewage system as a toilet, from which then poured the faeces into the far room.

After the captives were placed in the basement, they were not fed two days, on the third day the militiamen gave them some soup and added the diesel fuel, so that the captives could not eat it. Subsequently, **E-04** and other prisoners were fed twice a day, mostly with a dry pearl porridge, adding the small stones or sand, apparently, in order that the captives could not eat it, sometimes gave a soup. They drank water from the wash basin, which was in the corridor.

In the basement of the building of the SSU, the captives were guarded by armed fighters of the self-proclaimed “DPR”, who constantly beat the person **E-04** and all others, could remove someone of the cell and beat, or beat directly in the cell, while exclaiming: “Your time has come, pray, now you will go to the forefathers “.

They were beating **E-04** many times with weapons on the back while saying that they would bring him to the yard of the building of the SBU and shoot him.

For the sake of entertainment, the **E-04** was forced to do push-ups from the floor and squats, and when he was out of energy, they began to beat him on their feet with a baton.

On December 26, 2014, **E-04** was released from captivity.

#### Events related to civilians

##### An event of detention and further holding, which led to infection with hepatitis C virus.<sup>205</sup>

On June 12, 2015, the **E-05** was detained in Stakhaniv, Ukraine (NGCA). Obviously, the abduction of **E-05** was due to the fact that he expressed a pro-Ukrainian position.

On June 23, 2015, the website Vesti.ru published a video which stated that the **E-05** was detained by the so-called “LPR” militiamen as an agent of the SSU and admitted that he regularly went to Ukrainian side and transmitted data on terrorists.

At the request of the authorities of the self-proclaimed “LPR”, a criminal case was initiated on charges of committing a crime — high treason to the so-called “LPR”. During seven and a half months, he was illegally detained under the control of the “LPR” and was periodically taken to interrogations, where psychological pressure and blackmail were committed. Several people, who were also accused of espionage, in particular, the Ukrainian journalist **E-06**, were detained in the neighbor cell.

The conditions in the place of detention were incompatible with the minimum conditions, in particular, the **E-05** was held with another captive, who was ill with hepatitis C and had HIV-positive status. As a result, the infection by blood led to the infection of the person **E-05** with viral hepatitis C.

On February 26, 2016, **E-05** was released from captivity as a result of a prisoner exchange operation between the self-proclaimed “LPR” and Ukraine.

##### Event on detention and further torture of the E-07<sup>206</sup>

**E-07** is a citizen of Ukraine, living in the Konstantynivka, Donetsk Oblast.

From June 23rd to August 3, 2014, he was held in captivity in the so-called “DPR”, where he was subjected to torture and ill-treatment.

In particular, during the “interrogation” **E-07** was beaten with feet, hands, of weapons, and batons. His leg was shot down, he was not given proper medical aid, which caused severe pain and physi-

<sup>205</sup> KHPG Archive, SLC’s fund, inventory 8, file 24.

<sup>206</sup> See MB data base, case No. M1976.

cal suffering. In addition, the soldiers beat him with sticks in the wound.

**E-07** forcefully ate pepper and was not given the water. They could feed him a glass of pepper.

Also, the **E-07** and his “cellmates” were put with a face to the wall and shot with pneumatic weapons on their legs. In addition, they threatened to saw him up with a gas chainsaw.

The first time the captives were given neither water nor food. After three days of being captured the captives were given porridge and one time per two or three days. They did not provide medical aid to the captives, and only once brought brilliant green.

A week after the abduction, they stopped tortures of **E-07**.

Behind the door there were always armed people, from time to time they went to the cell, checked if everything was all right. In a cell, both living people and the bodies of dead people could be at the same time. At night the bodies were taken out. Once **E-07** heard that three people were shot in the next cell.

Sometimes there were coming people in the cell, who had their bodies cut in different places, as they claimed, had been injured as a result of torture.

**E-07** always asked about his fate, but one of the commanders of the so-called “militia” said that he had to leave here for a long time. In total, he spent 41 days in captivity.

08/03/2014, they took the **E-07** out of the cellar, put a sack on the head, put him in a car, took him to the highway and left there.

#### **An event of detention and further torture of a volunteer<sup>207</sup>**

Mrs. B. was taken hostage by representatives of the Cossack Regiment of the so-called “LPR” June 20, 2014, during the intersection of a checkpoint with her own car, near the city of Rovenky of Luhansk Oblast. (details of the circumstances of the detention — in section 5.4 above).

In all, Mrs. B. was illegally detained for 103 days. During this time, she suffered numerous torture that resulted in mutilation: 19 strokes with a baton on the head, a broken ear, three broken ribs, com-

pression fractures of the back in two places, cut off the phalanx of the little finger of the left hand. She had her both eyes taken out from the eyeball with a teaspoon, they drilled her body with a screw gun more than 10 times, destroyed the fingers of her left foot with her pliers, and hammered her kneecap.

In addition to physical injury, she suffered a psychological trauma. She experienced multiple imitations of shootings, a game of “Russian roulette”, collected the remains of her companion in polyethylene bags and witnessed torture and murder of many people.

The person says about torture: “They brought me to the office to the prosecutor. There were about ten people drinking. I was beaten on my knees by hammer until it broke. Then they found another hammer. They beat me until the second hammer broke. Then they brought a screwdriver and drilled my body. More than 10 times, twice in the chest, footstep... There are reports of forensic medical examination and photos. Then the Chechen and other Russian soldier came, they had a clear Russian accent. The Russian with a call sign “Solovey” cut off my finger, and the Chechen began to insert a teaspoon into the left eye. And then he began to pull out the right eye. Then I was already screaming a lot. When a lot of tears came up, he decided that he had already pulled out my eye. When I raised my face and he saw that my eye was still in place, he made another attempt to insert a spoon into my eye. But someone from his team said: “Do not touch that eye, maybe we will need her. We’ll throw her away somewhere, force to work for us. She can still serve us.” Released on September 30, 2014.

#### **Event on the detention and further torture of the E-08<sup>208</sup>**

On June 21, 2014, the E-08 was going to the job on his own car by Makiivka by-pass and was stopped by armed people in a camouflage uniform. Threatening the massacre, militants took the possession of the car by force, arguing their actions with the words: “for the needs of the DPR”. Person **E-08** has returned home on foot. In a fateful coincidence, there was

a party ticket to Mr. E-08 in the car, testifying that he belonged to one of the pro-Ukrainian political forces. This fact has caused the arrest and subsequent terrible misery of its owner. On the same day, being at home in a state of shock because of the morning events, the E-08 was detained by representatives of the illegal armed group of the Kharkiv organization “Oplot”. One of the militants was recognized by the victim and further identified through an open page in the social network. It was one of those who robbed him in the morning. After his arrest, he was sent to a building of the former HUBOZ by his own car, which was already used by criminals for their “needs”. The decisive argument for the detention of the E-08 was a video dated March 2014, where he was on the Lenin Square in Kharkiv at a meeting, surrounded by the leadership of the local party organizations “Batkivshchyna” and “Svoboda”.

Being hostage for almost 4 months, the E-08 was in different places: an office, a pit, a garage, a basement. During this time he had to see and experience many terrible events. Among them a gunshot wound in the thigh, bullying and brutal beatings in the various parts of the body, tortures, and cuts with a knife. They locked him up in handcuffs and hung him, accompanying it with beatings; dragged a gas mask onto the head, blocking access to oxygen; gave an electric shock; once forcibly filled the glass of a mixture of red and black pepper into the mouth and for a long time did not give water; constantly committed moral and psychological pressure, humiliated him. At the same time, E-08 received no medical aid, which caused putrefaction of the leg shot by a gun, and the wounds did not heal.

In addition to physical injury, the E-08 suffered irreversible mental distress. Representatives of the IAG forced him, along with other hostages, to participate in the cleaning of corpses and amputated parts of bodies, the number of which grew every day. These were the bodies of people who were tortured and arbitrarily killed in different ways or who were executed after so-called “judgments”.

9 horrifying days E-08 had to be captured by mercenaries of the Chechen nationality, where, according to the E-08: “All that I carried before was flowers.” He survived the game “counting”, which was arranged by militants. The content of the game was

that each day the militants placed the captives in a line and forced to count off in order, every fourth or fifth was shot at the head. In the evening there were from 9 to 15 people executed. Those who remained alive were forced to dismember and pack the bodies.

About another method of killing and torture the E-08 witnessed: “The hung up some captives with their legs and stripped their skin. All others were obliged to look at this process and not to let their eyes down, and if someone did, he had to be in that place. A person shouted, asked and eventually lost consciousness. They stopped, brought him to life, and then continued. Subsequently, the remains had to be sawed up. “However, the whole arsenal of perverted fantasy of those knackers, which was evidently formed in two Russian-Chechen military campaigns, does not end there. The captives were used for the mine lifting. Here’s how E-08 mentions this: *“We were taken for 5–7 km off-road. We thought we will be shot, but we were told to turn around and go. We were going. At first, we did not understand why, while the first 3–4 people did not explode in a mine... It was forbidden to stand, those who stood — were shot. From that field, on the first day, about 20 people out of more than 100 came back”*.

E-08 was searched and released by parents who, by their own efforts, redeemed their son in the fall of 2014.

The collected information gives reasons to consider that these acts on the part of the IAG had a large-scale and systematic nature.

This likely violates the RS and the Geneva Conventions and constitutes the crime of “torture” as a crime against humanity and/or a war crime.

#### **Torture by Legal Armed Groups (LAG)**

The tortures committed by LAG are less known due to the lower number and high level of latency, since almost always such torture begins with illegal detention at the place of residence of the people along the contact line, and the victims, fearing for the safety of their family, are not accused of testifying the circumstances of such detention and subsequent ill-treatment.

Information on tortures committed by the Ukrainian party to the conflict sometimes appeared in mass

<sup>207</sup> See MB data base, case No. C3282.

<sup>208</sup> See MB data base, case No. M2317.

media, in particular, Russian soldiers detained in the conflict zone, were taken to the press conference about their arrest with apparent signs of beating (bruises on the face and visible parts of the body).<sup>209</sup>

The HRMM documented a message that the Ukrainian forces used torture and ill-treatment in Illovaysk and surrounding villages for men aged 30 to 66 years. The victims were suspected of being members of the IAG or otherwise associated with them. In Illovaysk, from August 18 to 28, 2014, most of the victims were kept in school No.14 by the Donbas volunteer battalion, which fought in the Ukrainian forces. The conditions in which men were held can be equated with ill-treatment. The victims were beaten. Currently, in the report of HRMM “Violation of human rights and international humanitarian law in the context of events under Ilovaysk in August 2014,” the cases of thirteen people from Ilovajsk and surrounding villages who were subjected to torture or ill-treatment are documented.<sup>210</sup>

The UHHRU, the non-governmental organization Truth Hounds and KHRG documented cases of 23 people detained by Ukrainian security forces based on data from 20 interviews conducted with victims and witnesses of events, as well as photos and documents transmitted by them.<sup>211</sup>

Overall, 19 of the 23 detainees were tortured and ill-treated. Among the documented arrests, only three cases of arrests took part in violent actions aimed at overthrowing Ukrainian authorities. In other cases, arrested people were former mem-

bers of non-violent meetings or civilians who did not relate to the political events.

The reasons for the detention are as follows:

- suspicion of sympathy for Russian or separatist forces;
- journalists and volunteers suspected of espionage;
- abduction in order to obtain ransom or intimidation.

In addition, monitors know about other categories of victims, who, however, refused to testify because of the fear of forfeit.

The presence of unregistered places of detention in the areas controlled by Ukraine is also indicated by the HRMM, AI and others, with reference to the testimony of persons who have visited such places and have been subjected to torture and ill-treatment.

In 2014, cases of torture and beatings by representatives of “Azov”, “Aidar”, “Shakhtarsk” (“Tornado”) and “Dnepr-1” volunteer battalions were frequent.

Speaking about the tendency, it should be noted that in 2014 — the first half of 2015, such detentions and further torture were committed by representatives of volunteer battalions, sometimes involving representatives of the SSU, and from the second half of 2015, the main performers were the representatives of the SSU themselves. It is connected with the process of legalizing of the volunteer battalions and transferring them under the command of the UAF, which led to the “clearing” of the ranks.

The SSU deny all the allegations of torture and ill-treatment, using rhetoric: “the criminals claim about torture to not take a responsibility for their crimes.”

However, international organizations have repeatedly reported receiving information about torture committed by SSU employees. Thus, the Subcommittee on Prevention of Torture (SPT) of the UN Committee Against Torture stated in its report on the visit to Ukraine in 2016 the following:

*“34. The Subcommittee has received numerous and serious allegations of acts that, if proven, would amount to torture and ill-treatment. Persons interviewed by the Subcommittee in various parts of the country have recounted beatings, electrocu-*

*tions, mock executions, asphyxiations, acts of intimidation and threats of sexual violence against themselves and their family members. In the light of all the work done and experience gained during the visit, the Subcommittee has no difficulty in concluding that these allegations are likely to be true.*

*35. Many of the above-mentioned acts are alleged to have occurred while the persons concerned were under the control of the State Security Service or during periods of unofficial detention. In such cases, detainees accused of crimes relevant to the armed conflict in eastern Ukraine, such as offences under articles 109–115, 258, 260–261 and 437–438 of the Criminal Code, are alleged to have been tortured in order to extract information regarding their involvement or that of their associates in “separatist” activities and to identify armed groups’ military positions. The Subcommittee also understands that, in some cases, acts were committed by private individuals or volunteer battalions with the consent or acquiescence of public officials.*

*44. “...On 14 November, a Donetsk resident died on the premises of Izium district police department (Kharkiv region), shortly after being taken out and then returned by masked men and an identified SBU official. Forensic examination found multiple and extensive hematomas on his body and a closed blunt injury of the chest. On 10 November, the HRMMU interviewed a man who was arbitrarily detained by the SBU and kept incommunicado for two months in the SBU building in Kharkiv.*

*...*

*69. The overall concern with the administration of justice relates to violations of fair trial standards. The HRMMU has evidence of ill-treatment, with allegations at times amounting to torture of people arrested by the SBU and MoIA in trying to secure forced confessions.”<sup>212</sup>*

*“38. In December 2014, the HRMU interviewed a man who was unofficially detained by unidentified Ukrainian servicemen and allegedly severely beaten for several days. Another detainee claimed to have been beaten by SBU officers and kept in incommuni-*

*cado detention where he met detainees who had been beaten and subjected to mock executions. A freelance journalist claimed that during his detention and SBU interrogation, masked men forcefully raised his handcuffed arms behind his back and hung him in that position urging him to confess to working for the Russian secret services. Several other detainees interviewed by the HRMU alleged incommunicado detention and ill-treatment that may amount to torture.”<sup>213</sup>*

*“46. On 9 April, the HRMMU interviewed a resident of a Government-controlled town in Donetsk region who claimed to have been kidnapped in October 2014 by a man in civilian clothes who put a bag over his head, handcuffed him and placed him in a vehicle. Then he was held in detention in a basement. For three days, he was reportedly beaten and electrocuted by masked assailants. He was forced under torture to sign a confession stating he had been “transferring intelligence information” to the ‘Donetsk people’s republic’. Then the man was taken to another basement, which he later discovered as located in Poltava. There, an SBU investigator, in the presence of witnesses, compiled a protocol about his detention “as a person who was caught while committing the crime”. Two days after, a Poltava court 12 decided to place him under house arrest. In February, the investigator tried to force him to enter a plea bargain, which he refused to do. In the beginning of April, while meeting with the investigator, he was given a mobile phone and recognized the voice of one of the individuals who had tortured him in October. The man said that if he would not sign a plea bargain, they would meet again. Later, the interlocutor informed the HRMMU that he had signed the plea agreement.”<sup>214</sup>*

*“49. HRMMU continued to observe a persistent pattern of arbitrary and incommunicado detention by the Ukrainian law enforcement (mainly by the Security Service of Ukraine). These cases were often*

<sup>209</sup> Задержанные российские десантники: мы не заметили, как пересекли границу [The detained Russian paratroopers: we did not notice how they crossed the border]. Golos Ameriki (online), 27 August 2014, <<https://www.golos-ameriki.ru/a/cartive-russian-paratroopers-say-that-did-not-realize/2429952.html>>

<sup>210</sup> Report of the OHCHR “Human rights violations and abuses and international humanitarian law violations committed in the context of the Ilovaisk events in August 2014”, para. 9 <[https://www.ohchr.org/Documents/Countries/UA/ReportOnIlovaisk\\_EN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportOnIlovaisk_EN.pdf)>

<sup>211</sup> “Illegal arrests and torture committed by the Ukrainian side in the zone of the armed conflict in the East of Ukraine: Information report of the Ukrainian Helsinki Human Rights Union, the Kharkiv Human Rights Protection Group and a non-governmental organization Truth Hounds”, UHHRU (online), <[https://helsinki.org.ua/wp-content/uploads/2017/06/ZVIT-engl\\_New1.pdf](https://helsinki.org.ua/wp-content/uploads/2017/06/ZVIT-engl_New1.pdf)>

<sup>212</sup> HRMMU Report on the human rights situation in Ukraine on 15 December 2014 <[http://www.un.org.ua/images/stories/OHCHR\\_Report\\_on\\_Ukraine\\_15\\_December.pdf](http://www.un.org.ua/images/stories/OHCHR_Report_on_Ukraine_15_December.pdf)>

<sup>213</sup> HRMMU Report on the human rights situation in Ukraine 1 December 2014 to 15 February 2015 <[http://www.un.org.ua/images/stories/9thOHCH\\_ReportUkraine\\_1.pdf](http://www.un.org.ua/images/stories/9thOHCH_ReportUkraine_1.pdf)>

<sup>214</sup> HRMMU Report on the human rights situation in Ukraine 16 February to 15 May 2015 <[http://www.un.org.ua/images/stories/10thOHCH\\_ReportUkraine.pdf](http://www.un.org.ua/images/stories/10thOHCH_ReportUkraine.pdf)>

accompanied by torture and ill-treatment, and violations of procedural rights.”<sup>215</sup>

“43. HRMMU consistently documents reports throughout the country of recurrent allegations of ill-treatment during arrest and the first hour in interrogations that are led by SBU. A man, detained by SBU on suspicion of preparing a terrorist act in Zaporizhzhia, claimed to have been repeatedly and heavily beaten, including in the SBU building...

“48. A woman who was detained by SBU on suspicion of preparing a terrorist act claims that during her interrogation, she was hung by her hands handcuffed in the back until her elbow joints were torn apart. About 20 times, a gas mask was reportedly put on her head, with the inhaler closed.”<sup>216</sup>

“47. During the reporting period, OHCHR continued to receive allegations which match the previously documented pattern of use of torture to extract confessions from persons suspected of being members of or otherwise affiliated with armed groups. Also, in a few cases, Ukrainian servicemen detained on suspicion of committing criminal offences were subjected to torture until they provided self-incriminating testimonies. It is deeply concerning that investigations into allegations of torture are rarely opened and when so, have been ineffective. Defense lawyers also rarely raise allegations of torture, either due to intimidation or as a strategy to reduce the sentence.

48. For example, in August 2015, in two separate episodes, SBU arrested two residents of Kharkiv region accused of being supporters of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ and planning to carry out subversive activities. Both victims were transported to the regional SBU department, where they were tortured (beaten, hands twisted behind the back, subjected to mock execution, and threats of violence against their families) until they signed self-incriminating statements. Although they were taken to hospital, SBU officers instructed doctors not to record any injuries. One of

the victims begged a lawyer not to raise allegations of torture in court, fearing reprisals. The victim told the doctors in the pre-trial detention facility (SIZO) that he was injured falling from a tree. Both victims remain in detention, with trials ongoing.

49. In another case, on 16 June 2016, a victim was physically attacked next to his apartment building by two men wearing balaclavas. The victim ran out into the street, where two other individuals hit him on the head, strangled him, and kicked his head when he fell on the ground. He was handcuffed, dragged into a van, and driven 30–40 minutes away. When the van stopped, an SBU official of the Kharkiv regional department questioned him about his acquaintances who joined the armed groups of the ‘Donetsk people’s republic’. Unsatisfied with the victim’s reply, SBU officers strangled, kicked and punched him while threatening his family. When the victim agreed to cooperate, the SBU officers explained that he would be taken to the Ukrainian-Russian border and detained for “smuggling weapons”. At the border, one officer stabbed the victim’s heel so he would not be able to escape. Afterwards, the victim was taken to the Kharkiv SBU building and forced to memorize a written statement. His “confession” was video recorded. The victim is currently on trial for “terrorism” and “trespass against territorial integrity of Ukraine”. While the Military Prosecutor for Kharkiv Garrison is investigating the allegations of torture, no notifications of suspicions or indictments have been issued.

50. In another case, a man was detained in his home in Nyzhnioteple in November 2016 by members of the UAF. They searched him at gun point, beat him causing lasting pain, and subjected him to suffocation and electroshocks. They forced him to make a video confession that he provided information on Ukrainian military positions to armed groups. Then he was taken to the Sievierodonetsk SBU building where he was interrogated without a lawyer and forced to sign papers in order to receive medical care. Afterwards, he was taken to the hospital but threatened by SBU officers not to complain of any ill-treatment. He is accused of being a spotter for armed groups and is currently on trial.

51. HRMM also followed cases of Ukrainian servicemen who reported being subjected to torture while detained on criminal charges. On 30 October

2014, a serviceman of the Kirovohrad volunteer battalion together with five fellow soldiers was detained by a group of 20 armed men. The victim was held incommunicado in solitary confinement for three days in the basement of the SBU regional department building in Kramatorsk. He was tortured several times a night in order to extract information about his commanders. The victim was beaten, including with truncheons, and hung from bars while being hit and subjected to electroshocks. On the third night, the perpetrators cuffed the victim’s hands behind his back, put duct tape tightly over his eyes and mouth causing pain, pushed him to the floor and kicked him. The victim lost consciousness and choked on his own blood. The beating continued until the victim confirmed that he was ready to “confess”. He was told what to say in court and forced to sign documents. The SBU officers who took him to the court threatened that if he asked for a lawyer or complained, his “therapy” in the basement would continue. In the presence of two masked, armed SBU officers, the judge ordered his pre-trial detention for 60 days, without announcing any charges. The victim’s injuries were later documented at hospital and in the SIZO. Despite his written complaints about the incommunicado detention and torture, as well as two court orders for the Office of the General Prosecutor to conduct a forensic expertise of his injuries and investigate the circumstances of his arrest, there has been no progress in investigation. As of 15 November 2017, he remains in detention and complains about not receiving necessary medical aid.”<sup>217</sup>

“27 December 2017 a simultaneous release took place: 233 individuals were released by the Government of Ukraine and 74 individuals were released by armed groups. As indicated in paragraph 10 of the Annex II to the 21st HRMM report, “Of the 234 individuals released by the Government, OHCHR had already been monitoring 142 cases prior to the simultaneous release, having interviewed individuals while in detention facilities in government-controlled territory and observed related court hearings. After the simultaneous release, OHCHR undertook

further interviews, and as of 15 February 2018, it had interviewed 64 of the released individuals, on both sides of the contact line. All described having been subjected to torture or ill-treatment, sexual violence, threats of violence, inhumane conditions of detention and/or violations of fair trial guarantees.”<sup>218</sup>

The absence of the effective investigation of cases of torture in the GCA is of concern. Unlike the situation in 2014, the Ukrainian government completely controls law enforcement agencies in the regions, and the legal status of volunteer units is regulated. However, it should be noted that the investigation of war crimes and human rights violations is carried out very slowly or not carried at all.

The locations of tortures by the Ukrainian forces are difficult to establish, among those that were able to detect by KHRG monitors and representatives of AI: the basements of the shops and administrative buildings, kindergarten in the village of Stanytsia Luhanska, unregistered places of detention (SSU buildings in Kharkiv, Kramatorsk, Izium and Mariupol), police departments or their structural subdivisions (formerly the linear department of the Volnovakha police department), etc.

The KHRG monitors documented at least 4 cases involving the torture of civilians by representatives of the LAG, namely the SSU or volunteer battalions.

### Circumstances of committing separate crimes by the LAG

#### Event on the detention and subsequent torture of a civilian<sup>219</sup>

On January 23, 2015 Mr. G. was at home (Donetsk Oblast). 6–8 people with assault rifles, who introduced themselves as a police, broke into his house, put him on his knees immediately and tied his hands behind with the plastic collar (more about the circumstances of the arrest — in section 5.4 above).

After beating, he was taken to the former linear department of the Volnovakha district police station, thrown into the dining room, locked with handcuffs

<sup>215</sup> HRMMU Report on the human rights situation in Ukraine 16 May to 15 August 2015  
<[http://www.un.org.ua/images/stories/HRMMU\\_11th\\_report\\_08.09.2015.pdf](http://www.un.org.ua/images/stories/HRMMU_11th_report_08.09.2015.pdf)>

<sup>216</sup> HRMMU Report on the human rights situation in Ukraine 16 August to 15 November 2015  
<[http://www.un.org.ua/images/stories/12th\\_OHCHR\\_report\\_on\\_Ukraine\\_EN.pdf](http://www.un.org.ua/images/stories/12th_OHCHR_report_on_Ukraine_EN.pdf)>

<sup>217</sup> HRRMU Report on the human rights situation in Ukraine 16 August to 15 November 2017  
<[http://www.ohchr.org/Documents/Countries/UA/UAReport20th\\_EN.pdf](http://www.ohchr.org/Documents/Countries/UA/UAReport20th_EN.pdf)>

<sup>218</sup> HRRMU Report on the human rights situation in Ukraine 16 November 2017 to 15 February 2018  
<[http://www.ohchr.org/Documents/Countries/UA/ReportUkraineNov2017-Feb2018\\_EN.pdf](http://www.ohchr.org/Documents/Countries/UA/ReportUkraineNov2017-Feb2018_EN.pdf)>

<sup>219</sup> KHPG Archive, SLC’s fund, inventory 1, file G-02.

to the battery, started to beat on the head, neck, and hands.

Mr. G. was kept indoors for a week, each time has beaten twice a day as scheduled. Beaten with the directory “Yellow Pages” on the head, drowned in a bucket of water, tortured by electric current. On January 31, 2015, he was taken to the imitation of the shootings, and then he was sent to Mariupol, where arranged as a detainee and they began a criminal case on charges of terrorism, but subsequently the court found the person to be innocent.

#### An event about the torture of a pensioner<sup>220</sup>

On January 16, 2015, an explosion of an unknown device occurred at the checkpoint of the UAF located in Stanytsia Luhanska, Luhansk Oblast, resulting in the death of one soldier and two injured.

On February 10, 2015, a pensioner Mr. M. was arrested at the police checkpoint near the contact line (see details of the circumstances of the arrest in section 5.4 above). After the arrest, Mr. M. was taken to a basement, there were several other people, put on a chair and beaten with the iron pipe on the body and legs. After being beaten, he was dragged to the basement, he lost consciousness several times. Subsequently, he was brought to another room, placed to the wall, then they led three more people and they began the identity parade. After this, they continued to beat him, without the use of the pipe.

After a brutal beating on the of Mr. M.’s body there were numerous bodily injuries: the popliteal hematoma of the inner thigh, slaughter of the chest, the abrasion of the thoracic spine, which were recorded both when he was placed on the Severodonetsk temporary detention facility on February 12, 2015, and to the Starobilsk pre-trial detention facility 20 February 2015 He was prescribed anesthetics.

During the HRMM monitoring visit to the Starobilsk pre-trial detention facility, representatives of the HRMM met with the detainee, learned about the tortures used to him, and on April 22, 2015, they applied the information on illegal actions of law enforcement officers, including in this case, to the GPO.

On May 17, 2017, the Luhansk Oblast Prosecutor’s Office initiated a pre-trial investigation upon

the beating of Mr. M., and on November 30, 2015, this proceeding was closed.

#### An event about the torture of E-10<sup>221</sup>

In May 2015 Mr. E-09 asked his friend — the E-10, a middle-aged man, to bring him to the village. At one of the checkpoints in the district of Bakhmut, they stopped them, checked the documents, but allowed to go further. However, soon they were caught up by the car, from which came the serviceman, sat in the car to the E-10 and ordered him to go in the direction of one of the checkpoints.

At the checkpoint, they immediately began interrogating both passengers, suspecting them in separatism (according to the E-10, he did not take any part in political events at all). The servicemen searched the car, then put the sacks on the heads of both detainee, tied their hands and put in the truck body. The person E-10 was suspended with his hands and beaten; they knocked all his teeth from one side. One of the soldiers began to cut his ear. E-09 looked over the “Right Sector” chevron on one of the militaries who beat them.

The beating continued until the truck drove to the destination — the military supporting point. There, the E-10 was interrogated again, but this time without beating.

After interrogation, the E-10 apart of his friend was taken to the premises, which he identified as one of the factories in Bakhmut. He was kept in the premises of a warehouse. At night, the soldiers who beat the E-10 came to the room and forced him to confess that he corrected the artillery fire by putting the corrector’s notebook to him.

As a result of a stroke in the back of his head, they cracked the base of the skull, which turned out only during the medical examination after the release. According to the E-10, the person who beat him wore a chevron of the “Aidar” battalion. After beating, the soldiers tried to convince the E-10 to testify that their relatives were correctors, but he refused.

The next day Mr. E-09 was placed in the cell. The previous night he was kept separately, at the military positions, where he was also beaten with breaking the ribs. In the evening of the same day,

both detainees were taken to the field with sacks on their heads. They were told to sit silently for 15 minutes, then take off the sack and ride. The servicemen brought the E-10’s car into place, but the audio system and all the money that were there were taken out of it.

The E-10 was detained for the second time in June 2015. This time, the detention also took place in the district of Bakhmut, on the checkpoint. His car was taken away, and the E-10 was transported to another car. Herewith, they also tied his hands and put a sack on his head, and brought to the premises of an unknown factory.

E-10 was interrogated. During the interrogation, he was not beaten, but they imitated shooting, shooting him near the head and between his legs. Person E-10 was forced to write a statement that he donates his car to the militaries of the ATO zone, as well as another statement that he has no claims to the people who detained him.

They released E-10 the same day, returning his car heavily damaged. The new mobile phone of the E-10 also disappeared from the car, the rest of the things remained on the spot.

The collected information gives reasons to consider that these acts on the part of the LAG had a large-scale and systematic nature. This likely violates the RS and the Geneva Conventions and constitutes the crime of “torture” as a crime against humanity and/or a war crime.

## 5.6. SEXUAL AND GENDER-BASED CRIMES

### Legal classification of sexual and gender-based violence

The report of the Office of the Prosecutor for 2017 states that *“while there are some documented instances of alleged sexual and gender-based crimes in the context of the conflict in eastern Ukraine, the information available might suffer from underreporting due to social and cultural taboos, and a lack of support services for victims in conflict affected areas, among other factors. The majority of documented instances allegedly occurred in the context of detention and targeted male and female victims,*

*including civilians and members of the armed forces and volunteer battalions or armed groups. These alleged crimes were attributed to both state and non-state forces. In several reported cases, sexual violence, including rape, threats of rape, beating of genitals and forced nudity were perpetrated in the context of interrogations.”*<sup>222</sup>

In order to be able to consider documented acts of sexual violence during an armed conflict as a crime against humanity, we draw attention to the need to focus on three elements: the act (what exactly was committed); circumstances (in what context the act was committed); the regime of responsibility (how the crime was committed and what kind of character was the role of the alleged offender in committing sexual violence).

Sexual abuse in the context of armed conflict includes rape, sexual enslavement, forced prostitution, forced pregnancy as defined in Article 7, paragraph 2 (f) of the RS, forced sterilization and any other form of sexual violence. Any other types of sexual abuse include genital mutilation, forced nudity, threats of sexual violence against the victim and members of his family. Sexual abuse can be part of torture, injury, murder, persecution, violation of human dignity.

Women, men, boys, and girls become victims of sexual violence during an armed conflict. At the same time, feelings of guilt and shame, fear of revenge, or taboo, deter the victims of violence from reporting about it. Some testimony statements in the HRMM reports<sup>223</sup> are an accessible source of information, and in the ICC practice in cases of sexual violence, the evidence is not required to support the testimony of victims under the general rules of the evidentiary procedure.<sup>224</sup>

<sup>222</sup> Report on Preliminary Examination Activities 2017, The Office of the Prosecutor (ICC), (online), 4 December 2017, <[https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf)>, par. 109.

<sup>223</sup> «Секція звітів і публікацій» [Reports & Publications section], UN Ukraine, (online), 2014–2018, <<http://www.un.org.ua/ua/publikatsii-ta-zvity>>

<sup>224</sup> «Доповідь: „Сексуальне насильство, пов’язане з конфліктами в Україні“ [Report: ‘Conflict-Related Sexual Violence in Ukraine’], (online), 14 March 2014 — 17 January 2017, <<http://www.un.org.ua/ua/publikatsii-ta-zvity/4185-conflict-related-sexual-violence-in-ukraine-14-march-2014-to-31-january-2017>>

<sup>220</sup> KHPG Archive, SLC’s fund, inventory 1, file R-13.

<sup>221</sup> KHPG Archive, SLC’s fund, inventory 8, file 25.

Most cases of sexual violence associated with armed conflict in eastern Ukraine occurred in the context of the deprivation of liberty of people from the LAG or IAG. In such cases, both men and women were sexually abused. Genital mutilation and electrocution, rape, threats of rape, and forced nudity were used as methods of torture and ill-treatment to punish, humiliate or obtain confessions. In addition, in order to increase the pressure of the perpetrators of the crimes, they also threatened with detaining, abducting, raping, injuring or killing the relatives of victims, especially their children and wives. In most cases, in the territory controlled by the IAG, sexual violence was also used to force persons deprived of their liberty, to renounce their property or to perform other acts required by the perpetrators of an offense, as an obvious condition for their security and release. Most of these cases occurred in 2014–2015. At the same time, today there is information indicating that such practice is still kept on both sides of the contact line.

We note that the highest risk of suffering from sexual abuse is related to the detention of a person, but there are also cases of sexual abuse of the civilian population, especially with regard to women in the area near the contact line, as well as areas under the control of volunteer battalion fighters and at the checkpoints of the IAG recorded.

The reason for the increase in cases of sexual violence was the deterioration of the economic situation, the impoverishment of the majority of the population, which forced many women to engage in so-called “sex in exchange for food,” especially in conflict-affected areas. Also, community disarticulation as a result of conflict and forced displacement forces some people to harmful survival strategies and adaptation mechanisms.

Acts of sexual nature are not limited to physical violence and may not even involve physical contact — for example, when it comes to forced nudity or enforcement to look at an act of a sexual nature.

According to international jurisprudence, sexual and gender-based crimes may constitute acts of genocide or other crimes against humanity or war crimes, such as torture, mutilation, persecution, inhumane acts, and outrages upon human dignity.

National legislation and judicial practice of criminal prosecution of sexual violence in Ukraine are sufficiently limited and do not meet international standards and practices. Due to the various gaps, the allegations rarely reflect the severity of their actions or the nature of the crimes and their impact on victims, limiting the administration of justice and access to effective methods of legal protection. Law enforcement officials, prosecutors, and judges lack knowledge of how to document, investigate and deal with cases of sexual violence connected with conflict, including those in the context of alleged torture and ill-treatment. As a result, victims of sexual violence often face inactivity by government agencies or armed groups, that control relevant areas.

Today, national legislation does not contain a clear definition of gender-based and/or sexual violence. Article 1 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities of Women and Men” defines the notion of “sexual harassment” as verbally expressed sexual act (threats, intimidation, scurrilities) or physically (touching, patting), which humiliate or offend persons, in the state of work, service, material or other subordination. A person who has suffered from sexual harassment is entitled to compensation for material damage through a court, but this act is not recognized as a criminal offense and no appropriate punishment for its commission is provided.

The Criminal Code of Ukraine contains five articles dealing with sexual violence: rape (Article 152), the violent unnatural gratification of sexual desire (Article 153), compulsion sexual intercourse (Article 154), sexual intercourse with sexually immature person (Article 155) debauchery of minors (Article 156). Articles 152, 153, 155 and 156 apply irrespective of the relationship in which the offender and victim are. Article 154 applies only to cases where the victim is materially or functionally dependent on the perpetrator; this is rarely used for sexual violence in conflict situations. Article 156 applies only in cases where the victim is under the age of 16.

The CC also provides for crimes related to sexual exploitation and forced pregnancy, but only in the context of trafficking in human beings (Article 149), which limits the scope of application of the relevant provisions. Depending on the circumstances, the

above crimes can be punishable by imprisonment for a term of three to 15 years.<sup>225</sup>

In national law and judicial practice, rape is defined as sexual intercourse between persons of the opposite sex against the will of the victim, combined with the use of physical violence, threats of violence or using the helpless state of the victim. This definition does not cover rape between persons of the same sex. Therefore, except in cases where the offender is a woman, men and boys cannot be considered victims of this crime. In addition, the concept of “helpless state” of the victim is interpreted by the investigators and the courts in a restrictive manner, since it does not include the circumstances which are characterized by coercion or the inability of the victim to give consent that would express her true will, which is extremely important in conditions of armed conflict.

According to the provisions of the Criminal Code of Ukraine, the vaginal or anal penetration, cases of sexual violence, where the offender and the victim are of the same sex, or other violent acts of a sexual nature, can be considered only “violent unnatural gratification of sexual desire” and only if the intent of the offender to satisfy his sexual desire in this way will be established.

In the Criminal Code of Ukraine, there are two articles which can be directly applied to cases of sexual violence connected with the conflict. Part one of article 433 provides for criminal liability for violence against the population in an operational zone, which may include sexual violence; such a crime is punishable by imprisonment for a term of three to eight years. Article 438 provides for criminal liability for violating of rules of the warfare, which includes the ill-treatment of prisoners of war or civilians (which in turn may include sexual violence); this crime is punishable by imprisonment for a term of eight to 12 years. The main focus of the Criminal Code of Ukraine is on individual criminal responsibility for the physical commission of a crime or aiding, incitement or other assistance in the commission of a crime.

<sup>225</sup> «Кримінальний кодекс України від 2001 року» [Criminal Code of Ukraine from 2001], VRU (online), <<http://zakon0.rada.gov.ua/laws/show/2341-14>>

In paragraph 5 of the Resolution of the Plenary Assembly of the Supreme Court of Ukraine No. 5 dated May 30, 2008 “On judicial practice in cases of crimes against sexual freedom and sexual integrity of a person” it is stated: “*The state of the victim should be considered helpless when it is due to the young or elderly, physical impairment, mental disorder, painful or unconscious condition, or for other reasons, because of which the victim cannot understand the nature and significance of the committed actions or cannot resist.*”<sup>226</sup>

In Articles 426 (omissions of military authorities — non-stopping of the crime or non-alerting about the subordinate who committed a criminal offense or other inaction by the military authorities, if it caused grave consequences) and 426-1 (abuse of power or authority) also provides for commands liability, which includes the features of responsibility for inaction and has particular importance in the context of an armed conflict. However, the provisions of these articles are predominantly applicable when commanders commit crimes against their subordinates and are not often used to act against the civilian population.

### Sexual violence during the armed conflict in eastern Ukraine by the LAG

We have documented a number of cases of sexual violence committed by representatives of volunteer battalions, servicemen of the UAF, officers of the SSU. The documentation of cases of sexual violence on government-controlled areas was aggravated by the fact that victims and witnesses did not want to talk about violence because of fear of revenge, stigmatization in the community, and the perception of sexual violence as secondary in the context of an armed conflict.

During the collection of information, cases of sexual abuse of men and women in illegal places of detention, at checkpoints, and also in connection

<sup>226</sup> «Постанова Верховного Суду України від 30 травня 2008 р. № 5 „Про судову практику у справах, пов’язаних із злочинами зґвалтування“» [Resolution of the Supreme Court of Ukraine from 30 May 2008 no. 5 «On judicial practice in cases related with rape crimes»] VRU (online), <<http://zakon3.rada.gov.ua/laws/show/v0005700-o8>>.

with the deployment of military personnel in settlements were revealed.

Among the forms of sexual violence committed to women by the representatives of the LAG, according to victims and/or witnesses, there was one case of rape, forced nudity, the common detention of men and women, and one case of sexual relations with a minor.

The presence of a large number of armed persons in the region, the reluctance of volunteer battalions to submit to the command of the UAF, remains one of the most serious factors that cause sexual or gender-based violence, especially with regard to women. When the victims reported these crimes to law enforcement authorities, an effective investigation was almost never carried out due to the imperfection of the law, the unwillingness and lack of capacity of the law-enforcers. The detection and documentation of cases of sexual violence were also aggravated by the lack of regular access to places of detention on the territory controlled by the IAG and LAG.

### Circumstances of committing separate crimes

Thus, there was information about the commission of torture with elements of sexual violence against detainees in cases related to the conflict in order to obtain confessions in the commission of so-called terrorist crimes by SSU employees recorded.

From an excerpt from the phone conversation F-01: *“Armed persons stopped on the road, injected him into handcuffs, put a sack on his head and delivered to the Kharkiv SSU. He was questioned and demanded to admit that he was a member of the group ‘Kharkiv partisans’. The man was beaten with feet in the stomach and head. One of the SSU staff grabbed victim’s genitals and twisted them. During this brutal bullying, which lasted about an hour, the staff constantly threatened to harm his family, including raping his wife”.*

It is also known about the case of sexual violence to a woman, committed by LAG soldiers dislocated in residential settlements. In October 2016, in Mariinka, the F-02 was alone in her house when two drunken soldiers broke into it. They started to pester her and one tried to pull her skirt off her.

She screamed hard and resisted. One of the attackers struck her face with a metal bowl, breaking her nose and lip. She managed to escape to another room and call the owner of the house. The owner called the police and commander of the military unit. The woman reported the incident to the police, but when the police came to interrogate her, they told that it was her fault. Later, the police investigator informed her that the case was closed in the absence of evidence of sexual violence.

The authors of the submission documented cases of common detention of men and women in one room, on the part of the LAG, in most cases this happened in non-adapted basements.

Another case happened on February 14, 2015, when the F-03 was detained by the soldiers of the Volunteer Battalion “Chernihiv” for interfering with another woman, who was called a separatist, a sack was immediately put on the woman’s head and she was brought to the basement of the ‘Motobond’ store, located in Stanytsia Luhanska, Luhansk Oblast. At the time they were taken to the basement, there were already seven detainees, six men, and one woman.

Also, we have documented the case of rape of a minor girl in one of the settlements of the Luhansk Oblast, under the control of the UAF. The interrogated person F-04 reported that a 14-year-old girl, living in a neighboring street, was raped by a Ukrainian soldier, from whom she gave birth to a child later. This girl is from a dysfunctional family, in which parents abuse alcohol, and the mother, while alcohol consumption with the soldiers, transferred the girl to them for sexual pleasures against her will.

Regarding recorded cases of sexual violence against men, it is a well-known and prominent criminal case with the members of the Tornado battalion. The criminal proceedings were opened in 2015 related to members of the company of the special police “Tornado” patrol service. Three of the defendants were charged, in addition, in committing crimes provided for in Part 3 of Art. 153 of the Criminal Code of Ukraine (violet unnatural gratification of sexual desire, committed repeatedly, or by a group of persons). The case is heard in the closed mode, without public access.

In one of the cases of the criminal activity, the Tornado Combatant, Ruslan Onishchenko forced the girlfriend of his to masturbate him. *“He forced me to live with him in the room. Not just in the room, but on the couch... He forced me to masturbate him...” The girl confessed that she asked not to sleep with Ruslan Onyshchenko on one bed: ‘ — I was not asking to move in a separate room — at least on a separate bed. I was denied, I was bullied regularly with verbal and physical abuse. Well, they were physically mocking, holding me as a servant.”*<sup>227</sup>

Also, the soldiers of the ‘Tornado’ arranged a torture cell in the basement of the school in Lysychansk, where local civilians, including minors and persons of retirement age, were subjected to rape and torture, regardless of their gender. This was mainly done in order to capture the property of the victims and provide additional intimidation.

Chief Military Prosecutor of Ukraine Anatoly Matios said that every fourth “Tornado” soldiers had a criminal record, and the commander of the unit, R. Onishchenko was prosecuted five times for committing serious and particularly serious crimes. According to Matios, in the basements of Pryvilne school, there were specially prepared means for violent actions, infliction of bodily injuries, beatings, and torture. According to the prosecutor, the most brutal forms of violence were sexual crimes against males committed in a highly perverse form with the video fixation of the entire process on mobile phones. In the period from March 17 to March 23, 2015, Tornado employees systematically used a basement to beat male civilians.<sup>228</sup>

Specialist police officers beat the detainees in their buttocks and genitals with their hands, legs,

<sup>227</sup> «Начальник Торнадо „змушений мастурбувати“ солдатську подругу» [Chief of Tornado “forced to masturbate” soldier’s girlfriend] — media, Експрес, (online), 09 September 2016, <http://expres.ua/news/2016/09/09/202033-komandyr-tornado-zmushuvav-masturbuvaty-divchynu-biytsya-batalyonu-zmi>

<sup>228</sup> «Торнадо „злочинів: чоловік був прив’язаний до спортивного снаряда і згвалтував“», [Tornado crimes: a man was tied to sports projectile and raped], 112.UA, (online), 19 Jun 2015 <https://112.ua/mnenie/prestupleniya-tornado-privyazali-cheloveka-k-sportivnomu-snaryadu-i-iznasilovali-18-238616.html>

plastic tubes and other objects; Also, a device similar to an electric generator was used to torture. For this, the victims were first undressed, put on a concrete floor, then water was poured, and then the executors touched different parts of the body (scrotum, penis, temples, etc.) with the bare wires, which caused severe suffering to the prisoners. During torture, “Tornado” employees used marijuana with a bong.

According to the chief military prosecutor of Ukraine, the organization of beating was personally engaged by the combatant. One of the victims said that she was forced to sleep with him. In addition, prisoners were forced to do a humiliating job: to clean latrines, to collect cigarette roaches, etc. In case of refusal to carry out, “tornado” fighters threatened prisoners with shooting. Some of the detainees were forced to dance and sing songs without clothes, squat with a weight of 24 kilograms, do push-ups from the floor, and so on.

One of the “tornado” soldiers under the threat of murder forced the detainee to suck and lick a plastic tube, imitating the physiological features of oral sex. Another was forced into such actions under the threat of an electroshock. Many prisoners were forced to rape each other by anal and oral methods, recording these scenes in a video.

Lilia Ukrainska, a well-known volunteer who brought products to ‘Tornado’, reported the following:

*“A dozen soldiers stole a young girl and raped her for 10 days until the child died. Several times I fell into such a situation when I brought help to the military and begin to pray to God to leave from there alive and healthy. I was not touched, it turns out, only because only because of some kind of laws — ‘the hand that gives should not be tied up.”*<sup>229</sup>

In April 2017, the court made a sentence in this case. Since it is restricted in access, it was unable to access it.<sup>230</sup> However, it should be noted that ac-

<sup>229</sup> «Нелюди з „Торнадо“. Як злочинці-збоченці стають «героями України» [Non-people from “Tornado”. How criminals-perverts become “heroes of Ukraine”]. Аргументы и Факты, (online) 10 August 2016, [http://www.aif.ru/society/people/nelyudi\\_iz\\_tornado\\_kak\\_ugolovniki-izvrashchency\\_stali\\_geroyami\\_ukrainy](http://www.aif.ru/society/people/nelyudi_iz_tornado_kak_ugolovniki-izvrashchency_stali_geroyami_ukrainy).

<sup>230</sup> «Вирок Суду у справі No. 756/16332/15-к від 12 квітня 2017 року» [The Verdict of the Court in case no. 756/16332/15-к from 12 April 2017], (online), <http://reyestr.court.gov.ua/Review/65922725>

cording to the law of Ukraine “On access to court decisions” it is not possible to limit access to the document as a whole, it is possible to limit only the information that relates directly to the sexual intercourse and other parties to the intimate life of the victim. In any case, it is impossible to conceal the composition of the court, the fabula of the prosecution, and the measure of punishment. Today, this sentence is being contested.<sup>231</sup>

For crimes falling within the jurisdiction of the ICC, the RS provides for various forms of responsibility, including the responsibility of commanders and other bosses. According to Article 25 RS, a person is individually responsible and punished if it carries out such a crime individually, in conjunction with another person, regardless of whether such other person is subject to criminal liability; if it orders, incite or induces other persons to commit such a crime when such a crime is actually committed or there is an attempt to commit this crime; or if it helps, incite or otherwise contribute to the commission of this crime. According to article 28 of the RS, a military commander or person effectively acting as a military commander is liable to criminal liability for crimes within the jurisdiction of the Court if such a military commander or such person knew or should have known that the forces under his command, committed or intended to commit such crimes, and if such a military commander or such person did not take all necessary and reasonable measures within their authority to prevent or stop their commission or to transfer this issue to the competent authorities for investigation and prosecution.

Though prosecution of these individuals is enforced in the national courts of Ukraine, and former police officers of the “Tornado” are in custody, however, responsible officials of the Ministry of Internal Affairs of Ukraine, who appointed persons with multiple criminal records to the police, provided power,

<sup>231</sup> «Вирок у справі „Торнадо“: Суд засудив бійців від 5 до 11 років позбавлення волі» [Verdict in “Tornado” case: the Court sentenced fighters from 5 to 11 years imprisonment], Громадське (online), 7 квітня 2017, <<https://hromadske.ua/posts/obvynувальnyi-vyrok-u-spravi-tornado-eks-biitsi-otrymaly-vid-5-do-11-rokiv-iz-pozbavleniam-zvannia>>

uniform, weapons to the former criminals, evaded the criminal responsibility. No criminal proceedings against individuals, who were the line managers of the “Tornado” and should be held responsible for the war crimes committed by their wards, were not initiated.

Incidents of sexual violence in armed conflict are also described in open sources. For example, the violence against a woman is mentioned in the book of one of the former fighters of the battalion ‘Aidar’: *“Later, they brought a local separatist, who was questioned... Then she was put in a ventilator room. A drunk man with tied hands was the hero of Maidan and an officer. He asked to untie his hands and gave the word as an officer, that he will not run away. When the separatist was closed in the room, he showed a desire to fuck her. The commandant forbade him. But when he left, the hero of Maidan got into the room and made his intention. In the morning it was possible to hear in the basement: what are you standing here? In the queue, to bring up a separatist.”*<sup>232</sup>

Also, the former “Aydar” fighter tells the following in the quoted source:

*“On the first floor, there was a window with grate and a window covered with foil. Captive women were sitting there. One of the ‘Afghans’ went there. I heard how she said: “Do not do it, you can not!” And then muffled restrained groans.”*<sup>233</sup>

Despite the decline in overall birth rates in areas affected by the conflict, due to displacement, some maternity hospitals in the settlements along the contact line report a nearly twofold increase in birth rates compared to 2015. Some of these pregnancies may be related to the presence of armed soldiers in populated areas, and, in some situations, with sexual violence.

In an interview published on December 27, 2016, the chief doctor of the maternity hospital in Avdiivka, which is under the control of the government, said: *“Almost all women who were registered with in-*

<sup>232</sup> Orel I. “The Khronic of the batalion”. — Kh., «Human rights», 2016. — 180 p.

<sup>233</sup> Orel I. Хроніка одного батальйону. — Х., «Права людини», 2016. — 180 с.

*fertility gave birth. Even those who are already 40”.*<sup>234</sup> She added that as of November 2016, the maternity hospital had already received 97 births, while for the same period last year — 46 births.

### Sexual Violence in the areas controlled by IAG

#### Sexual violence related to the conflict in the context of imprisonment

Despite the limited access to this information, which does not allow conducting confidential interviews, cases recorded by us and the separate services (SSU) that provide assistance to victims of sexual violence indicate that persons held by armed groups, especially women, are at high level of the risk of sexual abuse.

Members of the IAG are usually detaining and holding in custody local residents because of their affiliation with government authorities, support, or pro-Ukrainian positions or assumptions about it; within the so-called 30-day “administrative arrest” for violating the curfew or other “laws” imposed by them, or abducting them for extortion of money or property.

According to documented reports, men are subjected to more cruel and prolonged torture than women. At the same time, the women, detained by armed groups, are more vulnerable to rape as a result of general lawlessness and the atmosphere of impunity, lack of clear command structure and clear orders and instructions prohibiting sexual violence, and because members of armed groups have unrestricted access to depriving the liberty of persons, and the lack of independent oversight and monitoring mechanisms. Sexual abuse took place especially during the early stages of the conflict in 2014 when different armed groups managed various places of detention.

<sup>234</sup> «Безпліддя може бути як чоловіче, так і жіноче, тому зміна партнера може призвести до зміни стану», [Infertility can be both: male and female, so changing a partner can lead changing a condition, Українська правда], (online), 27 December 2016, <<https://life.pravda.com.ua/society/2016/12/27/221926/>>

In May 2014, a journalist, a F-05 person was detained at a checkpoint in Kramatorsk and was taken to the so-called commandant’s office. There she was kept all day long, was accused of espionage in favor of the ‘Right Sector’, threatened with violence. In the evening, a soldier with a call sign “Thunder” took her to the apartment and offered to undress and take a bath, then raped her. *“Later, he wanted us to sleep in one bed under the pretext that I could escape. And I asked him for a long time to sleep alone. He put me in another room but came to my bed at night. I almost fell asleep and woke up from the fact that he squeezed my shoulders and arms, and then I felt something cold inside myself, in the perineum, and I realized that it was a bullet, then he penetrated me and... He was lying behind me, I tried to escape, cried, and asked to stop. He made several moves and stopped. He said that he will not do it anymore. “Calm down. It is all right. There was nothing” and stayed with me until the morning.” On the third day, “Thunder” released her.*

We have documented a rape incident in June 2014 in the building of Artemvuhillya, which is located at the address of Donetsk Oblast, Slavyansk, Kuybyshev street, 66. The detained F-06 person provided the following information: *“The girl was brought already before my release. There were negative responses about her, I realized that her mother worked in Horlivka on ‘Stirol’, as a storekeeper. She told me that she was taken to the hotel before she was brought here, and she was raped by 7 people, and then brought to our cell, beaten there in the face. I watched it all. I do not remember her name, she was under 25 years old. A girl of vulgar behavior, maybe there were some personal issues between them. Usually, ransom for people was asked”; “The girl was raped by militiamen. She said she knew them and they will pay for it. She was from Horlivka. I do not know her fate if they let her free or not.”*

The authors of the submission also documented cases of common detention of women and men by the IAG. This happened especially often at the beginning of the conflict in 2014. Since the beginning of 2015, men and women have been kept separately. So, the person F-07, who was detained on the street in Khartsyzsk for a post in the social network of pro-Ukrainian character, was interviewed. She was

placed in the basement of the security service. There were pallets on both sides of the room, on which were jackets, pants, sheets, and mattresses. On each side, there were 6 people. Overall, there were 28 men and 2 girls in the basement.

The fact of sexual violence was documented by the authors of the submission and the SSU. All hostages, released from captivity in 2018 had a traumatic brain injury, and 12 of them reported rape. Mental injuries and rape cases are documented by a doctor. With each released, the work was carried out by specialists of the SSU. This was stated in an interview by Irina Herashchenko.<sup>235</sup>

During the collection of information for the submission, we have documented the case of rape during captivity in the cossack commandant's office in the city of Donetsk. So, the person F-08 said the following: *"In early 2016, the girl Olena with her French husband was kept with us. They came to Donetsk to visit Olena's daughter and to register a marriage. However, the checkpoint was captured by terrorists who took their car off and then thrown them to the commandant's office. She was injected with something and then raped, it was noticeable by the state in which she was returned to us, all the clothes were unbuttoned, her pants hung. We were beaten in the morning for lunch and in the evening, but they talked with her "differently" and constantly raped"*.

## 5.7. VIOLATION OF HUMAN DIGNITY

During the armed conflict on the East of Ukraine we documented the serious crimes against both military (prisoners of war), and civilians who were detained and/or placed in illegal detention centers. The crimes indicated in this subsection have a high gravity level. We believe that the described actions concerning the captured persons are a serious violation of human dignity and have the nature of offensive and degrading treatment. Such treatment is

<sup>235</sup> «Відео „Всі звільнені з полону перевіряйте спецслужби“ [Video "All released from captivity check out special services"]», Українська правда, (online), <<https://www.facebook.com/ukrpravda/videos/2268811829800131/>>

directly prohibited by the joint Article 3 of the Geneva Conventions.

Almost all events concerning the violation of human dignity, in particular, the offensive and degrading treatment, that we documented during the monitoring visits, are closely connected to the torture and ill-treatment. However, according to the international standards, a violent or inhuman treatment that causes serious psychological or physical suffering or injuries to a person is a serious violation of human dignity<sup>236</sup>.

In the case *Zlatko Aleksovski* ICTY defined the concept of "violation of human dignity". It is the action that causes disrespect for the human dignity of another person. This act must cause serious humiliation or degradation of the victim. This act does not harm directly the physical or psychological well-being of the affected person. It is enough for the act of violation of human dignity to cause real and lasting suffering of the person<sup>237</sup>.

In the same case the Court's Chamber noted that a violation of human dignity is a particularly intolerable form of inhuman treatment that causes more serious suffering than most of the prohibited actions<sup>238</sup>.

The crime on the form of violation of human dignity is prohibited by RS, it is qualified in Article 8 of RS "War crimes" and has the following elements:

- in an international conflict (Article 8 (2)(b)(xxi) of RS) —
- a) the offender must offend, humiliate or violate in any other way the human dignity of one or several persons;

<sup>236</sup> *Čelebići* Appeal Judgement ICTY, IT 96-21-A (online), paras. 424, 426. The Chamber notes that it is settled jurisprudence that the material elements of cruel treatment under Article 3 and "inhuman" treatment under Article 2 are the same and that the sole distinct element between cruel and inhuman treatment stems from the protected person requirement under Article 2, (online) <<http://www.icty.org/x/cases/mucic/acjug/en/cel-aj010220.pdf>>

<sup>237</sup> *Zlatko Aleksovski*, ICTY, Judgment IT. 95-14/1-T, (online), para. 54, <<http://www.icty.org/x/cases/aleksovski/acjug/en/ale-asj000324e.pdf>>

<sup>238</sup> *Zlatko Aleksovski*, ICTY, Judgment IT.95-14/1-T, (online), para. 54, <<http://www.icty.org/x/cases/aleksovski/acjug/en/ale-asj000324e.pdf>>

b) the offence, humiliation or any other violation of dignity was so grave that under the general recognition it should be qualified as violation of human dignity;

c) the action took place in the context of international armed conflict and was connected to it;

d) the offender was aware of the factual circumstances that evidenced the existence of the armed conflict.

• The elements of a crime in the conflict of non-international character have almost all same components, but there are also differences, they are —

a) the affected person or persons who stopped participating in hostilities, or were civilians, members of medical or religious staff, who did not directly participate in battles;

b) The offender was aware of the factual conditions that evidence about that status;

c) the action took place in the context of the armed conflict of non-international character and was related to it.

The Prosecutor of ICC in his report of 2017 on the preliminary investigation identified over 100 persons who were affected by torture and ill-treatment<sup>239</sup>. We documented more than 3000 cases of torture and ill-treatment (see subsection 5.5.) are closely linked to violation of human dignity.

From the data that we provided it could be concluded that the crimes of violation of human dignity have a massive nature and are widespread in the territory of the armed conflict in the East of Ukraine, starting since 2014. The term "widespread" in this case is used to designate "a great number of affected people" or "a widespread nature of attacks and the number of victims. In this subsection we will show a great number of crimes concerning the violation of human dignity, committed between 2014 and 01.07.2018. The violations concerning the persons indicated below, had massive and widespread nature (see Section 4).

<sup>239</sup> Report on Preliminary Examination Activities 2017, (online), para. 108, <[https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf)>

In the places of detention of the captured persons, the armed people of IAF of the so-called "LPR" and s.-c. "DPR" massively used the violations of human dignity, treated the detainees in offensive and degrading manner. Their actions were of systematic character. The term "systematic" means "organized character of the acts of violence and impossibility of their accidental emergence"<sup>240</sup>. The ill-treatment was used in order to force the persons to cooperate, for ransom or to extract confession in committing the acts of espionage or participation in battles. More detailed information about the systematic nature is provided in section 4.

All affected persons, indicated in this subsection were in illegal detention centers of IAF of the s.-c. "DPR" and s.-c. "LPR". That means, they were actually prisoners of war and were under full control of the adversary and, according to the international humanitarian law, had privileges (protection). Because of their status the prisoners of war are protected since the moment they become controlled by the adversary, and until their final liberation and repatriation<sup>241</sup>. The civilians who were or are detained in illegal detention centers have the same privileges.

On the territory controlled by IAF of s.-c. "DPR" and s.-c. "LPR", in the period between 2014 and 2018, there were documented and identified more than 140 illegal detention centers (see subsection 5.4.) The largest places of detention are big cities that are controlled by IAF since 2014 and are covered by the armed conflict, — Luhansk and Donetsk. However, we also documented other illegal places of detention of the captured people: the towns of Perevalsk, Stakhanov, Krasniy Luch (Khrustalnyi), Antracite, Izvarine, Chervonopartizansk — in Luhansk oblast and the towns of Horlivka, Dzerzhinsk (Toresk), Makiivka, Sloviansk, Starobesheve, Snizhne, Ilovaysk, Shakhtarsk, the villages of Ole-nivka of Volnovakha district, Novokaterynivka — in Donetsk oblast. Almost all centers of detention of the prisoners in the towns and villages indicated above were in the basements or subsidiary premises.

<sup>240</sup> *Tihomir Blaškić*, Appeal Chamber (online), para. 101, <<http://www.icty.org/x/cases/blaskic/acjug/en/bla-aj040729e.pdf>>

<sup>241</sup> Geneva Convention (III) Relative to The Treatment of prisoners of War of August 12, 1949, Article 5.

es of the administrative or private houses. There are also places of detention, the exact location of which is hard to determine, because they are the objects that were beyond the borders of the populated areas. All those facts can evidence the absence of the adequate conditions for detention of the prisoners, which could influence their psychological condition and significantly degrade the human dignity.

We documented such kinds of offensive and degrading treatment: marches of the captives, accompanied by public curiosity and offences by the crowd; detention in the facilities with inappropriate conditions (the absence of the proper conditions and the place to sleep, eat, the absence of toilet and other); the enforced stripping or wearing of the women's clothes (for the male persons); various kinds of hard (unpaid) work, including the equipment of the military construction; enforced watching of torture or rape of other persons; enforced illegal actions with the state symbols and military insignia, such as burning, eating or other actions concerning the state symbols, enforced collection of the bodies of the killed persons (civilians, military) and their dismemberment. In all cases the enforced actions that we documented were carried out under the threat of the guns or physical repercussions. With their actions the armed groups of IAF showed their superiority over the imprisoned people.

During the armed conflicts the conflicting sides always have to differentiate between the civilians and combatants, civilian and military objects. The Geneva Conventions and their Additional Protocols and RS prohibit the "attacks" on the "protected" objects and "protected" people. No "protected" object or person is to be harmed.

Below are the examples of particular cases of the "attacks on protected persons", which in our view could be qualified as violations of human dignity.

#### Events concerning the "Marches of the prisoners"<sup>242</sup>

Special attention is required in the cases of violation of human dignity of the persons who were detained in illegal detention centers, by way of

<sup>242</sup> See MB data base, cases No. P50, No. P625.

"marches of the prisoners" or walking through the "shame corridors". There are two documented cases of such, in our view, gross violations of human dignity of the persons who were forced to participate in them.



*The march of shame in Donetsk*

*"The march of shame"*. On 24 August 2014 in the center of Donetsk, on Lenina Square, the persons from the armed groups of the s.-c. "DPR" organized the "march of disgrace" or the "corridor of shame" (according to various sources). 57 persons of Ukrainian military, who were imprisoned by the above-mentioned groups, were brought in line on that square. The convoy was carried out by the persons wearing military uniform, armed and accompanied by service dogs. The local residents who gathered around chanted the offences "Fascists" and were throwing tomatoes and eggs at the imprisoned persons. That fact was also documented by SMM of OSCE in its daily report of 24 August 2014. That measure was organized by the head of "DPR", Olexandr Zakharchenko, among others<sup>243</sup>. That event was attended by the journalists and video operators from various media resources of the Russian Federation. The very fact of the enforced marching, its video recording and broadcasting in media environment is a degrading and offensive treatment towards the imprisoned persons.

<sup>243</sup> «День Независимости Украины по Донецку провели пленных украинских военных» [At the Independance day the captives were ill-treated in Donetsk], Youtube. 25.08.2014 (online) [https://www.youtube.com/watch?v=9PCE\\_eS7eBk&feature=youtu.be](https://www.youtube.com/watch?v=9PCE_eS7eBk&feature=youtu.be); <https://vid6.tsn.ua/2014/08/28/384051774-2.mp4>; <https://www.youtube.com/watch?v=P-EzdyHQR>

*"The march of the captured "cyborgs"*<sup>244</sup>. On 22.01.2015 the armed groups of the s.-c. "DPR" organized the march of Ukrainian military persons who were captured in Donetsk airport. Among them there were wounded people, many of them had the traces of tortures and beatings. That "march" was organized by the head of the s.-c. "DPR", Olexandr Zakharchenko, he organized the convoy and participated in following the 16 prisoners of war, to the place of shelling of the bus stop in Donetsk. O. Zakharchenko demanded the Ukrainian prisoners of war to beg forgiveness from the relatives of the persons affected by the shelling of the bus stop. The prisoners were brought on foot on the streets of Donetsk in the area of the railroad station. After that the prisoners were placed in the military "Kamaz" truck and brought to the square of Bakinskikh Komisariv, from there the captives walked on foot again. The line was constantly followed by the armed members of IAF of the s.-c. "DPR". In one of the places of the walk of the line the prisoners of war were forced to kneel. The residents of Donetsk who gathered and attended the "march", constantly tried to cause bodily harm to the captives. The civilians and the members of IAF of the s.-c. "DPR" threatened the prisoners of war to shoot them or to execute them in public<sup>245</sup>. This event was also documented in many news reels<sup>246</sup>. We want to

<sup>244</sup> "Cyborgs" are the name of the fighters of UAF and voluntary battalions who were protecting Donetsk airport. Youtube. 22.01.2015 (online).

<sup>245</sup> «Марш пленных „Киборгов“ в Донецке 22.01.2015» [The march of the captured "cyborgs" on 22.01.2015], Youtube (online), 22 January 2015, <https://www.youtube.com/watch?v=0ei7jor652E>; <https://my.pcloud.com/publink/show?code=XZ3OU77ZtspFD3h52bfr3zl0UkdpMVM1gteV>.

<sup>246</sup> Olga Marandy, «Захарченко устроил «марш пленных киборгов»: пусть просят прощения у жителей Донецка» [Zakharchenko made "the march of the captured "cyborgs": let them ask for forgiveness from the people of Donetsk], MKRU (online) 22 January, 2015, <http://www.mk.ru/social/2015/01/22/zakharchenko-ustroil-marsh-plennykh-kiborgov-pust-prosyat-prosheniya-u-zhiteley-donecka.html>; Veronika Sborshikova, «Киборгов» поставили на колени на автобусной остановке в Донецке» ["Cyborgs" put on his knees at the trolleybus stop in Donetsk], Комсомольская правда (online) 22 January, 2015, <https://kp.ua/incidents/487289-kyborhov-postavyly-na-koleny-na-meste-hde-obstrelialy-trolleibus>.

point out separately, that among the prisoners who were forced to participate in that march, there were wounded people. As a result, the prisoners received not only psychological and moral, but also physical suffering.

On the same day there was documented another act of the violation of dignity, offence and ill-treatment towards the captured Ukrainian military person, Lieutenant Colonel of UAF, commander of a battalion of the assault brigade of UAF O. K.<sup>247</sup>. After his release O. K. told that during each questioning they tried to persuade him to join the so-called "DPR".

In our view, such marches are a gross violation of the requirements of the article 13 of Geneva Convention (III) Relative to The Treatment of prisoners of War of August 12, 1949.

#### The event with "enforced eating of the military insignia"<sup>248</sup>

On 21.01.2015 the armed members of the separate intelligence battalion "Sparta", which is a part of the IAF of the s.-c. "DPR" captured a group (4 persons) of military of SSU. Before the internment of the captured soldiers of UAF to illegal detention center the commander of IAF battalion "Sparta", Tolstykh Mykhaylo Sergiyovitch (codename "Givi"), committed illegal actions concerning the prisoners. Namely: one of the captured members of UAF received physical harm, two were forced to eat the military insignia that were cut from their uniform. This fact was filmed by the members of IAF "Sparta" and video operators of various media resources of RF<sup>249</sup>.

The offender, namely, the commander of battalion "Sparta" of IAF of DPR, Tolstykh, and the jour-

<sup>247</sup> «22 января 2015 Армия ДНР привезла пленного киборга на место преступления» [On 22 January 2015 the militia of DPR conducted a captive to the crime scene]. Youtube. 22.01.2015 (online) <https://www.youtube.com/watch?v=W6TbpeZkwtI&feature=youtu.be>.

<sup>248</sup> See MB data base, case No. 1249.

<sup>249</sup> «Гиви срысается на пленных киборгов» [Givi is escaped from captives]. Youtube, 28.01.2015 (online) [https://www.youtube.com/watch?v=W0jv9X6856k&has\\_verified=1](https://www.youtube.com/watch?v=W0jv9X6856k&has_verified=1) Time code 1:40.

nalists and operators of the media resources of RF, knew of existence of the armed conflict and were aware that those actions were seriously humiliating the victims.

#### **The event with forcing to watch the torture and gather or dismember the bodies<sup>250</sup>**

The events concerning forcing any person to watch or forcing to do anything to the bodies of the deceased persons, cause such persons strong psychological suffering and degradation. In our view, such fact is a gross violation of human dignity. In subsection 5.5. in the case of Mr. **E-08** we pointed out that the persons who were imprisoned, were forced, under the threat of using violence of the members of IAF, to watch the torture of other prisoners. **E-08** was forced to dismember the bodies of the deceased persons.

#### **The event with forcing the male captives to wear women's clothes<sup>251</sup>**

As noted before, we are aware and we documented the numerous cases of violation of human dignity, in particular, the offences and degrading treatment in the form of detention of the persons in the places not suited for detention, the use of the prisoners or captured people to perform heavy unpaid work, to watch the torturing of their comrades, to wear women's clothes (for men). The case concerning the enforced stripping and forcing to wear women's clothes is described in the subsection 5.5 (the case of Mr. **E-01**). The forcing to perform those actions was carried out with the aim of showing the superiority of the members of IAF over the captured persons, in order to cause the psychological and moral suffering in as great extent as possible. From the case of Mr. **E-01** it is apparent that the tortures and humiliation were used to all persons who were detained with him. There are reasonable grounds to believe that the actions of the persons from IAF of the s.-c. DPR caused such persons suffering of heavy nature, and they have to be qualified as violations of human dignity.

<sup>250</sup> See MB data base, case No. M2317.

<sup>251</sup> See MB data base, case No. P736.

#### **The event with the humiliation of a volunteer from battalion "Aydar" on 05.09.2014<sup>252</sup>**

On 5 September 2014 23 fighters of the voluntary battalion "Aydar" — the groups "Grizzly" and "Terminator" received a mission to arrive to BP one and a half kilometers away from the village of Kolyorovi Pisky on the route Schastya — Metalist. It was a direct route for Schastya. According to the data of the military, that BP should have been controlled by UAF. However, the divisions of UAF that occupied that BP retreated, without notifying others, and the empty BP was taken by AG "Rusichi" headed by a resident of RF, Olexiy Milchakov. AG "Rusichi" was a part of the division "Batman" of IAF of the s.-c. LPR. After a short battle, the divisions of the voluntary battalion "Aydar" were defeated. The armed members of AG "Rusichi" started to verify the bodies of the soldiers to find the wounded. They started to question one of the heavily wounded persons of battalion "Aydar", without providing him with necessary medical assistance. The questioning was performed on camera by a representative of the press of RF. During the questioning the fighter was insulted. He was forced to speak Russian, threatened with execution, insulted with profanities. They treated the person without respect to his human dignity. We believe that such conduct of the persons from IAF of the s.-c. "LPR" is a direct violation of human dignity. Such treatment of the wounded by those persons was directed at demonstrating their superiority over him<sup>253</sup>.

#### **The events with detention of the captured persons in the places of detention with inadequate conditions**

We already pointed out above that almost all places of "irregular" detention of the captured persons were inhuman. Concerning some places of "irregular" detention and the conditions of detention there

<sup>252</sup> See MB data base, cases No. P22, No. P153.

<sup>253</sup> «Бетмен и Русич устроили засаду на колону подразделения украинских военных» [So called brigade Betman and Rusich attacked on Ukrainian military fomr of Aidar], Youtube, 05.11.2014 (online) [https://www.youtube.com/watch?v=D8sTS5NjC-U&has\\_verified=1](https://www.youtube.com/watch?v=D8sTS5NjC-U&has_verified=1) Time code: 12:16-15:29»

was a mention in the reports of HRMMU<sup>254</sup>. We have documented the cases of holding the prisoners in the places that were not suitable for detention at all.



*The basement room in the railroad hospital in Stanitsa Luhanska uts. where the prisoners were held*

They completely lacked the sleeping places for the captives, the detainees had to sleep on the floor. There are no places to eat, it led to the fact that the detainees had to either eat while standing or on the floor. In addition, there were no sanitary conditions (toilet, shower). Holding the detainees in pits, half-pits or collectors of heat or water supply or sewer, the complete lack of toilets or a strict regime of visiting the toilet, the lack of the places to eat — those are actions that cause serious psychological traumas and degradation of the held persons and are violations of human dignity.

#### **Holding of the soldier of UAF M. V.<sup>255</sup>**

The mobilized soldier of UAF, M. V., was captured in summer 2014. He was placed in a collector (of heat or water supply) near a populated area in Donetsk region which was impossible to identify. He was questioned through the lid of the collector, sometimes he received food or water. The people were not taken from that pit for eating or visiting restroom<sup>256</sup>. Essentially the imprisoned military man

<sup>254</sup> Office of the United Nations High Commissioner for Human Rights, Human rights violations and abuses and international humanitarian law violations committed in the context of the Ilovaisk events in August 2014, (online), [https://www.ohchr.org/Documents/Countries/UA/ReportOnIlovaisk\\_EN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportOnIlovaisk_EN.pdf).

<sup>255</sup> See MB data base, case No. W5896.

<sup>256</sup> «Пленные укropy» [So called captives Ukrops. Youtube], (online) 01.08.2015 <https://www.youtube.com/watch?v=vPLg749-VDw>

was treated inhumanly. M. V., the military person of UAF, refused to provide interview on that matter, because he did not want to recall those events.

#### **Holding of the soldier of UAF G-01<sup>257</sup>**

On 12.08.2014 a military person of UAF **G-01** was following order concerning the engineering equipment in Ilovaysk, of Donetsk Oblast. On 29.08.2014, коли when the town of Ilovaysk of Donetsk Oblast was surrounded, under the order of the commander of sector "B" the divisions of UAF and legal armed formations of UAF were to leave in the "green" corridor towards the town of Volnovakha or Starobesheve of Donetsk Oblast. During the movement a military line in which **G-01** was going was destroyed. On the same day **G-01** and around 60 more military of UAF took defense near the settlement of Nova Katerynivka of Starobesheve district. After two hours long battle all those soldiers were captured. Near 20–30 captured soldiers had various wounds. Between 29.08.2014 and 30.08.2014 all captured persons were held in the pit (deep funnel from the explosion of an artillery shell). On 30.08.2014 **G-01** and 25 more captured persons were brought to Donetsk, to a two-storey mansion unknown to **G-01**, where they were held in the basement until 09.09.2014. In that basement the prisoners had to sleep on the wooden pallets, the water was constantly leaking, and the captives were forced to constantly ladle it, so that not to flood the floor. The captives were fed with "scraps" of the meals of the armed groups of IAF of the s.-c. "DPR". The armed person of IAF of the s.-c. "DPR" with codename "Svyatiy" was responsible for guarding the captives. Other materials will be provided after a request of the Prosecutor of ICC.

#### **Holding of a civilian, Mr. G-02<sup>258</sup>**

Mr. **G-02** told, that in 2014 he was working as a guard on the pond between Mykolaivka and Dokuchaevsk of Volnovakha district of Donetsk oblast. At that time the village of Mykolaivka was taken by the military units of UAF, and Dokuchaevsk was occupied by the IAF of the s.-c. "DPR". The pond that he

<sup>257</sup> See MB data base, case No. W 2874.

<sup>258</sup> KHPG Archive, SLC's fund, inventory 7, file 2.

was guarding was not controlled by any of the parties. On 20.11.2014 in evening, when he arrived at the pond, Mr. **G-02** was detained by the representatives of IAF of “DPR” in the amount of about 6 people, and he was subjected to a heavy beating. Those persons were wearing camouflaged uniform and were armed with assault rifles, machine guns and sniper rifles (AK, PKM, SVD). After that Mr. **G-02** was taken to Dokuchaevsk in the trunk of his own car, namely, to a warehouse where was the base of the armed groups and the explosive materials were kept. He was accused of helping the UAF, correcting the artillery fire of UAF in their direction and the deaths of the representatives of IAF of the s.-c. “DPR”. On 21.11.2014 Mr. **G-02** was brought to the place of dislocation of “Oplot” brigade that was controlled by IAF of the s.-c. “DPR”, on the territory of the Polytechnic College of Donetsk (formerly). Mr. **G-02** was at first held in the basement (for 2,5 months), and later in the weapons room (for 1 month), located on the 4<sup>th</sup> floor of the building. There was no lights. He was fed 1 time a day (barley porridge and 2 slices of bread), they did not bring him out to visit restroom. They were using a bucket for their natural needs, and in the evening of each day the captive was forced to take the urine and feces from the premises under the armed convoy. Mr. **G-02** reported that during his stay in the place of detention the representatives of IAF of the s.-c. “DPR” forced him and other captives to do hard and dangerous works, such as unloading the missiles to BM-21 “Grad”. The details of detention of Mr. **G-02** are provided in the interview. The audio file can be sent after the request of the Prosecutor of ICC.

*The detention and humiliation  
of the soldier of UAF G-03<sup>259</sup>*

In 2014 **G-03** was mobilized and directed at following the military order in the area of ATO in Luhansk Oblast. He was serving in the 24<sup>th</sup> separate mechanized brigade as a Deputy Commander of the unit “APC-2”<sup>260</sup> in the rank of senior sergeant.

On 15 October 2014 the LAF of UAF of battalion “Aydar” and the 24<sup>th</sup> separate mechanized brigade

<sup>259</sup> See MB data base, case No. W264.

<sup>260</sup> Armored personnel carrier 2 (second modification).

were ordered to form a line and move to 32<sup>nd</sup> block post. That line consisted of 2 tanks, APC-2 and 2 minibuses of battalion “Aydar”. Near the block post the line was ambushed. It was shot at from high-caliber weapons. During the battle for the 32<sup>nd</sup> block post (direction for PA Orekhove in Luhansk oblast) the “APC-2” in which there was **G-03**, was damaged, and the latter was contused. After the end of the battle and the so-called “purge” **G-03** was found unconscious by the “Cossacks” (armed formation of the so-called “LPR”). To the question of how **G-03** identified the persons as “Cossacks”, he replied that “they had belt buckles, hats and other”. One of the “Cossacks” brought **G-03** to senses, searched him and took all his personal belongings, documents, started asking for his rank, putting a knife to his throat. After seeing in the military ID, the information, that **G-03** was from Volyn oblast, the “Cossack” checked his mouth for the golden crowns on his teeth. One of the “Cossacks” wanted to kill **G-03**, however, he received the order from his radio to leave everybody alive. **G-03** later admitted that the order to leave him alive was issued by “Batman”.

In Luhansk the captives were placed to the basement of the 9-storied dormitory of the “Machine College” (“National University of V. Dahl”). The basement had several rooms, **G-03** and three other soldiers (S. P., R. Sh., the respondent did not remember the name of the third soldier) were held in one of them. That basement was not equipped for holding people. Everybody were held together in different rooms — the men with women, there were even pregnant women and pensioners. Only **G-03** and three other soldiers were held separately. The captives had to sleep on the floor (on ceramic tiles), no mattresses or blankets were given. The rooms were cold. The room in which **G-03** was held was small — near 6×4 m, without the windows or the access of fresh air. The light was turned on constantly. **G-03** and his compatriots were fed very poorly, sometimes they did not receive food for three days. When they received food, the portion consisted of the scraps after the members of IAF ate. They did not receive water. Therefore **G-03** and other captives who were held with him made an opening in the plastic pipe with a piece of a tile (probably, heating system) and drank dirty water from the pipe. The captives were

not brought to the restroom, therefore they had to use a bucket or plastic bottles. Other civilian captives were bringing away the full buckets and plastic bottles. The rooms were crowded.

During his stay in the basement of the dormitory of “Machine College” (“National University of V. Dahl”) **G-03** and other captive soldiers were constantly tortured and beaten. They were brought for questioning to the investigators of IAF of the s.-c. “DPR”, all sets of questioning were recorded on video and uploaded in Internet. Also, **G-03** told us that he and other soldiers who were with him were undergoing moral and psychological pressure, they were constantly humiliated. The prisoners of war were constantly insulted, they were called “ukrops” or “benderas”. They said that **G-03** and other military of UAF arrived to Luhansk to kill, rob and torture. In addition, when the persons from IAF of “LPR” learned about the origin of **G-03**, they said that he ate children. Those words of the armed members of IAF greatly insulted **G-03**.

There were cases, when during the convoy of **G-03** the armed members of IAF of “LPR” threatened to shoot him.

On 22 or 23 December 2014 **G-03** and other prisoners of war were brought to a new place of detention, namely, to the basement of the Department of SSU in Luhansk.

The basement of the DSSU in Luhansk was not equipped for holding people either. There was no access of daylight or fresh air to the rooms. In DSSU of Luhansk the captives were also constantly humiliated and beaten. They were only fed a bit, they were brought to drink water under the convoy, but they were prohibited from taking water with them.

For 2015’s New Year) somebody of IAF of “LPR” threw a smoke bomb to the room where **G-03** was detained, shouting: “Happy New Year, ukrops!”. Since the room did not have windows, it was impossible to breathe.

**G-03** told that the members of IAF of the “LPR” who guarded them were constantly subjecting them to moral pressure and humiliating the captive soldiers of UAF. They were beaten every day, beaten by foot, hands, wooden sticks, personal belts and other items.

**G-03** also told that one time the members of IAF of the s.-c. “LPR” brought 4 or 5 women to the basement and were showing them the “ukrops”, the “cattle”. The captives were forced to kneel with their hands behind their heads. The women were civilians, likely locals. They insulted the prisoners, cursed at them, spit in their faces. It was done to psychologically break the captives. 04 January 2015 **G-03** was liberated<sup>261</sup>. After the fact of detention of Mr. **G-03** we have recorded the interview. The audio file could be sent after a request from the Prosecutor of ICC.

*Holding of the soldiers of UAF G-04, G-05, G-06<sup>262</sup>*

The persons were held in commandant’s office of the s.-c. LPR (the basement of Luhansk OSA, Luhansk, Heroiv Velykoi Vitchyznyanoyi Viny Square, 3). In various dates the citizens of Ukraine **G-04, G-05, G-06** were enlisted to UAF and sent to serve to the area of ATO. In early June 2015 they were captured by unidentified armed persons, wearing military uniform without insignia, in the area of Popasna settlement, near the line of contact. After that **G-04, G-05, G-06** were brought to Luhansk in the car under guard. In the commandant’s office **G-04, G-05, G-06** were questioned, the questioning was accompanied by their beating. Later **G-04, G-05, G-06** were brought to the basement of one of the buildings, where they were held for a month. After that the representatives of IAF changed the place of detention of **G-04, G-05, G-06** three more times, but in all cases the rooms did not meet the elementary sanitary norms, and the detention conditions of **G-04, G-05, G-06** did not meet the rules of treating the persons in custody in the aspect of both detention conditions and personal hygiene and food, as well as the complete lack of medical assistance. They were detained in the conditions not fit for living: crowded small rooms without heating, not protected from bad weather conditions, without

<sup>261</sup> «Священик УПЦ (МП) визволив з полону бойовиків старшого сержанта з Волині» [A Priest of the UOC (MP) has released from the captivity of militants the senior sergeant from Volyn], (online), Радіо Свобода, <https://www.radiosvoboda.org/a/26776990.html>.

<sup>262</sup> KHPG Archive, SLC’s fund, inventory 3, file P-01.

beds or places to sleep. They were constantly depressed because the persons guarding them often threatened them with physical repressions. During three and a half months **G-04, G-05, G-06** received very bad food of poor quality, did not have access to drinking water, because of that they had to drink the technical water. The documents concerning those persons will be provided after a request from the Prosecutor of ICC.



Prisoners

## Conclusions

The international law, in particular, the Rome Statute of ICC, defines several obligations of the parties concerning the deprivation of freedom. Any negligence concerning those obligations, on one hand, leads to a violation of the rights of the captives, and, on the other hand, leads to a war crime. Undeniably, places to eat and toilet are among the most important for the detained persons. Therefore the deprivation of such conditions and humiliating consequences of their absence are obvious examples of degrading treatment, which is an element of violation of human dignity.

It should be noted that the offenders (armed members of IAF of the s.-c. “DPR” and “LPR”) were essentially aware that they were committing crimes concerning the prisoners/captives. They also understood that their actions were performed in the context of the armed conflict and were directly connected to it. To hide the facts of the criminal actions concerning the prisoners/captives the offenders did not allow the representatives of the international organizations, including OSCE and ICRC to visit

illegal detention centers. This fact is documented in the report of HRMMU “On situation with human rights in Ukraine in the period between 15 February — 16 May 2016”. It is also pointed out in the report of AI and HRW “*You do not exist. Arbitrary detentions, enforced disappearances and tortures during the conflict in the east of Ukraine*”<sup>263</sup>.

## 5.8. FURTHER RESEARCH

In our opinion, within the jurisdiction of the ISS, there are also crimes that can be classified as enforced disappearances; the persecution of an identified group (Roma, members of the LGBTI community, believers of the churches not recognized by the Moscow Patriarchate), crimes pertaining to convicts / prisoners at the IES in the ORLDR (deprivation of the right to an impartial tribunal, violations of article 3 common to the four Geneva Conventions of 12 August 1949). KHPG plans to prepare and provide the Office of Prosecutors of the ICC with relevant submissions in 2019. Below is a brief information illustrating the appropriateness of considering these crimes within the jurisdiction of the ICC.

### Enforced disappearances

The problem of enforced disappearances is one of the most serious human rights issues in Ukraine. They were carried out by IAF in ORDLO, and units of Ukrainian state structures in the territory under the control of the government. The difference is that ORDLO has no place to complain to, and these crimes remained completely impunity. In the controlled area after the establishment of the military prosecutor’s office in such cases, criminal proceedings were opened on the statements of various enti-

<sup>263</sup> «Ви не існуєте. Довільні затримання, насильницькі зникнення та тортури під час конфлікту на сході України» [“You do not exist. Arbitrary detentions, enforced disappearances and tortures during the conflict in the east of Ukraine”], [https://www.hrw.org/sites/default/files/report\\_pdf/ukraine0716rusweb.pdf](https://www.hrw.org/sites/default/files/report_pdf/ukraine0716rusweb.pdf), csh. 36.

ties, although the investigation as a whole cannot be considered effective.<sup>264</sup>

Since November 2015, enforced disappearances in the controlled territory were not recorded by us (except disappearances made by the SBU for exchange). In ORDLO in 2014, they were held daily. After the military conflict entered the stage of low intensity the number of disappearances decreased, but they remain frequent. The fate of the disappeared persons is not notified about. The disappeared persons are only recognized among the deceased with the traces of a violent death after a period that could last between several hours and several months or more, or it turns out that a disappeared person is in the place of detention of the s.-c. MSS.

Lack of a single methodology of definition of the missing persons, and coordination between various State bodies led to appearance of various assessments of the number of disappearances in the zone of military conflict — between several hundreds and several thousands of persons.

On 15 February 2015 MBC published the list with the data of 1331 missing persons in the zone of armed conflict.<sup>265</sup> According to the data of the Department of NPU in Donetsk region, between April 2014 and the early 2017 2727 persons went missing in Donetsk region, the fate of 1053 of them is unknown. According to the data of Luhansk region CMA, 633 persons are found, the fate of 572 per-

<sup>264</sup> KHPG Archive, SLC’s fund, inventory 2, file 7. Replies to official information requests. NPU department in Donetsk region informed that pre-trial investigation is carried out in 917 criminal proceedings regarding disappearances of persons; 617 regarding illegal deprivation of liberty or kidnapping of a person; 12 regarding hostage taking. Only 47 cases concerning unlawful detention were filed to the court and only 1 case concerning hostage taking. NPU department in the Luhansk region informed that pre-trial investigation is carried out in 364 criminal proceedings regarding disappearances of persons, 534 regarding illegal deprivation of liberty, 3 regarding hostage taking. Only 60 cases concerning unlawful detention were filed to the court; 1 case concerning disappearance and none concerning taking hostages.

<sup>265</sup> «Перелік осіб, які зникли на території проведення АТО» [List of persons who disappeared on the territory of ATO], National police of Ukraine (online), 15 February 2015, <http://old.npu.gov.ua/mvs/control/main/uk/publish/article/1141400>.

sons remains unknown.<sup>266</sup> A lesser number of missing persons is according to the SSU assessment — 403 persons.<sup>267</sup> All these data refer to the controlled territory. It is not possible to estimate the number of missing persons in ORDLO.

It is clear that many missing persons could be dead and their bodies are either not found at all or not identified. As of 1 April 2018, 307 deceased persons remain unidentified.<sup>268</sup>

The database of CO “Shore of Peace” contains the data about 4296 missing persons for the entire period of the military conflict in the East of Ukraine. As of late August 2018, the database contains 1297 missing persons. According to the data of “Child Search Service” of CO “Magnolia” as of 1 June, 2018, in 2014–2018 102 children went missing in Donetsk region, 7 of them are still missing, 123 children went missing in Luhansk region, none of them are in the search as of now.<sup>269</sup>

The SSU is responsible for enforced disappearances for the purpose of exchanging prisoners of war and civilian hostages who are in custody in ORDLO. The SSU forms a so-called ‘exchange fund’: it looks for people who are implicated in committed crimes linked with separatism, state treason, terrorism or other offenses under SSU jurisdiction, detains them and offers exchange for those held prisoner in LNR or DNR instead of criminal prosecution and long sentences. The detainees tend to agree to the exchange. Then they are taken to unknown places of pre-trial detention of the SSU, which according to law cannot be in the SSU, where they are kept before exchange without any communication with the outside world. Where exactly these “secret

<sup>266</sup> KHPG Archive, SLC’s fund, inventory 2, file 7. Reply to information request.

<sup>267</sup> С начала российской агрессии на Донбассе исчезло рекордное число украинцев — Грицак озвучил шокирующие данные» [Since the beginning of the Russian aggression in Donbas, a record number of Ukrainians have disappeared — Hrytsak voiced shocking data]. Interview (online), 15 December 2017, [https://www.dialog.ua/ukraine/139595\\_1513348177](https://www.dialog.ua/ukraine/139595_1513348177).

<sup>268</sup> «На Донбассе не могут идентифицировать 307 погибших — нардеп» [In Donbass, one cannot identify 307 dead — MP], Donbass news (online), 3 May 2018, <http://novosti.dn.ua/news/281540-na-donbasse-ne-mogut-ydentyfycyrovat-307-pogybshykh-nardep>.

<sup>269</sup> Annex 34, p. 9.

prisons of the SSU” are located is unclear. Reports of the international organizations and separate testimonies point to cells in the SSU departments of eastern cities of Ukraine.

For more information on the problem of enforced disappearances and disappearances due to armed conflict.

## Persecution of identified groups

### Roma

According to statistics from the UNHRC, which are based, in turn, on information received from Romani NGOs in Ukraine, approximately 6,000 Roma have fled their previous places of residence in the conflict zone<sup>270</sup>.

The fear of being killed by shelling was not the only reason the Roma had for fleeing the territories occupied by the separatists. No less of a risk was posed by disregard for the law, arbitrary treatment, and violence on the part of the pro-Russian fighters. The actions of these fighters were sanctioned by the governments of these unrecognized republics and began before the start of any large-scale fighting. Instances of arbitrary detention, theft, beatings, killings, and even pogroms against Roma have been documented.<sup>271</sup>

Two Roma women (45 and 28 years old) and a girl of 7 or 8 years old were found raped and murdered (shot) by militants in Shchotove town of Antratsit district, Luhansk Oblast. The incident happened in May-June, 2014, when the women returned home after temporary leave out of the active military actions

zone. Their relatives were afraid to apply for investigation; nobody was prosecuted for the crime.<sup>272</sup>

The situation for Roma in Sloviansk, Donetsk Oblast was particularly dramatic. It was there that in April 2014 pogroms of Romani homes, accompanied by violence, were carried out by representatives of the so-called “self-defense forces,” which were made up of armed formations under the command of Vyacheslav Ponomarev, “the people’s mayor” of Sloviansk. People interviewed for this report attributed anti-Roma statements to Igor Girkin, the commander of pro-Russian fighters in Sloviansk.<sup>273</sup>

The pogroms kept the Romani population in the grip of fear: people were scared of being seen by the separatists and tried to find a way to leave the city safely. However, Roma were detained at DPR checkpoints and sent back to Sloviansk, explaining that there was an order to “not allow Roma to leave the city” (the fact that these checkpoints belonged to the separatists can be confirmed by testimony given by Roma that there were no Ukrainian flags flying there and the soldiers were not wearing decorations).<sup>274</sup>

Some people interviewed reported that soldiers from the Ukrainian army also did not let Roma through their checkpoints, citing an order from their commanders. There was evidence of this kind of interference at the checkpoint in Barvenkovo (to the west of Sloviansk) and on the way out of Kramatorsk. The Roma say they were able to pass through the Ukrainian checkpoints with the help of bribes.<sup>275</sup>

The Roma of Sloviansk were extremely shaken by a tragedy that occurred in May 2014, when a young Lovari Rom named Bunchur Cherepovsky was killed as he tried to pass through a separatist checkpoint (presumably in Bylbasovka settlement to the west of Sloviansk). According to people interviewed, he died from a beating.<sup>276</sup>

<sup>272</sup> Ibid.

<sup>273</sup> “Roma and War in Eastern Ukraine — refugees, displaced persons, victims of violence” Anti-discrimination Center Memorial (online), 2015, <<https://adcmemorial.org/wp-content/uploads/RomaReportUkrwww.pdf>> p. 22–24.

<sup>274</sup> Ibid, p. 22–24.

<sup>275</sup> Ibid, p. 24–25.

<sup>276</sup> Ibid, p. 26.

For more details on the peculiarities of Roma status and their persecution during the armed conflict, see the alternative report on Ukraine’s implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, prepared by the KHPG together with the Anti-Discriminatory Center “Memorial” for the 90th session of the UN CERD, 2016.<sup>277</sup>

### LGBTI

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”.<sup>278</sup> 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”.<sup>279</sup> 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”; “they’re scared that they’ll be stabbed around the corner and that will be that”. 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”.<sup>280</sup> 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.<sup>281</sup>

Another problem was the lack of electricity and communication lines from the spring to the fall of 2014. 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?”.<sup>282</sup>

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”.<sup>283</sup>

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”.<sup>284</sup> Former residents of Donetsk reported that “if there was no ransom paid, people were sent to the trenches”.<sup>285</sup>

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 exam-

<sup>280</sup> Ibid, p. 22.

<sup>281</sup> Ibid, p. 22.

<sup>282</sup> Ibid, p. 22.

<sup>283</sup> Ibid, p. 22.

<sup>284</sup> Ibid, p. 23.

<sup>285</sup> Ibid, p. 23.

ple, 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.

For more information on status of LGBTI in the ORDLO see the report “Violation of LGBTI Rights in Crimea and Donbass: The Problem of Homophobia in Territories Beyond Ukraine’s Control”, prepared by the Antidiscrimination Center “Memorial”.<sup>286</sup>

#### ***Believers of the churches not recognized by the Moscow Patriarchate***<sup>287</sup>

At the very beginning of the conflict, the so-called DNR and LNR proclaimed the Orthodoxy of the Moscow Patriarchate as the main religion of the region and pointed out it in their “constitutions”. The IMF openly expressed their belonging to Orthodoxy and began to repress the representatives of Protestant and Catholic churches and Orthodox believers who did not recognize the Moscow Patriarchate. Some of the priests of the Ukrainian Orthodox Church of the Moscow Patriarchate in one way or another supported the IMF in carrying out this campaign against other churches.<sup>288</sup>

In March 2014, representatives of local churches united to form the Donetsk Council of Churches, comprised of some 60 churches of different denominations. 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.<sup>289</sup> 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<sup>290</sup>. The Prayer Marathon was allowed to take place, on the condition that there was no mention of Ukraine as a nation.<sup>291</sup>

Aleksander Khomchenko, a pastor who was one of the organizers of the crossdenominational 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. 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.<sup>292</sup>

<sup>289</sup> Ibid, p. 11.

<sup>290</sup> Ibid, p. 12.

<sup>291</sup> Ibid, p. 12.

<sup>292</sup> Ibid, p. 12–13.

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.<sup>293</sup>

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.<sup>294</sup>

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.<sup>295</sup>

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. 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.<sup>296</sup>

<sup>293</sup> Ibid, p. 14.

<sup>294</sup> Ibid, p. 15.

<sup>295</sup> Ibid, p. 15.

<sup>296</sup> Ibid, p. 15.

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.<sup>297</sup>

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.<sup>298</sup>

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.<sup>299</sup>

There are many examples of persecution on religious grounds. These examples confirm that non-Orthodox religious believers living in the conflict-affected areas of Ukraine are being subjected to widespread and systematic attack by the IMF.

#### **Crimes against convicts detained in the ORDLO**

In August-December 2014 the representatives of IAF captured PI on the occupied territory. 14 of 16 PI in Luhansk region and 14 of 20 PI of Donetsk region fell under control of IAF. As of 1 November 2014, 16 200 persons were in PI and SIZO in Donetsk and Luhansk regions.

Some of those institutions underwent systemic artillery shelling. The shell shards often fell on their territory, and sometimes hit the very buildings of CF and SIZO. As a result of such shelling some de-

<sup>297</sup> Ibid, p. 15.

<sup>298</sup> Ibid, p. 15.

<sup>299</sup> Ibid, p. 16.

tainees died, some were injured. Without a real possibility to leave the dangerous zone and feel safe, they survived under shelling for months. Those who were detained in the cells could not even descend to a bomb shelter because nobody brought them there. During powerful shelling the administration of PI was hiding, leaving the detainees on their own.

The institutions suffered the most from the shelling during the active hostilities in 2014–2015, but sometimes the correctional facilities are still being shelled<sup>300</sup>. IAF placed the military vehicles near PI with hundreds of defenseless detainees, they used the vehicles to shoot in the direction of Ukrainian military. Thus, they put the persons in the correctional facility in danger of the return fire, which often happened after some time. And when some of the convicts were injured or trapped under the rubble of a destroyed building, the members of IAF did not provide the urgent medical assistance.



Chornukhine facility after the shelling

Since December 2014 the employees of SPSU who left the dangerous regions were replaced by the “new administration” of PI. It consisted of the state officials of Ukraine who swore loyalty to the so-called “L/DPR” and the members of IAF. Simultaneously the funding of PI of the region from the state budget of Ukraine stopped. The members of IAF did not provide the convicts with food, therefore the starvation started in most of the PI. For months the convicts could only eat the boiled sour cucumbers or boiled sour cabbage, bitter and soggy pan-

cakes, diluted soup almost without cereal. To survive the convicts had to ask their relatives to bring them food. Those who did not have relatives had to buy food at the raised prices from other convicts who co-worked with PI administration.<sup>301</sup>

However, not only the quality of food, but the general detention conditions became intolerable. In 2015 PI did not have heating in winter. The cell windows were shattered by the blast waves, they were shielded with plywood that could not effectively protect from cold and wind. The convicts had to buy stoves at their own expense, at the same time the persons with life sentences were not even allowed to use them. They had to create fires in their cells using the everyday items: wooden furniture, clothes, to at least boil their water. The walls were covered with frost, the water froze and the temperature dropped to zero. There were periods when there was no electricity or water supply for weeks. The amount of water the convicts could drink was limited. Moreover, they could not use the hygienic procedures, the cells and bathrooms reeked of sewers.<sup>302</sup>

In such conditions the detainees’ chronic diseases worsened and they received new ones. A small cut was enough for a development of a trophic ulcer in absence of the hygiene products, with lowered immunity and effective absence of medical assistance. Some of the PI did not have doctors at all for a long time. To have a paramedic was considered a great luck. Even when there were doctors there were no medicines, except for the simplest. The convicts with HIV/AIDS were not provided with ART-therapy for several months. Only the persons in the most serious conditions were brought to the hospitals. No wonder that some of the convicts died in hospitals.<sup>303</sup>

Illegal physical force was often applied to the convicts. Feeling their absolute impunity, the members of IAF could beat a person to death, leave a convict without clothes outside for an entire day in the winter, sic the dogs on a detainee. They showed an especially negative attitude towards the detainees

who originated from the western Ukraine, as well as those who refused to work. As a result, almost everybody worked without payment, for 10–12 hours each day and without the special clothes. Although there was a better attitude towards those who worked, like everybody else, they could not contact their relatives, their freedom of religion was limited, they suffered during the illegal searches, when the appliances were broken and all their valuables were taken away — even the new clothes and blankets in cold winter.<sup>304</sup>

Their only chance to leave the inhuman conditions was to be transferred to PI on the territory controlled by Ukraine, to that end the convicts submitted their applications. But such possibility of transfer now exists only in Donetsk region and fully depends on the members of IAF. They may refuse to transfer anybody on any purpose, moreover, many of the convicts have troubles submitting the application for transfer. Such applications are not admitted for different reasons. Moreover, the transfer goes on very slowly. Many convicts dream of returning to the controlled territory. Not only because of their hostile attitude towards the separatists, but also because: *“Now I often recall how in the childhood my grandfather told me about a German concentration camp. Back then I couldn’t imagine how it feels to be there. And now, thanks to all persons involved! — I was there myself”* (respondent L. who was in Yenakiyev CF no. 52).<sup>305</sup>

Holding the persons in custody on the temporarily occupied territory is illegal. However, the absence of the reasons to hold them in custody under Ukrainian legislation is not an obstacle for the occupation authorities, so the persons convicted by the courts of Ukraine before the start of the occupation keep serving their sentences on the occupied territory. Moreover, the persons who had the status of suspects, defendants but were not convicted yet and were held in custody at the start of the occupation are also in the places of the deprivation of liberty.

The Ukrainian state can only indirectly influence the detention of individuals in the places of non-

freedom on the occupied territory because of the absence of Ukrainian state authorities on that territory.<sup>306</sup>

Conditionally the persons in custody could be divided into following groups:

- those who were convicted and whose sentence entered into legal force before ATO;
- those who were convicted but whose sentence didn’t enter the force before ATO;
- those who were not convicted but whose case was in a first-instance court;
- those who were undergoing pre-trial investigation at the moment of start of the ATO.
- those who were detained and/or convicted members of IAF.

Each of the groups has the peculiarities of its legal status. For the first group of persons whose sentence entered into force the issue of counting of their time spent in custody on the occupied territory to the terms of their sentence is especially relevant, as well as applying to them the Law no. 838-VIII “On amending the Criminal Code of Ukraine to improve the procedure for enrollment by the court of the term of pre-trial detention to the term of sentence” (also known as the “Savchenko law”), early release, amnesty. On the other hand, it is the least vulnerable category of the convicts. They were already convicted, and although there were attempts to review their sentences, in general they continue to serve their sentences established by Ukrainian courts.

The convicts sentenced to life imprisonment demand particular attention. They often hear the threats to review their sentences. And since the so-called “criminal code of DPR” envisages the possibility of death penalty for some particularly gross offences, the life of such convicts can end up in direct danger anytime.<sup>307</sup>

Four other groups more or less depend on the quasi-judicial bodies of the unrecognized republics. Since Ukrainian courts left the case materials in the occupied regions during the evacuation, IAF could possess the documents and continue their quasi-judicial review. Only in some of the courts of

<sup>300</sup> Annex 35, p. 9–11. «The rights of convicts detained in the OTLDR», KHPG (online), August 2018, <<http://khp.org/en/index.php?id=153615517>>.

<sup>301</sup> Ibid, p. 36–38.

<sup>302</sup> Ibid, p. 35.

<sup>303</sup> Ibid, p. 39–41.

<sup>304</sup> Ibid, p. 17–24.

<sup>305</sup> Ibid, p. 44–48.

<sup>306</sup> Ibid, p. 29–34.

<sup>307</sup> Ibid, p. 29.

Luhansk region the employees burnt down the criminal and civil case files that were on consideration. Sometimes the cases of the detainees and accused persons remain on the territory controlled by the government and the persons themselves — on the uncontrolled territory.

In such cases the quasi-courts reviewed the materials of the proceedings at their discretion, to only consider the cases. There were documented instances when the process of consideration of a case went on in absence of the witnesses, or, in another case, the suspect was offered to plead guilty in full to have a chance to go free, because the time he spent in custody already exceeded the term of punishment envisaged for the crime he was charged with.<sup>308</sup>

<sup>308</sup> Ibid, p. 32–33.

In view of the members of IAF, all the convicts, accused persons, suspects, regardless of the stage of consideration of their cases, are in their jurisdiction. Those who originate from Donetsk or Luhansk regions are called “citizens” of the unrecognized republics and they are offered to receive the local “passports”.

The administration of PI usually “loses” the Ukrainian passports to implement the psychological pressure on the convicts, threatening them. The status of such persons under Ukrainian legislation is undefined. Therefore, the common problem of all groups of persons in custody on the occupied territory is their unregulated legal status.

In general, it can be argued that there is a mass violation of the right of prisoners in the ORDLO to liberty, access to justice and the lack of justice.

## 6. PREREQUISITES FOR MOVING BEYOND A PRELIMINARY EXAMINATION AND INITIATING AN INVESTIGATION

In deciding whether a “reasonable basis” exists for initiating an investigation, the ICC Prosecutor considers whether:

- a) the information available to the Prosecutor provides a reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed;
  - b) the case is or would be inadmissible under Article 17 of the Statute;
- and
- c) taking into account the gravity of the crime and the interests of justice, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice.<sup>309</sup>

At this stage, the applicable evidentiary standard is that of “reasonable basis to believe”, which means that it is only necessary for the Pre-Trial Chamber to arrive at the conclusion that “a sensible or reasonable justification for a belief” that the crimes within the jurisdiction of the Court have been committed exists.<sup>310</sup>

Below we elaborate on the fulfilment of the abovementioned prerequisites necessary for the initiation of an investigation and call upon the ICC Prosecutor to seek the Pre-Trial’s Chamber authorization of an investigation into the situation of Ukraine.

<sup>309</sup> Rome Statute, Art. 53(1)(a)(c).

<sup>310</sup> Pre-Trial Chamber II, Situation in the Republic of Kenya, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, ICC (online), 31 March 2010, <<https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/09-19-Cor>>, paras. 27–35

### 6.1. JURISDICTION

Ukraine is not a State Party to the Rome Statute.<sup>311</sup> It invoked Article 12(3) of the Rome Statute twice, having accepted the ad hoc jurisdiction of the ICC with respect to the Maidan events (Declaration I)<sup>312</sup> and the alleged crimes committed on the territory of eastern Ukraine and Crimea (Declaration II).<sup>313</sup>

<sup>311</sup> Ukraine signed the Rome Statute on 20 January 2000. In 2016, the Ukrainian parliament adopted constitutional amendments, which provide that the provision on the exercise of the ICC jurisdiction will “enter into force three years after the date of the official publication of the act”. It is widely expected that the ratification process will take place in 2019.: Закон України ‘Про внесення змін до Конституції України (щодо правосуддя)’ (Law of Ukraine on Amending Article 124 of the Constitution of Ukraine (with regard to the recognition of the ICC Statute), Legislation of Ukraine (online), 2 June 2016, <[http://zakon2.rada.gov.ua/laws/show/1401-19/para\\_n6#n6](http://zakon2.rada.gov.ua/laws/show/1401-19/para_n6#n6)>.

<sup>312</sup> Declaration of the Verkhovna Rada of Ukraine to the ICC on the recognition of the jurisdiction of the ICC by Ukraine over crimes against humanity, committed by senior officials of the state, which led to extremely grave consequences and mass murder of Ukrainian nationals during peaceful protests within the period 21 November 2013 — 22 February 2014 signed by the Chairperson of the Verkhovna Rada of Ukraine Oleksandr Turchynov, ICC (online), 25 February 2014, <<https://www.icc-cpi.int/itemsDocuments/997/declarationVerkhovnaRadaEng.pdf>>.

<sup>313</sup> Declaration of the Verkhovna Rada of Ukraine to the ICC on the recognition of the jurisdiction of the ICC by Ukraine over crimes against humanity and war crimes committed by senior officials of the Russian Federation and leaders of the Russian Federation and leaders of terrorist organizations “DPR” and “LPR”, which led to extremely grave consequences and mass murder of Ukrainian nationals signed by the Chairperson of the Verkhovna Rada of Ukraine V. Groysman, ICC (online), 4 February 2015, <[https://www.icc-cpi.int/iccdocs/other/Ukraine\\_Art\\_12-3\\_declaration\\_08092015.pdf](https://www.icc-cpi.int/iccdocs/other/Ukraine_Art_12-3_declaration_08092015.pdf)>

On 29 September 2015, based on Ukraine's second declaration under Article 12(3), the ICC Prosecutor announced the extension of the preliminary examination of the situation in Ukraine to include alleged crimes occurring after 20 February 2014 in Crimea and eastern Ukraine.<sup>314</sup> Therefore, Ukraine's second declaration accepting the ad hoc jurisdiction of the ICC provides the jurisdictional basis for the ICC Prosecutor to examine the alleged crimes enumerated in this communication.

As for *ratione temporis*, the second declaration covers alleged crimes committed on the territory of Ukraine from 20 February 2014 onwards.<sup>315</sup> Therefore, ongoing violations qualifying as war crimes or crimes against humanity committed in eastern Ukraine and Crimea fall within the jurisdiction of the ICC. The crimes detailed in this Communication include alleged crimes committed from April 2014 onwards, thus falling within the jurisdiction of the ICC.

The crimes enumerated in this communication fall within the subject matter (*ratione materiae*) jurisdiction of the ICC, as we submit, they qualify as war crimes and crimes against humanity within the meaning of Article 7 and Article 8 of the Rome Statute. Further, the crimes were committed on the territory of Ukraine by the Ukrainian and Russian nationals alike. The parties involved in the commission of crimes include (1) the members of IAF that were often acting upon support or direct participation of Russian military forces, (2) the members of LAF, including the divisions of UAF, MIA, voluntary battalions and SSU, and (3) the members of Russian military forces or Russian special forces.

Although Russia is a not State Party to the Rome Statute, it nationals may nevertheless be held ac-

countable, given that the alleged crimes took place on the territory of Ukraine that accepted the ad hoc jurisdiction of the ICC within the given timeframe.

## 6.2. ADMISSIBILITY

Pursuant to Article 17(1) of the Rome Statute, admissibility requires an assessment of complementarity (subparagraphs (a)-(c)) and gravity (subparagraph (d)).<sup>316</sup> The ICC jurisprudence clarifies that there is not yet a 'case' at the preliminary examination stage, which comprises an identified set of incidents, suspects and conduct. Therefore, the consideration of admissibility (complementarity and gravity) takes into account "potential cases that could be identified in the course of the preliminary examination based on the information available and that would likely arise from an investigation into the situation".<sup>317</sup> In other words, admissibility at the situation phase is assessed against certain criteria defining a 'potential case' such as: "(i) the groups of persons involved that are likely to be the focus of an investigation for the purpose of shaping the future case(s); and (ii) the crimes within the jurisdiction of the Court allegedly committed during the incidents that are likely to be the focus of an investigation for the purpose of shaping the future case(s)."<sup>318</sup>

<sup>316</sup> "Policy Paper on Preliminary Examinations", ICC (online), November 2013, <[https://www.icc-cpi.int/iccdocs/otp/otp-policy\\_paper\\_preliminary\\_examinations\\_2013-eng.pdf](https://www.icc-cpi.int/iccdocs/otp/otp-policy_paper_preliminary_examinations_2013-eng.pdf)>, para. 42.

<sup>317</sup> Situation in the Republic of Kenya, Pre-Trial Chamber, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya», ICC (online), 31 March 2010, <<https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/09-19-Corr>>, para. 50; Situation in the Republic of Cote d'Ivoire, Pre-Trial Chamber, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Cote d'Ivoire, 3 October 2011, ICC-02/11-14, para. 190 (hereinafter — Cote d'Ivoire Art 15 Decision).

<sup>318</sup> Situation in the Republic of Kenya, Pre-Trial Chamber, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya», ICC (online), 31 March 2010, <<https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/09-19-Corr>>, para. 50,

According to Article 17(1) of the Rome Statute, the Court shall determine that a case is inadmissible where: (a) the case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution; (b) the case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute; (c) The person concerned has already been tried for conduct which is the subject of the complaint, and a trial by the Court is not permitted under article 20, paragraph 3; (d) The case is not of sufficient gravity to justify further action by the Court.

We submit in this Communication that there are no factors that would make potential cases arising out of the situation in eastern Ukraine inadmissible before the ICC.

## Complementarity

The ICC operates on the basis of the principle of complementarity, which means its jurisdiction is only triggered when national authorities are unwilling or unable to prosecute the crimes falling within the jurisdiction of the ICC. Pursuant to Articles 53(1) (b) and 17(1)(a)-(c) of the Rome Statute, the complementarity assessment relates to whether genuine investigations and prosecutions have been or are being conducted in the State concerned in respect of the case(s) identified by the Office of the Prosecutor.

As expounded by the Appeals Chamber, the assessment of complementarity is a twofold test. The first limb of the test in assessing complementarity is whether there are or have been any relevant national investigations or prosecutions. The absence of national proceedings, i. e. domestic inactivity, is sufficient in itself to make the case admissible before the ICC. If the first part of the test is answered in affirmative, then the Court proceeds to

ICC, Situation in the Republic of Cote d'Ivoire, Pre-Trial Chamber, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Cote d'Ivoire, 3 October 2011, ICC-02/11-14, para. 191 (hereinafter — Cote d'Ivoire Art 15 Decision).

an assessment of unwillingness and inability as set out in Article 17 of Rome Statute.<sup>319</sup>

Pursuant to Article 17(2) of the Rome Statute, for the purpose of assessing unwillingness to investigate or prosecute, the Office of the Prosecutor shall consider whether (a) the proceedings were or are being undertaken for the purpose of shielding the person concerned from criminal responsibility for crimes within the ICC jurisdiction, (b) there has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice, and (c) the proceedings were or are not conducted independently or impartially and in a manner consistent with an intent to bring the person concerned to justice. In so doing, the Office may consider a number of factors. More detailed explanation as to what constitutes 'unwillingness' within the meaning of the Rome Statute is provided in the ICC Policy Paper on Preliminary examinations (2013).

Pursuant to Article 17(3) of the Rome Statute, in order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings. More detailed explanation as to what constitutes 'inability' within the meaning of the Rome Statute is provided in the ICC Policy Paper on Preliminary examinations (2013).

Notwithstanding some national proceedings having taken place with respect to the crimes committed in the context of the armed conflict in eastern Ukraine, we submit that Ukraine is both unwilling and unable to investigate and prosecute the crimes.

## Unwillingness of Ukrainian state authorities to investigate or prosecute the crimes

The Ukrainian national authorities clearly demonstrate their unwillingness to investigate and prosecute

<sup>319</sup> *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Judgment on the Appeal of Mr Germain Katanga against the Oral Decision of Trial Chamber II of 12 June 2009 on the Admissibility of the Case, ICC (online), 25 September 2009, <[https://www.icc-cpi.int/CourtRecords/CR2009\\_06998.PDF](https://www.icc-cpi.int/CourtRecords/CR2009_06998.PDF)>, para. 78.

the crimes committed by LAF. It especially concerns the cases, in which potential perpetrators are the staff employees of SSU.<sup>320</sup> The investigative bodies are also unwilling to recognize the victims of violence inflicted by the members of LAF, even in the presence of clear signs of violence e. g. bodily harm (Annex 25).

At present, it is very unlikely to expect the General Prosecutor's Office of Ukraine to initiate criminal proceedings with respect to unlawful actions committed by the staff members of SSU. The Head of SSU, Mr. Vasyl Hrytsak, was appointed by President Poroshenko as the Head of the SSU Anti-Terrorism Centre in July 2014, which was established by law for coordination of ATO in eastern Ukraine, management of anti-terrorist activities, and coordination of all state organs involved in combating anti-terrorist activities.<sup>321</sup> As of July 2015, Mr. Hrytsak was appointed almost unanimously by the Ukrainian parliamentarians as the Head of SSU upon the submission of President Poroshenko. It appears that Mr. Hrytsak, by virtue of his position, is the most responsible person for the actions of the SSU staff in ATO, as well as the actions of those who pursued persons for their alleged commission of the crimes of terrorism, and crimes against national security and territorial integrity of the State. Notwithstanding the implication of SSU leadership in the commission of the crimes, it is very unlikely that the General Prosecutor's Office of Ukraine will be willing to initiate criminal proceedings.

<sup>320</sup> "Report on the human rights situation in Ukraine 16 November 2015 to 15 February 2016", UN OHCHR (online), 3 March 2016, [https://reliefweb.int/sites/reliefweb.int/files/resources/Ukraine\\_13th\\_HRMMU\\_Report\\_3March2016.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Ukraine_13th_HRMMU_Report_3March2016.pdf), para. 48; "Report on the human rights situation in Ukraine 16 February 2015 to 15 May 2016", UN OHCHR (online), June 2016, [https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_14th\\_HRMMU\\_Report.pdf](https://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report.pdf), para. 31; "Report on the human rights situation in Ukraine 16 May to 15 August 2016", UN OHCHR (online), 2016, <https://www.ohchr.org/Documents/Countries/UA/Ukraine15thReport.pdf>, para. 46.

<sup>321</sup> «Указ „Про призначення В. Грицака керівником Антитерористичного центру при Службі безпеки України“» [Decree on the appointment of V. Hrytsak as Head of the Antiterrorist Center in the Security Service of Ukraine], Legislation of Ukraine (online), 07 July 2014, <http://zakon.rada.gov.ua/laws/show/584/2014/conv>.

All crimes, in particular unlawful deprivation of liberty and ill-treatment committed by the staff members of SSU, have not been investigated. Moreover, the very fact of the commission of such crimes has been denied by SSU (see above subsections 5.3, 5.4 and annex 9). In those very few cases, in which the members of LAF are held accountable for the crimes committed in the context of the armed conflict, the charges and outcomes do not correspond to the gravity and magnitude of those crimes. In particular, the members of the battalion 'Tornado' were sentenced to the imprisonment terms between 5 and 11 years respectively, which was further appealed by both the defence and the prosecution.<sup>322</sup> The criminal proceedings involving the alleged crimes committed by the members of battalion 'Aydar' are still ongoing.<sup>323</sup> In light of the above, there is a reasonable basis to believe that the members of LAF involved in the commission of the crimes, as detailed above, will not be fairly punished within the Ukrainian judicial system.

As for criminal proceedings involving the members of IAF, the Ukrainian law enforcement agencies exhibit a low activity in initiating such cases, pointing in the direction of unwillingness to investigate them. In 100 cases supported by lawyers of our organization, the Ukrainian law enforcement agencies failed to start an investigation following the commission of crimes, and even failed to act on the requests of victims to commence an investigation.<sup>324</sup> As a result, many victims complained of inaction on the part of the law enforcement agencies to an investigating judge, thereby forcing the law enforcement agencies to commence a pre-trial investigation by the court order (see Annex 6, pp. 2–3; Annex 7, pp. 5–6; Annex 8, pp. 3–4). After initiating such criminal proceedings, investigators refused to grant the victims of the crimes a formal status of

<sup>322</sup> «Суд виніс вирок у скандальній справі „Торнадо“» [The court delivered a verdict in the scandalous case "Tornado"], 24TV.ua (online), 07 April 2017, [https://24tv.ua/sud\\_vinis\\_virok\\_u\\_skandalniy\\_spravi\\_tornado\\_n803786](https://24tv.ua/sud_vinis_virok_u_skandalniy_spravi_tornado_n803786).

<sup>323</sup> «Єдиний Державний реєстр судових рішень» [The Unified State Register of Judicial Decisions], REYESTR.COURT.GOV.UA (online), <http://www.reyestr.court.gov.ua/Review/71828345>.

<sup>324</sup> Annex 28, section 12.

a victim, thus respectively denying them and their lawyers' access to case materials at the pre-trial investigation stage (see Annex 6, p. 6; Annex 7, p. 10; Annex 8, p. 8). In addition, the law enforcement agencies failed to carry out the necessary investigative activities, such as the examination of the scene of the crime; collecting witness testimony; and in the case of receiving requests to carry out necessary investigative activities, they either did not react or conducted only *some* investigative measures (often by redirecting these requests to other investigative bodies). Further, there were no special investigative measures carried out which were relevant to the conduct of hostilities (e. g. shelling direction, distance and impact; types of weaponry/military vehicles used etc.). In the cases where the requests on conducting investigative measures had been met, such measures were either ineffective and of no evidentiary value, or were postponed for an indefinite period of time (see Annex 14, p. 8; Annex 51).

In 2016–2017, the lawyers of KHPG submitted multiple requests on initiating criminal proceedings, forcing SSU to initiate 255 criminal cases upon the facts of death or injury sustained by the civilians in the government controlled territory; destruction of property due to shelling attacks; enforced disappearances etc. Notwithstanding those requests, the investigative measures have not been carried out and the investigations proved to be ineffective (see Annex 10, section 10). Having exhausted all national domestic remedies in 115 such cases, the lawyers of KHPG submitted individual applications to ECtHR against Ukraine and Russia, substantiating the violations of Articles 2 or 3 of ECHR through inaction on the part of the Ukrainian state. This adds to unwillingness on the part of the Ukrainian law enforcement agencies to investigate the crimes committed by IAF.

As for the outcome of applications submitted by the victims to the respective bodies of RF regarding the commission of crimes, they received a standard reply of the Investigative Committee of RF that such applications were re-directed to the competent national authorities of Ukraine in accordance with Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 22 January 1993 in order to "verify the allegations as provided in the application" (see An-

nex 6, pp. 7–9; Annex 7 pp. 11–14; Annex 8, p. 9–10; Annex 12, pp. 21–22; Annex 14, pp. 10–11, Annex 15 p. 8). Therefore, the authorities of RF refused to investigate the crimes upon the victims' applications.

Many crimes committed in the context of the armed conflict in eastern Ukraine appear to be incorrectly qualified under the umbrella of terrorist offences under national law. In fact, there is a significant increase in the number of criminal cases initiated under Article 258 of CC: a huge leap from only 4 cases in 2013 to 1,499 (2014), 1,257 (2015), 1,865 (2016) and 1,385 (2017).<sup>325</sup> The majority of crimes qualified under Article 258 relate to the actions of the members of IAF in the context of the seizure of control over parts of territories in the Donetsk and Luhansk regions and ensuing armed conflict. The Ukrainian government does not recognize directly that it is engaged in the armed conflict eastern Ukraine, having officially declared that it is conducting anti-terrorism operation in eastern Ukraine.

Despite such a great number of criminal proceedings initiated under Article 258 of CC, during the period between 2014 and 2017, only 72 pre-trial investigations ended with directing those cases to courts. This corresponds to 1% in relation to a total number of criminal proceedings initiated under Article 258 (6,044).<sup>326</sup>

According to the statistics provided by the General Prosecutor's Office of Ukraine, under the Article 127 of CC ('torture'), 54 criminal cases were initiated in 2014 and 73 criminal cases were initiated in 2015.<sup>327</sup> Obviously, such statistics is completely disproportionate to a number of reported incidents of torture and ill-treatment committed in the context of the armed conflict in eastern Ukraine. As for the crimes of ill-treatment of the prisoners of war (Art. 433 of CC), violence against the civilian population during the conflict (Art. 434 of the CC), violations of the laws and customs of war (Art. 438 of CC), such criminal proceedings are almost non-existent.<sup>328</sup>

<sup>325</sup> «Статистична інформація/Офіційний веб-сайт Генеральної прокуратури України» [Official web site of the General Prosecutor's Office of Ukraine/Statistical information], GP (online), <https://www.gp.gov.ua/ua/statinfo.html>.

<sup>326</sup> Ibid.

<sup>327</sup> Ibid.

<sup>328</sup> Ibid.

### ***Inability of Ukrainian state authorities to investigate or prosecute the crimes***

One of the main factors that hinders ability of the Ukrainian national authorities to investigate and prosecute crimes committed in the context of the armed conflict in eastern Ukraine is the absence of relevant provisions criminalizing core international crimes in the Criminal Code of Ukraine, with an exception of broadly formulated Article 438 on war crimes. Many crimes that could potentially fall within the ICC jurisdiction are qualified in Ukraine as the crimes of terrorism. Hence, even if convicted, those responsible will not fully bear responsibility for their actions, since the charges levied against them do not accurately reflect the nature of the crimes they had committed.

Another major factor hindering ability of the Ukrainian national authorities to investigate and prosecute crimes is the absence of access to the non-government controlled territories, which means that they cannot effectively conduct investigations on those territories. More specifically, the Ukrainian national authorities cannot carry out the necessary investigative actions on such territories, such as examining a crime scene; questioning suspects and/or witnesses; collecting material evidence, conducting the necessary expertise. This excludes the possibility to conduct a full investigation and bring to justice the members of IAF, as they live on the other side of the contact line, which makes it impossible to execute arrest warrants against them.

### **Gravity**

As clarified in the jurisprudence of the ICC, “(i) *a gravity determination involves a generic assessment (general in nature and compatible with the fact that an investigation is yet to be opened) of whether the groups of persons that are likely to form the object of the investigation capture those who may bear the greatest responsibility for the alleged crimes committed; and (ii) gravity must be assessed from both a quantitative and qualitative viewpoint and factors such as nature, scale and manner of commission of the alleged crimes, as well as their impact on victims are indicators of the gravity of a given case*”.<sup>329</sup>

<sup>329</sup> Kenya Article 15 Decision, para. 60–62; Cote d’Ivoire Article 15 Decision, para. 203–205.

The scale of the crimes may be assessed in light of, inter alia, the number of direct and indirect victims, the extent of the damage caused by the crimes, in particular the bodily or psychological harm caused to the victims and their families, or their geographical or temporal spread.<sup>330</sup> The scale of crimes in eastern Ukraine is vast, with more than 3,000 civilians reported dead, 7,000 injured, and thousands of people subjected to torture or ill-treatment (often in the context of unlawful detention).<sup>331</sup> Residential buildings, houses and objects of critical infrastructure (e. g. hospitals, schools) have been destroyed and deprived civilians of leading a normal life, with many of them forced to flee the conflict affected area. The number of IDPs on 16 April 2018 was near 1.5 million persons.<sup>332</sup>

The nature of the crimes refers to the specific elements of each offence.<sup>333</sup> This communication details particularly violent crimes committed in the context of the conflict in eastern Ukraine, including murder, torture and ill-treatment in combination with unlawful detention, outrages upon personal dignity and attacks on the civilian population and civil objects, which we submit merit particular attention of the ICC Office of the Prosecutor.

The manner of commission of the crimes may be assessed in light of, inter alia, the means employed to execute the crime, the degree of participation and intent of the perpetrator, the extent to which the crimes were systematic or result from a plan or organised policy or otherwise resulted from the

<sup>330</sup> “Policy Paper on Preliminary Examinations”, ICC (online), November 2013, <[https://www.icc-cpi.int/iccdocs/otp/otp-policy\\_paper\\_preliminary\\_examinations\\_2013-eng.pdf](https://www.icc-cpi.int/iccdocs/otp/otp-policy_paper_preliminary_examinations_2013-eng.pdf)>, para. 62.

<sup>331</sup> “Report on the human rights situation in Ukraine 16 February to 15 May 2018”, UN OHCHR (online), <[https://www.ohchr.org/Documents/Countries/UA/ReportUkraineFev-May2018\\_EN.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportUkraineFev-May2018_EN.pdf)>, para. 16.

<sup>332</sup> «У Мінсоцполітики назвали число офіційно зареєстрованих переселенців» [The number of internally displaced persons in Ukraine is approaching 1.5 million people], RBC.ua (online), 16 April 2018, <<https://www.rbc.ua/ukr/news/minsotspolitiki-nazvali-chislo-ofitsialno-1523871362.html>>.

<sup>333</sup> “Policy Paper on Preliminary Examinations”, ICC (online), November 2013, <[https://www.icc-cpi.int/iccdocs/otp/otp-policy\\_paper\\_preliminary\\_examinations\\_2013-eng.pdf](https://www.icc-cpi.int/iccdocs/otp/otp-policy_paper_preliminary_examinations_2013-eng.pdf)>, para. 63.>

abuse of power or official capacity, and elements of particular cruelty.<sup>334</sup> The manner in which the crimes were committed in eastern Ukraine point towards the existence of an organised policy to commit such crimes against civilians (particularly those who were perceived to be disloyal by IAF and LAF) and captive members of various armed groups, which is evidenced by a high degree of organization of the places of unlawful detention and systematic use of torture and ill-treatment against the detainees. Further, the manner in which shelling of populated areas had taken place demonstrates a complete disregard towards the life of civilians, failure to distinguish between military and non-military objects in breach of the most fundamental principles of proportionality, distinction and precaution under IHL.

The impact of crimes may be assessed in light of, inter alia, the sufferings endured by the victims and their increased vulnerability; the terror subsequently instilled, or the social, economic and environmental damage inflicted on the affected communities.<sup>335</sup> As detailed in our communication, many victims of crimes endured serious physical and mental suffering as the direct outcome of the crimes committed by IAF and LAF alike. This particularly concerns victims who were subjected to torture, ill-treatment and outrages upon personal dignity in the context of unlawful detention in inhuman conditions. This communication also referred to numerous instances of psychological abuse suffered by the victims who were subjected to mock executions; death and rape threats directed not only at them, but also at their family members; forced to witness torture or killing of other detainees; forced to collect and dismember dead bodies etc. Surviving victims of crimes and their family members will

<sup>334</sup> “Policy Paper on Preliminary Examinations”, ICC (online), November 2013, <[https://www.icc-cpi.int/iccdocs/otp/otp-policy\\_paper\\_preliminary\\_examinations\\_2013-eng.pdf](https://www.icc-cpi.int/iccdocs/otp/otp-policy_paper_preliminary_examinations_2013-eng.pdf)>, para. 64.

<sup>335</sup> Policy Paper on Preliminary Examinations”, ICC (online), November 2013, <[https://www.icc-cpi.int/iccdocs/otp/otp-policy\\_paper\\_preliminary\\_examinations\\_2013-eng.pdf](https://www.icc-cpi.int/iccdocs/otp/otp-policy_paper_preliminary_examinations_2013-eng.pdf)>, para. 65.

have to cope with long lasting effects of the ordeal they had gone through during many years to come, with many of them exhibiting signs of PTSD, depression and other psychological disorders, as well as suffering from serious health problems.

The civilians who resided in the areas subjected to shelling lived in the constant atmosphere of terror and fear. The conflict has completely transformed the social fabric of the affected communities that were judged on the basis of their loyalty to the self-proclaimed republics. The damage to the critical infrastructure objects and loss of homes deprived civilians of leading a normal life in the conflict affected areas, leading to a dramatic increase of a number of IDPs who were forced to abandon their communities.

## **6.3. INTERESTS OF JUSTICE**

The interests of justice under article 53(1)(c) is a potentially countervailing criterion that may give a reason for the ICC Prosecutor not to proceed. As such, the Prosecutor is not required to establish that an investigation serves the interests of justice. Rather, the Office of the Prosecutor “will proceed unless there are specific circumstances which provide substantial reasons to believe that the interests of justice are not served by an investigation at that time”.<sup>336</sup> In fact, there is a strong presumption in favor of the interests of justice criterion, provided the criteria of jurisdiction and admissibility have been satisfied.

Taken into consideration the gravity of the crimes described in this communication, and their impact on the victims, affected communities in eastern Ukraine and the entire population of Ukraine, there is nothing to suggest that opening an investigation would not be interests of justice.

<sup>336</sup> “Policy Paper on Preliminary Examinations”, ICC (online), November 2013, <[https://www.icc-cpi.int/iccdocs/otp/otp-policy\\_paper\\_preliminary\\_examinations\\_2013-eng.pdf](https://www.icc-cpi.int/iccdocs/otp/otp-policy_paper_preliminary_examinations_2013-eng.pdf)>, para. 67.

## 7. CONCLUSIONS

**W**e submit that all the prerequisites for initiating an investigation into the situation in Ukraine under Article 53(1)(a)-(c) have been met. Therefore, we urge the ICC Office of the Prosecutor

to open an investigation as soon as possible in order to address injustice and impunity gap in eastern Ukraine for the benefit of many victims of crimes and their family members.

## ANNEX

### A BRIEF DESCRIPTION OF EVENTS OF THE ARMED CONFLICT IN THE EAST OF UKRAINE, WHERE LAF SUSTAINED SIGNIFICANT LOSSES

#### Battle for Sloviansk<sup>337</sup>

The armed groups of IAF occupied Sloviansk on 12 April 2014. At first they took the building of the department of MIA, then other administrative buildings, and the control of the town was taken by the “public mayor”, Vyacheslav Ponomaryov. On 12 April near Sloviansk a group of the officers of SSU that was performing the reconnaissance of the surroundings before the start of actions covered by “Alpha”, ended up in the ambush of IAF. As a result of a short shooting a officer of “Alpha” and one of the members of IAF died.

<sup>337</sup> <<https://www.youtube.com/watch?v=-mU9xzuOZnQ>>, <<https://www.youtube.com/watch?v=A-ANaKu3-bE>>, <[https://www.youtube.com/watch?v=j4xSKh\\_jDUw](https://www.youtube.com/watch?v=j4xSKh_jDUw)>, <<https://www.youtube.com/watch?v=WEfw9T1hp1k>>, <<https://ua.112.ua/statji/zvilnennia-slovianska-dva-roky-tomu-yak-tse-bulo-322773.html>>, <<https://tsn.ua/video/video-novini/scho-robit-ukrayinska-vlada-schobi-vigrati-biy-za-dushi-zhiteliv-kolis-okupovanogo-mista.html>>, <[https://ua.censor.net.ua/video\\_news/425099/veduchyy\\_bachyv\\_yak\\_my\\_padaly\\_i\\_ne\\_viryv\\_uje\\_scho\\_my\\_vyjavemo\\_piloty\\_pidbytogo\\_pid\\_slovyanskom\\_mi24](https://ua.censor.net.ua/video_news/425099/veduchyy_bachyv_yak_my_padaly_i_ne_viryv_uje_scho_my_vyjavemo_piloty_pidbytogo_pid_slovyanskom_mi24)>, <<https://www.pravda.com.ua/news/2014/07/5/7031055/>>, <[https://ua.censor.net.ua/resonance/431218/nevidome\\_boyiove\\_zitknennya\\_pid\\_slovyanskom](https://ua.censor.net.ua/resonance/431218/nevidome_boyiove_zitknennya_pid_slovyanskom)>, <<http://www.armyfm.com.ua/c%D1%96na-nezalezhnost%D1%96.-%D1%96stor%D1%96ja-frontovih-m%D1%96st-slovjansk-kramatorsk/>>, <<https://ua.korrespondent.net/ukraine/politics/3358416-bilia-slovianska-zahynuly-chetvero-ukrainskykh-soldativ-blyzko-30-poraneni-mvs>>, <<http://milnavigator.com.ua/archives/6961>>, <[https://galinfo.com.ua/news/5\\_lypnja\\_zvilnennya\\_slovyanska\\_ta\\_kramatorska\\_263771.html](https://galinfo.com.ua/news/5_lypnja_zvilnennya_slovyanska_ta_kramatorska_263771.html)>.

On 15 April a division of the 3<sup>rd</sup> regiment of the special forces of UAF, as well as divisions of “Alpha” and “Omega” landed from the helicopters after a brief assault and took Kramatorsk air field. At the same time, several tactical groups of UAF, as well as the divisions of the National Guard, closely approached Sloviansk and organized its blockade (the installation of the roadblocks). On 20 April Vyacheslav Ponomaryov declared that he refused to negotiate with Ukrainian authorities and stated about the absence of the Russian military in the location. On 24 April there started the first assault on Sloviansk. The divisions of NGU, as well as the division of the special forces of MIA “Omega” conducted a reconnaissance in force: the Ukrainian fighters destroyed two roadblocks of the “people’s militia” of Sloviansk and were forced to retreat to their starting positions under the order of the command of ATO, stopping their advance into the town. The divisions of LAF were able to take back and occupy a strategically important height in the vicinity of Sloviansk — Karachun mountain. As a result of the use of AAMS by the armed groups the Ukrainian army lost three helicopters during the battle.

On 9 June 2014 the armed members of the “Russian Orthodox Army” executed deacons Volodymyr Velychko and Victor Bradarskiy, faithful Christians of the faith of the gospel “Transfiguration of the Lord”, as well as two adult sons of the senior pastor — Ruvim and Albert Pavenko.

25-year-old Yuriy Diakovskiy also died of torture. After that his body was dumped in Siverskiy Donetsk with the bodies of Volodymyr Rybak and Yuriy Poplavko.

On 3 July 2014 the forces of ATO blocked the town of Mykolaivka, where they destroyed 6 base points of LAF, stockpiles of ammunition, as well as approached the route Kharkiv — Dovzhanskiy. On 4 July 2014 Mykolaivka was liberated in full and taken under control of the forces of ATO, over 50 members of IAF surrendered to them.



*Sloviansk*

On 5 July the members of the group of Strelkov-Girkin were forced to leave the fortified district in Sloviansk under the pressure of LAF. Although most of the armed groups of IAF were able to retreat from the blocked town, during the breakthrough they sustained significant losses. The flag of Ukraine was raised over the town council, the mission to provide the humanitarian aid to the civilians started operating on the town. They started to bring the weapons left by the armed formations to the enforcers. According to the soldier who worked undercover in the group of Girkin, the number of people in that group that left Sloviansk was 1824 persons.

### Battles for Kramatorsk<sup>338</sup>

On 12 April 2014 around a thousand supporters of the s.-c. “DPR” gathered for a rally near the town’s executive committee. They demanded from

<sup>338</sup> <[https://galinfo.com.ua/news/5\\_lypnnya\\_zvilnennya\\_slovyanska\\_ta\\_kramatorska\\_263771.html](https://galinfo.com.ua/news/5_lypnnya_zvilnennya_slovyanska_ta_kramatorska_263771.html)>, <<https://korrespondent.net/ukraine/3387951-obstel-kramatorska-kak-vyhliadyt-horod-posle-bombezhyky>>, <<https://www.unian.net/politics/907139-v-kramatorske-separatystyi-ustanovili-flag-donetskoy-respubliki.html>>, <<http://tsn.ua/special-projects/firstdays/>>, <<https://www.pravda.com.ua/news/2014/04/12/7022227/>>, <[http://news.liga.net/politics/news/v\\_kramatorske\\_gorotdel\\_militsii\\_zakhvachen\\_separatistami](http://news.liga.net/politics/news/v_kramatorske_gorotdel_militsii_zakhvachen_separatistami)>, <[http://news.liga.net/politics/news/v\\_kramatorske\\_zakhvacheny\\_gorovd\\_i\\_gorovet\\_kpp\\_okolo\\_aerodroma](http://news.liga.net/politics/news/v_kramatorske_zakhvacheny_gorovd_i_gorovet_kpp_okolo_aerodroma)>, <[http://news.liga.net/politics/news/separatystyi\\_pokuli\\_zdanie\\_gorotdela\\_militsii\\_v\\_kramatorske](http://news.liga.net/politics/news/separatystyi_pokuli_zdanie_gorotdela_militsii_v_kramatorske)>, <<https://comments.ua/live/4794-Kramatorskiy-aerodrom-pislya-vizvolennya.html>>, <<https://www.pravda.com.ua/news/2014/04/15/7022571/>>.

the mayor, Gennadiy Kostyukov, to acknowledge the “DPR”. Later armed people who called themselves “people’s militia” began the assault on the town’s police department. On 15 April the armed members of IAF left the town police department, however, before that they pillaged and looted it. On the same day they began the assault on Kramatorsk air field, which was strategically significant for both parties to the conflict. Near 3:30 pm a plane wanted to land on the air field, however, during the landing it was shot at from the ground.

After that it immediately interrupted the landing and flew away. On 15 April 2014 the divisions of Ukrainian special forces liberated the military air field in Kramatorsk of IAF. On 16 April the non-local “civilians” who were brought to Kramatorsk block the Ukrainian paratroopers, carry out the campaigning and gather the intelligence concerning Ukrainian forces. Later the line consisting of three APC of Ukrainian forces breached the blockade of IAF in Kramatorsk.



*Kramatorsk*

<<https://www.pravda.com.ua/news/2014/04/16/7022662/>>, <<https://www.unian.ua/politics/908588-u-kramatorsku-tri-ukrajinskih-bmp-virvalisya-iz-otochennya-jih-peresliduyut-ozbroeni-boyoviki-zmi.html>>, <<https://www.pravda.com.ua/news/2014/04/17/7022744/>>, <[https://gazeta.ua/articles/np/\\_bilya-kramatorska-zaginu-v-ukrayinskij-vijskovij-minoboroni/553645](https://gazeta.ua/articles/np/_bilya-kramatorska-zaginu-v-ukrayinskij-vijskovij-minoboroni/553645)>, <<https://www.pravda.com.ua/news/2014/05/18/7025691/>>, <<https://ua.korrespondent.net/ukraine/comunity/3365029-i-znovu-tryvaie-bii-yak-bylysia-za-kramatorsk-i-sloviansk>>, <[https://www.bbc.com/ukrainian/politics/2014/06/140610\\_seleznev\\_ato\\_or](https://www.bbc.com/ukrainian/politics/2014/06/140610_seleznev_ato_or)>, <<https://www.youtube.com/watch?v=qKnTlgwrOHs>>.

On 17 April the patriots of Kramatorsk managed to organize a rally in support of unity of Ukraine. On 15 May near the village of Starovarvarivka 30 km away from Kramatorsk, and near Kramatorsk itself there was carried out an operation of LAF that was called the final stage of fighting the terrorists.

On 18 May IAF carried out the shelling of Kramatorsk and attacked 5 block posts and a base camp of UAF near Sloviansk and Kramatorsk. On 20 May 2014 a video appeared in the Internet, showing the female residents of Kramatorsk surrounding the bus with the members of IAF and demanding them to leave the town, and after a verbal conflict the armed group left, after that those women started receiving numerous threats from the members of IAF to “be hanged on St. George’s ribbons”.

Another wave of ATO in the direction of Kramatorsk began on 25 May, the Ukrainian forces shelled the fire positions of IAF from the air. On 10 June during the night battle in Kramatorsk IAF sustained losses, however, the information about their quantity differed a lot. On 17 June the battles for Kramatorsk renewed, the armed groups shelled Amvrosivka, Luhansk and Sloviansk. On 5 July, as a result of defeat in the battle for Sloviansk, IAF left Kramatorsk, after that the town was taken by Ukrainian forces.

### Shooting of the military near Volnovakha<sup>339</sup>

Between 4 and 6 am on 22 May the camp of the 51<sup>st</sup> brigade that was located between the villages of Olginka and Volodymyrivka not far from the region-

<sup>339</sup> <[https://zaxid.net/u\\_volnovasi\\_na\\_donechchini\\_boyoviki\\_zastrelili\\_8\\_silovikov\\_n1309171](https://zaxid.net/u_volnovasi_na_donechchini_boyoviki_zastrelili_8_silovikov_n1309171)>, <<http://podrobnosti.ua/977292-podpolkovnik-gru-igor-bezler-vzjal-otvetstvennost-za-boj-pod-volnovahoj.html>>, <<https://www.unian.ua/politics/920780-naybilshivtrati-pid-chas-ato-v-boyah-pid-volnovahoyu-zaginuli-16-viyskovih.html#ad-image-0>>, <<https://www.unian.ua/politics/920744-viyskoviy-jurnalist-pro-rozstril-soldativ-nochivlya-na-uzbichchi-meja-nekompetentnosti.html>>, <<https://novynarnia.com/2017/05/22/masoviy-rozstril-51-yi-brigadi-pid-volnovahoyu-treti-rokovini-pershih-velikih-vtrat-zsu-v-ato/>>, <[https://ua.censor.net.ua/video\\_news/440738/pamyat\\_biyitsiv\\_yaki\\_zagynuly\\_try\\_roky\\_tomu\\_na\\_blokpostu\\_pid\\_volnovahoyu\\_vshanuvay\\_v\\_lutsku\\_video](https://ua.censor.net.ua/video_news/440738/pamyat_biyitsiv_yaki_zagynuly_try_roky_tomu_na_blokpostu_pid_volnovahoyu_vshanuvay_v_lutsku_video)>.

al landscape park Velikoanadolskiy forest, was attacked by the members of IAF of the s.-c. “DPR”. They arrived in several cars, two of which were armored collectors’ cars of “Privatbank”. The Ukrainian military must have let them go through the block post, after that the Ukrainian forces were shot closely by small arms, anti-tank grenade launchers, machine guns and mortars. The wounded were killed by the snipers who were hiding in the forest belt on both sides of the road. After the end of the battle the reinforcements came — the Mi-8 helicopters.



*Shooting of the military near Volnovakha*

Apparently, without the connection with the ground, the pilots decided that the surviving members of 51 SBR were terrorists, and opened fire. As a result, 17 soldiers of the 51st separate mechanized brigade were killed, one was wounded. The Colonel of the Main Intelligence Department of RF, Igor Bezler, known as “Bes”, stated that his people and he destroyed the block post of UAF under Volnovakha in

<<https://psb-news.org/syly-ato-pid-volnovahoyu-zaznaly-serjo/>>, <<https://dn.depo.ua/ukr/dn/richnitsya-koli-rosiya-peretvorila-donbas-na-krivavu-arenu-22052016150300>>, <[https://www.youtube.com/watch?v=\\_CmjpsH7MQM](https://www.youtube.com/watch?v=_CmjpsH7MQM)>, <<http://aktualno.km.ua/analitika/tragediya-pid-volnovahoyu/>>, <<http://ntn.ua/uk/video/news/2014/05/22/14428>>, <<http://www.volynpost.com/news/33527-foto-zagynulyh-pid-volnovahoyu-volynian>>, <<http://www.volynpost.com/news/89821-novyny-z-mynulogo-vtraty-pid-volnovahoyu-poranennia-v-karlivci>>, <<https://www.volynnews.com/news/vidsichagresoru-ukrayinayedina/khniy-blokpost-rozstrilialy-rivno-rik-tomu-pamiat-18-heroyiv-51-omb/>>, <<https://www.volynnews.com/news/extreme/u-merzhi-ziavlosia-video-boiu-pid-volnovakhoiu/>>, <<http://milnavigator.com.ua/archives/5519>>.

the morning on Thursday. The losses of UAF in that conflict were the greatest since the start of ATO. In October 2014 it became known that the soldier who was wounded under Volnovakha and was treated, died in one of the hospitals.

### Battles for Savur-Mohyla<sup>340</sup>

On 12 June, given the necessity to regain control over the border with RF with the aim to make it impossible for the IAF, military vehicles and ammunition to get to the territory of Ukraine, the Ukrainian forces on the south of Donetsk Oblast started the assault along the border with Russia. There was a conflict in the area of the height, when IAF attacked the line of Ukrainian forces of the 79<sup>th</sup> brigade. On 2 July LAF started the assault on the height. On 26 July the united tactical-battalion group (TBGr) “Kolos” of the 51<sup>st</sup> mechanized brigade was sent to the area of Savur-Mohyla with the aim to unblock the Ukrainian forces that were surrounded in Sector D. 2 days later, on 28 July, TBGr arrived on the spot. During the deployment of the unit for the advancement, the unit was shelled by the artillery of IAF, between 11 am and 2 pm the unit lost one killed man and 18 people were wounded.

<sup>340</sup> <<http://uapress.info/ru/news/show/29894>>, <<http://visnyk.lutsk.ua/news/ukraine/regions/rivne/15080/>>, <<http://hubs.ua/news/podrobnosti-shturma-saur-mogilyi-rasskaz-uchastnika-17313.html>>, <[https://censor.net.ua/photo\\_news/297074/na-saurmogile-ustanovili-pamyatnik-pogibshim-za-ukrainu-voinam-lyudeyi-kotorye-pogibli-za-rodinu-zabyvat](https://censor.net.ua/photo_news/297074/na-saurmogile-ustanovili-pamyatnik-pogibshim-za-ukrainu-voinam-lyudeyi-kotorye-pogibli-za-rodinu-zabyvat)>, <<https://pravyysektor.info/news/knyga-pamyaty/93/prischepuk-andrij-sershen.html>>, <<https://espreso.tv/news/2014/09/01/u-mvs-vyznaly-rozhrom-ukrayinskykh-viyskovykh-na-savur-mohyli-ta-v-amvrosiivci>>, <<http://tyzhden.ua/News/118738>>, <<https://censor.net.ua/resonance/349609/komandir-vysoty-podpolkovnik-kapinos-pro-shturmy-saurmogily>>, <<https://cheline.com.ua/news/mens-club/krivava-visota-shturm-saur-mogilyi-19130>>, <<https://ukr.lb.ua/society/2014/08/06/275377-saurmogila-hroniki-neudachnogo.html>>, <<http://project.liga.net/projects/saurmogila/>>, <<http://tyzhden.ua/Society/153886>>, <<https://espreso.tv/article/2014/08/12/savur-mohyla-kurhan-ukrayinskoyi-slavy-foto>>.

On 9 August IAF left Savur-Mohyla entirely. From there the armed groups shelled LAF and several populated areas for a long time. On 12 August the scouts from the special forces unit “Krym” breached through to Savur-Mohyla, took the control over the observation point on its top and started correcting the artillery fire. On 21 August 2014 the stele fell from the damage as a result of artillery shelling. During the day on 23 August the Russian forces began the advance on the southern span of the front of Sector “D”, On 24 August in the morning “Sumrak” continued to transmit the data about the advance of the enemy forces, however, the artillery could not use it anymore — it had to leave Savur-Mohyla under Russian fire. On 24 September there was another assault on the height, the tanks were shooting directly, the mercenaries from Caucasus attacked the defenders of Savur-Mohyla, the attack was repulsed with numerous losses of the adversary. Under the order the defenders retreated in the night of 25 September after 12 days of protecting Savur-Mohyla; they were leaving the encirclement during the nights, moving to the closest LAF. At the time it was already surrounded by the Russian armed groups of sector “B” of General Khomchak under Ilovaysk. The group went for near 80 km through the enemy’s rear and joined the Ukrainian forces under Mnogopilya.



*Savur Mohyla*

The intelligence and assault division of the 40<sup>th</sup> battalion of the territorial defence left the encirclement of the armed groups from under Savur-Mohyla during battles, where they were fighting for two weeks. The group was surrounded when IAF took Amvrosiivka. They retreated without the heavy vehicles — on foot, wearing uniforms, with weapons, using the tactics of confusion — pretended to

move in one direction, moving in another direction. The group of 21 soldiers moved during the nights for 16 days, it retreated without the injuries and deaths.

### The battles for the control over the state border (Marynivka)<sup>341</sup>

On 5 June 2014 there was the first attempt of IAF to take under their control the entrance/exit checkpoint “Marynivka”. The attempt ended with losses of personnel and retreat of the armed groups. On 20 June 2014 during the attempt of IAF to break through from the territory of Russia within the territory of Ukraine, the members of NGU captured the modified APC-80. On 16 July after the artillery preparation the armed groups assaulted the positions of LAF near the villages of Tarany and Marynivka of Donetsk Oblast. They planned to break the Ukrainian group and move to the border. On 19 July there was a battle between LAF and IAF, during the shelling of the base point of the forces of ATO near Marynivka many soldiers were heavily wounded. In the night

<sup>341</sup> <<https://tsn.ua/ukrayina/biy-pid-prikordonnim-punktom-marinivka-zakinchivsyia-ukrayinci-znischili-btr-teroristy-353294.html>>, <<http://news.liga.net/politics/news/terroristy-obstreliali-dva-ukrainskikh-samoleta-iz-pzrk>>, <<https://dpsu.gov.ua/ua/news/Biy-za-punkt-propusku-Marinivka-podii-yaki-zalishatsya-v-istorii-Ukraini-nazavzhd/>>, <[https://dt.ua/UKRAINE/punkt-propusku-marinivka-pislya-boyu-z-teroristami-144657\\_.html](https://dt.ua/UKRAINE/punkt-propusku-marinivka-pislya-boyu-z-teroristami-144657_.html)>, <[https://24tv.ua/punkt-propusku-marinivka-pislya-6godinnogo-boyu-foto-video\\_n451352](https://24tv.ua/punkt-propusku-marinivka-pislya-6godinnogo-boyu-foto-video_n451352)>, <<https://ua.korrespondent.net/ukraine/events/3393214-do-kintsia-ne-prorubaly-striolkov-rozpoviv-pro-bii-pid-marynivkou>>, <[https://www.youtube.com/watch?v=DGrSXLh\\_FE](https://www.youtube.com/watch?v=DGrSXLh_FE)>, <[http://ua.news.liga.net/politics/video/bo\\_z-teroristami\\_vzhe\\_vedutsya\\_mayzhe\\_na\\_teritor\\_ros](http://ua.news.liga.net/politics/video/bo_z-teroristami_vzhe_vedutsya_mayzhe_na_teritor_ros)>, <<https://tsn.ua/video/video-novini/prikordonne-selische-marinivka-zalishayetsya-pid-kontrolem-ukrayinskykh-zbroynih-sil.html>>, <<https://www.radiosvoboda.org/a/25459880.html>>, <<http://33kanal.com/lejttenant-zavada-jakij-znishhiv-10-bojovikov.html>>, <[https://gazeta.ua/articles/donbas/\\_pochalisya-boyi-za-savurmogilu/839966](https://gazeta.ua/articles/donbas/_pochalisya-boyi-za-savurmogilu/839966)>, <[http://ipress.ua/news/ukrainska-armiya-zvilnyla-stepanivku\\_i-marynivku\\_na-kordoni\\_z-rosiieyu\\_zmi\\_77753.html](http://ipress.ua/news/ukrainska-armiya-zvilnyla-stepanivku_i-marynivku_na-kordoni_z-rosiieyu_zmi_77753.html)>, <<http://novograd.city/read/events/90/najvazhlishcheza-lito-zatrimannya-smotryaschih-povernennya-tridcyatki-vizit-posla-knr>>.

on 31 July 2014 IAF shelled EECF “Marynivka” from “Grad”s. One of the concrete slabs of the destroyed rooms fell on the border guards. On 1 September 2014 during the operation of LAF the village was liberated from IAF. On 13-14 September the entrance-exit point was taken by the personnel units of the armed forces of RF during the September invasion of RF in Russia.



*Marinivka*

### The battles for the control over the state border (Chervonopartizansk)<sup>342</sup>

During 21 June IAF attacked the positions of the forces of ATO near Chervonopartizansk and the village of Boryukove. On 22 June, IAF attacked the spe-

<sup>342</sup> <[https://24tv.ua/boyi-trivayut\\_u\\_pp-dovzhanskiy-iz-varino-chervonopartizansku-marinivtsi-gorlivtsi\\_rnbo\\_n468752](https://24tv.ua/boyi-trivayut_u_pp-dovzhanskiy-iz-varino-chervonopartizansku-marinivtsi-gorlivtsi_rnbo_n468752)>, <[https://www.bbc.com/ukrainian/politics/2014/07/140723\\_donbas\\_ato\\_goes\\_rl](https://www.bbc.com/ukrainian/politics/2014/07/140723_donbas_ato_goes_rl)>, <<http://podrobnosti.ua/996702-komandir-rozformovano-51-brigadi-nod-ja-ne-rozumv-hto-nami-komandu-vdeo.html>>, <<http://www.theinsider.ua/politics/53b26bdc1fbd7/>>, <<https://ua.112.ua/suspilstvo/derzhprikordonsluzhba-u-rezultati-boyu-poblizu-chervonopartizanska-boyoviki-zdali-svoyi-pozyciyi-90480.html>>, <<https://espreso.tv/news/2014/07/17/pid-sverdlvskom-tryvayut-boyi>>, <<http://osp-ua.info/vlada/38787-v-chervonopartizansku-na-luganschini-yde-velikiy-biy.html>>, <<https://dt.ua/UKRAINE/sili-ato-vzlyali-pid-kontrol-kpp-chervonopartizansk-na-kordoni-146651.html>>, <<https://ua.korrespondent.net/ukraine/politics/3400907-z-artylirii-obstrilialy-pozytsii-desantnykiv-bilia-chervonopartizanska-shtab-ato>>, <[https://books.google.com/books?id=kOJ3DQAAQB\\_AJ&pg=PT84&lpg=PT84&dq=boi+za+chervonopartizansky&source=bl&ots=PomSrWVIUP&sig=FDyFU\\_gPbQpaghLJRM6E0wFFHVE&hl=uk&sa=X&redir\\_esc=y#v=onepage&q=boi+za+chervonopartizansky&f=true](https://books.google.com/books?id=kOJ3DQAAQB_AJ&pg=PT84&lpg=PT84&dq=boi+za+chervonopartizansky&source=bl&ots=PomSrWVIUP&sig=FDyFU_gPbQpaghLJRM6E0wFFHVE&hl=uk&sa=X&redir_esc=y#v=onepage&q=boi+za+chervonopartizansky&f=true)>.

cial unit of the border guards from the hiding near Horodische in Luhansk Oblast. As of 2 July the EECF “Izvarine” and “Chervonopartizansk” were not controlled by LAF, however, the attempts to regain control over them did not stop, they were under visual and fire control of UAF. The forces of the border guards and UAF were situated 8 km away from EECF. On 10 July the Minister of Defence of Ukraine, Valeriy Gelety, informed that the forces of ATO took EECF “Chervonopartizansk” under control. On 15 July under Chervonopartizansk a group of the special forces of the 3<sup>rd</sup> regiment underwent mortar shelling. The mortar volley covered the unit during the delivering of the combat mission. On 18 July the shelling of the positions of the forces of ATO continues around the populated area of Dmytrivka and EECF “Chervonopartizansk” and “Marynivka”. On 21 July the positions of LAF near Chervonopartizansk were shelled from PA Panchenkove, on the border with RF.



Chervonopartizansk

On 7 August the Ukrainian border guards were breaking through from the encirclement of IAF and

<[http://vgolos.com.ua/news/prykordonnyky\\_vidbyly\\_ataku\\_terorystiv\\_poblyzu\\_chervonopartyzanska\\_151699.html](http://vgolos.com.ua/news/prykordonnyky_vidbyly_ataku_terorystiv_poblyzu_chervonopartyzanska_151699.html)>, <[http://ipress.ua/news/bilya\\_gukovo\\_rostovskoi\\_oblasti\\_vyavyly\\_blyzko\\_30\\_gradiv\\_rnbo\\_80407.html](http://ipress.ua/news/bilya_gukovo_rostovskoi_oblasti_vyavyly_blyzko_30_gradiv_rnbo_80407.html)>, <[https://ukr.lb.ua/society/2014/07/10/272533\\_sili\\_ato\\_vzyali\\_pod\\_kontrol.html](https://ukr.lb.ua/society/2014/07/10/272533_sili_ato_vzyali_pod_kontrol.html)>, <<https://www.5.ua/ato-na-skhodi/u-chervonopartyzansku-terorysty-obstrilialy-avtobus-zi-shakhtariami-je-zhertvy-zmi-56825.html>>, <<https://www.unian.ua/politics/944963-viyskovih-51-ji-brigadi-yaki-pereyshli-kordon-rosiji-povernuli-do-ukrajini-jih-pidozryuyut-u-dezertirstvi.html>>, <<http://visnyk.lutsk.ua/news/ukraine/51-sha-okrema-mekhanizovana-brygada-zdalasya-v-polon-rosiyanam/>>, <<http://www.volynpost.com/news/62027-kapitan-51-ombr-zminyv-hid-vijny-zhurnalist-yurij-butusov-foto>>.

Russian military near the town, the breakthrough lasted for three days, the fighters approached LAF in the area of Savur-Mohyla and Amvrosiivka. 7 fighters died, 17 went missing during the shelling of the line while leaving the encirclement in “Dovzhansk cauldron” near Chervonopartizansk and checkpoint “Dovzhanskiy”.

### Battles for the control over the state border (Izvarine)<sup>343</sup>

The advance of the forces of ATO started on 12 June. During the battle LAF underwent artillery

<sup>343</sup> <[https://galinfo.com.ua/news/kotel\\_pid\\_izvaryne\\_tragediya\\_z\\_politychnym\\_prysmakom\\_236072.html](https://galinfo.com.ua/news/kotel_pid_izvaryne_tragediya_z_politychnym_prysmakom_236072.html)>, <<https://apostrophe.ua/ua/article/society/2016-08-06/derjatsya-do-poslednego-soldata-vsya-pravda-o-yujnom-kotle-2014-goda/6658>>, <<https://rian.com.ua/analytics/20150810/371909297.html>>, <<https://bmpd.livejournal.com/930062.html>>, <[http://news.liga.net/politics/news/za\\_segodnya\\_sily\\_ato\\_otbili\\_vse\\_ataki\\_boevikov\\_snbo](http://news.liga.net/politics/news/za_segodnya_sily_ato_otbili_vse_ataki_boevikov_snbo)>, <<https://www.pravda.com.ua/news/2014/07/13/7031792/>>, <<https://petrimazepa.com/izvarino.html>>, <[https://l.facebook.com/l.php?u=https%3A%2F%2Fapostrophe.ua%2Farticle%2Fsociety%2F2016-08-06%2Fderjatsya-do-poslednego-soldata-vsya-pravda-o-yujnom-kotle-2014-goda%2F6658&h=AT3\\_LINAwBcuJvtcGv3nCK8uHvIFHglZZ-0\\_ZQKfjr8bObkZ-RL9vCNFLgNd0vGOp1pJvHb-p6HVEjKs7FJ1tQptsG2m-1m4YJOf-2OafMoswxas\\_nXBLUbzcnCyWkkrzwwKnGA](https://l.facebook.com/l.php?u=https%3A%2F%2Fapostrophe.ua%2Farticle%2Fsociety%2F2016-08-06%2Fderjatsya-do-poslednego-soldata-vsya-pravda-o-yujnom-kotle-2014-goda%2F6658&h=AT3_LINAwBcuJvtcGv3nCK8uHvIFHglZZ-0_ZQKfjr8bObkZ-RL9vCNFLgNd0vGOp1pJvHb-p6HVEjKs7FJ1tQptsG2m-1m4YJOf-2OafMoswxas_nXBLUbzcnCyWkkrzwwKnGA)>, <[https://galinfo.com.ua/articles/chervonopartyzanskyy\\_kotel\\_pid\\_kolesamy\\_btriv\\_rozryvalysya\\_grady\\_ale\\_vony\\_ysly\\_vpered\\_202068.html](https://galinfo.com.ua/articles/chervonopartyzanskyy_kotel_pid_kolesamy_btriv_rozryvalysya_grady_ale_vony_ysly_vpered_202068.html)>, <<https://www.kp.ru/daily/26252.7/3132021/>>, <<https://chervonec-001.livejournal.com/839886.html>>, <[http://mignews.com.ua/spec/3252157\\_Boy\\_v\\_zone\\_ATO\\_Izvarino\\_Stepanovka\\_Saur-Mogila](http://mignews.com.ua/spec/3252157_Boy_v_zone_ATO_Izvarino_Stepanovka_Saur-Mogila)>, <<http://podrobnosti.ua/985010-bj-pd-selom-zvarine-vorog-zavchasno-zna-pro-vs-peremschennja-vjskovih-vdeo.html>>, <<https://www.youtube.com/watch?v=rLe7-BXwV6U>>, <<https://korrespondent.net/ukraine/politics/3393374-v-amvroseyevke-marynovke-y-zvaryno-ydut-tiazhelye-boy-snbo>>, <[https://24tv.ua/nayzapeklishi\\_boyi\\_u\\_rayoni\\_amvrosiyivki\\_marinivki\\_izvarine\\_rnbo\\_n464910](https://24tv.ua/nayzapeklishi_boyi_u_rayoni_amvrosiyivki_marinivki_izvarine_rnbo_n464910)>, <<https://znaj.ua/news/society/13210/izvarine-hlopcyam-dovelosya-voyuvati-zi-svoyimi-ridnimi-po-riznistoroni-okopiv.html>>, <<https://strana.ua/articles/istorii/28775-vojna-2014-put-k-ilovajskomu-kapkanu.html>>, <[https://pikabu.ru/story/boy\\_na\\_kpp\\_izvarino\\_razgrom\\_banderovskogo\\_batalona\\_2428572](https://pikabu.ru/story/boy_na_kpp_izvarino_razgrom_banderovskogo_batalona_2428572)>, <<https://dpsu.gov.ua/ua/news/dva-misjaci-boiv-za-C2%ABizvarine%C2%BB/>>.

fire from the direction of RF. During the numerous fights LAF did not manage to regain control over the checkpoint “Izvarine”. After losing control over the populated areas of Stepanivka, Marynivka and checkpoint “Marynivka” in the middle of July the forces of ATO to the east of Marynivka were essentially surrounded, cut off from the main forces. The unblocking of the surrounded units was carried out and the conflict de-facto ended on 7 August with the retreat of the last units who were carrying out the mission to block the state border. The battle on the border became the first significant defeat for LAF. As a result the control over the state border between Izvarine and Marynivka was lost.



Izvarine

### Battles for the control over the state border (Dovzhanskiy)<sup>344</sup>

As a result of the battles of 17 June — 1 July LAF managed to return to Ukraine the control over checkpoint “Dovzhanskiy”. However, after several

<sup>344</sup> <<https://www.youtube.com/watch?v=N5bAn0du0LU>>, <<https://www.rbc.ua/ukr/news/segodnya-4-goda-zaversheniyu-boev-dovzhanskiy-1533644335.html>>, <<https://www.obozrevatel.com/ukr/crime/45836-ti-scho-vizhili-odeski-prikordonniki-rozpovili-pro-dovzhanska-kotli.htm>>, <<https://malinform.com/tegy/ato-kotel-dovzhanskyy>>, <[http://kiliya.info/blog/khroniki\\_dovzhanskogo\\_kotla/2017-08-11-5275](http://kiliya.info/blog/khroniki_dovzhanskogo_kotla/2017-08-11-5275)>, <[https://www.youtube.com/watch?v=O-v1\\_fNC9Do](https://www.youtube.com/watch?v=O-v1_fNC9Do)>, <<https://www.youtube.com/watch?v=qMpdnjKpmSE>>, <<https://bessarabiainform.com/2014/08/dolzanskiy-kotel-fotoreportazh-iz-nastoyashhego-pekla/>>, <<http://vlasno.info/ato/item/4781-chotyry-vinnyskykh-prykordonnyky-rik-tomu-ne-vyishly-z-dovzhanskoho-kotla>>, <<https://novadoba.com.ua/14322-geroyi-dovzhanskogo-kotla-z-lysyanschyny.html>>.

artillery strikes from the Russian territory between the mid-July and the second half of July the control was lost, the units of LAF were surrounded. On 1 August 2014 the Ukrainian military left the positions near EECF “Dovzhanskiy”. On 8 August 2014 the control over it was taken by Don cossacks.

### Shooting in Zelenopilya<sup>345</sup>

On 11 July 2014 — a missile strike on the grouping of UAF and State Border Service of Ukraine in sector “D” of the zone of ATO near the village of Zelenopilya of Luhansk Oblast.

The attack was carried out in the night between 10 and 11 July 2014. The Russian rocket artillery from their territory performed a powerful strike across the border aiming at the positions of Ukrainian military. It was the first direct massive use of the regular military of RF against UAF. Later such shelling became systemic.

6 border guards and 30 soldiers of UAF died because of the shelling.

### Battles for Shakhtarsk<sup>346</sup>

In late July 2014 the headquarters of ATO placed a mission before the command of the brigade — to

<sup>345</sup> <<https://www.youtube.com/watch?v=L-sAib0bXKY>>, <<https://zik.ua/tv/video/24677>>, <[http://texty.org.ua/pg/news/textynewseditor/read/54734/Tragediya\\_v\\_Zelenopilli\\_chomu\\_komanduvanna\\_ATO\\_ne](http://texty.org.ua/pg/news/textynewseditor/read/54734/Tragediya_v_Zelenopilli_chomu_komanduvanna_ATO_ne)>, <<https://tverezo.info/post/62452>>, <<https://apostrophe.ua/ua/article/society/2016-07-11/v-zelenopole-ukrainskie-soldaty-lojkami-i-mis-kami-ryili-sebe-ukryitiya/6108>>, <<https://spektrnews.in.ua/news/scho-stalosya-p-d-zelenop-lyam---dmitro-kalinchuk-vovnyanko/65162>>, <[https://espresso.tv/news/2014/07/11/pole\\_boyu\\_pid\\_zelenopillyam\\_pislya\\_obstrilu](https://espresso.tv/news/2014/07/11/pole_boyu_pid_zelenopillyam_pislya_obstrilu)>, <[ua.censor.net.ua/photo\\_news/397006/dru-ga\\_richnytsya\\_tragediyi\\_pid\\_zelenopillyam\\_u\\_mis-tah\\_ukrayiny\\_zgadaly\\_biyitsiv\\_zagybylyh\\_unaslidok\\_rosiyiskogo](https://ua.censor.net.ua/photo_news/397006/dru-ga_richnytsya_tragediyi_pid_zelenopillyam_u_mis-tah_ukrayiny_zgadaly_biyitsiv_zagybylyh_unaslidok_rosiyiskogo)>, <[gazeta.ua/articles/life/\\_dzvonimo-komandi-ru-vryatujte-nas-a-vin-vi-scho-dosi-zhivi-uchasnik-bij-ni-pid-zelenopillyam/570687?mobile=false](https://gazeta.ua/articles/life/_dzvonimo-komandi-ru-vryatujte-nas-a-vin-vi-scho-dosi-zhivi-uchasnik-bij-ni-pid-zelenopillyam/570687?mobile=false)>.

<sup>346</sup> <<https://www.pravda.com.ua/news/2014/07/31/7033591/>>, <[ua.censor.net.ua/resonance/449758/biyi\\_zashahtarsk\\_nevykorystannyi\\_shans\\_u\\_viyini\\_2014go](https://ua.censor.net.ua/resonance/449758/biyi_zashahtarsk_nevykorystannyi_shans_u_viyini_2014go)>.

cover the deployment of the 95<sup>th</sup> brigade to breach the corridor for the retreat of the units that were pressed in the area of Dmytrivka — Stepanivka — Marynivka. For that purpose it was planned to hold the vicinity of the town of Shakhtarsk and cut the route “Torez — Snizhne”. On 26 July 2014 the line of the brigade consisting of 16 APC-2, an anti-aircraft artillery platoon (3 trucks with AS-23), artillery battery (3 AAS “Nona” and 2 1B119 “Reostat”) supported by 2 tanks from 17<sup>th</sup> tank brigade moved to the area of the raid. On 27 July the paratroopers moved to the area of Shakhtarsk, arriving to the south-eastern vicinity. The appearance of the paratroopers did not go unnoticed, and the “Minister of Defence of DPR” Girkin-Strelkov gathered everything possible to hold Shakhtarsk: at least 600 people, tanks, APCs, “Grad”s, a battery of the D-30 howitzers.

After gathering forces the enemy started the actions, the street combats were lasting. The first breakthrough was carried out on 28 July with the

northern general direction, the second — on the next day to a direction unexpected for the enemy — towards Blahodatne.



*Burnt-down building OG the town council in Shakhtarsk*

However, after the raid of the 95<sup>th</sup> brigade and the retreat of the border grouping, there was no sense to remain in Shakhtarsk.

Early in the morning on 31 July 2014 the paratroopers from Dnipropetrovsk started the breakthrough. However, they were outnumbered by the armed formations — literally the day before that the reinforcements came from Kharcyzk, Ilovaysk, Khanzhenskove and Kuteynikov, therefore the breakthrough transformed into a beating.

However, the fate of the 3<sup>rd</sup> company was the most tragic. It was going in the rear cover and was extended by 400 meters. Going through the last crossroads in the suburbs of the town, the company met a single tank of the armed groups, which started shooting at APCs closely.

Of course, cutting the route was out of the question, and after the agreement of the command the group left for Blahodatne. After that the raid for Shakhtarsk stopped.

### The battles for Stepanivka<sup>347</sup>

Ukrainian command developed a plan to unblock sector D — the occupation of Stepanivka and Nikiforo-

<sup>347</sup> <https://2plus2.ua/lyustrator-762/novyny/bitva-za-stepanivku-chomu-ne-pokarano-vinnih>, <http://www.1zt.ua/news/rizne/molodiy-boyets-30-yi-brigadi-rozpoviv-pro-zapekli-boyi-ta-zagiblih-y-poranenih-pobratimiv.html>,

ve had to unblock the divisions of 24 SMBR, 72 SMBR, 79 SAMBR and the border guards that were shelled from the direction of RF for weeks, and were cut off by the forces of IAF, the fortifications in the area of Savur-Mohyla and the populated areas nearby.

On 1–5 August 2014 there was a successful operation for taking the village. the size of the strike force that participated in the operation to liberate Stepanivka on 1–5 August was 1611 people. On 1 August 2014 the village was liberated from IAF. The freed units of 24 SMBR, 72 SMBR, 79 SAMBR moved to the point of constant dislocation outside of the conflict area.

On 10-11 August 2014 Stepanivka sustained massive destructions under a massive shelling from the territory of RF by the batteries of RSVF “Grad”. In the night between 12 and 13 September there was a report about 50 tanks advancing towards Marynivka and Stepanivka from the direction of Russia. As a result of artillery strikes and the tank attack the units of UAF were forced to retreat. The occupation of Stepanivka by pro-Russian forces entailed heavy consequences for the Ukrainian units, worsened the situation with taking of Marynivka. Miusinsk, the holding of which was the mission of the 30<sup>th</sup> brigade, was also vacated, the retreat routes for the south for the mechanized brigades were cut. The first and second battalions of the brigade ended

<https://ua.112.ua/mnenie/richnytsia-trahedii-v-stepanivtsi-251790.html>, <http://www.mil.gov.ua/news/2017/06/11/boi-pid-stepanivkoyu-buli-najvazhchim-periodom-za-vsyu-moyu-istoriyu-vijnii%E2%80%A6>, <http://tyzhden.ua/Society/153886>, <http://veterano.com.ua/video/1277-30-brigada-2014-08-11-13-vazhki-boji-za-selo-stepanivka-donetskoji-oblasti>, <http://www.volynpost.com/news/37837-peklo-za-zhyttia-fotoreportazh-bijcia-ato-foto>, [https://espreso.tv/news/2014/12/29/selo\\_stepanivka\\_pislya\\_bojiv\\_peretvorylosya\\_na\\_ruyiny\\_videofakt](https://espreso.tv/news/2014/12/29/selo_stepanivka_pislya_bojiv_peretvorylosya_na_ruyiny_videofakt), [http://ua.news.liga.net/politics/news/sili\\_ato\\_zv\\_lnili\\_stepan\\_vku\\_ydut\\_bo\\_za\\_sn\\_zhne\\_rnbo](http://ua.news.liga.net/politics/news/sili_ato_zv_lnili_stepan_vku_ydut_bo_za_sn_zhne_rnbo), [https://gazeta.ua/articles/ukraine-newspaper/\\_bataljon-donbas-uniknuv-pastki-v-ilovajsku/716755](https://gazeta.ua/articles/ukraine-newspaper/_bataljon-donbas-uniknuv-pastki-v-ilovajsku/716755), <https://www.facebook.com/willliveinua5/videos/973904572769880/>, <https://ua.korrespondent.net/ukraine/politics/3404136-selo-stepanivka-donetskoi-oblasti-pislia-obstrilu-fotoreportazh>, <https://www.unian.ua/politics/945016-sili-ato-uvyshli-v-shakhtarsk-torez-lutugine-i-zvilnili-stepanivku-boji-trivayut-karta.html>, <https://onlains.info/onlain/videoncUNDLU12d0pwLXc>.

up cut off from the force divisions, it was impossible for the LAF to break through to sector “D” under the fire. In such situation the battalions decided to go north — under Lutuhine.

The last forces of the 30<sup>th</sup> brigade were moving from Stepanivka in the morning of 14 August, firing on the move for 20 kilometers in return of the fire of RPG of RF.

### Tragedy of IL-74<sup>348</sup>

The military transport plane IL-76MD (registration no. 76 777, serial no. 0083 482 490, the first

<sup>348</sup> <https://strana.ua/news/17999-dva-goda-krusheniya-il-76-vse-fakty-tragedii.html>, [https://24tv.ua/na\\_bortu\\_zbitogo\\_il76\\_perebuvali\\_49\\_vyskovih\\_seleznov\\_n453893](https://24tv.ua/na_bortu_zbitogo_il76_perebuvali_49_vyskovih_seleznov_n453893), <https://www.pravda.com.ua/news/2014/06/14/7029026/>, <http://expres.ua/news/2014/06/15/107985-spysok-voyakiv-zagynuly-pidbyttya-litaka-lugansku>, <https://www.unian.ua/politics/935106-zbitiy-pid-luganskom-il-76-dobivali-z-kulemeta-trivae-identifikatsiya-til-tsk.html>, [https://ua.censor.net.ua/news/393255/dva\\_roky\\_tomu\\_terorysty\\_zbyly\\_litak\\_il76\\_iz\\_viyiskovymy\\_25oyi\\_brygady\\_49\\_lyudeyi\\_zagynulo](https://ua.censor.net.ua/news/393255/dva_roky_tomu_terorysty_zbyly_litak_il76_iz_viyiskovymy_25oyi_brygady_49_lyudeyi_zagynulo), <https://www.5.ua/suspilstvo/katastrofa-il76-khto-vidpovist-za-terakt-161409.html>, [https://censor.net.ua/resonance/443817/gibel\\_49ti\\_v\\_il76\\_kak\\_razoblachili\\_vrane\\_generala\\_nazarova](https://censor.net.ua/resonance/443817/gibel_49ti_v_il76_kak_razoblachili_vrane_generala_nazarova), <https://www.segodnya.ua/regions/donetsk/katastrofa-il-76-v-luganske-nazvany-imena-boevikov-sbivshih-samolet-1062164.html>, <https://www.youtube.com/watch?v=8JLxZNnI9c>, <https://www.youtube.com/watch?v=sXhR0hvnnggc>, <https://www.youtube.com/watch?v=M927OoSpErs>, <https://www.youtube.com/watch?v=PRzLUvItS8>, <https://112.ua/statji/krushenie-il-76-pod-luganskom-vinovnye-ne-nakazany-na-sledstvie-sovershaetsya-davlenie-237231.html>, <https://www.pravda.com.ua/news/2017/09/26/7156372/>, <https://www.pravda.com.ua/rus/news/2017/09/26/7156372/>, <https://uain.press/articles/il-76-tragediya-nad-luganskom-try-roky-potomu-174820>, [https://tsn.ua/blogi/themes/o\\_voine/tragediya-u-lugansku-yak-mozhливо-bulo-poperediti-zbittya-il-76-z-pivstotneyu-viyskovosluzhbovciv-354593.html](https://tsn.ua/blogi/themes/o_voine/tragediya-u-lugansku-yak-mozhливо-bulo-poperediti-zbittya-il-76-z-pivstotneyu-viyskovosluzhbovciv-354593.html), <http://i-ua.tv/index.php?newsid=2428>, <https://www.radiosvoboda.org/a/news/28261634.html>, <https://hromadskeradio.org/news/2017/06/24/dokumentalnyy-film-pro-49-obirvanyh-zhyttiv-vzhe-dostupnyy-v-youtube>, <https://politeka.net.ua/news/447690-katastrofa-il-76-v-luganske-kogo-segodnya-nachnut-sudit-foto/>,

flight in 1988) was transporting the personnel for rotation, the vehicles and food. Two rockets at once, launched on 14 June 2016 from portable anti-aircraft missile systems (PAAMS) hit the Ukrainian plane during the landing in Luhansk airport, when Il-76 was around 700 meters high. In the position of IAF near Luhansk airport, from which Il-76 could have been hit, there were found three launch tubes 9P39-1 of PAAMS 9K38 “Igl’a”. Two PAAMS “Igl’a” were used, one — technically malfunctioned (the 9M39 missile remained in the tube).



*The remains of a downed IL-74*

Also in the place of the ambush of the armed groups there were found empty food cans, made by ZAT “Orelproduct”, in the town of Mtsensk (Russia). On 2 July the following was published: “The first rocket launched by the separatists missed the plane. Only the second rocket hit it, and then the plane was hit by the fire of high caliber machine gun, — said the head of the commission [Olexandr Chernovolenko]. Major General Nazarov still does not acknowledge his guilt. He says he did not know about any intelligence, that the armed groups sit in the ambush in Luhansk airport, and that there was a danger of death of plane Il-76. The court sentenced General Nazarov to 7 years of imprisonment for official negligence, but did not deprive him of the rank of Major General.

<http://podrobnosti.ua/980461-ekipazh-sbitogo-v-luganske-il-76-byt-iz-melitopolja-polnyj-spisok-zhertv-foto.html>,  
<http://fakty.ua/238479-tri-goda-so-dnya-krusheniya-il-76-v-ukraine-pominayut-ekipazh-i-40-desantnikov-foto>,  
<https://www.youtube.com/watch?v=sD5YR-l08II>,  
<https://www.youtube.com/watch?v=MEo5tKv7MVY>.

### The march of shame<sup>349</sup>

The IAF of the s.-c. “DPR” cancelled the celebration of the Independence Day of Ukraine and arranged their “parade” in Donetsk on 24 August 2014. The members of IAF brought the captured Ukrainian soldiers on the central streets and walked with them. The captured Ukrainian soldiers were walking with bowed heads. They were all brought to the center of the city, on Lenin’s Square, where they were shamed by the crowd, uttering the insults and calling them “fascists”.

### Events on 03.09.2014<sup>350</sup>

On 3 September 2014 near the village of Pobeda of Novoaydar district of Luhansk Oblast the base

<sup>349</sup> <https://www.radiosvoboda.org/a/26549472.html>,  
<https://www.radiosvoboda.org/a/26547917.html>,  
<http://news.bigmir.net/ukraine/840344-Pochemu-millionny-Doneck-ne-postavil-ih-na-mesto-Socseti-o-parade-plennyh>,  
<https://korrespondent.net/ukraine/3409845-pochemu-myllyonny-donetsk-ne-postavyl-ykh-na-mesto-polzovately-sotsseti-o-parade-plennykh-ukraynskykh-soldat>,  
[https://lb.ua/society/2014/08/23/277060\\_dnr\\_us-troila-smotr-podbitoy-tehniki.html](https://lb.ua/society/2014/08/23/277060_dnr_us-troila-smotr-podbitoy-tehniki.html),  
[https://echo.msk.ru/blog/novaya\\_gazeta/1386236-echo/](https://echo.msk.ru/blog/novaya_gazeta/1386236-echo/),  
[https://www.pravda.com.ua/news/2014/08/24/7035702/view\\_comments/page\\_8/](https://www.pravda.com.ua/news/2014/08/24/7035702/view_comments/page_8/),  
<https://www.youtube.com/watch?v=P-EzdyHQRa>,  
<https://www.dw.com/uk/спогоди-солдатів-дякую-чи-параду-полонених-у-донецьку-ми-зберегли-життя-відео/a-19497981>,  
[http://dniprograd.org/2018/01/29/dniprovskomu-pravozakhisniku-vidpoviv-evropeyskiy-sud-shchodo-paradu-polonenikh-u-2014-rotsi\\_64508](http://dniprograd.org/2018/01/29/dniprovskomu-pravozakhisniku-vidpoviv-evropeyskiy-sud-shchodo-paradu-polonenikh-u-2014-rotsi_64508),  
[https://www.ukrinform.ua/rubric-other\\_news/1699644-dnr-vela-polonenih-po-tsentr-donetska-pid-shvalniy-gvalt-natovpu-1966295.html](https://www.ukrinform.ua/rubric-other_news/1699644-dnr-vela-polonenih-po-tsentr-donetska-pid-shvalniy-gvalt-natovpu-1966295.html),  
<https://dnipro.depo.ua/ukr/dnipro/yevropeyskiy-sud-chekaye-vid-rosiyi-poyasnen-schodo-paradu-polonenih-u-donecku-20180129717202>,  
<https://ukr.segodnya.ua/regions/donetsk/kak-bo-eviki-pytayut-lyudey-izbienie-pletmi-i-raby-v-okopah-692246.html>.

<sup>350</sup> <https://www.depo.ua/ukr/life/rossiyane-iz-smerch-rasstrelyali-artilleristov-sumskogo-0409201470200>,  
<https://www.ukrinform.ua/rubric-ato/2515051-identifikovali-ostannogo-iz-sumskih-artileristiv-ubitih-obstrilom-z-rf.html>,  
<https://www.youtube.com/watch?v=ulYuPObq14g>,  
<http://rama.com.ua/mamo-ya-povernuvsyia/#ad-image-0>,  
<https://lpl.com.ua/ua/needersato/profile/149>,  
<http://atoromny.blogspot.com/2018/05/09.html>,

camp of the 27th rocket artillery regime was shelled by RSVF “Smerch” from the territory of the Russian Federation. 15 soldiers were killed as a result of the shelling, one soldier died in hospital of the burns, one more soldier disappeared.



*After the battles on 03.09.14 near Pobeda village*

### Events on 05.09.2014<sup>351</sup>

On 5 September during the day the group of 23 fighters of the territorial defense battalion “Aydar” was shot at from the ambush near the block post in the village of Vesela Gora near the road “Luhansk-Schastia”. Only three battalion fighters were able to break through to their fellow soldiers. The wounded were executed on the spot. The ambush was coordinated by a Russian, Olexiy Minchakov, neo-Nazi from St. Petersburg.

Two hours later the paratroopers from the 2<sup>nd</sup> company of the 80<sup>th</sup> air mobile brigade were am-

[http://denisenkoyuriy.blogspot.com/p/blog-page\\_89.html](http://denisenkoyuriy.blogspot.com/p/blog-page_89.html),  
<http://sumypost.com/sumynews/suspilstvo/sumch-anyn-oleksandr-bujvalo-zagynuv-pid-raketnym-obstrilom/>.

<sup>351</sup> <https://www.unian.net/politics/961652-aydar-rasskazal-o-zasade-pod-schastem-odinochnyie-vyistrel-yi-na-blokposte-dobivali-ranenyih.html>,  
[https://censor.net.ua/photo\\_news/350702/5\\_senty-abrya\\_2014\\_goda\\_krovavaya\\_data\\_24go\\_otdelnogo\\_shturmovogo\\_batalona\\_aydar\\_fotoreportaj](https://censor.net.ua/photo_news/350702/5_senty-abrya_2014_goda_krovavaya_data_24go_otdelnogo_shturmovogo_batalona_aydar_fotoreportaj),  
[https://zaxid.net/prokuraturaperedala-do-sudu-spravu-rosiyskogo-neonatsista-prichetnogo-do-rozstrilu-biysiv-ato\\_n1430515](https://zaxid.net/prokuraturaperedala-do-sudu-spravu-rosiyskogo-neonatsista-prichetnogo-do-rozstrilu-biysiv-ato_n1430515),  
<https://rutube.ru/video/f7c3ecc95de586f592b4f259e95ae177/>.

bushed near the village of Tsvitni Pisky on the same road. The line was shot at from both sides by the small arms, grenade launchers, machine guns and a tank, the road was mined by guided anti-tank mines. The paratroopers took the circular defense, subsequently they passed the ambush while moving in the vehicles. They hit the tank and APC, but lost 23 people who were killed or disappeared.

### The parade of the captured “Cyborgs” on 21.02.2015<sup>352</sup>

The armed groups arranged the “parade” of the prisoners of war in Donetsk. The enforcers who were captured in Donetsk airport, were brought to the area of the railroad station and then brought on foot to the streets. Later the captured people were placed in a military “Kamaz” and brought to the square of Bakynskikh Komisariv, from which they went on foot again. The “Cyborgs” were also brought to Lenin district of Donetsk.

The line consisting of 18 prisoners of war was followed by armed groups of IAF with the head of the self-proclaimed “DPR”, Olexandr Zakharchenko.

According to the data of the Ministry of Defense, 6 Ukrainian soldiers died in the battle for the airport for the last day, 16 were wounded and captured, 20 left the battles from the territory of the ruined terminals.

The human rights organizations — Amnesty International, Human Rights Watch, Kharkiv Human Rights Protection Group — condemned the so-called “parade of the prisoners of war” that the armed groups carried out on Thursday in Donetsk, calling it a crime and a violation of international humanitarian law.

<sup>352</sup> <https://my.pcloud.com/publink/show?code=XZ30u77ZtspFD3h52bfr3zl0UkdpMVM1gteV>,  
<https://www.youtube.com/watch?v=BM1bF9mzKB4>,  
<https://my.pcloud.com/publink/show?code=XZBiu77ZAOPV3LK0xiXmmKLgillhx8Fot8Vik>,  
[http://texty.org.ua/pg/news/textynewseditor/read/57974/U\\_Donecku\\_znovu\\_neludskyj-parad-polonenih-FOTO](http://texty.org.ua/pg/news/textynewseditor/read/57974/U_Donecku_znovu_neludskyj-parad-polonenih-FOTO).

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## Насильницькі злочини, скоєні в ході збройного конфлікту на сході України у 2014–2018 рр.

*(англійською мовою)*

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