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

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Violent Crimes Committed During the Armed 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;
KHHPG — Kharkiv Human Rights Protection Group;
LGB — Local Government Body;
LAF — Legal Armed Formations;
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.

1 "Illegal armed formations" is a cumulative term that signifies the pro-Russian separatist (anti-government) groups operating in eastern Ukraine.

2 "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), (v), (b) (i), (ii), (iv), (v), (ix), (xxi), (xxii), (xxiii), (c) (i), (ii), (e) (i), (ii), (iv) and (v) 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 a 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 reindeer 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.

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 strategi- cally cases per year in both the national courts and the ECHR. 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 ECHR, 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 extra-judicial 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, Oleyna Richko, Pavlo Shvab, Yanina Smelyanska, Igor Sosonsky, Gennadiy Tokarev, Anastasia Yegorova, Yevgeniy Zakharov, together with staff members of SP, namely, Boris Knyrov, Gennadiy 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 ‘Renais-
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) and authorities responded. Regrettably, not all replies were informative enough.
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 on 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 IAF, 3,586 combatants affiliated with LAF, 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 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 reply 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 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) 67 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
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-Maidan” anti-government movement. The protests were coordinated through social media networks and the Internet. The protests were initially peaceful, but quickly turned violent as the local population in some cities of Donetsk and Luhansk regions, as well as the national authorities, were seized by unidentified men in military uniforms. These armed groups were later identified as members of the self-proclaimed Donetsk and Luhansk People’s Republics (DPR and LPR), which declared independence from Ukraine in 2014. The protests were accompanied by armed clashes between the protesters and the Ukrainian army, leading to the loss of life and injuries. The protests continued until the conflict in eastern Ukraine, information was collected on the territories on which hostilities took place in 2014–2015. These territories include: all districts of Donetsk region, except Starobilsk, Svativskiy and Kremine.

In April 2014, the Ukrainian government stated that several areas in Donetsk and Luhansk regions were taken under control by the armed groups 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, Lysychansk, Pervomaysk, Alchevsk, Luhansk, Sverdlovsk, Rovenki, Krasniy Luch, and other populated areas within the perimeter of the map.
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.1

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, Bylaviska, 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 extended significantly. Serious fighting erupted between the battalions of UAF and MIA in the residential areas of Sloviansk, Semenivka, Bylbasivka, Kramatorsk, Yasnohirka, Donetsk, Mariupol, Schyasty, Stanitsa Luhanska and Izvarine. There were documented single cases of the exchange of fire in the residential areas of Donetsk, Luhansh 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, Bylaviska, Kramatorsk, Yasnohirka, Liman, Rubizhne and Mariupol. The exchange of fire in Krasnoarmiysk (Pokrovsk) on 13 April 2014 claimed the lives of two civilians.2

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.3

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 re-captured and turned back under the control of the Ukrainian Government on 13 June 2014.4

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 to 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, Antyrivne, Krasniy Luch, Snizhne, Torez, Chakhtar, Zolote, Ilovaysk, Myronivka, Kramatorsk, Sloviansk, Lyman, Rubizhne, Severodonnetsk, Tryokhizbenka, Shyasty, Nizhnyeputel and Stanitsa Luhanska, 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 then 13,500 square kilometers (out of 26,500 km² 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 km² (out of 26,7 thousand km² 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.

June 2014

May 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 Schyasty and a number of villages of Novoaydar district in Luhansk region. In Donetsk region, the towns of Liman, Vampil 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 KHPD, most of them — in Sloviansk, Mykolayivka, Stanitsa Luhanska, Metalist and Luhansk).

On 3 June 2014, the town of Liman was taken under the control of Ukrainian forces.5 On 13 and 14 June 2014, the towns of Mariupol6 and Schyasty were taken under control.

Intense hostilities took place on the territories of Sloviansk, Semenivka, Bylaviska, Kramatorsk, Yasnohirka, Donetsk, Olenivka, Mariupol, Schyasty, Stanitsa Luhanska, Metalist, Krambrod (Luhansk), Stukalova Balka, Verhunka, Tryokhizbenka (suburbs), Slovanoserdsk, 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 Dolzhanskiy. 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 — Starobeshieve — Amvrossevka — Maryinka — Dmytrivka — Dyakove — Zelenopilya — Biryukove — Panchenkov. In doing so, they attempted to take under their control the border from Maryinka through Donzhanskiy 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.7


The transfer of the armed divisions of UAF was carried out along the local border road, Amvrosiivka — Tarany — Marinivka — Dukove, leaving the uncontrollable territories in the north. The divisions of UAF were mostly located in the countryside, while IAF advanced towards close to the line of control over the territories. On 5 July — Sloviansk, Kramatorsk; on 14 July — Popasna, Krasnoarmiysk (Pokrovsk) — Avdiivka, Pervomaisk; on 17 July — Toretsk (Dzerzhinsk); on 22 July — Svitlodarsk, Popasna, Severodonetsk; on 24 July — Liskianshchyna; on 28 July — Avdiivka; and on 29 July — Debaltseve.


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 populated areas. The dividing line of control over the territories stretched along the following areas: on 5 July — Sloviansk, Kramatorsk; on 6 July — Druzhivka; on 8 July — Kostiantynivka; on 20 July — Rubizhiv; on 21 July — Toretsk.
der with RF in Izvarino. On the same day, the operation began to unblock “Sector D”, which involved the divisions of 30th, 51st mechanized, 95th and 25th aero mobile brigades. During the operation to unblock the divisions that protected the Luhansk airport, UAF assumed control over Bile, Lutuhine and Georgivka.

On 28 July, Stepanivka was taken under control by UAF, the divisions of the 72nd 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 — Dibrivka. IAF took positions along the line Kozevnya — Dmytrivka — Girmytske.

On 23 July, the hostilities were taken place along the line of Zhytenko — Oleivskiy — Grygorivka, in Dmytrivka and Starobesheve. UAF moved towards Ilavsky and Blahdatne from the direction of Kutymivke.

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

On 24 July, UAF re-assumes control over Kozevnya. There were ongoing hostilities in the villages of Tanar, Dibrivka and Blahdatne. On 27 July, an armored column of UAF started moving from Debaltseve to Shakhhtarsk. In the district of Stepan-Krynkiy, UAF attempted to break the IAF’s defensive line. IAF launched “Grad” system at UAF in the area of Chervonopartizanskiy.

23 «Военнослужащих 51-й бригады, которые перешли на территорию РФ, выдвинули подозрения: им грозит до 10 лет в плену» [Soldiers of the 51st brigade who had defected to the enemy were indicted: they might get up to 10 years in prison], НЕТ (online), 31 July 2014, https://censor.net.ua/news/3962434/openoslojuyu schim_51yi_brigady_kotorye_pereshli_na_territoriyu_ rf_vydvynul_podozrenya_im_grozit_do.


On 30 July, UAF attacked Latsyshove and assumed control over CP “Marinivka.”

On 31 July, the fighting between UAF and IAF continued in the area between Shakhhtarsk and Torez. UAF retreated from the village of Rebr'ykovye (north of Koveni).

On 31 July, IAF shelled from “Grad” the military postition of the 25th UAMBR in the suburbs of Shakhhtarsk.

The territories controlled by IAF in Donetsk region as of late July 2014 encompassed no less than 4,100 km² (out of 26,500 km² 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 km² (out of 26,700 km² 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: Shakhhtarsk, Marinivka, Stepanivka, Torez, Panchenkovo, Dovzhanske, Zelenopillya, Snizhne, Sloviansk, Kramatorsk, Bakhmut, Popasnaya, Lisichansk, Zolote, Pervomaysk, Svitlo- dars, Debaltseve, Oleivdrivskiy, Stanitsa Luhanska, Tarany, Saurivka, Maryivka, Grybuvakha, Dyakove, Dmytrivka, Marinivka, Stepanivka, Biryukove, Kozevnya, Savu-vysoeta, Kutymivke, Mospynye and some others.

August 2014

On 3 August, UAF was fighting for high grounds of Saur-Mohyla. The operation of withdrawing the units of 24th, 51st, 72nd, 79th 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 72nd mechanized brigade and 164 border guards) entered unarmored 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. Some members of the 72nd 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 72nd brigade joined the divisions of the 79th 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 unblockd 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 Shakhhtarsk in the village of Serdite. UAF left Shakhhtarsk and went to Debaltseve. At the same time, there were hostilities taken place in Kutymivko, Starobesheve, Orlovsko-Ivanivka and Serdite.

On 6 August, UAF were making a breakthrough to Kozevnya and Dmytrivka from the direction of the village of Tanar. They continued the assault further to the north from Savur-Mohyla to the nature reserve “Leontyevo — Bayratsky tract” in the two directions — through the villages of Saurivka and Stepanivka and through Dmytrivka. There 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.

On 7 August, IAF took Miusinsk and blocked the road between Snizhne and Krasnyi Luch. IAF controlled the border between Izvarina and Marinivka. IAF advanced to Kutymivko from the direction of Agronomiche.

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

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

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 Novopechersky.


26 «Особождені Мисінськ і Пантелеймонівка: два пути терористів перервані» [Miusinsk and Panteleymonivka were liberated: two terrorists’ routes were cut off]. Podrobnosti (online), 08 August 2014, https://podrobnosti.ua/98831-esovozhdenyi-miusinsk- i-panteleymonivka-dva-puly-terroristov-pererezay-odnovo- leno-karta.html.

After the battles in Debaltseve
On 13 August, UAF assumed control over the village of Verkhnya Krynka during the fighting. UAF advanced to Khartsyzsk from the direction of Ilovaysk, and also left Shiroke for Kuteynikove. On the same day, 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 advanced to Khartsyzsk from the direction of Ilovaysk, and also left Shiroke for Kuteynikove.

On 18 August, UAF assumed control over Nizhnya Krynka. 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 advanced to Khartsyzsk from the direction of Ilovaysk, and also left Shiroke for Kuteynikove.

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

On 23–24 August, the UAF divisions tried to leave from Kureynikove to Ilovaysk and Mosypne. 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 Yanekyieve to Kirovskoe, in order to unblock the UAF units in the area of Maloiorlivka. Powerful artillery shelling was mounted on Kirovskoe from howitzers and mortars from the positions to the north of Maloiorlivka.

The territory on which UAF found themselves encircled was located between Blahodatne through the reserve Berdianskyk to Mnohopilya, then through Agronomichne, Volodarske, Kuteynikove, Vovkivsyo, Olinsky 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, 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 22 August, the UAF divisions moved from the area of Ilovaysk towards Komsoomsomo. The column was moving along the route Mnogopilya — Agronomichne — Novodvirske — Mykhaylivka — Andriivka — Gorbatenkov — Chumak — Novokaterynivka. In the area of Gorbatenkov 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.29

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 km² (out of 26,500 km² of the total area of the region), with the population of no less than 2.5 million people. In Luhans region, it included no less than 1,45 million people.

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.26 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


29 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.\(^{30}\)

The UAF assault operation (July–August 2014) ended. All UAF divisions were brought behind the provision line of contact — from the border with Russia at the junction of the rivers Siverskyi Donets and Derkul in Luhansk Oblast up along the riverbed of Siverskyi Donets through Stanitsa Luhanska, Schastya, Tryokhizbenka, then from the village of Sokilnyky on land to highway R-66 (Lisichansk — Luhansk), along the route to the village of Novotoshkovskivske, then between Orekhove village and Golubovskivske town, between the town of “Rodina” mine (Zolote-4) and Maryivka railroad station, between Katerynivka and Molodizhne, between Novoolexandrivka and Kalyove-Borschuvate, between Troitse and Kalyove (Debalteve bridgehead), between the villages of Veselgorivskivske and Hannivka, Polyove and Lomuvatka, between Borzhivivska and Komisariivska, Chornukhino and Centralne, Mius and Aschivivska, between Nikishyne and Kamshatske, between Vlkivivska and Malorolivivka, Balavinse and Yunokomunivska, between Vuglegorsk and Yanivivske, between Molochne and Huryt (Debalteve bridgehead), between Novoluhanskivske and Holmivske, between Bakhmutivka and Zaysivske, Mayorsk and Mykivivska, between Pivdennivska and Horlivivska, between Novorosivska and Shyroko Balka, between Verkhnyihotsivske and Kalmiusivske, between Avdiivivska and Yasivnivata, between the villages of Opytne and Spartak, between the village of Pinsk and Kuybyshev district of Donetsk, between Krasnogorivske and Starohomivske, between Mykolaivivska and Styla, Bogdanivivska and Petrosvivske, Starogrivivska and Bila Kamivanka, leaving near the village of Grivniivske to Kalinivivske river and further south along the riverbed by Grivniivske and Cherkamylivske to Pavlovivske reservoir, then on land between the village of Pischevivske and Verkhnyihotsivske, between the villages of Pizkyuv and Zayichenko, between Vodyane and Sakhanka, reaching the shore of the Sea of Azov in the village of Shirikino.

\(^{30}\) 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/153807.

October–December 2014

Between October and December 2016, 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 Debalteve bridgehead.\(^{31}\) IAF reached the village of Logvinove by route M-03 on the span of Luhanske-Debalteve from the western direction of Horlivivske through Huryt, via the corridor to the south of Vuglegirsk reservoir and to the north of railway road Debalteve-Horlivivske, 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 Debalteve-Achivske. In doing so, IAF blocked the only transport corridor that connected Debalteve bridgehead with logistical support (Bakhmut town). IAF launched its offensive from Yanakievivska and Horlivivska to Vuglegirsk; from the direction of Zorivske through Komisariivska, from the direction of Faschivivska through Chornukhivske — to Debaltseve\(^{32}\).

As of March 2015, the line of contact was drawn along the border with RF on the junction of the rivers Siverskyi Donets and Derkul in Luhansk region up along the channel of Siverskyi Donets through Stanitsa Luhanska, Schastya, Tryokhizbenka, then from the village of Sokilnyky on land to route R-66 (Lisichansk-Luhansk), along the route to the town of Novotoshkovskivske, then between the village of Orekhivovo and the town of Golubovskivske, between the town of “Rodina” mine (Zolote-4) and Maryivka railway station, between Katerynivka and Molodizhne, between Novoolexandrivka and Kalyove-Borschuvate, between Troitse and Kalyove, between Myronivska and Pivdenna Lomuvatka, between the villages of Luhanske and Debalteve, between Svitlodarsk and Vuglegirsk, between Novoluhansivske and Holmivske, between Bakhmutivka and Zaysivske, Mayorsk and Mykivivska, between Pivdennivska and Horlivivska, between Novgorodivske and Shirivske Balka, between Verkhnyihotsivske and Panteleymonivska, between Avdiivivska and Yasivnivata, between the villages of Opytne and Spartak, between the village of Pinsk and Kuybyshiv district of Donetsk, between Krasnogorivske and Staromykhailivivska, between Maryivivska and Oleksivivska, between the villages of Taramchuk and Olenivivske, between Novoolexandrivske and Dokuchayevivske, between Mykolaivivska and Styla, Bogdanivivske and Petrosvivske, Starogrivivska and Bila Kamivanka, emerging near the village of Grivniivske to Kalinivske river and further south along the riverbed by Grivniivske and Cherkamylivske to Pavlovivske reservoir, then on land between the village of Pischevivske and Verkhnyihotsivske, between the villages of Pizkyuv and Zayichenko, between Vodyane and Sakhanka, reaching the shore of the Sea of Azov in the village of Shirikino. UAF began strengthening its line of defense along the line of contact. Several populated areas in the direct vicinity of the line of contact became the front line of defense.

The armed conflict moved to the positional trench stage. The territories divided by the line of contact had 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. Novoolexandrivske — Dokuchayevivska, Maryivivska — Oleksivivska, Krasnogrivivska — Staromykhailivivska, Avdiivivska — Yasivnivata, Verkhnyihotsivske — Panteleymonivska, Novgorodivske — Toretsk — Horlivivska, Popasna — Pervomaysk, Tryokhizbenivska — Slivianoserbsk, 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\(^2\).
(out of 26,500 km² 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 km² (out of 26,700 km² of the total area of the region), with the population of no less than 1.4 million people.

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, Krymske, Schastya, 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 documented 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.

### 4.2. CONSEQUENCES OF THE ARMED CONFLICT

According to the HRMMU’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 9,000.34

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 2016–2018, IAF established 120 places of unlawful detention, which were used for detention of the captured Ukrainian military servicemen.

### Table: Episodes of the Armed Conflict

<table>
<thead>
<tr>
<th>Episode/incident</th>
<th>Time Period</th>
<th>Killed</th>
<th>Injured</th>
<th>Detained</th>
<th>Missing</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Battle for Sloviansk</td>
<td>12.04 — 05.07.2014</td>
<td>40</td>
<td>1</td>
<td>17</td>
<td></td>
<td>58</td>
</tr>
<tr>
<td>Battles for Kramatorsk</td>
<td>12.04 — 05.07.2014</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Execution of the military servicemen near Volnovakha</td>
<td>22.05.2014</td>
<td>17</td>
<td>1</td>
<td></td>
<td></td>
<td>18</td>
</tr>
<tr>
<td>Battles for Savur-Mohyla</td>
<td>05.06 — 29.08.2014</td>
<td>25</td>
<td>12</td>
<td>7</td>
<td></td>
<td>44</td>
</tr>
<tr>
<td>The battles for the control over the state border (Maryinka)</td>
<td>05.06 — 14.08.2014</td>
<td>14</td>
<td></td>
<td>1</td>
<td>2</td>
<td>17</td>
</tr>
<tr>
<td>The battles for Chervonopartizansk</td>
<td>21.06 — 10.08.2014</td>
<td>9</td>
<td></td>
<td></td>
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<tr>
<td>Battles for Donbasskoy</td>
<td>17.06 — 08.08.2014</td>
<td>27</td>
<td></td>
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<td>1</td>
<td>28</td>
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<tr>
<td>Executions in Zelenopilya</td>
<td>11.07.2014</td>
<td>36</td>
<td></td>
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<tr>
<td>Battles for Shakhtarsk</td>
<td>30.07 — 05.08.2014</td>
<td>35</td>
<td></td>
<td>4</td>
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<td>39</td>
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<tr>
<td>Battles for Stepanivka</td>
<td>15.07 — 04.08.2014</td>
<td>45</td>
<td></td>
<td>6</td>
<td>3</td>
<td>54</td>
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<tr>
<td>Defense of the Lugansk airport</td>
<td>8.04 — 01.09.2014</td>
<td>93</td>
<td>3</td>
<td>34</td>
<td></td>
<td>110</td>
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<tr>
<td>Defense of the Donetsk airport</td>
<td>26.05.14 — 21.01.15</td>
<td>167</td>
<td>13</td>
<td>36</td>
<td>8</td>
<td>224</td>
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<tr>
<td>Tragedy of IL-74</td>
<td>14.06.2014</td>
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<tr>
<td>Battle for Ilovaisk</td>
<td>24.08 — 01.08.2014</td>
<td>416</td>
<td>63</td>
<td>418</td>
<td>42</td>
<td>839</td>
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<tr>
<td>&quot;The walk of shame&quot;</td>
<td>24.08.2014</td>
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<td></td>
<td>36</td>
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<td>36</td>
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<tr>
<td>Events on 03.09.2014</td>
<td>02.09.2014</td>
<td>16</td>
<td></td>
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<td>16</td>
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<td>Events on 05.09.2014</td>
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<tr>
<td>Battle for Debaltseve</td>
<td>24.07.14 — 18.02.15</td>
<td>295</td>
<td>8</td>
<td>42</td>
<td>32</td>
<td>377</td>
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<tr>
<td>The parade of the captured “Cyborgs”</td>
<td>21.02.2015</td>
<td></td>
<td></td>
<td>16</td>
<td></td>
<td>16</td>
</tr>
</tbody>
</table>

civilians, including the journalists and volunteers.  

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 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.  

Around 10,000 objects of infrastructure were seriously damaged. One of the main reasons of the deaths/casualties was the use of civilians as “human shields”.  

Groups for conducting hostilities essentially meant civilians in the city of Horlivka.

Slavyansk, Mariinka.

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

The number of committed murders were massive from the time 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 IAF 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.

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.

The victims of the massacres were 50 civilians and 68 military personnel. 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.

58% 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

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.

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. At the beginning of the conflict, finding the body of a person after some time was impossible.

SSU building in Donetsk, occupied by the armed formations
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 Stanitsia Luhanska (Stanitsia Luhanski district, Luhanski Oblast), during the conflict, 18 people disappeared. All of them were found dead later.47

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.

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 “DPR”46

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 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 Luhanska 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 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 killing48

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, Luhanski 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 Orehivka (Lutuginsky district of the Luhanski 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 figure49

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, Luhanski 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 award- ed 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 were even 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...”

46 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 intentional 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

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”

September 5, 2014, about 14.00, on the Schastya — Metallist highway in the district of Tsimlyansk, village of the Slavyanskersky 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 Yuryovich (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

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 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 Commission 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); 05/26/2014 under Art. 115 (intentional murder) and under art. 146 (illegal con-
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, 2015, 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.53

In addition, the HRMM emphasized that the continuing use of inaccurate and/or explosive weapons by the parties to the conflict remained the main concern for the protection of civilians. HRMM emphasized 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.54

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’.55

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.56

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.57

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 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, Yasynuvata, Illovaysk, Makilka, Debaltsevo, Gorlovka, Donetsk, Popasnaya, Pervomaysk, Stantsiya Luanskaja and Luhansk districts, one of the highest among the indicators of the level of violence in the settlements along the contact line.

54 Ibid sh. 19.
56 Annex 10, p. 20.
57 Ibid p. 21.
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 air-strikes to Ostrovsky Street in the Stanitsya Luhanska of Stanichno-Luhansky 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 experimental 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 Stanitsya 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 Kondrasheva’ in the Stanitsya Luhanska. During the second raid, 9 people were killed as a result of the shellburst, 11 people were injured, and 7 buildings were damaged.61

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 were 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.

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 douché, 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.’

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 brought to justice, and the investigation is carried out formally.62

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. was a son of V. K. I. was killed walking for the water. K. M., I. S., S. D., all were rejected. K. M. was thrown on apricot three, 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...’

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, screaminings were everywhere, the neighbor M. shouted
35

Overtook me, and my neighbor said, there the D. G’s just opposite the tenth school. I saw the people, flank, the second boy was injured.70

One of the boys (16 years old) died right away from who played tennis in the school yard were injured.

was destroyed, glass was dropped out in houses 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.

On the territory of the tenth school two children 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 flanks, the second boy was injured.70

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, 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...’70

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.70

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 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...’73

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 was bombed from Ukrainian plane...’74

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

60 KHPG Archive, SLC’s fund, inventory 8, file 10.
61 KHPG Archive, SLC’s fund, inventory 8, file 11.
70 KHPG Archive, SLC’s fund, inventory 8, file 14.
71 Ibid.
72 Ibid.
73 KHPG Archive, SLC’s fund, inventory 8, file 12.
74 KHPG Archive, SLC’s fund, inventory 8, file 11.
then I did not remember anything. I came to my senses in the hospital, I had open penetrating cranioencebral 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?..."

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, 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. UF also acted the same way.’ 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.’

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.”’ In international humanitarian law, the term ‘human 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. Pactical legislation prohibits such practices in international armed conflicts and indirectly in non-international armed conflicts.

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 replication of similar criminal behavior on a regular basis is a general expression of such a systematic occurrence. Similarly, the term ‘widespread’ refers to ‘the scale of the attack and the number of victims.’ The placement of combat positions, reference points or headquarters in the presence or in 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, Yenakievy, Donetsk, Pikuzy, Samilove and in the government controlled areas: Stanitsya Luhanska, Avdiivka, Kihidoborinka, Luhanska, Svitlodarsk, Rairhorodtsi. 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. 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, near which at a distance of 200 meters there was a hospital. Also armed groups of the so-called ‘LPR’ placed an artillery position near the East
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. The contact line between the parties to the armed conflict runs directly in the vicinity of Donetsk,8 and somewhere in its streets, so there are two checkpoints near Donetsk.9 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’ on the outskirts of Donetsk there is a military position of the armed groups of the so-called ‘DPR’. School No. 69 is located in the immediate vicinity of the fighting position from which the fire is carried out.40 46 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 cover and concealment of hostilities.98 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 Birynzova Street98. In this residential quarter there are two checkpoints near Donetsk.94,95 kindergarten ‘Ladushki’ and city hospital No. 2545, which, due to similar actions by the armed groups of the so-called ‘DPR’ was often used as a ‘human shield’ to conceal

91 «Постанова Верховної Ради України “Про затвердження переліку населених пунктів, розташованих на території, де внось уваги на луганські територій-бегут». 
92 Наказ Кабінету Міністрів України «Про затвердження переліку населених пунктів, розташованих на території, де внось уваги на луганські територій-бегут».
93 Легенда до орієнтовних карт 1/600,000 по містам України.
94 «Постанова Верховної Ради України “Про затвердження переліку населених пунктів, розташованих на території, де внось уваги на луганські територій-бегут”. 
95 «Постанова Верховної Ради України “Про затвердження переліку населених пунктів, розташованих на території, де внось уваги на луганські територій-бегут”. 

that 'there were often tanks or some other artillery mount with heavy weapons near the establishment, and they were shelving 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 Mykityvska penal establishment No. 87118, 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 Kailin police establishment No. 27119, 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 city120, 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 the city, the settlement under the control of the ’DPR’.121 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 Pisky (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 Samilovo122, 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 building.123

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, the so-called ’DPR’ located in the territory 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 government 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 39). The building of the settlement council, which hosts the UAF, is located in the central part of the settlement.124 There are music schools125, Kindergarten No. 1,126 district employment center127, center for social services128, local branch of the Red Cross Society of Ukraine129 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 Office130, Pension Fund Office of Ukraine131 in the Stanytsia Luhanska district of Luhansk Oblast, Department of State Registration of Civil Status Acts132 of Stanytsia Luhanska district and Branch of the ‘Oshchadbank’133 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).

118 Mykityvska prison no. 87, Horlivka, Google Maps (online),<https://www.google.com/maps/place/Тисяча+дорог+у+селі+/84.6000/@48.3304,69.8,142/7.142/,2042m/data=!3m1!1e3!4b1!4m5!3m4!1s0x411fc86540409533:0x7f08eedb9ce4237b!5m2!8m3!3d48.6416659!4d39.4954608>.

119 Kailininska prison no. 27, Horlivka, Google Maps (online),<https://www.google.com/maps/place/Тисяча+дорог+у+селі+/84.6000/@48.3304,69.8,142/7.142/,2042m/data=!3m1!1e3!4b1!4m5!3m4!1s0x411fc86540409533:0x7f08eedb9ce4237b!5m2!8m3!3d48.6416659!4d39.4954608>.

120 Donetsk pre-trial detention centre,, Donetsk, Google Maps (online),<https://www.google.com/maps/place/Тисяча+дорог+у+селі+/84.6000/@48.3304,69.8,142/7.142/,2042m/data=!3m1!1e3!4b1!4m5!3m4!1s0x411fc86540409533:0x7f08eedb9ce4237b!5m2!8m3!3d48.6416659!4d39.4954608>.

121 Pension fund office of Ukraine, Stanytsia Luhanska, Google Maps (online),<https://www.google.com/maps/place/Управління+Пенсійного+фонду+України/@48.6443893,39.4950768,26m/data=!3m1!1e3!4b1!4m5!3m4!1s0x411bc7a:0x996b5b383f2d47dd!8m2!3d48.6436708!4d39.4934967>.
ALLEGED CRIMES

Aldivka, Donetsk Oblast

Detailed information about the death, wounded and destroyed property in Aldivka during the armed conflict is given in Appendix 10. Due to its geographical location Aldivka 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 Aldivka.234

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 and post office "Ukrposhta" located 250 meters away. It is reasonable to assume that because of the location of the UAF in the premises of a tuberculous dispensary, this medical institution, as a security object, is constantly subjected to shelling from the enemy’s side.235 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.236-239 Houses adjacent to the UAF’s firing positions are very damaged240 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.201-202

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 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.241 ’ 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.242

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.243

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)244 on August 12, 1949, to cover their hostilities may fall within the jurisdiction of the RS245 and entail liability.

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 service 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.246

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 Articles 8 of the RS (War Crimes) — in relation to persons who are not actively involved in military operations.

Considering that, in the opinion of the Prosecutor, the armed conflict in the East of Ukraine con...
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 Luhanski Oblast, 1 place in the Kharkiv Oblast and 1 place in Dniprop 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. As a result of monitoring the occupied part of the Donbas with the support of Ukraine. 15 December 2016, the SSU, by November 19, Ukrainian law enforcement believed to have remained at the disposal of IAG. On November 20, the Public Center for the Liberalization 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.

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 intimidation of the death penalty.

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’. 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.

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 Liberalization 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. 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 intimidation of the death penalty.

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.

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.

The motivation for abduction and arresting by armed groups is:

- a) exchange with detainees held by the government;
- b) getting some influence on the situation;
- c) extortion of property or money;
- d) a source of labour for digging trenches and preparing military barricades;
- e) opportunists ‘arrests’ of people; and
- f) ‘internal discipline’ of the armed groups themselves.

With these actions, armed groups continued to execute their power over the population in rude and harsh ways.

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 — SBU, 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;
- private properties;
- places of detention created by illegal armed groups.

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. 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, starting May 15, 2014, the IAG increasingly violated human rights, including abduction, torture and ill-treatment, illegal detention and murder.

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 the Donetsk team consisting of four people in Antratsyt city. As of June 7, eight members of the SMM remained detained and their location was unknown.


ALLEGED CRIMES

Inhabitants of the territories controlled by the so-called ‘DPR’ and ‘LPR’, and 20.7% – those who were temporarily in the zone of armed conflict.

Illegal deprivation of liberty on the part of IAG 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.

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.

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

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 ‘elimation’, refused to describe their stories in writing, fearing for their safety.

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

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

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. UNHRU, ‘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. 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. HRMM is still 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. 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.

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. 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.

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”.

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.

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.

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 and the non-transparent nature of simultaneous releases.

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...
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

Citizens of Ukraine, Mr. Us., Ol., St., Mr. Sk., Yur., Vil., Sakh., Tob., Khr., Bab., Stas., Man., Pok., Lun., Dey., Tk., Gor., Mar., Kay., Kokh., J., Laz., Kahh., Tyn., Gun., Kush., Lun., Star., Fom., Shi., Kn., Pw., 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 Ilovaysk 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, accents 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. Kn. 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., Kahh., Tyn., Gun., Kush., Lun., Star., Fom., Shi., Kn., Pw., Kov., Naz., R., participated in the ATO in the Armed Forces. Detained people 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, exhume 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 Ilovaysk.

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. 4201400000000457.

Detention and brutal holding of civilian — Ukrainian volunteers

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 her 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 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. 1201470040001457 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

The journalist of the ‘Espreso-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 Mnovipillya 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 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 ‘Kommunshlyakhovto’ car depot in Makivka, Donetsk region, which was a mill.
tary base of soldiers. There the soldiers of the so-called ‘DPR’ conducted the interrogations, during which the journalist was interrogated twice, injured his face, broke his head, and then put in a separate ward—a shed of 17.5 square meters for storing 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 on 07.11.2014, militants made his exchange.

The information on this case is contained in the materials of the criminal proceedings No. 2201600 0000000475.

Illegal detention and holding of a civilian suspected of aiding terrorism

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 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 SSU staff, after which the Donetsk Regional Prosecutor’s Office opened criminal proceedings No. 4201705000000627 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 Maripol 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

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 Livv ‘Jornado’ 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 handcuffs, 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 ‘creamy 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 Staro-Volnovka 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 Petrovka 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 Novopokrovsky 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 IA), 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. Arkhipov 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. 42015300000107 was initiated on the grounds of a criminal offense provided for in part 2 of Article 65 of the Criminal Code of Ukraine.
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 alleged incidents, torture or ill-treatment occurred 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.186

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.187

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."

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.188

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.189 There is no specific requirement that an offender should act formally as a public official or another person in power.190

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 Vladimír Putin stated that "we have never said that there was not an act of terror", and that "the possibility of their actions is being investigated on a case-by-case basis in accordance with the law."

The IAG are not subjects of international law, which have judicial personality, but the prohibition of torture provided for by international public law, and therefore this announcement cannot be taken into account. In particular, the OHCHR indicates the following: “Thousands have gone through these places of detention, undergoing inhumane conditions... with torture and ill-treatment.”

During monitoring trips to the contact line as representatives of the “Shore of Peace”, KHHR, 196


The actual composition of the committed crimes and in cooperation with the UHRHU 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. 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 “Isolitivsya” (Donetsk, Svitly Shilakh 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 Ilovaisk. Some of them were captured on August 28, 2014, but the majority — on August 29 and 30, during the retreat from Ilovaisk; 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 located on the Bortsov 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 Ilovaisk, where they were forced to work on the reconstruction of the city. 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 Branovskiy). 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. 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 slamming a cigarette on the body part of the prisoners.


See MB data base, case No. P736, case No. P735.

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 laps 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.
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 for life. There, he and his companions were cordoned off by militants of the so-called “DPR”, 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.

Circumstances of committing separate crimes

Military related events

An E-01 Torture Event

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.

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 “Novo Poshtna” 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.

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.

Militaries related events

An E-01 Torture Event

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.

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 “Novo Poshtna” 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 it 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 Yenakiieve.

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

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 Slaivanoserbsky 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.”

200 See MB data base, case No. P1255.
The event of capture during the Donetsk airport defense and further torture of the E-03

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 — shoot —”, 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 for them to stand next to each other, to attach our hands and legs, put them in the liver. Forced the E-03 to stand on the flag, for him to the yard of the building of the SBU and shoot him on their feet with a baton.

On August 29, 2014, the E-04, with the column of the Donbas battalion, were breaking out from Ilovaysk, Donetsk Oblast, surrounded by armed groups of the Russian Federation, and around 10:00 was subjected to an artillery shelling near the village of Chernoviz in the Kharkiv region. The captives 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 SBU building in the Donetsk Oblast.

In the courtyard of the SBU, 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 “DPK” 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?”

When the journalists finished filming captives on the camera and asking questions, the E-04 was placed in the basement of the SBU. 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 SBU, 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.

On June 12, 2015, the E-05 was detained in Stakhivinka, 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 Vestu.ru published a video which stated that the E-05 was detained by the so-called “LPR” militiamen as an agent of the SBU 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

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-
ALLEGED CRIMES

During this time, she suffered numerous torture techniques. 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. 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.

An event of detention and further torture of a volunteer

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, compression 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 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.

After that, the captives were put to death. On June 21, 2014, the E-07 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 and the muscles of the foot. They forced him, along with other hostages, to participate in the clearing 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
In other cases, arrested people were former members of the IAG or otherwise associated with them. In Ilovaysk, 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 Ilovaysk and surrounding villages who were subjected to torture or ill-treatment are documented.210

The UHHRU, the non-governmental organization Truth Hounds and HRNY 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.211

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 members 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 retribution.

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 SBU, and from the second half of 2015, the main performers were the representatives of the SBU themselves. It is connected with the process of legalization of the volunteer battalions and transferring them under the command of the UAF, which led to the “clearing” of the ranks.

The SBU 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 SBU 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, electrocution, 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 “separatism” 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 officer. 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 MoA in trying to secure forced confessions.”

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

“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.”

“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...”
accompanied by torture and ill-treatment, and violations of procedural rights.\textsuperscript{435}

43. HRMMU consistently documents reports throughout the country of recurrent allegations of ill-treatment during arrest and the first hour of 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.\textsuperscript{436}

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, 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 replies, 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 Nizhniooteple in November 2016 by members of the UA. 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 Sivierodonets 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 spoiler for armed groups and 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 Kirovograd 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, 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.\textsuperscript{437}

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, inhuman conditions of detention and/or violations of fair trial guarantees.”\textsuperscript{438}

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 torture 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 Stantysia 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\textsuperscript{439}

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
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 pensioner220

On January 16, 2015, an explosion of an unknown device occurred at the checkpoint of the UF located in Stanitsia 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 men and then 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, surgery 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 at 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-10221

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 him, 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 detainees, 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 him.

The beating continued until the truck drove to the destination — the military support 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 correction, 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.”

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 reports222 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.223

220 KHPG Archive, SLC’s fund, inventory 1, file R-13.
221 KHPG Archive, SLC’s fund, inventory 8, file 25.
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 sexual 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.225

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 10 years. Article 438 provides for criminal liability for violation 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.

Above crimes can be punishable by imprisonment for a term of three to 15 years.225

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.”226

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 voluntary battalions, servicemen of the UAF, officers of the SBU. 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


226 "Постанова Верховного Суду України від 30 травня 2008 р. № 5 "Про судову практику у справах, пов’язаних з злочинами згвалтування" [Resolution of the Supreme Court of Ukraine from May 30 2008 no. 5 "On judicial practice in cases related with rape crimes] VRU (online), http://zakon3.rada.gov.ua/laws/show/1000720-08,
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 beating, 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 dissolated in residential settlements. In October 2016, in Marinka, 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 polish "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 (vulgar 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 Onishchenko 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."227

Also, the soldiers of the 'Tornado' arranged a torture cell in the basement of the school in Lytschans, 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" soldier 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 Pryville school, there were especially 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.228

Specialist police officers beat the detainees in their buttocks and genitals with their hands, legs, 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."

In April 2017, the court made a sentence in this case. Since it is restricted in access, it was unable to access it.229 However, it should be noted that as


229 <https://www.112.ua/society/people/neludy_l torpedo_kak_uslovlicheska_virtuabolnaya_stal_geroyami_ukraine>.
ALLEGED CRIMES

ALLEGED CRIMES

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, incites 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; if such a military commander or such person did not take all necessary and reasonable measures to prevent or stop their commission or to transfer this issue to Court if such a military commander or such person is subject to criminal liability for crimes 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 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, 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.”

Also, the former “Aidar” 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 ‘Afnans’ went there. I heard how she said: “Do not do it, you can not!” And then muffled restrained groans”. 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-
place 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.235

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 commandant’s office. She was injected with something and then thrown to the commandant's office. She was injected with something and then thrown to the commandant's office. She was injected with something and then thrown to the commandant's office. She was injected with something and then thrown to the commandant's office. She was injected with something and then thrown to the commandant's office. She was injected with something and then thrown to the commandant's office. She was injected with something and then thrown to the commandant's office. She was injected with something and then thrown to the commandant's office. She was injected with something and then thrown to the commandant's office.

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 person236.

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 actions237.

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)(a)(xxi) of RS) —
  a) the offender must offend, humiliate or violate in any other way the human dignity of one or several persons;

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:

- 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;
- the offender was aware of the factual conditions that evidence about that status;
- 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-treatment238. We documented more than 3000 cases of torture and ill-treatment. Almost all episodes 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 persons” 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).

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 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 dignity239.

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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 disembemnet. 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”**

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 “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”. 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 offenses “Fascists” and were throwing tomatoes and eggs at the imprisoned persons. That fact was also documented by SMoM of OSCE in its daily report of 24 August 2014. That measure was organized by the head of the “DPR”, Olexandr Zakharchenko, among others.

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.

“The march of the captured “cyborgs””. 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 shellings 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 shellings 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 Bakhinskii 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. This event was also documented in many news reels. We want to 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, offense 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. After his release O. K. told that during each question 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”.

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 IAF to illegal detention center the commander of IAF battalion “Sparta”, Tolstykh Mykhaylo Sergeyovitch (codename “Givi”), committed illegal actions concerning the prisoners. Namely: one of the captured members of IAF 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.

The offender, namely, the commander of battalion “Sparta” of IAF of DPR, Tolstykh, and the jour-
The event with the humiliation of a volunteer from battalion “Aidar” on 05.09.2014. 343

On 5 September 2014, 23 fighters of the voluntary battalion “Aidar” — the groups “Grizzly” and “Terminator” received a mission to arrive to BP one and a half kilometers away from the village of Kolyrov 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 “Rusich” headed by a resident of RF, Oleksiy Milchakov. AG “Rusich” was a part of the division “Batman” of IAF of the s.-c. LPR. After a short battle, the divisions of the voluntary battalion “Aidar” were defeated. The armed members of AG “Rusich” started to verify the bodies of the soldiers to find the wounded. They started to question one of the heavily wounded persons of battalion “Aidar”, 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 him353.

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 was a mention in the reports of HMHU344. We have documented the cases of holding the prisoners in the places that were not suitable for detention at all.

The basement room in Stansilus Luhanska uss. 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 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. 355

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 restroom346. Essentially the imprisoned military man 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-01 357

On 12.08.2014 a military person of UAF G-01 was following order concerning the equipment engineering tool in Ilovaysk, of Donetsk Oblast. On 29.08.2014, 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 Katerinivka 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. “DRP”. The armed person of IAF of the s.-c. “DRP” with codename “Svyaty” 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-02 358

Mr. G-02 told, that in 2014 he was working as a guard on a pond between Mykolayivka and Dukhaevsk of Volnovakha district of Donetsk oblast. At that time the village of Mykolayivka was taken by the military units of UAF, and Dukhaevsk was occupied by the IAF of the s.-c. “DRP”. The pond that he

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343 See MB data base, cases No. P22, No. P153.
344 «Бетмен и Русич устроили засаду на колону подразделения украинских военных» [So called brigade Betman and Rusich attacked on Ukrainian military form of Aidar], Youtube, 05.11.2014 (online) https://www.youtube.com/watch?v=0BsTSSMJCuk has verified time code: 12.16–15.29
345 See MB data base, case No. W1GS96.
346 «Пленные укропы» [So called captives Ukrops. Youtube], (online) 01.08.2015 https://www.youtube.com/watch?v=vpL7749VDw
347 See MB data base, case No. W2874.
348 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 the s.-c. “DPR”. 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 IAF, creating the artillery fire of IAF 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 first held in the basement (for 2,5 months), and later in the weapons room (for 1 month), located on the 4th floor of the building. There was no light. He was fed 1 time a day (barley porridge and 2 slices of bread), they did not bring him out to visit room. They were using a bucket for their natural needs, and in the evening of each day the captive was forced to throw 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 buses of battalion “Aydar”. Near the block post the latter was contused. After the end of the battle “APC-2” in which there was G-03, was damaged, and the latter was consumed. 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 base 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 of blankets were given. The rooms were cold. The room in which G-03 was held was small — near 6 x 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 were kept 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 adz 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 IAF 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 IAF. They were beaten every day, beaten by foot, hands, wooden sticks, personal belts and other items.

259 See MB data base, case No. W264.
260 Armored personnel carrier 2 (second modification).
ALLEGED CRIMES

Concerning the prisoners/captives the offenders connected to it. To hide the facts of the criminal actions understood that their actions were performed in the context of the military conflict of the s.-c. “DPR” and “LPR”) were essentially aware that they were committing crimes members of IAF of the deprivation of such conditions and humiliating most important for the detained persons. Therefore Undeniably, places to eat and toilet are among the consequences of their absence are obvious exam-

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 proceed-

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 terrorism, or other crimes under SSU jurisdiction, de-

Enforced disappearances

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Enforced disappearances

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 LGBT community, believers of the churches not recognized by the Moscow Patriarchate), crimes pertaining to con-

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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 UNHCR, 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.

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 directed against the law, arbitrary treatment, and violence on the part of the pro-Russian fighters.

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).

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.

The Roma of Sloviansk were extremely shaken by a tragedy that occurred in May 2014, when a young Lovari Rom named Bunchur Cheperevsky 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.

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-Discrimination Center “Mемориал” for the 90th session of the UN CERD, 2016.

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.”

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.”

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.”

Many LGBTI people remaining in Donbass have stopped having any communication whatsoever with other members of the community, with the exception of their closest friends. While secret meetings of LGBTI people were possible in Crimea, they were not possible in the DNR and LNR.

Another problem was the lack of electricity and communication lines from the spring to the fall of 2014. 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?”

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.”

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 cell.”

The situation of transgender people, whose appearance and documents do not always match, is cause for particular concern. These people are constantly risking their lives and well-being. For example...
In the DNR and LNR, officers regularly check IDs, particularly those of men, and documents are required to cross the line of demarcation. This means that transgender people have had to remain in the conflict zone.

For more information on status of LGBTI in the ORDLO see the report “Violation of LGBTI Rights in Crimea and Donbas: The Problem of Homophobia in Territories Beyond Ukraine’s Control”, prepared by the Antidiscrimination Center “Memorial”.

Believers of the churches not recognized by the Moscow Patriarchate

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 in it 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.

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. 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. Serhii Kosiak, a local pastor from the Assembly of God Church and one of the organizers of the Prayer Marathon, sought discussions with the commander of the pro-Russian fighters immediately after the assault. He was detained and brutally beaten, allegedly for his pro-Ukrainian stance. The Prayer Marathon was allowed to take place, on the condition that there was no mention of Ukraine as a nation.

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.

Father Tykhon (Serhiy) Kubaka, 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 gunman shot into the air and the wall next to his ear, which caused a state of shock and subsequently led to a heart condition.

Victor Vonsovich, a Catholic priest of the Sacred Heart of Jesus Church 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.

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.

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.

Crime against convictions detained in the ORDLO

In August-December 2014 the representatives of IAF captured PI on the occupied territory. 14 of 16 PI in Luhans 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 Luhans 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-
Alleged Crimes

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bers or boiled sour cabbage, bitter and soggy pan-
the convicts could only eat the boiled sour cucum-
IAF did not provide the convicts with food, therefore
state budget of Ukraine stopped. The members of
state officials of Ukraine who swore loyalty to the
the “new administration” of PI. It consisted of the
who left the dangerous regions were replaced by

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
the “new administration” of PI. It consisted of the

In such conditions the detainees’ chronic diseases
worsened and they received new ones. A small

Illegal physical force was often applied to the
convicts. Feeling their absolute impunity, the mem-
bers of IAF could beat a person to death, leave a con-

Chornukhine facility after the shelling

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Illegal physical force was often applied to the
convicts. Feeling their absolute impunity, the mem-
bers of IAF could beat a person to death, leave a con-

Holding the persons in custody on the tempo-
rarily occupied territory is illegal. However, the
absence of the reasons to hold them in custody under
Ukrainian legislation is not an obstacle for the oc-
cupation authorities, so the persons convicted by
the courts of Ukraine before the start of the occupa-
tion keep serving their sentences on the occupied
territory. Moreover, the persons who had the sta-
tus of suspects, defendants but were not convicted
yet and were held in custody at the start of the oc-
cupation 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 ter-
ritory.304

Conditionally the persons in custody could be di-
vided into following groups:
• those who were convicted and whose sen-
tence 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 investi-
gation 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 im-
prove the procedure for enrollment by the court of
the term of pre-trial detention to the term of sen-
tence” (also known ad the “Savchenko law”), early
release, amnesty. On the other hand, it is the least
vulnerable category of the convicts. They were al-
ready 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 possi-
bility of death penalty for some particularly gross
offences, the life of such convicts can end in di-
rect danger anytime.307

Four other groups more or less depend on the
quasi-judicial bodies of the unrecognized repub-
lacks. 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

308 Annex 35, p. 9–11. «The rights of convicts detained in
the OTLDR», KHPG (online), August 2018,
310 Ibid, p. 35.
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 OROLO to liberty, access to justice and the lack of justice.

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;

c) taking into account the gravity of the crime and the interests of justice, there are none-theless substantial reasons to believe that an investigation would not serve the interests of justice.309

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.310

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.


6. PREREQUISITES FOR MOVING BEYOND A PRELIMINARY EXAMINATION AND INITIATING AN INVESTIGATION

6.1. JURISDICTION

Ukraine is not a State Party to the Rome Statute.311 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)312 and the alleged crimes committed on the territory of eastern Ukraine and Crimea (Declaration II).313

311 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 66466a).
312 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>.
313 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, 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>.
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. 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. 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 the Russian Federation, 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 not a State Party to the Rome Statute, it nationals nevertheless may be held accountable, 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)). 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”. 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 cases; 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).

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, e.g., 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 an assessment of unwillingness and inability as set out in Article 17 of Rome Statute.

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...
The crimes committed by LAF. It especially concerns the cases, in which potential perpetrators are the staff employees of SSU.\footnote{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_HRMU_MReport_3March2016.pdf, para. 48.} 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.\footnote{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.} 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.\footnote{Report on the human rights situation in Ukraine 16 November 2015 to 15 May 2016, UN OHCHR (online), June 2016, https://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMU_Report.pdf, para. 31; 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_15th_HRMU_Report.pdf, para. 46.} 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 sent to the imprisonment terms between 5 and 11 years respectively, which was further appealed by both the defence and the prosecution.\footnote{“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_vinos_virok_u_skandalnui_sprave_tornado_n803760.} The criminal proceedings involving the alleged crimes committed by the members of battalion ‘Aydar’ are still ongoing.\footnote{“Суд виніс вирок у скандальній справі „Горнадо” [The court delivered a verdict in the scandalous case “Gornado”], 24Tv.ua (online), 07 April 2017, https://24tv.ua/sud_vinos_virok_u_skandalnui_sprave_tornado_n803760.} 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.\footnote{“Суд виніс вирок у скандальній справі „Горнадо” [The court delivered a verdict in the scandalous case “Gornado”], 24Tv.ua (online), 07 April 2017, https://24tv.ua/sud_vinos_virok_u_skandalnui_sprave_tornado_n803760.} 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 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 ECHR 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 Annex 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).\footnote{Statistics obtained from the website of the General Prosecutor’s Office of Ukraine, under the Article 127 of CC (‘torture’), 54 criminal cases were initiated in 2016 and 73 criminal cases were initiated in 2017. 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.} Consequently, the above 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.\footnote{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 2016 and 73 criminal cases were initiated in 2017. 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.}
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 the nature of the crimes they had committed.

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. 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). 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.

The nature of the crimes refers to the specific elements of each offence. 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 abuse of power or official capacity, and elements of particular cruelty. 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 sheltering 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. 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 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 shellings 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 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.”

98 PREREQUISITES FOR MOVING BEYOND A PRELIMINARY EXAMINATION AND INITIATING AN INVESTIGATION
7. CONCLUSIONS

We 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

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.

On 15 April a division of the 3rd 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 IAF, 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 IAF 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 Donets 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.
**Battles for Kramatorsk**

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 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 APCs of Ukrainian forces breached the blockade of IAF in Kramatorsk.

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, the council 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.

**Shooting of the military near Volnovakha**

Between 4 and 6 am on 22 May the camp of the 51st brigade that was located between the villages of Olginka and Volodymyrivka not far from the region 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 shielded Amvrosiivka, 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.

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 IAF 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 shielded Amvrosiivka, 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**

Apparently, without the connection with the ground, the pilots decided that the surviving members of 51 SMBR 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 “Bos”, stated that his people and he destroyed the block post of IAF under Volnovakha in the 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 both on sides of the road. After the end of the battle the reinforcements came — the MI-8 helicopters.
On 2 June LAF started the assault on the height. On 26 July the united tactical-battalion group (TBGr) “Kolos” of the 51st 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.

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 top of the hill, which was wounded under Volnovakha and was treated, on the morning on Thursday. The losses of UAF in that battle were significant.

**The battles for the control over the state border (Maryinka)**

On 5 June 2014 there was the first attempt of IAF to take under their control the entrance/exit checkpoint “Maryinka”. 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 NGL 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 Maryinka 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 Maryinka many soldiers were heavily wounded. In the night on 31 July 2014 IAF shelled ECP “Maryinka” from “Grad’s”. One of the concrete slabs of the destroyed buildings 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.

**Savur Mohyla**

The intelligence and assault division of the 40th territorial defence of the armed groups from Savur-Mohyla during battles, where they were fighting for two weeks. The group was surrounded when IAF took Amvrosiivka. They retreated without their 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 injuries and deaths.

**The battles for the control over the state border (Chervonopartizansk)**

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 special forces of ATO near Maryinka of Donetsk Oblast. On 23 June LAF took the positions of IAF near Chervonopartizansk and Maryinka. On 24 June IAF attacked the positions near Chervonopartizansk and Maryinka of Donetsk Oblast.

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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 border control over the state border between Izvarine and Marynivka was lost.

**Battles for the control over the state border (Izvarine)**

As a result of the battles of 17 June — 1 July LAF managed to return to Ukraine the control over checkpoint “Dovzhanskiy”. After several 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 EEC “Dovzhanskiy”. On 8 August 2014 the control over it was taken by Don cossacks.

**Shooting in Zelenopilya**

On 11 July 2016 — 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 2016. 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 Shakhikhail**

In late July 2014 the headquarters of ATO placed a mission before the command of the brigade — to

433 <https://galkino.com.ua/news/kotel_pid_izvarine_tra-
gedya_z_politychnym_prysmakom_236072.html>, 434 <https://galkino.com.ua/news/ato_militsia_vzy-
al_kontrol_z_dovzhanskiy.html>, <https://apostrophe.ua/ua/article/society/2014-07-11/oleg-maks-
tsov/95-0265605000x650.html>, 435 <https://galkino.com.ua/articles/life/_dzvonimo-komandi-
rozhali organizing the way 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 border control over the state border between Izvarine and Marynivka was lost.
cover the deployment of the 95th brigade to breach the corridor for the retreat of the units that were pressed in the area of Dmytrivka — Stepunivka — Maryinka. For that purpose it was planned to hold the vicinity of the town of Shakhtarsk and cut the route "Torez — Sinzhne". 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 17th 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 Blahodate.

However, after the raid of the 95th 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 Kharkyzk, Ilovaysk, Khazhenkove and Kutyenikove, therefore the breakthrough transformed into a beating.

The fate of the 3rd 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 left for Blahodate for the group left for Blahodate.

The battles for Stepunivka

Ukrainian command developed a plan to block sector D — the occupation of Stepunivka and Nikitovo — had to unblock the divisions of 24 SMBr, 72 SMBr, 79 SAMBr and the border guards that were shielded 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.

By 2 tanks from 17th tank brigade 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.

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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 Kharkyzk, Ilovaysk, Khazhenkove and Kutyenikove, therefore the breakthrough transformed into a beating.

The fate of the 3rd 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 left for Blahodate for the group left for Blahodate.

The battles for Stepunivka

Ukrainian command developed a plan to block sector D — the occupation of Stepunivka and Nikitovo — had to unblock the divisions of 24 SMBr, 72 SMBr, 79 SAMBr and the border guards that were shielded 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.

By 2 tanks from 17th tank brigade 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.

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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 "Iгла". Two PAAMS "Iгла" were used, one — technically malfunctioned (the 9M39 missile remained in the tube).

**The march of shame**

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 chanted by the crowd, uttering and calling them "fascists".

**Events on 03.09.2014**

On 3 September 2014 near the village of Pobeda of Novoaydar district of Luhansk Oblast the base of "Orelproduct", in the town of Mtsensk (Russia). ZAT "Orelproduct", in the town of Mtsensk (Russia). The wounded were executed on the spot. The ambush was coordinated by a Russian, Olexiy Minchak. 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 calibre 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 incident of Novoaydar district of Luhansk Oblast the base of "Orelproduct", in the town of Mtsensk (Russia). The wounded were executed on the spot. The ambush was coordinated by a Russian, Olexiy Minchak. 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).

The court sentenced General Nazarov to 7 years of imprisonment for official negligence, but did not deprive him of the rank of Major General.

**After the battles on 03.09.14 near Pobeda village**

The remains of a doomed Il-74

**Events on 05.09.2014**

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-Chastya". 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, Oleksiy Minchak.

Two hours later the paratroopers from the 2nd company of the 80th air mobile brigade were ambushed 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 defence, consequently they passed the ambush while moving in the vehicles. They hit the tank and APC, but 23 people were killed or disappeared.

**The parade of the captured “Cyborgs” on 21.02.2015**

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. The captured people were placed in a military "Kamaz" and brought to the square of Bakinskykh 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 violation of international humanitarian law.

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