

**ENFORCED DISAPPEARANCES
AND MISSED PERSONS
DURING
THE ARMED CONFLICT**

**IN EASTERN UKRAINE
BETWEEN
2014–2018**

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For the reader's attention, an analytical report is presented that shows the findings of the Kharkiv Human Rights Group's study on missing and violent disappearances during the armed conflict in eastern Ukraine in 2014–2018. Researchers have collected data on more than 8400 disappearances, identified more than 1,600 who still was not found, classified the disappearance of the circumstances and the nature of the actions and identified more than 600 disappearances that fall within the definition of “enforced disappearance” in the international law. A submission to the International Criminal Court was prepared on the basis of the collected data.

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LIST OF ABBREVIATIONS

CA3 — Common Article 3 of Geneva Conventions;
CP — Checkpoint;
CMA — civil and military administration;
CO — civil organization;
CPC — Criminal Procedural Code of Ukraine;
GC — Geneva Convention(s) of 12 August 1949;
HRMMU — United Nations Human Rights Monitoring Mission in Ukraine;
IAC — International Armed Conflict;
IAF — Illegal Armed Formations;¹
ICC — International Criminal Court;
ICTY — International Criminal Tribunal for the former Yugoslavia;
IHL — International Humanitarian Law;
KHPG — Kharkiv Human Rights Protection Group;
LAF — Legal Armed Formations;²
MD — Ministry of Defense of Ukraine;
MI — Ministry of Interior of Ukraine;
MSS — Ministry of State Security;
NPU — National Police of Ukraine;
OHCHR — Office of the United Nations High Commissioner for Human Rights;
OTDLR — Occupied Territories of the Donetsk and Luhansk Regions;
OSCE — Organization for Security and Cooperation in Europe;
RS — Rome Statute;
LPR — the self-proclaimed ‘Luhansk People’s Republic’;
DPR — the self-proclaimed ‘Donetsk People’s Republic’;
SMM — Special Monitoring Mission;
SSU — Security Service of Ukraine;
VRU — The Verkhovna Rada of Ukraine;
UAF — Ukrainian Armed Forces.

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

On 17 June 2015 Ukraine joined the International Convention for the Protection of All Persons from Enforced Disappearances, but over the past three years almost nothing has been done to implement the Convention in domestic law and its application practices. The absence of adequate legal qualifications of enforced disappearance in national law does not allow for the proper application of the provisions of the above-mentioned Convention.

The problem of enforced disappearances is one of the most serious human rights issues in Ukraine. They were carried out by IAF in OTDLR, and units of Ukrainian state structures in the territory under the control of the government. The difference is that OTDLR has no place to complain to, and these crimes remained completely impunity. In the controlled area after the establishment of the military prosecutor's office in such cases, criminal proceedings were opened on the statements of various entities, although the investigation as a whole cannot be considered effective.

Since November 2015, enforced disappearances in the controlled territory were not recorded by us (except disappearances made by the SBU for exchange). In OTDLR in 2014, they were held daily. After the military conflict entered the stage of low intensity the number of disappearances decreased, but they remain frequent. The fate of the disappeared persons is not notified about. The disappeared persons are only recognized among the deceased with the traces of a violent death after a period that could last between several hours and several months or more, or it turns out that a disappeared person is in the place of detention of the s.-c. MSS.

Lack of a single methodology of definition of the missing persons, and coordination between various State bodies led to appearance of various assessments of the number of disappearances in the zone of military conflict – between several hundreds and several thousands of persons.

On 15 February 2015 MIA published the list with the data of 1331 missing persons in the zone of armed conflict. According to the data of the Department of NPU in Donetsk region, between April 2014 and the early 2017 2727 persons went missing in Donetsk region, the fate of 1053 of them is unknown. According to the data of Luhansk region CMA, 633 persons are found, the fate of 572 persons remains unknown. A lesser number of missing persons is according to the SBU assessment – 403 persons. All these data refer to the controlled territory. It is not possible to estimate the number of missing persons in OTDLR.

It is clear that many missing persons could be dead and their bodies are either not found at all or not identified. As of 1 April 2018, 307 deceased persons remain unidentified

The database of CO “Shore of Peace” contains the data about 2878 missing persons for the entire period of the military conflict in the East of Ukraine. The fate of 1136 of them is known. It is impossible to determine the status of 2396 missing persons in connection with lack of information. As of late May 2019, the database contains 1288 missing persons, including 153 combatants and 1135 civilians.

According to the data of “Child Search Service” of CO “Magnolia” as of 1 June, 2018, in 2014–2018 102 children went missing in Donetsk region, 7 of them are still missing, 123 children went missing in Luhansk region, none of them are in the search.

The SBU is responsible for enforced disappearances for the purpose of exchanging prisoners of war and civilian hostages who are in custody in OTDLR. The SBU forms a so-called ‘exchange fund’: it looks for people who are implicated in committed crimes linked with separatism, state treason, terrorism or other offenses under SBU jurisdiction, detains them and offers exchange for those held prisoner in LNR or DNR instead of criminal prosecution and long sentences. The detainees tend to agree to the exchange. Then they are taken to unknown places of pre-trial detention of the SSU, which according to law cannot be in the SSU, where they are kept before exchange without any communication with the outside world. Where exactly these “secret prisons of the SSU” are located is unclear. Reports of the international organizations and separate testimonies point to cells in the SBU departments of eastern cities of Ukraine.

On 26 May 2017 a draft law no. 6521 was introduced to the Verkhovna Rada of Ukraine concerning the functioning of pre-trial investigation centers controlled by SSU. The offered draft law actually proposes to unite in one authority – SBU – the functions of investigation and detention, that is, to return to the inquisition practices of treating the prisoners of former USSR. This draft law, on our deep conviction, must be necessarily rejected.

Ukrainian non-governmental nonprofit human rights organization, the Kharkiv Human Rights Protection Group (KHPG), has prepared the submission to the Office of the Prosecutor of the ICC, which contains information about the alleged crimes committed during the armed conflict in eastern Ukraine between 2014–2018.

KHPG finds that the crimes enumerated in this communication 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)(e); and as war crimes under Article 8(2)(a)(i), (ii), (vi) (grave breaches to GC); Article 8(2)(b) (xxi) (other violations of the laws and customs of war in IAC) and Article 8(2)(c) (ii), (iv) (violations of common Article 3 to GC) of the RS.

Section 2 (Introduction) provides a brief overview of the work of KHPG, 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 communication, in particular: (1) sources used for collection data, KHPG database as a tool for analyzing collected data; (2) methodology underlying the process of collecting, verifying and consolidating information about the territory controlled by the Ukrainian government; and (3) methodology underlying the process collecting, verifying and consolidating information about OTDLR.

Section 4 (Legal qualification of the enforced disappearances) examines the qualifications of enforced disappearances in the Convention and Ukrainian legislation.

Section 5 (Aggregated data concerning the missing persons on the territory of the military conflict) provides information gathered about missing persons, from which we started when doing this work.

In Section 6 (The enforced disappearances in OTDLR) and Section 7 (Enforced disappearance on the territory of Donetsk and Luhansk regions, controlled by the Government) are considered peculiarities and examples of disappearances in non-controlled by the Ukrainian government and government-controlled areas of Donetsk and Luhansk oblasts.

Section 8 (A short overview of problems of the state's application of certain articles of the Convention) briefly reviews the reasons for the lack of implementation of the Convention in Ukraine.

Section 9 (Violations of Article 17 of the Convention) considers the problem of secret detention and non-compliance with the rights of detainees guaranteed by the Convention.

Section 10 (Enforced disappearances with aim of creation a so-called ‘exchange fund’) deals with the practice of exchanging between Russia and Ukraine prisoners of war and civilian hostages and enforced disappearances carried out by the SSU to ensure this exchange.

Section 11 (Summary of findings) briefly provides general information about the collected data on disappearances and demonstrates both widespread and systematic nature of those crimes.

Section 12 (Alleged Crimes) includes information about the following crimes:

- 1) Enforced disappearances;
- 2) Murder;
- 3) Torture and inhuman treatment;
- 4) Outrages upon personal dignity;
- 5) Deprivation of the right to a fair trial.

Section 13 (Circumstances of Individual Crimes) examines examples of enforced disappearances and related crimes in the section 6.

For each above mentioned category of crimes, the communication outlines some general information about the pattern of criminal behavior in relation to a specific crime, analyses supporting evidence and concludes with the possible legal qualification of the alleged crime under the RS.

Section 14 (Admissibility) briefly examines the preconditions which are necessary for the ICC’s exercise of jurisdiction, in particular, admissibility in terms of complementarity and gravity of crimes, as well as and the interests of justice criterion.

Section 15 (Conclusions and recommendations) summarizes the communication and draws conclusions on the basis of the submitted evidence and provided recommendations to state authorities to improve the situation.

2. INTRODUCTION

KHPG provides information on the missed persons, enforced disappearances and related 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 second communication to the Office of the Prosecutor prepared by our organization. The first submission was sent in early 2019.

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

The communication was authored by the staff members of KHPG, namely Pavlo Shvab, Yanina Sme-lyanska, Ihor Sosonskiy, Gennadiy Tokarev, Anastasia Yegorova, Yevgeniy Zakharov.

On 17 June 2015 Ukraine joined the International Convention for the Protection of All Persons from Enforced Disappearances³ (hereinafter – Convention) and is obliged to comply with all its norms. Prior to the three years of accession, the Kharkiv Human Rights Protection Group prepared a report on the state of implementation of the Convention by the Ukrainian State.

According to Article 2 of that Convention, enforced disappearance is regarded as “*the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law*”. Under international law enforced disappearance is a crime, and under certain circumstances, even a crime against humanity. According to Article 1 §2 of the Convention “*No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance*”.

³ The law of accession: <<http://zakon5.rada.gov.ua/laws/show/525-19>>.

Text of the Convention: <http://zakon5.rada.gov.ua/laws/show/995_l54/paran2#n2>.

Enforced disappearances are observed in Ukraine and are considered in this report in the following areas:

- in the occupied territory of Donetsk and Luhansk regions, committed by illegal armed formations;
- on the territory controlled by the government in the Donetsk and Luhansk regions, carried out by the military units of the Armed Forces and other armed formations;
- on the government-controlled territory carried out by the SSU.

KHPG expresses their sincere gratitude to the international donor organizations that supported our efforts in collecting and documenting information on crimes in eastern Ukraine, and preparing this communication, in particular, the US Embassy's Democracy Promotion Fund in Ukraine, the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Program in Ukraine.

KHPG collaborated with the members of the National Police of Ukraine and civil organization "Shore of Peace" on various aspects of information gathering. We extend thanks to our colleagues for the fruitful cooperation.

3. METHODOLOGY

3.1. SOURCES

The sources of information that were used in preparation of this communication 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', 'Shore of Peace' 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 government controlled territory in eastern Ukraine;
- d) Monitoring trips to the Donetsk and Luhansk regions, in particular to the government controlled areas 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 conflict zone;
- f) Information provided by informants residing in OTDLR;
- g) Materials of cases initiated by KHPG's SLC as the result of human rights violations in the conflict zone;
- h) KHPG databases.

In 2018–2019, in order to investigate the extent of missing persons who were abducted, or taken hostage, and find out about pre-trial investigation of those criminal offenses, KHPG sent requests to the Luhansk and Donetsk regional departments of NPU, the General Prosecutor's Office inquiring about (1) the number of registered applications from citizens; (2) the number of criminal proceedings initiated under Art. 115 ('Murder' with an additional marking in the URPTI as 'Missing'), Art. 146 ('Illegal deprivation of liberty or abduction of a person'), Art. 147 ('Hostage taking') of the Criminal Code, committed by both IAF and LAF; (3) the number of victims of crimes; (4) completed criminal proceedings. In addition, information requests were submitted to the territorial departments of the State Judicial Administration of the Luhansk and Donetsk regions regarding the number of sentences passed in the specified categories of cases for the period from 1 January 2014 until the second quarter of 2018. Unfortunately, the official replies received from law enforcement agencies were incomplete; moreover, some questions remained unanswered.

The KHPG database is a relational database on civilian casualties and the destruction of residential buildings and infrastructure, which is based on MySQL as the standard user and application programming interface. The software based the MySQL interface allows to verify the correctness of spelling of the addresses of residential buildings; to establish repetitions of the same episodes; and to protect personal data through automatic coding and storage of information in the database in the encrypted form. Only by entering the access key, personal data is decoded and therefore can be processed. The software enables to filter episodes based on the time period, location and the type of incident, as well as in the combination

of any of those search filters. It also allows generating reports that display summary information in a tabular form (division of episodes based on the time period, location, sustained casualties/incurred damage and the type of incident) and in a graphical form — as maps generated via GoogleMaps.

3.2. METHODOLOGY UNDERLYING THE PROCESS OF COLLECTING, VERIFYING AND CONSOLIDATING INFORMATION ON THE GOVERNMENT CONTROLLED TERRITORIES

The data, which was obtained by KHPG from the information requests provided by the authorities and LGB, was compared and cross-checked during monitoring trips when conducting interviews with victims, their family members and other residents in the affected areas using the questionnaires.

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

- <http://old.npu.gov.ua/mvs/control/main/uk/publish/article/1141400>
- <https://mb.net.ua/>
- <http://hostage.org.ua/>
- <http://magnolia.org.ua/uk/>
- http://krymsos.com/files/Насильницькі_зникнення.pdf

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

KHPG employees cross-checked the data from different sources. Verified data was entered into the xls-table, which was an input document for inclusion in the database.

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

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

- <http://poisk.derzhava.today/>
- <http://mgblnr.org/category/rozysk/main>
- http://www.mgbdnr.ru/page_news.php and others.

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

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

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

Verified data was entered into the xls-table, which was an input document for inclusion in the database.

4. LEGAL QUALIFICATION OF THE ENFORCED DISAPPEARANCES

Article 4 of the Convention obliges every State Party to take the measures “to ensure that enforced disappearance constitutes an offence under its criminal law”. Article 146 of CC of Ukraine (illegal deprivation of freedom or kidnapping of a person) concerns the enforced disappearances:

“1. *Illegal confinement or abduction of a person, — shall be punishable by restraint of liberty for a term up to three years, or imprisonment for the same term.*

2. *The same acts committed in regard of a minor, or for mercenary purposes, or in regard of two or more persons, or by a group of persons upon their prior conspiracy, or by a method dangerous to the victim’s life or health, or causing bodily suffering to him or her, or with the use of weapons, or within a lasting period of time, — shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term.*

3. *Any such acts as provided for by paragraph 1 or 2 of this Article, where committed by an organized group, or where they caused any grave consequences, — shall be punishable by imprisonment for a term of five to ten years.”*

But it obviously does not correspond with the definition in Article 2 of the Convention.

The draft law “On the legal status of the missing persons” (registry no. 5435-1 of 5 December 2016) exactly reproduces the definitions of the enforced disappearances and absolute prohibition of that international crime (Articles 1 and 2 of the Convention), as well as contains the prohibition of secret detention (pt. 1 of Article 17 of the Convention). The draft law provides for the cooperation of bodies authorized to register and/or search for missing persons with the Committee on the Enforced Disappearances created under the Convention. The draft law adds to the CC of Ukraine the Article 1461 with the following contents:

“Article 1461. *Enforced disappearances.*

1. *Arrest, detention, abduction or the deprivation of a person’s freedom in any other form conducted, by a State official while performing his/her official duties or staying as a person who carries out the public service in a different way, with subsequent refusal to admit the facts of such arrest or detention of a person, or its abduction or confinement in any other way or hiding the data about the person’s fate or location, — shall be punishable by imprisonment for a term of three to five years.*

2. *Ordering or ruling to perform the actions listed in the first part of this Article or the failure of the superior, who learned about the performance of actions listed in the first part of this Article, his direct or immediate subordinates, to take measures to stop them and failure to notify the competent bodies about the crime, — shall be punishable by imprisonment for a term of five to seven years”.*

Furthermore, the norm of non-application of the limitation period is added in case of that crime.

On 18 January 2018 the parliament adopted in first reading the draft law with the same title no. 5435 of 22 November 2016, that lacks these norms, but the draft laws duplicate each other in other main aspects. The draft law no. 5435-1 was rejected, but these norms were ordered to be considered during the second reading.

On July 12, 2018, the Parliament approved the bill No. 5435 as a whole, adding the Article 1461 to the CC of Ukraine. The adopted law provides for the creation of a Commission on Missing Persons in Special Situations, which will operate on the basis of this Law and the Regulation of the Commission approved by the Cabinet of Ministers of Ukraine. The Commission is an consultative advisory body to the government, and public activists have to work in it. State officials may not enter this Commission. Under this law, the Commission establishes and manages the Unified Register of Missed Persons under Special Situations. The register is created to accumulate a large amount of information on missing persons, in particular, “information that will enable identification of missing persons” (place and date of birth, marital status, place of residence, medical information, including results of DNA research, etc.).

In fact, the Commission is empowered by an executive body, which it does not have. In our opinion, this should be the state authority, not the institution in which the public figures work — a unit or the Ministry of Justice, or the Ministry for Temporary Occupied Territories and internally displaced persons. It was already over a year after the adoption of the law, and the regulation on the Commission, the Commission itself and the Unified Register of Missing Persons have not yet been created. The article 1461 is also not used. The NPU talked about re-qualification of the initiated criminal proceedings using a new article, but so far this has not happened. The issue of search missing persons and investigating the relevant crimes is discussed in detail in the analytical report “Where are they?” of the civil organization “Shore of Peace”⁴.

5. AGGREGATED DATA CONCERNING THE MISSING PERSONS ON THE TERRITORY OF THE ARMED CONFLICT

Lack of a single methodology of definition of the missing persons, and coordination between various State bodies led to appearance of various assessments of the number of disappearances in the zone of military conflict — between several hundreds and several thousands of persons.

On 15 February 2015 MBC published⁵ the list with the data of 1331 missing persons in the zone of armed conflict asking to provide any information about the location of those people.

According to the information of the Department of NPU in Donetsk region sent as a response to an information request of KHPG, between April 2014 and the early 2017 2727 persons went missing on the controlled territory of Donetsk region, the fate of 1053 of them is unknown. According to the data of Luhansk region CMA sent as a response to an information request of KHPG, 1205 persons are in search on the controlled territory since the beginning of ATO in the region, 633 persons are found, the fate of 572 persons remains unknown.

A lesser number of missing persons since the start of the military conflict in the East was stated⁶ in the late December 2017 by the head of SBU Vasyl Gritsak — 403 persons, including 123 soldiers, members of the voluntary battalions and enforcers.

It is clear that many missing persons could be dead and their bodies are either not found at all or not identified. As reported⁷ by the Head of VRU Health Care Committee, Olga Bogomolets, as of 1 April 2018 307 deceased persons remain unidentified. Their biological samples are kept in the DNA data base by the State Research Experimental Forensic Center of the Ministry of Internal Affairs. That base contains the DNA samples of the fragments of unidentified bodies that according to the results of the research belong to 861 persons, 554 of the deceased are identified.

It should be noted that the information about the number of the missing persons published by the State authorities is formed on the grounds of the statements of disappearance by various subjects lodged to MIA (since 7 November 2016 — to NPU). If a missing person is not found within three days (missing children — within a day), criminal proceedings should be opened under Article 115 of CC of Ukraine (intentional murder). If the person is found the proceedings are closed. However, if the person is found within the first days of the disappearance and the criminal proceedings were not opened the statement of disappearance could remain in MIA database. Furthermore, we often faced the situation when the fate of the disappeared person was already known, but the person was still a subject of search.

On the other hand, if the statement of disappearance wasn't lodged to MIA (NPU), it doesn't enter the state statistics at all. In particular, that concerns the disappearances in OTDLR: MIA (NPU) is not

⁴ *Knyrov B., Shcherbak G., Vovk M. Where are they? Analytical report on the results of work of the NGO “Shore of Peace”.* — Lutsk: Vezha-Druk, 1918. — 92 p.

⁵ <http://old.npu.gov.ua/mvs/control/main/uk/publish/article/1141400>.

⁶ https://www.dialog.ua/ukraine/139595_1513348177.

⁷ <http://novosti.dn.ua/news/281540-na-donbasse-ne-mogut-ydentyfycyrovat-307-pogybshykh-nardep>.

notified about them. The MIA database contains separate statements of disappearances in Donetsk and Luhansk regions in spring-summer 2014 there are no later statements of disappearances on the occupied territories. According to the data of the “Commissioner for Human Rights” of the s.-c. “DPR”, Darya Morozova, persons are registered as missing as of 29 July 2017⁸.

The human rights organizations collect the data about the missing persons through the direct contacts with the families of the missing persons and use the open database of NPU, as well by sending the information requests to the bodies of local self-government, some of them register the missing persons better than the state authorities in their territorial communities.

The database of CO “Shore of Peace” contains the data about 2878 missing persons for the entire period of the military conflict in the East of Ukraine, including 1425 military personnel, 1453 civilians, of them 56 children. As of late May 2019, the data base contains 1148 missing persons, of them 150 military persons, 998 civilians, including 33 children. Unidentified deceased — 152⁹. In addition, the database contains data on 23 detainees, 634 dismissed, 421 dead after the disappearance, 58 members of the IAF. For determination of the status of 2396 missing persons is a lack of information. In total, the number of missing persons in the database is 4820 people.¹⁰

According to the data of “Child Search Service” of CO “Magnolia” as of 1 June, 2018, in 2014–2018 102 children went missing in Donetsk region, 7 of them are still missing, 123 children went missing in Luhansk region, none of them are in the search as of now.

6. THE ENFORCED DISAPPEARANCES IN OTDLR

Is it possible to consider the abductions of people by the illegal armed formations in OTDLR the enforced disappearances? If we rely on the teleological interpretation of the definition, then non-state groups can also be considered the subjects of this crime. Although in reality they have Russian superiors. It is known that the prosecutor’s office of MBS collects and assesses the information about the overall control RF holds over the separatist groups, and the PACE resolution of 24 April 2018 states about the stronger effective control of RF over the territories of the s.c. “DPR” and “LPR”. Thus, we qualify all cases of abduction of persons when the s.-c. “DPR” and “LPR” refuse to provide the information about the fate of the abducted persons as enforced disappearances.

In 2014 unidentified armed persons wearing camouflaged uniform every day abducted the civilians in OTDLR, mostly men. The people who publicly stated their pro-Ukrainian position were often the victims of disappearances. Thus, the historians disappeared in Luhansk, the college teachers Sergiy Serhiyenko and Volodymyr Semystyaga (see Annex 1). A terrible thing happened to 16-year-old Stepan Chubenko, a sportsman, the goalkeeper of soccer club “Avangard” (Kramatorsk).



Stepan Chubenko

On 24 June 2014 Stepan Chubenko, 11.11.1997 year of birth, was returning home to Kramatorsk from Kyiv through Donetsk, but he disappeared. It turned out that he was detained in Donetsk by the militants from battalion “Kerch” who took the boy from the train because of blue-and-yellow band on his backpack. At first, they beat him, then they took him to Gorbachevo-Mikhaylivka and there they shot him after horrible torture. The militants demanded the money for ransom from the boy’s mother, when it turned out that the boy died — they demanded money for Stepan’s head. In late September Stepan’s mother received a note stating that his body was found. After the exhumation the remains of the tortured boy were sent to Kramatorsk. Stepan Chubenko

was buried on 8 November 2014 in his hometown. The murderers of the minor boy were three militants from battalion “Kerch”, including the battalion commander, Vadim Pogodin. They all evaded responsibility.

This is the only verified case of a forced disappearance of a child during the military conflict that is known to us. After the military conflict entered the stage of low intensity the number of disappearances decreased, but they remain frequent. The fate of the disappeared persons is not notified about. The disappeared persons are only recognized among the deceased with the traces of a violent death after a period that could last between several hours and several months or more, or it turns out that a disappeared person is in the place of detention of the s.-c. MSS.

The active position of the relatives and friends of the deceased, in particular, the publications about his disappearance on the controlled territory, contribute to disclosure of information about his place of detention. That was the case with an entrepreneur, Roman Sagaydak, whose fate was many times reported¹¹ on the web site of KHPG.

⁸ <http://www.ohchr.org/Documents/Countries/UA/UAReport19th_UKR.pdf>, n. 37.

⁹ Knyrov B., Shcherbak G., Vovk M. Where are they? Analytical report on the results of work of the NGO “Shore of Peace”. — Lutsk: Vezha-Druk, 1918. — p. 17.

¹⁰ Ibid. — p. 42.

¹¹ See, for example, <<http://khp.org/index.php?id=1504111200>>.

On 30 June 2017 around 4 pm Roman Sagaydak, 1987 year of birth, a resident of the town of Krasnodon, Luhansk region, was abducted near the parking of the trade center “Prometey” in Luhansk.



Roman Sagaydak

The man was walking towards his car. Meanwhile another car arrived, people in military uniform left it, put a bag over Roman’s head, placed him in the car and drove off. On the next day the men arrived to his flat, introduced themselves as employees of “MSS of LPR”, searched the flat and took everything they could. When Roman’s father applied to “MSS of LPR” they received a response that nobody knew anything, and the lad allegedly wasn’t in the lists of detained persons. Only in the early August the s.-c. “MSS” admitted that Roman was in their custody and shown him to his mother. Roman was accused of spying, but there were no investigative measures for a long time. On November 26, 2018,

Roman Sahaidak was sentenced to 13 years imprisonment with a complete confiscation of property by the LNR court.

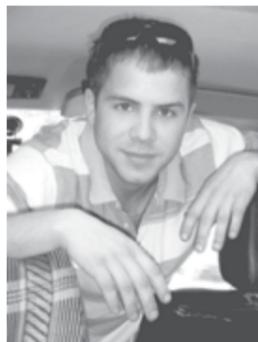
The similar events happened to Luhansk blogger, Eduard Nedelyaev, a scientist from Donetsk, Igor Kozlovskiy, a journalist and writer, Stanislav Aseev (Vasin) from Donetsk and many others.

We can’t establish the exact number of missing persons in OTDLR because a great number of disappearances is not published. But even the number of applications to our organization concerning the missing persons is impressive.

Thus, for example, during three months of summer 2017 we received 15 applications, in 6 cases of 15 the bodies of the disappeared persons were found with gunshot wounds. There were 8 cases in June, 3 people died, four persons disappeared in July, three of them were shot, 4 persons went missing in August, their location is currently unknown.

Taxi drivers often disappeared in LPR. KHPG knows about 4 such cases in Luhansk, but we heard many reports of the similar disappearances in other towns of s.-c. “LPR” and “DPR”.

In July 2016 disappeared three young men who worked in Luhansk taxi service. All three disappearances happened between 10 pm and 11 pm. The curfew begins in the city at that time. Although all of them had the permit to work during curfew. The young men worked in Taxi service officially. They accepted the calls via their radios to different parts of the city. They never got in touch afterwards.



Sergiy Dmytrenko

After several days the cars of all three disappeared young men were found in different parts of the city. One of the taxi drivers, 27-year-old Dmytro Krylov, was found dead in the morning after the disappearance without knife or gunshot wounds. It should also be noted that only the bravest taxi drivers work at night after the curfew in the “republics”.

On 07.01.2017 at 7 pm in Luhansk disappeared a young man, Dmytrenko Sergiy Vyacheslavovich 1992 year of birth. he left the building on Internationalna Street in his car, a green ZAZ (Deo) SENS and near 8 pm he stopped answering the calls.

Sergiy was a taxi driver. He went after the dispatcher’s call to the clients’ address, took the men and brought them to their destination. After that the connection was cut. His clients were allegedly questioned, but it didn’t help to establish his location. The relatives visited all hospitals and morgues, Luhansk has 18 of them. There was no information about Sergiy. His father

applied to “Military Commandant’s Office” and “Police” of the s.-c. “LPR”. The police accepted his application and promised to start searching. But the boy’s location was unknown.

Only on 5 October 2017 Sergiy’s body was found in a car road ditch near the village of Yuvilayniy in the vicinity of Luhansk.

Annex 1 contains a short description of 80 cases of disappearances and, in particular, enforced disappearances on the territory of OTDLR. KHPG received a significant part of the information about those disappearances during the monitoring visits to the populated areas along the LD, occupied by IAF during the first phase of the conflict and liberated by UAF in July-August 2014.

7. ENFORCED DISAPPEARANCE ON THE TERRITORY OF DONETSK AND LUHANSK REGIONS CONTROLLED BY THE GOVERNMENT

In May-September 2014 during the period of intensive armed conflict the enforced disappearances were carried out by Ukrainian armed formations, too, mostly by the voluntary battalions. Some fighters believed that they could treat the captives in the same way as the separatists. As a result, there were cases of torture of the captive separatists (even with detailed consequences), abductions of people with subsequent demands for ransom, car hijackings, robberies — because the fighters believed that it was dictated by the laws of war. The militants detaining people that they deemed suspicious became an everyday phenomenon. At first the prosecutor's office didn't investigate those cases. However, after the creation of the military prosecutor's office many criminal proceedings were opened after the applications of the victims of military offenders. The most offences were made by "Aydar", "Shakhtarsk" (later "Tornado"), "Chernihiv" and others.

This is the essential difference between the crimes made by the military on the occupied and controlled territories. The offenders remained unpunished on the occupied territories. It made no sense to complain to the "public police" that was committing those very offences. The justice in the so-called "DPR" and "LPR" is non-existent as such. On the controlled territories the investigation of the crimes committed by the military, in particular, the cases of enforced disappearances, nevertheless, was carried out and could be successful with the perseverance of the relatives of the missing persons. Let us look at two examples.



Oleg Kunitskiy

1. On 29 June 2014 a farmer, Oleg Kunitskiy 1971 year of birth. Was driving his car, "Lada 212140" (number BB6050CI). He had many documents on his person — his passport of a Ukrainian national, foreign passport, certificate of graduation, two diplomas of Luhansk Agrarian University, car registration certificate, the map of Ukraine.

Kunitskiy also had a carbine rifle, "Fort 202" caliber 7,62 2011 production year and no less than 60 bullets for it. He had the permit to keep and use that weapon on him.

Oleg Kunitskiy was a successful farmer, the organizer of Svatovskiy self-defence, a voluntary who collected the funds and provided constant help to the military. In many respects thanks to his efforts Svatovskiy district remained on the territory controlled by the Government.

According to the assurances of Volodymyr Kunitskiy, Oleg's father, apart from the listed property his son also had USD 100 000 on him. Volodymyr's representative, a lawyer, Sergiy Kozakevich, reported that this money is involved in case file materials, but the suspicion has not yet been brought concerning their theft.

Near 5 pm Kunitskiy was stopped by the military of the 51st brigade on the roadblock between the villages of Yepiphanivka and Nova Astrakhan of Kreminsky district. That territory was under control of Ukrainian military.

The representatives of the Military Service of Law and Order were called to the roadblock to clarify the circumstances. After inspecting all belongings and the car they bound the man's hands, put a bag over his head. Then the representatives of the Military Service of Law and Order took Kunitskiy to the territory of the military unit 2331 in the village of Varvarivka (the territory of a former can plant). The property of the deceased farmer, in particular, his car and rifle, was seized by the military, and it wasn't documented — there is no trace of the car and weapons.

"The documents about the detention were not written by Strilets. The documents about the provision of medical assistance to Kunitskiy are destroyed. There is only an accidental record that the car entered the roadblock", — pointed out Kozakevych, the lawyer of Volodymyr Kunitskiy.

Exactly that record allowed to establish connection between the disappearance of Kunitskiy and his detention on the roadblock. Because the event was witnessed by other soldiers.

In the military unit Kunitskiy was demanded to confess his involvement in terrorist acts, he was beaten. On the next morning the fighters of the 8-th special forces regiment arrived to the military unit, among them was Sergiy Onischuk. The military service of Law and Order gave the farmer to the special forces soldiers.

After Kunitskiy was transferred and beaten again it became apparent that he required medical assistance. The doctors of the military unit examined him and stated that he required urgent hospitalization.

The transfer of beaten Kunitskiy to Starobilsk was allegedly controlled by the Head of the special forces soldiers, Olexandr Gorbachov. But Kunitskiy didn't reach Starobilsk.

The blows to the stomach damaged his internal organs, there was an internal bleeding and Oleg Kunitskiy died.

He was buried in the forest belt.

But in response to the request about the disappearance of Kunitskiy after the documented detention on the roadblock, the management of the sector responded that Kunitskiy was freed and left on his own.

As the investigation believes, Gorbachov's group buried Kunitskiy's body. But, as the prosecutor's office believes, after the start of the investigation, in spring 2014 the body was reburied (in the same place), covered with lime. Kunitskiy's body was uncovered only on 7 September 2016. The expertise confirmed that it was really his remains.

Sergiy Strilets, a 39-year-old lieutenant colonel (at the time of the tragedy — a major). In 2014 he was the Head of the administrative group of the headquarters Rivne district department of Military service of law and order. He is suspected of torturing Kunitskiy and of illegal possession of his property.

Svan Vasyuk is a senior sergeant in the Military service of law and order. He was suspected of similar articles.

Sergiy Onischuk, a major, 35 years. Since 2015 — the head of the preparation and start 3rd consolidated detachment of special purpose military unit — field police B4252 (8 regiment of special forces). He is suspected of causing bodily injuries leading to death, and failure to provide medical assistance.

37-year-old Olexandr Gorbachov, lieutenant colonel, Officer of Intelligence of the operational command "Zakhid". Suspicions raised for appropriation of property of Kunitskiy.

A preventive measure was chosen for all four of them — the detention. Later Strilets was freed.

*The suspicion wasn't raised concerning two persons, because they were abroad:
Yuriy Blishun, colonel, a former Head of the intelligence department of OC "Zakhid", suspended from office in relation with the investigation of the case
Yaroslav Demedyuk, a former soldier of the 8th regiment of special forces.
The court goes on.
This tragic story became well-known and described in many sources¹².*



Olexandr Minchonok

2. On 21 July 2014 Minchonok Olexandr Olexandrovych 1983 year of birth in the morning was bringing his grandmother from Lisichansk to Kharkiv in his car, Mitsubishi Pajero Wagon 2006 production year with transit number plates (the car disappeared along with documents, but later it was found on the base of battalion "Aydar" in Starobilsk).

During the phone conversation he told his parents that he was going to Severodonetsk. He was calling from the roadblock in Muratovo.

30-40 minutes later an unidentified man called from his phone and asked Olexandr's parents whether Olexandr was their son. His mother confirmed that. Then she was told that her son was detained and he was being brought to the prosecutor's office and his grandmother is being sent to Rubizhne (she was later found in the hospital in Rubizhne).

The father searched for his son and his car in Svatovo, Rubizhne, Starobilsk, but without success.

The independent searches resulted in the fact that Olexandr's mother learned: the illegal detention of her son was conducted by the representatives of battalion "Aydar".

Criminal proceedings were opened, several fighters from "Aydar" who participated in Olexandr's abduction were detained. His car was returned to Olexandr's parents.

Olexandr Minchonok was identified by DNA test as an unknown deceased person, dug out from the grave, he was transferred to his parents and buried. The criminal proceedings are still under the investigation. But this investigation is ineffective.

It should be emphasized that the number of enforced disappearances on the territory controlled by the government in 2015 is much smaller than in 2014, and the latest case of enforced disappearance is documented by KHPG in November 2015. In 2016–2018 the cases of enforced disappearances were not witnessed on the territory controlled by the government.

Annex 2 contains a short description of 57 cases of disappearances and, in particular, enforced disappearances on the territory of three districts — Stanichno-Luhansk, Popasna and Maryinka. KHPG received the information about those disappearances during the monitoring visits to the populated areas along the LD.

8. A SHORT OVERVIEW OF PROBLEMS OF THE STATE'S APPLICATION OF CERTAIN ARTICLES OF THE CONVENTION

Section 1 also mentioned the absence of an adequate legal qualification of enforced disappearances required by Article 4 of the Convention. The amendments envisaged by the July 4, 2018 bill 5435, in our opinion, can not be considered as adequate. The absence of such qualification does not allow to take the necessary measures to bring responsible persons to criminal responsibility for that crime, stipulated by Article 6, and provide for "appropriate penalties which take into account its extreme seriousness" (Article 7). In absence of the adequate legal qualification of that crime it is also impossible to consider the question of the terms of limitation (Article 8), take the necessary measures to establish the state's competence to exercise jurisdiction over the offence of enforced disappearance (Article 9) ensure taking of the person who committed that offence into custody or take such other legal measures as are necessary to ensure his or her presence (Article 10). The absence of the adequate qualification also weakens the possibility to demand the extradition of a person alleged to have committed an offence of enforced disappearance, if that person appears on the territory under the jurisdiction of that State Party (Article 11), the possibility of the competent authorities to receive the information about the enforced disappearance and, where necessary, undertake without delay a thorough and impartial investigation, as required by Article 12 of the Convention.

The absence of the adequate qualification of the offence of enforced disappearance does not allow to adequately consider the issue of extradition of a person who committed that offence to another State Party to the Convention (Article 13), as well as to provide "the greatest measure of mutual legal assistance in connection with criminal proceedings brought in respect of an offence of enforced disappearance" (Article 14) and for State Parties to provide one another "the greatest measure of mutual assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains" (Article 15). For the same reason the issue of becoming a victim of a forced disappearance in case of extradition, expulsion, return or surrender of the person to another state is not even considered (Article 16).

In the absence of the full implementation of those articles of the Convention, accordingly, its norms concerning the access to information about deprivation of the person's freedom and it's state, the conditions of the limitation of this access, protection of personal data of a disappeared person, guarantees of liberation of a person deprived of freedom and the norms of bringing to responsibility those state officials, who illegally denied access to information, obstructed the use of the remedies or failed to comply with their registration duties are not implemented (Articles 18-22). There were also no measures to study its norms mentioned in Article 23, and in order to implement the right "to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person" (Article 24). Similarly, phantom for the victim of an enforced disappearance is the "right to obtain reparation and prompt, fair and adequate compensation" declared by the same Article 24.

The application of Article 17 of the Convention deserves a more detailed separate overview.

¹² See, for example, <<https://ua.censor.net.ua/r450297>>.

9. VIOLATIONS OF ARTICLE 17 OF THE CONVENTION

Parts 1, 2 of Article 17 of the Convention states the following:

1. *No one shall be held in secret detention.*

2. *Without prejudice to other international obligations of the State Party with regard to the deprivation of liberty, each State Party shall, in its legislation:*

- a) *Establish the conditions under which orders of deprivation of liberty may be given;*
- b) *Indicate those authorities authorized to order the deprivation of liberty;*
- c) *Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty;*
- d) *Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law;*
- e) *Guarantee access by the competent and legally authorized authorities and institutions to the places where persons are deprived of liberty, if necessary with prior authorization from a judicial authority;*
- f) *Guarantee that any person deprived of liberty or, in the case of a suspected enforced disappearance, since the person deprived of liberty is not able to exercise this right, any persons with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their counsel, shall, in all circumstances, be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not lawful.*

The practice that developed in Ukraine in 2014–2018 indicates a continuous infringement of those rules of the Convention and legislation of Ukraine. Let's consider this question in detail.

Judging by the appeals received by human rights groups and the Human Rights Ombudsperson, one can see that SBU officials (this applies also to the bodies of the prosecutor's office, police bodies, and from 2016 the National Police) have begun widely applying detention without a court order specifically in cases which are not envisaged by Article 208 of the CPC. For example, the people whom the appeals were about and who had been detained without a court order were suspected of committing offences several months or even several years prior to their detention. In other words, in cases where, according to the current CPC, the detention had to be carried out as per general procedure, namely on the basis of a court order, and not according to the procedure envisaged by Article 208 of the CPC.

There is systematic and widespread violation by SBU officials of the right to legal assistance which is guaranteed by Article 59 of the Constitution and regulated by Article 213 of the CPC. In accordance with paragraph 4 of that article, the official who carries out the detention is obliged to immediately inform the body or institution empowered by the law to provide free legal aid. In the best instances this notification gets delayed. If a lawyer is invited to provide legal assistance who is not from the Centre for Free Legal Aid, the person is simply not allowed to see the detained person. This is a problem that KHPG lawyers constantly run up against.

On 26 May 2017 a draft law no. 6521 "On amending the laws of Ukraine "On pre-trial detention" and "On Security Service of Ukraine" was introduced to the Verkhovna Rada of Ukraine concerning the functioning of pre-trial investigation centers controlled by SSU.

That draft law does not meet the goal of ensuring respect for human rights, despite the fact that as stated in the Explanatory Note to it, the draft law was developed to implement the subpara. 2 of para. 14 of the Action Plan for Implementation of the National Human Rights Strategy for the period up to 2020, which refers to the need to regulate on the legislative level the functioning of the **actually existing** pre-trial detention facilities of the SSU. However, since on 6 February 2003 the changes to Article 4 of the Law of Ukraine "On pre-trial detention" deprived the SBU of the authority to hold places of pre-trial detention, then such facilities that exist are illegal.

It should be noted that the need to separate the pre-trial detention facilities from the bodies that conduct pre-trial investigations is caused by the risk of using torture and ill-treatment in case if the detained persons constantly remain in the custody of the persons implementing the criminal proceedings.

This opinion is confirmed in the Report submitted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, UN Human Rights Council, 3 February 2011:

"64. ...Like his predecessors, the Special Rapporteur is of the opinion that legally arrested persons should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pretrial detention which, in any case, should not exceed 48 hours. He further notes that pretrial detention is often carried out for the purpose of extracting a confession under torture.¹³"

The offered draft law actually proposes to unite in one authority — SBU — the functions of investigation and detention, that is, to return to the inquisition practices of treating the prisoners of former USSR. This draft law, on our deep conviction, must necessarily be rejected.

At the same time the numerous violations of human rights on the part of the employees of SBU were often documented by human rights protection organization, parliamentary Commissioner for Human Rights and HRMMU. Almost every report of HRMMU contains striking examples of tortures in SSU. Here are several quotes.

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

...

69. The overall concern with the administration of justice relates to violations of fair trial standards. The HRMMU has evidence of ill-treatment, with allegations at times amounting to torture of people arrested by the SBU and MoIA in trying to secure forced confessions. In reviewing available court decisions, the HRMMU found that in at least 19 of the 30 criminal cases investigated by the SBU, the court based its decision on a plea bargain¹⁴.

¹³ Report submitted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, UN Human Rights Council, 3 February 2011; A/HRC/16/52: <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.52.pdf>>.

¹⁴ Report on the human rights situation in Ukraine. 15 December 2014: <http://www.un.org.ua/images/stories/OHCHR_Report_on_Ukraine_15_December.pdf>.

“38. In December 2014, the HRMU interviewed a man who was unofficially detained by unidentified Ukrainian servicemen and allegedly severely beaten for several days. Another detainee claimed to have been beaten by SBU officers and kept in 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 HRMU alleged incommunicado detention and ill-treatment that may amount to torture.”¹⁵

“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.”¹⁶

“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) and by military and paramilitary units (first and foremost by the former volunteer battalions now formally incorporated into the Armed Forces of Ukraine, the National Guard and the police). These cases were often accompanied by torture and ill-treatment, and violations of procedural rights. HRMMU continues to advocate for proper and prompt investigation of every single reported case, and for prosecution of perpetrators. HRMMU also urges the Security Service of Ukraine, the Ministry of Internal Affairs and the Ministry of Defence to put an end to such.”¹⁷

“43. HRMMU consistently documents reports throughout the country of recurrent allegations of ill-treatment during arrest and the first hour 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. 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.”¹⁸

¹⁵ Report on the human rights situation in Ukraine. 1 December 2014 to 15 February 2015: <http://www.un.org.ua/images/stories/9thOHCHRreportUkraine_1.pdf>.

¹⁶ Report on the human rights situation in Ukraine 16 February to 15 May 2015: <<http://www.un.org.ua/images/stories/10thOHCHRreportUkraine.pdf>>.

¹⁷ Report on the human rights situation in Ukraine. 16 May to 15 August 2015: <http://www.un.org.ua/images/stories/HRMMU_11th_report_08.09.2015.pdf>.

¹⁸ Report on the human rights situation in Ukraine. 16 August to 15 November 2015: <http://www.un.org.ua/images/stories/12th_OHCHR_report_on_Ukraine_EN.pdf>.

“31. The majority of cases documented during the reporting period concerned incidents in the conflict zone. While the cases from 2014 and early 2015 suggest that volunteer battalions (often in conjunction with the Security Service of Ukraine (SBU)) were frequent perpetrators, information from the late 2015 and early 2016 mostly implicate SBU. Many of these cases concern incommunicado detention in unofficial detention facilities where torture and ill-treatment are persistently used as means to extract confessions or information, or to intimidate or punish the victim. SBU continued to deny practicing secret or incommunicado detention, the mere existence of unofficial detention facilities, and the whereabouts and fate of individuals who were forcibly disappeared. SBU officials continue to maintain that allegations documented by OHCHR are “unfounded insinuations” made by criminals trying to portray themselves as victims.”¹⁹

“30. OHCHR received allegations of enforced disappearances, arbitrary and incommunicado detention, torture and ill-treatment committed by Ukrainian law enforcement. Among these were over 20 cases of arbitrary detention and ill-treatment. OHCHR communicates well-founded information to the relevant Ukrainian authorities and requests investigations into the allegations. Many of the victims of these cases approach OHCHR demanding justice for the violations they suffered. Until there is genuine investigation and prosecution of those responsible, these victims continue to have their rights to access to justice and redress mechanisms violated.”²⁰

“37. On 16 April 2015, a former member of an armed group was detained in his home by armed men in balaclavas. Without introducing themselves or presenting a search warrant, they beat him, threatened him, and searched his house. They took the victim to a basement, which he believes was on the outskirts of Pokrovsk (formerly Krasnoarmiisk), where he was detained incommunicado, handcuffed to a metal safe which forced his body into a difficult position. He was interrogated and tortured by having water poured over his face, electrocutions, and beatings on his back and kidneys. The perpetrators made him sign documents and filmed a video confession. He was taken to the Kramatorsk SBU on 21 April 2015, where he was given more documents to sign. In November 2015, he was convicted of terrorism.”²¹

The information given above shows clearly that today SBU is one of the main violators of human rights on the territory of the armed conflict, as well as during the implementation of its functions in other regions of Ukraine.

¹⁹ Report on the human rights situation in Ukraine 16 February to 15 May 2016: <http://www.un.org.ua/images/14th_OHCHR_report_on_the_human_rights_situation_in_Ukraine.pdf>.

²⁰ Report on the human rights situation in Ukraine 16 August — 15 November 2016: <http://www.un.org.ua/images/UKR_16th_HRMMU_Report.pdf>.

²¹ Report on the human rights situation in Ukraine. 16 August to 15 November 2017: <http://www.un.org.ua/images/UKR_16th_HRMMU_Report.pdf>.

10. ENFORCED DISAPPEARANCES WITH AIM OF CREATION A SO-CALLED 'EXCHANGE FUND'

The detentions which the SBU carries out for the purposes of exchanging people for prisoners of war or civilian hostages held prisoner in the self-proclaimed Donetsk and Luhansk people's republics [DNR, LNR, respectively] are totally illegal. Information about exchanges is limited and scrappy. Exchanges are carried out in conditions of secrecy and not regulated by any legal procedure. Judging from the statements and the accounts of relatives of those who are being exchanged or were exchanged and agree to provide information, the following picture emerges.

The SBU forms a so-called 'exchange fund' (a thoroughly revolting term!): it looks for people who are implicated in committed crimes linked with separatism, state treason, terrorism or other offenses under SBU jurisdiction, detains them and offers exchange for those held prisoner in LNR or DNR instead of criminal prosecution and long sentences. The detained person has no choice but to agree to the exchange. Then an agreement is reached with the investigators, the criminal proceedings are terminated, the people released from custody, however SBU officials are waiting for them, put them in a car and take them to an unidentified place where they are held incommunicado under the exchange is carried out.

Sometimes the SBU offers the exchange after the investigation is over during the trial. In such cases the judge passes a ruling, without ending the court trial, with a suspended sentence with several years' parole period, the person is released in the courtroom and she or he is similarly taken by the SBU to an unidentified place where they're held incommunicado. There have been cases where they detained a person for exchange already after the end of the court proceedings and passing of a sentence (most often not linked with deprivation of liberty). They say that it's impossible to turn down this offer.

We would note that the guilt of those who are being exchanged has often not been proven by the investigators and established by the court. In those cases, we are aware of the suspicions presented are often dubious or unwarranted.

Worth mentioning also that the former head of the Central Investigation Department of the SBU, Vasyl Vovk, admitted²² in an interview that there is such an "exchange fund", although he asserted that people are added to it voluntarily. "We place them in a transit point for exchange at their own request". It is difficult to believe in such free will.

Since one of our captives is usually exchanged for 2, 3 or more 'separatists' or 'terrorists', and according to official statistics²³ 3224 prisoners have been exchanged, we are dealing with some thousand people who have ended up in the so-called DNR and LNR via exchange. It is hard to say how their fate as turned out after that. The vast majority had a permanent place of residence on territory under Ukrainian government control, which means that they have nowhere to live or a job in the new place. They don't

²² <<https://www.youtube.com/watch?v=D4RsSxMuQE4>>.

²³ <<https://trueua.info/news/sbu-povidomila-kilkist-zvilnenih-ukrainskih-zaruchnikov>>.

risk returning since they're scared of ending up facing new (or the same old one) prosecution or exchange (there is talk that there have been cases where one and the same person was exchanged twice).

It is unclear where exactly those arrested by the Security Service during the pre-trial investigation before the termination of the criminal proceedings or court sentence, or after their repeat detention before the carrying out of the exchange. The two official departmental investigation units in Kyiv and Kharkiv can obviously not contain such a number of people. At the investigation stage, some of those arrested could be in SIZO, however the official statistics from the State Penitentiary Service does not show a significant increase in people held in SIZO: as of 1 January 2016, there were 580 more prisoners as compared to 1 January 2015. In our view, this increase is probably a result of an increase in crime. Therefore, the question of where the SBU has held Ukrainian citizens during investigation or while waiting to be exchanged for POWs, remains for now without a clear or exhaustive answer. Some testimony and reports from international organizations point to cells in the SBU demands of eastern cities of Ukraine.

So, the IPPCU repeatedly provided examples of secret detention and forced exchange.

*"(...)35. Between 6 and 16 September, at least three exchanges took place, during which at least 130 people were released by the armed groups. The exact number of people released by the Ukrainian side is unknown, though it is believed to be comparable with the number of detainees released by the armed groups. On 12 September, the HRMMU was informed by some families that three detainees were released from the Odesa pre-trial detention center and driven by the SBU to Kharkiv in order to be exchanged, despite the alleged refusal of two of them to be exchanged."*²⁴

*"49. Some credible reports question the voluntary nature of the exchanges, which has not always been observed, with some detainees following their exchange reporting that they were forced to participate in the process. For example, the HRMMU received information that on 25 September, some 'pro-federalism' detainees held in the pre-trial detention facility in Odesa were forced by the SBU to participate in detainee exchanges. At that time, they were notified that the criminal charges against them were dropped. Although they were warned unofficially by the SBU that if they did return to Odesa, they would again face prosecution. On 16 October, the HRMMU was informed by the relatives and lawyers of the detainees, that having been exchanged, criminal proceedings had indeed been reopened against them."*²⁵

"15. OHCHR documented allegations of enforced disappearances, arbitrary and incommunicado detention, and torture and ill-treatment, perpetrated with impunity by Ukrainian law enforcement officials, mainly by elements of the Security Service of Ukraine (SBU). OHCHR urges the Ukrainian authorities to ensure prompt and impartial investigation into each reported case of human rights violations, as well as the prosecution of perpetrators. Accountability is critical to bring justice for victims, curtail impunity, and foster long-lasting peace.

...

48. OHCHR remains highly concerned about consistent allegations of detainees being held in unofficial places of detention by SBU. These places are not accessible to the National Preventive Mechanism and international organizations. Reliable accounts from victims and their relatives indicate a widespread pattern of conduct across several SBU departments. Since the outbreak of the conflict, a network of unofficial places of detention, often located in the basement of regional SBU buildings, have been

²⁴ Report on the human rights situation in Ukraine 16 September 2014: <http://www.un.org.ua/images/stories/OHCHR_sixth_report_on_Ukraine.pdf>.

²⁵ Report on the human rights situation in Ukraine 15 November 2014: <http://www.un.org.ua/images/stories/FINAL_OHCHR_seventh_report_Ukraine_20.11.14_before_launch.pdf>.

identified from a large number of reliable accounts from victims and their relatives. OHCHR recalls that the prohibition of unacknowledged detention is not subject to derogation.

49. For instance, OHCHR has received alarming allegations that in Odesa, detainees are held for up to five days incommunicado at the SBU building following their arrest, without any contact with their family or access to a lawyer. Information recorded by OHCHR indicates that, as of February 2016, 20 to 30 people were detained illegally and incommunicado at the Kharkiv regional SBU building. When asked about their fate and whereabouts, SBU officials have systematically denied any involvement. According to information gathered by OHCHR, the vast majority of those held in the Kharkiv SBU were not arrested in accordance with legal procedures and have not been charged, despite being held because of their presumed affiliation with the armed groups. These detainees are held in such circumstances until surrendered to armed groups in simultaneous releases of detainees.²⁶

The UNHCR in its 14th report²⁷ for the period from February to March 2016 reported that as of March 2016 they were aware of the names of 15 men and one woman who were held in the Kharkiv regional department of the SBU. A list of 26 people secretly held was passed to the Ukrainian authorities by Human Rights Watch and Amnesty International. Most of those people were released within two weeks. Examples of enforced disappearances and detention are cited in the 16th UNHCR report²⁸ on the Human Rights Situation in Ukraine from 16 August to 15 November 2016 (pp. 33, 34, 35). There they speak of people abducted after a court ruling releasing them being held in the Mariupol and Kharkiv regional SBU and private flats. It should be said that the SBU consistently deny such assertions.

These circumstances have led to statements from western experts, human rights activists and journalists about “secret SBU prisons”. It was the SBU’s refusal to show a delegation from the UN Committee against Torture its places of detention in May 2016 that led to the cancellation of the visit. The visit was reinstated in September with the delegation being shown the above-mentioned sectors for ensuring pre-trial investigation, however that does not answer the question about the whereabouts of those detained.

The secrecy of the exchange process, the lack of public monitoring over it may result in the circulation of incorrect information about this process with no possibility, because of the secrecy, of refuting it.

We understand that the SBU is forced to deal with exchanges in order to free those taken prisoner, however such a procedure can in no way be justified. We are forced to acknowledge that Ukraine’s Security Service has over a long period carried out enforced disappearances. Everything that happens in connection with the exchange of captives is absolutely outside the framework of the law, this is a disgraceful mechanism of pressure and political bargaining from the leadership of the Russian Federation. The use of the fate of people taken prisoner for political purposes can be qualified as hostage-taking which according to international humanitarian law constitutes a war crime. Thus, all those who take part in such negotiations and guarantee the implementation of such arrangements can be viewed as subject to prosecution by the International Criminal Court.

²⁶ Report on the human rights situation in Ukraine 16 November 2015 to 15 February 2016: <http://www.un.org.ua/images/stories/13th_OHCHR_Report_ENG_-_3_March.pdf>.

²⁷ <http://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report.pdf>.

²⁸ <http://www.ohchr.org/Documents/Countries/UA/UARreport16th_EN.pdf>.

11. SUMMARY OF FINDINGS

A large number of people have gone missing in connection with the armed conflict in eastern Ukraine. As of 21 June 2019, we have documented 4,656 cases of disappearances (3,982 men, 659 women and 15 sex unknowns, among them 239 children) in the KHPG database. Out of this number of missing persons, 3,505 persons were subsequently located. All incidents of disappearance occurred in the territory of the Luhansk and Donetsk regions both in the government-controlled and non-government controlled areas in Ukraine. Moreover, out of all the cases of disappearance, 1,571 concerned civilians; 1,078 — members of LAF and 11 — members of IAF. We were unable to identify the missing person’s status in 2010 cases.

With regard to the disappearance of the members of LAF, most of them went missing while performing their duties or combat functions. The KHPG database contains information about 988 civilians and 843 LAF members that went missing in 2014; 363 civilians and 214 LAF members in 2015; 178 civilians and 19 LAF members in 2016; 42 civilians and 4 LAF members — between 2017 and the first half of 2019. Based on the KHPG database, the largest number of disappearances occurred in 2014–2015, which was the active phase of the armed conflict in eastern Ukraine.

Of all documented disappearances of civilians in Donbas, the KHPG database identified 14 civilians who went missing as a result of unlawful detention, 61 civilians disappeared when crossing the LAF and IAF checkpoints, 26 civilians disappeared during hostilities in the cities of the Luhansk and Donetsk regions, 488 civilians were abducted; and 958 civilians went missing for unknown reasons, i. e., their relatives lost contact with those persons (via phone and Internet).

More detailed information on missing persons is given in the tables below.

Table of missing persons based on surrounding circumstances of their disappearance

	Status				Sex			
	Civilians	LAF members	IAF members	Unknown status	Men	Women	Unknown	Children
Surrounding circumstances of the enforced disappearances								
Circumstances unknown	958	92	4	1645	2125	571	2	226 ÷ 229*
• in Donetsk region	779	73	3	1318	1706	465	1	189 ÷ 191
• in Luhansk region	172	19	1	319	406	104	1	37 ÷ 38
In captivity	14	43	0	8	62	1	1	
• in Donetsk region	12	34	0	6	50	1	1	
• in Luhansk region	2	9	0	2	12			
At checkpoints	61	6	0	44	103	8		
• in Donetsk region	47	4	0	40	83	8		
• in Luhansk region	14	2	0	4	20			

	Status				Sex			
	Civilians	LAF members	IAF members	Unknown status	Men	Women	Unknown	Children
During active hostilities	26	63	0	18	103	4		
• in Donetsk region	16	59	0	12	84	3		
• in Luhansk region	10	4	0	6	19	1		
After abduction	483	47	3	283	752	63	2	10
• in Donetsk region	420	34	1	252	650	55	2	9
• in Luhansk region	63	13	2	31	102	8		1
By type of disappearances (enforced or unknown what)								
Enforced disappearances	629	54	3	376	982	80	4	9 ÷ 10
• in Donetsk region	525	42	3	331	833	67	3	9
• in Luhansk region	103	12	0	45	147	13	1	0 ÷ 1
Disappearances	522	4	3	759	941	347	1	172 ÷ 173
• in Donetsk region	432	4	0	617	772	281	1	145 ÷ 146
• in Luhansk region	90	0	3	142	169	66		27
Unknown	405	173	2	861	1219	223		57 ÷ 58
• in Donetsk region	332	143	2	678	968	187		46 ÷ 47
• in Luhansk region	67	30	0	175	239	34		11
Search results of missing persons								
Found	1060	855	6	1326	2996	497	12	207 ÷ 210
• in Donetsk region	905	735	6	1119	2536	413	9	175 ÷ 177
• in Luhansk region	155	117	0	206	456	84	3	32 ÷ 33

* In the absence of accurate information of the child's age at the time of kidnapping, the provided data on the number of children is approximate.

Disappearance of civilians depending on surrounding circumstances

	Enforced disappearances	Disappearances	Unknown
Circumstances unknown	93	502	355
• in Donetsk region	66	413	294
• in Luhansk region	26	89	55
In captivity	6	1	6
• in Donetsk region	6	1	5
• in Luhansk region	0	0	1
At checkpoints	47	2	11
• in Donetsk region	36	2	8
• in Luhansk region	11	0	3
During active hostilities	6	5	15
• in Donetsk region	3	4	9
• in Luhansk region	3	1	6

After abduction	468	1	13
• in Donetsk region	408	1	11
• in Luhansk region	60	0	2
Total	620	511	400

Disappearance of civilians depending on surrounding circumstances and on the control over the territory

	Territory controlled by the government	Territory non-controlled by the government	Unknown type of territory
Circumstances unknown	29	45	19
• in Donetsk region	21	31	14
• in Luhansk region	8	14	4
In captivity	1	4	1
• in Donetsk region	1	4	1
• in Luhansk region	0	0	0
At checkpoints	27	13	7
• in Donetsk region	20	11	5
• in Luhansk region	7	2	2
During active hostilities	1	2	3
• in Donetsk region	0	1	2
• in Luhansk region	1	1	1
After abduction	245	176	47
• in Donetsk region	226	147	35
• in Luhansk region	19	29	12
Total	303	240	77

Of all civilian disappearances in the KHPG database, there is a reasonable basis to believe that 621 cases of disappearances of civilians, which belong to protected groups under IHL, are enforced disappearances and therefore constitute an underlying crime against humanity under Article 7(1)(i) of the RS. These incidents of enforced disappearances took place in public areas, as well as at the persons' places of work or residence. All recorded cases of enforced disappearance of civilians have had a devastating adverse effect on the psychological state of the missing persons' family members. Moreover, missing persons were exposed to threats, physical and psychological violence while they were unlawfully detained. The consistent and systematic denial of any kind of information about the victims of enforced disappearance inflicted mental cruelty upon the victims' family members, which means that such actions equally constitute "cruel treatment" within the meaning of CA3 to GC.

12. ALLEGED CRIMES

We submit that the alleged crimes identified in this Communication may be qualified as an underlying crime against humanity of “enforced disappearance” under Article 7(1)(i) of RS.

Whereas this Section identifies crimes that potentially qualify as “enforced disappearance” under the umbrella of crimes against humanity, we also plead that these crimes may equally constitute grave breaches of GC or violations of CA3 to GC, and therefore qualify as war crimes under the RS.

12.1. THE CRIME OF ENFORCED DISAPPEARANCE

Legal basis

“Enforced disappearance of persons” means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time. The prohibition of enforced disappearance is laid down in the International Convention for the Protection of All Persons from Enforced Disappearances and the Rome Statute of the ICC. According to the ICC Elements of Crimes, the constitutive elements of the crime of enforced disappearance as follows:

1. The perpetrator: (a) Arrested, detained, or abducted one or more persons; or (b) Refused to acknowledge the arrest, detention or abduction, or to give information on the fate or whereabouts of such person or persons.
2. (a) Such arrest, detention or abduction was followed or accompanied by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or (b) Such refusal was preceded or accompanied by that deprivation of freedom.
3. The perpetrator was aware that: (a) Such arrest, detention or abduction would be followed in the ordinary course of events by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or (b) Such refusal was preceded or accompanied by that deprivation of freedom.
4. Such arrest, detention or abduction was carried out by, or with the authorization, support or acquiescence of, a State or a political organization.
5. Such refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons was carried out by, or with the authorization or support of, such State or political organization.
6. The perpetrator intended to remove such person or persons from the protection of the law for a prolonged period of time.
7. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.

8. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

The crime of enforced disappearance of persons is rather complex, as it includes a number of specific elements pertinent to both *actus reus* and *mens rea*. The disappearance of a person in itself does not satisfy the *actus reus* of this crime, as it has to be proved that such disappearance was accompanied by refusal on the part of a perpetrator to provide information about the person’s fate or whereabouts. As for the required *mens rea* standard, apart from the required knowledge on the part of the perpetrator that arrest, detention or abduction of person would be followed by a refusal to give information about the person’s whereabouts, it is also necessary to prove that the perpetrator intended to remove his victim from the protection of the law for a prolonged period of time. ‘Knowledge’ and ‘intent’ should be construed in accordance with Article 30 of the RS.

Judicial practice of international courts and tribunals

Whereas the ICTY Statute did not provide for the crime of enforced disappearance of persons as an underlying crime against humanity, the ICTY case law nevertheless held that such crime could fall within the premises of “other inhumane acts” as crimes against humanity. Therefore, it acknowledged that the crime of enforced disappearance could potentially qualify under crimes against humanity if “carried out in a systematic manner and on a large scale”.²⁹ The Rome Statute singles out the crime of enforced disappearance as a new underlying crime against humanity largely due to the emergence of international human rights instruments that specifically dealt with the phenomenon of enforced disappearance as a response to the widespread criminal practices of authoritarian regimes in Latin America in 80s. In 1992, the UN GA adopted the Declaration on the Protection of All Persons from Enforced Disappearance, whereas in 2006 it adopted the International Convention for the Protection of All Persons from Enforced Disappearance.

The specificity of the crime of enforced disappearance is that it does not only violate the rights of individuals but equally and, most importantly, violates the rights of families to know about the whereabouts and fate of their loved ones. Therefore, it has been acknowledged that the practice of enforced disappearances – when committed in the context of IAC – involves great consequences for the victim and may constitute “inhuman treatment” within the meaning of Article 147 of GC IV. The ICRC commentary to Article 147 defines “inhuman treatment” through the prism of Article 27, which demands that protected persons must always be treated with humanity. The crime of “inhuman treatment” is not limited to the attack on physical integrity or health, but may also include certain measures, such as “cutting the civilian internees off completely from the outside world and in particular from their families”. Enforced disappearance is equally prohibited in NIAC, which has acquired the rule of customary international law.³⁰ Although IHL does not explicitly use the term “enforced disappearance”, enforced disappearance is reflected in a number of customary rules of IHL, such as the prohibition of arbitrary deprivation of liberty (see Rule 99), the prohibition of torture and other cruel or inhuman treatment (see Rule 90) and the prohibition of murder (see Rule 89). The rules governing IAC and NIAC safeguard respect for family life, as each party to the conflict is obliged to take all feasible measures to account

²⁹ ICTY, Trial Chamber, *Prosecutor v. Kupreškić and others*, Case No IT-95-16, para. 566 (citing in support General Assembly Resolution 47/133 of 18 December 1992 and the Inter-American Convention of 9 June 1994).

³⁰ ICRC, Rule 98 ‘Enforced Disappearance’, available at: <https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter32_rule98>.

for persons reported missing as a result of armed conflict and to provide their family members with information it has on their fate (see Rule 117).

As for judicial practice on enforced disappearance, the War Crimes Chamber in the Court of Bosnia and Herzegovina recognised that many missing persons on the territory of the country during the armed conflict in 90s disappeared under the circumstances that effectively satisfied the definition of enforced disappearance as a crime against humanity. In *Rasevic and Todovic*, the WCC panel shed light on the interpretation of the constitutive elements of enforced disappearance as a crime against humanity. The element of “refusal to give information (...)” was recognised to include “the failure (on behalf of authorities) to acknowledge the deprivation of freedom or provide information”. Giving false information about the victim’s whereabouts or fate, or misinformation were equally considered to constitute refusal to give information.³¹ The WCC also made an important distinction between the crime of enforced disappearance and the crime of murder, as the former does not presuppose to establish that persons who forcibly disappeared are alive or deceased. Therefore, as rightly pointed, the crime of enforced disappearance is legally distinct from other crimes that may have been committed following the forcible disappearance.³²

More guidance on the interpretation of the constitutive elements of enforced disappearance can be found in the jurisprudence of the Inter-American Court of Human Rights and the Human Rights Committee. An important question in connection with the arrest, abduction or detention of a person is the duration of such deprivation of liberty which would fall under “a prolonged period of time”. There is no uniform answer to this question, as the case law on the duration of the person’s removal from the protection of the law varies greatly — from the period of 3 months³³ to the period over 10 years³⁴ (provided the person has not been murdered and therefore, removed from the protection of the law permanently). Therefore, national and international courts determine whether particular acts fall within the crime of enforced disappearance on a case-by-case basis.

For the purposes of preparing this submission, we consider a minimum 2-week period of the illegal deprivation of liberty as satisfying the requirement of “prolonged removal of a person from the protection of the law”, which in combination with refusal to provide information about the person’s whereabouts or fate, may constitute the crime of enforced disappearance under the umbrella of crimes against humanity.

We are also cognisant of the fact that enforced disappearance must be committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

12.2. CONTEXTUAL ELEMENTS OF CRIMES AGAINST HUMANITY

The contextual elements of crimes against humanity are as follows: (i) there must be an attack; (ii) the attack must be widespread or systematic; (iii) the attack must be directed against any civilian population; (iv) the acts of the Accused must be part of the attack; and (v) the Accused must

³¹ WCC, *Prosecutor v. Mitar Rašević and Savo Todović*, Case No.: X-KR/06/275, 28 Feb 2008, p. 97.

³² *Ibid.*, p. 93, footnote 85.

³³ Inter-American Court of Human Rights, *Case of Bamaca-Velasquez v Guatemala*, Judgment of November 25, 2000 (Merits), para 143 (4 months of unlawful detention); Inter-American Court of Human Rights, *Case of Godinez-Cruz v Honduras*, Judgment of January 20, 1989 (Merits), para. 91.

³⁴ WCC, *Prosecutor v. Mitar Rašević and Savo Todović*, Case No.: X-KR/06/275, 28 Feb 2008, p. 98.

know that his or her acts constitute part of a widespread or systematic attack directed against any civilian population.³⁵

The ICTY Statute requires that the “attack” be committed in the context of an armed conflict³⁶. ICTY and ICTR jurisprudence, and the Rome Statute, provide that there must be at least “multiple” victims or acts to be considered an attack directed against a civilian population.³⁷ According to Article 7(2)(a) of the Rome Statute, “attack” must be carried out pursuant to or in furtherance of a State or organisational policy. Pre-Trial Chamber I acknowledges that the required policy element may be implemented by groups of persons who govern a specific territory or by any organisation with the capability to commit a widespread or systematic attack against a civilian population, and it does not need to be formalised. The Katanga Pre-Trial Chamber held that an attack, which is planned, directed or organised in the contrast to spontaneous or isolated acts of violence, will meet the criterion of “a State or organisational policy”.³⁸

With respect to “widespread”, jurisprudence provided clarification that “Widespread” refers to the large-scale nature of an attack, primarily reflected in the number of victims. There is no set number of victims that makes an attack “large scale”. “Widespread” may include a massive, frequent, large-scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims.³⁹ “Systematic” refers to the organised nature of the acts of violence and the recurrence of similar criminal conduct on a regular basis.⁴⁰ It involves “a pattern or methodical plan”⁴¹ that is “thoroughly organized and following a regular pattern”.⁴²

In *Momir Savid*, the trial panel held that “directed against any civilian population” means that “the civilian population was a primary target”.⁴³ The trial panel noted that the term “population” “did not mean that the entire population of the geographical entity in which the attack was taking place must have been subjected to that attack”.⁴⁴ In *Rašević et al.*, the trial panel added that it was “sufficient if the evidence showed that the attack was directed against enough individuals or in such a way as to demonstrate that the attack was not against a limited and random number of individuals or consisted of limited and isolated acts”.⁴⁵

We believe that the crimes against humanity that we have documented in eastern Ukraine are widespread in nature. Most acts involving enforced disappearances of civilians, which are part of

³⁵ *Kunarac* Appeal Judgement, para. 85; *Popovic* Trial Judgement, para. 751.

³⁶ However, the ICTY has held that under customary international law, a connection with an armed conflict is not required. *Duško Tadić*, Case No. IT-94-1, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, Appeals Chamber, 2 Oct. 1995, para. 141. See also *Kaing Guek Eav*, Case No. 001/18-07-2007/ECCC/TC, Trial Judgement, 26 July 2010, para. 218.

³⁷ Rome Statute of the International Criminal Court, Art. 7(2)(a); *Dragoljub Kunarac et al.*, Case No. IT-96-23-T, Trial Judgement, 22 Feb. 2001, para. 415; *Milorad Krnojelac*, Case No. IT-97-25-T, Trial Judgement, 15 March 2002, para. 54.

³⁸ *Iryna Marchuk*, “The Fundamental Concept of Crime in International Criminal Law” 2013, p. 98.

³⁹ *Akayesu*, TJ paras 579-580; *Rutaganda*, TJ paras. 67–69; *Alfred Musema*, Case No. ICTR-96-13, Trial Judgement, Jan. 27 2000, para. 204.

⁴⁰ *Tadić*, TJ para. 648; *Kunarac et al.*, TJ, para. 429; *Elizaphan Ntakirutimana et al.*, Case No. ICTR-96-10-T and ICTR-96-17-T, Trial Judgement, 21 Feb. 2003, para. 804.

⁴¹ *Tadić*, TJ paras. 646 and 648.

⁴² *Akayesu*, TJ para. 580.

⁴³ *Savid*, 1st inst., p. 38 (p. 34 BCS) (relevant part upheld on appeal).

⁴⁴ *Ibid.* referring to *Kunarac et al.*, AJ para. 90.

⁴⁵ *Rašević et al.*, 1st. inst., p. 41 (p. 40 BCS) (relevant part upheld on appeal), referring to *Kordić et al.*, AJ para. 95.

crimes against humanity, occurred in 2014–2015, during the active hostilities in eastern Ukraine. All acts recorded by us were directed against a large number of victims. In this Submission we refer to 630 documented cases of the alleged crime against humanity of enforced disappearance of civilians.

All cases of the alleged crimes are systematic in nature, as evidenced by the actions of the perpetrators. In the territory not controlled by the legitimate government of Ukraine, representatives of the so-called “LPR” and “DPR” have been abducting civilians on groundless charges of espionage for the LAF or allegations of directing enemy artillery. The LAF have been documented to abduct civilians over groundless accusations of separatism or supporting the IAF. These circumstances demonstrate the organized nature of the violent acts directed against civilians who do not take part in the conflict and are protected under the GC.

We have good reason to believe that all instances of abductions of civilians in eastern Ukraine, by the IAF as well as the LAF, were directed exclusively at the civilian population. This is confirmed by the testimonies of victims we provide in this Submission. The above acts were aimed at long-term intimidation of the civilian population remaining in the war zone, were committed multiple times and fully match the requirements set out in paragraph 1, Article 7 RS.

We also believe that the perpetrators were aware of the armed conflict and understood that they were committing these illegal acts in the conflict zone. We believe that the testimonies prove the nexus between the acts of the accused and the attack.

13. CIRCUMSTANCES UNDERLYING THE COMMISSION OF INDIVIDUAL CRIMES

Below are the most illustrative examples of enforced disappearance of civilians that potentially satisfy the definition of the crime of “enforced disappearance of persons” under the RS. All examples are divided into several categories based on specific surrounding circumstances. If the ICC Prosecutor is not convinced that the constitutive elements of the crime of enforced disappearance of persons are present, we submit that there are reasonable grounds to believe that such acts, in alternative, satisfy the elements of war crimes (grave breaches of GC or violations of CA3 to GC depending upon the classification of the conflict) enumerated by the RS.

13.1. DISAPPEARANCES OF CIVILIANS AT THE TERRITORY NON-CONTROLLED BY THE GOVERNMENT

Disappearances of civilians at the IAF checkpoints

Case of Victim 39892⁴⁶

Victim 39892, a citizen of Ukraine, permanently resided in eastern Ukraine before the outbreak of hostilities, and still resides in the city of Mariupol, working there as a judge at the Donetsk Regional Court of Appeals.

On 29 May 2016, in the evening, the victim was returning to Mariupol from the city of Novoazovsk, which was controlled by IAF. Upon her departure from Novoazovsk, the IAF members stopped her car at the CP in order to check her documents. After learning about her place of work, the unidentified IAF members arrested the victim and took her to Donetsk, which was under their control. There, the victim was placed in the unlawful place of detention the so-called “Temporary Detention Cell”, which was located on the grounds of the Donetsk Investigative Detention Facility No. 5.

The victim’s family had no information about her whereabouts since the arrest. Her family filed a missing persons report with the local department of NPU, but received no information about the fate of the victim. On 27 December 2016, the IAF members released the victim. She returned to Mariupol. The criminal investigation was launched on the abduction charges; however, the perpetrators have not been brought to justice.

Case of Victim 40058⁴⁷

Victim 40058, born in 1995, is a citizen of Ukraine, has permanent residence in the village of Verkhnia Vilkhova, Stanychno-Luhanskyi Rayon, Luhansk Region, which is under LAF control. Unemployed.

⁴⁶ KHPG database, case No. 39892.

⁴⁷ KHPG database, case No. 40058.

In the morning of 31 August 2017, at the Stanytsia Luhanska checkpoint, on the side controlled by the IAF of the so-called «LPR», armed individuals who introduced themselves as officers of the Border Guard Service of the IAF of the so-called “LPR” detained the victim, who was helping people crossing the demarcation line carry heavy luggage for a fee.

On 1 September 2017, the victim’s brother filed a missing persons report with the Stanychno-Luhanskyi Rayon Police Department. Following this report, the police initiated criminal proceedings.

On the same day, the victim’s brother also contacted the IAF officers that were on duty at the Stanytsia Luhanska checkpoint, who said that according to the logs, the victim crossed over to the territory controlled by the IAF of the so-called “LPR” on 31 August 2017 and never returned.

Also, on 1 September 2017, the victim’s mother contacted representatives of the IAF of the so-called “Ministry of State Security” of the “LPR”, asking for any information about her son, but was given no information about his whereabouts or whether he had been detained.

As of writing this Submission, the whereabouts and fate of the victim remain unknown. The criminal investigation into the disappearance is ongoing, but no one has yet been prosecuted for this crime.

Abduction of civilians in public

Case of Victim 39175⁴⁸

Victim, born in 1976, is a citizen of Ukraine, had permanent residence in Luhansk, which is under the control of the IAF of the so-called “LPR”. Private entrepreneur.

In the morning of 10 April 2015, soon after driving his daughter to school, he was detained by representatives of the IAF of the so-called “MSS of the LPR”, who took his car and drove in an unknown direction, after which the victim was not heard from again.

On the same day, the victim’s wife and cousin contacted the IAF of the so-called “MSS of the LPR” that were based in the building of the former SSU branch in Luhansk Region, asking for any information about his whereabouts. Despite the victim’s relatives’ questions, IAF representatives of the so-called “MSS of the LPR” did not confirm whether the victim had been detained or in their custody, nor did they deny it.

On 5 June 2015, the victim’s cousin filed a report with the IAF SSU and the Main Police Department of Luhansk Region regarding the victim’s disappearance.

After numerous appeals by the victim’s wife to the IAF representatives of the so-called “MSS of the LPR”, she was unofficially informed that her husband had been arrested on suspicion of a criminal offense (espionage for the IAF UAF).

On 24 June 2015, IAF representatives of the so-called “People’s Police of the LPR” summoned the victim’s wife to identify the body of a man that had been found in the Severskyi Donets river. The victim’s wife recognized her husband’s body.

Case of Victim 40168⁴⁹

Victims, young women, born in 1996, is a citizen of Ukraine, has permanent residence in the city of Khartsyzk, which is under control of the IAF of the so-called “DPR”. Unemployed.

⁴⁸ KHPG database, case No. 39175.

⁴⁹ KHPG database, case No. 40168.

On 1 September 2014, the victim was walking with her friend O. They were approached by a car from which two men in civilian clothes came out and asked them for identification. A few minutes later another car approached, with two more men who identified themselves as officers of the so-called “People’s Police of the DPR”. The victim and her friend were detained and forced into the car, after which they were brought to a district precinct of the so-called “People’s Police of the DPR”, where they were searched, interrogated and detained for three days.

On 4 September 2014, the victim was taken to Donetsk, to a room with representatives of the IAF of the so-called “MSS of the DPR”. She was placed in a cell with 30 other people. There wasn’t enough room in the cell, so the detainees had to take turns sleeping and sitting. They were fed twice a day. The victim was forced to clean the rooms of representatives of the “MSS of the DPR”. Later she was forced to work in the dining room.

On 17 September 2014, after finishing her forced work, she was given a phone by one of the dining room workers, which allowed the victim to call her grandmother and share her whereabouts.

After the disappearance, the victim’s mother contacted representatives of the Khartsyzk department of the so-called “People’s Police of the DPR” but received no information as to whether her daughter had been detained or about her whereabouts. Representatives of the so-called “MSS of the DPR”, also contacted by the victim’s mother, provided no information about her daughter’s whereabouts as well.

On 25 September 2014, representatives of the IAF of the so-called “MSS of the DPR” summoned the victim for questioning and forced her to write an explanation regarding her pro-Ukrainian posts on Facebook, after which she was released.

Case of Victim 40160⁵⁰

Victim 40160, born 1987 in Krasnodon (now Sorokyne), Luhansk Region Ukraine was a businessman who was not affiliated with any party to the conflict. He was abducted on 30 June 2017, at about 16:00, near the parking lot of the Prometheus shopping mall in Luhansk. While the victim was walking to his car, another car arrived at the parking lot, from which the men in uniform came out. The men put a sack on the victim’s head, forced him into their car and drove off. The next day, the unidentified individuals who introduced themselves as officials of the “Ministry of State Security of the LPR” showed up at the victim’s apartment where they conducted a home search.

On 4 July 2017, the victim’s parents turned to the “MSS of the LPR” for information about their son. On 17 July 2017, officials of the “MSS of the LPR” replied that they had no information about the victim’s whereabouts, and whether he was among those in the custody of the “MSS of the LPR”. The “MSS of the LPR” officials hinted to the parents that the victim might be in the custody of the “internal security department” of the “MSS of the LPR”, which receives its orders directly from Moscow.⁵¹ The victim’s family also filed a missing persons report with SSU, which was forwarded to NPU. The latter opened a criminal investigation into the disappearance. On 30 July 2017, an official who introduced himself as an investigator of the “MSS of the LPR” notified the victim’s parents by phone that their son was in the custody of the “MSS of the LPR” and had been charged with espionage. At that point, the victim was allowed to see his mother. On 26 November 2018, the victim was sentenced by the “LPR court” to 13 years

⁵⁰ KHPG database, case No. 40160.

⁵¹ Yanina Smelyanska, “A sack on your head and you’re gone. Another person gone missing in the OTDLR”, (online) 19 July, 2017: <<http://khpg.org/index.php?id=1500485760>>.

of imprisonment with full confiscation of property. The verdict stated that the victim was convicted of armed robbery that caused damage to the LPR.⁵²

*Case of Victim 40163*⁵³

Victim 40163, a citizen of Ukraine, writer and journalist working for several Ukrainian media outlets, such as Radio Liberty, The Ukrainian Week, Dzerkalo Tyzhnya, Obozrevatel and Ukrayinska Pravda, lived in the city of Donetsk prior to the conflict. He worked on the project “Radio Donbas. Realities” at the Ukrainian office of Radio Liberty.

On 10 May 2017, in the city of Donetsk, which at that time still remained under the control of the DPR, the IAF members with insignia of the so-called “MSS of the DPR” detained the victim on Lenin Square. After his arrest, he was taken to the unlawful place of detention located on the grounds of the former art foundation “Isolyatsiya”. There, the victim was placed in a dark room with no daylight. He was subjected to beatings, cutting of various parts of his body and torture by electric shock applied to his ears. The victim was later charged with espionage and the transfer of strategic information about the movements and activities of IAF in the DPR to the Ukrainian state, namely SSU. There were other detainees in the same dark room together with the victim. They were only fed once a day and were not allowed outdoors.

After a prolonged period of detention, the victim was taken to his place of residence where the IAF members bearing the insignia of the so-called “MSS of the DPR” conducted an unlawful house search. Following that, he was moved again and placed in the building of the so-called “MSS of the DPR”, which earlier housed the Donetsk Appellate Administrative Court of Ukraine.

Since the arrest of the victim, his mother has had no information about her son’s whereabouts and fate. She made numerous requests to IAF of the so-called “MSS of the DPR” seeking to obtain information about the fate of her son, however, she has not received any response.

On 2 June 2017, the victim’s mother was notified by the IAF members of the so-called “MSS of the DPR” that he was in their custody charged with espionage i. e. collection and transfer of information to the Ukrainian state, namely SSU.

The victim is currently in custody of IAF of the so-called “MSS of the DPR”.

Abduction of civilians from their place of work

*Case of Victim 38875*⁵⁴

Victim 38875, a citizen of Ukraine, lives in the village of Novotroyitske in Volnavsky Rayon, Donetsk Region. In 2014, he worked as a security guard at the Mykolayivske Reservoir for the fishery business. In November 2014, the city of Mykolayivka in Volnovasky Rayon was under the control of UAF, while the city of Dokuchayevsk in the Donetsk Region was controlled by IAF of the DPR. The water reservoir located between Mykolayivka and Dokuchayevsk was not controlled by either side and therefore was considered as a “gray zone”.

⁵² Yanina Smelyanska, “LPR court sentences Roman Sagaydak”, (online) 26 November 2018: <<http://khpg.org/index.php?id=1543231137>>.

⁵³ KHPG database, case No. 40163.

⁵⁴ KHPG database, case No. 38875.

On 20 November 2014, in the evening, the victim received a phone call from the security chief, his superior, who summoned him to work. At approximately 18:00 on the same day, the victim drove up to the reservoir in his car. Upon arrival, the victim was detained by a group of 6 men armed with automatic weapons and dressed in camouflage style uniforms with insignia of IAF of the DPR. During the arrest, they used physical force against the victim and placed him into the trunk of his own car. The victim was taken to a warehouse in Dokuchayevsk where the Oplot battalion was stationed at the time. At the warehouse, the victim was once again beaten with wooden sticks and metal pipes. In the course of the beating, the victim was charged with espionage and adjustment of UAF artillery fire, as well as with murder of the IAF members of the DPR. The beatings lasted for 4 hours and involved degrading behaviour toward the victim. Immediately after the beatings, the commanding officer of the IAF group ordered the victim’s execution, which was staged and done with the purpose of intimidating other prisoners. According to the victim, the commanding officer of the DPR intelligence group that captured him was a representative of the Russian armed forces. However, the victim was unable to provide more specific information about him, as there was no communication between them.

On 21 November 2014, the victim was taken to the main base of the Oplot battalion, which was located in the premises of the Donetsk Polytechnic School. For two and a half months, the victim was held in a basement room where weapons were stored. There was no lighting in those rooms, and food was given only once a day. The victim and other detainees were forced to perform hard and dangerous labour. During the period of his captivity, the victim was interrogated twice by the man who called himself “chief of security”, aka “Topaz” (a man of Greek nationality under the age of 30). During the interrogations, the victim was denied the right to a lawyer, or the possibility to challenge the illegal actions of the DPR representatives. Therefore, the victim was effectively removed from the protection of the law.

Throughout the period of the victim’s activity, his family had no information about his whereabouts. They filed missing persons reports and requested information about the victim’s fate from the DPR representatives who unlawfully detained the victim and kept him in captivity. However, no such information had been provided for a long period of time. After sending an inquiry to the commanders of DPR’s Oplot battalion, the victim’s family members were informed that the victim had been executed by a firing squad.

Later, drug addicts who were also detained at the base of the Oplot battalion told the victim’s wife about her husband’s fate after their release.

On 4 January 2015, the victim was allowed to return home.

*Case of Victim 40165*⁵⁵

Victim, born in 1989, is a citizen of Ukraine, has permanent residence and works in the Kadiyivka (former Stakhanov) City Council, Luhansk Region.

On 30 June 2014, six armed men in camouflage uniforms with “Novorossiya” and “Russia” stripes and St. George’s ribbons, one of them with a badge of commandant’s assistant of the city of Stakhanov issued to one Sergey Cherezov, detained the victim at his workplace, after which he was brought to a garage of the Kadiyivka Organized Crime Unit and subsequently kept there. Upon arrival, the victim was told to remove all his clothes and taken to a specially equipped torture room, where two represen-

⁵⁵ KHPG database, case No. 40165.

tatives of the IAF of the so-called “LPR” started hitting and strangling him with an iron chain while the victim was hanging by his shoulder. After the beating he was forced to cover himself with the Ukrainian flag. This treatment lasted for about three days. He couldn’t move his upper limbs because his fingers had been broken. After receiving information from his colleagues, the victim’s parents turned to the so-called “Kadiyivka Commandant’s Office” but were given no information about their son. The victim’s parents also contacted other so-called “state bodies of the LPR”, which also provided no information about his whereabouts and health.

After each beating the victim would be taken to the premises of the so-called “Kadiyivka Commandant’s Office of the LPR” for interrogation and mock execution by firing squad, forcing him to sign a confession that he had been supplying information to the UAF about the location of the IAF of the so-called “LPR” to undermine the constitutional system of the so-called “LPR”.

There was no daylight in the garage of the Kadiyivka Organized Crime Unit, food was provided once a day (sometimes the detainees would go without food for three days straight), and a plastic bottle served as a toilet. The garage was also used for storing ammunition. The detainees were forced to load and unload ammunition that would be delivered to the positions of the IAF of the LPR. After 15–20 days, the victim was transferred to another building, namely the Kadiyivka Region Boarding School No. 1. Near the room in which he was kept was a room where representatives of the IAF of the LPR were torturing people, and the victim could hear their cries and groans.

On 29 August 2014, after the arrival of one of the leaders of the IAF of the so-called “LPR” Pavlo Dryomov, the victim was brought in for questioning and, under threat of execution, forced to sign a statement that he had no complaints regarding the IAF of the so-called LPR, after which he was released.

Abduction of civilians from their place of residence

Case of Victim 40166⁵⁶

Victim, born in 1977, is a citizen of Ukraine, has permanent residence in the city of Makiyivka and works at the local center of the all-Ukrainian association “Homeland”.

On 21 June 2014, he was driving his car to work. Two cars following him forced him to a halt. After this, four armed men in camouflage uniforms without insignia asked him to get out of the car. After that, one of the armed men sat behind the wheel of the victim’s car and roughly informed him that his car was being confiscated “for the needs” of the so-called “DPR”.

Left alone on the side of the road, the victim headed home on foot. Within a few hours after his return home, he had a visit from four men, unarmed and without insignia, who arrested him without explanation and brought him to the building of the Makiyivka Organized Crime Unit, where the base of Kharkiv’s “Oplot” was located. There, he was beaten until he blacked out, remaining unconscious for some time. After that he was taken to the basement, to a cell that already housed 15 people. The next day, he was tortured, subjected to a mock execution and told to confess his affiliation with the UAF.

Two days later, the victim was taken to the Organized Crime Unit building in the city of Horlivka, also controlled by the IAF of the so-called “DPR”. After prolonged torture, a wound on his leg began to fester, but he was not provided any medical assistance. In addition, there were 2–3 day intervals when

⁵⁶ KHPG database, case No. 40166.

the detainees were given no food. In Horlivka, the victim was questioned by Bezler, the local leader of the IAF of the so-called “DPR”. After the interrogation, the victim was taken to the basement and placed in a cell with two dead bodies. The bodies had been there for a long time; later representatives of the IAF of the so-called “DPR” ordered the victim and other detainees to carry the half-decomposed bodies outside.

At the end of August 2014, the victim was transferred to the Artemvugillia mine, where he was put in a basement again and forced to load and unload ammunition and shells as well as to dig up sconces. The victim and other detainees were also forced, under threat of execution, to demine the area.

Since their son’s disappearance, the victim’s parents repeatedly contacted representatives of the IAF of the so-called “DPR” for information about his health or whereabouts, but the representatives of the IAF of the so-called “DPR” would not accept their letters and provided no oral replies.

On 8 October 2014, representatives of the IAF of the so-called “DPR” brought the victim outside with a bag on his head, forced him into the trunk of a car and drove him to Makiyivka. There, near the Makiyivka railway station, he was released.

Case of Victim 40164⁵⁷

Victim, woman, born in 1969, is a citizen of Ukraine, has permanent residence and owns a pet shop in the city of Pervomaisk, Luhansk Region, which is under control of the IAF of the so-called “LPR”.

On 31 October 2018, she had a visit from armed men in camouflage uniforms with insignia of the IAF of the so-called “LPR”, who introduced themselves as officers of the so-called “MSS of the LPR”. They searched the victim’s home and then arrested her and drove her away in an unknown direction.

The next day, employees of the victim’s pet shop visited her place of residence and then contacted representatives of the IAF of the so-called “LPR”, reporting her disappearance. The representatives of the IAF of the so-called “LPR” refused to accept any reports and assured them that the victim was not in their custody.

The victim has no family or other relatives. The only person she kept in touch with was her godmother. After the victim’s disappearance, her godmother also contacted representatives of the IAF of the so-called “LPR”, but they refused to accept her report and assured her that they would try and find O. Sorokina without any reports.

The representatives of the IAF of the so-called “LPR” still have not provided any information as to whether the victim had been detained by them. Her whereabouts are still unknown.

13.2. DISAPPEARANCES OF CIVILIANS AT THE TERRITORY CONTROLLED BY THE GOVERNMENT

Enforced disappearance of civilians at the LAF checkpoints

Case of Victim 40161⁵⁸

Victim 40161, born 1971, is a farmer, as well as a volunteer in the city of Svatovo in the Luhansk Region that prevented the seizure of administrative buildings in the city, enabling Svativsky Rayon to remain under the control of the Ukrainian government. On 29 June 2014, at approximately 17:00,

⁵⁷ KHPG database, case No. 40164.

⁵⁸ KHPG database, case No. 40161.

the victim was approaching a CP between the villages of Yepifanivka and Nova Astrakhan in Kreminsky Rayon, Luhansk Region, where he was detained by the UAF servicemen. The CP was manned by soldiers from the UAF Special Motorized Infantry Brigade. The victim was carrying with him in the car a 7.62 mm caliber carbine “Fort 202” (2011), as well as ammunition. The victim had all necessary documents authorizing the possession and use of the weapon. After detaining the victim, the soldiers summoned officers of the Ukrainian Military Police (UMP). Following the examination of the victim’s belongings and documents, the UMP officers tied his hands, put a sack on his head, and then took him to the base of Military Unit 2331 in the village of Varvarivka (located on the grounds of a former cannery). No documents were produced by the commanding officer of the UMP group, Sergiy Strilets, regarding the arrest of Victim 40161. During the victim’s detention at Military Unit 2331 in Varvarivka, UMP officers subjected the victim to beatings, demanding him to confess of his involvement in the terrorist acts. On 30 June 2014, the 8th Special Forces Regiment arrived to Military Unit 2331 together with the Major of the 3rd Specialized Detachment of Military Unit 4252. On that day, the UMP officers handed the victim over to the Special Forces Regiment. The regiment soldiers, including Major Sergiy Onyshchuk, continued to beat the victim. As a result of such beatings, the internal organs of the victim were seriously damaged, which led to internal bleeding. The doctors of the military unit who were called in to examine him warned about the required immediate hospitalization. However, the victim was not hospitalised.

The relatives of the victim reported his disappearance to the law enforcement bodies; however, they did not receive any information about the victim’s fate and whereabouts.

Subsequently, the victim’s body was found on 7 September 2016 in a forest near the city of Starobilsk.

The criminal investigation was initiated against the victim’s abductors, yet to this day no one involved in the abduction and murder have been prosecuted or tried.

Case of Victim 40162⁵⁹

Victim 40162, born 1983, citizen of Ukraine. In the morning of 21 July 2014, he was driving his grandmother from Lysychansk to Kharkiv in his 2006 Mitsubishi Pajero with temporary license plates (the car was been stolen along with the documents but was later found at the Aydar battalion base in Starobilsk). He told his parents on a phone that he had gone to Severodonetsk. The phone call was made from a checkpoint in Muratovo. In 30–40 minutes, an unknown person called his parents using the victim’s phone to confirm whether they were the victim’s parents. When the mother answered affirmatively, she was told that their son had been detained and taken to the Prosecutor’s Office, while the victim’s grandmother was taken to Rubizhne (she was later found at the Rubizhne hospital). Immediately after the call, the victim’s parents went to the Prosecutor’s Office where their son was supposed to be, but they were told that the victim was not there. The parents searched for their son and his car in Svatovo, Rubizhne and Starobilsk, but to no avail. Their independent search finally showed that her son’s illegal arrest had been carried out by representatives of the Aydar battalion. A criminal investigation was launched and several Aydar members who had been involved in the victim’s abduction were detained. The car was returned to the victim’s parents, but the victim himself was not found.

⁵⁹ KHPG database, case No. 40162.

In 2018, an exhumed body was identified as the victim after a DNA analysis, after which the remains were handed over to his parents for burial. The investigation is ongoing but remains ineffective.

Case of Victim 39384⁶⁰

Victim 39384, born in 1961, is a citizen of Ukraine, has permanent residence in Pervomaisk, Donetsk Region, which is under control of the LAF of the UAF. He works as an agronomist at the private agricultural enterprise APK-Invest.

In the evening of 6 September 2014 he was returning home from work in a company car. At approximately 8:30 pm, at the Karlivka checkpoint, Donetsk Region, he was stopped by representatives of the LAF of the volunteer battalion Dnipro-1 for a document check. After this the victim was not heard from again and his whereabouts remain unknown.

On 7 September 2014, the victim’s wife visited the checkpoint to search for the victim and asked representatives of the Dnipro-1 battalion questions, but they refused to provide any information and also stated that they never detained the victim and did not know who he was.

On 8 September 2014, the wife went to the local police department to report the victim’s disappearance.

On 9 September, she also filed a similar report with the SSU.

Neither the local police nor the SSU provided any information about the victim’s whereabouts and health.

On 22 September 2014, the Center for the Release of Prisoners published information on Facebook that the victim had been detained by representatives of the IAF of the so-called “DPR”.

After receiving this information, the wife contacted representatives of the IAF of the so-called “DPR” to find out the victim’s whereabouts, getting a reply that the victim was not among those arrested or among other persons held in custody by representatives of the IAF of the so-called “DPR”.

The victim’s whereabouts, health and fate remain unknown to this day. The criminal investigation into his abduction is ongoing, but no one has been prosecuted in this case so far.

Case of Victim 39997⁶¹

Victim 39997, born 1971, is a citizen of Ukraine, has permanent residence in Stanytsia Luhanska, Lugansk Region, which is under LAF control. Unemployed.

On 22 March 2015, the victim was cycling home. At about lunchtime, at the Makarov checkpoint, Luhansk Region, he was stopped by representatives of the LAF volunteer battalion Tornado for a document check, after which the victim was not heard from again, with his whereabouts still unknown.

On 23 March 2015, the victim’s wife and son tried to find him on their own by making inquiries among the Tornado battalion members, who refused to provide any information.

On 24 March 2015, the victim’s wife filed a missing persons report with the local police department. The police provided no information about the victim’s whereabouts or health.

The victim’s whereabouts and fate remain unknown. The criminal investigation into his disappearance is ongoing.

⁶⁰ KHPG database, case No. 39834.

⁶¹ KHPG database, case No. 39997.

*Case of Victim 40169*⁶²

Victim, born 1962, is a citizen of Ukraine, had permanent residence in Stanytsia Luhanska, Luhansk Region, which is under control of LAF of the UAF. Pensioner.

On 10 March 2015, in the evening, he was returning home by public transportation. At the Stara Kondrashivka checkpoint, Luhansk Region, his bus was stopped by representatives of the LAF volunteer battalion Tornado for a document check. The battalion's representatives asked the victim to get off the bus, after which they put a bag over his head and led him in the direction of the checkpoint's fortifications.

The next day, his wife tried to find the victim on her own by contacting the Tornado battalion's command. However, she was given no information about the victim's whereabouts; the battalion's representatives claimed that they never detained the victim and had no idea who he was.

The victim's wife also reported the victim's disappearance to the local police department.

The police provided no information about the victim's whereabouts or health.

In May 2015, the victim's body, mangled by wild animals, was found in a forested area near the Seversky Donets river in Stanytsia Luhanska.

*Case of Victim 35223*⁶³

Victim, born 1953, is a citizen of Ukraine, has permanent residence in Stanytsia Luhanska, Luhansk Region, which is under control of LAF of the UAF. Works as a paramedic at the Stanytsia Luhanska Ambulance Hospital.

On 17 January 2015, he was returning home after a house call. At about noon, at the Makarov checkpoint, Luhansk Region, he was stopped by representatives of the LAF volunteer battalion Chernihiv for a document check, after which all contact with the victim was lost.

On 18 January, the victim's wife tried to find him on her own by contacting representatives of the Chernihiv battalion. However, they provided no information about the victim's whereabouts, claiming that they never detained him and had no idea who he was.

On 19 January 2015, the wife reported the victim's disappearance to the local police department

The police provided no information about the victim's whereabouts.

The victim's whereabouts and fate remain unknown to this day. The investigation is ongoing.

Abduction of civilians from their place of residence

*Case of Victim 40167*⁶⁴

Victim, born in 1964, is a citizen of Ukraine, had permanent residence in Stanytsia Luhanska, Luhansk Region, which is under control of LAF of the UAF. Worked as a veterinarian.

On 1 September 2014, while he in his own backyard, a truck parked at the gate, out of which four armed men in camouflage uniforms without insignia came out (as it turned out later, they were members of the Chernihiv volunteer battalion) and approached the victim. After a brief conversation they put a bag over his head, forced him inside the truck and drove off in an unknown direction.

⁶² KHPG database, case No. 40169.

⁶³ KHPG database, case No. 35223.

⁶⁴ KHPG database, case No. 40167.

On 2 September 2014, the victim's mother contacted representatives of the Chernihiv volunteer battalion, which was based in the village council building, asking about her son's health and whereabouts as well as for the reason for his arrest. The battalion's representatives refused to provide any information, claiming that they had never detained him and did not know who she was talking about.

Over the next week, the victim's mother continued her search, contacting representatives of the LAF of the UAF as well as other LAF — those based in Starobilsk, Bilovodsk, Kharkiv and Shchastia, asking for any information about her son's fate, but to no avail.

On 28 October 2014, the victim's mother filed a report on her son's abduction with the Stanytsia Luhanska police department, but received no information from them.

In June 2017, the victim's body was found in a forested area near the Seversky Donets river, close to Stanytsia Luhanska. The investigation into the victim's abduction and murder is ongoing.

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

In deciding whether a “reasonable basis” exists for initiating an investigation, the ICC Prosecutor considers whether (a) the information available to the Prosecutor provides a reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed; (b) the case is or would be inadmissible under Article 17 of the Statute; and (c) taking into account the gravity of the crime and the interests of justice, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice. 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.

Below we elaborate on the fulfilment of the above mentioned 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.

14.1. JURISDICTION

Ukraine is not a State Party to the Rome Statute.⁶⁵ It invoked Article 12(3) of the Rome Statute twice, having accepted the ad hoc jurisdiction of the ICC with respect to the Maidan crimes (Declaration I)⁶⁶ and the alleged crimes committed on the territory of eastern Ukraine and Crimea (Declaration II).⁶⁷ On 29 September 2015, based on Ukraine’s second declaration under Article 12(3), the ICC Prosecutor

⁶⁵ “Ukraine signed the Rome Statute on 20 January 2000. In 2016, the Ukrainian parliament adopted constitutional amendments, which provide 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 (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/paran6#n6>>.

⁶⁶ “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>>.

⁶⁷ “Declaration of the Verkhovna Rada of Ukraine to the ICC on the recognition of the jurisdiction of the ICC by Ukraine over crimes against humanity and war crimes committed by senior officials of the Russian Federation and leaders of the Russian Federation and leaders of terrorist organizations “DPR” and “LPR”, which led to extremely grave consequences and mass murder of Ukrainian nationals signed by the Chairperson of the Verkhovna Rada of Ukraine V. Groysman”, ICC (online), 4 February 2015: <https://www.icc-cpi.int/iccdocs/other/Ukraine_Art_12-3_declaration_08092015.pdf>.

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.⁶⁸ 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.⁶⁹ Therefore, ongoing violations qualifying as war crimes or crimes against humanity committed in eastern Ukraine and Crimea fall within the jurisdiction of the ICC. The crimes detailed in this Communication include alleged crimes committed from April 2014 onwards, thus falling within the jurisdiction of the ICC.

The crimes enumerated in this communication fall within the subject matter (*ratione materiae*) jurisdiction of the ICC, as we submit, they qualify as war crimes and crimes against humanity within the meaning of Article 7 and Article 8 of the Rome Statute. Further, the crimes were committed on the territory of Ukraine by the Ukrainian and Russian nationals alike. The parties involved in the commission of crimes include (1) the members of IAF that were often acting upon support or direct participation of Russian military forces, (2) the members of LAF, including the divisions of UAF, MIA, voluntary battalions and SSU, and (3) the members of Russian military forces or Russian special forces.

Although Russia is not a State Party to the Rome Statute, its nationals may nevertheless be held accountable, given that the alleged crimes took place on the territory of Ukraine which has accepted the ad hoc jurisdiction of the ICC within the given timeframe.

14.2. ADMISSIBILITY

Pursuant to Article 17(1) of the Rome Statute, admissibility requires an assessment of complementarity (subparagraphs (a)-(c)) and gravity (subparagraph (d)).⁷⁰ 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”.⁷¹ 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

⁶⁸ “ICC Prosecutor extends preliminary examination of the situation in Ukraine following second article 12(3) declaration”, ICC Press Release (online), 29 September 2015: <<https://www.icc-cpi.int/Pages/item.aspx?name=pr1156>>.

⁶⁹ “Declaration of the Verkhovna Rada of Ukraine to the ICC on the recognition of the jurisdiction of the ICC by Ukraine over crimes against humanity and war crimes committed by senior officials of the Russian Federation and leaders of the Russian Federation and leaders of terrorist organizations “DPR” and “LPR”, which led to extremely grave consequences and mass murder of Ukrainian nationals signed by the Chairperson of the Verkhovna Rada of Ukraine V. Groysman”, ICC (online), 4 February 2015: <https://www.icc-cpi.int/iccdocs/other/Ukraine_Art_12-3_declaration_08092015.pdf>.

⁷⁰ “Policy Paper on Preliminary Examinations”, ICC (online), November 2013: <https://www.icc-cpi.int/iccdocs/otp/otp-policy_paper_preliminary_examinations_2013-eng.pdf>, para. 42.

⁷¹ “Situation in the Republic of Kenya, Pre-Trial Chamber, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya”, ICC (online), 31 March 2010, <<https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/09-19-Corr>>, para. 50; “Situation in the Republic of Cote D’Ivoire, Pre-Trial Chamber, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Cote d’Ivoire”, ICC, 3 October 2011, ICC-02/11-14, para. 190.

an investigation for the purpose of shaping the future case(s); and (ii) the crimes within the jurisdiction of the Court allegedly committed during the incidents that are likely to be the focus of an investigation for the purpose of shaping the future case(s).”⁷²

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; 13 Rome Statute of the International Criminal Court; (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 our communication that there are no factors that would make potential cases arising out of the situation in eastern Ukraine inadmissible before the ICC.

14.2.1. Complementarity

The ICC operates on the basis of the principle of complementarity, which means its jurisdiction is only triggered when national authorities are unwilling or unable to prosecute the crimes falling within the jurisdiction of the ICC. Pursuant to Articles 53(1)(b) and 17(1)(a)-(c) of the Rome Statute, the complementarity assessment relates to whether genuine investigations and prosecutions have been or are being conducted in the State concerned in respect of the case(s) identified by the Office of the Prosecutor.

As expounded by the Appeals Chamber, the assessment of complementarity is a twofold test. The first limb of the test in assessing complementarity is whether there are or have been any relevant national investigations or prosecutions. The absence of national proceedings, i.e. domestic inactivity, is sufficient in itself to make the case admissible before the ICC. If the first part of the test is answered in affirmative, then the Court proceeds to an assessment of unwillingness and inability as set out in Article 17 of Rome Statute.⁷³

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

⁷² “Situation in the Republic of Kenya, Pre-Trial Chamber, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya”, ICC (online), 31 March 2010, <<https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/09-19-Corr>>, para. 50, ICC, Situation in the Republic of Cote D’Ivoire, Pre-Trial Chamber, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Cote d’Ivoire, ICC, 3 October 2011, ICC-02/11-14, para. 191.

⁷³ “Prosecutor v. *Germain Katanga and Mathieu Ngudjolo Chui*, Judgment on the Appeal of Mr Germain Katanga against the Oral Decision of Trial Chamber II of 12 June 2009 on the Admissibility of the Case”, ICC (online), 25 September 2009: <https://www.icc-cpi.int/CourtRecords/CR2009_06998.PDF>, para. 78.

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.

Inability of Ukrainian state authorities to investigate or prosecute the crimes

It should be noted that from the beginning of the conflict in eastern Ukraine, all cases of enforced disappearance of civilians recorded by our organization have been qualified by the Ukrainian law enforcement agencies as crimes under Article 146 of Ukraine’s Criminal Code (“Illegal deprivation of liberty or abduction”). This article only covers one element of the crime of enforced disappearance and does not fully reflect the character of the crime. Moreover, a perpetrator of such crime is broadly defined and is not limited to governmental officials. However, if abduction, arrest or detention had been carried out by a government official, this was qualified under Article 364 of CC (“Abuse of power or office”), which also did not reflect the character of the crime.

In 2018, this gap in the Ukrainian criminal legislation was addressed by the Law of Ukraine No. 2505-VIII of 12 July 2018 “On the Legal Status of Missing Persons”. This Law introduced Article 1461 “Enforced Disappearance” into Ukraine’s CC. This article establishes responsibility for the crime of “enforced disappearance” and is almost entirely consistent with the definition of “enforced disappearance” specified in Article 7(1)(i) of the RS. However, no criminal proceedings have been initiated under Article 1461 of the Criminal Code of Ukraine since the entry into force of the amendments on protection from the crime of “enforced disappearance”. Law No. 2505-VIII provides for the establishment of a commission tasked with investigating cases of disappearances with special circumstances, but this commission was only created in April 2018 and has not yet convened, nor has it done any work. Moreover, Law Draft No. 9438 “On Amendments to Certain Legislative Acts of Ukraine on Ensuring the Harmonization of Criminal Legislation with the Provisions of International Law” (hereinafter — Bill No. 9438) was submitted for consideration of the Verkhovna Rada of Ukraine on 20 December 2018. In the explanatory note, the law draft authors specified that the draft was introduced in order to implement the Action Plan for the National Human Rights Strategy 2020, which was adopted by the decree of the Cabinet of Ministers of Ukraine and by the decision of the National Security and Defense Council of Ukraine. On 6 June 2019, Law Draft 9438 passed the first parliamentary reading and is currently pending further consideration by the newly elected parliament.

Notwithstanding the aforementioned legislative developments, Ukraine’s CC still lacks a definition of crimes against humanity. Neither the introduction of Article 1461 “Enforced Disappearance” nor initiatives on the harmonization of the Ukrainian legislation with international law resulted in the effective investigation mechanism of enforced disappearances in Ukraine. The steps undertaken by Ukraine are

aimed at formally fulfilling its international commitments, rather than finding real effective mechanisms to deal with the phenomenon of enforced disappearances.

Ukraine's CC has only one broadly formulated criminal law provision criminalizing international crimes committed during an armed conflict i. e. Article 438 ("Violation of the Laws and Customs of War"). According to the information published annually by the Prosecutor's General Office of Ukraine on its official website, 21 criminal proceedings concerning "violations of the laws and customs of war" have been registered.

*Table on open criminal proceedings concerning violations of the laws and customs of war (Article 438 of Ukraine's CC)**

Year	Criminal proceedings registered	Notices of suspicion served	Criminal proceedings closed	Cases sent to trial
2014	1	0	0	0
2015	2	0	0	0
2016	4	0	0	0
2017	5	0	0	0
2018	3	0	0	0
2019**	6	0	0	0

* Statistics from the official website of the General Prosecutor's Office of Ukraine.

** As of May 2019.

In none of those criminal cases initiated by the Prosecutor's Office of Ukraine, individual suspects have been identified. No cases progressed to the trial stage⁷⁴.

In addition to the lack of the effective Ukrainian legislation on the criminalization of international crimes, in the majority of cases, the Ukrainian law enforcement agencies are unable to conduct effective investigations that concern crimes committed on the territory of the OTDLR due to the lack of proper functioning law enforcement and courts, as well as the absence of effective control over the territory. More specifically, Ukrainian authorities are unable to conduct necessary investigative actions in these territories, such as examining a crime scene, interviewing suspects and/or witnesses, collecting material evidence, or carrying out the required examinations. This makes it impossible to carry out a full investigation and bring the IAF members to justice, as they reside on other side of the contact line, rendering it impossible to execute arrest warrants.

Unwillingness of Ukrainian state authorities to investigate or prosecute the crimes

As for reluctance of the authorities to investigate the crime of "enforced disappearance" or other crimes against humanity, the Ukrainian law enforcement agencies have been incorrectly qualifying disappearance of persons in eastern Ukraine under Article 146 of CC ("Illegal Deprivation of Liberty and Abductions") and Article 115 CC ("Intentional Murder"), which at present make it impossible to clearly distinguish between ordinary and international crimes.

⁷⁴ Reports on the activities of the General Prosecutor's Office of Ukraine (online): <https://www.gp.gov.ua/ua/stst2011.html?dir_id=113897&libid=100820&c=edit&_c=fo>.

The table below (Art. 146 of Ukraine's CC) provides an overview of open criminal proceedings in Ukraine that include abductions and illegal deprivation of liberty. It also includes the cases of disappearance that took place in eastern Ukraine, which should be more correctly qualified as crimes against humanity or war crimes (see above).

*Illegal deprivation of liberty and abductions (Art. 146 of Ukraine's CC)**

Year	Total number	Notices of suspicion served	Criminal proceedings closed	Decision pending
2014	1925	153	443	1798
2015	807	184	309	655
2016	536	157	154	407
2017	503	197	136	362
2018	558	260	154	335
2019**	181	69	33	142

* Statistics from the official website of the General Prosecutor's Office of Ukraine.

** As of May 2019.

We would like to emphasize that Ukrainian law all this time, since the beginning of the armed conflict in Ukraine's east, has had provisions that made it possible to classify actions of individuals as a war crime, in accordance with Article 438 of Ukraine's CC. Despite this, Ukrainian law enforcement agencies demonstrated a clear reluctance to investigate war crimes and prosecute war criminals involved in or responsible for those war crimes. This fact can be inferred from the statistics given above, in the section "Inability of Ukrainian state authorities to investigate or prosecute the crimes". The number of registered crimes involving violations of the laws and customs of war is obviously very small.

As for the LAF members who have been prosecuted for the crimes committed in the context of the armed conflict in eastern Ukraine, the charges levied against them and the sentences rendered do not correspond to the gravity and scale of the crimes. Thus, no LAF members responsible for the abduction and other crimes of Victims 40161, 40169, 40167, 35223, 39384, 39997⁷⁵ and other victims, which were introduced in KHPG database, have not been punished for their crimes, with the investigations and trials continuing to this day.

As far as criminal proceedings involving the IAF members are concerned, there is a very lukewarm response from the Ukrainian law enforcement agencies, which points to their unwillingness to investigate such cases. In all cases supported by the KHPG lawyers, the Ukrainian law enforcement agencies showed very little enthusiasm about investigating the crime of enforced disappearance of persons in non-government controlled territory.

Notwithstanding the existence of criminal law provisions in Ukraine's CPC allowing for trials in absentia, the Ukrainian law enforcement authorities investigating crimes in eastern Ukraine have failed to take advantage of this procedural mechanism. This is demonstrated by a small number of open criminal cases on the charges of the violations of the laws and customs of war (Art 438 CC), as well as the authorities' reluctance to invoke *in absentia* provision before the Ukrainian courts. In light of this, we conclude that the Ukrainian authorities are unwilling to prosecute persons who committed the crimes of enforced disappearance in eastern Ukraine.

⁷⁵ See above — cases no. 40161, 40169, 40167, 35223, 39384, 39997.

14.2.2. Gravity

This communication details particularly violent crimes committed in the context of the conflict in eastern Ukraine, including enforced disappearances, murder, torture and ill-treatment in combination with unlawful detention, outrages upon personal dignity and deprivation of fair and regular trial, 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 organized policy or otherwise resulted from the abuse of power or official capacity, and elements of particular cruelty.⁷⁶ The manner in which the crimes were committed in eastern Ukraine point towards the existence of an organized policy to commit such crimes against civilians (particularly those who were perceived to be disloyal by IAF and LAF). This is evidenced by the frequency of abductions, arrests and detentions of persons without providing information about their fate, the high level of organization of illegal places of detention, and the systematic use of torture and ill-treatment in relation to the detainees.

14.3. INTERESTS OF JUSTICE

The interests of justice under article 53(1)(c) is a potentially countervailing criterion that may give a reason for the ICC Prosecutor not to proceed. As such, the Prosecutor is not required to establish that an investigation serves the interests of justice. Rather, the Office of the Prosecutor “will proceed unless there are specific circumstances which provide substantial reasons to believe that the interests of justice are not served by an investigation at that time”.⁷⁷ In fact, there is a strong presumption in favour of the interests of justice criterion, provided the criteria of jurisdiction and admissibility have been satisfied.

Taking 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 in the interests of justice.

15. CONCLUSIONS AND RECOMMENDATIONS

The crimes referred to in this Communication were committed by representatives of both conflicting parties in order to combat imaginary “spies”, who were allegedly providing information that helped adjust artillery fire. In our opinion, all enforced disappearances of civilians recorded by us were carried out systematically and on a large scale, which is confirmed by the large number of victims. We believe that these actions were meant to intimidate the civilian population in order to make it easier to control.

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.

1. To amend the criminal legislation of Ukraine in order to provide the appropriate legal qualification of enforced disappearance.

2. To amend criminal and criminal procedure legislation for the implementation of Articles 5–22, 24, 25 of the Convention.

3. To pass the law on the status of missing persons, providing for a unified accounting methodology, the only database missing in the country, identification of the victim of enforced disappearances and measures for social assistance to the victims.

4. Change the laws on the SBU, envisaging:

- the introduction of principles of parliamentary control over the formation of the leadership of the SBU and its activities;
- the introduction of annual reports on the work of the SBU to the committee on national security and defense issues, with publication of the open part of such reports;
- stripping the SBU of powers regarding detective inquiry, pre-trial investigation and other law enforcement functions;
- implementation of the principle of freedom of information, with information, not the documents themselves being classified as secret;
- introduction of public annual reporting on depersonalized information regarding the use of operative and investigative and confidential investigative actions that violate human rights, by operational units of the law enforcement bodies, the number of applications for such actions, the number of permits issued; the number of prosecutions passed to the courts with the use of such data; the number of verdicts passed by courts in such cases, with the information provided separately for each operational unit.

5. Prepare amendments and additions to the CPC, the Law on the General Structure and Staff Sizes of the Security Service of Ukraine; the Law on the Principles for Preventing and Countering Corruption, and others in order to pass law enforcement powers from the SBU to other law enforcement agencies.

⁷⁶ “Policy Paper on Preliminary Examinations”, ICC (online), November 2013: <https://www.icc-cpi.int/iccdocs/otp/otp-policy_paper_preliminary_examinations_2013-eng.pdf>, para. 64.

⁷⁷ Ibid, para. 67.

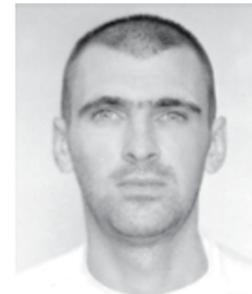
6. Implement the practice of providing the open part of documents which contain state secrets in response to information requests.

7. Draw up a list of pieces of information regarding the exchange of hostages which must be on open access and the forms of public monitoring (parliamentary and non-parliamentary) over the exchange process. This list should contain the temporary addresses of people awaiting exchange.

ANNEX 1

A SHORT DESCRIPTION OF SOME OF THE DISAPPEARANCES ON THE OCCUPIED TERRITORIES OF DONETSK AND LUHANSK REGIONS

On 20 May 2014 near 10.00 am a resident of the village of Staromykhaylivka, Plekhanova Valentina Ivanivna, 27.06.1948 year of birth, left her home and didn't return,



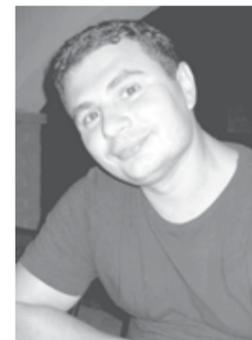
Vasil Pankevych

In April 2014 *Pankevych Vasil Fridrikhovich* 09.01.1987 year of birth went to the town of Gorlivka to see his relatives. On 06.06.2014 he stopped communicating. There is information that he and his acquaintance were heavily beaten and kidnapped by the militants.

On 1 June 2014 near 11 pm two unknown men wearing camouflage deprived Ts-va. born on 1995 of liberty and caused her bodily harm near gas station "OKKO" in the town of Pervomaysk, as well as took her car, white VAZ 2109 1988 production year. They forcefully placed Ts-va in that car, blindfolded her and took her with them. On 2 June at sunrise they let her leave the car on the route between the towns of Pervomaysk and Popasna and went in an unknown direction.

On 5 June 2014 near 2 pm three unidentified armed persons wearing camouflaged uniform, one of them was wearing a mask, kidnapped the head of the village council, *Anatoliy Pavlovych Berezan* 1952 year of birth, and his deputy, *Vitaliy Olexandrovych Repin* 1981 year of birth from their study in Olexandrivska village council, placed them in an unidentified car and took in an unknown direction.

After some time the men were freed. It turned out that they were captured by the militants of the so-called "DPR". For three days they were questioned in the building of the Regional Department of SBU in Donetsk.



Volodymyr Velichko

On 8 June 2014 *Velichko Volodymyr Olexandrovych* 12.05.1973 year of birth was stopped by the militants near motor-coach terminal in Slovyansk. After a short conversation the men placed him in his car against his will and took him in an unknown direction.

For some time Volodymyr was in the lists of the prisoners for exchange on the site of Ruban V. V.

On 13 June 2014 at 2 pm in the town of Krasnogorivka unidentified armed and masked people wearing camouflage entered the office building of VAT "Kroz". They detained the general director and founder of that enterprise, residents of Donetsk, *Jojua Revaz Anzorovich* 1979 year of birth and *Guram Nemsadze* 1982 year of birth, and took them in an unknown direction in an unidentified car.



Olexandr Mosolov

On 17 June 2014 *Mosolov Olexandr Mykolayovich* 03.11.1961 year of birth was kidnapped from his workplace (the area of Donetsk railway station) by four armed persons and taken in a collector's car.

Olexandr's official car was also stolen during the kidnapping — Toyota (state number AH 0954 EM), which later got into an accident in Donetsk city.

Video of the kidnapping <<http://informer.media/archives/7428>>.

Mosolov worked as the head of Donetsk Regional State Veterinary and Sanitary Control and Supervision Service on the state border and in vehicles. There is still no information about him.

On 21 June 2014 in Luhansk near 11:00 am armed people forcefully took *Zhurbenko Mykhaylo Olexiyovich* 1969 year of birth in an unknown direction from his own house at the address: Luhansk, 50 Rokiv Zhovtnya Street. The man's fate is currently unknown.

On 22 June 2014 in Luhansk on Lenina Street a resident of Luhansk *Danilenko Denis Valeryevich* 1986 year of birth, had a verbal conflict with an unknown boy, during the conflict the boy called somebody. A car approached the place of conflict, people wearing camouflage left the car, placed Danilenko in it and took him in an unknown direction. The man's location is currently unknown, he does not communicate.



Volodymyr Semystyaga

On 23 June 2014 *Semystyaga Volodymyr Fedorovich* 15.11.1949 year of birth, was kidnapped by the militants, an historian, a professor of Luhansk state University, a statesman known for his pro-Ukrainian views. On 27 June information appeared that he died from heart attack. On 1 July Semystyaga's relatives reported that he was alive. On 15 August Volodymyr Semystyaga was freed from captivity in which he spent 55 days.

On 24 June 2014 at 12.45 three persons wearing camouflage and armed with assault rifles entered the flat at the address Kirova street, 6 in Luhansk, they took the flat's owner — *Sergiyenko Sergiy Sergiyovich* 1968 year of birth, a history teacher of the Eastern Ukrainian National University named after Dal, placed him in the car and took in an unknown direction.

According to the witnesses, the militants tried to break the doors with a crowbar, took the computers from Sergiyenko's flat.

“According to the witnesses, there were police officers in the entrance during the kidnapping. However, the witnesses of the kidnapping couldn't determine whether it was Ukrainian police or “LPR Police”.

The reasons for the kidnapping of Sergiyenko are unknown.

The sources among the separatists reported that he allegedly was “detained for questioning by the commandant's office” under the personal ruling of Valeriy Bolotov. However on the next day after the kidnapping the militants who guarded the occupied buildings of Luhansk region State Administration and SBU denied that the kidnapped man was in their custody.



Sergiy Sergiyenko

The law-enforcement officers confirmed the fact of kidnapping of Sergiyenko (according to the Head of Public Relations Department of MD MIA of Ukraine in Luhansk region, Tetyana Pogukay, in Kamyano-bridskiy district).

Sergiyenko was beaten, they threatened to shoot him, but they let him go after some time.

On 26 June 2014 near 6:30 pm the contact was lost with *Butenko Ivan Vasilyovich*, 13.03.1962 year of birth, a driver of TOV “Avtotrans Ukrayiny”, who was transporting bank equipment from the village of Orzhonikidze (Dnipropetrovsk region) along the route Dnipropetrovsk — Donetsk — Zaporizhya. The connection was lost on the exit from Olexandrivka settlement (currently an occupied territory).



Gennadiy Solovyov

On 27 June 2014 in Donetsk city on the territory of “indoor market” the people from white car without the license number, wearing black masks, forcefully took in an unknown direction *Solovyov Gennadiy Anatolyevich* 07.05.1972 year of birth. The man's fate is currently unknown.

On 30 June 2014 *Zadorozhenko Yevgen Volodymyrovich*, 1973 year of birth, was detained by IAF of “LPR”. The connection with him was lost afterwards.

On 5 July 2014 unidentified armed persons forcefully took in an unknown direction from the territory of the fish farm in the town of Kurakhove *Grigoryuk Sergiy Petrovich* 26.01.1968 year of birth, with his personal car, a Toyota.

On 5 July 2014 near 10:50 pm unidentified persons in the town of Kurakhove, in the area of café “Pizzeria” took *Moroz Volodymyr Victorovich*, 24.10.1968 year of birth, in an unknown direction against his will.

On 5 July 2014 near 10:20 pm from the territory of the fish farm unidentified persons forcefully kidnapped *Nitochkin Olexandr Yuriyovich*, 24.09.1965 year of birth, with his personal car, Mitsubishi Pajero, and took in an unknown direction.



Volodymyr Kiforak

On 8 July 2014 at 08.00 unidentified persons wearing camouflaged uniforms placed the Head of the town of Kurakhove, *Sazhko Sergiy Mykolayovich*, 19.07.1969 year of birth, in a car, and took him in an unknown direction.

On 9 July 2014 near 7:30 pm *Kiforak Volodymyr Borisovich* 06.11.1989 year of birth left in his personal car, a silvery copper ZAZ FORZA, number BB6350CK from Luhansk city towards Rovenki town and disappeared.

On 10.07.2014 the car was found in Luhansk, completely ruined, without license plates, completely plundered inside.

The witnesses reported the relatives that they saw unidentified persons wearing camouflage behind the wheel.

Currently there is no information about Kiforak.



Ivan Kuzmich

On 12 July 2014 *Kuzmich Ivan Grigorovich*, 16.05.1958 year of birth, was driving towards Luhansk in his car. On the roadblock in Stanitsa Luhanska he was stopped by the representatives of IAF of the “LPR” to verify his documents. Since that time he didn’t get in touch.

On 12 July 2014 *Lukash brothers, Olexandr and Mykola*, disappeared on the roadblock in Makarov.

On 13 July 2014 near 12.00 am unidentified armed persons wearing camouflage took *Shirin Sergiy Olexandrovych*, 18.10.1974 year of birth, a resident of Maryinka against his will, in an unknown direction, when he was in Kurakhove.

On 16 July 2014 *poxy Vetrov Denis Yuriyovich*, 06.07.1976 year of birth was detained on the roadblock in Stanitsa Luhanska.

On 3 July 2014 the fate of a resident of the village of Katerinivka, *Kuzmenko Tetyana Volodymyrivna*, 5.10.1988 year of birth, is unknown.

On 21 July 2014 the contact was lost with police lieutenant born in the village of Olexandrivka, *Kostynets Yuriy Anatoliyevich* 24.07.1985 year of birth. His fate is currently unknown.

On 24 July 2014 *Khutrenkov Igor Olexandrovych*, 1972 year of birth, went on foot from the town of Zolote to Severodonetsk to see his family, and disappeared.

3 days later, on 27 July 2014 a body of an unidentified man with bodily injuries in the chest area was found in the town of Popasna. The body was transferred for examination to Pervomaisk forensics (controlled by “LPR”). Some time later the investigator who was leading the criminal proceedings called Khutrenkov’s mother for identification in the district department, where she recognized her killed son by the photograph.

On 26 July 2014 *Zilko Olexandr Vasilyovich*, 25.04.1966 year of birth, who lived in the town of Girske on Druzhby Street, left his home in his car, “Cherry Amulet” for the village of Izvarine and hasn’t returned home yet. He wasn’t found.



Denis Vetrov



Yuriy Kostynets



Olexandr Zilko

On 28 July 2014 near 6:30 pm *Shendrykov Yuriy Anatolyevich* 05.12.1976 year of birth left from Amvrosiyivka home to Torez in orange VAZ 2106, state number AH 9377 BH.



Yuriy Shendrykov

On the roadblock in Velyka Shyshivtsa the militants didn’t let him through, and he went through the fields towards Shakhtarska bird farm. Near 8:30 pm his relatives were phoned by their friends who said that Yuriy was in trouble. The relatives were told via the phone that he was wounded in the left leg and right hand. On 29.07.2014 the bus with workers was going to the bird farm at 07:30 am and Yuriy was seen from the bus lying near the car, and at 2:30 pm a private car saw that he was sitting in his car, but nobody stopped. At 6 pm the work bus was going back — neither the car nor the man were around anymore.



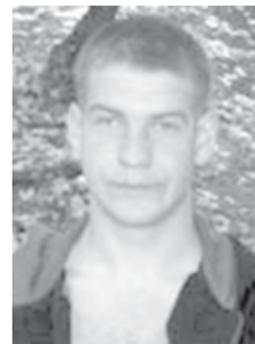
Olexandr Mikryukov

On 31 July 2014 *Mikryukov Olexandr Mykhaylovich* 27.10.1952 year of birth was taken to “DPR” prison in Donetsk allegedly for a day to verify him as a gun-layer.

A day later he was freed, but without the keys to his flat and garage.

The man went to the roadblock on Chervonoarmiyska route of Donetsk to the militants to get his keys and hasn’t got in touch to this day.

On 2 August 2015 near 11:00 am *Grischenko Vitaliy Anatoliyevich*, 09.01.1982 year of birth, a resident of the village of Valuyske left home and hasn’t returned yet.



Olexandr Khaylo

On 3 August 2014 *Khaylo Olexandr* 1988 year of birth was forcefully taken from his home in the town of Stakhanov by “militiamen”. 8 persons wearing camouflage and armed with assault rifles entered (before that they had looked for him on his workplace in TOV “LEO”, but he was on vacation). According to the information on September 2014 he was in the militants’ captivity in Stakhanov. Since that moment there is no new information about the man.

On 4 August 2014 *Drobotya Volodymyr Volodymyrovich*, 12.04.1972 year of birth, disappeared without a trace when he was in Donetsk. His fate is currently unknown.

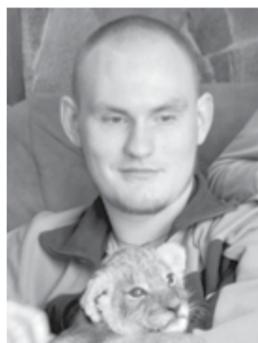
On 5 August 2014 the contact was lost with an investigator of Maryino DD, a police lieutenant, *Gryshayev Maxim Sergiyovich*, 04.07.1990 year of birth.

On 6 August 2014 near 12.00 am *Zhabskiy Andriy Anatoliyovich*, 1968 year of birth, left from the village of Olexandrivka towards Maryinka and disappeared without a trace.



Volodymyr Drobotya

On 14 August 2014 *Ovcharenko Ivan Volodymyrovich*, 29.06.1988 year of birth left his home in Zolote on foot and hasn’t returned.



Olexandr Shramko

On 21 August 2014 *Shramko Olexandr Sergiyovich* 27.08.1991 year of birth disappeared without a trace. It was known before that in the late July 2014 he was detained with his wife not far from his house in the car VAZ 2106.

Near mid-August 2014 he was confined in the basement of the building of Donetsk SSU.

When the man was freed he told his relatives that in captivity he was hanged several times, he was drowned and shot.

Then he was freed with his wife under “house arrest”.

On 21 August 2014 he and two unidentified persons went in olive “Chevrolet Lanos” towards Makiivka to meet somebody.

Olexandr made his last call to his wife from Makiivskiy bridge.

After Olexandr’s disappearance his parents took his wife in, to the territory controlled by Ukraine.

In the lists of MoE his name is included as “Disappeared without a trace”.

According to some data in September 2014 Shramko A. S. was in Gorlivka, captured by Bezler.



Olexandr Zalazhkov

On 25 August 2014 near 7 pm *Zalazhkov Olexandr Ivanovich*, 01.06.1980 year of birth with his friend, *Nikishin Victor Volodymyrovich* 23.05.1977 year of birth. left Yasinuvata towards the village of Ilyinka and haven’t returned. Later Zalazhkov was found dead with the traces of violent death.

On 27 August 2014 near 2 am *Shapshay Sergiy Volodymyrovich*, 09.03.1975 left from his acquaintances’ house in the village of Novomykhailivka to get home and hasn’t returned. Later the man was found dead with the traces of violent death.



Sergiy Shapshay

On 31 August 2014 a resident of Pervomaisk, *Stepanyuk Artem Sergiyovich*, 24.10.1981 year of birth, and a resident of the village of Golubivske, *Borisenko Yevgen Vasilyovich*, 02.05.1979 year of birth, left their home towards Lisichansk and disappeared.

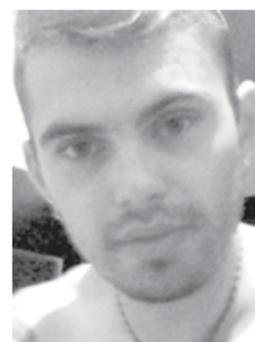
On 7 September 2014 two volunteers from Odesa, *Sofia Agapova* and *Olexandr Timopheev* went missing when they were bringing humanitarian aid to Ukrainian soldiers.

In a month it turned out that both of them were captured by DPR militants. The girl was in captivity for 7 months, the boy — for 12 months.

From the interview with Sofia: “At first, they placed me in a solitary cell of Donetsk ITT: I was questioned a lot, but they didn’t beat me.

In two weeks, they placed me with civilians — refugees from Slovyansk — and provided me with work in prison kitchen.

It should be noted that the separatists allowed me to communicate with two daughters via the phone”.



Mykhaylo Rudenchik

On 22 September 2014 *Rudenchik Mykhaylo Volodymyrovich* 15.01.1982 year of birth was taken hostage in the town of Komsomolske of Donetsk region. The man went to take home his grandmother who was his guest during the active hostilities. On the way back Mykhaylo was detained by the “militiamen” on the roadblock.

On 30 September 2014 at 2:35 pm five armed persons wearing uniforms without identification marks arrived on “Moskvych” (khaki color) with raised springs to the boarding house “Biryusa” (Bezimmenne village, Sadova street 106a), where at that moment was *Kovalenko Vasyl Vasylyovich* 12.12.1957 year of birth. Under the pretense of identification of his belongings that had been stolen before the persons asked him to accompany them. He went in his own car. Two persons entered his car with him. They went towards the village of Sakhanka (they said they found the stolen items there).

After that the man disappeared. At 8:15 pm his car was passing the district. Some time later Kovalenko’s car was in the boarding house “Parus”, located not far from boarding house “Biryusa”.

The boarding house is occupied by the militants and is thoroughly guarded. An official statement of disappearance was lodged to Novoazovskiy DD of MDMIA of Ukraine in Donbas region.



Vasyl Kovalenko

On 11 October 2014 at 7 pm in Gorlivka *Neschert Andriy Olexandrovych* 15.07.1988 year of birth, his friend and classmate Victor Minakov and a girl, Kristina were going home near “Avers” store.

A drunk militiaman with call sign “SEM” started offending and threatening Andriy Neschert (he shouted that he was a militiaman and worked in commandant’s office of the town of Gorlivka), started fighting.

The boys tried to calm the militiaman down, but “SEM” made a call. After that three men (one of them had call sign “Zyzyak”) and a woman (red hair in a ponytail) arrived in the car. Andriy and Victor were heavily beaten on the same street, their arms and legs were bound and they gagged them, threw them in the car. They let Kristina go.

On 17 October 2014 a resident of Pervomaisk, *Shumskiy Volodymyr Olexandrovych*, 12.03.1960 year of birth, left his house towards the town of Girske and disappeared.

In March 2014 *Troschenko Olexiy Ivanovich*, 30.03.1978 year of birth, a resident of the town of Girske, left for the town of Rovenki, and since **17 October 2014** he is not heard from and doesn’t get in touch. He was recognized among the deceased.



Andriy Neschert



Olexiy Frumkin

On 24 October 2014 *Frumkin Olexiy Lvovich* 28.03.1973 year of birth and several more people were taken by the “Cossacks” for unknown reasons in the town of Zhdanivka of Donetsk region. After that they were brought to Donetsk and admitted to the prosecutor’s office. In several days everybody except

Olexiy were freed. According to the people who left it is known that Olexiy was heavily beaten, but he was alive. There is no other information about him. After a call to the People Search Service in DPR the relatives suppose that the militants know about him but don't tell.

On 26 November 2014 near 10 am in Donetsk unidentified armed persons wearing camouflage illegally deprived a resident of Maryinka, *Moiseenko Mykola Vasilyovich*, 1973 year of birth, of his freedom.



Olexandr Rikunov

On 21 December 2014 *Rikunov Olexandr Anatolyevich* 06.06.1979 year of birth was taken by the armed persons in an unknown direction from his workplace in the village of Olginka of Volnovasky district, Donetsk region.

On 19 January 2015 a resident of the town of Zolote-1 reported that since 17 January her husband, *Tokarev Sergiy Mykolaiovych*, 17.11.1961 year of birth, disappeared.

Later she reported that she was called from the cell phone that belonged to her husband. An unknown person who called introduced himself as an officer of the police of LPR and said that her husband was detained and is kept in Pervomaisk town police department, and that the man's car that he used to move around, yellow "Mercedes Sprinter", was seized.

On 19 January 2015 near 7 pm *Dragun Victor Ivanovich*, 11.03.1963 year of birth, was forcefully taken from his house in the village of Novomykhailivka by armed persons wearing camouflage.

On 10 February 2015 the mother of *Shabrov Olexiy Olexandrovych*, 12.03.1980 year of birth, turned to law-enforcement bodies with a statement of his disappearance. She reported that her son was sentenced to 4.5 years of imprisonment since March 2012 and he was serving his sentence in the correctional colony no. 23. On 7 February 2015 near 10:00 am her son, Shabrov A. A. called on her cell phone and said that he left the colony and was going from Chornukhino towards UAF roadblock near the village of Debaltseve and was going to return home, after that the connection with him was lost.

On 16 February 2015 on the exit from the town of Pervomaisk, on the roadblock near the bridge, unidentified persons wearing camouflage kidnapped *Mardus Olexandr Victorovych*, 23.11.1956 year of birth.



Olexandr Lobintsev

On 20 March 2015 *Lobintsev Olexandr Volodymyrovich* 10.12.1982 year of birth went to Donetsk driving his personal "Gazel" state number AP 7986 BO. The young man was a forwarder driver and was transporting meat.

Lobintsev was documented to having crossed the roadblock no. 2 in the village of Olenivka, then he turned to a wrong route and disappeared.

After several days Olexandr came into contact via an unfamiliar phone and under "someone's" orders couldn't speak (he said he was in captivity, that Motorola was the leader, called several other names).

On 14 April 2015 near 9 am in the area of the village of Golubivske (controlled by LPR) armed persons detained an employee of MD UKRINFORM in Luhansk region, *Tkachenko Andriy Valeriyovich*, 27.06.1967 year of birth, and a citizen, *Startsev Yuriy Anatolitovych*, 24.03.1967 year of birth. The law-enforcement officers believe that there is a high probability to consider them deceased.



Volodymyr Kononchuk



Vitaliy Rudenko

On 4 May 2015 a resident of Popasna reported that since 13 March 2015 unidentified persons illegally detain her brother, *Kononchuk Volodymyr Victorovich*, 28.11.1972 year of birth, a resident of Popasna, in the commandant's office of "LPR" in the town of Pervomaisk.

On 26 February 2016 at 09.30 am *Dashkovska Svitlana Volodymyrivna* 12.01.1981 year of birth left her home in the village of Novomykhailivka and hasn't returned yet.

On 8 November 2016 it became known that in the so-called "LPR" in the town of Krasnodon was detained and illegally imprisoned a judge of Luhansk Region Court of Appeal Region *Vitaliy Valentynovich Rudenko*. He was going to visit his father's funeral. It is said that near the mid-October "After he approached the roadblock where he was stopped and his documents were checked, so-called "MSS" was called and it detained the judge". Some time later Rudenko was accused in "State treason". Now he remains in "ITT".

Rudenko spent near 9 months in imprisonment, in the so-called MSS. He was tortured. He was freed on 29 July 2017.

On 27 April 2017 on CIOP "Stanitsa Luhanskaya" a 38-year-old resident of Stanitsa Luhanskaya, *Olexiy* (last name unknown) was detained and brought in an unknown direction by the representatives of the so-called "Commandant's office". The man was earning his leaving by helping the people crossing CIOP "Stanitsa Luhanskaya", for a moderate payment, to carry the bags with belongings from the roadblock on the territory controlled by Ukraine to the roadblock controlled by the separatists.

On the day of his disappearance his parents started to look for him on their own, they questioned the persons on CIOP and those who carried the bags across the line of demarcation with their son, but they didn't obtain any information.

After some time the younger brother of the disappeared man found the announcement in the social networks that a body of an unknown man was found on Lomonosova Street of the occupied Luhansk. The disappeared man's relatives recognized him by the description of his appearance and belongings.

The marks on the body of the deceased allowed his relatives to suppose that he was beaten to death during an "explanatory talk" in "MSS of LPR".



Tural Verdiyev

In May 2017 a resident of Donetsk, *Tural Verdiyev* reported in the social networks that people in military uniform kidnapped his close relative. The man's fate is currently unknown.

In June 2017 it became known that a resident of the town of Kirovsk of Luhansk region, a former miner and pensioner *Yuriy Brovenko* 1964 year of birth, on 4 June went to visit his acquaintance, Mykola Popov 1953 year of birth in the settlement of Donetsk and disappeared.

Brovenko's son, Artem, told that his father went to the settlement of Donetsk to help his friend with the housework, and then stopped getting in touch, and nobody could call him.



Dmytro Karpukhin

“Then I received a phone call from an unknown number and I was told that my father was captured. They said: “if you want the father to see his grandson, then cooperate with us. Give us your internet data: “Odnoklaskniki” and “Skype”, we will communicate with you through those channels...”, — said Artem. The further fate of the man is still unknown.

In June 2017 Karpukhin Dmytro Mykolayovich 1992 year of birth disappeared crossing the checkpoint “Gukovo” from the occupied territory to the territory controlled by Ukraine.



Sergiy Shevchuk

On 30 July 2017 a 45-year-old man, Shevchuk Sergiy, went missing in Luhansk. The man left his home in Molodizhnyi block to visit a barbershop and there is still no connection with him.

In August 2017 disappeared a resident of Luhansk 1955 year of birth — Loginova Natalya Victorivna.

On 31 August 2017 on CIOP “Luhanska station” a young boy was kidnapped from the direction of occupied Luhansk.

Petukhov Mykola, 1995 year of birth, a resident of the village of Verkhnya Vilkhova of Stanichno-Luhansk district worked as a loader on CIOP “Stanitsa Luhanska”. It was the only source of income for him and his elderly mother.

On 31 August Mykola crossed CIOP from the controlled territory.

Then he was stopped on the check-in point on the side of the militants by the armed persons who started to ask the boy about something. Then the armed militants took Mykola aside.

Since then the connection with Mykola Petukhov was lost. In several months one of the acquaintances told Mykola’s mother that her son was in “MSS of LPR”. But the militants themselves refuted this information.



Natalya Loginova

On 15 September 2017 Davydov Mykhaylo Olexiyovich 1978 year of birth, a resident of Luhansk, disappeared without a trace. The man left in his own car from Zolote towards Luhansk and doesn’t come into contact.



Olexandr Shebanov

On 26 September 2017 a resident of the town of Lutugine of Luhansk region, Markushina Lilia Volodymyrivna, 1961 year of birth, disappeared while crossing the line of demarcation. The woman went to the territory of Ukraine to apply for pension, and doesn’t come into contact ever since.

On 8 October 2017 Shebanov Olexandr Dmytrovich 1978 year of birth disappeared while crossing CIOP from the side of the militants in the occupied town of Izvarine, he was going home from RF. The man was taken by the people wearing military uniform, his subsequent fate is unknown at the moment.

(22.10.2017) утром ушел из дома (Макеевке, центрально городской район, ул. Дзержинская) и до сих пор не вернулся Костюк Артем! Предположительно поехал гулять в г.Донецк, в район Азотного. Был одет: пайта синяя с черными вставками, джинсы, рюкзак. Может кто видел, помогите с поиском!!! Если кто-то владеет информацией о его месте нахождения сообщите по телефону 050-1325434



В Макеевке | В Донецке | Опер. Новости | Сводки автор объявления больше не писал и убрать пока не просил сегодня в 0:57
Сабина Веселовская
Что то часто стали подобные объявления появляться... печально ☹️ три часа назад

Artem Kostyuk

On 24 October 2017 on CIOP “Gnutove” from the side of the militants the representatives of the so-called “MSS of LPR” took a 41-year-old Nalivaychenko Vitaliy Anatolyevich. His location is currently unknown.

On 24 October 2017 a resident of Luhansk, 45-year-old Mazur Yuliya Vasylivna left her house and didn’t return. The human rights protectors found out that before that the militants had shown interest in pro-Ukrainian views of the disappeared woman.



Донецк | Петровский район
сегодня в 21:01

! Пропал мужчина !
Наливайко Виталий Анатольевич 41год.
Известно то, что 24.10.17 утром с КПП “Гнутово” на собственном автомобиле ВАЗ 21112 гос номер АН6770ВТ по неизвестным причинам забрали сотрудники МГБ ДНР. В самом министерстве утверждают что его нет.
Виталий к уголовной ответственности не привлекался, противозаконного ничего не делал.
Уже задействованы сотрудники МГБ и полиции.
Просим помощи у всех! Быть может кто-то видел автомобиль или самого Виталия.
Любая информация важна.
Контактные номера: Дочь Диана - 0669622213; Жена Анна-0713437786.

On 31 October 2017 a resident of Luhansk, Bushuychenko Oleg Stanislavovich 1969 year of birth disappeared while crossing CIOP “Stanitsa Luhanska”. He was going to the occupied city of Luhansk through the line of demarcation. The disappearance was a result of “a conversation” with the representatives of IAF who for an unknown reason decided to “individually” speak with the man. After crossing the checkpoint of Luhansk militants Oleg Bushuychenko never contacted his family.

On 7 November 2017 in the morning two residents of Slovyanoserbsk, Khoralskiy Vasyl Gavrilovich 1956 year of birth and Zakharov Igor Sergiyovich 1981 year of birth, went for the mushrooms towards Severskiy Donets river. Their location is currently unknown.

On 30 November 2017 *Pogorelov Olexandr*, 1979 year of birth, disappeared without a trace. The man was going towards Olenivskiy roadblock to cross the line of demarcation, and the connection was lost.

On 7 December 2017 in the area of the pond in the village of Vodobud disappeared *Foksha Sergiy Victorovich* born on 2 October 1975, a resident of the occupied town of Gorlivka. As his relatives told in the social networks, the man didn't return from the buffer zone. He had his passport and cell phone on him. Later his belongings were found, including his abandoned bicycle. The man's relatives searched the place of his disappearance on their own. But there is no evidence of what happened.

On 18 December 2017 in Donetsk disappeared a girl, *Melnichuk Anna*, 2001 year of birth. In the morning she left her home and didn't return.

On 18 December 2017 a resident of the village Davydo-Nikolske reported that her acquaintance, *Parubets Sergiy Mykolayovitch*, 1972 year of birth, a resident of the village of Lyse, went to check the fishing equipment ton Severskiy Donets and didn't return.



Sergiy Foksha



Olexandr Pogorelov



Anna Melnichuk



Sergiy Parubets

On 19 December 2017 disappeared *Krumzer Yevgen Sergiyovich*, a resident of the village of Daryino-Yermakivka, Luhansk region. Near a month later the boy's body was found with the traces of violent death.

On 17 February 2018 disappeared *Yashatov Olexiy Olexandrovych* 1978 year of birth, a RF national who lived in Norilsk. He arrived on vacation to see his mother in the village of Uспенka. The man went to the graveyard and didn't return.

On 13 March 2018 disappeared *Dryukov Vyacheslav Mykolayovich* 1977 year of birth. The man left from the village of Georgiivka to Luhansk on Volga BB3194CE at 8 am, and the connection with him was lost.



Yevgen Krumzer



Olexiy Yashatov



Vyacheslav Dryukov

ANNEX 2

A SHORT DESCRIPTION OF SOME OF THE DISAPPEARANCES ON THE CONTROLLED TERRITORIES OF DONETSK AND LUHANSK REGIONS

On 17 April 2014 disappeared *Kovalenko M. F.*, 1936 year of birth. In 2016 identified as a deceased.

Since May 2014 the fate of a resident of Popasna, *Krykhitka Mykhaylo Olexandrovitch*, 20.05.1980 year of birth, is unknown. In 2016 the court recognized him as a deceased.

On 17 May 2014 a resident of the village of Stepove, *Zhaldak Yevgen Petrovich*, 16.10.1988 year of birth left his house and didn't return.



Olexandr Zinoviyev

On 27 May 2014 at 12:00 am *Zinoviyev Olexandr Sergiyovich* 12.04.1982 year of birth left from Dobropilya to Krasnoarmiysk. He didn't get to Krasnoarmiysk. The connection with him was lost at 12:30 near Krasnoarmiysk, on the roadblock of UAF. He was driving a blue Nissan urvan AH 8245 IH.

On 11 July 2014 *Kolesov Yevgen Dmitrovich* 22.09.1996 year of birth went missing in the town of Krasnoarmiysk. He lived at the address: Krasnoarmiysk town, Sonyachniy microdistrict, building 1 ap. 62. He disappeared in microdistrict Lazurniy near 8 pm. According to the witnesses he was kidnapped by the soldiers without identification marks.

He was accompanied and disappeared alongside *Gres Sergiy Sergiyovich* 23.08.1988 year of birth and *Kosoukhov Yevgen Yuriyovich* 23.10.1986 year of birth. Their fate is currently unknown.



Yevgen Kolesov



Sergiy Gres



Yevgen Kosoukhov

On 11 July 2014 *Zaycev Olexiy Ivanovich*, 29.09.1984 year of birth left his home in the village of Dachne and hasn't returned yet.

On 1 August 2014 near 9 pm *Bondarenko Sergiy Volodymyrovich*, 19.12.1980 year of birth, left the village of Georgiivka for Kurakhove in his own car and disappeared.



Vadim Blednov

On 1 August 2014 police captain *Solarov Fedir Fedorovich*, 01.12.1984 year of birth, was detained by the military on the roadblock in Kostyantynivka while going from his place of residence in Donetsk to his place of service, Vugledarskiy DD, After that the connection with the policeman was lost.

On 6 August 2014 near 2:30 pm unidentified persons wearing camouflage took a resident of Maryinka, *Shulga Ivan Volodymyrovich* in an unknown direction.

On 10 August 2014 *Poroshin Sergiy Mykhaylovich*, 23.11.1967 year of birth, disappeared in Stanitsa Luhanska during hostilities.



Andriy Kubarev

On 14 August 2014 *Blednov Vadim Stanislavovich*, 20.02.1964 year of birth went to work and hasn't returned yet.

On 14 August 2014 near 7.00 am *Kubarev Andriy Volodymyrovich*, 30.06.1985 year of birth, left the town of Yasinuvata for Maryinka and disappeared without a trace. His fate is currently unknown.

On 23 August 2014 the connection was lost with forwarder driver of TVO "Skhid" *Prymak N. M.*, when he was on a tank farm at the address: Yakovlivka village, Skhidna Street, 1.

On 24 August 2014 *Ozerov Kostyantyn Petrovich*, 1967 year of birth, was taken from his own flat in the village of Zhdanovka by the soldiers of 95th brigade of UAF. His location is currently unknown.



Kostyantyn Ozerov

On 27 August 2014 *Yeroshenko Olexandr Mykolayovich*, 28.06.1965 year of birth, disappeared on a roadblock after the verification of the documents.

On 1 September 2014 *Bukin Sergiy Volodymyrovich*, 22.07.1964 year of birth, disappeared after hostilities in the outskirts of Stanitsa Luhanska.

On 5 September 2014 near 7 am *Amelchenya Pavel Pasvlovich*, 27.04.1935 year of birth, a resident of Maryinka left home and hasn't returned. Some time later he was found dead with the traces of a violent death.

On 10 September 2014 *Khristyuk Oleg Vasylyovich*, 13.03.1963 year of birth, left his home in Stanitsa Luhanska, his current fate is unknown.

On 11 September 2014 near 11 am unidentified persons wearing camouflage forcefully took *Suprun Mykola Anatolyevich*, 28.01.1982 year of birth in an unknown direction from his home in Kurakhove.



Volodymyr Polehenkiy

On 19 September 2014 *Polehenkiy Volodymyr Victorovich* 21.04.1964 year of birth went missing in the town of Slovyansk.

The car in which Polehenkiy and his friend, Zheyda, were driving, was stopped by four armed soldiers in UAZ on the route not far from the first roadblock of Slovyansk. The soldiers started searching the car, wrung the men's arms, put the bags over their heads, beat them and took them, according to Zheyda V., to a basement where they were held separately from one another.

On 20.09.2014 Zheyda V. with a bag on his head was taken back to his car and they let him go. The location of Polehenkiy is still unknown.

On 3 October 2014 near 3:40 pm unidentified persons took *Isayev Anatoliy Anatoliyovich*, 1970 year of birth, from his own house in the village of Dachne in an unknown direction. The "Myrotvorets" site reports⁷⁸ that "he was detained and arrested under the Articles. 110, 113, 257 of CC of Ukraine. He was exchanged in the late December 2014 under the Minsk agreements".

On 13 October 2014 *Bychkov Andriy Leonidovich*, 14.08.1981 year of birth, disappeared and stopped communicating when the house in Stanitsa Luhanska where the man lived with his mother was breached by the men wearing black masks and he was taken in an unknown direction against his will.

On 17 January 2015 *Bespalov Volodymyr Olexandrovych*, 04.02.1953 year of birth, was detained by MIA battalion "Chernihiv". He went missing.



Sergiy Razinkov

On 17 January 2015 *Razinkov Sergiy Olexandrovych*, 23.05.1962 year of birth, was taken from the bus no. 212 that went along the route Luhansk-Kondrashevka, on UAF roadblock. He was detained by MIA battalion "Chernihiv" along with *Bespalov V.O.* On 19.01.2015 the calls to Sergiy's cell phone are not responded, they hung up or oinked in the phone. He was identified as a deceased in 2015.

On 17 January 2015 *Kishichenko Yana Ivanivna*, 9.01.1977 year of birth, a resident of Popasna, left her house, driving in an unknown direction. In 2016 the court recognized her as a deceased.

On 18 January 2015 unidentified persons wearing camouflage took *Zhukov Petr Ivanovich*, 02.07.1951 year of birth from his place of living in the village of Toshkivka on Zaliznychnykyv Street, and brought him in an unknown direction. The "Myrotvorets" site indicates⁷⁹ that he was participating in hostilities.

On 22 January 2015 near 11 am in the village of Girske on Radyanska Street unidentified persons wearing camouflage and armed with assault rifles illegally deprived *Vasyliev Igor Valeryovich*, 24.03.1971 year of birth who drove black VAZ 2115 s. n. BB9313BE, of his freedom and took him in an unknown direction. He wasn't found.

⁷⁸ <<https://myrotvorets.center/criminal/isaev-anatolij-anatolevich/>>.

⁷⁹ <<https://myrotvorets.center/criminal/zhukov-petr-ivanovich/>>.

On 24 January 2015 near 2 pm armed people wearing camouflage took a resident of Kurakhove, *Burgelo Olexandr Volodymyrovych*, 03.04.1982 year of birth, from his own house and took him in an unknown direction.

On 28 January 2015 near Girske unidentified persons wearing camouflage and armed with assault rifles, moving in the car, VAZ 2115, detained *Maslov Kykola Anatoliyevich*, 13.07.1957 year of birth, placed him in blue NISSAN PATROL and took him in an unknown direction.

On 28 January 2015 *Valuyskiy Olexandr Pavlovich*, 15.12.1962 year of birth, disappeared after he was detained by MIA battalion "Chernihiv".

On 31 January 2015 *Matsayev Victor Mykolayovich*, 11.07.1967 year of birth, disappeared after he was detained by MIA battalion "Chernihiv".

On 12 January 2015 a maintenance brigade of CE "Luhanskvoda" that consisted of *Popov O. B., Lipshayev P. V., Korniyevskiy P. V., Lipshayev P. P.* accompanied by police senior lieutenant *Sukhorukov Olexandr Georgiyevich* was sent in the town of Zolote to repair the water pipes. In the wilderness near Stakhanovets microdistrict (Zolote-3) they were stopped by a group of armed persons wearing camouflaged uniform and taken in an unknown direction.

On 9 March 2015 *Krymtsev Gennadiy Pavlovich*, 30.06.1970 year of birth. left his home in Stanitsa Luhanska, his subsequent fate is unknown.



Dmytro Gorodovikov

On 22 March 2015 *Gorodovikov Dmytro Ivanovych* 1971 year of birth disappeared without a trace in uts Stanitsa Luhanska around the new bridge between the village of Pogorilove and recreation center "Katrin". Last time he was seen on the roadblock in Makarov, by MIA battalion "Tornado". In summer 2017 he was identified as a dead body with the traces of a violent death.

On 27 March 2015 *Naumov Vadim Vyacheslavovich*, 31.07.1990 year of birth disappeared from his household in the town of Girske under unclear circumstances.

On 2 April 2015 the relatives reported that their grandfather, *Shved Petro Kirilovych*, 22.08.1929 year of birth, a resident of Girske, went missing. He was identified as a deceased in 2016.

On 10 April 2015 disappeared *Brudevich Fedir Yukhymovich*, 20.01.1944 year of birth, a resident of the town of Zolote-1. He was identified as a deceased in 2016.

On 25 May 2015 near 3 pm unidentified armed persons wearing camouflage kidnapped *Sidorov Yuriy Petrovich*, 7.08.1960 year of birth from his house situated in the area of the water reservoir in the village of Komyshevakha.

In June 2015 a resident of Popasna reported that three unidentified masked men armed with assault rifles, placed her roommate *Prokopenko Olexandr Volodymyrovich*, 26.01.1968 year of birth in "GAZel"

car against his will near building no. 46 on Stepova Street, and took him in an unknown direction. "Myrotvorets" site reports⁸⁰ that he is a militant of IAF.

Since July 2015 the relatives don't have any information about *Matyaschuk Zinaida Olexandrivna*, 07.03.1973 year of birth, who lived in the village of Troitske.

On 23 July 2015 early in the morning *Ponomaryov Yevgen Sergiyovich*, 26.03.1991 year of birth left his home in the town of Girske and disappeared.

On 24 July 2015 a resident of the town of Maryinka, *Kutsenko Sergiy Leonidovich*, 30.07.1977 year of birth left his home and hasn't returned. Later he was found dead with the traces of a violent death.

On 31 July 2015 the relatives of *Tararin Olexandr Victorovych*, 14.02.1983 year of birth, from the village of Troitske, reported that on 29 July 2015 he was discharged from the hospital no. 2 of the town of Artemivsk, but didn't return home. He was identified among the deceased.

On 3 August 2015 near 10 am unidentified persons wearing camouflage detained a resident of Toshkivka, *Lysakov Victor Yakovich*, 27.04.1942 year of birth on the crossroads near the village of Myrna Dolina and seized his car, beige "Nissan Tida", after that they entered his car, ordered him to stay silent and go where they direct him. After some time the men ordered him to stop, blindfolded him with sticky tape, put him in the trunk of his car, after that they brought him to an unidentified place where he was kept until morning of 4 August guarded by one of the unidentified persons. Early in the morning he was blindfolded with the sticky tape again, they placed him in an unidentified car, took him to an unidentified location, let him out from the car, gave him his passport and left in an unknown direction.

On 13 August 2015 a resident of the village of Nizhne, *Polyaschenko Sergiy Ivanovich*, 18.10.1986 year of birth, left his home and his subsequent fate is unknown. In 2016 he was identified among the deceased.

On 21 August 2015 a resident of the village of Solodke, *Lukyanenko Oxana Mykhaylivna*, 24.01.1982 year of birth left her home and didn't return

On 27 August 2015 disappeared *Scherbina Vitaliy Andriyovich*, 01.10.1998 year of birth, a resident of Popasna. In 2016 he was recognized among the deceased.

On 9 September 2015 at 8 pm unidentified armed persons wearing camouflage forcefully took *Sidorenko Yuriy Mykolayovich*, 17.06.1969 year of birth from his house in the village of Krasnogorivka, and took him in an unknown direction on blue "GAZel" with license plate AH8142OC.

On 22 September 2015 a resident of the village of Novotoshkovske, *Stroganov Olexandr Yuriyovich*, 19.02.1983 year of birth, left his house near 7 pm and didn't return. He was identified among the deceased.

On 27 September 2015 *Volkov Vitaliy Olexandrovych*, 05.11.1980 year of birth left his house in the village of Krasnogorivka and didn't return. The man was later found dead.

⁸⁰ <<https://myrotvorets.center/criminal/prokopenko-aleksandr-vladimirovich/>>.

On 14 October 2015 *Korzhov Vyacheslav Mikolayovich*, 21.08.1960 year of birth, who lived in the village of Zolotarivka, left home and his subsequent fate is unknown.

On 24 October 2015 near 7 pm two unidentified armed persons took *Luzin Olexandr Fedorovich*, 19.11.1986 year of birth, from his flat in the town of Girske.

Since 23 October 2015 the fate of a resident of Toshkivka, *Zgibnev Sergiy Lazarevich*, 27.01.1955 year of birth, remains unknown.

On 9 November 2015 a resident of the village of Georgiivka, *Pyvovar Roman Petrovich*, 06.03.1979 year of birth, disappeared and doesn't communicate even now.

On 14 November 2015 on the roadblock in the village of Georgiivka unidentified armed people wearing camouflage detained and took in UAZ Patriot AH0104 in an unknown direction a resident of Donetsk, *Datsko Olexandr Olegovitch*, 31.01.1962 year of birth. Later it turned out that he was detained by SBU "For cooperation with terrorists" that consisted of the fact that he worked in the so-called "DPR" as a Head of the Partnership for Consumers Protection, as he had worked before in Zhitomir. On 27 November Zhitomir city Court of Appellation released⁸¹ on bail of the deputies of VRU, Tetyana Bakhtseva and Elbrus Tadeev.

On 23 November 2015 SE "Pervomayskvugillya" reported that the head of Human Resource Department, Zabelin Sergiy Olexandrovych, 27.05.1956 year of birth, was kidnapped.

On 7 December 2015 at 9 pm a resident of the town of Krasnogorivka, *Venger Natalya Volodymyrivna*, 21.12.1971 year of birth left her home and hasn't returned yet.

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⁸¹ <<http://zhzh.info/news/2015-11-29-26061>>.

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