

UPDATE ON THE HUMAN RIGHTS SITUATION IN UKRAINE

1 August – 31 October 2020

Summary

This update focuses on key developments in the human rights situation in Ukraine, including in territory controlled by armed groups (AGCT) and in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation (Crimea). The update covers the period of 1 August to 31 October 2020. OHCHR will issue its regular biannual report, covering the six months between 1 August 2020 to 31 January 2021, in March 2021.

Difficulties crossing the contact line in eastern Ukraine and the administrative boundary line (ABL) with Crimea, notably due to COVID-19-related restrictions, affected the enjoyment of rights, including freedom of movement, and the rights to family life, education, work, an adequate standard of health and social protection. The COVID-19 pandemic and related Government responses affected human rights throughout the country, notably economic and social rights. While this update contains some information on these concerns, OHCHR will publish a dedicated thematic report on the impact of COVID-19 on human rights in Ukraine in December 2020.

HRMMU documented cases of arbitrary detention in Government-controlled territory, and by the Russian Federation in Crimea, and incommunicado detention in AGCT. In addition, the administration of justice, in Government-controlled territory, in AGCT and in Crimea continued to be marred by a variety of concerns, including delays in conflict-related cases in mainland Ukraine, and reports of Russian courts interfering in the work of lawyers in Crimea-related cases.

A late decision by the Central Election Commission on 8 August 2020 on the inability to hold local elections in parts of Donetsk and Luhansk regions raised concerns of disenfranchisement. While the pre-electoral period was marked by increased violence against

certain political actors and property, as well as attacks and hate speech directed against lesbian, gay, bisexual, transsexual and intersex (LGBTI) persons, Roma and homeless persons, the elections held on 25 October were generally peaceful.

HRMMU commends the inclusive process undertaken by the Government to develop the National Human Rights Strategy and the related 2021-2023 Action Plan, and welcomes the establishment of a parliamentary working group to draft a law on the rights of minorities.



A man from Hladosove (1 km from the contact line) explains that his family was moved to Novoluhanske as a part of NGO Proliska project to relocate families with children away from the contact line. He stayed in the village to take of the family's property.

Conduct of hostilities and protection of civilians

From 1 August to 31 October 2020, HRMMU recorded no civilian casualties resulting from active hostilities, nor damage to civilian objects (excepting civilian housing, which HRMMU does not document). The welcomed reduction in civilian casualties can be attributed to the introduction of a strengthened ceasefire, adopted by the Trilateral Contact Group in Minsk, which took effect from 27 July.

However, civilian casualties resulting from mine-related incidents and handling of explosive remnants of war (ERW) continued. From 1 August to 31 October, HRMMU recorded 24 such casualties: two killed (both men) and 22 injured (16 men, four boys and two women). Nine of these casualties were recorded in Government-controlled territory, and 15 in AGCT.

Local and national authorities and other duty bearers should take advantage of the improved security to increase the provision of essential services to the estimated 600,000 people who live in close proximity to the contact line (on both sides), including public transport, electricity, water, and quality health care. These services are even more vital in light of the deterioration of the situation caused by the COVID-19 pandemic.

Impact of COVID-19-related restrictions on freedom of movement



A group of people stranded in front of EECP "Olenivka" in the 'grey zone', exposed to the burning sun without water and food the whole day.

Difficulties faced by the conflict-affected population in eastern Ukraine continued to be compounded by COVID-19, in particular, by restrictions on freedom of movement in the conflict zone and across the contact line. During the reporting period, only two entry-exit crossing points (EECPs) remained partially operational: in Stanytsia Luhanska (Luhansk region) and in Novo-

troitske (Donetsk region). The number of crossings through EECPs in both directions fell from a monthly average of 1 million in January and February 2020 to 81,000 in August 2020 and 86,000 in September 2020. In October, because of the closure of the EECP in Stanytsia Luhanska in the second half of the month, the total number of crossings shrunk to 21,300. This substantial reduction effectively prevents already vulnerable individuals from accessing education, family, employment and pensions, thus impacting enjoyment not only of freedom of movement, but also the rights to family life, education, work, health and social protection.

In this context, HRMMU welcomes the Oschadbank decision to prolong the validity of bankcards for IDP-pensioners until 1 January 2021. Pensions will continue to accumulate and pensioners will be able to collect them later, without having to cross the contact line before the new year to confirm their IDP registration (which is necessary to prolong cards), thus avoiding harsh crossing conditions, the risk of being unable to return to AGCT, and unnecessary exposure to COVID-19. As a sustainable solution, HRMMU reiterates the need to permanently delink payment of pensions from IDP registration, as stipulated by draft law 2083D, which has been pending before Parliament for a year.



Alla, an 85-year-old woman with a disability, had to travel to Government-controlled territory to restore her pension bank-card after she lost it. She was stuck in the 'grey zone', as she did not have a smartphone to install the 'Act at Home' self-isolation application, required to enter Government-controlled territory.

In Crimea, Russian Federation authorities continued to implement regulatory measures in response to the COVID-19 pandemic, which effectively halts freedom of movement of Ukrainian citizens across the ABL. Subject to limited exceptions, Ukrainian nationals without Russian Federation passports or resident permits in Cri-

mea were not allowed to enter the peninsula, while Ukrainian citizens who also hold Russian passports and are thus considered Russian citizens by Russian Federation authorities in Crimea were essentially banned from travelling from Crimea to mainland Ukraine.

As a public health measure to limit the spread of COVID-19, the Government of Ukraine temporarily closed all three crossing points at the ABL from 8-28 August. Exceptions were made for those who had a registered address on the peninsula to enter Crimea and for those with a registered address in mainland Ukraine to leave Crimea. In addition, individuals could cross the ABL on “humanitarian grounds”. However, HRMMU received credible information from multiple sources indicating that the Ukrainian authorities did not always apply “humanitarian grounds” in a consistent and transparent manner.

At least some of the restrictions on movement imposed, in particular by the Russian Federation, not only appear disproportionate and excessive but also resulted in disruptions in education, family ties, and access to health care.

Housing, land and property rights

On 2 September, the Cabinet of Ministers introduced amendments to Resolution No. 947, establishing a mechanism to compensate civilians whose houses have been destroyed due to hostilities in eastern Ukraine. HRMMU welcomes these amendments, and calls for their prompt implementation as the budget allocation of UAH 20 million (approx. \$715,000) for the second half of 2020 remains largely unspent. HRMMU further calls for the Government to allocate sufficient funding for relevant compensation in 2021.

Physical integrity rights

HRMMU continued to enjoy effective access to official places of detention in Government-controlled territory, allowing for confidential interviews with conflict-related detainees. In AGCT, HRMMU still did not have access to detainees and places of detention. HRMMU remains particularly concerned for the health and safety of detainees in the ‘Izoliatsiia’ detention facility in Donetsk, where HRMMU has received credible allegations of torture and ill-treatment.

HRMMU continued to receive allegations that the State Security Service of Ukraine (SBU) held individuals in unofficial places of detention after apprehension, such as hotel rooms and offices, without access to a lawyer.

“I can’t tell you more as the SBU warned me that if I want to stay alive, I have to keep my mouth shut.”

– A male conflict-related detainee in a SIZO.

In AGCT, HRMMU documented six cases of arbitrary and incommunicado detention, ill-treatment and torture, which occurred between 2019 and 2020. Victims, including two women, were detained by men from the ‘ministry of state security’ or ‘ministry of interior’, who in some cases did not introduce themselves or explain the reason for arrest. No one provided the victims’ family members, predominantly women, with information about their relatives’ whereabouts, sometimes for months, increasing their emotional and economic hardship. One of the individuals detained who was subsequently released and other witnesses to such apprehensions were threatened not to speak about what happened, and as a result, the individuals did not complain, fearing retaliation.

HRMMU welcomes continued efforts by law enforcement officials to combat and prevent torture and ill-treatment, and to prosecute perpetrators in positions of command. On 27 October, under the procedural guidance of the Prosecutor General’s Office, the former head of the Kaharlyk Police Department was charged under part 2 of article 146-1 of the Criminal Code, for failing to halt and to report an enforced disappearance committed by his subordinates. According to the investigation, the accused was aware that on 9 January 2020, his subordinates detained two individuals without registration overnight in a police station handcuffed to a radiator, and failed to take measures to stop these illegal actions, or to notify the competent authorities about the crime.

HRMMU welcomes the Government’s approval on 28 October 2020 of the second National Action Plan for the Implementation of United Nations Security Council’s resolution 1325 on Women, Peace and Security (2021 to 2025), which includes activities to combat and prevent gender-based and sexual violence in the context of armed conflict.

Justice and accountability

As outlined in the OHCHR thematic report on [Human Rights in the Administration of Justice in Conflict-Related Criminal Cases in Ukraine from April 2014 to April 2020](#), published on 27 August 2020, lack of accountability for human rights violations committed by State actors and undue delays in court proceedings continued to impede justice. The situation was further

exacerbated by COVID-19 measures which reduced detainees' access to lawyers and resulted in further delays.

Cases of arbitrary and incommunicado arrests and detention, torture and ill-treatment of individuals in AGCT (referred to above) suggest that a pattern persists of extracting 'confessions', which are used as evidence of guilt in ensuing 'criminal proceedings' in violation of fair trial guarantees.

Please see below for information pertaining to the administration of justice in Crimea.

Civic space

The first round of local elections took place on 25 October 2020. On 8 August 2020, the Central Election Commission issued a decision on the impossibility of holding local elections in cities, settlements and villages of ten territorial communities in Donetsk region and eight territorial communities in Luhansk region, based on recommendations of the regional military-civil administrations. At least 26 residents (10 women and 16 men) complained to HRMMU about this disenfranchisement. HRMMU notes the findings of the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), that the framework for the decisions to not hold elections in these communities lacked transparent criteria and did not provide sufficient safeguards for suffrage rights, which undermined public trust in the process. HRMMU encourages the Government to address these concerns as soon as possible, noting that current legislation allows elections to be held in March and October, providing the opportunity for elections to be held in 2021 in the 18 affected communities upon action by the Central Election Commission and Military-Civil Administrations.

"We feel like outcasts due to the cancellation of local elections in eastern Ukraine."

– A male resident of a settlement near the contact line.

In the lead up to elections, HRMMU observed an increase in attacks against political actors (members and staff of political parties), including during assemblies. HRMMU also documented attacks against property belonging to political actors and political parties, including five attacks against offices of political parties. Law enforcement agencies often failed to effectively protect victims and prevent violence. Perpetrators, often affiliated with extreme right-wing groups (ERWGs), particularly targeted two opposition political parties – "Partiia Sharii" and "Opposition Plat-

form "Za Zhittya", considered by many to be "pro-Russian". Most perpetrators have not been brought to account for these attacks.

HRMMU also observed an increase in violence against participants in non-political assemblies, such as rallies in front of courts considering high-profile cases and events organized by LGBTI persons and their supporters. Hate speech against LGBTI persons continued, both online and offline, notably around pride events. In some cases, hateful comments were accompanied by violence or attempted violence against pride participants, or combined with attacks against premises of LGBTI civil society organisations.

The failure of authorities to prevent violence, including by addressing hate speech, is worrying. In Odesa, despite the high presence of police and National Guard, law enforcement agencies were unable to secure the Pride event. ERWG members used tear gas, threw eggs and physically assaulted several participants, forcing organisers to cancel the event. Repeated failures to bring perpetrators connected to ERWGs to account for crimes may be perceived as systematic impunity for this category of perpetrators.

"If they attacked me even when I don't mention my sexual orientation, it means that all members of the LGBTI community are at risk now."

– Victim of a homophobic attack in Kyiv.



Over 100 counter-demonstrators threw eggs and used tear gas against participants of the Odesa Pride event, made up of LGBTI people and their supporters on 30 August 2020. It was reported that at least 16 participants sustained injuries and two police officers were hospitalized as a result of the attack.

HRMMU is particularly concerned by a violent incident on 29 August 2020 in Andriivka, Kharkiv region, targeting Roma. Although police were present, following an early warning intervention by HRMMU and the United Nations Resident Coordinator, which helped reduce the level of violence, one Roma family had to be evacuated after tensions escalated between the local Roma and non-Roma communities. HRMMU regrets that law enforcement officers failed to prevent the escalation by proactively addressing hate speech and involving Dialogue Police officers on the ground, and evacuated the individuals at risk rather than restraining those responsible for the attack.

HRMMU is also concerned by reports of violence against homeless persons during the reporting period, notably the killing of one man in Lviv, and beatings of two men in Kyiv.

Leave no one behind – economic and social rights

The COVID-19 pandemic negatively impacted the economic and social rights of certain groups in vulnerable situations disproportionately, namely Roma, homeless persons, older persons living in long-term care facilities and persons with disabilities living in institutions and in the community. The rights to health, education, work, information and an adequate standard of living were particularly affected.

Specific issues related to some of these groups are covered in detail in HRMMU's briefing notes on [Roma](#), [homeless persons](#), and [persons with disabilities](#), and will be further covered in OHCHR's thematic report to be issued in December (see above).

Key legislative developments

HRMMU commends the Government for its inclusive consultations in the preparation of the National Human Rights Strategy and related 2021-2023 Action Plan. The working groups established for this include governmental entities, members of parliament, civil society and international organizations, with HRMMU coordinating UN participation. The Government should ensure that these consultations lead to the timely adoption of documents that move the human rights agenda in Ukraine forward. HRMMU also encourages the President and the Cabinet of Ministers to take into account the recommendations of the United Nations Country Team, which aim at ensuring the protection of all people in vulnerable situations and at the compliance of Ukraine's State policy on human rights with international standards.

HRMMU continues to monitor developments in relation to language rights of minorities, following delays in the

adoption of a law on the protection of minorities in January 2020, as required by the [State Language Law](#). A parliamentary working group established to elaborate this law met for the first time on 22 September 2020. HRMMU recommends that the draft law provide protections for language rights of minorities, including through provisions amending the Law on State Language and laws on [Education](#) and [Secondary Education](#) as required by international human rights standards and recommended by the European Commission for Democracy through Law (Venice Commission) in its opinions on the [Law on State Language](#) and [Law on Education](#).

Crimea

"The Russian Federal Security Service needed Jehovah's Witnesses to be imprisoned in order to put pressure on the entire Jehovah's Witnesses community and show the consequences of practicing that faith."

– Lawyer of a Jehovah's Witness detained in Crimea.

HRMMU notes with concern that Russian Federation law enforcement authorities in Crimea continue to press extremism-related criminal charges against Jehovah's Witnesses for manifesting their religion. In October 2020, Russian Federation law enforcement authorities conducted at least nine searches of Jehovah's Witnesses' homes in Sevastopol. Five people were initially apprehended, and while one woman was later released, the remaining four men were further detained, and criminal cases were opened against them. As of 22 October 2020, the men were detained in Simferopol SIZO, and had appealed their pre-trial detention without success. Two Jehovah's Witnesses, Serhii Filatov and Artem Herasymov, who were convicted of extremism-related crimes earlier this year, have been deported to the Russian Federation to serve their sentences, hundreds of kilometers away from their homes. This has made visits by family and friends, already complicated by COVID-19 restrictions, even more difficult. The practice of deporting detainees from Crimea to the Russian Federation to serve their sentences is in conflict with article 49 of the Fourth Geneva Convention, which prohibits deportations of protected persons outside the occupied territory, and Rule 59 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), which requires that "prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation".

Other issues of concern related to the administration of justice by the Russian Federation in Crimea are covered in [OHCHR's thematic report](#), and in the [Secretary General's report on Crimea](#).

HRMMU notes that Russian Federation authorities continued their practice of arbitrary detention. In one emblematic case, a Crimean Tatar man accused of membership in an illegal armed formation in mainland Ukraine remained incarcerated in the Simferopol SIZO despite the expiration of his pre-trial detention order on 17 October 2020. Three days later, during the trial, the defence lawyer learned that the defendant's remand had been extended for almost six months following an *in absentia* court hearing. Neither the lawyer nor the defendant were notified of the hearing or indeed invited to be present in court, nor did the judge provide any grounds or justification for the extended detention.

HRMMU further notes that practicing lawyers continued to face difficulties in discharging their professional duties when representing Ukrainian citizens before courts in Crimea, and in the Russian Federation following their clients' deportation. Female defence lawyer Liliia Hemedzhy has frequently represented Crimean Tatars in *Hizb ut-Tahrir* and other trials in Crimea and the Russian Federation. During a recent *Hizb ut-Tahrir* trial, over a period of at least eight months, the judges verbally "cautioned" her for "over eagerness" during witness cross-examinations, for arguing with the court, and for "violating the court order". Ms. Hemedzhy

claims she was merely exercising her professional duties, representing her clients' best interests, and does not understand how it could be interpreted as professional misconduct. Following a Special Ruling on 17 August 2020, finding that Ms. Hemedzhy's actions constituted contempt of court and disrupted the court's normal process, Ms. Hemedzhy is now at risk of disbarment. This has made it difficult for her to discharge her professional duties and has had a chilling effect on other lawyers representing clients in similar cases.

International human rights law requires that detainees are treated humanely and with respect for human dignity, including the highest attainable standard of physical and mental health. However, HRMMU interviews indicated that conditions of detention in the Simferopol SIZO and places of pre-trial detention in the Russian Federation in which Crimean residents have been held following deportation from Crimea are inadequate. Places of detention are cramped and overcrowded, forcing detainees to adopt sleeping schedules to access a bed. Detainees complain of insufficient natural light and fresh air, lack of heating during the harsh winters, and rudimentary medical care, with only basic painkillers available, even for *debilitating conditions*. The Russian Federation, as the occupying Power in Crimea, must ensure that conditions of detention are in line with international standards.

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