



IMPACT OF COVID-19 ON HUMAN RIGHTS IN UKRAINE

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Contents

- I. Executive summary 1
- II. OHCHR methodology 3
- III. Context 5
- IV. Impact of COVID-19-related restrictions of freedom of movement on human rights 8
 - A. Impact of COVID-19-related freedom of movement restrictions in Donetsk and Luhansk regions 8
 - B. Impact of COVID-19-related freedom of movement restrictions in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation 11
- V. COVID-19 in detention facilities 13
 - A. In Government-controlled territory 13
 - B. In territory controlled by self-proclaimed ‘republics’ 14
 - C. In the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation 15
- VI. Impact of COVID-19 on fair trial rights 15
- VII. Leave no one behind – impact of COVID-19 on groups in vulnerable situations 16
 - A. Discrimination, violence and manifestations of intolerance 18
 - B. Impact of COVID-19 on Roma 19
 - C. Impact of COVID-19 on older persons and persons with disabilities in long-term care facilities 20
 - D. Impact of COVID-19 on persons with disabilities in communities 21
 - E. Impact of COVID-19 on people living in homelessness 22
 - F. Impact of COVID-19 on health workers 22
- VIII. Conclusions and recommendations 23

I. Executive summary

1. This thematic report by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the impact of COVID-19 on human rights in Ukraine covers the period from 20 February 2020, when a group of persons¹ evacuated from Wuhan, China, was brought to Ukraine, to 6 December 2020. It is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU).²
2. The report pays particular attention to the impact of COVID-19 on economic and social rights with emphasis on persons and groups in vulnerable situations and at risk of being left behind. It aims to inform duty-bearers and rights holders in Ukraine and the international community and to recommend targeted actions enabling the Government and other actors to build back better through their pandemic response. While it does not provide a comprehensive account of all violations of economic and social rights that occurred during the reporting period, it provides an overview of key human rights issues related to the pandemic. As the number of infections in Ukraine rises and new response measures are introduced, further human rights issues are expected to emerge.
3. Ukraine introduced quarantine restrictions on 12 March 2020, following its first confirmed COVID-19 case on 29 February 2020. OHCHR remained fully operational during the reporting period, adjusting its work to minimize the risk of spreading the virus, carrying out activities in person only when possible to do so safely, and remotely when there was no alternative.
4. The COVID-19 pandemic has further exacerbated the hardships and deprivations faced by the conflict-affected population in eastern Ukraine, in particular because of restrictions on freedom of movement and their impact on the enjoyment of social and economic rights. The monthly average number of crossings through the contact line decreased from 1.1 million (over a similar period in 2019) to less than three hundred as a consequence of the closure of all five entry-exit crossing points (EECPs) from late March to late June 2020. The restrictions on freedom of movement have resulted in the separation of thousands of people from their families, and the loss of access to healthcare, education, pensions and sources of livelihoods.
5. As a result of restrictions on freedom of movement introduced by the Governments of Ukraine and the Russian Federation, the number of crossings through the Administrative Boundary Line (ABL) with the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation (henceforth Crimea), in both directions during the period of March to September 2020 decreased by almost 90 per cent in comparison with the same period in 2019. The restrictions have affected people's access to work, education, healthcare, property and family links.
6. The situation of persons in places of detention remained particularly precarious during the pandemic given that many detention facilities are overcrowded and not able to fully comply with prevention measures such as physical distancing and provision of personal protection equipment (PPE). In Government-controlled territory, the number of confirmed COVID-19 cases and deaths in the penitentiary system remains small, which may be due to insufficient testing. In territory controlled by self-proclaimed 'Donetsk people's republic' and self-proclaimed 'Luhansk people's republic'³ and in Crimea, no figures regarding COVID-19 cases in detention are available, however OHCHR received information that persons in detention lacked personal protective equipment and access to adequate healthcare.
7. Access to justice and the guarantee of a public trial were also affected by COVID-19-related restrictions. Some courts prohibited observers and journalists access to premises, and many obstacles to equal access persisted in the digitalisation of administration of justice.

¹ The group consisted of 45 Ukrainians and 27 foreign nationals.

² HRMMU was deployed on 14 March 2014 to monitor and report on the human rights situation throughout Ukraine, with particular attention to the Autonomous Republic of Crimea, eastern and southern regions of Ukraine, and to propose recommendations to the Government and other actors to address human rights concerns. For more information, see UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine*, 19 September 2014, A/HRC/27/75, paras. 7-8, available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-75_en.pdf.

³ Hereinafter 'Donetsk people's republic' and 'Luhansk people's republic', referred to collectively as self-proclaimed 'republics'.

8. The impact of COVID-19 on the economic and social rights of groups in vulnerable situations also poses a risk of backtracking on the sustainable development goals (SDGs) of the 2030 Agenda and the pledge to leave no one behind. Groups in vulnerable situations, and particularly women and girls within these groups, include Roma; persons with disabilities and older persons, in particular those living in long-term care facilities; and persons living in homelessness. In addition, the pandemic created new vulnerabilities, including among healthcare workers involved in the COVID-19 response. The rights to health, work, education and an adequate standard of living, which are linked directly to SDG 1 (poverty), SDG 2 (hunger), SDG 3 (health), SDG 4 (education), SDG 8 (decent work), SDG 10 (inequalities) and SDG 16 (peace, justice, and strong institutions) were most affected. The impacts have also been particularly gendered, with women disproportionately affected by the pandemic, including through a rise in domestic violence and a significant increase in unpaid care work, posing an additional risk to the achievement of SDG 5 (gender equality).

9. The report concludes with targeted recommendations aimed at mainstreaming human rights in the COVID-19 response and socio-economic recovery measures of the Government and other actors, which would contribute to improving the overall human rights situation in Ukraine and help ensure that the COVID-19 response and recovery are guided by the goals and ambition of the 2030 Agenda.

II. OHCHR methodology

10. The report is based on information gathered during 139 field visits, 7 visits to places of detention, 6 trial hearings, 14 assemblies and 681 interviews (389 women and 292 men) with victims and witnesses of human rights violations, as well as relatives of victims and their lawyers, Government representatives, members of civil society and other interlocutors. The majority of interviews were conducted remotely due to the pandemic. The report is also based on information gathered through online surveys and focus group discussions with interlocutors, and from court documents, official records, open sources and other relevant material. Findings are based on verified information collected from primary and secondary sources that are assessed as credible and reliable. They are included in the report where the “reasonable grounds to believe” standard of proof is met, namely where, based on a body of verified information, an ordinarily prudent observer would have reasonable grounds to believe that the facts took place as described, and where legal conclusions are drawn, that these facts meet all the elements of a violation. This report does not present an exhaustive account of all human rights concerns during the pandemic, and instead focuses on certain areas of its impact on person and groups in the most vulnerable situations.

11. Information in this report is used in full respect of informed consent by all sources as to its use as well as OHCHR’s assessment of any risk of harm that such use may cause. This may entail removing identifying details to ensure the confidentiality of sources.

12. The report also draws on engagements undertaken by Ukraine to implement the 2030 Agenda and its Sustainable Development Goals (SDGs) stemming from the UN Sustainable Development Summit in September 2015.⁴ In 2020, the Government of Ukraine issued a Voluntary National Review of progress achieved towards the implementation of SDGs, which also sets out some elements of its response to the COVID-19 pandemic that would allow to build back better, in line with the 2030 Agenda.⁵

⁴ Ukraine reported on its implementation of the 2030 Agenda in July 2020. OHCHR aims to contribute to the relevant processes by systematically linking the main issues it reports on to the framework of the 2030 Agenda.

⁵ Ministry for Development of Economy, Trade and Agriculture of Ukraine, *Sustainable Development Goals Ukraine. Voluntary National Review*, May 2020, available at https://sustainabledevelopment.un.org/content/documents/26295VNR_2020_Ukraine_Report.pdf

UKRAINE

Relevance of human rights recommendations in responding to the pandemic

OHCHR aims to put human rights at the heart of the response of States, UN partners, civil society and the private sector to COVID-19. It focuses on supporting six priority areas: 1. Respect for all human rights and addressing specific issues which might be less visible or more sensitive; 2. Vulnerable people and groups; 3. Participation, inclusion and access to information; 4. Economic and social rights; 5. Integrating human rights into the UN system response; and 6. UN Human Rights Mechanisms contribution to COVID-19 response.

The graph shows recommendations addressed to Ukraine by the UN Human Rights Mechanisms: the Universal Periodic Review, the Special Procedures mandate holders and the Treaty Bodies in the 5 years prior to the pandemic, which OHCHR assesses as particularly relevant in responding to the pandemic in an inclusive and sustainable way. All recommendations addressed to Ukraine can be found at the Universal Human Rights Index at <https://uhri.ohchr.org/>.



Future opportunities to assess the status of implementation of these and other recommendations are during the upcoming review by the Universal Periodic Review in 2023, relevant Treaty Bodies as well as during upcoming visits by Special Procedures mandate holders in the country.

III. Context

“We had become resilient to the conflict and shelling, however, many of us break down now, as we’re not used to seeing death every day. The death toll of COVID-19 will soon be higher than the one caused by the conflict in our city.”

- A female nurse working in a hospital near the contact line in Donetsk region, November 2020.

13. The first COVID-19 case in Government-controlled territory was diagnosed on 29 February 2020. By 5 December 2020, the National Health Service of Ukraine had recorded 813,306 COVID-19 cases, including 418,581 recoveries and 13,588 deaths. Sixty per cent of confirmed cases were women and girls and forty per cent were men and boys. The highest number of confirmed cases fell within the 50-59 age bracket. A total of 5,358 females and 7,230 males have died from COVID-19 (47 and 53 per cent of all fatal cases, respectively), the majority of whom were 60-69 years old.

14. In territory controlled by ‘Donetsk people’s republic’, as of 6 December 2020, 11,527 cases of COVID-19 have been confirmed by the ‘ministry of health’, with 5,619 persons recovered and 1,090 deaths. As of 6 December 2020, 1,830 cases of COVID-19 have been confirmed by the ‘ministry of health’ in territory controlled by ‘Luhansk people’s republic’, with 1,604 persons reportedly recovered and 150 deaths. In Crimea, as of 7 December, 21,951 cases of COVID-19 have been confirmed by the occupying Power, with 17,195 persons recovered and 447 deaths.

15. On 12 March 2020, the Government introduced its first quarantine measures by closing education facilities. On 17 March 2020, stricter measures were introduced, including the restriction of mass gatherings, suspension of public transportation, and closure of ‘non-essential’ businesses such as restaurants, hotels, beauty salons and non-food shops, and postponement of planned hospital treatment for non-COVID-19 patients. Movements across the State border, the contact line in the east and the ABL with Crimea were also restricted, including by self-proclaimed ‘republics’ and the Russian Federation. Starting from 4 April 2020, the Government of Ukraine restricted movement of people in public places, following international practice, and introduced mandatory self-isolation for persons aged over 60, with certain exceptions for those with jobs.⁶ At the end of May 2020, nation-wide lockdown measures were relaxed. From 22 May to 12 November 2020, the Government imposed an ‘adaptive quarantine’⁷, with restrictions applied selectively in different geographical areas depending on the levels of COVID-19. The Government allowed regional and local authorities to participate in the decision-making process about restrictions in their respective regions. Many representatives of local self-government bodies, who are directly elected in Ukraine, contested the Government’s quarantine measures and did not apply them all in areas under their authority.⁸

16. On 28 August 2020, the Constitutional Court declared certain provisions of Cabinet resolution No. 392 of 20 May 2020 imposing quarantine restrictions unconstitutional, arguing that such restrictions should have been introduced by law and not through by-laws. However, there were no legal consequences given that the Government resolution had already been replaced at the time the Court issued its ruling. Despite the ruling, the Cabinet of Ministers

⁶ The self-isolation rule for older persons was in force from 4 April to 4 June. HRMMU did not document cases of older persons facing sanctions for violating the self-isolation rule based solely on their age.

⁷ Resolution No. 392 of 20 May 2020 adopted by the Cabinet of Ministers of Ukraine empowered regional commissions on human-made environmental disasters and emergency situations to loosen (up to 24 June 2020) or tighten restrictions in their respective regions and local authorities to introduce additional restrictions. Cabinet of Ministers resolution No. 641 of 22 July 2020 limited the powers of local authorities to introduce additional restrictions and as of 23 September envisaged that regional commissions on man-made environmental disasters and emergency situations would have an advisory role in deciding what restrictions to introduce in areas marked as ‘red zones’.

⁸ From April to May 2020, the local councils of Dnipro, Cherkasy, and Mukachevo lifted certain restrictions introduced by the Government. In November, the mayors of Lviv, Cherkasy, Ternopil, Zhytomyr and other cities publicly stated that the ‘weekend lockdown’ was not an effective measure to stop the spread of the virus. On 13 November 2020, the mayor of Lviv announced he had drafted a court appeal against the Government’s decision to introduce a ‘weekend lockdown’.

continued to be the main authority imposing restrictions related to the pandemic, raising concerns about the legality of these measures.⁹

17. In June 2020, the World Bank extended a \$350 million loan to Ukraine under the Social Safety Nets Modernization Project and the International Monetary Fund (IMF) approved an 18-month Stand-by Arrangement (SBA), with total access of about \$5 billion. The World Bank's loan supports de-monopolization and anti-corruption institutions, land and credit markets, and the social safety net, which are critical to economic recovery and help mitigate the impact of the COVID-19 pandemic. The IMF's SBA aims to address large balance-of-payments and fiscal financing needs, preserve pre-COVID-19 fiscal consolidation achievements, and advance a small set of key structural reforms to ensure that Ukraine is well poised to return to growth when the crisis ends. The IMF will extend its loan to Ukraine, subject to a number of conditions, among them establishing the market-level price for gas supply to the population.¹⁰ This may put further pressure on the state funding of subsidies for utilities that may disproportionately affect persons and groups in vulnerable situations, including low-income families and those who face administrative barriers to apply for subsidies.

18. On 25 October 2020, local elections were held in Ukraine. Voter turnout (36.88 per cent) was significantly lower than for the previous local elections in 2015, perhaps due to the COVID-19 crisis.

19. In light of a rapidly growing number of infections in the autumn, on 12 November 2020, the Government reverted to nationwide tightened restrictions, including further restriction on gatherings and a 'weekend lockdown' prohibiting all non-essential services to operate during weekends.

⁹ Articles 12.3 and 21 of the International Covenant on Civil and Political Rights (ICCPR) stipulate that the freedom of movement and freedom of peaceful assembly may be subject to certain restrictions necessary for the protection of public health, only if provided by law.

¹⁰ International Monetary Fund, *Ukraine: Request for Stand-by Arrangement-Press Release; Staff Report; and Statement by the Executive Director for Ukraine*, 11 June 2020, www.imf.org/en/Publications/CR/Issues/2020/06/10/Ukraine-Request-for-Stand-by-Arrangement-Press-Release-Staff-Report-and-Statement-by-the-49501.

COVID-19: timeline of quarantine-related measures in government-controlled territory from 1 March to 30 November 2020*

Human Rights Monitoring Mission in Ukraine (HRMMU)

	March	April	May	June	July	August	September	October	November	
General measures	Quarantine introduced.									
Measures restricting and banning movement				Adaptive quarantine: gradual lifting of restrictions.					Restrictions applied selectively in different geographical areas depending on the levels of COVID-19. (i.e. four colour zones).	
			Ban on all movement through the ABL with Crimea, except on the basis of humanitarian grounds.							Nationwide quarantine reintroduced.
			Ban on all movement across the Contact Line, except on the basis of humanitarian grounds.	Partial lifting of restrictions.						
			Suspension of urban and intercity public transportation.							
Measures affecting schools			Mandatory self-isolation for persons over 60.							
			Mandatory two weeks self-isolation for persons arriving from abroad (from countries with a significant number of cases), armed group-controlled territory and Crimea via the mobile app.							
			Closure of kindergartens and education facilities.							Schools closed if over 50 per cent of pupils and staff are self-isolating.
Access to justice / fair trials										
Freedom of assembly										
Measures affecting access to healthcare										
										Under the adaptive quarantine, restrictions remained in force in 'red zones.'
Measures affecting social protection and decent work										
										Non-urgent planned hospitalisations suspended again.
Other human rights affected:										
										Under the adaptive quarantine, restrictions remain in the 'yellow', 'orange' and 'red zones.'
Other human rights affected:										
										Exceptions to ban on visits to residential institutions made for relatives and legal representatives.

* The measures included here are those identified by OHCHR as being the most relevant for this report.

Access to justice and fair trial
 Freedom of movement and residence
 Freedom of thought, religion or belief
 Freedom of peaceful assembly/association

Right to health
 Rights to social protection and decent work

Vulnerable groups/
Leaving no one behind

IV. Impact of COVID-19-related restrictions of freedom of movement on human rights

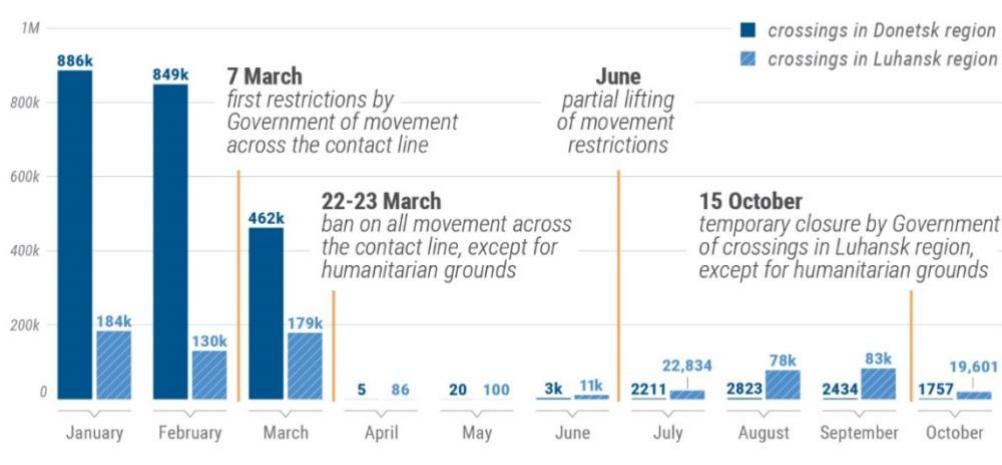


A. Impact of COVID-19-related freedom of movement restrictions in Donetsk and Luhansk regions

COVID-19-related restrictions on freedom of movement

20. Due to the pandemic, restrictions on crossing the contact line were imposed by the Government of Ukraine and self-proclaimed ‘republics’ in March 2020,¹¹ following which, the number of monthly crossings decreased dramatically.¹² Even with the partial re-opening of EECPs in June 2020, the number of monthly crossings remained well below pre-pandemic levels. In Donetsk region, the average monthly number of crossings from June 2020 to October 2020 decreased 375-fold compared with the same period of 2019. The situation with crossings in Luhansk region was better, but even in August and September 2020 (months with the highest numbers of crossings since March), average numbers of crossings were 75 per cent lower than during the same months of 2019. Women and older persons, who comprised the majority of those crossing before the COVID-19 lockdown, were particularly affected.

PER MONTH CROSSINGS OF THE CONTACT LINE from January to October 2020



Creation Date: 2 December 2020 Source: OHCHR HRMMU

21. On 10 November, the only EECP in Luhansk region, Stanytsia Luhanska, resumed operations in both directions after a four-week closure. The opening of new EECPs in Luhansk region at Zolote and Shchastia, planned for 10 November, did not take place. In Donetsk region, self-proclaimed ‘Donetsk people’s republic’ allowed a limited number of civilians to cross the contact line, however only through Novotroitske/Olenivka EECP (one out of four EECPs) and only twice a week. Self-proclaimed ‘republics’ continued to apply stringent requirements on persons desiring to cross the contact line.¹³ The Government of Ukraine required civilians

¹¹ On the restrictions on movement through the contact line introduced by the Government of Ukraine (through the Order of the Commander of the Joint Forces Operations (JFO) No. 207 of 15 March 2020 further prolonged based on the decisions of the JFO Commander and the Cabinet of Ministers of Ukraine) and armed groups of ‘self-proclaimed republics’ see OHCHR, *Report on the human rights situation in Ukraine, 16 February – 31 July 2020*, para. 46-49, available at https://www.ohchr.org/Documents/Countries/UA/30thReportUkraine_EN.pdf.

¹² Article 12 of the ICCPR stipulates that the freedom of movement shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights. According to the Human Rights Committee, laws authorizing the application of restrictions should use precise criteria and may not confer unfettered discretion on those charged with their execution (General Comment No. 27, Article 12, 2 November 1999, para. 14, CCPR/C/21/Rev.1/Add.9).

¹³ Armed groups of ‘Luhansk people’ republic’ allow only civilians with residence registration in armed group-controlled territory cross to territory controlled by ‘Luhansk people’s republic’ and limit crossing in both directions to only once a month. Individuals who permanently reside on, but are not registered on territory controlled by ‘Luhansk people’s republic’, must have their request to enter territory controlled by ‘Luhansk people’s republic’ approved by the ‘ministry of foreign affairs’,

crossing from armed group-controlled territory to install the Government’s mobile application “Diy Vdoma” and undergo self-isolation or a period of mandatory observation in a specialized facility. Persons without smartphones, likely older persons and persons with low income, were disproportionately affected by this requirement.

22. As a result of COVID-19 restrictions on freedom of movement, hundreds of people were unable to return to their homes on the other side of the contact line, and thus lacked access to adequate housing. They were often forced to live outside at EECPs until allowed to cross, with no support from authorities. For example, in March 2020, the State Border Guard Service of Ukraine (SBGS) did not allow an older woman with a disability and health complications to cross from Government-controlled territory back to territory controlled by ‘Luhansk people’s republic’, where she resided. Before being allowed to cross, she spent four weeks living in a concession stand near the Stanytsia Luhanska EECP without adequate shelter and relying on donations to buy food. The Government did not provide any assistance during this time. OHCHR welcomes the fact that, on 22 May 2020, a first instance court found that in this situation, local authorities should have provided assistance and had violated the woman’s rights and dignity.¹⁴ In November 2020, the First Appeal Administrative Court additionally held that the SBGS unlawfully banned her movement through the contact line and ordered compensation for non-pecuniary damage.¹⁵

23. Residents of isolated settlements in the Government-controlled territory of Donetsk and Luhansk regions were also disproportionately affected by the suspension of public transportation in spring 2020, introduced as a response to the pandemic. As a result, they lost access to healthcare, social services, banks, food supplies, jobs and sources of income, as well as contact with family members.¹⁶

Access to pensions and other social entitlements

“My pension is 1,900 UAH [\$67] and I try to survive on it over the entire month. I already owe a lot of money to my friends and relatives and can’t afford to buy a smartphone, but I desperately want to go home”.

– An older woman stuck at an EECP because she cannot access the mandatory mobile app required to cross into Government-controlled territory, June 2020.

24. OHCHR is concerned about the negative impact of restrictions on freedom of movement on an adequate standard of living of older persons residing in armed group-controlled territory, especially those pensioners and their families who rely on pensions as their only or main source of income. Pensioners residing in armed group-controlled territory, the majority of whom are women, have very limited possibilities to cross the contact line to withdraw their pensions. Since March 2020, the number of pensioners who cross the contact line to receive their pensions in Government-controlled territory has decreased by more than 200,000 per month.¹⁷ The majority of these people and their families may face difficulties

which takes at least 14 days. Armed groups of ‘Donetsk people’s republic’ allow persons to cross the contact line in the direction of Government controlled territory only if they have a residence permit in Government-controlled territory or written permission issued by the ‘interdepartmental operational headquarters for preventing the spread of COVID-19’. In addition, people are forced to sign an attestation that they will not return to armed group-controlled territory until the “epidemiological situation improves”. People can enter territory controlled by ‘Donetsk people’s republic’ if they have residence registration in territory controlled by the self-proclaimed ‘republic’ and appear on the preapproved list of the ‘interdepartmental operational headquarters for preventing the spread of COVID-19’, which issues decisions with much delay. They also have to pass a COVID-19 test at the EECP at their own expense or undergo an obligatory two-week observation in a hospital.

¹⁴ The court judgement is available at <https://reyestr.court.gov.ua/Review/89403624>.

¹⁵ The court judgement is available at <https://reyestr.court.gov.ua/Review/92868273>.

¹⁶ OHCHR meetings with residents of Netailove, Nevelske, Pervomaiske, Mykolaivka and Novohnativka and representatives of the NGO *Proliska* who work in these and other villages along the contact line in Donetsk region, 9 and 10 April, 21 May 2020.

¹⁷ According to a study by national NGO *Right to Protection*, in 2019, on average, 70.5 per cent of people crossing the contact line from armed group-controlled territory did so to access pensions or other social payments. The percentage of women interviewed was almost twice as high as men – 66 per cent. Among persons aged 60 or older, who comprised 65 per cent of those who crossed the contact line, 88 per cent crossed to confirm their registration as internally displaced persons (IDP) in order to continue receiving their pension. This means that out of 539,000 monthly crossings from

meeting their basic needs,¹⁸ particularly given that access to basic services in armed group-controlled territory has not improved.¹⁹

25. OHCHR notes that Oshchadbank has prolonged the validity of bank cards which are also used as an identification document for internally displaced pensioners, until 1 January 2021, relieving those residing in armed group-controlled territory from the hardship of crossing the contact line every six months for the obligatory identification process.²⁰ However, this is a temporary measure lasting until one month after the quarantine expires. OHCHR reiterates its call for the Government to de-link access to pensions from registration as internally displaced.

Access to healthcare

“My children tell me to quit. But how can I? Nobody would replace me here.”

– A doctor working in a village on the contact line, November 2020.

26. Restrictions on freedom of movement also negatively affected access of residents of conflict-affected areas to healthcare services and medicine, which was one of the main reasons cited by civilians for crossing the contact line on both directions, along with visiting relatives, accessing markets and shops, and receiving pensions.²¹ Although armed groups in territory controlled by ‘Donetsk people’s republic’ included medical treatment as one of the reasons for granting permission to cross the contact line on humanitarian grounds, in practice many people were nevertheless denied such access.

Access to work and other sources of income

27. The COVID-19 lockdown particularly affected individuals who needed to cross the contact line for work or to access sources of livelihood, as they could no longer cross regularly. Although armed groups of ‘Donetsk people’s republic’ consider employment on the other side of the contact line as humanitarian grounds for crossing, this only applied to permanent employment.

Access to education

28. To mitigate the impact of restrictions on freedom of movement on access to education, the Government allowed, from 11 July 2020, students residing in territory controlled by self-proclaimed ‘republics’ and in Crimea to enrol in any university in Government-controlled territory free of charge, without undergoing an external independent examination, the state university entrance examination normally required for school graduates.²²

armed group-controlled territory to Government-controlled territory, on average in January-February 2020, an estimated 308,000 crossings were by pensioners who travelled to access their pensions. See the study, available at https://r2p.org.ua/wp-content/uploads/2020/06/eecp-report-annual-2019_p40.pdf.

¹⁸ Although a considerable number of people residing in armed group-controlled territory travelled to Government-controlled territory through the Russian Federation in summer and autumn 2020, the associated costs for pensioners were disproportionately high compared with the pensions they would have received, and it is highly unlikely that pensioners have resorted to this opportunity in large numbers.

¹⁹ For more details, see. OHCHR *Report on the human rights situation in Ukraine covering the period from 16 November 2018 to 15 February 2019*, para. 29, available at www.ohchr.org/Documents/Countries/UA/ReportUkraine16Nov2018-15Feb2019.pdf.

²⁰ Since 2014, the Government of Ukraine has obliged all pensioners to provide a certificate testifying their status as an IDP to access their pensions and social entitlements. As a result, pensioners residing in armed group-controlled territory were forced to register as IDPs in order to receive their pensions in Government-controlled territory. The Government also obliged IDPs to pass an identification process in person at the state-owned Oshchadbank: every six months for those who have a combined pensioner ID and bankcard and every three months for those who still have a paper-based pensioner’s identity card in order to access their pension. Unlike other pensioners in Ukraine, IDP pensioners can only receive their pensions in an account linked to a card issued by Oshchadbank.

²¹ OHCHR documented cases when civilians crossed the contact line for healthcare purposes and were unable to cross back due to crossing restrictions.

²² According to the amendments to the Law of Ukraine ‘On Higher Education’ of 3 July 2020 (entered into force on 11 July 2020).

“My son died in Donetsk and I couldn’t say goodbye to him. He raised two children alone. My grandchildren could be taken to an orphanage, if I am unable to get there.”

- An older woman unable to cross the contact line to Donetsk (armed group-controlled), June 2020.

“I have two small children and haven’t been able to return to my husband for five months already. He didn’t get to see his son’s first steps.”

- A woman with her two children unable to cross to armed group-controlled territory, July 2020.

29. In 2019, 69 per cent of people who crossed the contact line from Government-controlled territory to armed group-controlled territory, and 16.7 per cent of those who crossed in the opposite direction, did so to visit relatives.²³ In absolute figures, this amounted to hundreds of thousands of crossings a month. Often, people crossed to take care of older relatives or those with disabilities. With COVID-19-related restrictions, this became more difficult. For example, OHCHR spoke with a woman in her sixties who, in June, waited more than 24 hours in the heat at the Stanytsia Luhanska EECF to try to cross to armed group-controlled territory. The woman had been working in Kyiv but would regularly cross to armed group-controlled territory to take care of her bedridden mother. She had lost her job due to the COVID-19 crisis and wanted to be with her mother, but armed groups did not let her through.²⁴

B. Impact of COVID-19-related freedom of movement restrictions in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation

Restrictions imposed by the Government of Ukraine

30. In March 2020, the Government of Ukraine temporarily closed all three crossing points at the ABL with Crimea.²⁵ 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’, which included family reunification, death or serious illness of relatives, healthcare and other reasons. The restrictions were lifted in June 2020 and then reinstated in August 2020. On 28 August 2020, all three crossing points were reopened.

31. OHCHR received credible information from multiple sources indicating that the Ukrainian Border Service officials did not always apply “humanitarian grounds” in a consistent and transparent manner. In one documented case, the Ukrainian Border Guard Service denied entry to mainland Ukraine to a 58-year-old Ukrainian citizen with a registered address in Crimea, despite having written evidence of his lawful residence in the Kyiv region, while his son who accompanied him was allowed to cross the ABL. The man spent nearly 25 hours at the ABL before he had to return to Crimea together with 11 other travellers. The man then received a written notice from the Russian Border Guard Service stating that he had exercised his right to leave²⁶ ‘Russian territory’ and further attempts to cross ‘the state border’ would be qualified as a criminal offence.²⁷

²³ Right to Protection, *Crossing the contact line: Annual Report 2019*, available at https://r2p.org.ua/wp-content/uploads/2020/06/eecp-report-annual-2019_p40.pdf.

²⁴ OHCHR interview, 12 June 2020.

²⁵ See for example, Cabinet of Ministers regulations No. 291-p of 14 March 2020 and No. 979-p of 8 August 2020 with subsequent amendments.

²⁶ For an explanation of this rule, see paras. 32-33.

²⁷ OHCHR interview, 13 August 2020.

Restrictions imposed by the Government of the Russian Federation

32. In response to the COVID-19 pandemic, starting from March 2020, Russian Federation authorities implemented a number of regulatory measures effectively restricting freedom of movement of Ukrainian citizens across the ABL.²⁸ Subject to limited exceptions, Ukrainian nationals without Russian Federation passports or resident permits in Crimea were restricted in their right of entry to the peninsula, while those Ukrainian citizens who also hold Russian passports and are thus considered Russian citizens by the Russian Federation authorities in Crimea were banned from travelling from Crimea to mainland Ukraine. OHCHR notes that while international human rights law provides for restrictions to freedom of movement in cases related to the protection of public health, some measures imposed by the Russian Federation authorities in Crimea, in particular the ban on Ukrainian citizens to travel from Crimea to mainland Ukraine, appear disproportionate, discriminatory and excessive.²⁹

33. Although the list of exceptions for crossing the ABL set down by the Russian Federation authorities includes various humanitarian grounds (such as death of a close relative, medical assistance, education), some of these grounds can be lawfully applied only once. For instance, Ukrainian citizens, considered Russian citizens by the Russian Federation authorities in Crimea, were allowed to leave the peninsula for the purposes of education or employment or to provide care for close relatives in mainland Ukraine only once during the pandemic.³⁰

34. In August 2020, OHCHR received information concerning a group of around 20 prospective students wishing to study in mainland Ukraine who were denied exit from Crimea by Russian Federation authorities implementing this rule. The students had already travelled to mainland Ukraine once, to pass the external independent evaluation.³¹ OHCHR is concerned that travel restrictions at the ABL could be disproportionately impacting young persons who secured university places in mainland Ukraine in July 2020.

35. COVID-19-related restrictions have also negatively affected Ukrainian citizens living in mainland Ukraine who own property in Crimea. On 20 March 2020, the President of the Russian Federation issued Decree No. 201 implementing changes into the list of territories considered ‘border areas’ of the Russian Federation. In particular, 19 territories in Crimea (including many big cities such as Simferopol, Yalta, Sudak, Feodosiia and others) and eight territories in Sevastopol were added to the list. Only Russian citizens or Russian companies may own land in border areas, however over 82 per cent of the land plots in the added territories were owned by Ukrainian citizens.³² Unless the owners obtain Russian citizenship or dispose of their land by March 2021, they risk losing their land through forced sale or nationalization. However, COVID-19-related restrictions imposed by the Russian Federation authorities in Crimea at the ABL prevented owners without Russian Federation passports from entering Crimea to sell their properties. In addition, those who own property in Crimea and reside in mainland Ukraine cannot make payments for utilities³³ and fear that their properties could be nationalized in view of accumulated debt.

36. In July 2020, the Border Service of the FSB announced that they would not allow Crimean residents holding both Ukrainian and Russian passports to use their Ukrainian passport

²⁸ See for example, Resolution of the Government of the Russian Federation No. 635-p of 16 March 2020 and Resolution of the Government of the Russian Federation No. 763-p of 27 March 2020 with subsequent amendments.

²⁹ Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected. See Human Rights Committee, General Comment No. 27, Article 12, Freedom of movement, 2 November 1999, para. 14, CCPR/C/21/Rev.1/Add.9.,

³⁰ According to information received by OHCHR, in some cases Russian Federation Border Guards allowed individual travelers to use the same humanitarian ground twice.

³¹ OHCHR interview, 13 August 2020.

³² On 13 April 2020, the State Committee on State Registration and Cadaster of Crimea reported that 11,572 land plots within “border areas” in Crimea belong to foreign citizens and 9,747 of them belong to Ukrainian citizens.

³³ Online utility payments services in Crimea are not fully developed and most people are required to go to a post office or local bank in Crimea in person and show their “platyozhka” to the cashier. Even where limited online services are available, only holders of Russian credit cards can use them. Furthermore, Ukrainian banks restrict payments to banks operating in Crimea.

for exiting Crimea to mainland Ukraine through the ABL.³⁴ It was announced that any attempt to present one's Ukrainian passport at the crossing point would be subjected to administrative liability and a fine and a prohibition to exit the peninsula. This stems from the approach of the Russian Federation authorities to limit the number of Russian citizens leaving the territory of Crimea due to COVID-19 travel restrictions. Despite the Ukrainian nationality of many Crimean residents, they are treated strictly as Russian citizens in the application of these rules. OHCHR documented two cases when citizens of Ukraine were fined for presenting their Ukrainian passports at the ABL.

37. Approximately 30,000 legal residents in Crimea do not hold Russian citizenship.³⁵ Such persons, which include citizens of Ukraine, are considered 'foreigners' and can only leave the peninsula without the possibility of returning during the pandemic. Such restrictions are *prima facie* incompatible with Article 12.1 of the ICCPR, which provides that everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement.³⁶

38. As a result of the restrictions on freedom of movement, the number of crossings through the ABL with Crimea in both directions from March to September 2020 decreased by almost 90 per cent in comparison with the same period last year.³⁷ However, this number includes individuals who were allowed to cross the ABL by the Ukrainian Border Service but denied entry to Crimea by the Russian Federation authorities and, thus, had to return to mainland Ukraine.³⁸

V. COVID-19 in detention facilities



"Onions and garlic are the only medicine available to detainees."

– A Crimean lawyer commenting on the medical care available for detainees with flu symptoms in the Simferopol SIZO, March 2020.

A. In Government-controlled territory

39. Detainees and prisoners are particularly vulnerable to COVID-19. In March 2020, the Government of Ukraine adopted a set of measures to help prevent the spread of COVID-19 in penitentiary institutions.³⁹ The Government did not adopt early release programs for older persons and those with underlying health conditions, nor alternatives to detention to reduce the health risks associated with the COVID-19 pandemic among detainees.

40. OHCHR therefore urges the Ministry of Justice to strengthen protection and prevention measures among penitentiary staff, medical personnel and inmates, including by testing all suspected cases of COVID-19 among detainees.

³⁴ РИА Новости Крым, "В ФСБ разъяснили, как выехать из Крыма на Украину и не заплатить штраф" [Ria News Crimea, "The FSB explained how to leave Crimea for Ukraine without paying a fine"], 2 July 2020, available at <https://crimea.ria.ru/society/20200702/1118462447/V-FSB-razyasnili-kak-vyekhat-iz-Kryma-v-Ukrainu-i-ne-zaplatit-shtraf.html>.

³⁵ According to Russian Federation statistics, as of 31 December 2019, 31,796 individuals were legally residing in Crimea without Russian Federation citizenship. See interim report of the Secretary General, *Human rights situation in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine*, (A/HRC/44/21), para. 45, available at <https://undocs.org/en/A/HRC/44/21>.

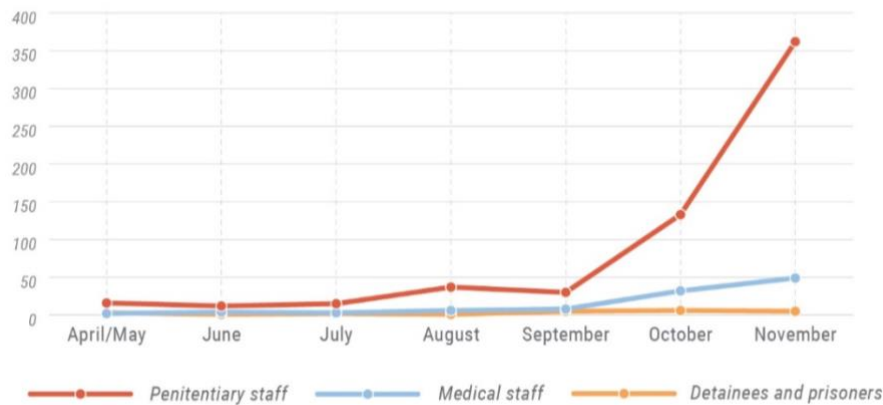
³⁶ The UN General Assembly has affirmed the territorial integrity of Ukraine, within its internationally recognized borders, in Resolutions 68/262, 71/205, 72/190, 73/263 and 74/168.

³⁷ According to the information provided by the Representative of the President of Ukraine in Crimea, 1,829,139 crossings across the ABL took place during March to September 2019 and 191,705 during March to September 2020.

³⁸ For instance, during 1 to 7 July 2020, the Russian Federation authorities denied entry to Crimea to 355 Ukrainian citizens. See Крым.Реалии, "В Крым – с украинским паспортом. Пересечение админграницы" [Crimean Realities, "Getting to Crimea with a Ukrainian passport - crossing the ABL"], video, 6 July 2020, available at <https://youtu.be/X3MnSegMyuw>.

³⁹ For more details, see OHCHR, *Report on the human rights situation in Ukraine covering the period from 16 February to 31 July 2020*, para. 64.

COVID-19 CASES IN THE PENITENTIARY SYSTEM IN 2020, GOV'T-CONTROLLED TERRITORY



Creation Date: 2 December 2020 Source: OHCHR HRMMU

41. The COVID-19 pandemic exacerbated pre-existing deficiencies in healthcare in pre-trial detention facilities and penal colonies, such as a lack of specialized medical care, including sexual and reproductive health services, and a shortage of psychologists.⁴⁰ In addition, transfers of prisoners and detainees to hospitals were delayed due to COVID-19-related restrictions.

42. Family contact was also limited due to restrictions imposed on long visits.⁴¹ In December 2020, the Government passed a decree regulating long visits.⁴² Such visits are allowed, but only if the relative(s) pass a COVID-19 polymerase chain reaction (PCR) test and provide documentation confirming payment for a COVID-19 test for their detained relative after the visit, and if premises to isolate prisoners are available in the penitentiary facility. Short-term visits may take place behind glass partitions, however, OHCHR received complaints regarding the poor conditions of meeting areas and lack of available PPE (hand sanitizers, masks and gloves).

B. In territory controlled by self-proclaimed ‘republics’

43. Due to the absence of access to places of detention in territory controlled by self-proclaimed ‘republics’, OHCHR possesses only fragmented information on the impact of COVID-19 there. Information received indicated that detainees were not provided with adequate healthcare services and PPE in places of detention in both self-proclaimed ‘republics’. In particular, there were concerns regarding lack of information about the health status of detainees and prisoners provided to families, significant shortage of essential medicines and healthcare staff in detention facilities, and lack of access to external medical specialists and institutions for detainees, even those suffering from critical medical conditions.

44. OHCHR received reports of a lack of PPE in penitentiary facilities in territory controlled by ‘Donetsk people’s republic’. In some facilities, those in charge of the facilities required detainees and prisoners to disinfect premises, but did not provide them with disinfectants. According to the ‘ministry of justice’ of ‘Donetsk people’s republic’, a ban on

⁴⁰ Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/HRC/40/59/Add.3, paras.42-43.

⁴¹ According to Ukrainian legislation, prisoners have the right to short visits of up to four hours and long visits for up to three days. Short-term visits with relatives or other persons occur in the presence of a penal colony representative. Long visits are intended for people with close relatives (spouses, parents, children, etc.) whom the prisoner lives with for that period of time.

⁴² Міністерство юстиції України, Уряд підтримав постанову, якою врегулюється питання надання довгострокових побачень в установах виконання покарань [Ministry of Justice of Ukraine, “The Government supported a resolution that regulates granting of long visits in penitentiary facilities”], 3 December 2020, available at www.kmu.gov.ua/news/olena-visocka-uryad-pidtrimav-postanovu-yakoyu-vregulovuyetsya-pitannya-nadannya-dovgostrokovih-pobachen-v-ustanovah-vikonannya-pokaran.

receiving visits and parcels was introduced in October 2020 as a temporary measure in all detention facilities (with approximately 6,000 detainees).⁴³

45. In territory controlled by ‘Luhansk people’s republic’, OHCHR received reports that those in charge of detention facilities concealed information regarding the spread of COVID-19 in their facilities. Detainees with COVID-19 symptoms received a diagnosis of pneumonia or acute respiratory infection. OHCHR was also informed that two penitentiary staff of Makiivka penal colony No. 97 died due to COVID-19.⁴⁴ Adequate medical assistance and PPE are reportedly not available in detention facilities, and detainees must sew masks from bed linen.

C. In the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation

46. OHCHR is concerned about the impact of COVID-19 measures on detainees in pre-trial detention centre No. 1 in Simferopol, the only SIZO in Crimea, which remains extremely overcrowded.⁴⁵ Despite its official capacity to accommodate 747 detainees, the average population during 2019 was 1,164 (no gender disaggregated data is available). Lawyers in Crimea complained to OHCHR that quarantine restrictions led to a reduction of visits with their clients, and that detainees were prohibited from meeting with relatives. Lawyers also told OHCHR that detainees were usually not provided with PPE when being transported from the SIZO to court hearings, putting them and the escorting personnel at risk of infection.

VI. Impact of COVID-19 on fair trial rights



“Nowadays, defence lawyers are welcomed neither in courts for ordinary hearings, nor for remote video-hearings, nor in SIZOs to meet their clients.”

– A lawyer from Donetsk region commenting on the impact of quarantine measures, April 2020.

47. As part of COVID-19 restrictions, the Government implemented measures to ensure the safety of court personnel and premises, which in certain cases have not been accompanied by adequate safeguards to ensure the rights of individuals to a fair trial and access to justice. On 27 March 2020, the High Council of Justice provided recommendations to courts regarding modalities of operation during the quarantine, including to restrict access of individuals who are not party to any proceedings to courts and to receive documents in digital form. Results of an online survey conducted by OHCHR of 121 lawyers practicing in different regions of Ukraine⁴⁶ suggest that some courts applied the recommendations in a manner that created undue barriers in accessing justice. Among them were lack of access to court registries and case files, and delays in trials, which in some cases were caused by judges who persuaded parties to motion for the postponement of hearings. Lawyers also complained about the poor functionality of the digital court system.

⁴³ ‘Министерство юстиции Донецкой народной республики’, “Профилактика коронавирусной инфекции в учреждениях исполнения наказаний (видео)” [‘Ministry of Justice of Donetsk people’s republic’, “Prevention of coronavirus infections in penitentiary facilities (video)”], 14 October 2020, available at <https://minjust-dnr.ru/blog/2020/10/14/profilaktika-koronavirusnoj-infektsii-v-uchrezhdeniyah-ispolneniya-nakazaniy>.

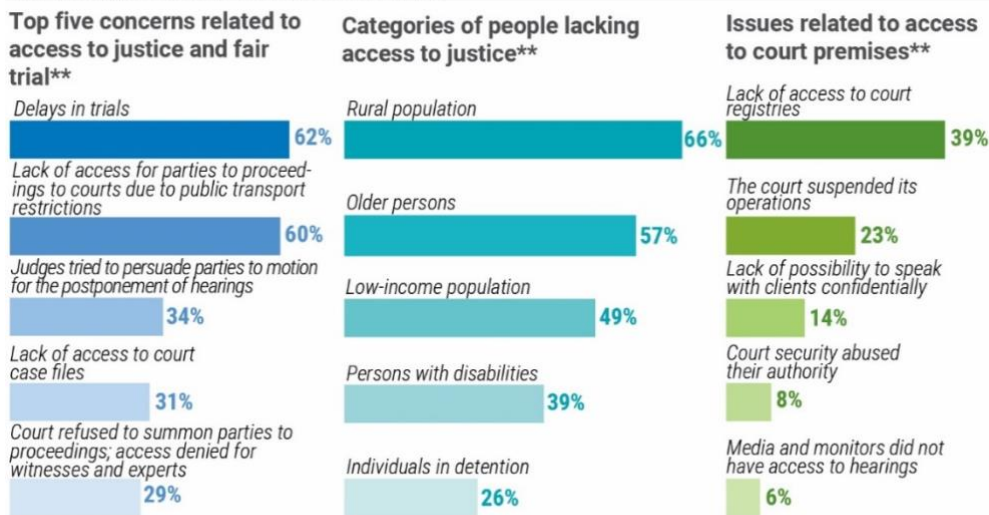
⁴⁴ OHCHR interview, 13 October 2020.

⁴⁵ See interim report of the Secretary General, *Human rights situation in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine*, (A/HRC/44/21), para. 21.

⁴⁶ See OHCHR *Report on the human rights situation in Ukraine, 16 February – 31 July 2020*, para. 70.

ACCESS TO JUSTICE IN THE CONTEXT OF COVID-19 QUARANTINE RESTRICTIONS

Fair trial rights concerns as indicated by lawyers*



Creation Date: 7 September 2020
Source: OHCHR HRMMU

* Total of 121 lawyers practicing in eight different regions of Ukraine participated in online survey conducted by HRMMU, of which 77 provided secondary free legal aid.
** Data represents those respondents who experienced or observed the concern/issue.

48. Journalists covering judicial proceedings complained to OHCHR about the lack of access to court hearings and violation of the guarantee to a public trial.⁴⁷ They also said that after the Government partially lifted restrictions in May 2020, many courts continued to employ a strict ban on the presence of observers in courtrooms, including journalists, even where premises allowed for safe distancing. This practice differed from one court to another, with no clear rules in place.⁴⁸

49. On 30 March 2020, Parliament amended legislation to extend deadlines to apply for court proceedings during the COVID-19 quarantine and to allow for participation via videoconference in civil, administrative and commercial proceedings to reduce the need for physical presence of parties to the proceeding in court.⁴⁹ By-laws initially introduced for technical implementation of the legislative amendments only allowed for remote participation in trials by individuals possessing digital signatures, however following joint advocacy by OHCHR, members of Parliament and civil society, they were revised to increase access for individuals who could not obtain digital signatures.⁵⁰ According to the State Judicial Administration, between 1 April and 30 November 2020, courts held 37,860 online hearings with individuals participating virtually.⁵¹

VII. Leave no one behind – impact of COVID-19 on groups in vulnerable situations



50. Persons belonging to groups that are marginalised and in situations of vulnerability are at increased risk of being left behind during any crisis, which often exacerbates existing inequalities and vulnerabilities. Those who already faced limited enjoyment of the rights to health, work, education, social protection and an adequate standard of living before the pandemic, such as Roma, homeless persons, persons with disabilities and older persons,

⁴⁷ OHCHR interviews, 26 June 2020, 8, 9 and 16 July 2020.

⁴⁸ In September 2020, OHCHR provided its recommendations in relation to the right to a public hearing amidst the COVID-19 pandemic to the High Council of Justice. On 9 November 2020, the acting Head of Pecherskyi district court of Kyiv adopted a regulation on the court's operation during quarantine which provided for access of journalists to court hearings under certain preventive conditions, in line with OHCHR's recommendation.

⁴⁹ See the Law of Ukraine 'On amending certain legal acts of Ukraine aimed at ensuring additional social and economic guarantees in relation to spread of coronavirus disease (COVID-19)' No. 540-IX. Before the amendments, legislation only allowed for participation in court hearings via videoconference from the premises of another court.

⁵⁰ See Decision of the High Council of Justice 'On access to justice during the pandemic of acute respiratory viral infection COVID-19, caused by coronavirus SARS-CoV-2', available at <https://hcj.gov.ua/doc/doc/2412>

⁵¹ Information provided by the State Judicial Administration on 2 December 2020.

especially those in institutions, have been disproportionately affected by COVID-19. The pandemic also created new vulnerabilities among healthcare and frontline or essential workers and persons infected with COVID-19 and their relatives. The Government's response and recovery measures should take into account the needs of persons belonging to marginalised and disadvantaged groups without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. This obligation is set out in both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civic and Political Rights (ICCPR). The commitment under the 2030 Agenda to leave no one behind and reach those furthest behind first also underlines the need to prioritize those most vulnerable and ensure that interventions reach them.

51. Women and girls, particularly those who belong to marginalized groups, have been disproportionately affected by the pandemic, including due to an increase in domestic violence⁵² and in unpaid care work, reduced access to employment compared to men,⁵³ and persisting gender discrimination in workplace.⁵⁴ OHCHR is also concerned about the effects of the pandemic on the work of women, which also impacts women human rights defenders (WHRD), in particular, increased caregiving responsibilities and reduced salaries due to transfer to online work.⁵⁵

52. It is the duty of the Government to ensure social protection to those at risk, especially during periods of crisis. The Government's changes to social support for single-parent families with children introduced through Cabinet of Ministers Resolution No. 632 of 22 July 2020 therefore raise particular concerns.⁵⁶ The resolution limits the payment of social assistance for single parents, 93 per cent of whom are women,⁵⁷ to those who meet a number of criteria, notably the requirement to have formal employment, be a single social taxpayer or be a registered job seeker for at least three months. This approach provides targeted, rather than universal coverage.⁵⁸ It can be considered a retrogressive measure that may violate the ICESCR and goes against the social protection target as set out in SDG 1 (target 1.3).⁵⁹ Furthermore, these requirements disproportionately affect Roma women, internally displaced women, women with disabilities, and women residing in conflict-affected and rural areas who have limited access to formal employment and administrative services, or difficulties navigating complex

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- ⁵² See UN Women, *Rapid gender assessment of the situation and needs of women in the context of COVID-19 in Ukraine*, May 2020, available at www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2020/06/rapid%20gender%20assessment_eng-min.pdf?la=en&vs=3646.
- ⁵³ According to Government data, women were twice less likely to find a job during the pandemic than men. See JurFem, *Вплив COVID-19 на права жінок в Україні [Impact of COVID-19 on the rights of women in Ukraine]*, November 2020, p. 20, available at www.ua.undp.org/content/ukraine/uk/home/library/democratic_governance/covid-impact-on-women-rights-in-ukraine.html.
- ⁵⁴ UN Women, *Rapid gender assessment*, pp. 19-20.
- ⁵⁵ Results from a desk review, interviews and focus group discussions conducted as part of a mapping of the situation of women human rights defenders (WHRD) in Ukraine, carried out jointly by OHCHR and UN Women.
- ⁵⁶ On 22 July 2020, implementing the law 'On Government support for families with children', the Cabinet of Ministers issued resolution No. 632 setting out the procedure to receive the government support covered in the law. In short, according to Art. 35(2), a single parent cannot receive financial aid for children older than three, if a member of the household (including the parent) that is older than 18, does not have official employment/entrepreneurial activity, is not involved in army service/full-time education programme, or is not officially registered as unemployed/job seeker at least for the last three months. The only exceptions are if the member has paid a single social contribution for at least three months or if the children are under three or have a disability or care for persons with a level 1 or 2 disability (only in case of psychosocial disorders) or persons aged over 80.
- ⁵⁷ State Statistics Service of Ukraine, *Social and Demographic Characteristics of Households of Ukraine*, Kyiv, 2020, p. 17, available at www.ukrstat.gov.ua/druk/publicat/kat_u/2020/zb/07/zb_cdhd_20.pdf.
- ⁵⁸ Information provided to OHCHR by the Government confirms that the amendments were introduced to ensure more targeted assistance and to incentivise working-age family members to seek work.
- ⁵⁹ A retrogressive measure means a deterioration of the existing protection of economic, social and cultural rights. As stated by the Committee on Economic, Social and Cultural Rights in its General Comment No. 3, any deliberately retrogressive measure "would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources". Retrogressive measures cannot be solely justified on the basis of an emergency.

procedures due to lack of education or illiteracy. These women usually suffer from intersecting forms of discrimination, added to which is the double burden of household and child care caused by the closure of schools due to the pandemic, which further limits their opportunities for formal employment.⁶⁰

A. Discrimination, violence and manifestations of intolerance

“If earlier, neighbors simply did not pay attention to the fact that LGBTI couples live next to them, now people are angry and looking for someone to blame.”

– An LGBTI activist from Kryvyi Rih, May 2020.

53. OHCHR is concerned about acts of violence, incidents of hate speech, and discriminatory acts towards different groups, including persons (potentially) infected by the virus,⁶¹ LGBTI,⁶² Roma,⁶³ homeless persons⁶⁴ and healthcare workers,⁶⁵ as a direct or indirect consequence of the COVID-19 pandemic. In a number of instances, public authorities were themselves responsible for hate speech and discriminatory acts.⁶⁶

54. Although there is no direct evidence that violence against homeless persons was triggered by the pandemic, the systematic neglect of persons living in homelessness during the COVID-19 crisis, including the lack of sufficient number of shelters and the lack of protection

⁶⁰ During the first half of 2020, 62 per cent of working age women were employed compared to 70 per cent of working age men, according to the State Statistic Service data, available at www.ukrstat.gov.ua/operativ/operativ2020/rp/eans/znsmv2020_ue.xls.

⁶¹ On 20 February 2020, in Poltava region, protests escalated into violence against the arrival of people evacuated from Wuhan, China who were to be quarantined for 14 days in a medical centre in Novi Sanzhary, Poltava region. Protesters sought to prevent the evacuees from being quarantined in their region, fearing the spread of COVID-19 and threw stones at the buses carrying them and at law enforcement agents. The aggressive behavior prompted negative reactions from the public, including on social media. On 3 March 2020, the wife of the first person in Ukraine diagnosed with COVID-19 was hospitalised in Chernivtsi, despite neither testing positive for COVID-19 nor showing any symptoms. This occurred after residents of the family’s building protested against her presence.

⁶² On 22 March 2020, in a TV interview, the leader of the Ukrainian Orthodox Church of the Kyiv Patriarchy, Patriarch Filaret, stated that same-sex marriages and gender education were among the causes of COVID-19.

⁶³ See HRMMU *Briefing Note on the Impact of COVID-19 Pandemic on Roma communities in Ukraine*, Kyiv, 15 May 2020, available at www.un.org.ua/images/documents/4932/BN%20C19%20Roma%20ENG.pdf.

⁶⁴ On 15 September 2020, the Prosecutor’s Office of Lviv reported the brutal beating to death of two homeless men, see https://lviv.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=280157&fbclid=IwAR2fn43q8M3yF7PecBB2xOehgQ2Wb3N7LLEDBurkUFV8qs0UrJoglb-94EM. In September 2020, Kyiv’s Prosecutor’s Office reported incidents of systematic beatings and torment of homeless persons between 15 August and 5 September 2020, and the beating and strangulation of a homeless man on 19 September 2020. In all these cases, the perpetrators filmed their action and, in two cases, they also shared it on social media. See Київська міська прокуратура, Київська прокуратура повідомила про підозру групі осіб, які катували безпритульних людей та знімали свої дії на відео [Kyiv Prosecutor’s Office, The Prosecutor’s Office notified of suspicion a group of persons who tortured homeless persons and video-recorded it], 29 September 2020, available at https://kyiv.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=281051; Київська міська прокуратура, За клопотанням Прокуратури підозрюваного у вбивстві безпритульного взято під варту [Kyiv Prosecutor’s Office, Upon the Prosecutor’s Motion, the suspect in the murder of a homeless person has been put in custody], 22 October 2020, available at www.facebook.com/kyiv.gp.gov.ua/photos/a.1069664709711557/3902945829716750. See also HRMMU *Briefing Note on the Impact of COVID-19 and its prevention measures on homeless people in Ukraine*, 16 June 2020, available at www.un.org.ua/images/documents/4970/Briefing_Note_Homeless_People_ENG.pdf.

⁶⁵ On 19 March, a conflict occurred in Mariupol between neighbours in a multi-story apartment building. Some residents demanded that a nurse in a children’s clinic leave her home and find another apartment, fearing she might spread COVID-19. Allegedly, this clinic was intended to be reassigned to treat COVID-19 patients.

⁶⁶ For example, on 21 April, the Mayor of Ivano-Frankivsk openly demanded that law enforcement agencies forcefully evict or apprehend Roma who refused to move to another region voluntarily. The mayor later publicly apologized, adding that his reaction was caused by “blatant” violations of quarantine restrictions by the group. The incident is being investigated by National Police, initially classified as a hate crime (art. 161 of the Criminal Code of Ukraine).

by law enforcement authorities contributed to the underreported yet widespread phenomenon of violence against homeless persons.⁶⁷

55. The number of reports of domestic violence cases, mainly against women, received by various hotlines increased during the pandemic.⁶⁸ According to an NGO survey of victims, unemployment and alcohol abuse were named as main factors of domestic violence, along with confinement in one space due to the quarantine.⁶⁹

56. Police responded by issuing administrative protocols and restraining orders against abusers, however they often do not have alternative housing possibilities and remain with the victims.⁷⁰ There is an insufficient number of shelters and specialized services for gender-based and domestic violence survivors. During the quarantine, many services for survivors were only provided remotely, which made them more difficult to reach for those living in rural or conflict-affected areas with poor or no Internet connection, and for those who could not safely leave their home

B. Impact of COVID-19 on Roma

“My kids have skipped school for the past two weeks because I don’t have money to pay for their school supplies. I had a little bit of money, but between buying school supplies or food, I chose to buy food.”

– A Roma woman from Toretsk, Donetsk region, October 2020.

57. Prior to the pandemic, Roma communities in Ukraine faced endemic discrimination and social exclusion, including lack of access to adequate healthcare, water and sanitation, food security and education. Their human rights situation further deteriorated following the implementation of anti-pandemic measures.⁷¹ Many Roma individuals employed in the informal sector, markets and seasonal work, both in Ukraine and abroad, lost their livelihoods. In order to survive, they engaged in low paid work dependent on contact with other people or involving travel that made physical distancing and self-isolation more difficult. Many Roma families do not have access to adequate housing and live in overcrowded households without access to running water and sanitation, making it difficult to comply with preventative hygiene measures. Lack of access to social security coupled with loss of income caused by quarantine measures, led to further marginalization and stigmatization of Roma. Roma persons without personal identification documents were particularly affected, because they lacked access to formal employment, pensions, social benefits and healthcare.

⁶⁷ OHCHR focus group discussions with civil society organizations providing support to homeless persons in Kyiv, 29 September and 23 October 2020.

⁶⁸ According to data from the Ministry of Social Policy, the number of registered complaints about domestic violence increased by nearly 50 per cent in the first nine months of 2020 compared to the same period of the previous year (142,279 complaints in 2020 compared to 94,990 in 2019). Out of these, 86.7 per cent were made by women, 0.8 per cent by children and 12.5 per cent by men. Greater public awareness of the problem of domestic violence following a broad information campaign may also have contributed to increased reporting.

⁶⁹ Right to Protection, *Карантин і домашнє насильство. Який між ними зв’язок? [The quarantine and domestic violence: What is the relationship between them?]*, 16 November 2020, available at <https://r2p.org.ua/karantyn-i-domashnye-nasylstvo-yakyj-mizh-nymy-zvyazok/?fbclid=IwAR3bBQ83klcML15lnb6tEPZDTR14mjsKGZw98TKjdOMFWdeYatac15Kklvc>.

⁷⁰ An NGO study shows, however, that during April-June 2020, their number was lower than during January-March 2020, before the pandemic. See JurFem, *Вплив COVID-19 на права жінок в Україні [Impact of COVID-19 on the rights of women in Ukraine]*, November 2020, p. 37-38, available at www.ua.undp.org/content/ukraine/uk/home/library/democratic_governance/covid-impact-on-women-rights-in-ukraine.html. Another NGO study conducted in Donetsk and Luhansk region shows an increase for the first nine months of 2020 compared to the same period in 2019. In Bakhmut district of Donetsk region, for example, the number of restricting orders grew by 2333 per cent, while the number of complaints on domestic violence grew by 162 per cent. Right to Protection, *Карантин і домашнє насильство. Який між ними зв’язок? [The quarantine and domestic violence: What is the relationship between them?]*, 16 November 2020, available at <https://r2p.org.ua/karantyn-i-domashnye-nasylstvo-yakyj-mizh-nymy-zvyazok/?fbclid=IwAR3bBQ83klcML15lnb6tEPZDTR14mjsKGZw98TKjdOMFWdeYatac15Kklvc>.

⁷¹ See HRMMU *Briefing Note on the Impact of COVID-19 Pandemic on Roma communities in Ukraine*, 15 May 2020.

58. Roma women and girls faced the risk of additional marginalization owing to intersectional discrimination.⁷² Roma women with children have been disproportionately affected by Cabinet of Ministers Resolution No. 632 (see above) that reduced coverage of social security payments for single parents.⁷³ In one case, OHCHR received allegations that a local branch of the state employment centre in Donetsk region refused to register as unemployed three Roma women. Without such registration, they were not eligible for restoration of social benefits as single parents, which they had received prior to the introduction of Resolution No. 632. Without social assistance, the Roma women faced difficulties in providing for their children's essential needs, including food and clothing, and in ensuring they could continue their education.⁷⁴ OHCHR notes that Roma girls are more likely to lose access to education than boys.⁷⁵

C. Impact of COVID-19 on older persons and persons with disabilities in long-term care facilities

"We don't need general recommendations from the Ministry. We need clear and detailed instructions about how we should act to prevent the spread of the infection. At the moment, it's the directors of facilities who have to develop such action plans themselves."

– Director of a public residential care facility for older persons in Ivano-Frankivsk region, November 2020.

59. Older persons and persons with disabilities in long-term care facilities are particularly vulnerable to COVID-19, due to their dependency on those who run and support these facilities, and the difficulty for carers and residents to practice physical distancing. OHCHR is particularly concerned about reports of the spread of COVID-19 in a number of public and private facilities for older persons and persons with disabilities. According to the Ministry of Social Policy, as of 2 December 2020, there were 798 confirmed active COVID-19 infections among clients and staff in public social care facilities, and 30 deaths and 2,422 recoveries.⁷⁶ OHCHR notes that the Government does not collect disaggregated data on COVID-19 infections in public facilities, nor any data at all in private facilities. OHCHR is also concerned about the lack of access to medical care for persons in care facilities with non-COVID-19-related health issues.

60. The most frequently-cited concerns of the Ombudsperson's Office following monitoring visits to public and private care homes for persons with disabilities and older persons, and psychiatric facilities, include the lack of information about COVID-19 provided in a language and manner that could be understood by residents, clear instructions for suspected COVID-19 cases and guidelines for when hospitalisation is required; insufficient PPE, especially for residents, and inadequate training of staff resulting in incorrect use of PPE; inappropriate disposal of used PPE, and insufficient disinfection and temperature screening measures, including an insufficient number of thermometers.⁷⁷ Staff at some facilities complained to OHCHR about reduced funding to purchase necessary hygiene items for persons with reduced mobility during the pandemic.

61. Persons in residential care institutions suffered from increased social isolation as all visits, including by family members, were banned since the beginning of the quarantine in

⁷² See UN Women, *Rapid gender assessment of the situation and needs of women in the context of COVID-19 in Ukraine*, May 2020, p. 58.

⁷³ See the Cabinet of Ministers resolution No. 632 Art. 35(2) from 22 July 2020 in the realization of the law 'On government support for families with children', available at www.kmu.gov.ua/npas/deyaki-pitannya-viplati-derzhavnanyi-socialnoyi-dopomogi-i220720-632.

⁷⁴ Based on numerous interviews with Roma women conducted by OHCHR in Donetsk, Kharkiv, Kyiv and Odesa regions.

⁷⁵ Roma families with traditional views undervalue the education of girls, and parents may therefore be less supportive of girls' participation in distant education or of their subsequent return to school. See HRMMU *Briefing Note on the Impact of COVID-19 Pandemic on Roma communities in Ukraine*, 15 May 2020.

⁷⁶ The Ministry's data includes residential and non-residential social care facilities. As of 2019, older persons constituted approximately half of the 40,801 adults who resided in public residential care facilities. See http://ukrstat.gov.ua/druk/publicat/kat_u/2020/zb/07/zb_szn_2019.pdf.

⁷⁷ See relevant reports at www.ombudsman.gov.ua/ua/all-news.

March 2020 until mid-November.⁷⁸ Some facilities adapted by arranging outdoor visits by relatives. In facilities which lack Internet and phone connections, residents lost all communication with family.⁷⁹ Overall, the lack of communication with relatives has negatively affected the psychological well-being of the residents, who often do not have access to mental and psychosocial support services, including those provided online.⁸⁰

62. The pandemic highlighted the need to develop comprehensive community-based support services that would enable persons with disabilities to live in the community rather than in institutions. This would also bring Ukraine in line with the United Nations Convention of the Rights of Persons with Disabilities and ensure equality and non-discrimination, liberty and security of persons with disabilities and their right to independent living.

D. Impact of COVID-19 on persons with disabilities in communities

“The [decision on the] closure of hospitals for the quarantine did not take into account the needs of those who require periodic hospital stays to maintain a normal life [...]. The reduced spending on social services has left people without vital technical means of rehabilitation and hygiene, which they are now forced to buy from a disability allowance of UAH 1,638 [\$58].”

– A respondent of OHCHR’s online questionnaire on the rights of persons with disabilities during the COVID-19 crisis, June 2020.

63. The COVID-19 crisis exacerbated existing institutional, attitudinal and environmental barriers that persons with disabilities face in exercising their rights and accessing basic services. During the pandemic, persons with disabilities found their access to healthcare, habilitation and rehabilitation services, education, social protection, work and employment further impeded. The COVID-19 crisis also exposed a large gap between social services that are available in the community and the real needs of persons with disabilities. The lockdown also further aggravated the isolation and exclusion of persons with disabilities in Ukraine.⁸¹

64. When the rise in COVID-19 infections in the autumn 2020 further strained available healthcare resources, persons with disabilities also faced greater difficulties in receiving emergency medical aid and COVID-19-related healthcare. It is important that no one is denied access to medical care based on a disability, in line with the Convention on the Rights of Persons with Disabilities (Art. 25).

65. Given the restrictions on OHCHR operations in territory controlled by self-proclaimed ‘republics’, OHCHR had only limited accounts of the impact of COVID-19 on persons with disabilities residing there. Persons with disabilities reported continued access to disability pensions and home-based care services during the pandemic, however, no additional measures were undertaken to protect persons with disabilities such as provision of PPE or COVID-19-related information targeting persons with disabilities.⁸² In territory controlled by ‘Donetsk people’s republic’, persons with disabilities also faced difficulties receiving non-COVID-19-related healthcare, and access to medicines deteriorated due to supply shortages in pharmacies and inflated prices.⁸³

⁷⁸ On 12 March, the Ministry of Social Policy recommended banning visits to social care institutions for older persons and persons with disabilities. On 2 April, the Cabinet of Ministers of Ukraine ruled to make such bans on visits obligatory. On 22 July 2020, the Government adopted Regulation No. 641 that bans visits to social care institutions for older persons, persons with disabilities and persons with intellectual and psychosocial impairments if the area is under the ‘yellow’ level of quarantine (and higher). On 11 November, the Government amended Regulation No. 641 to allow visits by legal representatives and relatives once a week, if they complied with prevention measures.

⁷⁹ See, for example www.ombudsman.gov.ua/ua/all-news/pr/rezultati-dotrimannya-prav-lyudini-v-umovax-karantinnix-zaxodiv-u-dniprovskij-filii-speczialnogo-zakladu-z-nadannya-psixiatrichnoi-dopomogi.

⁸⁰ As a rule, public residential care institutions do not employ a psychologist or a psychotherapist.

⁸¹ See HRMMU *Briefing Note on the Impact of the COVID-19 pandemic on persons with disabilities in Ukraine*, 5 October 2020, available at <https://ukraine.un.org/en/99869-briefing-note-impact-covid-19-pandemic-persons-disabilities-ukraine>.

⁸² OHCHR interviews, 11 November 2020.

⁸³ OHCHR interviews conducted from 10 to 16 November 2020.

E. Impact of COVID-19 on people living in homelessness

“In Zaporizhzhia, the only way for a homeless person to find shelter is to commit a crime and go to a prison.”

- A civil society activist from Zaporizhzhia commenting on the lack of shelters in the city, November 2020.

66. Persons living in homelessness faced barriers complying with COVID-19 prevention measures, and were disproportionately affected by COVID-19 response measures. Homeless women were particularly vulnerable due to intersectional discrimination, in particular sexual and gender-based violence. The pandemic further limited access of homeless men and women to healthcare services.⁸⁴ Homeless persons also often lacked access to COVID-19 testing and treatment, face masks and sanitizers. Because of the quarantine, persons living in homelessness faced further reductions in their already limited access to shelter,⁸⁵ food, water, and hygiene measures, which had a particularly negative impact on women due to menstrual needs. During the stricter quarantine measures in spring 2020, sources of income for homeless persons were diminished due to the closure of markets, waste recycling facilities and other places of business, while the closure of railway and bus stations reduced access to water for drinking and hygiene purposes. Any new lockdown measures imposed by the Government should mitigate against such negative impacts.

67. OHCHR is concerned that social services for homeless persons are unevenly spread across Ukraine because they depend on the good will and funding of local authorities. While six regions lack any municipal shelters for homeless persons, other regions only open their shelters in winter, or refused to accept new people due to the quarantine. In Mykolaiv region, the municipal shelter accepted only homeless men, excluding women. Although shelters took measures to prevent the spread of COVID-19, they often lacked the space needed to enable new arrivals to self-isolate. OHCHR welcomes efforts by the Kyiv City State Administration to collaborate with local civil society organizations to provide support to homeless persons, following the example of other regions.

F. Impact of COVID-19 on health workers

“In October, I received a 567 UAH [\$20] bonus for fighting COVID-19. Is this a joke?”

- A doctor from Zaporizhzhia commenting on bonuses for healthcare workers involved in the COVID-19 response, October 2020.

68. OHCHR is concerned about the lack of healthy and safe working conditions for frontline medical workers involved in the COVID-19 response, in particular due to shortages of PPE and lack of mental health and psychosocial support services. Healthcare workers, 83 per cent of whom are women,⁸⁶ also raised concerns about fair remuneration for their jobs, as average salaries in the health sector were significantly below average salaries for less qualified work. They further complained about the inconsistent approach and discrimination in payment of COVID-19-related and other temporary bonuses introduced by the Government for healthcare staff.⁸⁷ Only a small percentage of COVID-19 infections among healthcare workers were recognised as work-related, which negatively affected the right to compensation. OHCHR

⁸⁴ See HRMMU *Briefing Note on the Impact of COVID-19 and its prevention measures on homeless people in Ukraine*, 16 June 2020.

⁸⁵ In four regions, municipal shelters for homeless people did not accept new people due to the quarantine and, in three regions, homeless people had delayed and restricted access healthcare services for the mandatory medical examination required by the shelters to be admitted. During the spring lockdown, due to the closure of railway and bus stations where homeless persons took shelter, they found themselves on the streets.

⁸⁶ State Statistics Service, *Жінки і чоловіки в Україні. Статистичний збірник [Women and men in Ukraine. Statistical Collection]*, Kyiv, 2019, p. 61, available at https://ukrstat.org/uk/druk/publicat/kat_u/2019/zb/09/zb_gch2018.pdf

⁸⁷ Ambulance crews and family doctors who deal with suspected COVID-19 cases told OHCHR that they did not receive any COVID-19-related bonuses for their work. The bonuses introduced by the Government from September to December 2020 only includes healthcare workers with medical degrees, which excludes laboratory workers with non-medical degrees involved in the COVID-19 response as well as auxiliary staff such as hospital cleaners, accountants and statisticians.

recalls that the ICESCR, in particular Articles 6 and 7, guarantee the right to work and to the enjoyment of just and favourable conditions of work, including remuneration which provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value without distinction of any kind, a decent living for themselves and their families, safety and healthy working conditions, and rest and reasonable limitation of working hours. Article 9 guarantees the right to social security, in particular social insurance.⁸⁸ This is also in line with SDG 1 and SDG 8, notably target 8.5 on achieving full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.

69. Healthcare trade unions stated they were not effectively consulted about the Government's COVID-19 response measures in healthcare at the national and local levels, nor about the ongoing healthcare reform process. A pre-existing tri-partite socio-economic council, that serves as a platform for dialogue between policy-makers, employers and employees, has not been used for years. OHCHR is alarmed about cases of reprisals against whistle-blowers among healthcare workers who publicly exposed the poor preparedness of the healthcare sector for the COVID-19 crisis. Dangerous work conditions and inadequate wages and social security, including for work-related illness or disability, led to healthcare workers leaving their jobs, with an estimated 50,000 leaving in 2020.⁸⁹ Given that Ukraine faced a shortage of healthcare workers before the pandemic, the exit of healthcare staff is likely to have a negative effect on the right to health of the population, including access to and quality of essential services, as well as attainment of SDG 3.

70. During an early period of the pandemic, in May 2020, healthcare workers constituted nearly 20 per cent of all confirmed COVID-19 cases in Ukraine. By early December, this decreased to 5 per cent, which may partially be due to improved access to PPE. Eighty-four per cent of confirmed COVID-19 cases among healthcare workers are women, which is close to the percentage of women working in the healthcare sector.⁹⁰

71. OHCHR is concerned that the national commitment to contribute no less than five per cent of Gross Domestic Product (GDP) to the healthcare sector, which could be considered as a minimum core obligation for the right to health, is not being met,⁹¹ including in the draft State Budget Law for 2021,⁹² and that only 21.7 per cent of the special fund to fight COVID-19 was spent on healthcare.⁹³

VIII. Conclusions and recommendations

72. The world has faced an unprecedented health and socio-economic crisis in 2020. As in many other parts of the world, in Ukraine, the COVID-19 crisis exacerbated patterns of

⁸⁸ Social insurance generally involves compulsory contributions from beneficiaries, employers and, sometimes, the State, in conjunction with the payment of benefits and administrative expenses from a common fund. It aims to provide income to persons when they are no longer earning due to old age, sickness, injury or unemployment. See Committee on Economic, Social and Cultural Rights, General Comment No. 19, Article 9, The right to social security, 4 February 2008, (E/C.12/GC/19).

⁸⁹ According to the data of the Professional Union of Healthcare Workers of Ukraine. See Професійна спілка працівників охорони здоров'я України, *Лист Верховній Раді України щодо проекту Держбюджету 2021* від 16.11.2020 No. 03-03/261 [Professional Union of Healthcare Workers of Ukraine, *Letter to the Parliament of Ukraine on the State Budget Draft 2021*], 20 November 2020, available at

http://medprof.org.ua/novini/novini/?tx_ttnews%5Btt_news%5D=8261&cHash=be4070d64b.

According to the data of the State Statistical Service, the number of healthcare workers decreased from 777,000 in January 2020 to 735,000 in September 2020, see

http://www.ukrstat.gov.ua/operativ/operativ2020/gdn/Sok_ed/Sok_ed2020_u.xlsx.

⁹⁰ There have been 41,403 confirmed cases of COVID-19 and 361 deaths among healthcare workers, as of 5 December, according to the National Health Service of Ukraine. See <https://nszu.gov.ua/covid/dashboard>.

⁹¹ According to the Law of Ukraine 'On State Financial Guarantees of Healthcare Services to the Population' No. 2168-VIII from 19 October 2017, Art. 4 (5).

⁹² Ministry of Finance of Ukraine, 'У проєкті Держбюджету-2021 видатки на медицину зростуть до 4,2% ВВП, - Роман Єрмоличев' [In the draft State Budget-2021, expenditure on healthcare will increase till 4.2 per cent GDP - Roman Yermolychev], 25 September, available at www.kmu.gov.ua/news/u-proekti-derzhbyudzhetu-2021-vidatki-na-medicinu-zrostut-do-42-vvp-roman-yermolichyev.

⁹³ According to the analysis of the Government spending conducted by the NGO *StateWatch*. See <https://statewatch.org.ua/publications/kontrol-covid-vytrat-prezentatsiia-veb-platformy-statewatch/>.

discrimination, exclusion and inequalities that existed before the pandemic, and exposed existing weaknesses in the healthcare and social protection sectors. Conflict-affected populations, Roma, older persons and persons with disabilities, in particular those living in institutions, and homeless persons have been identified as the most vulnerable to the effects of the COVID-19 crisis. The pandemic also created new vulnerabilities, affecting the lives of thousands of healthcare workers involved in COVID-19 response, the vast majority of whom are women.

73. The COVID-19 crisis also presents an opportunity for Ukraine to build back better. OHCHR, along with the rest of the United Nations in Ukraine, have undertaken a number of assessments to measure the socio-economic impact of the COVID-19 crisis.⁹⁴ This serves to inform Ukraine and its partners of what needs to be done to ensure we leave no one behind when responding to this unprecedented crisis as well as outlining possible United Nations support to these efforts.

74. Informed by the above analysis, OHCHR urges the implementation of the following recommendations:

Regarding the freedom of movement:

To the Government of Ukraine:

- a) **Refrain from introducing harsher restrictions on persons crossing the contact line than those imposed on citizens of Ukraine crossing the state border;**

To self-proclaimed 'Donetsk people's republic':

- b) **Reopen all EECPs in Donetsk region to enable more civilians to cross the contact line every day;**
- c) **Remove restrictions to cross EECPs based on a person's place of registration or residence;**
- d) **Increase the transparency and effectiveness of processing of requests to cross the contact line by the 'interdepartmental operational headquarters';**
- e) **Abolish the practice of forcing people to sign a declaration that they will not return when they cross the contact line towards Government-controlled territory.**

To self-proclaimed 'Luhansk people's republic':

- f) **Remove restrictions to cross EECPs based on a person's place of registration or residence.**

In the context of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation, to the Government of Ukraine and the Government of the Russian Federation:

- g) **Ensure that crossings of the ABL with Crimea are quick, safe and dignified;**
- h) **If crossings are once again limited to humanitarian grounds, ensure that decision makers at the ABL (i) are transparent as to what factors guide them in assessing whether the exception of "humanitarian reasons" may or may not be granted in any given case, and (ii) provide clear reasons for any refusals;**
- i) **Refrain from (i) the ongoing practice of requiring Crimean residents to present a Russian Federation passport when allowing them to cross the ABL, and (ii) penalising individuals who present a Ukrainian passport;**
- j) **Lift the current restriction of "one exit only" and allow Crimean residents to travel between Crimea and mainland Ukraine more than once.**

⁹⁴ See United Nations Ukraine, *Assessment of the socio-economic impact of COVID-19 in Ukraine*, 2020, <https://ukraine.un.org/en/103300-assessment-socio-economic-impact-covid-19-ukraine>.

Regarding the situation of persons in detention and penitentiary facilities:

To the Government of Ukraine, self-proclaimed ‘republics’ and the Government of the Russian Federation:

- k) Make available testing for all suspected cases of COVID-19 among detainees;**
- l) Ensure people in detention enjoy access to urgent and specialized healthcare, without undue delays or complications, including for illnesses unrelated to COVID-19, and when necessary treatment is not available, including for prisoners with terminal illnesses, enable transfers to hospitals in a timely manner;**
- m) Put in place early release programmes for older persons or those who are particularly vulnerable to COVID-19, as a priority, given the specific risks they face. Consider alternatives to detention to reduce the health risks associated with the COVID-19 pandemic;**
- n) Ensure that restrictions on contact with the outside world are effectively replaced with alternative means of communicating with family and friends, including telecommunication and information technology means, and take necessary measures to mitigate the negative impact of such restrictions on the mental health of prisoners, including on women prisoners.**

Regarding the right to fair trial:

To courts and judicial authorities in Ukraine:

- o) Ensure that measures introduced to ensure safety of court premises and prevent spread of COVID-19 remain exceptional, temporary and accompanied by appropriate safeguards to protect the right to a fair and public hearing. In all instances, any such measures taken should be communicated promptly, clearly and accurately;**
- p) Ensure the right to a public trial through introduction of a transparent mechanism enabling journalists and monitors to be present in the courtroom when safe distancing and other measures preventing the spread of COVID-19 can be observed;**
- q) Continue development of digital tools providing for remote administration of justice;**
- r) Enhance planning of court hearings and ensure due procedural conduct of parties to the proceedings to minimize delays in trials caused by the COVID-19 pandemic.**

Regarding the rights of persons in vulnerable situations:

To the Government of Ukraine and local authorities:

- s) Create adequate fiscal space, including through progressive taxation, recalibration of the budget, and use of loans, to mitigate the impact of COVID-19 and increase investments in the health and social protection sectors. Provide state funding to healthcare at no less than five per cent of GDP as per national commitment;**
- t) Collaborate and systematically consult with civil society organizations that represent rights of diverse groups when designing and implementing COVID-19 responses and socio-economic recovery measures, and gather disaggregated data, including by sex, age, and disability status, on the situation of the social and economic rights of groups for which there is no currently reliable data, such as homeless persons, residents of informal settlements, and older persons;**
- u) Remove existing barriers and combat any discrimination in access to health services, including COVID-19 testing, treatment and future vaccination, on the ground of disability, age, race, ethnicity, gender, sexual orientation and gender identity, social status or other grounds;**

v) **Mitigate the impact of COVID-19 on Roma, homeless persons and persons with disabilities by implementing the recommendations set out in HRMMU’s briefing notes on the impact of the COVID-19 pandemic on the rights of Roma in Ukraine, on homeless persons, and on persons with disabilities in Ukraine;**

w) **Establish effective dialogue between trade unions of healthcare workers, and national and local authorities;**

x) **Improve standards of work of all healthcare staff, by ensuring, equally for women and men, decent pay, safe and healthy conditions of work, and access to social security, including the recognition of COVID-19 as a work-related illness and adequate compensation for it.**

To the World Bank and the IMF:

y) **Adopt a common definition and understanding of “vulnerable groups” based on the United Nations Country Team COVID-19 Socio-Economic Impact Assessment and informed by the human rights obligations of equality and non-discrimination, and monitor and assess the impact of the IMF conditionalities set out by the SBA on these groups to ensure that they are not further disadvantaged.**