

# UPDATE ON THE HUMAN RIGHTS SITUATION IN UKRAINE

1 February — 30 April 2021

## SUMMARY

This update focuses on key developments in the human rights situation in Ukraine, including in territory controlled by armed groups (AGCT) and in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, occupied by the Russian Federation (Crimea). It covers the period of 1 February to 30 April 2021. OHCHR will also issue its regular biannual report, covering the period of 1 February to 31 July 2021, in September 2021.

HRMMU welcomes the adoption of the new National Human Rights Strategy by the President of Ukraine on 24 March 2021.



*"We don't just work a lot. We work all the time," a nurse from Toretsk, Donetsk region, told us.*

The COVID-19 crisis continued to exacerbate existing inequalities and vulnerabilities, including amongst healthcare workers, negatively affecting the public's right to health. Increased reports of domestic violence due to the pandemic, disproportionately affecting women, were also concerning.

HRMMU continues to document attacks against human rights defenders, including women human rights defenders, media workers and political actors. Impunity for such attacks persisted, due to slow, or non-existent, police action.

HRMMU is concerned that a decision resulting in the closure of three TV news channels perceived as pro-Russian is not in line with international human rights standards.

HRMMU welcomes progress towards accountability for the abduction, torture and killing in a case related to the Maidan protests. Despite this positive step, full respect of fair trial rights remained an issue, with the continued unlawful use of the *in flagrante* exception for arrests, and lack of timely referral of cases to free legal aid centres by the Security Service of Ukraine (SBU).

In relation to the conflict in the east, HRMMU documented twelve civilians killed and 25 injured over the reporting period. The conflict-affected civilian population also continued to suffer from restrictions on their freedom of movement and a lack of basic services, impacting their social and economic rights.

HRMMU notes that recent ‘decrees’ issued by self-proclaimed ‘republics’ concerning the forced recruitment of adult men are not in line with international humanitarian law (IHL).

HRMMU is also concerned about reports that employees of a ‘public institution’ in AGCT have been threatened with salary cuts or dismissal if they did not acquire Russian citizenship.

In Crimea, Jehovah’s Witnesses continued to be prosecuted for exercising their right to freedom of religion. Allegations of torture and ill-treatment committed by members of Russian Federation law enforcement agencies against detainees also continued, including the torture and forced confession of Radio Free Europe/Radio Liberty journalist Vladyslav Yesypenko. Courts in Crimea continued to deliver guilty verdicts in high-profile cases marked by fair trial rights violations, such as denying the defense their right to question witnesses and allegations of forced confessions.

### CONDUCT OF HOSTILITIES AND PROTECTION OF CIVILIANS

As described in [HRMMU’s latest civilian casualty update](#), twelve civilians (eight men, three boys and one girl) were killed and 25 (18 men, five women

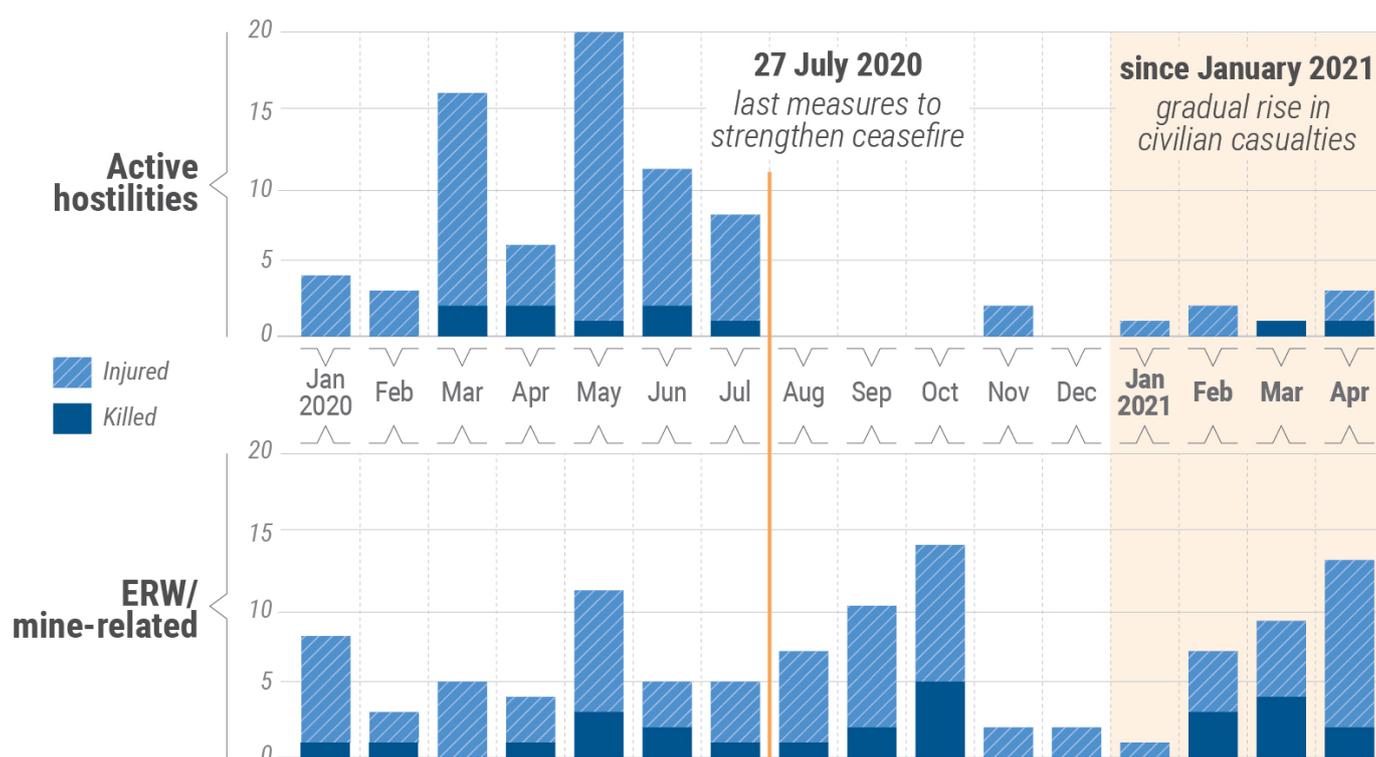
and two boys) were injured over the reporting period from 1 February to 30 April 2021. This represents a 270 per cent increase compared with the preceding three months, from 1 November 2020 to 31 January 2021, but a three per cent decrease compared with the same months of 2020.

Increased civilian casualties resulting from shelling and small arms and light weapons fire correlated with a moderate escalation of hostilities in the conflict zone from mid-March until the end of April.

Seventy-eight per cent of civilian casualties during the reporting period were caused by mines and explosive remnants of war (ERW) (mostly hand grenades): eight killed and 21 injured, making mine risk education a continued priority. In addition, one man was also killed in a security incident and a young boy was killed by an unidentified explosive.

Incidents affecting civilian objects (excluding civilian housing) remained moderate on both sides of the contact line. HRMMU documented three incidents that affected electricity supply, two affecting educational facilities, two affecting gas pipelines and two affecting water facilities. None resulted in considerable interruptions of services to the conflict-affected population.

TIMELINE OF CIVILIAN CASUALTIES from January 2020 to April 2021





*HRMMU interviewing the family of a man who was injured due to hostilities in Krasnohorivka.*

In March and April 2021, the two self-proclaimed 'republics' issued 'decrees' establishing the mandatory recruitment of 400 men (200 in each self-proclaimed 'republic'). On 15 April, local media quoted a representative of the 'people's militia' of self-proclaimed 'Luhansk people's republic' (hereinafter 'Luhansk people's republic'), that 127 residents of territory it controls had arrived at the recruiting station to take part in military training. These 'decrees' are not in line with IHL, which prohibits the forcible recruitment of adults to fight against their State of nationality.

## **FREEDOM OF MOVEMENT AND ENJOYMENT OF SOCIAL AND ECONOMIC RIGHTS IN EASTERN UKRAINE**

The only entry-exit crossing points (EECPs) open for civilians to cross the contact line were in Novotroitske and Stanytsia Luhanska, while the planned opening of EECPs in Shchastia and Zolote did not occur. Despite some increase in the number of monthly crossings (32,791 in February, 52,823 in March and an estimated 50,000-60,000 in April), it remained 95 per cent lower than in the pre-COVID-19 period (around one million crossings per month occurred in January and February 2020). This continued to restrict individuals from visiting their families, and accessing pensions, social services, education, employment and healthcare across the contact line. Due to crossing restrictions

at the contact line, many residents of AGCT had to travel to Government-controlled territory through the Russian Federation, and thousands were fined an average of UAH 1,700 (approx. \$60) per person under Article 204-2 of the Code of Administrative Offences, which only allows access to Government-controlled territory through official EECPs at the contact line.

HRMMU noted the failure of the Luhansk region local authorities to provide public transport to residents, mostly older persons, in several isolated communities along the contact line (such as Bolotene, Krymske, Lobacheve, Lopaskyne and Syze), after free public transport provided by a humanitarian organization was suspended in December 2020. This affected civilians' access to essential services, including healthcare. For example, at least 28 residents in the Government-controlled villages of Hladosove and Travneve, located near the contact line in Donetsk region had COVID-19 symptoms, and an older woman and a man with COVID-19 symptoms died in April. An ambulance was unable to access the villages due to bad road conditions and lack of security guarantees. HRMMU reiterates that the Government should ensure the right to health and provide access to healthcare for residents of isolated communities by improving road conditions and providing public transport to such villages.

HRMMU is concerned that the Pension Fund of Ukraine suspended pension payments to at least 3,858 pensioners registered as internally displaced, based on Cabinet of Ministers Resolution No. 1596, which allows termination of pension payments to pensioners with no activity on their pension bank account for more than a year. HRMMU urges the Government to waive the suspension of pensions under the resolution during the COVID-19 pandemic, as such suspensions may disproportionately affect the right to social security of pensioners residing in AGCT. HRMMU welcomes the automatic extension of the validity of IDP bank cards of Oshchadbank to 1 July 2021.

HRMMU received allegations of at least one case in which a 'public institution' in territory controlled by 'Luhansk people's republic' threatened employees who did not obtain Russian citizenship with a salary reduction or dismissal from work. Forced naturalisations, where the consent of the person is not free, are contrary to international human rights law.

## RIGHT TO LIBERTY AND SECURITY OF PERSONS

In Government-controlled territory, HRMMU continued to enjoy unimpeded confidential access to conflict-related detainees. Of the nine male detainees interviewed during the reporting period, one detainee alleged excessive force had been used against him, while another alleged that he had been detained in an unofficial place of detention prior to his transfer to a pre-trial detention centre.

In territory controlled by self-proclaimed 'republics', HRMMU continued to be denied access to detainees and to places of detention. This is particularly concerning in light of continuing reports of arbitrary and incommunicado detention, as well as torture and ill-treatment occurring in detention.

*"The defence lawyer just acts like a postman, simply delivering information from the 'mgb' 'investigator' to us."*

– the sister of a detainee held by the 'mgb' in territory controlled by 'Donetsk people's republic' frustrated by the inaction of her brother's defense lawyer.

HRMMU documented seven cases of arbitrary detention (involving six men and one woman) that occurred either before or during the reporting period. For example, on 25 August 2020, the 'ministry of internal affairs' of self-proclaimed 'Donetsk people's republic' detained two men in Donetsk for their pro-Ukraine posts on social media. In September 2020, they were transferred to the Donetsk SIZO, where they were detained incommunicado for months, allegedly because their cases were being investigated by the 'ministry of state security'. They remain detained as of 31 April 2021. HRMMU also documented the intimidation of conflict-related detainees in territory controlled by 'Luhansk people's republic'; upon release, they were forced to sign documents pledging not to disclose information about their detention and certifying the absence of any complaints about their treatment.

In the context of COVID-19, reports of an increase in domestic violence and inadequate police responses, which disproportionately affect women, continued. For example, following lack of police action, a

woman in Kremenchuk resorted to publishing videos online of her husband beating her repeatedly over several months. Only after reactions by the Deputy Minister of Internal Affairs and members of Parliament, did the authorities deploy special police units to respond to domestic violence in the city.

## JUSTICE AND ACCOUNTABILITY

Unlawful arrests under the *in flagrante* exception continued. HRMMU documented three cases of individuals arrested without a court warrant and later charged with participation in terrorist organizations, for their involvement in armed groups of self-proclaimed 'republics'. This practice is in violation of the procedure provided for in national law and contrary to international standards on the right to liberty. In addition, in all three cases, the SBU failed to notify free legal aid centres in a timely manner about the arrests, thereby violating the right to counsel as provided in national legislation and international human rights law.

There was significant progress in an emblematic case concerning the abduction and torture of two Maidan protesters, which resulted in the death of one of them. In March and April 2021, the State Bureau of Investigation identified, charged and arrested two suspects for the abduction of the protesters. In addition, on 16 April 2021, Boryspilskyi municipal and district court of Kyiv region convicted and sentenced the leader of a group of 'titushky' (civilians recruited and equipped by law enforcement forces to disrupt the protests) to nine years in prison for the abduction and torture of the two protesters, but acquitted him of charges of creating a criminal organization and murder.

## CIVIC SPACE

Human rights defenders continued to face online and physical attacks for carrying out their work. Women human rights defenders and those working on environmental issues were particularly targeted for attacks. In one case, on 5 February 2021, unknown perpetrators burned the cars of two environmental activists and threw a grenade at their home. HRMMU also recorded physical attacks by extreme right-wing groups on participants of the International Women's Day march on 8 March 2021 in Kyiv. Attempts by extreme right-wing groups to disrupt similar marches in Odesa and Dnipro were adequately addressed by law enforcement officers.



Women's Day march on 8 March 2021 in Kyiv.

*“This [threats and violence, and related impunity] will come to your organizations as well, to women’s organizations, and eventually to all the people that they [groups that promote violence] do not like.”*

– an LGBTI human rights defender regarding impunity for attacks against their community space.

Impunity for similar past attacks continued to raise concern. On 5 March 2021, members of the extreme right-wing group ‘Karpatska Sich’, accused of attacking a peaceful assembly of feminist activists on 8 March 2018, were released from criminal liability, in accordance with national law that limits liability for less serious offences. The investigator had reclassified the case without informing the victims, downgrading the charges to minor bodily injuries (art. 125), which carries a shorter time limit for adjudication. The trial had been protracted since November 2018.

On 29 January 2021 in Kyiv, a transgender woman was attacked in a metro station by nine unidentified men. The police did not initiate a criminal case following the victim’s complaint, and told the woman she was wearing an “illegal” lesbian, gay, bisexual, transsexual and intersex (LGBTI) symbol on her mask (referring to the rainbow flag), although this symbol is not prohibited in Ukraine.

The reporting period also marked six years since journalist Oles Buzyna was killed. Although police identified and brought to court two suspects in November 2017, the trial is yet to be finished. The protracted nature of the trial continued to undermine the victims’ right to an effective remedy and added to the sense of insecurity for journalists.

Media workers continued to face attacks, acts of intimidation and threats. While online threats have become more common in the context of COVID-19 due to fewer opportunities for offline encounters, other kinds of intimidation, such as attempted property damage, continued. During the reporting period, HRMMU recorded three cases of property damage in retaliation for media professionals’ work or the editorial policy of the media outlets they represent. Two of these three attacks targeted staff of a Kharkiv-based newspaper, allegedly affiliated with a candidate in the upcoming local elections in Kharkiv, scheduled for 31 October 2021.

Members and staff of opposition political parties and their supporters faced criminal charges that carry severe penalties, for alleged illegal activities, including high treason. In one case, the suspect was held in custody for two months until a court released him on bail. The Ministry of Justice also challenged the registration of one of these parties, Partiiia Shariiia, in court for alleged inaccuracies in the paperwork lodged during the registration process. The case is currently being considered by the Kyiv District Administrative Court, which itself faces the risk of dissolution due to a recently-submitted draft law. HRMMU is following these cases, as well as existing tensions between supporters and opponents of various parties, which has significantly intensified following these developments.

## **KEY LEGISLATIVE DEVELOPMENTS**

On 2 February, the President of Ukraine signed a decree of the National Council for Security and Defence, imposing sanctions against Taras Kozak and his eight companies, which resulted in the closure of three television channels (112 Ukraine, NewsOne and ZiK) which are perceived as pro-Russian. This decision is contrary to international human rights standards, as it lacks justification of its necessity and proportionality, and was not taken by an independent authority. Four draft laws registered in Parliament (No. 2549 of 6 December 2019,

No. 5135 of 23 February 2021, No. 5143 and No. 5144 of 24 February 2021), aiming to punish “collaborationism” with a hostile power also raise concerns, as they do not appear to be in line with international standards on freedoms of expression, peaceful assembly and association. They could further have a negative impact on reconciliation and social cohesion.

HRMMU welcomes the adoption by the President of Ukraine of the new National Human Rights Strategy on 24 March 2021. The strategy was elaborated in an inclusive manner, following thorough consultations with authorities, civil society and international organizations, and incorporates the majority of recommendations provided by the United Nations in Ukraine. HRMMU encourages the Cabinet of Ministers to promptly adopt the National Human Rights Action Plan, taking into account recommendations by the United Nations in Ukraine, including on the need to fully integrate gender.

Regretfully, the current legislative framework still does not contain adequate safeguards for the protection of language rights of minorities, as noted by the Venice Commission and OHCHR. HRMMU again urges Parliament to elaborate, without further undue delay, and in close consultations with a gender-balanced representation of national minorities, a law on the protection of minorities and specifically of their language rights.

## **LEAVE NO ONE BEHIND – ECONOMIC AND SOCIAL RIGHTS**

HRMMU is concerned that the COVID-19 crisis continues to exacerbate human rights concerns faced by healthcare workers in Ukraine, of which 83 per cent are women. These concerns, examined in detail in [HRMMU’s briefing note](#), include the lack of adequate remuneration that provides for a decent living, the lack of safe and healthy working conditions and failing social protection. Mechanisms for the effective participation of healthcare staff are also missing. Degrading working conditions contribute to the shortage of healthcare staff in Ukraine, which in turn negatively impacts the population’s right to health.

## **CRIMEA**

Jehovah’s Witnesses continued to face prosecution in Crimea for practicing their faith under extremism-related charges. On 29 March 2021, a court in Sevastopol reportedly convicted a Jehovah’s Witness from Yalta, Viktor Stashevskiy, of “organizing the activities of an extremist organization”, a crime punishable under the Criminal Code of the Russian Federation. This is the third conviction of a Jehovah’s Witness in Crimea since the listing of Jehovah’s Witnesses as an extremist organization in 2017. The man was reportedly convicted and sentenced to six and a half years in prison, the harshest sanction applied against a Jehovah’s Witness to date. The two other convicted men are serving their prison sentences in the Russian Federation. In addition, a new wave of house searches took place in Yalta on 11 March 2021, in the dwellings of nine Jehovah’s Witnesses. Reportedly, at least four men and one woman were detained for interrogation following the searches. One man has been charged with an extremism-related crime.

*“Why are you telling us all this? We are only here in order to consider your bail application.”*

– a judge to a victim of torture who complained about his torture during a court hearing in Crimea.

HRMMU continued to receive allegations of torture by members of Russian Federation law enforcement agencies against individuals in their custody. On 10 March 2021, Vladyslav Yesypenko, a freelance journalist with Radio Free Europe/Radio Liberty, suspected of illegal possession of explosives, was arrested by the Federal Security Service (FSB) of the Russian Federation. HRMMU received information that FSB officers subjected him to electrocution, beatings and sexual violence amounting to torture in the basement of an unidentified building in order to obtain a forced confession of cooperation with Ukrainian intelligence agencies. The FSB then invited a Russian state TV crew to film his forced confession for public broadcast. The FSB also denied the victim access to his privately contracted lawyers for 28 days after his detention.

Russian Federation authorities in Crimea also continued to restrict freedom of opinion and expression. On 20 April 2021, a court in Crimea fined Bekir Mamutov, the editor-in-chief of a Crimean Tatar newspaper, Qirim, and member of the Mejlis, in connection with the publication of the [2020 Secretary General report on the human rights situation in Crimea](#) in his newspaper. According to Roskomnadzor officials (the Federal Service for Supervision of Communications, Information Technology and Mass Media, an agency of the occupation authorities responsible for compliance with the law in media and telecommunications), Mr Mamutov violated the Russian Federation Code of Administrative Offenses by mentioning “Mejlis” in a publication without noting that its activities are outlawed in the Russian Federation. Without this note, the officials contended that the publication amounted to an “abuse of the freedom of mass information”.

HRMMU remains concerned about violations of fair trial guarantees in high-profile criminal cases before courts in Crimea. On 15 February 2021, a court in Sevastopol convicted a former witness in a Hizb ut-Tahrir case of charges related to having retracted his pre-trial testimony, which he claimed was given under duress. The court based the conviction on anonymous witness testimony supporting the allegations against the defendant. The witness neither appeared in court nor was available to the defense for questioning at any stage of the proceedings, violating the right of a defendant to examine a witness during trial. The prosecutor provided the court with a letter from the FSB, stating that the anonymous witness “has left the Russian Federation”. Based on this letter, the court admitted the pre-trial written testimony of the anonymous witness as evidence without verifying if such person existed or if his testimony was voluntary and genuine.

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