

# UPDATE ON THE HUMAN RIGHTS SITUATION IN UKRAINE

1 August – 31 October 2021

## SUMMARY

This update focuses on key human rights developments in Ukraine, including in territory controlled by self-proclaimed 'Donetsk people's republic' ('Donetsk people's republic') and self-proclaimed 'Luhansk people's republic' ('Luhansk people's republic') and in the Autonomous Republic of Crimea and the city of Sevastopol, occupied by the Russian Federation (Crimea). It covers the period of 1 August to 31 October 2021. OHCHR's regular biannual report, covering the period of 1 August 2021 to 31 January 2022, will be issued in March 2022.

The conflict zone saw an increase in civilian casualties, and forcible recruitment of adult men by armed groups. Restrictions on crossing of the contact line by armed groups, including tougher restrictions by 'Luhansk people's republic', were disproportionate and affected the rights to family life, social security, employment and healthcare.

While HRMMU was provided confidential access in August 2021 to four individuals detained by 'Luhansk people's republic', there was no further progress towards allowing access to places of detention to independent, international monitors by either self-proclaimed 'republic'. Meanwhile, arbitrary detention and complaints of torture and ill-treatment in territory they control continued.

The United Nations' concerns about the draft law "On the principles of State policy for transitional period" were echoed in the European Commission for Democracy through Law (Venice Commission) opinion issued on 18 October.

The National Security and Defence Council issued sanctions that violate international standards on legitimate restrictions of freedom of expression, and attacks on media workers continued.

While police successfully protected assemblies organized by lesbian, gay, bisexual, transsexual and intersex (LGBTI) organizations, they failed to respond adequately to protests and hate speech inciting violence against Roma.

Persons without identification documents, notably homeless persons, were unable to access healthcare, including COVID-19 vaccinations and free testing, which limited their access to shelters. Healthcare workers faced significant delays in salary payments, leading some to leave their jobs, making pre-existing understaffing in medical facilities more acute.

In Crimea, Crimean Tatars, including Nariman Dzhelyal, the deputy head of the Mejlis, continued to face arbitrary arrest and detention and fair trial violations. A court judgement finding a priest of the Orthodox Church of Ukraine had carried out "illegal missionary activity" further restricted freedom of religion.

## CONFLICT

An escalation of hostilities in the conflict zone of eastern Ukraine resulted in a significant increase in civilian casualties and damage to civilian objects.

From 1 August to 31 October 2021, HRMMU recorded 32 conflict-related civilian casualties: four killed (three men and one woman) and 28 injured (19 men, six women, two boys and one girl), a 39 per cent increase compared with the preceding three months (three killed and 20 injured). Seventy-eight per cent of casualties resulted from active hostilities, namely one killed and 20 injured in territory controlled by self-proclaimed 'republics', and one killed and three injured in the Government-controlled parts of Donetsk and Luhansk regions.

Mines and explosive remnants of war killed one man and injured two men and one boy in territory controlled by self-proclaimed 'republics', and injured one man in the Government-controlled part of Donetsk region. In addition, one man was killed in a road incident with a member of the military, and one woman was injured by small arms fire in an escalation of force incident, both in the Government-controlled part of Donetsk region.

concerns under both international humanitarian law and international human rights law.

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

The Government continued to keep all entry-exit crossing points (EECPs) to territory controlled by armed groups open, including recently added EECPs in Zolote and Shchastia (Luhansk region), while self-proclaimed 'republics' continued to limit crossings to the Stanytsia Luhanska and Novotroitske EECPs.

On 9 October 2021, 'Luhansk people's republic' toughened restrictions on crossings through Stanytsia Luhanska EECP, which in 2021 accounted for approximately 95 per cent of all crossings of the contact line (499,000 compared with 28,000 through Novotroitske EECP). Since then, residents with registration in territory controlled by self-proclaimed 'republics' have only been able to exit this territory by applying to a 'special working group' or to the 'headquarter on the prevention of COVID-19 transmission', invoking humanitarian grounds such as medical treatment, education, support to a sick relative, or burial of a relative in Government-controlled territory. Individuals registered in Government-controlled territory were generally prohibited from entering territory controlled by self-proclaimed 'republics'.

As a result, the total number of crossings through Novotroitske and Stanytsia Luhanska EECP in October 2021 decreased by an average of 63 per cent (30,530 crossings) compared with September (74,840 crossings) and August (90,921 crossings). Restrictions on crossings imposed by self-proclaimed 'republics' were disproportionate to the stated interest of protecting public health, and affected the rights to family life, social security, employment and healthcare.

Some residents of territory controlled by self-proclaimed 'republics' continued to travel to Government-controlled territory through the Russian Federation, in violation of national legislation restricting such travel through official EECPs. In this regard, HRMMU welcomes the decrease in the number of fines imposed by the State Border Guard Service at the "Milove" intergovernmental border crossing point in Luhansk region (88 per cent decrease of fines: 238 in August-October 2021 compared to 2,058 in May-July 2021), as a result of the July 2021 adoption of a law which cancelled the administrative penalty for such crossings on humanitarian grounds.



*A human rights officer visiting the site of shelling which occurred on 21 October 2021, and spoke with the grandmother of a wounded girl*

HRMMU documented 37 security incidents affecting civilian objects (excluding civilian housing), such as schools and water or electricity supply: six in Government-controlled territory and 31 in territory controlled by self-proclaimed 'republics'. This exceeds the total number of such incidents documented during the previous six months (27 incidents).

***"I go to work in the morning, but when I come back, I'm not sure if the house will still be standing or if it will have been destroyed by shelling,"***

*– a wounded man told HRMMU.*

Following 'decrees' issued in spring 2021, the two self-proclaimed 'republics' continued forced recruitment of men into armed groups, raising

HRMMU is concerned that should Oshchadbank implement its decision to stop extending the validity of bankcards to IDP pensioners after 1 January 2022, at least 100,000 pensioners resident in territory controlled by self-proclaimed 'republics', the majority of whom are older women, would be unable to access their pensions. This would force pensioners, unable to cross through official EECs, to travel more than 1,000 km through the Russian Federation to reach Oshchadbank branches in Government-controlled territory, exposing them to additional financial costs, physical hardships and risk of catching COVID-19.

### RIGHT TO LIBERTY AND SECURITY OF PERSONS

In Government-controlled territory, HRMMU continued to enjoy unimpeded confidential access to conflict-related detainees, and interviewed seven men and one woman. In territory controlled by 'Luhansk people's republic', on 5 August, HRMMU was granted confidential access to two men and two women in Luhansk SIZO. In territory controlled by 'Donetsk people's republic', access continued to be denied.

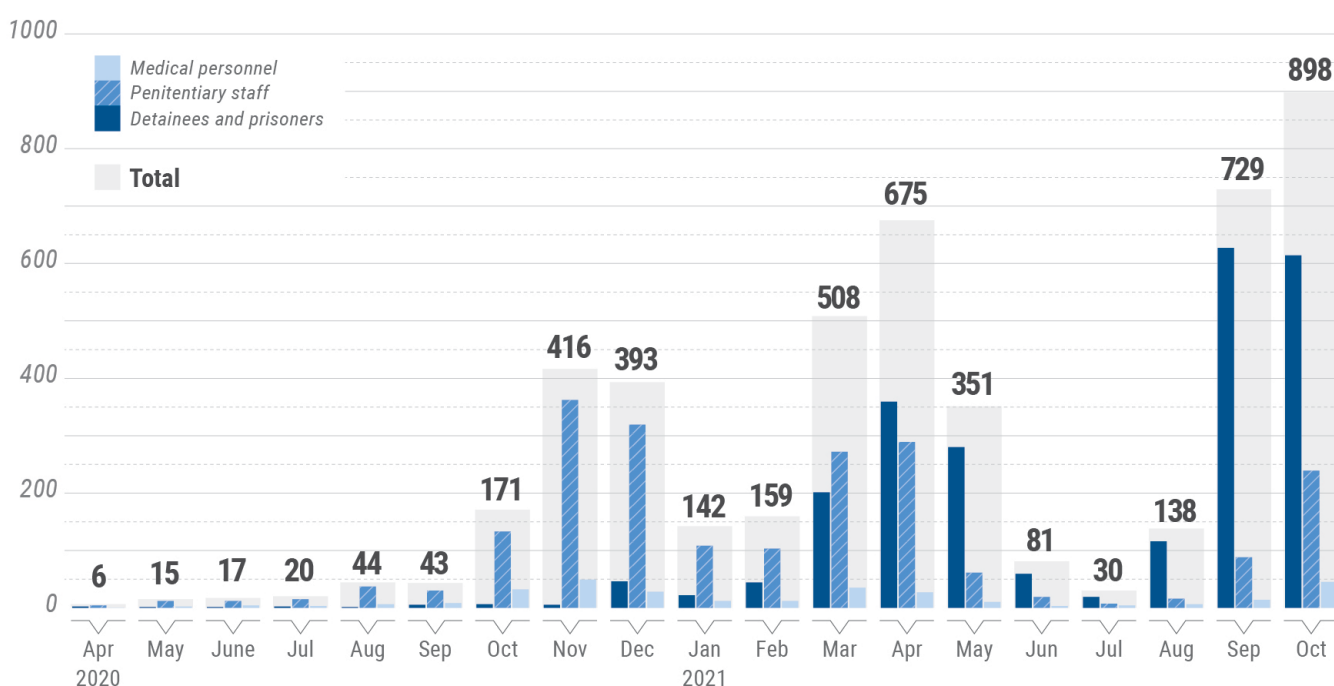
During the period under review, HRMMU continued to receive allegations of arbitrary detentions carried out by the Security Service of Ukraine (SBU). For example, in June 2021, a man was detained in Kyiv and taken by train to SBU premises in Sievierodonetsk (Luhansk region), where he was questioned without a lawyer about his activities in

the Russian Federation and in territory controlled by self-proclaimed 'republics' since 2014. The SBU confiscated his passport, and brought him to a hotel where he was instructed not to leave or make any phone calls. SBU officers, who checked on him at the hotel, offered him a suspended sentence if he pled guilty to charges under articles 110 (trespassing on territorial integrity) and 260 (participation in illegal armed formations) of the Criminal Code. A lawyer, who was contacted by a relative, advised that he should refuse the deal and leave the hotel where he had spent three weeks, which he did. In August 2021, the man was officially detained by the SBU.

HRMMU documented ten cases of arbitrary and incommunicado detention in territory controlled by self-proclaimed 'republics', most often in the form of "administrative arrest" (in territory controlled by 'Donetsk people's republic') and "preventive detention" (in territory controlled by 'Luhansk people's republic'). Families faced weeks and months of uncertainty of the whereabouts and fate of detained loved ones, which negatively affected their physical and psychological state. HRMMU also documented one case of torture of a man by officers of 'ministry of state security' ('mgb').

In September and October, the number of COVID-19 cases reported in penitentiary facilities in Government-controlled territory reached the highest monthly numbers since the beginning of the pandemic, increasing by 729 cases in September and 898 cases in October, in comparison with

NEW COVID-19 CASES IN PENITENTIARY INSTITUTIONS, 2020-2021, per month



Creation Date: 24 November 2021 Source: OHCHR HRMMU

138 cases in August. Self-proclaimed 'republics' continued to deny the presence of COVID-19 in places of detention.

## **TRANSITIONAL JUSTICE**

On 18 October, the Venice Commission issued its [opinion on the draft law "On the principles of State policy for transitional period"](#), which reflected the main concerns raised by the United Nations Country Team with the authorities in February, June and September. In particular, the Venice Commission found that several crucial provisions of the draft law are not in line with international standards, including on the definition of transitional justice, on the right to truth, and on remedy and reparations. The Venice Commission also noted that many provisions are vague and inconsistent with existing legislation and that the draft law does not sufficiently integrate a gender perspective.

## **ELECTIONS**

On 20 August, the Central Election Committee (CEC), confirmed its decision not to hold local elections in 18 amalgamated communities in Donetsk and Luhansk regions in October 2021. Given the legislative lacuna in defining the criteria and methodology to be used when taking such a decision, the CEC based its decision on the security assessments provided by the military-civil administrations of Donetsk and Luhansk regions, however without the capacity to independently verify the assessment. Consequently, the decision, which disenfranchised approximately 500,000 people, was not transparent. In June 2021, the CEC requested the Parliamentary Committee on the Organization of State Power, Local Self-Government, Regional Development and Urban Planning of the Parliament of Ukraine to elaborate a law establishing criteria for such decisions.

## **LAW ON HARMONIZATION**

HRMMU is concerned that, since receiving it on 7 June 2021, the President of Ukraine has yet to sign the law "On amendments to certain legislative acts of Ukraine concerning the implementation of provisions of international criminal law and humanitarian law". The law harmonizes criminal liability for international crimes with international standards.

## **LAW ON MINORITIES**

HRMMU notes that the draft law on the protection of rights of national minorities is still pending registration in Parliament, despite the Law on State Language requiring the Cabinet of Ministers to elaborate a draft law on the realization of the rights of indigenous

peoples and national minorities by January 2020.

## **JUSTICE**

HRMMU is concerned that the alleged flight of a defendant in a key Maidan-related proceeding may jeopardize the victim's right to an effective remedy. HRMMU believes this situation could have been averted if the court had heard the case without undue delay, had chosen alternatives to pre-trial detention that would ensure the defendant's appearance for trial, and the prosecution had brought the relevant charges against him in 2015. As of 31 October, the defendant remained on a wanted list.

HRMMU documented that 'courts' of self-proclaimed 'republics' sentenced 13 individuals for conflict-related 'crimes' over the reporting period. As described in [OHCHR's thematic report on the administration of justice](#), such 'sentences' are rendered in proceedings that contravene international fair trial standards, including the rights to an independent and impartial tribunal, to a public trial, to have legal counsel of one's own choosing and not to be compelled to testify against oneself.

## **FREEDOM OF OPINION AND EXPRESSION**

HRMMU documented four attacks targeting media workers. On 14 August, several affiliates of "National Corps", a group that promotes violence, attacked a journalist from the online media platform Bukvy, who was photographing an event organized by the group. The attackers beat the victim and damaged his equipment.

On 4 October, a cameraman of Radio Liberty (RL/RFE) reporting on corruption was physically attacked by four employees of a State-owned bank while interviewing one of them. Police opened an investigation into the obstruction of journalistic activities, but not the more serious crime of violence targeting a journalist. HRMMU welcomes the condemnation by high-ranking officials of the two attacks.

HRMMU notes with concern alleged pressure on State-owned media by high-ranking officials to influence the editorial policy of a State-owned television channel. On 19 October, a journalist from the channel publicly posted in social media that the channel had come under pressure from Government officials, who attempted to control which guests would go on air. Representatives of the Government have denied these accusations.

On 20 August, the President endorsed several decisions by the National Security and Defence Council, resulting in the closure of the online



media outlets 'Strana.ua' and 'Sharij.net' and their sub-domains. HRMMU is concerned that these decisions amount to undue restrictions on the right to freedom of expression, as they were not taken by an independent authority and did not meet the requirements of necessity and proportionality.

On 1 October, the 'supreme court' of 'Luhansk people's republic' upheld suspended prison 'sentences' issued against a couple convicted in June 2021 for "knowingly submitting a false complaint." The couple had complained to the 'prosecutor general's office' that 'law enforcement agencies' failed to investigate the destruction of their business premises due to hostilities in 2016. The victims allege that the sentence is retaliation by 'mgb' for their complaint.

## **NON-DISCRIMINATION**

HRMMU documented two minor conflicts between Roma and other members of the community in Irpin and Torchyn which led to hate speech inciting violence against Roma. The police present during these incidents failed to effectively address the hate speech, which could have led to an escalation of the conflict and violence.

Following the passing of the Roma Strategy on 28 July, adoption of its Action Plan remains pending. Providing adequate financial resources for its implementation will be essential to protecting and promoting the human rights of Roma in Ukraine.

## **RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY**

Policing of peaceful LGBTI assemblies in Ukraine significantly improved. In particular, LGBTI equality marches in Kyiv, Kharkiv, Odesa and Kryvyi Rih were successfully secured by law enforcement agencies. In response to the posting of leaflets in Odesa featuring photos of members of the LGBTI community and pride march organizers with the inscription "know your enemy", national police initiated a criminal investigation under Article 161 (incitement to hatred or violation of equality of persons on the ground of bias) of the Criminal Code.



*Pride march in Kharkiv on 12 August 2021*

## **HOMELESS PEOPLE**

The rights of homeless persons to health, life, adequate housing, and an adequate standard of living are at increased risk for those lacking identity documents. Those without documents are unable to receive free COVID-19 tests, and may face problems receiving a COVID-19 vaccine. Those who are able to be vaccinated may nevertheless not be issued the corresponding certificate without identity documents. This creates obstacles to accessing shelters, which may not admit persons who do not have COVID-19 vaccination certificates or negative COVID-19 test results, notably in "red zone" regions. Many homeless people cannot access other medical services as well, as they cannot execute "New Patient Declarations" (enacted under healthcare reforms) without identity documents, which are required to have a primary care physician.

## **UTILITIES SUBSIDIES**

In late September 2021, the Prime Minister's office announced a 34 per cent increase, of UAH 12 billion (approx. \$459 million), in the utilities subsidies budget until the end of 2021, and promised to fix gas and heating prices for the cold season. Despite the government's pledge to keep utility prices low, some regions subsequently announced plans to increase them. HRMMU is concerned that persons and groups in situations of vulnerability, such as Roma, people living in rural and conflict-affected areas, and persons with disabilities, and in particular, women from these groups, are often unable to receive subsidies, and that even if received, the utility subsidies are insufficient to cover actual costs. Such persons are disproportionately impacted by rising utility costs due to low pay and exclusion from the formal labour market.

## **JUST AND FAVOURABLE CONDITIONS OF WORK**

*"Young doctors work for three years and then leave,"*

*– the director of a psychiatric hospital on the turnover of medical professionals due to low salaries.*

Non-payment of salaries to health care workers has been reported in medical facilities across 18 regions since spring 2021. According to the national health care workers' union, the back pay due had grown exponentially, reaching approximately 341 million UAH (\$13 million) by end of October. This leaves health care workers in many regions without adequate wages while their workloads increased

due to the rise of COVID-19 cases. Such conditions negatively [impact](#) the socio-economic rights of healthcare workers, who are predominantly women.

## CRIMEA

Against the background of the earlier dismissals of the applications of the Orthodox Church of Ukraine to re-register as a religious organization under Russian Federation legislation, on 23 August, a court in Crimea found a priest of the Church guilty of “illegal missionary activity” for holding a mass on 8 August in a small monastery in Bilohirsk district attended by five believers, and fined him 15,000 Russian rubles (\$206). The court’s verdict was pro-forma and largely based on the absence of registration of the Church. The court disregarded the priest’s argument that he delivered his mass to his regular congregation, without any element of proselytizing.

On 3-4 September, the Federal Security Service of the Russian Federation (FSB) arrested five Crimean Tatar men, including the First Deputy Head of the Mejlis, Nariman Dzhelialov, in connection with an incident at a gas pipe near Simferopol on 23 August 2021. All five men were held incommunicado from 19 to 38 hours with their whereabouts concealed, and denied access to their lawyers of choice for periods ranging from 21 hours to ten days. Reportedly, at least three of them were tortured and/or ill-treated. Two of the men were briefly released and re-arrested on 4

September on administrative charges of “disobeying the police”. They were released again on 18 and 19 September, after having served 14 and 15 days of administrative detention. The remaining three, including Mr Dzhelialov, were remanded in custody, and face up to 20 years in prison on charges of sabotage and illegal manufacture of explosives.

Russian Federation occupation authorities in Crimea continued to restrict fundamental freedoms and civic space, in particular freedom of peaceful assembly, through the use of exceptional emergency measures related to COVID-19. On 4 September, Russian police arrested not less than 54 men and three women in Simferopol following a spontaneous assembly near the FSB department in response to the detention of the five Crimean Tatar men. Consequently, 47 people were found guilty of “violation of rules during emergency” and fined. Similar incidents took place on 11, 25 and 29 October 2021, when Russian police arrested 69 men outside the court building in Simferopol who sought to attend court hearings in Hizb ut-Tahrir cases. According to the Russian authorities, the defendants participated in a simultaneous mass gathering in a public place “in violation of sanitary-epidemiological rules” enacted in response to the COVID-19 pandemic and stood within one meter of each other, thus posing a threat of the spread of COVID-19.” Sixty-six men faced administrative charges and were later released, while two were released without charge.

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