

CIVIC SPACE AND FUNDAMENTAL FREEDOMS IN UKRAINE

1 November 2019 – 31 October 2021



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Ukraine

Contents

- I. Executive summary2
- II. Methodology3
- III. Civic space in Government-controlled territory.....4
 - A. Freedom of opinion and expression4
 - B. Human rights defenders6
 - C. Freedom of peaceful assembly and association8
- IV. Civic space in armed group-controlled territory10
 - A. Freedom of opinion and expression10
 - B. Human rights defenders12
 - C. Freedom of peaceful assembly and association13
- V. Civic space in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, occupied by the Russian Federation14
 - A. Freedom of opinion and expression14
 - B. Human rights defenders17
 - C. Freedom of peaceful assembly and association18
- VI. Conclusions and recommendations.....21

I. Executive summary

1. This report is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine.¹ It covers the period from 1 November 2019 to 31 October 2021 and provides a brief overview of the situation concerning civic space,² including freedoms of opinion and expression, peaceful assembly and association, and the situation of human rights defenders in territory controlled by the Government, territory controlled by self-proclaimed ‘Luhansk peoples republic’ and ‘Donetsk peoples republic’³ and the Autonomous Republic of Crimea and the city of Sevastopol, occupied by the Russian Federation.⁴ In addition to identifying trends, the report provides recommendations to promote and protect civic space throughout Ukraine. The strengthening of civic space is a necessary condition to empower civil society, and encourage participation by all groups in democratic processes.

2. During the reporting period, the Office of the United Nations High Commissioner for Human Rights (OHCHR) monitored political and legislative developments in Government-controlled territory that resulted in restrictions on civic space. For example, freedoms of opinion and expression, peaceful assembly and association as well as the right to participate were negatively affected before and after the 2020 local elections due to an increase in attacks against opposition political parties, their members and staff. Similarly, amendments to the State language legislation led to threats, intimidation, property damage, and in one case, physical violence against those who expressed critical opinions on its implementation. More generally, attacks against journalists and media professionals during the reporting period often targeted those working on politically sensitive topics.

3. The ongoing armed conflict and different views regarding the origins and causes of the conflict have also created an environment that has negatively affected the exercise of the rights to freedoms of opinion and expression, peaceful assembly and association, and the right to participate. Sanctions introduced by the Government led to the closure of several major media outlets and some smaller online ones. The decisions introducing these sanctions failed to demonstrate compliance with international standards on permissible restrictions on freedom of expression, as they were not taken by an impartial authority and did not demonstrate necessity and proportionality. Finally, human rights defenders working on issues such as prevention of corruption, protection of the environment, and promotion of gender equality and rights of minorities (including LGBTI) continued to be targeted by attacks, threats, acts of intimidation and hate speech. In most cases, the perpetrators remain unidentified, contributing to a sense of impunity and fuelling further attacks. Women human rights defenders⁵ faced additional gendered risks due to their professional activities.

¹ On 14 March 2014, OHCHR deployed the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU). See the Agreement between the Government of Ukraine and the Office of the United Nations High Commissioner for Human Rights on deployment of the short-term human rights monitoring mission in Ukraine of 31 July 2014. Full text of the Agreement is available from: http://zakon.rada.gov.ua/laws/show/995_001-14.

² According to the UN Guidance Note on Protection and Promotion of Civic Space “Civic space is the environment that enables people and groups – or “civic space actors” – to participate meaningfully in the political, economic, social and cultural life of their societies. States shape the legal and policy space within which people express views, assemble, associate and engage in dialogue with one another and with authorities about issues that affect their lives, from the quality of basic services, to better institutions and respect for fundamental freedoms. Civil society actors – including human rights defenders, women advocates, children, young people, members of minorities and indigenous people, trade unionists and journalists – should be able to express themselves freely in full security and effect change peacefully and effectively.” In this report, “civic space” refers to the environment and legal framework in which civil society operates; the place that civil society actors occupy within society; and the relationships among civil society actors, the State, and the general public.

³ Hereinafter ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, and collectively as self-proclaimed ‘republics’.

⁴ Hereinafter “Crimea”.

⁵ The United Nations defines “women human rights defenders” as all women and girls working on any human rights issue (“women defenders” and “girl defenders”), and people of all genders who work to

4. In territory controlled by self-proclaimed 'republics', OHCHR continued to document developments indicating further shrinking of civic space. Many human rights groups and activists have left this territory, either due to insurmountable restrictions on their work or persecution for carrying out their legitimate human rights work. Those who have remained and continued their work, in particular women human rights defenders, face a high degree of insecurity.

5. Armed groups of both self-proclaimed 'republics' have also persecuted individuals who attempted to organize independent trade unions and strikes to demand timely remuneration and safe working conditions, negatively affecting the freedom of association. During the reporting period, armed groups imposed restrictions on the use of social media, which had previously been seen as the only remaining safe space for free expression. OHCHR notes with concern that social media users can no longer safely exchange critical views, and at least four users have faced arbitrary detention and criminal penalties for expressing themselves online. Changes to 'legislation' criminalizing slander and defamation, including through social media, led to increased fear about the consequences of openly expressing critical opinions about developments in territory controlled by the self-proclaimed 'republics', further contributing to shrinking civic space in this territory.

6. The situation in Crimea allows for very limited expression of views critical of the Russian Federation authorities and their policies. Freedom of expression is particularly curtailed by penalization of opinions through the application of Russian Federation anti-extremism laws. Crimea lacks a safe and diverse media environment, which would enable pluralistic reporting and unrestricted access to information. The right of peaceful assembly is undermined by the pre-authorization requirement and prosecution of participants in peaceful assemblies, including political protests. Groups and associations, perceived as opposing the occupation of Crimea or Russian Federation policies, such as the Mejlis⁶ and Crimean Solidarity⁷, suffer from unjustified interference with their activities. Human rights defenders and criminal defence lawyers, both men and women, face retaliation for their work, including through prosecution and intimidation.

II. Methodology

7. The report is based on information collected by OHCHR through interviews with victims of human rights violations, witnesses, and defence lawyers; direct observation, including trial and assembly monitoring; analysis of corroborating information confidentially shared with OHCHR; official records, including court documents; open-source documents and video, photo and audio materials; and other relevant and reliable data. In accordance with OHCHR's methodology, the standard of proof applied is that of "reasonable grounds to believe".

8. The statistics used in the report reflect only those cases and incidents that were documented by OHCHR.

9. OHCHR is committed to the protection of its sources and therefore ensures their confidentiality. It does not disclose any information that may lead to the identification of sources, unless they have provided their free, prior and informed consent. OHCHR also systematically assesses the potential risks of harm and retaliation against its sources and may decide not to disclose information owing to protection concerns despite consent of the source.

promote women's rights and gender equality. It also includes any civil society actors who may not self-identify as human rights defenders or those who work on non-traditional human rights fields (journalists, health workers, environmental activists, peacebuilders, private actors, development and humanitarian actors, etc.). It includes lesbian, gay, transgender and intersex (LGBTI) activists, as issues related to sexual orientation and gender identity are part of achieving gender equality.

⁶ The Mejlis is a self-governing institution of the Crimean Tatar people.

⁷ Crimean Solidarity operates as a platform to exchange information and mobilize support. Many of its activists act as "citizen journalists" and report on house searches and court proceedings.

III. Civic space in Government-controlled territory

10. The beginning of the reporting period was characterized by a reduction in political tensions following presidential and parliamentary elections in 2019. In 2020, the enjoyment of freedoms of opinion and expression, and of peaceful assembly and association deteriorated ahead of local elections and as new concerns emerged from the implementation of anti-pandemic measures. Government sanctions affecting the operation of television channels and online media outlets, and the authorities' failure to protect journalists and other individuals from attacks or to hold the perpetrators accountable limited public access to information and impacted the free expression of opinions.

A. Freedom of opinion and expression

On 3 April 2020, four unidentified perpetrators brutally beat a local journalist, anti-corruption and prisoners' rights activist in Kharkiv. During the incident, the attackers demanded that the victim stop his investigations.

11. Throughout the reporting period, OHCHR documented 29 incidents targeting journalists, media professionals, bloggers, and individuals expressing opinions critical of the authorities, Government policies or the mainstream political agenda. In 22 of these cases, perpetrators resorted to violence, while other cases involved threats (including online), incitement to violence, online smear campaigns and intentional damage to property. The majority of the 15 attacks OHCHR recorded in 2020 targeted investigative journalists and media workers covering political topics such as corruption allegations and implementation of COVID-19 restrictions. In 2021, 7 out of 14 documented attacks targeted individuals expressing opinions on political matters or criticizing mainstream narratives.

12. The failure of authorities to ensure physical security of journalists, media workers, bloggers, opinion leaders and individuals who express opinions on sensitive topics remained a key area of concern. This included failure of authorities on site to immediately stop violent actions and ineffective investigations of threats and attacks. In one case in 2021, in the presence of law enforcement officers, affiliates of groups that promote violence⁸ verbally threatened a photographer of a popular media outlet who was taking pictures of a rally they organized.⁹ Despite clear indications that the situation was escalating into a physical attack, the police officers present for securing the assembly did not intervene to stop the attackers or protect the victim. In another case, law enforcement agencies failed to appropriately investigate an attack on the editor of a internet outlet in Poltava region which criticized local political leaders of alleged corruption. This led to a second attack on the editor, just eight days later, involving some of the same perpetrators.¹⁰ The failure to appropriately address such violence, during or immediately after attacks, creates an environment of impunity in which further attacks against journalists and media professionals can occur, increasing the risks for those reporting on sensitive topics.

⁸ In this document, the notion of groups that promote violence refers to groups, communities or organizations that resort to violence, threats of violence, incitement to violence or otherwise acknowledge violence as an admissible tool for reaching political, ideological or other goals, regardless of the formal registration of such groups and whether they are affiliated or not to extreme or moderate, right-wing or left-wing political forces.

⁹ Affiliates of right-wing groups that promote violence gathered in front of a court building demanding a stricter verdict for their left-wing opponent, whose case was at that time being considered by the court.

¹⁰ The first attack occurred in a pub, and when police arrived, one officer invited the victim to write a complaint in the police car, while the second officer remained in the pub with the perpetrators and witnesses who were willing to testify. When the victim returned to the pub shortly after, the witnesses refused to testify. The investigation into the attack did not visibly progress, and the victim was physically attacked a second time, in his office. The victim alleges that some of the perpetrators of the first attack also participated in the second incident.

13. Lack of accountability for attacks due to ineffective investigations and protracted legal proceedings further contributed to impunity and heightened risks for reporting. Of note, no one has been brought to account in three high profile murders of journalists that occurred before the reporting period. Although police identified and brought to court two suspects in the 2017 killing of Oles Buzyna, the trial which commenced on 28 November 2017 has yet to be finalised. Similarly, in the case of the 2016 killing of Pavel Sheremet, the pre-trial investigation was finished in May 2020 and the trial commenced on 28 September 2020, however a verdict was yet to be delivered as of 31 October 2021. In the case of the 2019 killing of Vadym Komarov, at the end of October 2021, the investigation was ongoing with no suspects identified. On a positive note, since May 2021, OHCHR has observed progress in the investigation of attacks against journalists which were raised by civil society and representatives of the media in working group meetings hosted by the Prosecutor General's Office. In one case, the act was reclassified under more appropriate charges of attack or threats targeting journalists, in another case two suspects received notices of suspicion, and in a third case, the investigation was completed with a suspect identified.

14. In 2020 and 2021, and in particular during the run-up to local elections held on 25 October 2020, OHCHR recorded 12 cases of physical attacks and threats made against members, staff and supporters of political parties. OHCHR has repeatedly observed increases in attacks against political actors around elections, possibly linked to the increased visibility of political actors who seek electoral support. Opposition parties are particularly targeted as their electoral programs often contain messages that are not usually in line with mainstream media and are in opposition to anti-Russian political opinions or narratives. Even though in at least five of the attacks, perpetrators openly demonstrated their affiliation with groups that promote violence (by designated clothing, publishing videos of attacks on social networks, etc.), the investigations have failed to identify any suspects. In one emblematic case in June 2020, a local leader of the "Partiia Sharii" political party in Kharkiv, who (according to him) often received threats from groups that promote violence, was brutally attacked near his home by a group of unidentified individuals, who beat him allegedly with a metal rod. As a result, he was placed in intensive care with multiple injuries. According to the victim, the investigation has thus far failed to identify the attackers, and he is not aware of any progress in the case, or any proactive actions by the investigators. Following the attack, he continued to receive threats of physical violence from individuals allegedly affiliated with groups that promote violence and informed the police, who failed to open an investigation. The failure of police to open investigations into threats, lack of visible progress in ongoing investigations, specifically in identifying suspects, and failure to bring perpetrators to account feeds the atmosphere of impunity and exposes political opposition actors to the risk of further attacks and narrows the space for expressing opinions and disseminating ideas and information.

15. Since 16 January 2021, OHCHR has received information about a wave of threats and expressions of hatred towards individuals who publicly criticised the law "On supporting the functioning of the Ukrainian language as the State language", or expressed any positive views or favouring the use of the Russian language.¹¹ Notably, these threats and expressions often contain sexist language when targeting females. On 25 January 2021, three days after a veterinarian from Mariupol published a post on Facebook, where she offered a 50% discount if a customer requested to be served in Russian, the office of the clinic was vandalized. She also received several phone calls threatening arson and physical violence. A female volunteer at the clinic also started receiving threats on social media and through the telephone after expressing support to the veterinarian. In one case, in March 2021 threats against a street musician who performed in Russian in Lviv were followed by physical violence, allegedly committed by members of a group that promotes violence. Cases of attacks and threats against individuals who express opinions on sensitive topics, especially when left unaddressed by law enforcement

¹¹ On 16 January 2021, article 30 of the law entered into force, obliging enterprises, institutions and organisations, individual entrepreneurs, and other economic entities that serve consumers to share information and provide services in Ukrainian language, unless requested to be served in another language appropriate for both parties.

agencies, contribute to self-censorship, leading to a narrowing of civic space and curtailing pluralism.

16. Freedom of opinion and expression was also affected by sanctions imposed by the National Security and Defence Council and endorsed by the President against several companies and individuals in 2021, which effectively closed down three television channels¹² and blocked access to online media outlets¹³ perceived by many as opposition or pro-Russian media sources. While the protection of national security and public order is a legitimate aim which may justify restrictions to freedom of expression, international human rights standards require that the restrictions be necessary, proportionate, and imposed by an independent body. However, the decisions on sanctions were imposed by an executive body chaired by the President, and the text of the decrees did not contain any reasoning behind the imposition of the sanctions, including the specific security concerns, or an explanation how specific sanctions would address these concerns and less intrusive sanctions would not be effective. Therefore, the decisions failed to demonstrate compliance with international standards on necessity and proportionality of restrictions of freedom of expression.¹⁴ Furthermore, OHCHR is concerned that the lack of explicit justification for the sanctions may contribute to self-censorship by media to avoid reporting on sensitive topics that may be assessed to relate to issues of national security. The sanctions have also led to the stigmatization of media professionals who previously or continued to work at the affected media outlets, thus undermining critical journalism and creating division among media professionals. One popular video blogger openly called on Ukrainian media not to employ individuals who worked in the sanctioned media, and several groups that promote violence organized rallies calling on authorities to “close” two more television channels, “Inter” and “Nash”, which are perceived by many as pro-Russian.

B. Human rights defenders

On 15 July 2021, two men brutally beat a woman human rights defender from Dnipro working on corruption issues, placing her in hospital. Two individuals have been apprehended and named as suspects in the case, qualified as attempted murder.

17. In Government-controlled territory, human rights defenders generally operate in an environment where they are able to exercise fundamental freedoms and public participation.¹⁵ However, certain groups of human rights defenders face greater challenges in their work. During the reporting period, OHCHR documented 14 incidents (including attacks, threats and intimidation) targeting 18 human rights defenders (10 women and 8 men), comprised of women human rights defenders, including LGBTI activists, and human rights defenders working on anti-corruption and environmental issues, particularly in the regions. In only one of these incidents, perpetrators were identified and are currently being prosecuted. The lack of accountability for such attacks has a discouraging effect on civic space and participation in public affairs.¹⁶

¹² ZiK, 112 Ukraine, NewsOne.

¹³ Strana.ua, Sharij.net.

¹⁴ The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression shared the same concern of sanctions in relation to television channels, stating that “the decision fails to demonstrate the necessity and proportionality of the specific action taken, in particular by failing to clearly indicate the specific threats that the television channels may pose to the national security”. See Communication, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, AL UKR 4/2021 of 21 June 2021, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26403>.

¹⁵ While the notion of human rights defenders includes also journalists who are referenced above, this section focuses on other specific groups among human rights defenders who face particular risks due to the nature of their work.

¹⁶ International Covenant on Civil and Political Rights (ICCPR), article 25.

18. Among the 14 documented incidents, 11 targeted 14 women human rights defenders. In one case, on 15 July 2021, two unidentified perpetrators brutally beat a woman human rights defender from Dnipro who worked on corruption issues, placing her in hospital. The victim had been investigating and reporting on illegal takeovers of real estate projects. Two individuals were apprehended and named as suspects in the case, qualified as attempted murder.

19. Of particular concern is the issue of safety and security of women human rights defenders working on issues related to sexual orientation and gender identity.¹⁷ Among the 14 incidents in total, OHCHR documented 8 incidents targeting 10 LGBTI activists. One attack was perpetrated by individuals allegedly affiliated with groups that promote violence, while the others were carried out by other individuals. In 7 out of 8 cases, even though victims informed police about facts suggesting that the attacks were motivated by discrimination, this was not taken into account, and investigations and charges were based on the lesser crime of hooliganism.¹⁸ As a result, those found guilty will not face punishment commensurate with the gravity of the offence and the victims will not be provided with an effective remedy.

20. While the appropriate classification of crimes as hate crimes is a wider issue that also affects other victims such as Roma, OHCHR is concerned that sexual orientation and gender identity are not specifically mentioned as grounds of prohibited discrimination in article 161 (1) and (2) of the Criminal Code, nor in all the aggravated forms of offences and the general provisions on aggravating circumstances under article 67 (1) and (3) of the Criminal Code, which contributes to the inadequate classification of hate crimes based on bias motives. Although under international standards, “other grounds” in this provision should be interpreted as covering sexual orientation and gender identity, law enforcement officers are reluctant to apply it in cases targeting LGBTI people. OHCHR therefore supports explicit inclusion of these grounds, as foreseen in draft law no. 5488 ‘On Amendments to the Code of Ukraine on Administrative Offences and the Criminal Code of Ukraine on Combating Discrimination’ pending in Parliament as of 31 October 2021.

21. OHCHR also documented four acts of violence committed by unknown individuals against environmental human rights defenders (one woman and three men) and their property, believe to be due to their work on environmental issues.¹⁹ In one case in Odesa on 17 June 2021, unknown individuals set fire to a garage at the home of a human rights defender who works on corruption and environmental issues, damaging the car of his daughter. The victim had been investigating illegal sand mining and the creation of a dump in the city centre of Odesa. The victim had previously been threatened and attacked due to his activities, but so far there has been no known progress in the investigation of these past cases. Similarly, police opened criminal investigation into the arson, however no individual perpetrators were identified. If left unaddressed by law enforcement agencies, such attacks may have a chilling effect on environmental human rights defenders.

22. Women human rights defenders face additional gendered risks and obstacles to their work due to stigma, gender stereotypes, inequality and discrimination. OHCHR notes that incidents of hate speech against women human rights defenders increased before, during and after LGBTI assemblies, and feminist marches and events. In the period around the marches for International Women’s Day and LGBTI pride in 2020 and 2021, public officials targeted women human rights defenders with sexist, misogynistic and homophobic messages, which were then amplified by mainstream and social media. Throughout the reporting period, OHCHR also documented online and offline discriminatory language and threats of gender based violence by other individuals targeting women human rights defenders, including LGBTI

¹⁷ This includes LGBTI persons working within LGBTI organizations, as well as LGBTI activists and all those who defend LGBTI rights.

¹⁸ Article 161 of the Criminal Code of Ukraine provides for liability for violating the equality of citizens depending on their racial, national affiliation, religious beliefs, disability and other grounds. According to international law binding in Ukraine, such other grounds include sexual orientation and gender identity. However, in practice, law enforcement agencies are hesitant to apply this Article to crimes perpetrated based on the victim’s sexual orientation and gender identity.

¹⁹ These incidents occurred in Kyiv, Kharkiv, and Odesa, where unknown individuals inflicted physical and property damage. OHCHR interviews on 1 and 24 December 2020, 31 March 2021, 1 April 2021, 6 and 23 July 2021.

people. Derogatory comments regarding their sexuality, sexual orientation and reproductive or marital status were used to discredit their work.

23. In some instances, above-described physical attacks, threats, online bullying, harassment and other acts of intimidation of women human rights defenders were preceded by hate speech by anti-rights movements, including groups that promote violence, in particular extreme right-wing groups.

24. Overall, the majority of hate speech documented by OHCHR during the reporting period targeted Roma, and often included incitement to violence against them. Ukrainian legislation does not criminalize incitement to violence, in contradiction to Article 20 of the International Covenant on Civil and Political Rights.²⁰

C. Freedom of peaceful assembly and association

On 27 May 2021, approximately ten unidentified perpetrators with a flag of “Solaris”, a group that promotes violence, disrupted the screening of a movie about LGBTI in Kyiv. Attackers broke the windows of the venue and threw a smoke grenade into it.

25. Although there is no dedicated law on freedom of assembly, the right to peacefully assemble is guaranteed in the Constitution of Ukraine and is overall respected by authorities in Government-controlled territory. While, in contrast to previous years, authorities successfully policed large assemblies of the LGBTI community in big cities, this section describes other prevailing concerns of OHCHR on protection of the freedom of peaceful assembly and association.

26. OHCHR documented 21 attacks against peaceful assemblies, most of which were organized by the LGBTI community, women human rights defenders and political parties. Fifteen of these attacks were perpetrated by groups that promote violence, often with impunity. In 10 cases, law enforcement authorities refused to initiate criminal proceedings, either referring to lack of evidence or taking no actions to consider complaints.

27. Law enforcement agencies successfully secured large, peaceful LGBTI and women’s rights assemblies on 19 September 2021 in Kyiv, on 28 August 2021 in Odesa and on 12 September 2021 in Kharkiv, protecting participants and preventing violence, especially when compared with previous years.²¹ However, smaller assemblies organized by either the LGBTI community or women human rights defenders were still frequently targeted by groups that promote violence. Further, in two cases when criminal proceedings were initiated, police disregarded the bias motives of the perpetrators, charging them with hooliganism instead of more serious crimes. Due to the prevalence of misinformation and harmful gender stereotypes, LGBTI people and their supporters, especially outside of big cities, told OHCHR they still often self-censor and refrain from participating in public assemblies, as they fear persecution.

28. Throughout the reporting period, OHCHR documented five political assemblies which were targeted with violence, four of which were disrupted by participants of counter-demonstrations affiliated with groups that promote violence. Peaceful assemblies organized by opposition political parties “Partiia Shariiia” and “Opposition Platform – For Life” were often targeted, as right-wing groups that promote violence perceive these parties and narratives from their electoral programs as pro-Russian. Notably, representatives of these two parties are among

²⁰ The Covenant requires that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

²¹ OHCHR Report on the human rights situation in Ukraine, 1 August 2020 – 31 January 2021, para. 73; OHCHR Report on the human rights situation in Ukraine, 16 February – 31 July 2020, para. 83; OHCHR Report on the human rights situation in Ukraine from 16 August to 15 November 2019, para. 15, 85; OHCHR Report on the human rights situation in Ukraine from 16 May to 15 August 2019, para. 87.

those who publicly raise the issue of impunity of such groups for their prior attacks and allegations of neo-Nazi ideology of some of these groups.

29. In one case, on 9 May 2020, a motor rally organized by “Partiia Shariia” in Donetsk region was attacked by unknown individuals wearing masks, leaving no opportunity to determine their identities or possible affiliation with any of the known groups that promote violence. The perpetrators threw eggs, green dye, paint and an unknown chemical substance at the cars of participants, damaging 12 cars in total. The attacks happened in three different locations along the route where there was no police presence. Police opened an investigation under hooliganism charges. On 17 June 2020, members of the same political party were physically attacked during and after a peaceful rally in Kyiv. That day, OHCHR recorded several incidents, including beatings of the assembly’s participants and stones thrown at participants’ buses. Some perpetrators were members of C14 and National Corps, extreme right-wing groups that promote violence. None of the attacks against “Partiia Shariia” have been classified to reflect the political motive of the perpetrators of the attacks, and as such, may undermine the victims’ right to an effective remedy and discourage the general public from participating in political and public affairs. OHCHR notes that the effective policing of some large assemblies (for example large LGBTI assemblies) suggests that law enforcement authorities are sufficiently trained and equipped to better prevent violence during other assemblies.

30. In all these cases, the perpetrators had announced in advance their violent intentions on social media, and as such, the violence could have been prevented or mitigated by law enforcement agencies through coordinated security measures. The failure of law enforcement agencies to monitor and promptly react to calls for violence, to prevent violence, and to take effective measures towards accountability may amount to violations of freedom of peaceful assembly and the right to security of person and effective remedy.

31. OHCHR documented one case where law enforcement officers failed to prevent participants of an assembly from resorting to violence against a Roma family. On 29 August 2020 in Andriivka (Kharkiv region), when aggressive participants of an assembly that featured anti-Roma slogans moved towards the home of a Roma family to forcibly evict them, law enforcement officers evacuated the family instead of apprehending or restraining the attackers. Noting that police were aware of such a risk in advance,²² OHCHR assessed that their failure to effectively react to incitement to violence during the initial period of the assembly led to its escalation, after which the police had to evacuate the family to protect them.²³

32. In addition, OHCHR recorded five attacks targeting the offices and property of political parties “Partiia Shariia” and “Opposition Platform – For Life”. For example, on 3 July 2020, attackers detonated an explosive device on the premises of “Opposition Platform – For Life” in Poltava, causing light injuries to a staff member requiring hospital treatment. On 23 January 2020, the office of “Partiia Shariia” in Kherson, which is located on the first floor of a residential building, was set on fire. The arson was perpetrated at night, when most residents in the building were likely to be home, and was fortunately effectively extinguished by firefighters. Both attacks not only damaged property or homes, but also threatened the lives and health of individuals therefore discouraging participation and the exercise of freedom of association. To date, perpetrators of neither attack have been held to account, which contributes to a climate of impunity and may fuel further similar attacks when political competition and tensions rise.

33. OHCHR is concerned that, since the beginning of the pandemic, COVID-19 restrictions have been selectively applied to peaceful assemblies. While large assemblies on socio-economic issues monitored by OHCHR were held without hindrance, assemblies on sensitive matters such as criticizing right-wing violent extremism, that gathered significantly less participants, were stopped or prevented by authorities who referred to anti-pandemic measures. In particular, in January 2021, while the authorities tolerated a series of protests

²² OHCHR informed National Police of relevant risks prior to the date of planned assembly.

²³ This tactic has been observed earlier and reflected in public OHCHR reports (see OHCHR, *Report on the human rights situation in Ukraine, 16 November 2018 – 15 February 2019*, para. 88).

against changes in tax laws and increases in utility charges, police referred to COVID-19 restrictions to prevent two rallies from being held that aimed at raising awareness about right-wing violence in Kyiv.²⁴ Given that large assemblies carry a greater risk of spreading respiratory diseases, the actions of law enforcement agencies might indicate a biased attitude towards certain assemblies, their organizers, or topics raised.

IV. Civic space in armed group-controlled territory

34. OHCHR observed actions by actors of both self-proclaimed ‘republics’ to curb critical opinions and discourage participation in public affairs, by making changes to administrative and criminal ‘codes’ and persecuting social media users for expressing their views online. This added to the already existing climate of fear limiting the exercise of fundamental freedoms.²⁵ The self-proclaimed ‘republics’ also targeted persons for participating in peaceful assemblies. Human rights defenders have faced significant restrictions on their work, and many have left to Government controlled territory. Armed groups which exercise government-like functions over territory they control must respect international human rights standards when their conduct affects the human rights of individuals in the territory.²⁶

A. Freedom of opinion and expression

‘Donetsk people’s republic’ arrested a man for posting support for Ukraine in social media and for singing in Ukrainian. He was charged with supporting ‘terrorist acts’ of the Government of Ukraine.

35. OHCHR documented 10 cases where individuals were persecuted for expressing their opinions, in particular pro-Ukrainian views, for participating in public affairs or for seeking remedy for violations of their rights. Furthermore, social media users have seen their online exchanges of information and views which oppose positions of the self-proclaimed ‘republics’ censored and shut down. As reflected in the ‘courts’ verdicts in such cases, the free exercise of critical opinions is seen by both ‘republics’ as a threat to their ‘authority’ and ‘constitutional order’.

36. In November 2019, the ‘ministry of state security’ (‘mgb’) of ‘Luhansk people’s republic’ detained an entrepreneur from Luhansk for publicly expressing his pro-Ukrainian views.²⁷ He was held *incommunicado* for three days, and later sentenced to thirteen and a half years in prison for ‘high treason’.

²⁴ See OHCHR Report on the human rights situation in Ukraine, 1 August 2020 – 31 January 2021, para 74.

²⁵ See OHCHR Reports on the human rights situation in Ukraine, 16 November 2018 to 15 February 2019, para 87; 16 February to 15 May 2019, para 79; 16 May to 15 August 2019, para 85; 16 August to 15 November 2019, para 76.

²⁶ The Independent International Commission of Inquiry on the Syrian Arab Republic concluded that “at a minimum, human rights obligations constituting peremptory international law (jus cogens) bind States, individuals and non-State collective entities, including armed groups. Acts violating jus cogens – for instance, torture or enforced disappearances – can never be justified (A/HRC/19/69, para. 106). The United Nations Committee on the Elimination of Discrimination Against Women considers that “[...] where an armed group with an identifiable political structure exercises significant control over territory and population, non-State actors are obliged to respect international human rights” (General Recommendation No. 30, 2013). The United Nations Security Council reminded all parties to the conflict in the Democratic Republic of the Congo “[...] that they must abide by international humanitarian standards and ensure respect for human rights in the sectors they control” and indicated that “the RCDGOMA must... ensure an end to all violations of human rights and to impunity in all areas under its control” (statement by the President of the Council, S/PRST/2002/22(2002)).

²⁷ OHCHR interview, 11 June 2020.

37. On 10 April 2020, the ‘mgb’ of ‘Donetsk people’s republic’ arrested a man who reportedly authored and sang songs in Ukrainian, expressed support for Ukraine and criticised the armed groups on his social media. He was charged with ‘spreading information that led to hatred’ as well as supporting ‘terrorist acts’ of the Government of Ukraine, and reportedly remains detained in the ‘mgb’ SIZO in Makiivka.²⁸

38. In another case, on 25 August 2020, ‘police’ of ‘Donetsk people’s republic’ arrested two men in Donetsk for their pro-Ukrainian views and posts on social networks. The ‘police’ searched their apartments and seized IT equipment and computers. As of 31 October 2021, both men were still being held in the Donetsk SIZO.²⁹

39. On 21 January 2020, a local blogger and member of the ‘public chamber’ (a body advising the ‘head’ of ‘Donetsk people’s republic’ on social and humanitarian issues) was arrested in Donetsk. He was reportedly detained after he had criticized on social media armed groups for detaining people who did not own ‘passports’ and vehicle license plates of ‘Donetsk people’s republic’. He also posted information about alleged corruption of local ‘administrations’ in Makiivka. He was charged with “inciting hatred or enmity, as well as degrading human dignity” and sentenced to nine months in prison. He was released on 5 November 2020 from the Donetsk SIZO, where he had actually been held for a total of nine and a half months.³⁰

40. In December 2020, the ‘mgb’ of ‘Donetsk people’s republic’ detained Roman Manekin, a Donetsk-based blogger, accusing him of “cooperation” with Stanislav Aseiev, a Kyiv-based journalist formerly detained by ‘Donetsk people’s republic’. Mr. Manekin was charged with ‘incitement of hatred or enmity, as well as humiliation of human dignity’, ‘public calls to carry out extremist activities’ and ‘public calls to carry out terrorist activities or public justification of terrorism’. In May 2021, he was sentenced to two years and six months in prison.³¹

41. In June 2021, a woman and man who are married were sentenced to suspended prison sentences of two years for giving ‘false testimony’.³² After their car repair workshop was destroyed in the hostilities in 2016, the couple appealed to ‘law enforcement’ for an investigation and compensation for lost property. When the ‘investigation’ launched by the ‘general prosecutor office’ did not produce any results, in early 2018, they complained about the lack of action by the ‘law enforcement bodies’ to the ‘administration’ of the head of ‘Luhansk people’s republic’. In July 2020, a ‘court’ sanctioned a month-long psychiatric confinement for the man, allegedly to evaluate the state of his mental health. The victims allege that the ‘mgb’ persecuted them for their complaints regarding the ineffective investigation.

42. OHCHR also documented the closure of several Telegram accounts with opinions critical of actors of ‘Luhansk people’s republic’. For example, in June 2021, Telegram channels ‘The secrets of Luhansk Republic’ and ‘Luhansk insider’, which posted information critical of armed groups of ‘Luhansk people’s republic’ and the socio-economic situation in the territory, stopped operating. The owner of these Telegram channels was reportedly arrested by representatives of ‘law enforcement bodies’ of ‘Luhansk people’s republic’.³³

43. During the reporting period, OHCHR noted attempts by actors of both self-proclaimed ‘republics’ to limit online by amending ‘legislation’. In June 2020, a new article was included in the ‘criminal code’ of ‘Donetsk people’s republic’ on “financing extremist activities”, which *inter alia* states that “supporting the activities of an extremist community or an extremist organization” will be punished with up to eight years in prison. Further, in April 2021, a provision was added to the ‘criminal code’ prescribing ‘criminal punishment’ for slander

²⁸ OHCHR interview, 2 June 2020.

²⁹ OHCHR interview, 12 May 2021.

³⁰ OHCHR interview, 17 November 2020.

³¹ OHCHR interview, 28 July 2021.

³² OHCHR interview, 29 June 2021.

³³ Publication on Telegram channel “Citizen’s Notes”, on 14 June 2021, https://telemetr.me/content/zametki_g/post/472/.

committed publicly and on social networks. The amendments also introduced penalties such as corrective labour and imprisonment of up to two years.

44. Similarly, the ‘people’s council’ of ‘Luhansk people’s republic’ amended its ‘code on administrative liability’ in December 2019, expanding the list of ‘administrative offences’ to include dissemination, including online, of information offending human dignity or public morals, or explicitly disrespecting ‘authorities’. In March 2021, the article of its ‘criminal code’ on “defamation” was amended, adding a criminal penalty for defamation committed online. The amendments also introduced punishments such as corrective labour and imprisonment of up to two years.

45. OHCHR is concerned that these new penalties discouraged social media users from expressing opinions about the decision-making processes of both self-proclaimed ‘republics’ and led to more self-censorship, further shrinking the already severely restricted space for free expression. OHCHR noted that, following these amendments, criticism of decisions and actions of actors of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ has appeared less frequently on social media.

B. Human rights defenders

A women’s rights activist based in territory controlled by ‘Donetsk people’s republic’ was questioned about her funding sources by the ‘mgb’ and threatened with detention if she accepted any Ukrainian or foreign funds. She had to scale down her support services for domestic violence survivors and operates in constant fear of persecution.

46. Human rights defenders in territory controlled by self-proclaimed ‘republics’ were also affected by ongoing restrictions on civic space and told OHCHR that they kept low profiles in fear of persecution, including arbitrary detention. Civic space in this territory has gradually deteriorated after an initial crackdown in 2014.³⁴ Many human rights defenders left the territory after the start of the armed conflict, having faced reprisals for their work. Those who remained and continued their work faced a high degree of insecurity, in particular women human rights defenders.

47. OHCHR interviewed several women’s rights activists in territory controlled by self-proclaimed ‘republics’ as well as those located in Government-controlled territory who had previously worked in territory controlled by self-proclaimed ‘republics’.

48. One activist based in territory controlled by ‘Donetsk people’s republic’ told OHCHR that she had to drastically scale down her services for survivors of domestic violence after, in early 2018, the ‘mgb’ questioned her about her sources of funding for the services.³⁵ They threatened her with criminal liability for accepting any funds from Ukrainian or international organizations and ordered her to report if she received any Ukrainian or foreign funds, so that the armed groups could decide how to use them. The activist told OHCHR that since then, she has operated in constant fear of persecution.

49. Another activist stated that after the armed conflict started, she had to shut down a shelter for domestic violence victims she was running in territory controlled by ‘Donetsk people’s republic’ and move her organization due to funding restrictions imposed by armed groups.³⁶ The activist also told OHCHR she did not know where victims went for help.

³⁴ Civic space and fundamental freedoms in this territory were impacted as soon as armed groups took control. The operational environment for human rights defenders was significantly affected by the actions of armed groups, which established a separate ‘legal framework’ and enforced restrictions on fundamental freedoms. These developments led to the quick decline of civil society in the territory.

³⁵ OHCHR interview, 30 April 2021.

³⁶ OHCHR interview, 6 May 2021.

50. Another women’s rights organization based in territory controlled by self-proclaimed ‘republics’ told OHCHR that they are unable to continue their work due to fear of being accused of espionage for accepting assistance and funding from international organizations.³⁷

51. OHCHR documented one incident targeting LGBTI persons or those defending their rights in territory controlled by self-proclaimed ‘republics’. In June 2020, ‘police’ detained an LGBTI activist in Luhansk and interrogated him without a lawyer.³⁸ Although the reason provided for his detention was suspicion against one of his friends for online fraud, an ‘investigator’ asked his opinion about the armed conflict in eastern Ukraine and LGBTI persons. The ‘investigator’ also threatened to plant drugs in his pockets to force him to “confess to everything.” The activist was released two hours later. Prior to his detention, he had collected stories about LGBTI persons living in territory controlled by ‘Luhansk people’s republic’ to support his advocacy work in Government-controlled territory and believes his detention was linked to his LGBTI activism.

C. Freedom of peaceful assembly and association

On 6 June 2020, 22 coal miners of the Vostokugol mine located in Anratsyt town were ‘arrested’ by the ‘mgb’ of ‘Luhansk people’s republic’ after participating in a labour strike over prolonged salary arrears and held incommunicado. They were released on 18 June and were threatened with detention if they spoke to anyone about what happened to them.

52. In territory controlled by self-proclaimed ‘republics’, OHCHR noted a small number of assemblies taking place, exclusively raising economic and social issues, criticizing salary delays and poor management of local infrastructure. OHCHR did not observe any assemblies on more sensitive political topics and is concerned this is likely due to restricted civic space, the prevailing atmosphere of fear and self-censorship. Participants in assemblies raising economic and social rights, such as labour strikes, faced serious consequences, including arbitrary detention.

53. On 6 June 2020, 22 coal miners of the Vostokugol mine (formerly Komsomolska) located in Anratsyt town were arrested by the ‘mgb’ of ‘Luhansk people’s republic’ for participating in a labour strike over prolonged salary arrears and unsafe working conditions at the mine.³⁹ Two of the coal miners were arrested for disseminating information about the strike and salary arrears on social media.⁴⁰ While in detention, the miners were held *incommunicado*, did not have access to legal counsel or have an opportunity to contest their detention before a ‘judge’.⁴¹ On 18 June 2020, all coal miners were released and warned by the ‘mgb’ not to share information about their detention or risk criminal prosecution. In order to prevent dissemination of information about the labour strike, actors of ‘Luhansk people’s republic’ reportedly blocked access to the Vkontakte website⁴² for several weeks,⁴³ cutting off the primary means used by mine workers to communicate with each other about the strike and share critical views on the matter with the public.

54. In July 2020, a male worker and activist at a factory in territory controlled by ‘Luhansk people’s republic’ who had previously supported a labour strike at the factory and openly

³⁷ OHCHR interview, 19 May 2021.

³⁸ OHCHR interview, 17 November 2020.

³⁹ OHCHR interview 10 June 2020.

⁴⁰ OHCHR interview 10 June 2020.

⁴¹ The denial of the right to be tried in one’s presence is a widespread human rights violation in territory controlled by self-proclaimed ‘republics’. See OHCHR report “Human Rights in the Administration of Justice in Conflict Related Criminal Cases in Ukraine April 2014 – April 2020”.

⁴² Vkontakte is a Russian online social media https://vk.com/lugansk_inside?w=wall-157063130_25889.

⁴³ https://vk.com/lugansk_inside?w=wall-157063130_26885.

expressed his dissatisfaction with the financial situation there, reportedly lost his employment without any legitimate reason.⁴⁴

55. Furthermore, OHCHR is concerned that workers in territory controlled by ‘Luhansk people’s republic’, in particular mine workers, do not have access to their right to form independent trade unions and to join the trade union of one’s choice. During the reporting period, OHCHR documented a case of mine workers who wanted to establish an independent trade union in territory controlled by ‘Luhansk people’s republic’.⁴⁵ The coalmine’s management appointed their own candidates to key positions of the existing trade union. In protest, in November 2019, several coal miners from territory controlled by ‘Luhansk people’s republic’ reportedly joined an independent trade union of miners established by miners in territory controlled by ‘Donetsk people’s republic’.⁴⁶

56. Restrictions on religious groups by both self-proclaimed ‘republics’, such as unreasonably heavy bureaucratic requirements and criminal sanctions for religious activities that are equated with extremist activity, continued to have a profound impact on the rights to freedoms of association and of religion or belief.⁴⁷ As of 31 October 2021, several religious organisations were still unable to operate as requirements of obligatory ‘registration’ of religious organisations remained in force, which ‘authorities’ used as a tool to obstruct religious activities or shut them down completely. This has particularly affected several evangelical Christian denominations and Jehovah’s Witnesses. The ‘authorities’ persecuted Jehovah’s Witnesses, interfering with its religious practices and accusing the organization and its members of extremist activities. Prior to the reporting period, ‘Luhansk people’s republic’ prohibited Jehovah’s Witnesses’ operations in 2017, and ‘Donetsk people’s republic’ – in 2018.

V. Civic space in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, occupied by the Russian Federation

57. The Russian Federation made wholesale changes to the legal system that was in place in Crimea before the beginning of the occupation, including by applying the entirety of its legislation to Crimea. By doing so, the Russian Federation acted in violation of international humanitarian law which requires the occupying Power to take all measures in its power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.⁴⁸ These changes also led to a more restrictive civic space in Crimea.

A. Freedom of opinion and expression

On 22 July 2021, a local court in Simferopol sentenced a Crimean Tatar man to three days in detention for a social media post containing Hizb ut-Tahrir symbols. In violation of the principle of legality, the court convicted the man retroactively, for a post uploaded in 2013, before the imposition of Russian legislation in Crimea.

58. OHCHR is concerned about the sanctioning of Crimean residents for expressing their views publicly, especially on social media, and for distributing materials, including images and songs, considered as extremist under Russian Federation law, but not punishable under

⁴⁴ OHCHR interview 3 June 2021.

⁴⁵ OHCHR interview 2 July 2021.

⁴⁶ <https://donpress.com/news/23-05-2021-mgb-ustroilo-okhotu-na-aktivistov-zabastovki-rabochikh-alchevskogo-metkombinata>.

⁴⁷ See OHCHR Reports on the human rights situation in Ukraine, 16 November 2016 to 15 February 2017, para 103; 16 August to 15 November 2019, para 81.

⁴⁸ Regulations respecting the Laws and Customs of War on Land of 1907 (the Hague Regulations), art. 43.

Ukrainian legislation. Under Russian Federation law, the definition of “extremist materials” is vague and open-ended, which often leads to penalization of expression of peaceful opinions.⁴⁹

59. During the reporting period, OHCHR documented 15 cases (regarding 14 men and one woman) where individuals were convicted of extremism-related administrative offences manifestly in violation of the right to the freedom to impart information and express opinions.

60. Criminal prosecution for social media posts also occurred in Crimea, raising serious concerns of violations of the right to freedom of expression and opinion. In an emblematic case, Nariman Memedeminov, a journalist and activist with the civic group Crimean Solidarity, served two years and six months in prison upon conviction for public calls to terrorism based on his publication of a series of videos online.⁵⁰ However, Mr. Memedeminov had uploaded four of the five videos in 2013, before the occupation of Crimea and extension of the criminal law of the Russian Federation to the peninsula. Therefore, the Court applied Russian Federation criminal law retroactively, in violation of the principle of legality. Furthermore, the court based its conviction on linguistic and religious expert reports produced by the prosecution and failed to point to any specific statements in the videos that would amount to public calls to terrorism. In addition to his prison sentence, Mr. Memedeminov was involuntarily institutionalized in a psychiatric hospital for four weeks during his pre-trial detention - a measure which appears disproportionate to the stated aim of assessing his mental fitness to stand trial - and deported to the Russian Federation prior to his conviction.⁵¹ The court also ordered that he be “denied the right to conduct activities connected with administering websites” for two years following his release.

61. Since 2019, Crimean residents have also been prosecuted under Russian Federation legislation for disseminating, in the media and online, “false information of public importance” and “obscene language”, which expresses “non-respect of society, state, official state symbols of the Russian Federation [...], government authorities”.⁵² OHCHR documented the prosecution for expressing alternative and critical views on public issues of seven individuals from Crimea (four men and three women) under the aforementioned legislation. In one case, a female editor-in-chief of a local newspaper was prosecuted in August 2020 for an article criticizing COVID-19 prevention policies by questioning the effectiveness of lockdowns, face masks and vaccines. The court convicted the journalist of disseminating false information of public importance based on the fact that the views expressed in the article contradicted the official position of Russian occupation authorities, and imposed a fine of 60,000 Russian rubles (approx. \$816).

62. Journalists and media workers continued to face interference with their professional activities by the local occupation authorities in Crimea, including law enforcement agencies. These practices included surveillance, threats of physical harm, criminal prosecution and other sanctions, arrests and prohibition of entry into and deportation from the territory of Crimea. Such retaliation for critical reporting in Crimea, and the resulting practice of self-censorship,

⁴⁹ The Venice Commission criticized the Russian Federation’s anti-extremist legislation as “dealing with very sensitive rights and carrying potential dangers to individuals and NGOs” while lacking the “necessary precision” in the definition of “extremist activities”. See the Opinion of the Venice Commission on the Federal Law on Combating Extremist Activity, adopted by the Venice Commission at its 91st Plenary Session (Venice, 15-16 June 2012), par. 75, available at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)016-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)016-e). The definition of extremism is contained in Federal Law No. 114-FZ on combating extremism of 25 July 2002 of the Russian Federation.

⁵⁰ According to the authorities of the Russian Federation, the videos contained calls for “armed religious struggle against non-believers and enemies as well as participation in terrorist organization *Hizb ut-Tahrir*”.

⁵¹ In violation of GV IV, article 49, which prohibits deportation of protected persons outside the occupied territory.

⁵² The relevant provisions were introduced into the Russian Federation Code of Administrative Offences in 2019 (art. 13.15 (paras. 9) and art. 20.1 (paras. 3-5)).

has undercut the possibility to express dissenting views or criticize the authorities and their policies.⁵³

63. Journalists from Crimea informed OHCHR that they felt restricted in their reporting because of the need to avoid “taboo” topics, such as the status of Crimea, and they purposefully avoided “strong wording” in materials on political or social issues. Journalists complained of constantly worrying about the risk of prosecution for extremism-related offenses and other retaliation and the necessity to use pseudonyms as an additional safety measure.

64. The genuine risk of retaliation for journalistic work is supported by documented examples of detention, imposition of fines, threats, and attacks. OHCHR interviewed a female journalist from Kerch who received threats from city officials that “Roskomnadzor”⁵⁴ would “dig out some dirt” on her media outlet when she investigated property confiscations in connection with the construction of the Kerch bridge. A male journalist from Yalta informed OHCHR of the practice of newspapers of paying a higher remuneration rate to reporters who describe government policies in a positive light. He further informed that all journalists of the newspaper where he worked had a good understanding of the “black list” of political topics to be avoided, including any pro-Ukrainian reporting.

65. On 10 March 2021, the Federal Security Service of the Russian Federation (FSB) arrested Vladyslav Yesypenko, a freelance journalist with Radio Free Europe/Radio Liberty, and charged him with illegal possession of explosives. The FSB tortured him to obtain a forced confession. Despite the victim’s identification of the alleged perpetrators, an investigation had still not been launched as of 31 October 2021.⁵⁵

66. Since 2014, analogue broadcasts of Ukrainian television channels have remained shut off and the vacated frequencies broadcast Russian TV channels.⁵⁶ According to monitoring conducted by human rights non-governmental organizations (NGOs), the broadcasting of radio channels from the Ukrainian mainland is also routinely blocked in Crimea.⁵⁷ Many online media, including those which report on Crimea, such as *Centre of Journalist Investigations*, *BlackSeaNews*, and *Hromadske Radio*, are also not accessible in Crimea.⁵⁸

67. On 20 April 2021, a court in Crimea fined Bekir Mamutov, the editor-in-chief of Crimean Tatar newspaper *Qirim* and a member of the Mejlis, for “abuse of the freedom of mass information” in connection with the publication of the United Nations Secretary-General’s 2020 report on the human rights situation in Crimea (A/75/334). The newspaper published the official Russian translation of the full report, which mentions the Mejlis. Russian Federation law applied in Crimea prohibits the distribution of information about the Mejlis without indicating that its activities are prohibited in the Russian Federation⁵⁹. Prior to this prosecution, “Roskomnadzor”, routinely monitored the newspaper and had issued “warnings” to Mr.

⁵³ According to the United Nations Human Rights Committee “the penalization of a media outlet [including online media], publishers or journalists solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of the freedom of expression.” General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (12 September 2011), paragraph 42.

⁵⁴ “Roskomnadzor” is the Russian Federation state agency charged with monitoring compliance of mass media with legislation.

⁵⁵ While it was not possible to establish to what extent Mr. Yesypenko’s arrest and prosecution is decisively linked to his journalistic work in Crimea, the case raises grave concerns of impunity for retaliation in the form of torture against a media worker. See 2021 Report of the Secretary General on the Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine (A/76/260), para 13.

⁵⁶ OHCHR first Crimea report, paras. 155-158.

⁵⁷ See, for example, monitoring by the Crimean Human Rights Group in June 2021, available under <https://crimeahrg.org/uk/okupaczijna-vlada-znovu-posilila-blokuvannya-ukraïnskogo-radiosignalu-na-pivnochi-krimu-2/>.

⁵⁸ Crimean Human Rights Group, <https://crimeahrg.org/uk/kogo-glushat-u-krimu-ukraïnski-media-pid-zaboronoyu-ta-obhodi-blokuvannya/>.

⁵⁹ See 2021 Report of the Secretary General on the Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine (A/76/260), para 22.

Mamutov in connection with other publications and summoned him for “conversations” about publications at the Roskomnadzor premises. The editor believes that the Russian occupation authorities use such tactics to obstruct the publication of *Qirim*, which they perceive as an opposition newspaper.

68. The practice of barring access of Ukrainian journalists to Crimea limits the possibility of pluralistic coverage of developments in Crimea, including on human rights related issues. The FSB has also banned Ukrainian journalists from entry into Crimea.⁶⁰

B. Human rights defenders

On 17 August 2020, a criminal defence lawyer who frequently represents Crimean Tatars in proceedings in Crimea and the Russian Federation faced the risk of disbarment after she was found in contempt of court for “over eagerness” during witness cross-examinations, “arguing” with the court, and disrupting the proceedings.

69. The activities of human rights defenders have been restricted by the risk of prosecution and other retaliation from the Russian occupation authorities. Practicing criminal defence lawyers are hindered from performing their professional work in high-profile cases. Many human rights organizations originating from Crimea have found it necessary to relocate staff to mainland Ukraine due to specific risks and the general unfavourable environment for human rights work.

70. OHCHR continued to document cases of harassment of lawyers defending clients in high-profile cases. Defence lawyers received verbal warnings from judges for “over eagerness” during witness examinations and faced administrative charges on questionable grounds⁶¹ and possible disbarment. Lawyers complained that such sanctions affected the proper discharge of their professional duties and inhibited other lawyers representing clients in high-profile cases.

71. One emblematic example is that of Liliya Hemedzhy, a criminal defence lawyer who has frequently represented Crimean Tatars in proceedings in Crimea and the Russian Federation. She faced the risk of disbarment after she was found in contempt of court on 17 August 2020 for “over eagerness” during witness cross-examinations, “arguing” with the court, and disrupting the proceedings. Ms. Hemedzhy informed OHCHR she was merely exercising her professional duties and representing her clients’ best interest, and denied any professional misconduct. The ruling impacted her ability to fully represent her client and discharge her professional duties, and has had a chilling effect on other lawyers representing clients in similar cases.

72. Key Crimea-focused NGOs continued to work from mainland Ukraine, mostly Kyiv,⁶² while their activities on the ground in Crimea remained very limited. Representatives of these NGOs repeatedly informed OHCHR that their activists who travelled to Crimea or worked on the ground on the peninsula were under constant risk of reprisals, including criminal prosecution, and, thus, compelled to conceal their identities.

⁶⁰ See, for example, 2020 Report of the Secretary General on the Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine (A/75/334), para 25.

⁶¹ For instance, “failure to comply with the court bailiff’s order” for not leaving a courtroom after a recess.

⁶² These include but are not limited to Crimea SOS, Crimean Human Rights Group, Regional Centre for Human Rights, Almenda, and Crimean Tatar Resource Centre.

C. Freedom of peaceful assembly and association

On 21 May 2021, a court in occupied Crimea found three Crimean Tatar women guilty of participation in an unauthorized public gathering. The women had each conducted a single-person picket in support of their sons who were facing trial. Although each woman performed her picket at a different time and in a different location, the court decided that they comprised a single public assembly and fined each of them for their participation in an unauthorized assembly.

73. The expression of dissenting political or alternative views through participation in public assemblies continued to be curtailed in Crimea. In particular, freedom of peaceful assembly was undermined by the blanket requirement of prior authorization⁶³ of any assembly by the occupation authorities in Crimea.⁶⁴ Under Russian Federation legislation applied in Crimea, participants of unauthorized assemblies are subject to prosecution, which has a chilling effect on potential gatherings. During the reporting period, OHCHR documented 52 cases (against 41 men and 11 women) of court-imposed sanctions for holding assemblies without seeking prior authorization. The sanctions applied ranged from fines and community service to detention of up to seven days (“administrative arrest”). Most of these assemblies gathered to voice opposition to various policies of the Russian government, in particular the detention of Russian politician Alexei Navalny. Other sanctions targeted individuals who had gathered to express their views on social or environmental issues. For example, on 29 October 2020, three men were fined 20,000 Russian rubles (approx. \$280) each for organizing a picket in front of a government building in Simferopol demanding the resignation of certain officials for their inadequate response to the lack of water in Crimea. In another case, the organizer of a car rally displaying ethnic Crimean Tatar symbols was fined 20,000 Russian rubles (approx. \$280) on 11 August 2020.

74. On 23 January 2021, people gathered in Simferopol and Sevastopol, without pre-authorization, in response to calls for protests against the Russian Government by supporters of detained Russian opposition politician Alexei Navalny. Fearing prosecution for the unauthorized assembly, the participants refrained from expressing any political demands or displaying any banners. Regardless, OHCHR documented prosecutions against 46 people (36 men and 10 women) for participating in the two protests.⁶⁵ Opposition activists consider the arrests and convictions as a measure of intimidation, which dissuaded people from participating in further gatherings. In an emblematic case, on 17 June 2021 a court in Simferopol fined a woman 150,000 Russian rubles (approx. \$2,052) for disseminating information about upcoming activities of Navalny supporters on the mobile messaging application “Telegram”. The court found that such dissemination of information amounted to the “organization of an assembly”. While the court listed the grounds for state restrictions on freedoms of expression and of assembly prescribed under Russian Federation legislation, including prevention of disturbances or crimes, threats to public health or morals, and infringement on the rights and freedoms of others, it failed to demonstrate how the defendant’s exercise of these rights would come into conflict with any of the above grounds.

⁶³ Although the relevant Russian Federation legislation refers to the term “notification”, it imposes stringent requirements, which *de facto* amount to an authorization procedure. The application for holding an assembly must be submitted between 10 and 15 days prior to the planned date, which is then subject to “suggestions” by the authorities as to the holding of the planned assembly, inter alia, to change the time or place. No later than three days prior to the planned event, the organizer must reply to the “suggestions” of the authorities. Further, the assembly is considered unauthorized under Russian law if the organizer does not accept the “suggestions” of the authorities.

⁶⁴ The Human Rights Committee noted that having to apply for permission from the authorities to hold any assembly “undercuts the idea that peaceful assembly is a basic right”. See CCPR/C/GC/37, para. 70.

⁶⁵ The prosecution took place either under the charges of organizing an unauthorized assembly or for administrative offenses related to COVID-19 prevention rules.

75. Law enforcement officers also interrupted assemblies and spontaneous public gatherings that took place without prior authorization by arbitrarily applying restrictions imposed in response to the COVID-19 pandemic. On 3 November 2020, the Simferopol police arrested two journalists and an activist with Crimean Solidarity for alleged violations of the rules of the Russian Federation on public assemblies and of restrictions imposed in response to the COVID-19 pandemic. The men had participated in a picket protesting against the criminal prosecution of Crimean Tatars.⁶⁶ The police detained them in the precinct for six hours and denied them access to a lawyer. The court, which subsequently reviewed the accusations against the defendants, dismissed all charges and ordered their release, without compensation. More recently, on 4 September 2021, Russian police arrested not less than 57 individuals (54 men and three women) near the FSB department in Simferopol following a peaceful assembly in response to the recent detention of five Crimean Tatar men, including First Deputy Chairman of the Mejlis. Consequently, 47 of them were found guilty of “violation of rules during emergency” and sentenced to monetary fines.⁶⁷ In a similar fashion, on 11, 25 and 29 October 2021, Russian police arrested 69 individuals (all men) who wanted to attend court hearings in one of the *Hizb ut-Tahrir* cases in the Crimean garrison military court in Simferopol and waited outside, while lawyers in the case formally motioned the panel of judges to allow visitors to be present in the courtroom.⁶⁸ In total, according to OHCHR findings, during September and October 2021, Russian police arrested not less than 131 participants of public assemblies (128 men and three women). As of 31 October 2021, 68 of them had been found guilty and fined.

76. Although under Russian Federation legislation, single-person pickets do not require prior authorization, such pickets were still sometimes interrupted by police and picketers faced sanctions. For example, on 21 May 2021, a court in Crimea found three Crimean Tatar women guilty of participation in an unauthorized public gathering. The women had each conducted a single-person picket in support of their sons who were being prosecuted in a *Hizb ut-Tahrir* case. One picket was interrupted by the police who ordered the woman to go the police station. Although each woman performed her picket at a different time and in a different location, the court decided that they comprised a single public assembly conducted under the guise of single-person pickets. The court fined one woman 5,000 Russian rubles (approx. \$68) and the other two 10,000 Russian rubles (approx. \$136) each for the unauthorized assembly. Furthermore, police had drawn up the protocols for these offences without informing the defendants or their lawyers as required by law. As a result, the women learned of the charges against them only upon being summoned to the court hearing, almost six months after the pickets.

77. Law enforcement agencies routinely issued written warnings to potential participants of assemblies, which has had a chilling effect on the exercise of the right to freedom of assembly. One recipient described the warning as “a measure to frighten dissenters who disagree with the current policies in Crimea”. Crimean Tatars were particularly affected, receiving such warnings in advance of commemorative dates for Crimean Tatars (such as the Day of the Crimean Tatar National Flag on 26 June 2021), in response to an announcement by the Mejlis of a public march in May 2020, as well as ahead of the 30th anniversary of Ukrainian Independence Day on 24 August 2021. The warnings contained a list of applicable administrative and criminal sanctions and cautioned the recipients against organizing ill-defined extremist assemblies “aimed at destabilizing the situation”.

78. The imposition of the Russian Federation legal framework on the peninsula led to adverse effects on the exercise of freedom of association. Groups and associations, perceived as opposing the occupation of Crimea or Russian Federation policies, such as the Mejlis and Crimean Solidarity, came under scrutiny of law enforcement authorities and faced interference with their activities. OHCHR has observed a narrowing of space for manifestations of minority identities in Crimea, in particular through the exercise of the right to enjoy one’s culture and

⁶⁶ The picket involved other participants, but only the three men were detained, for allegedly having coordinated the protest.

⁶⁷ OHCHR verified that one individual was acquitted, cases against six individuals were returned to the police, while three individuals were released without charges.

⁶⁸ Fifteen people were arrested near the courthouse on 11 October 2021, 21 on 25 October 2021 and 33 on 29 October 2021.

practice one's religion in community with other members of one's ethnic, religious or linguistic group.⁶⁹ Some religious groups, such as the Jehovah's Witnesses, were completely banned as "extremist organizations". Other religious groups suffer from stringent registration requirements and other regulation of their activities, which are applied arbitrarily in some cases.

79. Since 2016, the Mejlis has been outlawed in Crimea as an "extremist organization", following a decision of the supreme court of Crimea, which was then upheld by the Supreme Court of the Russian Federation.⁷⁰ The ban has remained in force to date despite the 2017 Order of the International Court of Justice that the Russian Federation "*refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis*".⁷¹

80. During the reporting period, leaders of the Crimean Tatar community with strong affiliation to the Mejlis faced prosecution in Crimea. On 1 June 2021, following a trial *in absentia*, a court in Crimea sentenced Refat Chubarov, the Chairman of the Mejlis currently living in mainland Ukraine, to six years in prison for organizing "mass disturbances" during a rally before the Crimean Parliament on 26 February 2014.⁷² Notably, he was convicted retroactively for acts which preceded the imposition of the Russian Federation legal framework on the peninsula, in violation of the principle of legality.⁷³ Mustafa Dzhemilev, a former Mejlis Chairman and prominent leader of Crimean Tatar people, was also being prosecuted *in absentia* in a pending trial. On 4 September 2021, the First Deputy Head of the Mejlis, Nariman Dzhelialov was arrested by the FSB in Crimea and accused of sabotage. Reportedly, following his arrest, Mr. Dzhelialov was held incommunicado for at least 11 hours, subjected to ill-treatment during his interrogation, and denied access to his lawyer of choice for almost one day.

81. In response to cases of criminal prosecution of Crimean Tatars, relatives of detained Crimean Tatars created a civic group, "Crimean Solidarity", operating as a platform to exchange information, mobilize support, and reach out to lawyers and human rights defenders.⁷⁴ Members of Crimean Solidarity complained to OHCHR of threats and pressure by law enforcement authorities on landlords to refuse to rent facilities to Crimean Solidarity to conduct meetings.

82. All congregations of Jehovah's Witnesses remain under a blanket prohibition, following the 2017 decision of the Supreme Court of the Russian Federation declaring the group an "extremist organization". The ban not only infringes on the freedom of association and freedom of religion and deprives believers of the possibility to practice their faith in community with others, but also led to the criminal prosecution of individual Jehovah's Witnesses. As of 31 October 2021, OHCHR documented the conviction of four male Jehovah's Witnesses of extremism-related crimes for continuing to conduct their religious practices in a group. All four men had assembled with other believers to discuss religious doctrine in a private apartment, play religious songs and study religious literature. They were each sentenced to imprisonment, ranging from six to six and a half years. Most recently, Ihor Shmidt, a male Jehovah's Witness from Sevastopol, was sentenced to six years in prison on 22 October 2021.

⁶⁹ ICCPR, art. 27.

⁷⁰ OHCHR, "Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", 25 September 2017, paras. 187-189.

⁷¹ Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of all forms of racial discrimination (Ukraine v. Russian Federation); Request for the indication of provisional measures, Order of 19 April 2017, General List No. 166, paragraph 106.

⁷² During the rally, pro-Ukrainian and pro-Russian protesters faced off, leading to a stampede and the death of two pro-Russian demonstrators.

⁷³ This conviction also amounts to a violation of international humanitarian law. According to Geneva Convention IV (art. 70), protected persons shall not be arrested, prosecuted or convicted by the occupying Power for acts committed before the occupation, with the exception of breaches of laws and customs of war.

⁷⁴ See OHCHR, Report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, 13 September 2017 to 30 June 2018", 10 September 2018, para. 53 (https://www.ohchr.org/Documents/Countries/UA/CrimeaThematicReport10Sept2018_EN.pdf).

83. The application of anti-extremist laws of the Russian Federation, commonly referred to as the “Yarovaya package”, also significantly limited the ability of various religious groups to conduct religious practices together by banning broadly defined “missionary activities”. During 2020, OHCHR recorded 32 court-imposed sanctions against religious organizations or individuals for offences considered as proselytizing under the applied legislation (14 Protestant, 10 Muslim, 2 Jewish, 1 Catholic and 1 Mormon organization).

VI. Conclusions and recommendations

84. OHCHR welcomes the Government’s recent efforts aimed at improving accountability for perpetrators of violent attacks against media workers, journalists and civil society activists. This includes measures aimed at increasing efficiency of investigations into cases of violence against media workers. Further improvements in relation to securing large public assemblies throughout the reporting period are also worth noting.

85. OHCHR nevertheless remains concerned about overall lack of accountability for perpetrators who resort to violence and threats in order to target human rights defenders, media workers, and individuals who express opinions online or attempt to participate in policy-making. Notably, in a number of documented cases perpetrators did not hide their affiliation with groups that promote violence, which nevertheless did not lead investigators to identify them. Failure of law enforcement agencies to immediately stop violence and appropriately initiate investigations into cases of violence, in some cases, encouraged perpetrators to carry out new attacks and threats targeting the same victims. Despite improvements with policing large LGBTI assemblies, smaller ones, as well as assemblies on different sensitive topics still remain insufficiently secured, exposing their participants to risk of physical attacks.

86. The situation with fundamental freedoms in territory controlled by the self-proclaimed ‘republics’ demonstrated further deterioration. Freedom of expression was particularly affected, as social media that had previously been perceived by local residents as safe for expressing themselves cannot be considered as such any longer. OHCHR documented cases of arbitrary detention of bloggers and individuals who expressed opinions online. Moreover, mere criticism of socio-economic matters caused strong reactions from ‘republics’, which ‘charged’ victims with “high treason”, and “incitement to hatred”. Freedom of association remains restricted, as numerous religious organizations were unable to operate in territory controlled by both ‘republics’ and coal miners were in some cases unable to establish independent trade unions.

87. Russian Federation occupation authorities in Crimea continued to restrict freedom of opinion and expression by interfering with journalists and media outlets, as well as prosecuting individuals for their opinions, including those expressed on the Internet. Human rights defenders operated in a highly constrained environment running the risk of prosecution and other retaliation from the Russian occupation authorities. The continuing violations of international humanitarian law and international human rights law by the Russian Federation, as the occupying Power, must be recognized and addressed, and concrete steps taken to protect the right to freedom of peaceful assembly, freedom of expression and opinion, as well as freedom of association.

Recommendations

88. In order to improve the protection of fundamental freedoms, and empower civil society, protect civic space and encourage participation by all groups in democratic processes, OHCHR recommends:

89. To the authorities of Ukraine:

- a) **The Parliament to develop legislation that would criminalise hate speech inciting discrimination, hostility and violence in line with Article 20 of the International Covenant on Civil and Political Rights;**
- b) **The Parliament to amend national legislation to include hate crimes against LGBTI people by specifying sexual orientation and gender identity as grounds in article 161 (1) of the Criminal Code, as well as**

in all the aggravated forms of offences and the general provisions on aggravating circumstances under article 67 (1) (3);

- c) State and local authorities to promptly and publicly condemn all instances of hate speech, incitement to violence, and discrimination against any group, expressed online and offline;**
- d) State and local authorities to publicly condemn all violent attacks, including those committed by groups that promote violence, against journalists and other media professionals, civic and political activists, and those representing alternative opinions, and systematically call for accountability;**
- e) State and local authorities to ensure meaningful and inclusive participation for all civil society actors, including the diversity of voices and freedom of the media, specifically those most often targeted, marginalised and ignored, and the need to more regularly engage and consult with them;**
- f) State and local authorities to use all available opportunities to increase protection and participation of women human rights defenders to ensure their due involvement in civil society;**
- g) The Office of the Prosecutor-General, State Bureau of Investigations and other law enforcement agencies, investigative bodies and courts to proactively and efficiently investigate all cases of violent crimes including hate crimes, threats and incitement to violence, with particular attention to those committed by members, affiliates or supporters of groups that promote violence, and ensure that all perpetrators, including the instigators, planners and organizers of attacks, are brought to account through a fair trial without undue delays;**
- h) The National Security and Defence Council to ensure conformity of its decisions with national laws and international human rights standards, and to take steps to mitigate the negative impact of those decisions that were already implemented;**

90. To self-proclaimed 'Donetsk people's republic' and self-proclaimed 'Luhansk people's republic':

- a) To refrain from implementing regulations and practices that unduly restrict the exercise of freedom of expression;**
- b) To release individuals detained in relation to exercising their fundamental freedoms;**
- c) To refrain from creating obstacles for human rights defenders including women human rights defenders and their work on gender-based violence issues;**
- d) To facilitate access for workers to their right to form independent trade unions and to join the trade union of one's choice;**

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

- a) Uphold obligations as a duty bearer under international human rights law in Crimea and respect its obligations as an occupying Power pursuant to international humanitarian law;**
- b) Ensure unimpeded access of international human rights monitoring missions and human rights non-governmental organizations, including women human rights defenders, to Crimea, pursuant to United Nations General Assembly resolutions 71/205, 72/190, 73/263, 74/168 and 75/192;**

- c) **Ensure that the rights to freedom of expression, peaceful assembly, association, thought, conscience and religion and participation can be exercised by any individual and group in Crimea, without discrimination on any grounds, including race, gender, gender identity, sexual orientation, nationality, political views or ethnicity;**
- d) **Stop applying Russian Federation legislation, including provisions on extremism, terrorism and separatism, to penalize free speech and peaceful conduct, and release all persons arrested and charged for expressing dissenting views;**
- e) **Allow the development of independent and pluralistic media outlets, including those representing minority communities and women journalists, and refrain from placing legal and administrative obstacles on their registration or operation;**
- f) **Facilitate the access of journalists to Crimea and refrain from unjustified entry bans and deportations of reporters;**
- g) **End the requirement for prior authorization for peaceful assemblies, and refrain from issuing warnings to, voicing threats against or otherwise intimidating potential participants in those assemblies;**
- h) **Refrain from prosecuting individuals for participating in peaceful assemblies, regardless of their identity and the political or other views expressed;**
- i) **Promote a safe and enabling environment for independent and pluralistic civil society organizations, including Crimean Solidarity, women human rights defenders, and other human rights organizations;**
- j) **Comply with the 2017 Order of the International Court of Justice and lift any limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis; and**

92. To the international community:

- a) **Use all available diplomatic instruments and all existing channels of communications with relevant stakeholders for delivering these recommendations in order to amplify their effect and convey relevant messages to all duty bearers to respect fundamental freedoms and abstain from activities that specifically target civic space;**
- b) **Continue to urge the Russian Federation to comply with its obligations under international human rights law and international humanitarian law and to grant unimpeded access to Crimea to independent human rights monitoring mechanisms, in particular the Human Rights Monitoring Mission in Ukraine;**
- c) **Publicly recognise, support and resource human rights defenders working in Ukraine, including in Crimea and in the self-proclaimed ‘republics’, including women human rights defenders in all their diversity.**