

# REPORT

of the international monitoring group according to the results of the monitoring mission carried out from October 17 to 23, 2016 in areas of the Luhansk and Donetsk regions

## Violence in the Conflict Zone in Eastern Ukraine: Illegal Places of Detention and Human Rights Violations in Areas affected by the Conflict



## Imprint

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### Project

«European Support for the Effective Monitoring of Human Rights in Eastern Ukraine»



in cooperation with Eastern Ukrainian Centre of Civilian Initiatives



The following report is the result of the project implemented by the efforts of the following non-governmental organisations:



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The report has been prepared by members of the international monitoring group according to the results of the mission in eastern Ukraine, which took place from 17 to 23 October 2016. The participants of the mission were representatives from civil human rights organisations and one academic community from Germany, Russia and Ukraine, as well as a representative from the Office of the Commissioner for Human Rights of the Verkhovna Rada of Ukraine. Assistance in conducting the visits was supported locally by civil organisations who are members of the Coalition 'Justice for Peace in Donbas': the Starobils human rights organisation 'Volia', the civil movement 'Ochishchenie', the eco-cultural centre 'Bakhmat', as well as other public organisations and activists.

**The group consisted of:**

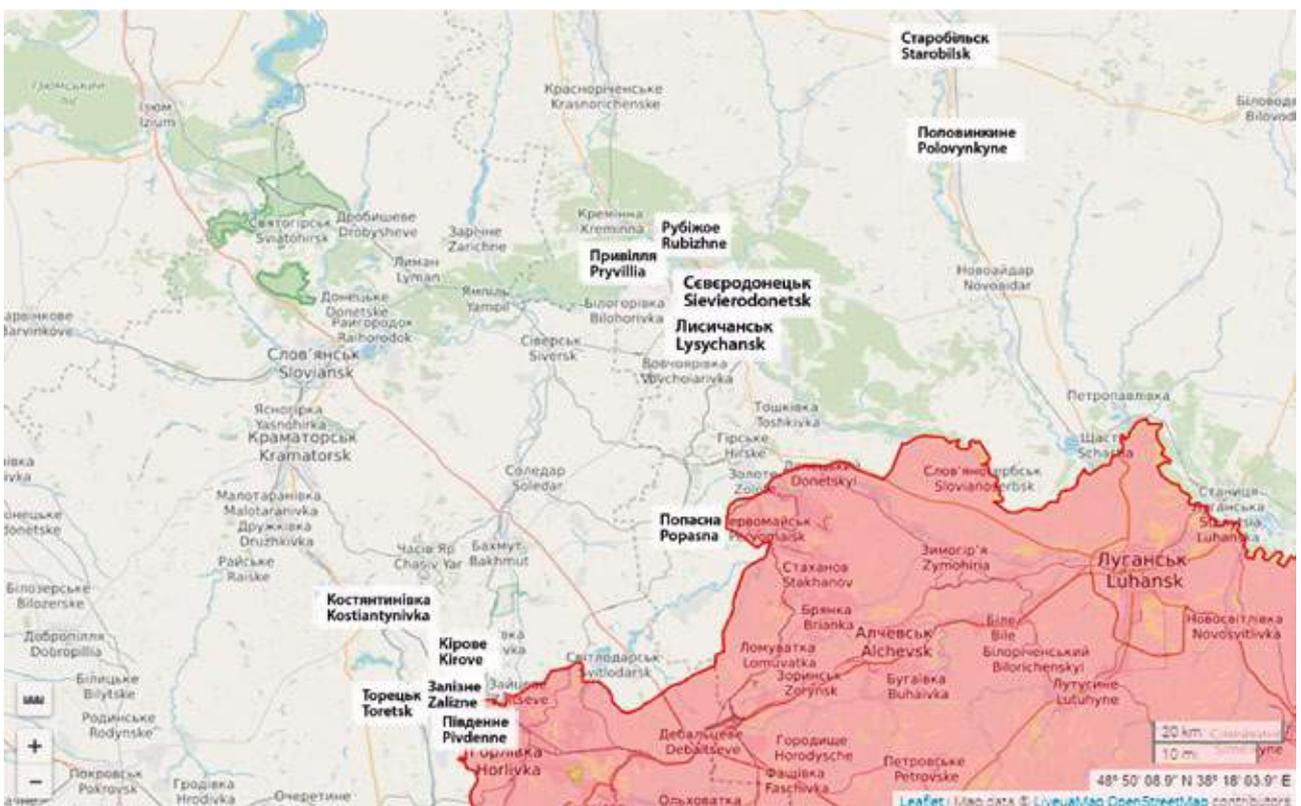
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**The following cities and settlements were visited as part of the mission:**

- 17 October, 2016 – Kyiv
- 17 October, 2016 – Kharkiv
- Luhansk Region:**
  - 18 October, 2016 – Lysychansk
  - 18 October, 2016 – Pryvillia
  - 18 October, 2016 – Sievierodonetsk
  - 19 October, 2016 – Starobils
  - 19 October, 2016 – Polovynkyne village (Starobils district)
  - 19 October, 2016 – Rubizhne
  - 20 October, 2016 – Popasna

- Donetsk Region:**
  - 21 October, 2016 – Toretsk (including the district around the town Fomikha, where a community of Romani people live)
  - 21 October, 2016 – Zalizne (Artemove)
  - 21 October, 2016 – Yuzhnoe (Leninskoie)
  - 21 October, 2016 – Kirovo
  - 21 October, 2016 – Kostiantynivka

- Dnipropetrovsk region:**
  - 22 October, 2016 – Dnipro



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# Introduction

At the start of 2014, illegal armed forces, supported by Russia, began to seize administrative buildings, blocking the activities of the state apparatus and security services in a series of regions in eastern Ukraine. The so-called 'Donetsk People's Republic' (DPR) and 'Luhansk People's Republic' (LPR) were proclaimed. Supporters and members of pro-Ukrainian political parties, civic organisations, independent journalists, representatives of religious groups not belonging to the Ukrainian Orthodox Church (Moscow Patriarchate), members of the security services who remained loyal to the state, civil servants and workers in local government agencies, sexual and, in part, national minorities were all subject to repressions. Illegal places of detention were created in the districts and towns of the Luhansk and Donetsk regions not under the control of Ukrainian authorities, in which members of the aforementioned groups of citizens were held.

In April 2014, the Ukrainian government began a military operation with the aim of regaining control of its territory.<sup>1</sup> Through the efforts of state forces and newly formed forces made up of volunteers, a number of towns and districts

<sup>1</sup> In Ukraine, the officially adopted wording is «Антитеррористическая операция» (АТО). In documents of the Office of the United Nations High Commissioner for Human Rights, the wording used is "Security operation"

were returned to Ukrainian state control.<sup>2</sup> Where official authorities did not manage their function of supporting the state's monopoly of power or where they declined to fulfil this role, volunteer forces took the responsibility to defend the territorial integrity of the country and to contain the Russian aggression upon themselves.<sup>3</sup>

The international monitoring mission took place in areas which were occupied in 2014, but which in the course of the following two years are now under the control of the Ukrainian government. Apart from in settlements close to the line of demarcation, the situation in the region is reasonably stable. Nevertheless, the region is not ready for the post-war rebuilding of peace and public reconciliation, because it exists in a vacuum between peace and war. Such a situation gives rise to uncertainty and hostility in society and leads to a radicalisation of public sentiment.

<sup>2</sup> Territorial defence battalions and volunteer battalions.

<sup>3</sup> To denote the policy of the Russian Federation in Ukraine in the given period, the Parliamentary Assembly of the Council of Europe uses the term, "Russian aggression in Ukraine", which is also used in this report. The full translation of the PACE Resolution 2132 (2016) regarding Ukraine can be found at: <http://ukranews.com/publication/1795-polnyy-perevod-teksta-rezolyucyy-2132-2016-pase-po-ukrayne>



# Aims and methodology of the study

The main aim of the mission was to monitor illegal violence, including visiting former illegal places of detention<sup>4</sup>, created both by illegal armed forces and armed Ukrainian volunteer forces in the Luhansk and Donetsk regions, which are now under the control of Ukrainian authorities. Furthermore, the mission set itself the goal of studying the general situation in the region and familiarising itself with the current problems facing the population in areas affected by the conflict.

Research was carried out using semi-structured interviews and visiting and inspecting former illegal places of detention. Members of the monitoring group used non-participant observation of a court hearing, as well as desk research.<sup>5</sup>

Observers carried out planned and spontaneous interviews in large groups all (apart from one) in Russian. Respondents were informed about the aims of the interview and that the

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4 In the context of this report, “illegal places of detention” denotes illegal created places, where illegal armed forces or fighters from volunteer battalions held people under arrest. In Ukrainian rhetoric, the accepted expression is «незаконные места несвободы».

5 The analysis of available secondary information, for instance general information about volunteer armed forces.

audio of their accounts and answers would be recorded. Interviews lasted from 15 minutes to 2 hours.

Interviewers met with victims of illegal violence, former enlisted military personnel and prisoners of war, the mothers and wives of prisoners of war and combatants who died or disappeared in action, inhabitants of areas on the front line, as well as with civic activists and journalists. During the trip, participants of the monitoring group visited a court hearing at Rubizhne town court in the trial of a former combatant from the volunteer battalion “Mirotvorets”, who stands accused of murder, as well as meeting with the procurator of Sievierodonetsk, with the head of the criminal search department and investigators from the Main Department of the National Police in the Luhansk region and with lawyers representing the interests of former enlisted military personnel and victims of illegal violence. During the trip, the monitoring group carried out a total of 40 meetings and interviews.

All interviews were transcribed and categorised under numbers. Internal and external photofixation was carried out at all illegal places of detention visited (apart from sites in currently sensitive areas).

## Illegal places of detention created by illegal armed forces

The group visited the following places of detention, which were created by illegal armed forces in areas that were previously, temporarily, under their control:

- the basement of the State Scientific Research and Engineering Institute for Air-Nitrogen Industry and Products of Organic Synthesis (Luhansk region, Sievierodonetsk, ul. Vilesova 1);
- the bomb shelter and basement of the Lysychansk Glassworks ‘Proletariy’ in the town of Lysychansk (Luhansk region, Lysychansk, ul. Michurina, 1);
- the garages along the public prosecution office (Luhansk region, Popasna, ul. Mira 159);
- the basement of the Kostiantynivka town council and interregional Kostiantynivka public prosecution office (Donetsk region, Kostiantynivka, ul. Lenina, 260);
- the room on the first floor of the town council (Donetsk region, Toretsk, ul. 50-letia October, 27).

All illegal places of detention visited, which were created by illegal armed forces, were in premises unintended or unsuitable for holding people. There were no windows

in all of the premises visited (with the exception of the above-mentioned site in Toretsk on the first floor). In the basements of the Kostiantynivka town council and the State Scientific Research and Engineering Institute for Air-Nitrogen Industry and Products of Organic Synthesis in Sievierodonetsk, there was no water supply or toilets. The bomb shelter and basement of the Lysychansk Glassworks ‘Proletariy’ have long been abandoned. Although there are toilet facilities in them, they cannot be used as intended as the water supply system has long been in a state of disrepair and in practice is non-existent.

The illegal places of detention have not been used as such for more than 18 months, so their external appearance has partly changed. For instance, two of the premises visited continue to be used as the basements of administrative buildings.<sup>6</sup> Consequently, mattresses and rags which prisoners slept on, plastic bottles and tins that were used as a toilet, as well as other rubbish have all been removed from the premises.

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6 The basement in the Kostiantynivka town council and interregional Kostiantynivka public prosecution office building and the basement in the State Scientific Research and Engineering Institute for Air-Nitrogen Industry and Products of Organic Synthesis.

## Reasons for detention

According to reports from those asked, the main reasons for detention were:

- political views – a pro-Ukrainian position, supporting Euromaidan, supporting members of the Armed Forces of Ukraine (AFU) or volunteer battalions;<sup>7</sup>
- religious conviction (belonging to protestant churches or the Ukrainian Orthodox Church of the Kyivan Patriarchate;
- violating curfew, using alcohol and drugs;<sup>8</sup>
- to extort ransom;
- for use as a free workforce;<sup>9</sup>
- arbitrary charges.<sup>10</sup>

## Places and circumstances of detention

As a rule, people were arrested due to political views either at home<sup>11</sup>, on the street<sup>12</sup> or around roadblocks.

One of those interviewed, a journalist from Luhansk, was arrested as he tried to return from Kharkiv to Luhansk after the signing of the first Minsk Agreement, certain that he had nothing to fear: *“At the start of September 2014, the Minsk Agreement was signed, and we rejoiced then that peace was close and it was possible...safely, so I decided to travel to Luhansk.”*<sup>13</sup>

Relatives were generally not informed about an arrest and imprisonment. In order to inform prisoners’ relatives about their location, freed prisoners organised informal channels to pass on information.

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7 Individuals detained in this category in 2014/2015 constituted a significant part of all prisoners in illegal places of detention. According to witness testimonies, there were lists of those who “needed” to be arrested.

8 Both individuals belonging to illegal armed groups, as well as civilians without a clear political position were arrested for these types of offences.

9 *“Prisoners were forced to work. On top of everything else, people were very often thrown into the basement simply to have a free, slave work force.”* Interview 161017\_002.

10 *“There were incidents when I would talk with prisoners who had recently been placed in the basement. We would ask: “What were you arrested for?” The responses were completely unexpected: “They told me that I was too sunburnt.” – that is suspicious/dubious. The young man explained that this happened in summer and that he worked outside on a construction site. Consequently, he was in the sun that is why he was sunburnt. This is suspicious, “. . .let’s go to the basement, we will look into this. . .” Another man was arrested for presenting a passport that looked too new. . .”* Interview 161017\_002.

11 Interview 161020\_007.

12 Interview 1601021\_014.

13 Interview 161017\_003.

## Conditions during detention

The premises, in which prisoners were held, were for the most part basements and were unsuited for accommodating people. In underground premises there were no windows and there was a lack of fresh air. Prisoners lost their sense of time, being unable to distinguish the time of day.<sup>14</sup> There was no time in the open air. The rooms were often overcrowded. People slept *“in turn [. . .], the rest squatted”*<sup>15</sup>, or *“at an angle with their legs crossed”*.<sup>16</sup> Cases have been recorded of sleep deprivation (people were awoken with strikes from a stun gun).<sup>17</sup>

Buckets and bottles were generally used as a toilet. In other cases, prisoners were escorted out to a toilet. Respondents recounted that prisoners did not have the possibility to carry out basic hygienic procedures (taking a shower, cleaning one’s teeth and so on). There was limited access to drinking water. Food was inadequate and monotonous (in one of the recorded cases, prisoners were fed crackers or pearl barley alone for weeks on end<sup>18</sup>). There was often not enough food and people went hungry.<sup>19</sup> This was also linked with the fact that food parcels from relatives did not reach prisoners.

Former illegal prisoners report the practice of women and men being held together in the same rooms.

Prisoners were frequently forced to work (to dig trenches, reload shells etc.). This labour was forced, unpaid and lasted more than 8 hours – from early morning until evening.<sup>20</sup>

## Length of detention, release

The arbitrariness and complete uncertainty and unpredictability surrounding the captives’ continued fate compounded the situation in forced detention. Prisoners did not know how long a stay in detention they had ahead of them – no term of imprisonment was announced to them. The length of detention could range from several hours to several months. One of the respondents, who was detained in 2015 in the town of Horlivka in the Donetsk region (‘DPR’ territory), informed observers that the authorities would free prisoners early in order for them to fight in the ‘DPR’ army. He himself managed to run away: he made it across the line of demarcation into territory controlled by Ukraine.<sup>21</sup>

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14 Interview 1601021\_014.

15 Interview 161021\_010.

16 Interview 161017\_003.

17 Interview 1601021\_014.

18 Interview 161021\_010.

19 Interview 1601021\_014.

20 Interview 161021\_010.

21 Ibid.

## Treatment of prisoners

Those interviewed recounted that they were subjected to threats, insults and humiliation. It was not uncommon for prisoners to be called “fascists”. One of the respondents (a woman) was forced to shout “Sieg Heil”.<sup>22</sup>

*“[The members of illegal armed groups] did not see me as a woman at all – they behaved with me as not as a human, but maybe as one would with a plant or a stone.”<sup>23</sup>*

Former prisoners told of torture and abuse being used towards the forcibly held individuals (“they cut me with knives”, “they hung me three times”, “put a gas mask on me”<sup>24</sup>), they would shoot over my ears<sup>25</sup>, they would stage mock executions<sup>26</sup>, would beat them “out of boredom” and so on.<sup>27</sup> Threats to “shoot them all” were timed to coincide with specific memorial dates, for instance, with the anniversary of Nazi Germany’s attack on the USSR (22 June).

According to those interviewed, it was especially difficult and agonising to be a witness to the torture of other people.

*“I could see him from the room...I saw how he was beaten from behind, on the back, in his kidney area, I heard these sounds. I climbed into a corner and covered my eyes. The most terrifying moment came when you were two metres away from the other. I have never experienced anything like that in my life. When they beat and abuse you, this is horrible in it’s own way, but now I know how unbearably awful it is when a human is being beaten next to you.”<sup>28</sup>*

The observers were informed about incidents of women being raped. One of the people interviewed reported the following: “There were incidents of violence against women. [...] Every night, the illegal armed forces would come into the room and lead away one young woman, making out, that they were taking her away for questioning. [...] When she returned, she would feel extremely uncomfortable, trying to not look anyone in the eye. Well, we all understood perfectly well that there was no interrogation, they just raped her every night.”<sup>29</sup>

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22 Interview 161017\_002.

23 Ibid.

24 Interview 161019\_008.

25 Interview 161017\_002.

26 Interview 161019\_008.

27 Interview 161021\_010.

28 Interview 161017\_002.

29 Ibid.

## Evidence of the Russian Federation’s participation in the Donbas conflict

Initially, the aim of the trip was not to collect evidence regarding the Russian Federation’s participation in the conflict in eastern Ukraine, but in the course of interviews, the respondents themselves pointed to facts about the participation of citizens and the use of resources from the Russian Federation in the conflict in Donbas.

In particular, witnesses (the majority of who are socially active citizens), who were living in areas that either were or still are under the control of illegal armed forces, told of how before the seize of power by illegal armed forces began, pro-Russian meetings took place in these cities and settlements. A large number of unknown people took place in these meetings, people who they had never seen before in their towns. This evidence regards small towns with a population of 50,000-120,000 inhabitants, where social activists generally know each other by sight. Witnesses saw that people got out of buses with Russian number plates and they assume that these people were brought in from Russia.

One respondent, held by illegal armed forces in the basement of a former military enlistment office in Luhansk, reported that illegal armed forces forced prisoners to carry out various jobs, including unloading foodstuffs from vehicles. The trucks, which brought the products, had Russian number plates, and the drivers hurried the prisoners, saying that they still need to get back to the border. The foodstuffs brought in had Russian labelling.<sup>30</sup>

Before her release, one of the respondents, illegally held by illegal armed forces in Donetsk, was witness to a conversation between the journalists, Andrew Kramer and Mark Franketti with the head of the battalion, ‘Vostok’, A. Khodakovsky. According to her, Khodakovsky told the western journalists of the importance of the breakthrough made by the Russian Federation on the so-called “third front” in the conflict in the Donbas (meaning the beginning of the invasion of the town of Ilovaik by Russian armed forces).<sup>31</sup>

Another one of the respondents, who had been in illegal detention, reported that his release became possible thank to negotiations with one of the leaders of in the illegal armed forces. The latter confirmed that he was an FSB employee from Saint Petersburg and he had come to the illegal armed forces’ base to train them.

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30 Ibid..

31 Interview 161017\_002.

# Illegal places of detention created by Ukrainian volunteer battalions

## Brief description of armed volunteer battalions

During the monitoring mission, respondents most commonly referred to the 24th territorial defence battalion, 'Aidar'<sup>32</sup>; to a lesser extent – the special police patrol battalion, 'Mirotvorets', the special police patrol company, 'Tornado'<sup>33</sup>, the special police patrol regiment, 'Dnipo', the territorial defence volunteer battalion, 'Donbas', the special purpose division, 'Azov'<sup>34</sup>, the 'Volunteered Ukrainian Corps'<sup>35</sup> of the 'Right Sector'<sup>36</sup>.

The volunteer battalions were presented as consisting of two types of fighters – official and unofficial. To the first group belong those volunteers who, officially, following orders, served in the Armed Forces of Ukraine (AFU) or were enrolled/enlisted in the personnel of the Ministry of Internal Affairs. The other group of volunteers are unofficial fighters. Included in this group are people who for various reasons (outstanding criminal convictions, a substandard/inadequate level of health, exceeding the age of enlistment etc.) could not be mobilised or could not hold certain positions in the army (in particular, women), but who wished to take part in military actions. The percentage of 'unofficial' fighters compared to the total make-up of the volunteer battalions ranged from 50 to 70% (and in certain cases to 100%). The presence of 'official' and 'unofficial fighters' in battalions in 2014 has been confirmed both by combatants themselves as well as by staff of law-enforcement agencies.

Surveys of former combatants show that there were differing motivations amongst participants of the volunteer battalions. The main motivation was the striving to protect the territorial integrity and constitutional order of Ukraine. It should be noted that this cause was especially clearly pronounced in volunteers arriving from Maidan, from Western regions of Ukraine, as well as local inhabitants of the Luhansk and Donetsk regions, who joined territorial defence detachments in regions gripped by the conflict. The prevalence of this motivation shows the fact that 'unofficial' fighters did not receive rewards/support/satisfaction from the state and they had the opportunity to serve largely thanks to volunteer support provided by the civilian population.

Amongst other motivations for joining armed volunteer forces was the wish to receive work with a stable and, by Ukrainian standards, relatively high level of pay, as well as the desire to have new experiences, to satisfy the need for risk, the desire for teamwork and a fascination for the 'romance' of the trenches.

Individuals who sought to use military actions for their personal, illegal enrichment represented a separate category of fighters.

People joining battalions could be motivated by several, inherently different reasons all at once.



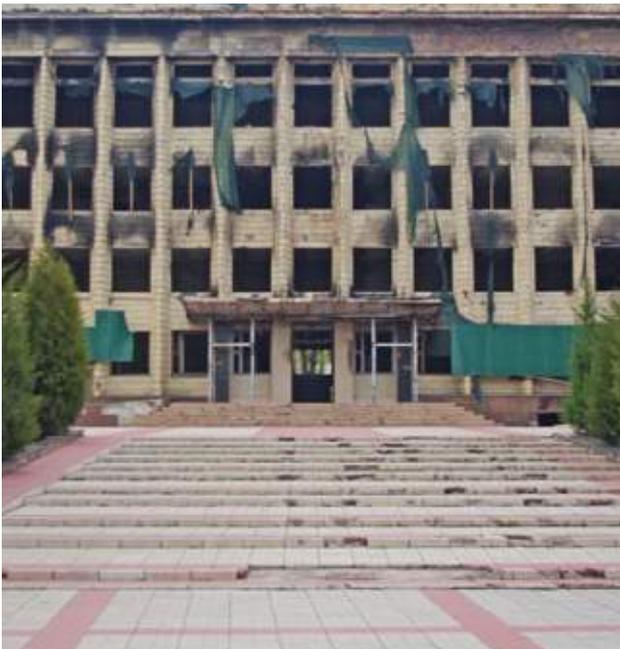
32 Since November 2015, the 24th separate assault battalion has become part of the 10th separate mountain-assault brigade of the AFU army.

33 The special police patrol company 'Tornado' was disbanded on 18 June 2015.

34 Since October 2014, it has been part of the National Guard of Ukraine.

35 In April 2015, under orders from the command of the ATO (anti-terrorism operation), removed from the front line.

36 'Right Sector' is a political organisation, initially an informal union of activists from a number of nationally oriented far-right groups, formed in the course of the protests in Kyiv during Euromaidan.



## Cooperation problems of the volunteer battalions with the civilian population and amongst themselves

At the beginning of the conflict, the actions of the volunteers were only feebly regulated. The vacuum of power in the region created a precondition for acting as one wanted and violating the laws, which led to conflicts, both in the armed volunteer forces themselves, as with the local population.

The monitoring group recorded evidence of criminal and unlawful acts committed by volunteers (theft, murder, illegal detention, including detention with unnecessary use of force and the rough treatment of prisoners). The volunteers themselves confirm facts about crimes committed, pointing out that the volunteer battalions were heterogeneous in their composition, and included people with criminal pasts, and the volunteer battalions had to act in hostile conditions.

The volunteers' varying level of respect for the law and different motivations led to the formation of distinct groups within the armed forces and provoked conflict amongst the volunteers themselves.

In the initial stages of the war, fighters from volunteer forces did not have a unified uniform, certificate or insignia identifying their belonging to a battalion. This allowed criminal groups to act under the guise of fighters from volunteer battalions: criminals used the fighters' status and authority to rob the population.

Former combatants acknowledge the existence of problems with alcohol abuse in the battalions, which often led to conflicts, including the use of physical violence. The command of armed volunteer battalions would severely punish a fighter in case of appearing drunk. In army forces, the illegal practice of holding such individuals in special rooms, pits and cells was widespread. Nevertheless, to this day the problem of alcohol abuse in army forces is indicated as one of the reasons for strained relations with the local population.

On the strength of the realities described above, part of the civilian population sought to avoid contact with fighters from armed volunteer battalions and with military personnel in general. At the same time, in local communities, active and well-organized groups of local civilians provide different forms of support to fighters (food supplies, clothing, fuel and lubricants, non-lethal weapons, technical equipment, the free provision of household and everyday services and psychological support). With time, once the basic needs of the fighters' food and daily living needs were met, these groups started to provide domestic and food assistance to the local population and social facilities. The recognition of their legitimacy and the positive attitude towards armed volunteer forces by the local population was to a certain extent brought about by the fact that there were local inhabitants amongst the volunteers.

Fighters note that the Ukrainian media did not always objectively cover the activities of the armed volunteer battalions during 2014-2015. In their opinion, the volunteers' conscientious service and heroic acts were hushed up, and instead negative facts, even the smallest and most insignificant, were widely spread. Consequently, the population formed the wrong impression about the activities of volunteer battalions.



## Description of illegal places of detention created by Ukrainian volunteer battalions

During the monitoring mission, two deployments of Ukrainian volunteer battalions were visited:

- School № 32, in which was based the special police patrol company, 'Tornado' (Luhansk region, Pryvillia, ul. Donetskaia, 122a);
- The basement of a sausage manufacturer, in which the 'Aidar' battalion was based, (Luhansk region, Starobilsk district, village of Polovynkyne, ul. Mira, 1).

Participants of the monitoring mission managed to carry out only an external inspection of the former base of the special police patrol company 'Tornado' in the town of Pryvillia, Luhansk region. Since the school building, where the company was based, continues to be used by the National Guard, it is impossible to visit without prior agreement.

According to a local journalist who accompanied the monitoring group and had visited the school's basements. After numerous claims about illegal prisoners of the 'Tornado' company allegedly being held in the school, in June 2015, the command of the armed unit opened all premises to journalists and in the basements, they documented nothing but foodstuffs.<sup>37</sup>

In accompanying former fighters, who came from the local population, of the 'Aidar' battalion, participants of the monitoring mission visited the former base of the armed unit (formerly a sausage manufacturer) in the village of Polovynkyne, Starobilsk district. Group participants had the opportunity to examine, amongst other things, former illegal places of detention situated in the basement of the building. This premises is made up of chambers, lockable

from the outside, around 2-3m<sup>2</sup> in size, which had serial numbers and special windows in the metal doors for security to survey the chamber from the corridor. Due to the fact that at the time of inspection the basement (like the whole of the base) was abandoned, as well as being heavily covered in household and construction waste, it was impossible to objectively establish the sanitary conditions of the chambers in 2014 and whether they had a heating system, a water supply and ventilation.

According to the accompanying former fighters of the battalion, prisoners were fed the same food as the battalion; they were regularly escorted to the toilet on their request and were not subjected to physical or psychological violence.

In order to obtain more complete information about the conditions during detainment in illegal places of detention created by Ukrainian volunteer forces, it is necessary to receive information from individuals, who were held in these places. In the course of the monitoring mission, group members were not able to talk with such people. Some of them declined contact, referring to the fact that an investigation is currently being carried out by Ukrainian law-enforcement agencies.

## Reasons for detention of the civilian population by fighters from volunteer battalions

The main reasons for the civilian population being detained by volunteer battalion fighters were:

- suspicion of taking part in the armed hostilities on the side of illegal armed forces of the 'DPR'/'LPR';
- suspicion of providing active help to illegal armed forces of the 'DPR'/'LPR' (food products, building

<sup>37</sup> Interview ZOOM0012.



materials for erecting roadblocks and other military structures etc.);

- suspicion of sympathy towards illegal armed forces (disrespectful communication with or direct insulting of volunteer battalions, wearing clothes with pro-Russian or Soviet symbols etc.)

Certain locals spoke of how, in their opinion, some detentions of the civilian population were linked with the volunteer battalion fighters' desire to seize the property of the prisoners. For instance, according to an inhabitant of Lysychansk, who was detained by fighters from the 2nd special purpose battalion 'Donbas' of the National Guard of Ukraine, the reasons for his arrest were suspicion of separatism and helping illegal armed forces of the 'LPR', as well as the wish to seize his car. The suspicion of separatism was based in particular on the fact that a so-called 'ribbon of Saint George' (one of the symbols of pro-Russian fighters) was tied to his rear view mirror.

### The current situation regarding Ukrainian volunteer battalions

Today, the main volunteer forces have been disbanded or incorporated into the AFU or National Police; their number substantially decreased in connection with the end of the active phase of armed hostilities. According to the statements of citizens who were victims of criminal acts committed by fighters from volunteer battalions, investigations are being carried out. Such matters are principally come under the jurisdiction of the military procurator. For instance, as of October 2016, the Obolonsky district court in Kyiv is examining criminal proceedings in relation to twelve fighters of the special police patrol company 'Tornado', some of whom are accused of committing crimes under Art. 127 of the Criminal Code of

Ukraine (torture). The hearing of the case is taking place behind closed doors.

One of the main problems currently facing veterans of volunteer forces is that they are not officially registered in military divisions – they have no legal status, which would allow them to receive welfare benefits and other forms of social support (certain privileges, medical and psychological assistance etc.)

A large complex of problems is linked to the everyday adaptation and rehabilitation of former military personnel. In particular:

- difficulties in finding work in connection with a high rate of unemployment in the region;
- increased tendency to violence;
- alcoholism;
- housing instability (especially in cases when military personnel and their families were forced to move out of the conflict zone or areas temporarily beyond the control of Ukrainian authorities);
- worsened health in the course of military service (including hepatitis);
- familial problems (families await 'the hero' who can solve all problems, but the fighter himself is seeking to be understood in his difficult situation).

# Ineffective investigation of crimes connected to the armed conflict

Members of the monitoring group recorded the following cases of ineffective investigation into incidents of premeditated murder, torture, illegal detention and kidnapping of an individual, all connected with the armed conflict:

## Dmitrij Shabratsky

The military service man of the 24th division of the assault battalion 'Aidar' (Armed Forces of Ukraine) died 26 March 2015 on the battalion's base in Lysychansk (Luhansk region).

In the course of the meeting on **18 October 2016 in Pryvillia** (Luhansk Region), Dmitrii's parents reported that they had sufficient evidence to show that his fellow soldiers killed their son. According to his parents' version, the reason for the murder was a dispute between Dmitrij and the commander of his company, Ihor Radchenko (call sign "Rubezh") and his deputy, Andrij Yakovchuk (call sign "Yasha"). The conflict supposedly arose on the grounds of numerous abuses and violations of law by the military personnel mentioned (abduction and torture of people, smuggling, collaborating with counterintelligence), to which Dmitrij bore witness to staff of the Security Service of Ukraine.

Criminal proceedings into Dmitrij's death were opened under Art. 115 of the Criminal Code of Ukraine (premeditated murder). However, in the course of the pre-trial investigation, police came to the conclusion that Dmitrij had committed suicide (he pulled the ring out from an F-1 grenade, which he held in his left hand, at which time he shot himself in the chin from an AKS-74 assault rifle which was fixed behind him, as a result of which the grenade exploded, leading to his death).<sup>38</sup> On 30 March 2016, criminal proceedings were closed.

On 6 June 2016, the investigating judge of the Lysychansk municipal court, Luhansk region, upheld the complaint of Dmitrij's parents and annulled the investigator's decision to close criminal proceedings, sending materials to the Military Procurator of the Luhansk garrison to organise a pre-trial investigation. The judge justified this decision given the incomplete pre-trial investigation, namely, the fact that Ihor Radchenko (the company commander) was not questioned, the significant discrepancy in the accounts of two previously questioned witnesses, which had not been eliminated (examined) in the course of the investigation and no conclusion had been reached by the assigned investigator with expertise regarding explosive devices, amongst other reasons.

Despite this, according to Dmitrij's parents, the shortcomings of the pre-trial investigation by the police had not been eliminated by the time of the monitoring visit, rather the version of events that their son was the victim of premeditated murder has not been properly examined. The police, as before, continue to assert only one version of events – suicide.

The parents and local human rights activists think the reason for such an ineffective investigation to be the serious influence the alleged murderers and their sponsors from the local political elites have on law-enforcement agencies in the region.

## Vitalij Dobrozhan

Members of an illegal armed unit of the 'LPR' abducted the public figure and volunteer, Vitalij Dobrozhan, from his home in Rubizhne (Luhansk region) in front of his wife and pregnant daughter on 1 June 2014. He was illegally detained for 20 days in the former building of the Security Service of Ukraine in Luhansk.



<sup>38</sup> The description of the incident is according to the wording of the decision to close criminal proceedings.

The meeting with Vitalij took place on **19 October 2016 in Rubizhne** (Luhansk Region). During the meeting, Vitalij reported that the reason for his detention was his public activity, in particular, his leadership of a children's civil patriotic organisation, as well as him being accused of training up the children belonging to the organisation to be spies. During his illegal detention, he was repeatedly tortured and subjected to inhuman, degrading treatment (mock shootings, ear notching, constant beatings, which lead to broken ribs, inflicting deep cuts on his legs, putting out cigarettes on his body and so on).

According to Vitalij, immediately after his abduction, his wife contacted the law-enforcement agencies of Rubizhne and criminal proceedings were opened. At the same time, in two and a half years he has only been questioned once – immediately after his release from the illegal place of detention. Despite the fact that Vitalij is certain he knows who exactly organised his abduction, something he has repeatedly informed the police about, no further investigative procedures have been carried out with his participation. The investigation of his case, which currently is being carried out by the Rubizhne police, is, in practice, not being conducted.

## Yaroslav Malanchuk

Public figure and political activist, Yaroslav Malanchuk, was abducted on 29 April 2014 in the town of Kostiantynivka (Donetsk region) by members of an illegal armed unit of the 'DPR' and was illegally detained in the building of the Security Service of Ukraine in Slovyansk (Donetsk region), as well as in a local temporary detention facility. The total period of illegal detention was 67 days (until the date of state forces regaining control over the town).

In the course of the meeting with Yaroslav, which took place **21 October 2016 in Kostiantynivka** (Donetsk region). He reported that he does not know the true reason for his abduction. He assumes it was connected to his public activities and active pro-Ukrainian position. In the duration of his illegal detention, he was repeatedly tortured (puncturing of his abdomen and legs with an awl, breaking his ribs, cutting of his fingers). Furthermore, he was commanded to complete forced labour (equipping dugouts).

According to Yaroslav, the police's investigation into his case is being carried out ineffectively. There are no results from the investigation. The police are not examining his evidence properly. In particular, immediately after his abduction, the fighters took him to the police premises in Kostiantynivka (the town was controlled by illegal armed forces at that time), where police staff were based. No photos of the police employees who were working that day have been presented to the victim for identification to date.

## Oleksandr Belokobylsky

The journalist, Oleksandr Belokobylsky, was detained by members of an illegal armed unit of the 'LPR' on 13 September 2014, whilst passing a roadblock in an area controlled by the 'LPR'. He was illegally held for 13 days, "by the investigation department of the commandant's office of the 'LPR' Ministry of Defence" in basements of the "commandant's office" (in the captured building of the Zhovtneve district council in Luhansk) and the "Government House" (in the building of the Luhansk region state administration).

During the meeting on **17 October 2016 in Kharkiv**, Oleksandr reported that the reason for his detention was that he identified himself as a journalist whilst crossing the roadblock. According to him, during his stay in places of illegal detention, he was not physically coerced, however the conditions of his detention were sufficiently poor. At the same time, he was repeatedly commanded to complete forced labour.

The investigation into his case is, in practice, not being carried out. Since his release, he has been questioned once as a victim.

## Nikolai Zinkin

The pensioner and Lysychansk (Luhansk region) inhabitant was detained in the presence of his wife in their flat by fighters in the battalion 'Donbas' (2nd special purpose battalion 'Donbas' of the National Guard of Ukraine) on 24 July 2014 and was held for around 12 hours on the premises of the Lysychansk municipal police department.

During the meeting, which took place on **18 October 2016 in Lysychansk** (Luhansk region), Nikolai reported that the main reasons for his detention were suspicion of separatism and helping illegal armed forces of the 'LPR', as well as the desire to seize his car. According to him, his detention was accompanied by threats of the use of firearms, unjustified physical violence (strikes to the head with rifle butts) and degrading treatment. The motor car which belonged to him was taken away as well.

Nikolai was released on the same day, but his car was not returned. According to his statement, the police opened criminal proceedings. In February 2016, the location of his car was established – it was badly damaged.

Nikolai is certain he knows the individual who organised his detention. This person, in turn, virtually completely confirms the victim's testimony as the circumstances of Zinkin's detention. Despite this, the Military Procurator of the Luhansk garrison has not reported the alleged offender on suspicion of committing crimes and has not referred the case to court. Thereby, Nikolai considers the investigation of his case to be ineffective.

# Problems after the active phase of armed hostilities.

## The current situation

### Problems with local authorities

Former soldiers, those held in illegal places of detention, local activists and volunteers consider it to be problematic, that after the restoration of control over territories, the personnel of the procurator's office, courts, police and administrations did not change. As a result of this, according to respondents<sup>39</sup>, the exact same people who supported the illegal armed forces remain in power. Respondents, who talked with the observers, indicated that the population, and especially former fighters in volunteer battalions and victims of violence committed by illegal armed forces, do not trust the authorities, do not feel supported by them and do not think that the authorities represent their interests.

Furthermore, local authority staff are considered "adherents to the old style", that is, corrupted, looking for personal gain and letting their work be guided by their personal or corporate interests and not the rule of law. Those interviewed complained that the authorities only investigate petty crimes, but do nothing about systematic corruption, drug trafficking, smuggling of contraband goods or other serious crimes.

In some cities and settlements, individuals and civil society organisations fill the gap left by the insufficient activity of municipal authorities.<sup>40</sup> Former victims of illegal violence have become volunteer social workers, civil activists provide legal support and veterans organise NGOs for the

39 Toretsk, Kostiantynivka (Donetsk region), Starobilsk (Luhansk region)

40 Starobilsk (Luhansk region)



general support of local communities. For instance, former volunteers from the 'Aidar' battalion continue to carry out an active socio-political role in Starobilsk, including as part of civil control agencies, local branches of political parties and civil organisations.

### Healthcare problems

According to some of those interviewed, after their release from illegal places of detention, they only received help from representatives of civil society. Respondents point to a lack of psychological support, as well as a lack of rehabilitation programmes for former soldiers and victims of violence with post-traumatic stress on a municipal and state level.

In areas close to the line of demarcation, the constant stress due to prolonged shelling has given rise to health problems. Respondents mentioned most commonly insomnia, panic attacks, nervous and cardiovascular diseases.<sup>41</sup>

Local inhabitants reported problems with drunk soldiers and a feeling of vulnerability to violence from military personnel. One of the respondents was detained and beaten by Ukrainian soldiers on the way to the local grocery shop in August 2015.<sup>42</sup> Respondents are afraid to contact official agencies with complaints of violence by soldiers because of alleged acts of retaliation.

### Destruction and material losses

Today, the roads are in a poor state, numerous private houses and factories have been destroyed as a result of the armed hostilities, as well as a consequence of the economic decline in the region even before the conflict began. Some inhabitants whose house were destroyed as a result of shelling received help in repairing their homes from donor organisations. A lack of social benefits, state support, a paternalistic understanding of the role of the state, a weak level of development of private initiatives in local communities all worsen the situation. Vulnerable population groups are especially suffering (pensioners, single mothers).

41 Interview 161023\_003.

42 Interview ZOOM0052.

## Social problems

Social problems as a consequence of war - isolation, depression, domestic violence, divorce and alcoholism – affect not only those who were subjected to violence, but also members of their families and their friends. The physical and psychological consequences of being held in illegal places of detention and experiencing torture can cause changes in personality. Trauma, fear and depression hugely influence social life. It is difficult for people to reintegrate into society without professional support. This is true all the more since friends and family members often do not understand the experiences and needs of former prisoners.

Social problems can be a consequence of participation in armed hostilities. Soldiers, having returned from the front, have got used to a different reality, way of doing things and manner of social conduct. As organisations working with former military personnel report, after their return, soldiers are faced with raised expectations from family members: the wives focus only on their suffering and expect their husbands will take on all responsibility and solve all problems after their return.<sup>43</sup>

Furthermore, stable social bonds have been seriously disrupted, or have changed as a result of internal displacement of the population and material losses. One respondent from a number of internally displaced people, who was detained and experienced torture, reported that her family did not support her after her release from the illegal armed forces' prison and to date accuse her of being responsible for material losses which they suffered due to the confiscation of property by representatives of the illegal armed forces.<sup>44</sup>

## Problems on the line of contact

Freedom of movement is limited in settlements close to the line of contact. The aforementioned incident of a young man, detained on his way to the local shop, fearing violence, uses a different shop to this day, which is several kilometres further away and his case is not the only one. Parents do not let their children play beyond the boundaries of their house or courtyard. Furthermore, shelling intensifies at night, which is why residents prefer to not leave the house, cover their windows and do not switch on the lights.<sup>45</sup>

According to respondents, in areas close to the line of

demarcation, cases of prostitution and rates of sexually transmitted infections have become more common.<sup>46</sup> Despite the fact that no cases of forced prostitution were reported to participants of the monitoring mission, the general social situation and the high rate of unemployment creates favourable conditions for prostitution as a means of survival.

In settlements close to the line of demarcation, military personnel often do not sense the desired level of support and positive attitude towards them from the civilian population and perceive the public mood to be rather pro the illegal armed forces. In one of the settlements visited by observers, civilians complained that soldiers call them "separatists" and that they do not feel respected, but to the contrary, they feel threatened by the military.<sup>47</sup> Those interviewed confirmed that all shelling of the settlement is carried out from Ukrainian posts.<sup>48</sup> Nevertheless, it is difficult to say from where the shelling is actually carried out.

## Commemoration

In the areas visited by observers, there were only a few places of remembrance organised by the state. Not one of the visited places of illegal detention were marked with a commemorative plaque that violence took place here. In all likelihood, the conflict and political division will complicate public memorial initiatives, especially in areas close to the line of demarcation.

One of the memorial sites visited by observers was a memory wall of local citizens who died on Maidan and soldiers from Dnipro who died in the ATO zone. The concept of the place of remembrance unites public and private efforts. The town installed a long stand with holders for flowers and candles. The people themselves brought objects of memory, photographs of family members, friends or fellow soldiers. The photographs or rather the entire composition of photographs, letters and other things creates the impression of personal and collective memory. Observers also saw altars with photographs, Ukrainian flags and religious objects in people's homes, in the office of a local newspaper and in a stationery shop.

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43 Interview 161017\_002.

44 Ibid.

45 According to respondents in the urban-type settlement Yuzhnoe, Donetsk region.

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46 Toretsk (Donetsk region)

47 According to respondents in Toretsk (Donetsk region)

48 Interview 161022\_005.

# Recommendations following the results of the monitoring trip

## To the Ukrainian state

- Guarantee the legal protection of officially unregistered military personnel from volunteer battalions, develop a mechanism for them to receive social and legal guarantees in line with official combatants;
- Develop a programme of social and psychological rehabilitation for former military personnel, including using the experience of civil organisations who are active in this field;
- Recognise the responsibility of the state for illegal actions committed by military personnel in volunteer battalions and allocate fair compensation to individuals who are recognised by a court as having been victim to such actions;
- Carry out an effective investigation into all cases of cooperation (or criminal failure to act) of law-enforcement agency staff in the creation of illegal places of detention and violence in areas, which were under the control of illegal armed forces;
- Develop and implement an educational programme for employees of the Security Service of Ukraine, the AFU and the National Guard regarding the treatment of prisoners and captives and the adherence to their rights;



- Carry out screening of state officials on a local level in the areas of the Donetsk and Luhansk regions under Ukrainian control;
- Create and implement on a local and national level a programme of psychological rehabilitation, trauma therapy for victims of violence, including former prisoners and members of their families;
- Implement a programme of economic support of the region for rebuilding infrastructure and the fights against unemployment;
- Create a platform for dialogue between criminals and their victims with the aim of easing feelings of revenge and providing new possibilities of societal coexistence, regardless of one's political views or affiliations;
- Examine in an open court sitting the criminal proceedings in relation to the 12 former fighters of the special police patrol company 'Tornado', which is currently being carried out in the Obolonsky district court in Kyiv, as well as other cases involving fighters from Ukrainian volunteer battalions. Only episodes regarding crimes against the sexual freedom and sexual integrity of an individual should be tried behind closed doors.<sup>49</sup>
- Procurators, responsible for overseeing adherence to the law during the conducting of pre-trial investigations in the form of procedural guidance of investigations linked to premeditated murder, torture, illegal detention or abduction of people in the armed conflict zone, must use the full powers of the Code of Criminal Procedure of Ukraine, in order to guarantee the effective investigation of crimes.

## To international organisations, who have access to areas not under the control of Ukrainian authorities:

- Guarantee the effective international inspecting of adhering to human rights in illegal places of detention in areas not under Ukrainian authority control;
- Guarantee to search for individuals guilty of war crimes and crimes against humanity, who are situated in the territory of the Russian Federation, with a view to their prosecution.

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<sup>49</sup> Currently the whole case is being heard behind closed doors. Nevertheless, only three of the 12 defendants are accused of committing crimes against the sexual freedom and sexual integrity of an individual, together with other crimes.



# European Support for the Effective Monitoring of Human Rights in Eastern Ukraine

The report presented here have been produced as part of the project 'European Support for the Effective Monitoring of Human Rights in Eastern Ukraine' conducted by the German-Russian Exchange (DRA e.V.) with support from the Federal Foreign Office of Germany. In the course of 2016, three monitoring trips have been undertaken, dedicated to examining the situation of the civilian population in government controlled areas of the Donetsk and Luhansk regions. For each trip, an international monitoring group was formed and an independent report written according to each trip's findings. The report presents findings of the second monitoring mission, which took place in parts of the Luhansk and Donetsk regions from October 17 to 23, 2016.

**The main aim** of the project 'European Support for the Effective Monitoring of Human Rights in Eastern Ukraine' is the systematic and consistent documentation of the civilian population's situation and of violations of human and humanitarian rights in eastern Ukraine. An important part of the project is the creation of a network of European human rights organisations participating in the undertaking of international monitoring, which should enable detailed and unbiased spreading of information to a wide public about the situation surrounding the conflict in eastern Ukraine.

The work on the project is founded on the conviction that the documentation of the on-the-ground reality and violations of human rights should lead to the cessation of violence and serve as a signal to the violators of these human rights that they cannot rely on impunity. The European monitoring of human rights violations in eastern Ukraine is a contribution to the peace process and the possibility of reconciliation in the future.

The project is implemented by the following non-governmental organisations: in Ukraine by Vostok-SOS (<http://vostok-sos.org>), Eastern Ukrainian Centre for Civil Initiatives (<http://totalaction.org.ua>), Luhansk Regional Human Rights Centre 'Alternativa', in Poland by Helsinki Foundation for Human Rights ([www.hfhr.pl](http://www.hfhr.pl)) and in Germany by DRA e.V. ([www.austausch.org](http://www.austausch.org)).

The report and other information regarding the situation of civilians and human rights in eastern Ukraine are available online at [www.civicmonitoring.org](http://www.civicmonitoring.org).