ARBITRARY DETENTION, TORTURE AND ILL-TREATMENT IN THE CONTEXT OF ARMED CONFLICT IN EASTERN UKRAINE

2014–2021

UNITED NATIONS
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Ukraine

Contents

I. Executive summary

1. This thematic report by the Office of the United Nations High Commissioner for Human Rights (OHCHR) examines: 1) the scale of detention in the context of the armed conflict in eastern Ukraine by Government actors and armed groups and other actors in territory controlled by the self-proclaimed 'Donetsk people's republic' and the self-proclaimed 'Luhansk people's republic'[1] from 14 April 2014 to 30 April 2021; 2) the prevalence and patterns of conflict-related arbitrary detention, including secret and incommunicado detention; 3) the prevalence and patterns of conflict-related torture and ill-treatment, including conflict-related sexual violence; and 4) accountability for these violations, including remedy and reparation to the victims. The report also presents two emblematic case studies of conflict-related arbitrary detention, torture and ill-treatment, one in the **Kharkiv** regional department of the Security Service of Ukraine (Annex I) and the second in the **'Izoliatsiia'** detention facility in armed group-controlled Donetsk (Annex II). Cases of arbitrary detention, torture and ill-treatment in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, occupied by the Russian Federation[2] that took place following the occupation and are still ongoing are out of the scope of the present report. These cases have been covered in OHCHR periodic reports on the human rights situation in Ukraine and thematic reports on the situation of human rights in Crimea, as well as in the reports of the United Nations Secretary-General on the situation of human rights in Crimea.[3]

2. The report is based on the findings of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU)[4], and aims to promote the eradication of current practices of conflict-related arbitrary detention, torture and ill-treatment, to prevent future such human rights violations, and to stimulate further efforts to bring perpetrators to justice and provide victims with remedy and reparation.

3. OHCHR estimates the total number of conflict-related detentions in Ukraine from 14 April 2014 to 30 April 2021 as between **7,900 and 8,700** (with men comprising approximately 85 per cent and women 15 per cent of detainees): 3,600-4,000 by Government actors and 4,300-4,700 by armed groups and other actors in territory controlled by the self-proclaimed 'republics'. These figures include individuals who took part in hostilities, as well as civilians detained for real or **suspected** support for opposing forces or merely for their anti-Ukrainian or pro-Ukrainian positions, as well as other individuals whose detention was directly or indirectly linked to the conflict.

4. OHCHR estimates that some 60 per cent of conflict-related detentions occurred during the first two years of the conflict, in 2014 and 2015: approximately 2,000 detentions by Government actors, and approximately 3,000 detentions by armed groups and other actors in territory controlled by the self-proclaimed 'republics'. From 2016 to 2021, annual numbers of conflict-related detentions substantially decreased both in Government-controlled territory and in territory controlled by self-proclaimed 'republics', averaging several hundred per year.

5. OHCHR estimates that **about 60 per cent** of all conflict-related detentions by Government actors from 2014 to 2021 (approximately 2,300) were **arbitrary**, and the majority of them occurred during the initial period of the conflict (2014-2015). These arbitrary detentions often failed to comply with any legal process, thereby violating

[1] Hereinafter referred to as 'Donetsk people's republic' and 'Luhansk people's republic' or jointly referred to as self-proclaimed 'republics'.

[2] Hereinafter referred to as Crimea.

[3] Most recently, United Nations Secretary-General, 2021 Report on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, paras. 11-14 (A/HRC/47/58).

[4] Deployed on 14 March 2014 at the invitation of the Government of Ukraine, HRMMU is mandated to "monitor the human rights situation in the country, with particular attention to the Autonomous Republic of Crimea, Eastern and Southern regions of Ukraine, and provide regular, accurate and public reports by the High Commissioner on the human rights situation and emerging concerns and risks". HRMMU is also mandated to "recommend concrete follow-up actions to relevant authorities of Ukraine, the UN and the international community on action to address the human rights concerns, prevent human rights violations and mitigate emerging

risks”.

all due process rights of the detainees, and often involved confinement in unofficial places of detention, including secret and incommunicado detention, for short or prolonged periods. Such detentions were carried out mostly in places such as the SBU premises in Kramatorsk, Mariupol and Kharkiv, and other locations, including the military bases in Mariupol and Kramatorsk airports.

6. From 2016, the prevalence of conflict-related arbitrary detention by Government actors substantially decreased. Since late 2016, OHCHR has not observed a continuation of the practice of holding conflict-related detainees long-term in unofficial places of detention. The duration of conflict-related arbitrary detention documented by OHCHR usually lasted several days, often in rented apartments, hotel rooms or similar places, after which the detentions were formalized and individuals transferred to official police detention facilities (ITTs) or pre-trial detention facilities (SIZOs).

7. As to the conflict-related detentions by armed groups and other actors in territory controlled by the self-proclaimed 'republics', during the initial stages of the conflict, they lacked any semblance of legal process, while a more formalized approach has been observed since 2015, with the introduction of "administrative arrest" (in territory controlled by 'Donetsk people's republic') and "preventive detention" (in territory controlled by 'Luhansk people's republic'). In the 532 documented cases of conflict-related detention, OHCHR noted the absence of appropriate procedures for administrative detention or lack of respect for fair trial guarantees in criminal 'cases' and found that a large majority of those cases amounted to arbitrary detention. As of April 2021, arbitrary detention remained a daily occurrence in territory controlled by self-proclaimed 'republics'.

8. In 2014 and early 2015, various armed groups used more than 50 improvised detention facilities (often generically referred to as "basements") to hold detainees, but the practice was gradually stopped, and conflict-related detainees were then held in a limited number of specially designated facilities. In some of these facilities, such as the premises of the 'ministries of state security' in Donetsk and Luhansk, and 'Izoliatsiia' detention facility in Donetsk, torture and ill-treatment were carried out systematically.

9. By analysing over 1,300 individual cases of conflict-related detention, OHCHR found a strong correlation between conflict-related arbitrary detention and torture and ill-treatment in both Government-controlled territory and territory controlled by self-proclaimed 'republics'. In cases documented by OHCHR which occurred during the initial stages of the conflict, in 2014 and 2015, detainees were frequently subjected to torture and ill-treatment (74 per cent of individuals detained by Government actors, and 82.2 and 85.7 per cent in territory controlled by 'Donetsk people's republic' and in territory controlled by the 'Luhansk people's republic', respectively). Conflict-related detainees also often faced **deplorable** detention conditions that amounted to **inhuman and degrading treatment**, often in improvised detention facilities such as basements, garages, industrial buildings, vehicles and open pits. After 2016, torture or ill-treatment in cases of arbitrary detention became less common on both sides of the contact line.

10. OHCHR estimates the total number of conflict-related detainees subjected to torture and ill-treatment from 2014 to 2021 at around **4,000** (approx. 3,400 men and approx. 600 women), including an estimated 340 victims of sexual violence (190-230 men and 120-140 women): approximately 1,500 by Government actors and approximately 2,500 by armed groups and other actors in territory controlled by self-proclaimed 'republics'.

11. Both in Government-controlled territory and in territory controlled by self-proclaimed 'republics', **torture and ill-treatment**, including conflict-related **sexual violence**, were used to **extract confessions** or information, or to otherwise force detainees to cooperate, as well as for punitive purposes, to **humiliate** and **intimidate**, and to **extort** money and property.

12. Methods of torture and ill-treatment line included **beatings**, dry and wet **asphyxiation**, **electrocution**, **sexual violence on men and women** (such as **rape**, **forced nudity and violence to the genitals**), **positional torture**, water,

food, sleep or toilet **deprivation**, isolation, **mock executions**, **prolonged use of handcuffs**, hooding, and **threats of death** or further torture or sexual violence, or **harm to family members**.

13. Among Government actors, **the most common perpetrator of arbitrary detention, torture and ill-treatment was the Security Service of Ukraine (SBU),** which had a large coordinating role in the Anti-Terrorist Operation, and was responsible for investigating crimes of terrorism. At the initial stages of the conflict, volunteer battalions were also among the regular perpetrators.

14. In territory controlled by self-proclaimed 'republics', the main perpetrators of arbitrary detention, torture and ill-treatment at the initial stages of the conflict were various armed groups, and later, members of the 'ministries of state security'.

15. Since 2014, OHCHR has enjoyed unimpeded access to official places of detention in Government-controlled territory. The lack of access of independent international human rights monitors to unofficial places of detention in Government-controlled territory which existed from 2014 to 2016, and absence of confidential access to places of detention and detainees in territory controlled by the self-proclaimed 'republics' throughout the conflict has deprived victims of additional protection.

16. The right to an effective remedy has been undermined by the lack of effective investigation into allegations of arbitrary detention, torture and ill-treatment, including conflict-related sexual violence. The number of individuals brought to responsibility for these violations are small compared with the estimated numbers of violations, and indicate the **prevailing impunity for perpetrators**. Likewise, the right of victims to reparation for the harm suffered, that entails compensation and rehabilitation, including medical and psychological care and access to legal and social services, remains largely unfulfilled.

II. Terminology

17. For the purposes of this report, "conflict-related detention" refers to deprivation of liberty in the context of the armed conflict in eastern Ukraine. It covers detention of individuals who took part in hostilities in Donetsk and Luhansk regions, detention of civilians for real or suspected support for opposing forces or merely for their anti-Ukrainian or pro-Ukrainian positions, as well as other detention that was directly or indirectly linked to the conflict.[5]

18. "Incommunicado detention" occurs when a detainee is not permitted any contact with the outside world.[6] "Secret detention" refers to incommunicado detention when the detaining entity refuses to confirm, denies or actively conceals the detention itself, or refuses to provide or actively conceals information about the fate or whereabouts of the detainee.[7]

19. "Conflict-related sexual violence" is defined as including rape, sexual slavery, forced prostitution forced pregnancy, forced abortion, enforced sterilization, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict.[8] The term also encompasses trafficking in persons for the purpose of sexual violence and/or exploitation, when committed in situations of conflict.

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[5] Please see examples in footnote 45 below.

[6] Joint study of global practices in relation to secret detention in the context of countering terrorism by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances (hereinafter "Joint study"), para. 8 (A/HRC/13/42).

[7] Ibid.

[8] Report of the United Nations Secretary-General on conflict-related sexual violence, 30 March 2021, S/2021/312, para. 5.

III. Methodology

20. This report is based on over **1,300** individual cases of conflict-related detention, including secret and incommunicado detention, and torture and ill-treatment, including conflict-related sexual violence, perpetrated by Government actors and by armed groups and other actors in territory controlled by the self-proclaimed 'republics' documented by OHCHR from 2014 to 2021. Information was gathered during field visits, visits to places of detention and interviews with victims and witnesses of human rights violations, as well as relatives of victims and their lawyers, Government representatives, members of civil society and other interlocutors. The report also draws from information obtained from court documents, official records, open sources and other relevant material.

21. Estimates related to conflict-related detentions are based on official information from Ukrainian law enforcement agencies, publicly available information from various organs of self-proclaimed 'republics', information obtained through HRMMU meetings, reports by human rights NGOs and other reliable and credible sources.

22. Information on absolute numbers of human rights violations in the context of conflict-related detention should be considered in light of several restricting factors: limited access of HRMMU to potential interviewees between 2014 and 2015; no confidential access of HRMMU to detainees in territory controlled by self-proclaimed 'republics'; and normal time delays between perpetration of the human rights violation and its documentation. In addition, from March 2020 onwards, COVID-related restrictions limited HRMMU's ability to communicate with victims, witnesses and other interlocutors.

23. **OHCHR findings are based on verified information collected from primary and secondary sources that are assessed as credible and reliable.** Findings are included in the report where the 'reasonable grounds to believe' standard of proof is met, namely where, based on a body of verified information, an ordinarily prudent observer would have reasonable grounds to believe that the facts took place as described, and where legal conclusions are drawn, that these facts meet all the elements of a violation. OHCHR obtains and verifies information through a variety of means in line with its methodology, and bases its conclusions on verified individual cases.

24. Information in this report is used in full respect of informed consent by all sources as to its use, as well as OHCHR's assessment of any risk of harm that such use may cause.

IV. Legal framework

25. OHCHR analysed factual events covered by this report in the light of relevant norms and standards of international human rights law[9], international humanitarian law[10] and international criminal law.[11]

[9] Status of ratification of human rights instruments by Ukraine can be accessed at: tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=183&Lang=EN

[10] In situations of armed conflict, parties to the conflict are bound by the applicable rules of international humanitarian law, whether customary or treaty-based: four Geneva Conventions of 1949 and two Additional Protocols of 1977 thereto, and customary international humanitarian law (Common article 3 of the Geneva Conventions and rules 87-138 and 140 of customary international humanitarian law are particularly relevant for the violations examined in this report). The rules of customary international humanitarian law have been identified by the International Committee of the Red Cross in volume I (rules) of its study on customary international humanitarian law (Cambridge University Press 2005), and are available at: ihl-databases.icrc.org/customary-ihl/eng/docs/v1.

[11] Ukraine signed the Rome Statute of the International Criminal Court in 2000. On 8 September 2015, under article 12(3) of the Rome Statute, the Government of Ukraine accepted the jurisdiction of the International Criminal Court with respect to alleged crimes committed on its territory since 20 February 2014 with no end date. In 2016, the Parliament of Ukraine adopted amendments to the Constitution of Ukraine, which allow for ratification of the Rome

26. While armed groups and other non-State actors cannot become parties to international human rights instruments, it is accepted that where they exercise government-like functions and control over a territory, they must respect human rights standards when their conduct affects the human rights of individuals under their control.[12]

27. Detention is arbitrary when the deprivation of liberty occurs outside the confines of nationally recognized laws or international standards.[13] "Arbitrariness" of detention refers to inappropriateness, injustice, lack of predictability and due process of law, as well to the lack of reasonableness, necessity and proportionality.[14]

28. Arbitrary detention is prohibited by international human rights law and international humanitarian law.[15] Security detention (sometimes known as administrative detention) authorized and regulated by and complying with international humanitarian law in principle is not arbitrary.[16] Prolonged incommunicado detention may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment, and may in itself constitute such treatment.[17] Secret detention is irreconcilable with international human rights law and international humanitarian law. It amounts to a manifold human rights violation that cannot be justified under any circumstances.[18]

29. The prohibition of torture and other cruel, inhuman or degrading treatment is absolute; and derogation from it is not permitted[19], whether in a state of war or a threat of war, internal political instability or any other public emergency.[20] International humanitarian law prohibits torture in both international and non-international armed conflicts.[21] Under the Rome Statute, torture and cruel, inhuman

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Statute; these amendments entered into force in 2018. As of 30 April 2021, the Rome Statute was not ratified by Ukraine.

[12] 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 RCD-GOMA 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)).

[13] Human Rights Committee, General Comment No. 35, paras. 10-12.

[14] Ibid, para. 23.

[15] International Covenant on Civil and Political Rights, article 9; HRC, General Comment No. 35, paras. 10-23; ICRC *Customary International Humanitarian Law Database*, rule 99.

[16] "Security detention" is the deprivation of liberty of an individual not in contemplation of prosecution on a criminal charge. It is meant to address, under the most exceptional circumstances, a present, direct and imperative threat where alternative measures would not suffice. Such detention must be limited in time, no longer than absolutely necessary, and fully respect guarantees provided for by international human rights law. Human Rights Committee, General Comment No. 35.

[17] United Nations General Assembly's resolution 60/148, 21 February 2006.

[18] Joint study, para. 17.

[19] OHCHR notes the notification by the Government of Ukraine to the United Nations Secretary-General on 20 October 2015, that the application and implementation by Ukraine of its obligations under 16 treaties, including the Convention against Torture, "is limited and is not guaranteed" on territory deemed to be occupied and uncontrolled, and that this situation will continue to apply until the complete restoration of Ukraine's sovereignty over its territory, runs contrary to the non-derogable nature of the prohibition of torture.

[20] International Covenant on Civil and Political Rights, article 4(2), Convention against Torture, article 2(2).

[21] The prohibition of "outrages upon personal dignity", "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" is recognized in Additional Protocols I and II, as well as article 3 of the Fourth Geneva Convention, as a fundamental guarantee for civilians and persons hors de combat.

or degrading treatment may amount to a war crime or a crime against humanity in certain circumstances.[22]

V. Context

30. Following the Maidan events from November 2013 to February 2014 that resulted in the departure of President Viktor Yanukovych and the occupation of Crimea by the Russian Federation,[23] in early April 2014, groups of armed people began to seize government buildings across Donetsk and Luhansk regions. After gaining control over some settlements, these armed groups proclaimed the creation of the 'Donetsk people's republic' and 'Luhansk people's republic'. On 11 May 2014, both self-proclaimed 'republics' held referendums to validate their 'acts of independence'.

31. The referendums were not recognized by the Government of Ukraine, nor by the international community, which continue to respect the sovereignty, unity and territorial integrity of Ukraine within its recognized borders. In response to the seizure of administrative facilities in Donetsk and Luhansk regions, the Government launched the Anti-Terrorist Operation (ATO)[24] in mid-April 2014. Hostilities between Government forces and armed groups, which were supported by the Russian Federation, quickly reached the level of an armed conflict.[25] The armed conflict resulted not only in military and civilian casualties and substantial damage to civilian objects and infrastructure, but also in wide-scale detention, including arbitrary, secret and incommunicado detention, and torture and ill-treatment of detainees, including conflict-related sexual violence.

32. OHCHR believes that the scale and gravity of these human rights violations were exacerbated by the already existing endemic torture and ill-treatment of detainees in Ukraine before 2014,[26] and the collapse of law and order in the conflict

[22] Rome Statute, article 8(2) (a) (ii), (iii) and (c) (i) (ii) and article 7(a), (f) and (k).

[23] On 27 February 2014, uniformed men without insignia took control of the Parliament of Crimea, which immediately dismissed the Government of Crimea. On 11 March 2014, the Parliaments of Crimea and Sevastopol adopted a joint Declaration of Independence, which united the entities to form the "Republic of Crimea". Following a referendum on 16 March 2014 on the question of whether to seek integration into the Russian Federation, on 18 March 2014, the Russian Federation and the "Republic of Crimea" signed a "treaty of accession" effectively annexing the peninsula into the Russian Federation. The United Nations General Assembly declared the referendum invalid, underscoring that it could not form the basis for any alteration of the status of Crimea, and reaffirmed the sovereignty unity and territorial integrity of Ukraine within its internationally recognized borders (Resolution 68/262 of 27 March 2014). For more information concerning the context of the occupation of Crimea, see OHCHR, Report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine), paras. 20-28. For the issue of effective control over Crimea and legal analysis of the conduct of Russian military forces in Crimea, see European Court of Human Rights, Ukraine v. Russia (re Crimea), Decision (Grand Chamber), 16 December 2020, paras. 315-349.

[24] President of Ukraine, On the decision of the National Security and Defense Council of 13 April 2014 regarding high priority measures to address terrorist threats and securing territorial integrity of Ukraine, Decree No. 405/2014, 14 April 2014, available at zakon2.rada.gov.ua/laws/show/405/2014.

[25] The Office of the Prosecutor of the International Criminal Court (OTP ICC) assessed that by 30 April 2014, the intensity of hostilities between government forces and armed groups in eastern Ukraine had reached a level triggering application of the law of armed conflict, and that the armed groups were sufficiently organized to qualify as parties to a non-international armed conflict. The Office further assessed that direct military engagement between the armed forces of the Russian Federation and Ukraine "indicated the existence of an international armed conflict in eastern Ukraine from 14 July 2014 at the latest, in parallel to the non-international armed conflict". OTP ICC, Report on Preliminary Examination Activities 2019, 5 December 2019, para. 266. OHCHR documented the presence of servicemen of Russian Armed Forces in the conflict zone of eastern Ukraine in 2014 and 2015. OHCHR, Report on the human rights situation in Ukraine, from 16 May to 15 August 2015, para. 59; OHCHR, thematic report on human rights violations and abuses and international humanitarian law violations committed in the context of the Ilovaisk events in August 2014, para. 78.

[26] See, for example, Committee against Torture, Conclusions and recommendations following consideration of the fifth periodic report of Ukraine (CAT/C/UKR/CO/5, 3 August 2007), para. 9.

zone. Armed actors seemed unaware of their obligations under international human rights law and international humanitarian law, and there was a lack of oversight over armed actors and some commanders were believed to be complicit. Hate speech and disinformation aimed at dehumanizing and demonizing opposing parties resulted in an atmosphere of hatred and incitement to violence.

33. The absence of access of independent international human rights monitors to unofficial places of detention in Government-controlled territory from 2014 to 2016, and the absence of confidential access of international monitors to places of detention and detainees in territory controlled by the self-proclaimed 'republics' throughout the conflict period have deprived victims of additional protection.[27]

34. In Crimea, individuals opposed to the Russian Federation's occupation or critical of Russian Federation policies applied on the peninsula, such as journalists, bloggers, supporters of the Mejlis and pro-Ukrainian and Maidan activists, were targeted for prosecution and often became victims of arbitrary detention, torture and ill-treatment by the State agents of the Russian Federation. For a three-week period following the overthrow of Ukrainian authorities in Crimea, human rights violations occurring on the peninsula were mostly attributed to members of the Crimean self-defence and various Cossack groups. Following Crimea's temporary occupation, representatives of the Crimean Federal Security Service of the Russian Federation (FSB) and police were more frequently mentioned as perpetrators.[28] OHCHR found that torture by beating, electrocution, asphyxiation, mock executions and sexual violence had been used, allegedly by Russian state agents, against people in detention or in the time between their de facto deprivation of liberty and formal placement in detention.[29]

35. Individual cases of arbitrary detention, torture and ill-treatment in Crimea have been described in OHCHR periodic reports and thematic reports on the human rights situation in Ukraine,[30] as well as in the reports of the United Nations Secretary-General on the situation of human rights in Crimea.[31]

VI. Arbitrary detention, including secret and incommunicado detention, torture and ill-treatment by Government actors

> "We are KGB. Talk! Why are you acting like Zoya Kosmodemyanskaya[32]?"
>
> SBU officer to a detainee held incommunicado in Kramatorsk SBU

A. Scale of conflict-related detention

36. OHCHR estimates that since the launch of the ATO in mid-April 2014 until 30 April 2021, Government actors have detained from 3,600 to 4,000 individuals in the context of the armed conflict.

Estimated numbers of conflict-related detentions by Government actors, 2014-2021

[27] In 2014, 2016 and 2017, on several occasions, HRMMU was provided access to some detainees, but this access was not confidential and HRMMU was not able to interview them in private.

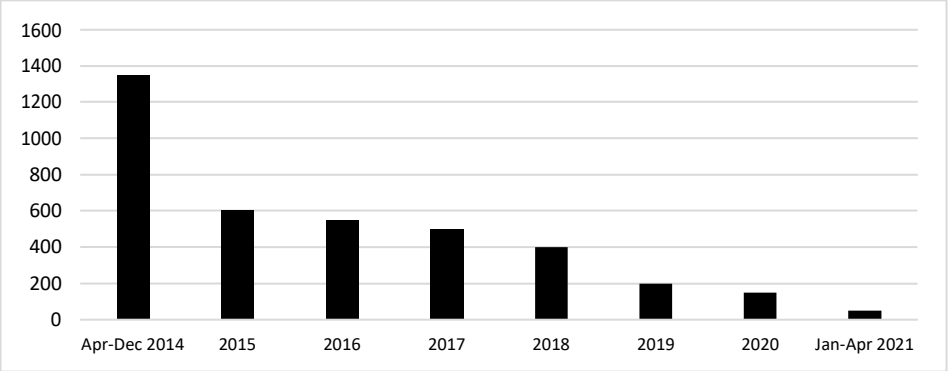
[28] OHCHR, Report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine), 25 September 2017, para. 11.

[29] OHCHR, Report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine), 10 September 2018, para. 5.

[30] OHCHR reports on Ukraine are available at: www.ohchr.org/EN/Countries/ENACARegion/Pages/UAReports.aspx

[31] See, for example, United Nations Secretary-General, 2020 Report on the situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, paras. 12-15 (A/HRC/44/21).

[32] A Soviet partisan executed by the Germans in December 1941, known for her refusal to give up information despite severe torture.



37. The majority of conflict-related detentions by Government actors took place in Donetsk and Luhansk regions, as well as in eastern and south-eastern regions (Dnipropetrovsk, Kharkiv, Kherson, Odesa and Zaporizhzhia) and in Kyiv. The duration of conflict-related detentions varied from several hours to several years. Men comprised an estimated 85 per cent of all conflict-related detainees and women 15 per cent. Conflict-related detentions of children were rare and short-term, estimated to be dozens of cases, predominantly at the initial stages of the conflict, and mostly in relation to their alleged support to armed groups.

38. Individuals detained by Government actors could be categorized as: 1) members of armed groups of self-proclaimed 'republics' and other individuals who took part in hostilities against Government forces (including citizens of Ukraine and nationals of other countries); 2) individuals who did not take part in hostilities but were believed to be supporting armed groups by providing them with intelligence information or other support; and 3) 'officials' of self-proclaimed 'republics' and other individuals whose actions were believed to benefit the creation or functioning of self-proclaimed 'republics', or otherwise undermine the territorial integrity of Ukraine.

39. Conflict-related detainees who faced charges were most often charged with articles 258[3] (creation of a terrorist group or organization) and 260 (creation of unlawful paramilitary or armed formations) of the Criminal Code. Other frequent charges were articles 110 (trespass against territorial integrity and inviolability of Ukraine), 111 (high treason), 113 (sabotage) and 258 (act of terrorism).

40. As of 30 April 2021, 3,100 individuals who were detained by Government actors in the context of armed conflict since 2014 are estimated to have been released, either through simultaneous releases conducted under the Minsk agreements[33] or otherwise.[34] An estimated 500 individuals are serving sentences or remain in pre-trial detention, and an estimated 100-150 have been killed or died while in detention.

B. Arbitrary detention, torture and ill-treatment

Arbitrary detention

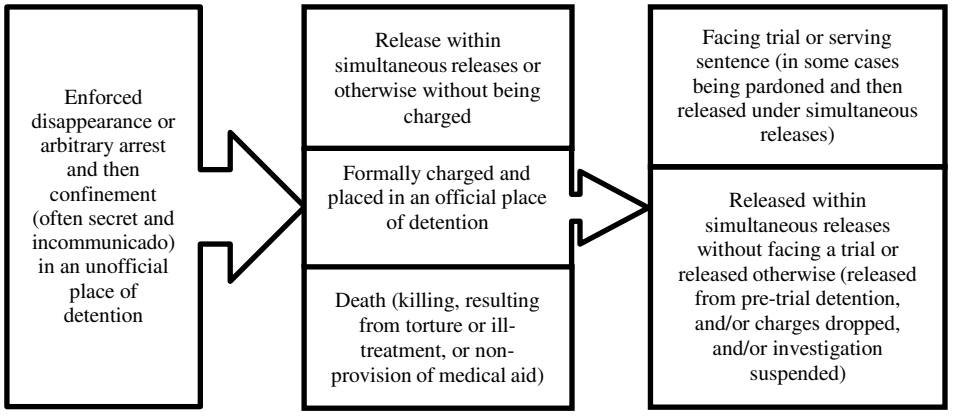
41. OHCHR estimates that about 60 per cent of all conflict-related detentions by Government actors from 2014 to 2021 (approximately 2,300) were arbitrary, as they did not meet guarantees under international human rights standards, despite these being codified in domestic law.[35] The majority of them occurred during the initial period of the conflict (2014-2015), when conflict-related detentions included

[33] Between 2014-2020, the Government released at least 1,075 individuals, and the self-proclaimed 'republics' released at least 1,499 individuals during several dozen simultaneous releases carried out on the basis of para. 6 of the Package of Measures for the Implementation of the Minsk Agreements which sought to "ensure release and exchange of all hostages and unlawfully detained persons, based on the principle 'all for all'", peacemaker.un.org/sites/peacemaker.un.org/files/UA_150212_MinskAgreement_en.pdf.

[34] Released without any formal charges; or after investigation was suspended; or following an acquittal or non-custodial sentence; or having served a sentence or been granted parole.

[35] Such as apprehension without a court warrant; planting evidence, such as hand grenades or rifle rounds, to justify arrest; detention for more than 72 hours without a court sanction; no access to legal counsel; no opportunities to notify relatives about the detention; confinement in unofficial places of detention, often secret and incommunicado, etc.

enforced disappearances, detention without a court warrant and confinement in unofficial places of detention[36], often secret and incommunicado. The scheme below illustrates typical changes in the situation of individuals subjected to arbitrary detention that entailed confinement in unofficial places of detention in 2014-2015.



42. The situation began to improve in the second half of 2015, both in terms of compliance with the Criminal Procedure Code, and in terms of decreased use of unofficial places of detention. Since December 2016, when the last detainees were released from the Kharkiv SBU, OHCHR has not recorded any prolonged confinement in unofficial places of detention. In most individual cases documented from 2017 to 2021, the duration of arbitrary detention did not exceed several days, with individuals usually held in rented apartments, hotel rooms or similar places prior to being transferred to official places of detention, such as ITTs or SIZOs.

Torture and ill-treatment

43. From the beginning of the armed conflict, conflict-related detainees faced torture and ill-treatment by Government actors. From April 2014 to 30 April 2021, OHCHR documented the detention of 767 individuals (655 men and 112 women), 68.8 percent of whom (528, including 456 men and 72 women) were subjected to torture or ill-treatment, including conflict-related sexual violence. The extrapolation of these proportions to the estimated total number of arbitrary conflict-related detentions by Government actors during the entire conflict period (2,300) indicates that there would have been approximately 1,500 victims of conflict-related torture and ill-treatment.

44. Sixty per cent of all cases of torture and ill-treatment by Government actors documented by OHCHR occurred between 2014 and 2015; 74 per cent of individuals arbitrarily detained during that period were tortured or ill-treated.

45. According to victims interviewed by OHCHR, **torture and ill-treatment were used to extract confessions or information**, or to otherwise make detainees cooperate, as well as for punitive purposes, to humiliate and intimidate, and to extort money and property.

46. Methods of **torture and ill-treatment by Government agents included beatings, dry and wet asphyxiation**, **electrocution**, **sexual violence** on men and women, **positional torture**, water, food, sleep or toilet deprivation, isolation, **mock executions**, prolonged use of handcuffs, hooding, and **threats of death** or further torture or sexual violence, or **harm to family members**. In 3 credible and extensively documented cases, **death by boiling** was carried out by the SBU[37]. In many cases, especially at the initial stages of the conflict, torture or ill-treatment of individual detainees was exacerbated by **poor detention conditions, which themselves often amounted to ill-treatment.**

[36] The Law "On pre-trial detention" stipulates that detainees can be held only in ITTs run by the Ministry of Internal Affairs, SIZOs run by the Ministry of Justice, and military guardhouses run by the Ministry of Defence – with the only exception of an SBU pre-trial detention facility in Kyiv at Askoldiv Lane, 3A, which has been officially functioning since pre-conflict times because of loopholes in the legislation.

[37] See, for example, OHCHR, Thematic report on accountability for killings in Ukraine from January 2014 to May 2016, para. 101; OHCHR, Report on the human rights situation in

Ukraine, from 16 August to 15 November 2015, para. 51; and OHCHR, Report on the human rights situation in Ukraine, from 16 November 2015 to 15 February 2016, paras. 52 and 87.

Conflict-related sexual violence

47. Of the 767 individuals in conflict-related detention in Government-controlled territory whose cases were documented by OHCHR from mid-April 2014 to 30 April 2021, 35 (18 men and 17 women), that is 4.6 per cent (4.3 per cent of male detainees and 15.2 per cent of female detainees), were subjected to conflict-related sexual violence (**rapes**, **electric shocks to genitals**, **kicks on genitals**, **forced nudity**, **unwanted touching**, **threats of sexual violence** to the victims and **their female relatives).**

48. If extrapolated to the estimated total number of conflict-related arbitrary detentions by Government actors (2,300), the number of victims of conflict-related sexual violence could be estimated at 140-170, including 80-100 men and 60-70 women. Many times, it is difficult for survivors of sexual violence to come forward and share their experiences due to fear of stigma or reprisals. Therefore, the actual figures could be higher.

C. Perpetrators

49. OHCHR identified a broad range of Government actors engaged in conflict-related arbitrary detention and torture and ill-treatment, including: **SBU**; various units (often unspecified) of the **Ukrainian Armed Forces** (UAF); **National Guard**; **National Police**; **State Border Guard Service**; **volunteer battalions** before and after their formal incorporation into the UAF, National Guard or National Police (such as the **'Aidar' battalion, 'Artemivsk' battalion, 'Azov' battalion/regiment; 'Dnipro-1' battalion; 'Dnipro-2' battalion, 'Donbas' battalion; 'Kharkiv-1' battalion; and 'Poltava' battalion**); and other armed units which took part in hostilities or were present in Donetsk and Luhansk regions in the context of the armed conflict without being formally incorporated into the UAF, National Guard or National Police (such as 'Right Sector').

50. In many cases, victims were not able to identify the affiliation of the individuals who detained or tortured them. In some cases, perpetrators belonged to multiple structures and were acting together so that one individual was a victim of multiple violations by several perpetrators.

51. The prominent role that the SBU played in conflict-related arbitrary detention, torture and ill-treatment could be attributed to the fact that it coordinated the ATO, investigated crimes under article 258 (act of terrorism) of the Criminal Code as assigned by the law, and lacked prosecutorial oversight.[38]

52. Former conflict-related detainees rarely knew the names, ranks and positions of individuals complicit with their arbitrary detention, torture and ill-treatment. However, through its interviews with former detainees, OHCHR documented information on dozens of call signs and visual descriptions of these individuals.

D. Places of detention

53. OHCHR estimates that arbitrary detention, including secret and incommunicado detention, by Government actors took place in over 30 places of detention, which varied in terms of type, size, length of operation, and the entities running them. Former conflict-related detainees informed OHCHR that they were arbitrarily held in SBU administrative premises, such as in Kharkiv, Kramatorsk, Lysychansk, Mariupol, Sievierodonetsk, and Sloviansk; police precincts and administrative premises, such as in Druzhkivka, Toretsk (then Dzerzhynsk), Kostiantynivka, Rubizhne, and Volnovakha; temporary military bases in the conflict zone shared by UAF, SBU and volunteer battalions, such as in Kramatorsk and Mariupol airports, Izium and near Sievierodonetsk; permanent military bases in the conflict zone; ad hoc bases shared by battalions and SBU, such as Krasnoarmiisk ATP[39]; "makeshift prisons" of battalions, such as the sausage factory in Polovynkyne

[38] According to the SBU, within its criminal investigations, violations of procedural rights of individuals suspected of serious crimes did not take place; torture and ill-treatment did not and are not being used during investigative actions; detentions are carried out only upon relevant court decisions; and detainees are kept only in official places of detention.

[39] ATP stands for 'automobile and transport enterprize'.

village run by the 'Aidar' battalion; military checkpoints; small ad hoc detention places outside of SBU premises; official places of detention (mostly ITTs); sanatoriums, such as 'Zelenyi Hai'; and schools, such as school No. 61 in Mariupol. The most well-known unofficial detention facility run by the SBU from 2014 to 2016 was the premises of its Kharkiv regional department (see Annex I).

54. Independent human rights monitors generally did not have access to these premises. In the rare cases when National Preventive Mechanism (NPM) monitors were granted access, it was provided with delays that allowed the temporary relocation of detainees. These unofficial detention facilities were subjected to either no or nominal prosecutorial oversight. For example, the Kharkiv Military Prosecutor investigated allegations of the existence of a secret detention facility on the premises of SBU Kharkiv regional department, and visited the premises in March 2015, but found the cells empty. OHCHR interviewed a number of former detainees who described being held in this facility and, prior to the Military Prosecutor's visit, being removed from their cells by SBU officers and temporarily placed in the basement and other locations within the building.[40]

55. The conditions of detention in these facilities varied, ranging from those resembling official detention in a SIZO, to inhuman and degrading to such an extent that it permanently damaged the physical and mental health of detainees.[41] To OHCHR's knowledge, by 2017, all these facilities stopped holding conflict-related detainees, with the exception of 'Zelenyi Hai' sanatorium in Donetsk region, which was used to temporarily accommodate detainees ahead of simultaneous releases.[42]

Mariupol airport

In 2014, following the outbreak of the armed conflict in eastern Ukraine, Mariupol airport was turned into a military base used by UAF, SBU and some volunteer battalions, and parts of its premises were used as a detention facility. To date, OHCHR has documented 21 individual cases (19 men and two women) of arbitrary and incommunicado detention, torture and ill-treatment occurring at Mariupol airport from 2014 until the first half of 2016. OHCHR believes that hundreds of detainees were held there before being transferred to other detention facilities, either official or unofficial, or being released. During 2014, the length of detention at the airport ranged from several hours to one month. After, detainees were held only for periods of up to 24 hours.

In most cases documented, the detainees were not informed of the reasons for their arrest or of the charges brought against them. Detainees were denied access to legal counsel or contact with the outside world, with the exception of one case when a detainee was provided with a lawyer on her third day of detention at the airport.

Detainees were held in non-working cold stores – basement rooms without windows, sized 8-10 square meters and tiled by ceramic plates. The absence of ventilation made breathing difficult, resulting in some detainees losing consciousness. According to a former detainee held in a cold store in 2014, at some point, 14 detainees were held in this small space. Detainees were not regularly provided food and water, and were sometimes denied access to the toilet. Several detainees described hearing the screams of others being tortured.

Former detainees reported being subjected to torture and ill-treatment to extract confessions or to obtain information, or to punish them for their real or alleged affiliation with armed groups. In most cases, perpetrators wore balaclavas, allowing them to remain anonymous. The most frequent methods of torture included beating with hard objects (sticks, pistols or rifle butts), punching, kicking various parts of the body (knees, chest, or head); electrocution; mock executions by shooting at a detainee with blank ammunition or shooting next to a detainee with live ammunition; forcing a detainee to dig his/her own grave; and verbal insults.

During his visit to Ukraine in June 2015, the United Nations Assistant Secretary-General for Human Rights attempted to gain access to the Mariupol airport without prior notice, but was denied entrance by the military. In 2017, HRMMU visited territory of the airport and did not find signs that its premises were still used as a detention facility.

[40] OHCHR, Report on the human rights situation in Ukraine, 16 February to 15 May 2015, para. 47.

[41] OHCHR, Report on the human rights situation in Ukraine, 16 November 2017 to 15 February 2018, Annex II, para. 7.

[42] See Annex I, paras. 27 and 57-58.

VII. Arbitrary detention, including secret and incommunicado detention, torture and ill-treatment by armed groups and other actors in territory controlled by the self-proclaimed 'republics'

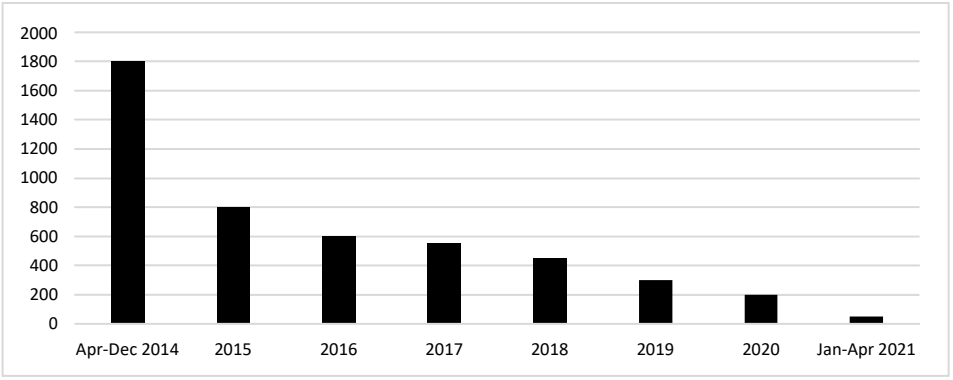
> "My legs are permanently swollen due to beatings and stress positions. I partially lost my vision and all my teeth as a result of beatings, and the fractures on my nose have never healed."
>
> A former detainee of 'mgb' in Luhansk

A. Scale of conflict-related detention

56. OHCHR estimates that from mid-April 2014 until 30 April 2021, armed groups and other actors of self-proclaimed 'republics' have detained from 4,300 to 4,700 individuals in the context of the armed conflict in eastern Ukraine.[43] Men comprised an estimated 85 per cent of all conflict-related detainees and women 15 per cent. Conflict-related detentions of children were rare, estimated to be in the dozens, mostly during the initial stages of the conflict.

57. The detainees were mostly 1) persons hors de combat (captured members of UAF or volunteer battalions or other individuals who were taking part in hostilities on the side of Government forces); 2) civilians accused of supporting the Ukrainian Government or of pro-Ukraine views[44]; and 3) other individuals detained in the context of the armed conflict.[45]

Estimated numbers of conflict-related detentions by armed groups and other actors in territory controlled by the self-proclaimed 'republics', 2014-2021



58. By 30 April 2021, an estimated 3,800-4,000 conflict-related detainees are believed to have been released, while an estimated 300-400 individuals remained in detention (under 'administrative arrest' or 'preventive detention', or under 'investigation', or serving their 'sentences') and an estimated 200-300 individuals had been killed or died while in detention.

[43] Besides these, from summer 2014 until April 2021, it is estimated that at least 3,000 civilians were detained in territory controlled by the self-proclaimed 'republics' for common crimes, as well as hundreds of members of armed groups and 'officials' of the self-proclaimed 'republics' whose detention was related to their 'service'. It is also estimated that by the summer of 2014, 16,000 pre-trial detainees and prisoners remained in Donetsk and Luhansk SIZOs and penal colonies in territory controlled by the self-proclaimed 'republics', of whom an estimated 8,000 continued to serve their sentences as of 30 April 2021. These detainees are not included in statistics presented in this section.

[44] Including those whose detention on such accusations was in fact to extort their property or money.

[45] For example, from mid-April to 18 July 2014, at least 717 individuals were detained by armed groups. These included: 46 journalists, 112 police officers, 26 representatives of the OSCE Special Monitoring Mission to Ukraine, 22 deputies, members of political parties and heads of district (town) councils, five employees of the prosecutor's office, two lawyers, two judges, one employee of the penitentiary service and 481 other people. The armed groups also captured 91 soldiers and border guards, as well as four SBU officers. See OHCHR, Report on the human rights situation in Ukraine, 8 June to 15 July 2014, para. 33.

B. Arbitrary detention, torture and ill-treatment

Arbitrary detention

59. During the initial stages of the conflict, in 2014 and in the first quarter of 2015, conflict-related abductions and detentions were carried out by diverse armed groups, many of which were quite autonomous from the central command in Donetsk and Luhansk. These detentions lacked any semblance of legal process and in many cases amounted to enforced disappearances.

60. From late 2014, conflict-related detention by armed groups and other actors in territory controlled by the self-proclaimed 'republics' was increasingly formalized, with individuals detained mostly by designated 'law enforcement' entities (such as 'ministries of state security'). They were initially detained under 'administrative arrest' (in territory controlled by 'Donetsk people's republic') or 'preventive detention' (in territory controlled by 'Luhansk people's republic')[46], which in many instances amounted to enforced disappearances. They were then released or charged under various articles of the 'criminal codes' of the self-proclaimed 'republics'.[47]

61. In the 532 documented cases of conflict-related detention, OHCHR noted the absence of appropriate procedures for administrative detention[48] or lack of respect for fair trial guarantees in criminal 'cases' thereby raising serious concerns that a large majority of those cases amounted to arbitrary detention.

62. The most common charges against conflict-related detainees were 'espionage', 'incitement of hatred', 'storage of explosives', 'terrorist act', 'assistance to terrorist activity', and 'public calls for extremist activities' in territory controlled by 'Donetsk people's republic', and 'creation of a criminal organization', 'illegal acquisition and storage of weapons or ammunition', 'state treason', and 'illegal acquisition of information comprising state secrets' in territory controlled by 'Luhansk people's republic'.

Torture and ill-treatment

63. OHCHR documented the conflict-related detention of 532 individuals (447 men and 85 women) from 2014 to 30 April 2021, 281 of whom (249 men and 32 women) were subjected to torture or ill-treatment, including conflict-related sexual violence. Of 281 cases of torture and ill-treatment documented by OHCHR, 49.5 per cent (139) occurred in 2014 or 2015.[49]

64. Of these total documented cases, 51.1 per cent of those in territory controlled by 'Donetsk people's republic' and 56.3 per cent of those in territory controlled by 'Luhansk people's republic' involved torture and/or ill-treatment.[50] This was more prevalent in 2014 and 2015, during which time, 82.2 per cent of documented cases of arbitrary detention in territory controlled by 'Donetsk people's republic' and 85.7 per cent in territory controlled by the 'Luhansk people's republic' involved torture and/or ill-treatment.

[46] According to 'legislation' of the self-proclaimed 'republics', individuals can be held under 'administrative arrest' or 'preventive detention' to verify their involvement in 'crimes against national security' upon unilateral decision of an 'investigator' or 'prosecutor'. They provide for arrest of up to 30 days (which can be extended to 60 days), during which an 'investigation' is conducted. The detainee is held incommunicado, with no entity exercising any form of judicial control over the detention. OHCHR found that in most cases, relatives were not provided with information about the detention.

[47] OHCHR, Report on human rights in the administration of justice in conflict-related criminal cases, April 2014 – April 2020, paras. 101-102.

[48] Ibid, paras. 107-111.

[49] As many cases were documented with considerable delays in time, and the capacity of HRMMU and its access to potential interviewees in 2014 and 2015 was limited, the figures cannot be taken to be representative of all cases, which would be higher.

[50] In absence of confidential access to places of detention and detainees in territory controlled by the self-proclaimed 'republics' and in absence of simultaneous releases in 2020-2021, in many cases documented by OHCHR was able only to document arbitrariness of detentions, but not whether detainees were tortured or ill-treated; the prevalence of torture or ill-treatment among conflict-related detainees in territory controlled by the self-proclaimed 'republics' is therefore likely to be higher.

65. The extrapolation of 2014-2021 proportions to the estimated total number of conflict-related detentions by armed groups and other actors in territory controlled by self-proclaimed 'republics' during the entire conflict period (4,500) indicates that there have been approximately 2,500 victims of conflict-related torture and ill-treatment.

66. In cases documented by OHCHR, armed groups and other actors in territory controlled by the self-proclaimed 'republics' broadly used torture and ill-treatment to extract confessions or information, or to otherwise force detainees to cooperate, as well as for punitive purposes, to humiliate and intimidate, or to extort money and property.

67. The methods of torture and ill-treatment described by victims to OHCHR included beatings, dry and wet asphyxiation, electrocution, sexual violence on men and women, positional torture, water, food, sleep or toilet deprivation, isolation, mock executions, prolonged use of handcuffs, hooding, and threats of death or further torture or sexual violence, or harm to family members. In many cases, especially at the initial stages of the conflict, torture or ill-treatment of individual detainees was exacerbated by poor detention conditions, which themselves often amounted to ill-treatment.[51]

Conflict-related sexual violence

68. Of the 532 individuals detained by armed groups and other actors in territory controlled by self-proclaimed 'republics' whose cases were documented by OHCHR, 21 (14 men and seven women), that is 3.9 per cent (3.1 per cent of male detainees and 8.2 per cent of female detainees), were subjected to conflict-related sexual violence (rapes, electric shocks to genitals, kicks on genitals, forced nudity, unwanted touching, threats of sexual violence to the victims and their female relatives).

69. If extrapolated to the estimated total number of conflict-related detentions by armed groups and other actors in territory controlled by the self-proclaimed 'republics' (4,300-4,700), the number of victims of conflict-related sexual violence in the context of detention could be estimated at 170-200, including 110-130 men and 60-70 women. Many times, it is difficult for survivors of sexual violence to come forward and share their experiences due to fear of stigma or reprisals. Therefore, the actual figures could be higher.

C. Perpetrators

70. A broad range of armed groups and other actors engaged in conflict-related arbitrary detention and torture and ill-treatment in territory controlled by the self-proclaimed 'republics' from 2014 to 2021. In 532 cases documented by OHCHR, the following perpetrators were identified:

71. In territory controlled by 'Donetsk people's republic': 'first army corps of people's militia','republican guard', armed group led by Igor Bezler, 'first Slavic brigade', 'Kalmius brigade', 'Novorossiya brigade', 'Oplot battalion', 'Somali battalion', 'Sparta battalion', 'Vostok battalion', 'Russian orthodox army', various Cossack groups, 'ministry of state security ('mgb'), 'department to combat organized crime' (ubop') of the 'ministry of internal affairs', 'police', and 'penitentiary service'.

72. In territory controlled by 'Luhansk people's republic': 'second army corps of people's militia', 'Prizrak battalion', 'Batman battalion', 'Leshiy battalion', 'Zaria battalion', 'Brianka SSSR battalion', 'first Cossack regiment', other Cossack groups, 'ministry of state security ('mgb'), 'ministry of internal affairs', 'police', and 'penitentiary service'.

73. The above lists are not exhaustive as some other armed groups or actors are also believed to be complicit in arbitrary detention, torture and ill-treatment. OHCHR has also accumulated considerable information on individual perpetrators. Many

[51] OHCHR, Report on the human rights situation in Ukraine, 1 to 30 November 2014, para. 41; OHCHR, Report on human rights violations and abuses and international humanitarian law violations committed in the context of the Ilovaisk events in August 2014, paras. 98-127.

detainees indicated that nationals of the Russian Federation, including 'FSB officers', were complicit in their arbitrary detention, torture and ill-treatment.[52]

D. Places of detention

74. Since April 2014, numerous new places of detention have emerged in territory controlled by armed groups in addition to pre-existing ITTs, SIZOs and penal colonies where pre-conflict detainees and prisoners continued to be held. OHCHR has identified over 50 such new facilities (often generically referred to as "basements" [53]) that operated from several days or months to over a year, and mostly ceased to function by 2016. However, the largest facilities – the former premises of the SBU regional department in Donetsk at 62 Shchorsa Street, the former premises of military unit No. 3037 in Donetsk at 1 Kuprina Street, the former art centre 'Izoliatsiia' in Donetsk at 3 Svitloho Shliakhy Street and the former premises of the SBU regional department in Luhansk at 79 Radianska Street – continued to function as of 30 April 2021. Conflict-related detainees were also kept in Donetsk and Luhansk SIZOs, and in a number of penal colonies, such as Makiivka colonies No 32 and No 97, Torez colony No 28, Horlivka colony no 87, and Snizhne colony No 127.

Former premises of Luhansk SBU

After the outbreak of the armed conflict in eastern Ukraine in 2014, the premises of the regional SBU department in Luhansk region were used by members of armed groups and later by 'mgb'. OHCHR has documented 57 cases of arbitrary and incommunicado detention, torture and ill-treatment (affecting 47 men and 10 women) that occurred there from 2014 until April 2021. By the end of April 2021, these premises continued to be used to detain conflict-related detainees.

Detainees were held in basement rooms without windows, with concrete floors and metal beds. At least some rooms were equipped with a toilet and sink .[54] Detainees received three meals a day of poor nutritional value, usually porridge and hot water. They could shower once a week and have access to fresh air for one hour a week. Detainees were hooded or blindfolded before being taken to the building and when walking outside the basement a bag was placed on their heads. During the COVID outbreak, the administration of the facility reportedly did not observe prevention measures.

Male detainees have been detained incommunicado there for periods between two days to over a year. For example, in 2016, a man spent eight months incommunicado without 'charges' or orders from a 'court'. OHCHR is also aware of ten women detained for periods between two hours and two months. During the initial period of detention, the 'mgb' often refused to acknowledge the arrest or detention, which may amount to enforced disappearance. Those held under 'preventive detention' were not allowed to receive parcels with food and medicine or access to a lawyer.

During interrogations on the upper floors of the building, detainees were often subjected to torture and ill-treatment, including sexual violence, to force them to confess or as punishment for real or perceived cooperation with SBU. Methods of torture included: beating with different objects (batons, boots, fists, cables, rifle butts, bats); electrocution; mock executions, threats towards them and family members, including death threats; deprivation of food and water for three or four days. A former detainee held in 2017 told OHCHR "People were dying there" while describing the facility.

As examples, in July 2014, three men from the 'Leshiy' battalion beat a male detainee with bats and pistols and subjected him to a mock execution by putting a pistol in his mouth in order to seize his property. For three days afterwards, he was not given food or water. In November 2016, several 'mgb' officers beat a man with a disability for several hours with a stick all over his body and with a book to his head in order to force him to confess to

[52] The term "FSB officers" is used as a shorthand by detainees to indicate anyone they suspected of originating from and acting on behalf of the Russian Federation. Detainees based their statements on the Russian accent of the person, or other features that made these people distinct from residents of Ukraine.

[53] "Basement" was a common name for improvised detention facilities, as often detainees were held in basements of various administrative buildings occupied by armed actors. A common threat was "to send to the basement". Not every improvised detention facility was in a basement.

[54] In 2014, detainees were allowed to use the toilet twice a day, and otherwise used plastic flasks for urinating. In one case, 20 persons were held in a small cell with four beds. In another case, a woman was held together with four men, and made to wash the corridor floors and toilets two or three times.

cooperating with SBU. As a result, his right hand went numb, his retina began to detach from his right eye, and he was "all blue" with bruises, however he told OHCHR that he barely suffered compared to other detainees. In February 2018, 'mgb' officers strangled and electrocuted a man by attaching electric wires to different body parts, including his genitals, beat him, and threatened to take his children and imprison his mother, until he "signed everything". Some detainees were brought to the cell unconscious because of heavy beatings; some were taken out and never returned.

In 2019 and 2020, OHCHR continued to receive information about arbitrary detention, torture and ill-treatment in these premises, including beatings with truncheons, electrocution and mock executions in order to force confessions.

OHCHR observes that due to fear of retaliation from the 'mgb', released individuals are often not willing to speak about their experiences. Before their release, detainees must sign an agreement not to disclose information regarding their detention and treatment. They are warned not to share information if they do not want to 'face consequences' and 'liability'.

VIII. Accountability

75. International human rights law and international humanitarian law oblige states to investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, to take action against those allegedly responsible in accordance with domestic and international law. Victims of human rights or humanitarian law violations shall be provided with equal and effective access to justice, irrespective of who may ultimately be responsible for the violation. Victims shall also be provided with remedy and reparation for the harm suffered.[55]

Experience of victims

Since 2014, OHCHR documented several dozens of cases when individuals were subjected to arbitrary detention, torture and ill-treatment on both sides of the contact line. One such case, also emblematic in terms of lack of accountability, is described here.

A woman who resided in the Government-controlled village of Trokhizbenka in Luhansk region had a relationship with a Ukrainian military man. After it became known to armed groups, they started calling her on the telephone and threatening her. On 19 September 2017, she went to armed group-controlled Slovianoserbsk together with her female friend. There they were detained and taken to a 'police department'. The representatives of 'police' beat the two women and accused them of being saboteurs sent by Ukrainian law enforcement agencies and calling them "Ukrainian soldiers' sluts". The woman's friend was beaten on the head with a folder of some case materials. On the next morning, a senior 'police' officer yelled at his subordinates: "Why are you playing with them? You should just shoot them". Later, two men from the 'mgb'[56] told the women if they did not say who sent them, they would be drowned in the Sieverskyi Donets River. They also warned that they knew where the woman's daughter lived. They wanted to know how many Ukrainian military personnel were in Trokhizbenka. The woman was ultimately forced to sign a cooperation agreement.

When the woman returned to Government-controlled territory, she told her partner as well as police about what happened to her. The police told her to maintain contacts with 'mgb' officer who interrogated her "to get him interested" and "to learn what he wants". On 13 October 2017, the women and her partner were detained by men in balaclavas, put in different vehicles and brought to their home "for a search" without being presented any papers. The SBU officers did not search for anything but only took her and her partner's phones. She was accused of trying to pass sensitive and secret military information to the armed groups on a flash drive. The SBU did not let her call her relatives and ignored her requests to have a lawyer and to call individuals who could attest to her innocence. She was interrogated by SBU operatives who hit her several times in the head with a fist. When she refused to talk the SBU officer started beating her on her head even harder. As she recalled, she "had stars before her eyes", later due to this beating she felt her heart aching. Then she was taken to a basement of some facility in Novoaidar or Sievierodonetsk, where she was forced to make a false self-incriminating video testimony; she was hit every time when she deviated from what she was expected to say on camera. After 22.00 on the same day, she was taken to Sievierodonetsk SBU. The SBU officer there warned her against complaining to a lawyer, who was going to come soon: "The lawyer will come and go, but I will remain".

[55] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, para. 3.

[56] When asked who they were talking to, the men said “We are from Luhansk. You better don’t know which service we are from”.

At 2:30 am on 14 October, they took her out and transferred to Lviv. On 17 October 2017, she was placed to Lviv SIZO. On 8 October 2020, after protracted trial she pleaded guilty fearing "real sentence". On 5 October 2020, Novoaidarskyi district court found her guilty and sentenced to three years of imprisonment (suspended).

A. National investigations

76. The Government of Ukraine has stated its strong determination to investigate all crimes committed in the context of armed conflict in eastern Ukraine, including illegal deprivation of liberty, torture and ill-treatment, including conflict-related sexual violence, and to bring perpetrators to justice irrespective of their affiliation.[57] Statistics provided by the Office of the Prosecutor General indicates some progress in such investigations.

77. For example, between 15 March 2014 and 15 February 2016, the Office of the Military Prosecutor investigated 11 killings, 12 cases of torture, and 27 cases of illegal deprivation of liberty allegedly committed by members of volunteer battalions taking part in the ATO. In the emblematic case of the 'Tornado' police battalion (former 'Shakhtarsk', which was disbanded in 2014 for violating human rights), 12 commanders and soldiers were charged with illegal deprivation of liberty, torture and excess of authority, and in 2017 were sentenced to various terms of imprisonment.

78. According to the Office of the Prosecutor General, between 1 April 2014 and 31 May 2018, military prosecutors investigated 45 cases of killings, causing bodily harm, torture and illegal deprivation of liberty, as well as three rapes allegedly perpetrated by Government actors against civilians in the ATO zone. During the same period, the National Police investigated an additional **417** criminal cases allegedly committed by Government actors, including **112 murders**, causing bodily harm, **torture** and illegal deprivation of liberty, and four rapes. In total, from 1 April 2014 to 31 December 2020, military prosecutors oversaw 757 investigations into crimes against civilians committed by Government actors in the ATO zone; while 283 of them were closed, 442 cases were prosecuted in court, 249 of which resulted in convictions.[58]

79. In October 2019, the Office of the Prosecutor General created the Department for Oversight of Investigation of Crimes Committed in the Situation of Armed Conflict to ensure that law enforcement bodies, such as the National Police, SBU and State Bureau of Investigation, properly investigate crimes committed during the armed conflicts in eastern Ukraine and in Crimea. The Department started to function in January 2020. As of 30 April 2021, the Office of the Prosecutor General was overseeing an investigation into crimes committed by armed groups and other actors of the self-proclaimed 'republics' under articles 146.1 and 146.2 (illegal deprivation of liberty or abduction of a person), 115.1 and 115.2 (premeditated murder), 258.3 (act of terrorism) and 258.1[3] (creation of a terrorist group or organisation), and 438 (violations of laws and customs of war) of the Criminal Code. This investigation encompasses cases against 30 individuals (including four in relation to crimes committed in the 'Izoliatsiia' detention facility), and has led to court proceedings against 11 individuals, as well as one conviction. Donetsk regional prosecutor's office has overseen investigations into a number of criminal cases related to the 'Izoliatsiia' detention facility (see para. 59 of the Annex II), and Luhansk regional prosecutor's office has overseen several investigations into the creation and functioning of illegal places of detention by armed groups; 15 individuals have been notified of suspicion, 11 of whom have been taken to court.

80. The Government's lack of access to territory controlled by self-proclaimed 'republics' considerably challenges its investigations into human rights violations and abuses perpetrated there, and thus rarely resulted in prosecutions. According to the Office of the Prosecutor General, the low number of convictions is also due to the fact that the alleged victims did not complain to the relevant State authorities. Victims of such violations often do not come forward due to fear of reprisals, lack of trust in

[57] See, for example, interview of Mr Gunduz Mamedov, Deputy Prosecutor General of Ukraine, of 18 February 2020: zn.ua/internal/neotvratimost-nakazaniya-345368_.html

[58] OHCHR understands that a considerable share of these crimes were common crimes committed by Ukrainian military and law enforcement in the conflict zone.

state institutions or lack of knowledge about their rights. In addition, disruption of postal services between Government-controlled and armed group-controlled territory, as well as arduous procedures to cross the contact line, make it difficult for civilians living in armed group-controlled territory to formally file complaints of human rights violations and violations of international humanitarian law with Government agencies.

81. OHCHR also observed a lack of political will and motivation to investigate cases of conflict-related arbitrary detention, torture and ill-treatment allegedly perpetrated by Government actors, as well as misuse of procedure to avoid proper investigation of such cases. In some cases, investigators closed the investigation without even interviewing the victim. In other cases, the prosecution did not formally recognize the complainants as victims, which enabled them to close the cases without informing the complainants. Being unaware of the status of the investigations, complainants were unable to challenge the closure of the investigations. In several cases, courts **repeatedly ordered** the reopening of investigations into torture complaints, but the police or the military prosecutors subsequently closed the reopened investigations. OHCHR also found that **judges routinely ignored allegations of arbitrary detention and torture** made by conflict-related defendants in court.[59]

82. The Kharkiv SBU case, examined in Annex I, is particularly emblematic of the impunity enjoyed by perpetrators. The SBU has consistently denied that its Kharkiv premises were used as an unofficial detention facility from 2014 to 2016, and the few criminal investigations initiated following complaints of former detainees have not progressed since 2017. **Journalists** of Hromadske TV who, in March 2018, produced a documentary on the Kharkiv SBU in which they alleged it was an unofficial detention facility, were named on the Myrotvorets website[60] as **"enemies of Ukraine" and as a result, harassed by unidentified individuals**.

B. Investigation in territory controlled by self-proclaimed 'republics'

83. 'Law enforcement' entities set up in self-proclaimed 'republics' have reportedly investigated some cases of conflict-related arbitrary detention, torture and ill-treatment, including conflict-related sexual violence, which occurred in territory under their control. These investigations appear to have been selective, focusing mostly on acts committed by members of those armed groups which have been disbanded or otherwise re-organized due to alleged lack of discipline or loyalty to the 'republics'. The investigations also lacked due process and fair trial guarantees.[61]

C. Remedy and reparation to the victims

84. The right to an effective remedy has been undermined by the lack of effective investigation into their arbitrary detention, torture and ill-treatment. Likewise, the right of victims to remedy and reparation for harm suffered remains largely unfulfilled. Rehabilitation of victims of torture and conflict-related sexual violence is provided almost exclusively by NGOs, with support from international organizations, while Government-supported services and mechanisms are effectively lacking.

IX. Conclusions and recommendations

85. The armed conflict in eastern Ukraine has and continues to be marred by arbitrary detention, including secret and incommunicado detention, torture and ill-

[59] OHCHR, Report on human rights in the administration of justice in conflict-related criminal cases, April 2014 – April 2020, para. 84.

[60] A website that positions itself as the "centre for research of signs of crimes against the national security of Ukraine, peace, humanity and international order" and provides "information for law enforcement authorities and special services about pro-Russian terrorists, separatists, mercenaries, war criminals, and murderers". It was presented to general public in 2015 by a people's deputy holding a position of adviser to the Ministry of Internal Affairs (as of 30 April 2021, he was the Deputy Minister of Internal Affairs). The website publishes personal data, including home addresses and passport data, of individuals it accuses of acting against the national security of Ukraine, including media professionals and NGO activists, in violation of the right to privacy and presumption of innocence.

[61] OHCHR, Report on human rights in the administration of justice in conflict-related criminal

cases, April 2014 – April 2020, paras. 103-139.

treatment, including conflict-related sexual violence, perpetrated both by Government actors and by armed groups and other actors in territory controlled by self-proclaimed 'republics' in an environment of impunity. Seven years since the outbreak of the conflict, it is unacceptable that such egregious human rights violation remain largely unaddressed by the justice system of Ukraine, and that thousands of victims are still awaiting remedy and reparation. Concrete actions must urgently take place to eradicate these practices, and put in place measures to prevent future violations. It is equally important that perpetrators are held accountable without further delay.

86. Below are recommendations to help attain these objectives. Some are drawn from previous OHCHR reports on the human rights situation in Ukraine, as they remain relevant and have not yet been implemented by the responsible parties.

A. To the Parliament of Ukraine:

a) Amend legislation to include a definition of torture in the Criminal Code that is in conformity with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and covers all the elements contained in article 1;

b) Amend legislation to include explicit provisions on the right of victims of torture and ill-treatment to redress, including fair and adequate compensation and rehabilitation, including through appropriate medical and psychological assistance;

B. To the Government of Ukraine:

c) Ensure that conflict-related arbitrary detention, torture and ill-treatment, including conflict-related sexual violence, are effectively, promptly, thoroughly, and independently investigated, regardless of the affiliation of the alleged perpetrator(s), and that perpetrators are prosecuted, including persons in position of command, and if found guilty, punished with penalties commensurate with the grave nature of their act;

d) Ensure that legal safeguards for persons deprived of their liberty are fully implemented without exception, such as the right to be informed of their rights and about the reasons for their arrest, the right to inform their family of their arrest and whereabouts, the right to a lawyer, the right to see a medical doctor and the right not to self-incriminate and not to sign documents of unknown content;

e) Provide training on the Istanbul Protocol to law enforcement, legal and health professionals and other officials, particularly those dealing with detainees and involved in the investigation and documentation of cases of torture;

f) Incorporate training on investigation and documentation of torture and ill-treatment in accordance with the Istanbul Protocol into the curricula of vocational, graduate and postgraduate courses for law enforcement, legal and health professionals;

g) Ensure that the reform of the SBU contributes to the prevention of arbitrary detention, including enforced disappearances and secret and incommunicado detention, and of torture and ill-treatment by SBU in the future;

h) Put in place effective mechanisms of reparation for victims of arbitrary detention, torture and ill-treatment, including conflict-related sexual violence, that would entail compensation for the harm suffered, as well as rehabilitation programmes, including medical and psychological care and legal and social services;

C. To the self-proclaimed 'republics':

i) Release all those arbitrarily detained without delay and in conditions of safety;

j) Cease the practices of 'administrative arrest' and 'preventive detention';

k) Refrain from holding individuals in incommunicado detention and provide immediate information on the whereabouts of detainees to their families and lawyers;

l) Treat all persons deprived of their liberty, civilian or military, humanely and according to international human rights and humanitarian law standards;

m) Provide unimpeded confidential access to OHCHR and other independent international monitors to all places of detention, including the 'Izoliatsiia' detention facility;

D. To the international community:

n) Urge the self-proclaimed 'republics' to effectively implement OHCHR recommendations listed in paragraphs i) to m) above;

o) Use all available channels to influence the self-proclaimed 'republics' to comply with international human rights law and international humanitarian law prohibitions against arbitrary detention, torture and ill-treatment;

p) Urge the Government of Ukraine ensure full accountability for any cases of arbitrary detention, torture and ill-treatment and to implement OHCHR recommendations listed in paragraphs c) to h) above.

Annex I. Arbitrary detention, including secret and incommunicado detention, torture and ill-treatment by Government actors in Kharkiv SBU in 2014-2016

1. This annex summarizes OHCHR factual findings regarding arbitrary detention, torture and ill-treatment of detainees held between 2014 and 2016 in the premises of the Kharkiv Regional Department of the Security Service of Ukraine (**Kharkiv SBU**).

2. The findings are based on HRMMU interviews of **63** persons (**59** men and **four** women), 32 of whom (30 men and two women) reported to have been detained in the premises of Kharkiv SBU for various periods of time. The remaining 31 interviewees (29 men and two women) reported to have either witnessed the operation of Kharkiv SBU premises as a detention facility,[62] or witnessed apprehension of individuals by SBU officers who they later learned were held on the premises of Kharkiv SBU.

I. Patterns and examples of human rights violations

3. Since spring 2014, the Kharkiv SBU has been responsible for initiating and investigating criminal cases[63] against individuals affiliated with local anti-Maidan movements or saboteur groups known as **'Kharkiv partisans'**. Previous OHCHR reports described how arbitrary detention, enforced disappearances, torture and ill-treatment of such conflict-related detainees were common practice of SBU in Kharkiv city and the region, with victims often held on the premises of the Kharkiv SBU. A former Kharkiv SBU officer explained**, "For the SBU, the law virtually does not exist as everything that is illegal can be either classified or explained by referring to state necessity".**[64]

4. From spring 2014 until the end of 2016, the premises of the Kharkiv SBU served as an unofficial detention hub for conflict-related detainees.[65] Hundreds of individuals apprehended across Ukraine were transferred to Kharkiv and held incommunicado from a few days to several years. Such secret detentions of individuals perceived to be affiliated with local anti-Maidan movements, armed groups of the self-proclaimed 'republics' or Kharkiv saboteur groups did not comply with protections contained in the Ukrainian legal framework, such as limiting detention to 72 hours unless sanctioned by a court.[66]

5. While many Kharkiv SBU detainees were dealt with outside of any legal process from the moment of their apprehension[67] until their release (through simultaneous releases under the Minsk agreements or otherwise), others were formally detained and charged before being transferred to Kharkiv SBU where they were held for different periods of time (varying from days to months).

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[62] Such witnesses may have been officially detained by the SBU and brought to the facilities for less than 72 hours, or have already been in official places of detention such as the Kharkiv SIZO, and were brought to SBU premises temporarily for investigative actions.

[63] Articles 110 (trespass against territorial integrity and inviolability of Ukraine), 111 (high treason), 113 (sabotage), 258 (act of terrorism), 258[3] (creation of a terrorist group or organization), 260 (creation of unlawful paramilitary or armed formations), 263 (unlawful handling of weapons, ammunition or explosives) and 294 (mass riots) of the Criminal Code were used most widely.

[64] "Otrkroveniya eks-sotrudnika SBU: pochemy ne sushchestvuet KHNR i chto takoje realnaya kibervoina", available at: tech.liga.net/technology/interview/otkroveniya-byvshego-sbushnika-kak-jila-i-chem-zanimalas-slujba-vo-vremya-goryachey-fazy-voyny.

[65] The Law "On Pre-Trial Detention" stipulates that detainees may only be held in facilities run by the Ministry of Internal Affairs (temporary police detention facilities, ITTs), or pre-trial detention facilities (SIZOs) run by the Ministry of Justice, with the only exception of an SBU pre-trial detention facility in Kyiv at Askoldiv Lane, 3A, which has been officially functioning since pre-conflict times due to loopholes in the legislation.

[66] Article 211 of the Criminal Procedure Code.

[67] From the very beginning of their apprehension not a single element of due process was applied to them – no registration, no placement in an official place of detention, no charges, no access to a judge, no access to a lawyer, no opportunities to inform relatives, etc.

6. In some cases, SBU placed detainees further outside the protection of the law **by refusing to acknowledge the detention** in response to inquiries by family members. In such circumstances, the arbitrary detention amounted to enforced disappearance.

7. OHCHR established a list of 105 detainees (98 men and seven women) verified as having been detained in the Kharkiv SBU premises between April 2014 and December 2016. OHCHR compiled a second list of 41 persons, including three women, who were identified by secondary or open sources as having been detained in the Kharkiv SBU premises. The two lists are not exhaustive, and OHCHR believes it comprises only a fraction of the total number of persons held in the Kharkiv SBU premises between 2014 and 2016. Witnesses reported up to a hundred detainees held in the facility at one time.[68]

8. Men constituted the majority of Kharkiv SBU detainees. Women interviewed by HRMMU were held there for short periods of time (from a couple of hours to two days), usually in the course of interrogations and later either released or transferred to official pre-trial detention facilities.[69] Two women stated they were interrogated for two days by different SBU officers and slept on a chair. They did not receive food, only water, during this time.[70] One of them complained about being subjected to beatings with different objects, mock execution, the other woman complained about threats against her loved ones.[71] Another woman said she was threatened with rape.[72]

9. Below are some individual stories that exemplify the types of treatment and conditions which the detainees were subjected to in the Kharkiv SBU premises.

10. On 26 February 2015, SBU arrested three men in Kharkiv, and accused them of planting an improvised explosive device during a 'Dignity March' on 22 February 2015, which detonated, killing four civilians and injuring more than ten. SBU officers brought the three men straight to the Kharkiv SBU premises.

11. There, SBU officers hit one man on the back and head with a rifle butt and then subjected him to a mock execution. The officers told him he would not make it out alive if he did not agree to cooperate and to incriminate himself. They poured water over him and subjected him to **electrocution**, during which he **lost consciousness** several times. They also asphyxiated him by covering his face with a gas mask and placing the breathing tube into a bucket of water. Then an SBU officer sat on his back while another bent his handcuffed arms backwards. Another individual dressed in medical clothing showed him a bag of medical tools, including scalpels. He asked: "Did you hear the screams? They were from one of your associates, we just cut off his testicles. So it's time for you to confess before that happens." Other officers then held him down, and started removing his pants, at which point he agreed to confess.[73]

12. The second man was taken to the basement, where he beaten and suffocated with a gas mask over his face. They fired a handgun near his head. The officers placed the gas mask over his head again and he lost consciousness. He woke up when he felt an electric current in his body. The officers then turned him over onto his stomach and one stood on his back while another pulled his handcuffs up. The SBU officers threatened they would hand his family and partner over to the 'Aidar' volunteer battalion, who would **rape** them.

13. The third man was brought to a shooting range in the basement of the nearby Chernyshevska 23 building[74], where a group of SBU officers beat him with a metal rod. He described the pain as "unbearable". One officer fired a gun next to him. He

[68] According to one former detainee, there were 72 detainees from February to March 2015. OHCHR interview, 7 June 2017. Another former detainee reported that there were up to 108 detainees by mid-February 2015. OHCHR interview, 13 September 2017.
[69] OHCHR interviews, 16 February and 13 March 2017.
[70] OHCHR interviews, 13 March and 13 July 2017.
[71] OHCHR interviews, 13 March and 25 May 2017.
[72] OHCHR interview, 22 January 2015.
[73] OHCHR interviews, 31 May and 7 June 2017.
[74] See para. 18 below.

heard screams that sounded to him like someone else being tortured. The SBU officers stopped when he agreed to confess and cooperate.

14. On 27 February 2015, SBU took the three detainees to the 4th Kharkiv Emergency Hospital for a formal medical check-up, where doctors failed to document his injuries. According to one detainee, the doctor did not even allow him to take his clothes off, even though he was "completely black" with bruises. Reportedly, their injuries were registered later that day by medical staff in the ITT on Kamysheva Street. They were later sentenced to life in prison, and released within a simultaneous release in December 2019. An investigation into their allegations of torture was launched, however it was repeatedly closed and re-opened.[75] On 21 December 2020, the investigator closed the criminal proceeding due to absence of elements of a criminal offence.[76]

15. On 29 April 2015, a female Kharkiv resident was detained and taken to the Kharkiv SBU premises. For two days, the SBU officers interrogated her without a lawyer and beat her in order to force her to confess having ties to 'Kharkiv partisans'. The SBU officers placed a bag over her head, twisted her fingers, and beat her head through a thick book, and her legs and back with a metal baton or a bat. She was taken to a nearby shooting range[77] where another bag was put over her head, and an SBU officer fired a gun close to her. At 2 a.m. on 2 May 2015, SBU took her to the 4th Kharkiv Emergency Hospital for a medical examination. The doctor saw her bruises and asked whether "she fell*"*. She was then taken to the ITT, then back to the Kharkiv SBU premises, and then court. The SBU officers threatened that if she complained to the judge, they would take her back and torture her again.[78] She did not file a complaint, fearing retaliation and doubtful it would result in accountability. She was charged under articles 110 (trespass against territorial integrity and inviolability of Ukraine), 258 (act of terrorism) and 263 (unlawful handling of weapons, ammunition or explosives) of the Criminal Code, and released under new bail conditions. In December 2017, she was released as a part of a simultaneous release.

16. On 26 December 2014, a male resident of Donetsk region was detained by SBU and taken to the SBU building in Pokrovsk to obtain information about weapons' caches and the composition and location of the armed groups**. SBU officers undressedhim and repeatedly lowered him into a pool of cold water** until only his arms and head remained above water. He could not sense the bottom under his feet and was afraid of being drowned. Then they subjected him to waterboarding by pouring water over a towel covering his mouth and nose. They subjected him to a mock execution, firing bullets just above his head. On the night of 26 to 27 December 2014, he was transferred to the Kramatorsk SBU premises, where SBU officers beat him with plastic bars on all parts of his body except his head, breaking his ribs, to force him to write a confession. On 30 December 2014, the man was transferred to the Kharkiv SBU premises, and held incommunicado until his release in August 2016.[79] In October, a criminal case was initiated against him under article 260 (creation of unlawful paramilitary or armed formations) of the Criminal Code. A court later released him from criminal liability on the basis that he would not complain about the incommunicado detention.[80] SBU officers periodically visited him until 2019,

[75] On 8 May 2019, the Military Prosecutor's Office of the Kharkiv Garrison closed the criminal proceedings under articles 365 (excess of authority or official powers) and 374 (violation of the right to defense) of the Criminal Code. In November, the Kharkiv Court of Appeal quashed this decision. In December, the State Bureau of Investigation in Poltava closed the criminal proceeding again. In November 2020, the Poltava Court of Appeal quashed the decision and sent the case for pre-trial investigation. The court stated that the investigator did not establish the time, place and under what circumstances the victims' injuries were received. The decision of Poltava Court of Appeal available at: reyestr.court.gov.ua/Review/93069260.

[76] Pursuant to article 284.1 of the Criminal Procedure Code.

[77] See para. 24 below.

[78] OHCHR interview, 25 May 2017.

[79] OHCHR interview, 3 August 2016.

[80] Initially the prosecutor requested a prison term, but when he learned that he was held incommunicado in Kharkiv SBU, he requested release from criminal liability instead.

pressuring him to cooperate, and threatening to open another criminal proceeding if he refused.

II. Description of the facility

17. **OHCHR was denied access to the Kharkiv SBU** premises between 2014 and 2016. However, detainees and witnesses interviewed by HRMMU independently provided detailed descriptions of the premises, which **corroborated one another**. An HRMMU visit to the facility in 2017 provided additional information and further corroborated victims' accounts of human rights violations.

18. The detention facility was located in the department's headquarters on 2 Myronosytska Street in Kharkiv city.[81] The main building has an attached eastern courtyard wing, which is labelled on various maps as either an extension of the 2 Myronosytska Street building, or a separate building at 21 Chernyshevska Street. According to SBU interlocutors, the wing was constructed after the main building, for use as a detention facility.[82] The detention facilities were located on the first (ground) and second floors of the eastern courtyard wing and were officially no longer in use by 2014.

19. Former detainees and witnesses provided detailed descriptions of the second floor where most detainees were held.[83] When entering the floor from the staircase, there was a corridor to the left and a toilet directly opposite. The corridor was divided part way along by a glass partition. Before the partition, there were six separate rooms, three on each side of the corridor, which the detainees witnessed being used by staff for interrogations, administrative work and cooking. Beyond the glass wall, were eight cells: four on the left and four on the right. Initially, the cells were numbered, starting from No. 1 on the left and counting clockwise. Cell No. 1 was narrow and small. Cells No. 2, No. 3 and No. 4 were approximately five by seven meters each. Each of these cells contained seven two-tier beds along the walls, three tables in the middle, and a squat toilet with a curtain and a sink in the corner. When a fifteenth person was placed in cell No. 3, an additional single bed was brought in.[84] These four cells faced the southern courtyard. On the right side were smaller cells No. 8, No. 7, No. 6 and No. 5, which faced the northern courtyard and contained seated toilets.[85] Cells No. 8 and No. 7 also had shower cabins.[86] The windows contained metal grills and were covered with opaque plastic[87] in which some detainees managed to poke holes into so that they could observe one of the courtyards.[88] All cells were under constant video surveillance, and the light switches were located outside the cells.[89]

20. On 9 August 2017, after the facility was no longer used to detain people, HRMMU visited the second floor of the eastern wing, and saw that major refurbishment works had been undertaken.[90] The rooms on the left side had been converted into sports facilities and administrative offices. There were new blue floor tiles in former cell No. 2. Former cell No. 4 was full of IT equipment and there was a sticker referring to the 'Myrotvorets' website[91] posted on the door. The former cells on the right side were sealed off. SBU officers escorting HRMMU claimed that the floor had not been renovated for years, however the premises (tiles, paint) appeared

[81] GPS coordinates: 49.999724, 36.236347. Google Maps: goo.gl/F1FMbJ.
[82] HRMMU visit to the facility, 9 August 2017.
[83] OHCHR interviews, 29 July, 1 November and 14 December 2016, 2 August 2017, and 29 March 2018. The facilities can be seen in the Hromadske video on the Kharkiv SBU, available at www.youtube.com/watch?v=-cGv1HzmTlk.
[84] OHCHR interview, 29 July 2016.
[85] Ibid.
[86] Ibid.
[87] Clearly visible in the Hromadske video at 25:56: www.youtube.com/watch?v=-cGv1HzmTlk.
[88] OHCHR interview, 3 August 2016.
[89] OHCHR interviews, 14 December and 3 August 2016.
[90] In September 2016, soon after the last detainees had been released, SBU invited journalists to the Kharkiv SBU premises in order to demonstrate that no one was held there. See at: youtu.be/ndHMRu2wUDQ. HRMMU visited the facility to match information from the testimonies to actual Kharkiv SBU premises.
[91] See footnote 60 in the body of the report.

to be in a fresh state. One former detainee claimed to have left saliva, blood and hair in one cell to prove his detention there in 2014,[92] and several other detainees claimed to have left specific marks inside their former cells, however, the renovation would have effectively removed such traces.

21. SBU used the ground floor of the eastern wing to isolate and to hold at least one detainee infected with tuberculosis.[93] In August 2016, it was used to hold five detainees.[94] At the time of HRMMU's visit, the floor was undergoing major refurbishment.

22. The courtyard off the eastern wing included three enclosed walking yards which SBU sometimes allowed detainees to use. All three walking yards were walled off, with a roof made of transparent plastic to allow sunlight in.[95]

23. A five-story building was located at 23 Chernyshevska Street to the northeast of the eastern wing. It officially belonged to the State Service of Special Communication and Information Protection Service of Ukraine, but was also used by SBU for detention purposes.[96] The basement of the building included a shooting range around 30 meters long that was used by Kharkiv SBU. From 2014 to 2016, the range was also used for interrogation and punishment of detainees.

24. Some victims interviewed by OHCHR were not detained in the Kharkiv SBU premises, but were brought to the shooting range, and then taken to other premises, such as the Kharkiv ITT and SIZO. Victims independently described the basement shooting range, where they were beaten with metal objects such as rifle butts and aluminum baseball bats, and subjected to suffocation with modified gas masks, waterboarding, electrocution, and mock executions. One detainee reported being undressed and having his naked buttocks burned by a lighter.[97] Another person reported being struck on his legs with a metal rod, being asked which leg hurt most, and then being beaten specifically on that leg another 20 times.[98] Most detainees reported being taken to other parts of the building complex to sign incriminating documents.

25. OHCHR collected information indicating that on at least five occasions – in November 2014, 12 or 13 February 2015, and three times in April and May 2016 – detainees were taken out of their cells on the second floor and moved to a different location in an apparent attempt to hide their presence when outside visitors such as prosecutors, representatives of the Parliament Commissioner for Human Rights, or international monitors were expected.

26. For example, one detainee who was held from October 2014 to August 2016, was taken out of sight, to the basement shooting range in May 2016, during an external inspection.[99] Another detainee confirmed being hidden in a conference hall of the Main Department of Ministry of Internal Affairs for Kharkiv region during inspections in November 2014 and February 2015, and in the shooting range during an inspection by Regional Prosecutor's Office in April 2016.[100] HRMMU visited the shooting range in August 2017, and verified that the facility corresponded to descriptions provided by victims.[101]

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92 OHCHR interview, 28 December 2016.
93 OHCHR interview, 29 March 2018.
94 OHCHR interviews, 24 February 2017 and 29 March 2018.
95 The walking yards can be seen in satellite pictures on Google Maps (available at: goo.gl/F1FMbJ), and were depicted in sketches by some former detainees. OHCHR interviews, 29 July and 3 August 2016. Their existence was also confirmed by HRMMU during its visit to the facility.
96 Coordinates: 49.999952; 36.237444; Google Maps: bit.ly/2IHhqMMp.
97 OHCHR interviews, 24 and 28 February, 3 March, 12 April, 25 and 31 May, and 7 June 2017.
98 Ibid.
99 OHCHR interview, 19 April 2018.
100 OHCHR interview, 29 March 2018.
101 OHCHR interviews, 3 March, 12 April and 31 May 2017.

27. According to witnesses interviewed by OHCHR, Kharkiv SBU used a 'radar centre'[102] located in or near Kharkiv from late August to end of September in 2016 as another unofficial place of detention. SBU transferred the three remaining detainees to a recreational base named 'Zelenyi Hai'. It is the last facility known to have housed Kharkiv SBU detainees from September to December 2016.[103] It is likely that it is the 'Zelenyi Hai' facility in Sviatohirsk (Donetsk region)[104] that was used to house conflict-related detainees before the simultaneous release in December 2017.

III. Evolution of detention between 2014 and 2016

"You are not here."

SBU guard to an incommunicado detainee

A. 2014

28. HRMMU has little information about the early days of detention in the Kharkiv SBU premises, however has been informed of the existence of detainees, or "poteriashki" (those who have been lost) [105] in April or May 2014.[106]

29. By mid-summer in 2014, there were around 30 detainees in the facility, mostly transferred from Donetsk and Luhansk regions[107] and a few from Kharkiv.[108] One detainee, a male member of the Kharkiv branch of the Communist party, was released from detention in July 2014, after his family allegedly paid a ransom.[109]

30. In August 2014, with hostilities intensifying in Donetsk and Luhansk regions, Kharkiv SBU started preparing the Myronosytska Street facility for a large intake of conflict-related detainees. One witness observed preparatory works, as guards brought in a large number of beds and mattresses.[110] The guards confirmed to one detainee that SBU was getting ready to receive "prisoners from Donetsk and Luhansk".[111]

31. In autumn 2014, Kharkiv SBU ramped up pressure on local activists affiliated with the anti-Maidan movement, arrested some.[112] These persons were detained in the Myronosytska Street facility. In September 2014, seven simultaneous releases of detainees between the Government and the armed groups took place, on 7, 11, 12, 14, 20, 21 and 28 September. In total, the Government released at least 281 detainees. Roughly one third of the 35 individuals released by the Government on 20 September had been held in the Kharkiv SBU premises. At least one Kharkiv SBU detainee was released in October 2014 after his family paid a ransom of USD 5,000 to someone from the Kharkiv SBU.[113] Another simultaneous release took place on 1 November 2014, when the Government released 25 individuals in total, including a dozen of Kharkiv SBU detainees.[114]

[102] A significant amount of communications equipment – sizeable antennas – could be seen in the yard of the building. OHCHR interview, 24 February 2017.
[103] OHCHR interview, 24 February 2017.
[104] One detainee reported that the last batch of Kharkiv SBU detainees were held in Sviatohirsk, which would confirm the location of the 'Zelenyi Hai' facility. OHCHR interview, 19 April 2018.
[105] Term used by detainees held incommunicado to refer to themselves. OHCHR interview, 14 December 2016.
[106] OHCHR interview, 27 February 2018.
[107] Ibid.
[108] A former detainee provided a list of names. Some of those listed were likely detained during the summer of 2014. OHCHR interview, 27 February 2018.
[109] Another former detainee facilitated the payment of the ransom. OHCHR interviews, 29 August and 16 October 2017.
[110] OHCHR interview, 27 October 2017.
[111] Ibid.
[112] OHCHR interviews, 17 March 2016, 17 November 2017, 29 March and 19 April 2018.
[113] OHCHR interview, 17 March 2016.
[114] OHCHR interview, 29 March 2018.

32. In October or November 2014,[115] the Office of the Ombudsperson conducted an inspection visit of the Kharkiv SBU premises.[116] Ahead of the visit, the guards handcuffed around 30 detainees in the facility,[117] covered their heads with bags, and moved them to areas of the building the inspectors would not visit.[118] Some detainees were brought to the conference hall of the Main Department of Ministry of Internal Affairs in the building adjacent to the SBU building.[119] In four hours, after the visit was completed, the officers took the detainees back to their cells.[120]

33. In December 2014, in preparation for another simultaneous release, SBU brought a large number of detainees from other regions of the country, including from the Kyiv SIZO, to the Kharkiv SBU building.[121] Some of these detainees were citizens of the Russian Federation.[122] Detainees brought to Kharkiv via Kramatorsk and Pokrovsk (former Krasnoarmiisk) complained of ill-treatment by SBU in transit.[123] A large simultaneous release took place on 26 December 2014, when the Government released 224 detainees. Some 30 detainees remained in the facility.[124]

34. From autumn 2014 until summer 2015, detention conditions in the facility were deplorable. Food was of poor quality and insufficient quantity; the detainees were "ready to kill for two spoons of porridge".[125] The guards brought food in plastic buckets, allegedly from the local SBU canteen.[126] During lunch, the detainees received "5-6 spoons of porridge", a "matchbox-sized" piece of bread, and tea with no sugar.[127] Detainees did not receive clothes or personal hygiene items such as soap, toothbrushes, toothpaste, laundry detergent, or shaving tools.[128] During the influx of new detainees before each simultaneous release, all eight cells were overcrowded; some detainees were even held in the shower room.[129] Detainees in the cells took turns sleeping, as there were too few beds.[130]

B. 2015

35. In January or February 2015, the head of the detention wing left his post, and his deputy became the acting officer in charge.[131] In preparation for another round of simultaneous releases, SBU continuously brought in new detainees from across the country.[132] On 10 February 2015, SBU again handcuffed the detainees, placed bags over their heads and hid them throughout the Myronosytska Street building, most likely due to another inspection.[133]

36. At least two rounds of simultaneous releases of detainees took place in February 2015, with 28 detainees released on 21 February 2015[134] and six on 27

[115] OHCHR interviews, 28 December 2016, 29 March and 19 April 2018.
[116] According to the (then) Head of Secretariat of the Human Rights Commissioner of the Verkhovna Rada of Ukraine, "Since 2014, there were several visits to the SBU office in Kharkiv region, Kramatorsk. But at the time of our unannounced visits, no-one was there… There were no instances when Ombudsperson's Office employees were not allowed to enter the facilities, they could only wait for half an hour or an hour. All our official appeals to law enforcement authorities were answered that the information was not confirmed and they did not have the people we asked about". For more details, see: hromadske.radio/podcasts/kyiv-donbas/ofis-upovnovazhenogo-ne-znayshov-tayemnyh-tyurem-sbu-kryklyvenko
[117] OHCHR interview, 29 March 2018.
[118] OHCHR interviews, 29 March and 19 April 2018.
[119] Ibid.
[120] OHCHR interview, 28 December 2016.
[121] OHCHR interviews, 17 March, 29 July, and 3 August 2016.
[122] OHCHR interview, 29 July 2016.
[123] OHCHR interviews, 17 March, 29 July and 3 August 2016.
[124] OHCHR interviews, 3 August and 29 July 2016.
[125] OHCHR interview, 29 March 2016.
[126] OHCHR interviews, 29 March and 29 July 2016, and 19 April 2018.
[127] OHCHR interviews, 3 August 2016 and 29 March 2018.
[128] OHCHR interviews, 29 July and 3 August 2016.
[129] OHCHR interview, 19 April 2018.
[130] OHCHR interviews, 29 July 2016 and 29 March 2018.
[131] OHCHR interview, 19 April 2018.
[132] OHCHR interviews, 26 February and 29 July 2016.
[133] OHCHR interviews, 17 March, 29 July and 3 August 2016, and 29 March 2018.
[134] OHCHR interview, 3 August 2016.

February 2015.[135] In March 2015, SBU continued to bring new persons to the detention facility from Donetsk, Kharkiv, Mariupol, Mykolaiv, and Odesa regions[136], bringing their number to up to 70.[137]

37. In April 2015, SBU carried out several arrests in Kharkiv and brought the apprehended persons to the Kharkiv SBU building. At least one detainee who was beaten all over his body except his head and was threatened with death in the shooting range of the Chernyshevska Street facility suffered life-threatening injuries, forcing SBU officers to transfer him to the 4th Emergency Hospital in Kharkiv. The detainee was hospitalized for two weeks, incommunicado and under a false name. While in hospital, he attempted an escape by leaping through the window, breaking his leg. Following hospitalization, his detention was regularized – he was officially charged and moved to the Kharkiv SIZO.[138]

38. On 2 May 2015, SBU allowed all detainees to use the internal walking yards for the first time.[139] For most detainees, this was the first opportunity they had had in months to enjoy more space and to breathe fresh air. Previously, some detainees had spent hours in the cells just pacing in circles.[140] This was also an opportunity for the detainees to communicate with each other and to see who else was detained in the facility. Until then, the guards prohibited any communication between the cells in the wing, and sprayed tear gas if detainees did not comply.[141]

39. In mid-May 2015, according to one interviewee, there were 68 detainees in the facility.[142] Throughout the first half of 2015, there was no significant improvement in detention conditions. Some of the newer detainees brought into the cells at the time had medical issues that required medical care that was unavailable in the facility. One detainee had diabetes, and his condition seriously deteriorated because he did not receive insulin shots in a timely manner.[143]

40. Sometime in June 2015, SBU assigned a new head of the detention wing, and the officer in charge returned to his deputy post.[144] Around this time, detention conditions significantly improved. From July 2015, SBU allowed detainees to prepare food in a makeshift kitchen in the detention wing, which considerably improved their diet.[145] Canned meat, peas, rice, and later fresh vegetables – cabbage and beetroot – were gradually introduced.[146] Showers were still rare – around once every one to two weeks.[147] The administration encouraged some detainees to help maintain the facility, for example by installing a shower cabin, painting walls and floors, and washing SBU vehicles in the courtyard, in exchange for cigarettes.[148] There are conflicting accounts about whether the detainees could have refused work, or if the labour was forced.[149] One detainee alleged that the SBU encouraged prisoners to eavesdrop and report on one another,[150] in exchange for preferential treatment – improved access to food, cigarettes, and even access to a computer.[151]

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[135] OHCHR interviews, 3 August 2016 and 29 March 2018.
[136] OHCHR interviews, 7 December 2015, 26 February, 29 July and 1 November 2016, 24 February 2017, 27 February and 29 March 2018.
[137] OHCHR interview, 19 April 2018.
[138] OHCHR interview, 28 February 2017.
[139] OHCHR interviews, 26 February, 29 July and 3 August 2016, and 29 March 2018.
[140] One detainee described his exercise as follows: "I also used to walk around the cell in circles counting steps – 21 steps in one circle – and multiplying them by the length of one step. I could easily walk 15 kilometers per day. That's why my cellmates gave me a nickname – 'Propeller'". OHCHR interview, 3 August 2016.
[141] OHCHR interview, 29 March 2018.
[142] OHCHR interview, 12 April 2017.
[143] OHCHR interviews, 7 December 2015, 17 March 2016, and 29 March 2018.
[144] OHCHR interviews, 19 April 2018, 29 July, and 3 August 2016.
[145] OHCHR interview, 3 August 2016.
[146] OHCHR interview, 29 July 2016.
[147] OHCHR interviews, 1 November 2016 and 24 February 2017.
[148] OHCHR interview, 3 August 2016.
[149] OHCHR interviews, 3 August 2016 and 19 April 2018.
[150] OHCHR interview, 3 August 2016.
[151] One detainee believed that at least two other detainees agreed to spy on fellow detainees. OHCHR interview, 3 August 2016.

41. Access to medical care remained abysmal throughout the summer of 2015. One detainee with a surgical pin in his leg requested the administration's help in removing the item.[152] He was taken to a healthcare facility, saw a surgeon and had an x-ray. The doctor, however, refused to perform the surgery.[153] Another detainee who felt exhausted by the poor diet, suffered acute stomach pains due to an ulcer and hypertension. SBU brought him to a nearby outpatient hospital in July or August 2015, and twice more in 2016.[154] He described being examined by "an old, decorated SBU doctor" who declared him "in perfect health".[155] Another detainee suffered heart attacks while in the facility yet did not receive proper medical care.[156]

42. In June 2015, a guard dragged a young detainee from Donetsk out of a cell, handcuffed him to a door in the corridor, and beat him[157], claiming the detainee had been "impolite".[158] In another incident, the same guard assaulted a wounded member of an armed group from Luhansk who wore an Ilizarov external fixator on his leg, and could not obey the guard's command to walk to the shower. The guard beat the detainee, including on the injured leg, with a truncheon.[159]

43. At least two individuals were simultaneously released in October 2015.[160] There was another attempted simultaneous release the same month, when 9-10 detainees were taken out of the Myronosytska Street facility and brought to Kramatorsk. SBU returned the detainees to Kharkiv when the agreement fell through. Another simultaneous release eventually did take place, in November 2015, and the number of detainees in the facility dropped to about 25.[161]

44. On two separate occasions in October and December 2015, two conflict-related detainees temporarily held in the facility smuggled out lists of detainees.[162] The SBU did not seem to react to the leakage, and in November, the administration of the facility provided detainees with controlled phone access.[163] The SBU prepared a statement for detainees to recite, instructing their relatives to contact the 'ombudsperson' and 'head' of the self-proclaimed 'Donetsk people's republic'.[164] It is believed this was done to increase pressure on the self-proclaimed 'republics' to speed up the rate of simultaneous releases.[165]

45. Detention conditions at Myronosytska Street continued to improve throughout autumn 2015. By the end of the year, the detainees finally received personal hygiene items such as toothpaste, toothbrushes, soap, and washing detergent, as well as new clothes and bed linens.[166] The administration of the facility installed a washing machine on the premises.[167] Until then, most detainees had not had an opportunity to change their clothes for more than a year, and their old clothes were "practically rotten".[168] SBU officers also installed TV sets in some cells, and provided old journals and books to read.[169]

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[152] OHCHR interviews, 26 February and 29 July 2016.
[153] OHCHR interview, 29 July 2016.
[154] OHCHR interview, 3 August 2016.
[155] OHCHR interviews, 26 February and 3 August 2016.
[156] OHCHR interview, 26 February 2016.
[157] OHCHR interviews, 29 July and 1 November 2016.
[158] OHCHR interview, 29 July 2016.
[159] Ibid.
[160] Ibid.
[161] OHCHR interviews, 22 February and 17 March 2017.
[162] OHCHR interviews, 1 March and 17 March 2017.
[163] OHCHR interview, 29 July 2016.
[164] OHCHR interviews, 29 July 2016 and 29 March 2017.
[165] OHCHR interview, 29 March 2017.
[166] OHCHR interviews, 29 July and 3 and 4 August 2016, and 19 April 2018. One detainee said he never received new clothes from the SBU administration. The only shirts he received were brought by detainees who were held in line with Ukrainian law when shuttled in from the Kharkiv SIZO. OHCHR interview, 19 April 2018.
[167] OHCHR interviews 29 July 2016 and 19 April 2018.
[168] OHCHR interview, 29 July 2016.
[169] OHCHR interviews, 3 August 2016 and 29 April 2018. According to one detainee, the 'library' was on the ground floor. OHCHR interview, 19 April 2018.

46. Health problems continued to plague the detainees, such as serious oral infections due to lack of dental hygiene.[170] In October 2015, one detainee started experiencing serious kidney issues. After five days of fever, on 26 October 2015, SBU brought him to the 4th Emergency Hospital in Kharkiv. The detainee appeared to be in need of an urgent surgery, so the same day, the SBU officers transferred the detainee (under a false name) to the Medical Centre for Urology and Nephrology of the Kharkiv National Medical University, where doctors removed his bladder stones. On 6 November 2015, the same detainee underwent another surgery, during which his kidney was removed. He spent three weeks in hospital, under armed SBU guard and handcuffed to the bed.[171] On 27 November 2015, SBU transferred him back to the Myronosytska facility.[172]

C. 2016

47. In early February 2016, around 23 detainees remained in the facility.[173] On 20 February 2016, SBU released five more detainees for the simultaneous release that took place the next day.[174] This was the last time Kharkiv detainees were included in a simultaneous releases, however SBU independently released detainees throughout the rest of the year.

48. By this time, some detainees had reportedly stolen a cell phone from the guards, which they used in the toilet, where there was no video surveillance. They informed their loved ones where they were detained, and shared names of the remaining individuals.

49. On 25 February 2016, the SBU took one detainee to a bus station in Kharkiv and released him with UAH 200 (approx. USD 4) and a cell phone.[175] They released another detainee in March 2016, also giving him a few hundred UAH.[176] On 20 April 2016, SBU transferred two detainees from Kramatorsk to the Myronosytska Street facility.[177] Eighteen detainees remained in detention at the time.[178]

50. On 20 April 2016, there was yet another external inspection of the facility, allegedly by the Prosecutor's Office.[179] This time, the SBU brought a bus into one of the inner courtyards, and ordered all the detainees to pack their belongings and board the bus.[180] The vehicle left the facility and parked on a street next to the Kharkiv train station.[181] The bus stayed there for around six hours, and returned to Myronosytska Street before midnight.[182]

51. The last documented inspection took place on 20 May 2016, when a delegation of the United Nations Subcommittee on Prevention of Torture attempted

[170] One detainee said that this mouth felt "like a sponge". OHCHR interview, 7 March 2018.
[171] OHCHR interviews, 26 February, 17 March, 29 July, and 3 and 4 August 2016, 29 March and 19 April 2018. Also see his interview in the Hromadske video: www.youtube.com/watch?v=-cGv1HzmTlk.
[172] The detainee described his experience as follows: "For me, this country isn't Ukraine anymore. They ruined my health. I lost a kidney from torture. The most important thing now is to be with my wife and children. At the time of my abduction my youngest son couldn't speak – now he's three and a half and I am teaching him to say "dad" for the first time. I also want to visit the grave of my father, who died while I was in detention". OHCHR interview, 3 August 2016. See him revisit the Medical Centre in the Hromadske video, around 28:00 mark: www.youtube.com/watch?v=-cGv1HzmTlk.
[173] OHCHR interviews, 26 February and 14 December 2016.
[174] OHCHR interview, 29 February 2016.
[175] OHCHR interview, 17 March 2016.
[176] OHCHR interview, 3 November 2016.
[177] OHCHR interview, 3 August 2016.
[178] OHCHR interviews, 3 August 2016 and 24 February 2017
[179] According to one detainee, an SBU officer referred to the "OSCE mission" while discussing the upcoming inspection. OHCHR interviews, 29 July, 3 August and 4 August 2016, and 29 March and 19 April 2018.
[180] OHCHR interview, 3 August 2016. One detainee said that at the time, there was always a bus parked nearby, ready to take away the detainees in case of a surprise inspection. OHCHR interview, 29 July 2016.
[181] OHCHR interviews, 29 July 2016 and 19 April 2018. According to one detainee, it was Kotsarska Street in Kharkiv.
[182] OHCHR interview, 3 August 2016.

to visit several SBU premises including the Myronosytska Street facility. SBU denied the Subcommittee full access to the facilities, which led the Subcommittee to suspend its visit.[183] Nevertheless, in order to conceal the presence of the detainees, the SBU quickly moved all the detainees into the basement shooting range in the nearby 23 Chernyshevska building.[184] The detainees spent a few hours there, before being escorted back to the cells.[185]

52. Prolonged incommunicado detention took a heavy psychological toll on a number of Myronosytska Street detainees. They reported to have witnessed at least two suicide attempts in the facility. One detainee who attempted to slit his own throat was reportedly taken to the 4th Emergency Hospital in Kharkiv.[186] Another detainee attempted to slit his wrists.[187] Other detainees seemed to have psychophysical traumas due to treatment received while in detention prior to arriving at the Kharkiv SBU building.[188]

53. On 16 July 2017, the head of the Kharkiv SBU regional department was dismissed, and another was assigned as a replacement. In his first meeting with HRMMU, the new head maintained that the detention facility did not exist. Nevertheless, he also said that his job was to "make sure there are no detainees at Myronosytska".[189]

54. On 25 July and 2 August 2016, Kharkiv SBU released six and seven detainees, respectively.[190] Before releasing them, SBU forced each person to sign a "cooperation agreement" and record a video stating they were willing to cooperate with the SBU.[191] When one detainee refused, the SBU threatened that his family would face "consequences".[192] The six detainees were released in different locations, in batches, between Sloviansk and Druzhkivka.[193]

55. On 2 August 2016, SBU relocated the remaining five detainees in the Myronosytska Street detention facility to the first floor, where they were held in cells with no windows and poor ventilation.[194] The detainees begged the guards to open the doors for at least five minutes to let some air in.[195] One detainee's health quickly deteriorated, with his cellmates believing he was about to die.[196] With all detainees removed from the second floor, SBU started refurbishing the former holding cells to conceal any traces of the previous detention.[197]

56. On 23 August 2016, the head of the facility told two of the detainees to prepare for release. The SBU, however, demanded that they sign confessions and videotape statements. Both detainees initially refused to sign anything, however the SBU operative in charge of the release threatened one detainee he would "bring a hammer, smash his knee caps, and dump him on the street." Both detainees eventually signed and video recorded confessions.[198] Before releasing the two victims, the SBU officers tried unsuccessfully to extort money and property.[199]

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[183] United Nations torture prevention body **suspends Ukraine** visit citing obstruction, 15 May 2016, see: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20017.
[184] OHCHR interviews, 29 July, 3 August and 4 August 2016, and 29 March and 19 April 2018.
[185] OHCHR interviews, 29 July and 3 August 2016.
[186] OHCHR interview, 29 March 2017.
[187] OHCHR interviews, 29 March 2018 and 29 July 2016.
[188] OHCHR interviews, 19 March and 29 March 2018.
[189] HRMMU meeting with Head of Kharkiv SBU, 27 October 2016.
[190] OHCHR interviews, 29 July and 3 August 2016.
[191] Ibid.
[192] OHCHR interview, 29 July 2016.
[193] OHCHR interviews, 29 July and 3 August 2016.
[194] OHCHR interviews, 24 February 2017 and 29 March 2018.
[195] OHCHR interview, 24 February 2017.
[196] He had a "terrible pain in his stomach" which was "swollen", due to a gallbladder issue. OHCHR interviews, 7 March and 19 April 2018.
[197] OHCHR interview, 24 February 2017.
[198] OHCHR interviews, 29 March and 19 April 2018.
[199] According to the two detainees, an SBU officer and his superior demanded USD 1,000 from one detainee, and from the second detainee to transfer real estate to them. Neither agreed, and the SBU officers dropped their demands. OHCHR interviews, 29 March and 19 April 2018.

57. The same day, SBU transferred the three remaining detainees to the 'radar centre' facility in or near Kharkiv. The 'radar centre', however, was not suited for detention in colder weather, so SBU transferred them to recreational base 'Zelenyi Hai' on 21 or 22 September 2016. Guards from the Myronosytska Street facility delivered food to the detainees.[200]

58. On 11 December 2016, masked SBU officers told the three detainees at the 'Zelenyi Hai' to prepare for release. The officers hooded the detainees and placed them in a vehicle. After three hours of driving, the vehicle stopped; the officers took the detainees out and told them to lay on the ground until the next vehicle arrived and picked them up. The temperature was freezing, around -18° Celsius, and a second vehicle never arrived. The detainees wandered into the nearby settlement of Novoluhanske, which was part of the 'grey zone'. On 19 December 2016, the three detainees crossed into territory controlled by armed groups.[201]

IV. Accountability

"You want to complain? Go ahead, complain. I will personally take you to the office of the Military Prosecutor. I can take you to the office of the United Nations too. It is meaningless."

A Kharkiv SBU operative, to a detainee

A. Advocacy by international human rights actors and SBU response

59. Arbitrary detention in the Kharkiv SBU building came to the attention of HRMMU in autumn 2014. OHCHR has reported on **arbitrary and incommunicado detention and torture in Kharkiv SBU in twelve OHCHR reports** on the human rightssituation in Ukraine.[202]

60. On 20 May 2016, a delegation of the UN Subcommittee on Prevention of Torture attempted to visit the facility. The **SBU denied the delegation full access**, which later led the Subcommittee to **suspend the visit**.[203]

61. On 21 July 2016, Amnesty International and Human Rights Watch published a joint report, which detailed nine cases of arbitrary, prolonged and incommunicado detention by Ukrainian forces.[204]

62. Since 2016, HRMMU held a number of meetings with the Office of the Regional Prosecutor and the Office of the Military Prosecutor for Kharkiv. During these meetings, HRMMU pointed out the lack of accountability for the SBU actions in running the unofficial detention facility in the premises of Kharkiv SBU. In October 2016, HRMMU sent a letter to the Prosecutor General requesting action in

[200] OHCHR interview, 24 February 2017.

[201] Ibid.

[202] OHCHR, Report on the human rights situation in Ukraine, 17 September to 31 October 2014, para. 129; OHCHR, Report on the human rights situation in Ukraine, 1 to 30 November 2014, para. 44; OHCHR, Report on the human rights situation in Ukraine, 16 December 2014 to 15 February 2015, paras. 37-38 and 40-41; OHCHR, Report on the human rights situation in Ukraine, 16 May to 15 August 2015, paras. 50-52 and 55; OHCHR, Report on the human rights situation in Ukraine, 16 August to 15 November 2015, paras. 7, 42, and 48; OHCHR, Report on the human rights situation in Ukraine, 16 November 2015 to 15 February 2016, paras. 45, 48-49, 64-66, and 70; OHCHR, Report on the human rights situation in Ukraine, 16 May to 15 August 2016, paras. 44-45; OHCHR, Report on the human rights situation in Ukraine, 16 November 2016 to 15 February 2017, para. 41; OHCHR, Report on the human rights situation in Ukraine, 16 February to 15 May 2017, paras. 48 and 65; OHCHR, Report on the human rights situation in Ukraine, 16 May to 15 August 2017, para. 58; OHCHR, Report on the human rights situation in Ukraine 16 May to 15 August 2018, para. 50; OHCHR, Report on the human rights situation in Ukraine16 November 2017 to 15 February 2018, para.65.

[203] **UN torture prevention body suspends Ukraine** visit citing obstruction, OHCHR, 15 May 2016, at: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20017. The Subcommittee highlighted in its report on Ukraine that it had received numerous allegations of torture and ill- treatment of detainees who were under the control of the SBU during unofficial detention, CAT/OP/UKR/3, paras. 34-35.

[204] Amnesty International, Human Rights Watch, 2016, You don't exist: Arbitrary detentions, enforced disappearances, and torture in eastern Ukraine, available at: www.amnesty.org/en/documents/eur50/4455/2016/en/.

relation to the information on the operation of the Myronosytska Street unofficial detention facility.

63. The SBU has consistently denied the existence of an unofficial detention facility in the premises of Kharkiv SBU from 2014 to 2016.[205]

B. National investigations to date

64. Although hundreds of individuals were detained in the Kharkiv SBU premises, there has been no broad investigation into the overall circumstances of its use as an unofficial detention facility.[206] Only a small number of former detainees filed complaints about incommunicado detention, torture and ill-treatment, while others fearing retaliation or renewed prosecution did not complain at all. Even fewer former detainees remained in Government-controlled territory. These conditions have created obstacles to holding perpetrators to account for past human rights violations.

65. On 27 November 2014, based on a complaint from a detainee's wife to police in Kostiantynivka, a criminal investigation into her husband's abduction was launched.[207] The investigation was initiated under articles 146 (illegal deprivation of liberty or abduction of a person) and 365 (excess of power or authority) of the Criminal Code. In attempts to find her husband, the woman had approached different law enforcement authorities and state bodies, but was told that there were no open criminal investigations against her husband and that he was not being detained. The detainee was placed on a missing persons list. After **15 months of incommunicado detention** in the Kharkiv SBU building, he was released on 25 February 2016 without any charges. On 12 March 2016, the local police department interviewed him. One year later, without informing the victim or his legal representatives, the **ATO Military Prosecutor's Office changed his status from victim to witness** and **closed the criminal case due to the lack of criminal act**. **As a witness, the man could not appeal the decision**, as only victims have the right to challenge an investigator's decision to close criminal proceedings.[208] For one year, the detainee and his lawyer tried to challenge the prosecutor's decision and re-open the investigation in local and appeal courts. On 12 April 2018, Donetsk Regional Court of Appeal granted their appeal and ordered the reopening of the criminal investigation.[209]

[205] For example, in response to the OHCHR report on the human rights situation in Ukraine covering the period from 16 May to 15 August 2017, SBU commented: "the statements of the authors of the report that detainees are held at the Kharkiv regional department of SBU are unacceptable. The SBU Service of Ukraine has repeatedly informed the representatives of the UN Human Rights Monitoring Mission in Ukraine that there have not been and are not any detainees at the Kharkiv regional department of SBU". In its comments to the OHCHR report on the human rights situation in Ukraine covering period from 16 May until 15 August 2018, SBU "categorically reject[ed] the accusation of unlawful detentions of persons, of the use of torture or any other prohibited actions to detainees, and of detention of persons in the Kharkiv region SBU Directorate premises… Many times, the Directorate officially informed representatives of international organizations, including the UN Human Rights Monitoring Mission, as well as journalists that persons were not and are not detained in the Kharkiv region SBU Directorate premises. To confirm that, on 9 August 2017, the Security Service of Ukraine ensured an unhindered monitoring visit by the Mission members to those premises of the Kharkiv oblast SBU Directorate that they themselves chose". In June 2021, SBU stated that "the information about the alleged arbitrary detention and use of torture against people by officers of Kharkiv SBU does not correspond to reality". According to SBU, in September 2016, an internal review into allegations of arbitrary detention of persons, including in the Kharkiv SBU premises was carried out, and according to its results, the allegations of illegal detention were not confirmed.

[206] According to SBU, from 2014 to 2021, none of the employees of Kharkiv SBU was held criminally, administratively or disciplinarily liable for detaining people in unofficial or secret places of detention. In criminal proceedings initiated by authorized bodies on the basis of reports of such offenses, the involvement of SBU officers in their official capacity has not been established.

[207] OHCHR interview, 4 February 2019.

[208] Pursuant to article 303 (decision, actions or omissions of the investigator, investigator or prosecutor that may be challenged during the pre-trial investigation and the right to appeal) of the Criminal Procedure Code.

[209] Decision of Donetsk Regional Court of Appeal dated 12 April 2018, available at: reyestr.court.gov.ua/Review/73433259.

66. After the Appeal Court decision, two other former detainees who had been held incommunicado[210] in the Kharkiv SBU building were granted victim status. In November 2019, the case was transferred from the ATO Military Prosecutor to the Kramatorsk territorial department of the State Bureau of Investigation. On 14 July 2020, all three victims were invited to the SBU premises in Kharkiv to give testimony on their detention and to identify the facility. Despite significant renovations of the premises, the victims were able to provide details and identify their places of captivity. One victim recognized the SBU officer who had released him from the facility and who still worked in the building. No one has been notified of suspicion or charged with a crime, and the investigation is still ongoing.[211]

67. In another case,[212] on 5 December 2014, a criminal investigation under article 146 (illegal deprivation of liberty or abduction of a person) of the Criminal Code was launched on the basis of a complaint by the mother of a victim[213]. On 12 September 2014, her son was released from pre-trial detention by a court, and taken away by SBU officers. His whereabouts were unknown until the next court hearing on 18 December 2014, during which he stated that he had been held incommunicado in the Kharkiv SBU building.[214] The investigation into his allegations was closed at least three times by the Military Prosecutor's Office for the Kharkiv Garrison due to the alleged lack of evidence of a criminal act, including in December 2015, June 2016 and July 2017. On each occasion, the decision to close the case was cancelled by the court following appeals by the victim.[215] On one occasion, the court noted that the investigator's decision to close the investigation was reached well in advance without a comprehensive examination of all the circumstances of the case.[216] On 24 September 2018, the investigator closed the criminal proceedings due to an absence of elements of a criminal offence.[217] After being sentenced to a prison term in January 2018, he was released in September 2018 due to a recalculation of his term in accordance with 'Savchenko law'. [218]

68. In a third case[219], in September 2015, an investigation was launched by the Military Prosecutor's Office of the Kharkiv Garrison against the SBU, under article 365 (excess of authority or official powers) of Criminal Code on the basis of the victim's complaint. In December 2015, the prosecutor changed the legal classification to article 146 (illegal deprivation of liberty or abduction of a person). Subsequently, the investigation was transferred to the Kyivskyi district police department in Kharkiv region, who investigated it as an abduction or unlawful deprivation of liberty by unidentified individuals. In August 2016, the police closed the case due to an absence

[210] OHCHR interviews, 3 August 2016. They were also released without any charges. However, in August 2020, an SBU officer called one of the victims urging him to sign a plea bargain in a criminal case against him, allegedly related to organization of referendum in 2014, despite him being a witness in the case.

[211] OHCHR phone conversation, 16 July 2020. According to the Office of the Prosecutor General, during the pre-trial investigation, the scene was inspected, the premises of the Kharkiv SBU were searched, internet resources and documents were inspected, three victims and more than 60 witnesses were interrogated, forensic and handwriting examinations were conducted.

[212] OHCHR, Report on the human rights situation in Ukraine, 1 December 2014 to 15 February 2015, para. 40.

[213] On 15 January 2015, another criminal proceeding was launch under article 365 (excess of authority or official powers). In October 2015, two criminal proceedings were consolidated.

[214] After the court he was brought back to Kharkiv SBU where a gas mask was put on his head with no air intake. He was hit on the head with a book or a thick magazine, undressed and exposed to cold while windows were opened in order to force him to sign the refusal from his lawyers. OHCHR interview, 28 December 2016.

[215] Decisions of Dzerzhynskyi District Court in Kharkiv: dated 19 January 2016 (available at: reyestr.court.gov.ua/Review/55325321); dated 10 February 2017 (available at: reyestr.court.gov.ua/Review/64726528); and dated 27 February 2018 (available at: reyestr.court.gov.ua/Review/72574431).

[216] Decision of Dzerzhynskyi District Court of Kharkiv dated 10 February 2017, available at: reyestr.court.gov.ua/Review/64726528.

[217] Pursuant to article 284.2 of the Criminal Procedure Code.

[218] He was convicted under articles 110 (trespass against territorial integrity and inviolability of Ukraine), 289 (appropriation of a vehicle), and 294 (mass riots) of the Criminal Code.

[219] OHCHR interview, 28 February 2017.

of elements of a criminal offence.[220] In May 2017, the court quashed this decision, stating that police did not initiate investigative actions and failed to interview any person.[221] The investigation was ongoing at the time of writing of the report. As to the victim, he was ordered to be released from custody on bail[222], and later included in a simultaneous release in December 2019.

[220] Pursuant to article 284.2 of the Criminal Procedure Code.

[221] Decision of Kyivskyi District Court of Kharkiv dated 15 May 2017, available at: reyestr.court.gov.ua/Review/66539931.

[222] He was charged under articles 263 (unlawful handling of weapons, ammunition or explosives) and 258^3 (creation of a terrorist group or organization) of the Criminal Code.

Annex II. Arbitrary and incommunicado detention, and torture and ill-treatment by armed groups in 'Izoliatsiia' detention facility in Donetsk in 2014-2021

1. This annex summarizes OHCHR's factual findings regarding arbitrary and incommunicado detention, torture and ill-treatment by armed groups in 'Izoliatsiia' detention facility from June 2014 to April 2021.

2. The annex is based on interviews with 44 persons (33 men and 11 women), and other credible information obtained by HRMMU. Despite repeated requests, OHCHR has not been granted access to detention facilities in territory controlled by 'Donetsk people's republic', including 'Izoliatsiia'.[223] As of 30 April 2021, no international monitors have been granted access to 'Izoliatsiia'.

I. Description of the facility

3. The art centre 'Izoliatsiia', created in 2010, occupied seven hectares of a former insulation manufacturing plant located at 3 Svitloho Shliakhu Street in Donetsk. On 9 June 2014, armed groups of 'Donetsk people's republic' seized 'Izoliatsiia',[224] which they initially claimed would be used to store humanitarian aid.[225] Since then, the premises of 'Izoliatsiia' have been used for various purposes, including as a military depot.[226]

4. From July till late autumn 2014, 'Izoliatsiia' was reportedly under the control of a special committee charged with "investigating and punitive functions" which used part of the facilities as a place of detention. Some sources indicated that in October or November 2014, the 'mgb' took over 'Izoliatsiia'. A former detainee told OHCHR that during his 'trial' in Donetsk in 2018, a 'judge' stated his detention was 'legal' because 'Izoliatsiia' was an "official pre-trial detention facility of the mgb".[227]

5. According to accounts of former detainees, the part of the facility used for detention is a two-floor building, with cells in the basement and on the ground floor. The basement contains two cells, which do not have any windows or sanitary facilities.[228] The ground floor contains four bigger cells and two small cells for solitary confinement.[229] At least two cells have been used only to hold women.[230] The second floor has rooms used for interrogation of detainees, and for use of the guards.[231]

6. Two groups of persons were detained in 'Izoliatsiia'. The first group included Ukrainian servicemen, persons suspected of ties with SBU, and persons suspected of 'espionage' and 'crimes against national security'. The second consisted of members of armed groups and other actors of 'Donetsk people's republic' accused of committing common or military crimes, and persons accused of using drugs.

7. Some detainees did not know that they were held in 'Izoliatsiia' during the period of their detention and said they only learned this upon their release.[232] Others were reluctant to talk about the place of their detention due to fear of retaliation

[223] In 2014, 2016 and 2017, on several occasions, HRMMU was provided access to some detainees held in a number of facilities (other than 'Izoliatsiia'), but this access was not confidential and HRMMU was not able to interview detainees in private.

[224] The art centre employees were able to evacuate some of the art objects, but had to leave equipment, parts of art pieces and personal belongings behind. Izoliatsiia: Platform for Cultural Initiatives, izolyatsia.org/ru/foundation/exile/.

[225] OHCHR interviews, 12 April 2015 and 18 December 2015.

[226] OHCHR interview, 10 August 2017.

[227] OHCHR interview, 16 January 2020.

[228] OHCHR interview, 15 January 2020.

[229] One of these cells was called "water glass" or "lux"; it was a tiny cell (1m by 0.8m), which was converted from a shower room (still had tiles on the walls). This cell was primarily used for newly arrived detainees and as a punishment cell. It had a metal door and a very small window, which did not allow in any daylight. The guards switched lights on and off as they wished.

[230] OHCHR interviews, 10 August 2017 and 15 January 2020.

[231] OHCHR interview, 10 August 2017.

[232] OHCHR interview, 16 January 2018.

stemming from threats by guards and interrogators at 'Izoliatsiia'.[233] Some former detainees believed 'Izoliatsiia' was a "secret prison" and they should keep quiet.[234]

8. Former detainees interviewed by HRMMU provided estimates of between 40 and 70 individuals being held in 'Izoliatsiia' at given times in 2017 and 2018.[235] OHCHR believes that, in total, hundreds of individuals have been held in 'Izoliatsiia' between 2014 and 2021. At the time of writing this annex, the facility continued to operate.

II. Detention conditions

9. The premises of the art centre 'Izoliatsiia' were not intended for detention of persons, and between 2014 and 2017, the conditions were appalling. According to several former detainees, the detention conditions at 'Izoliatsiia' improved in May 2017. New toilets with proper sewage, running water and air conditioners were installed in each cell, detainees received bed linens and a washing machine was installed in the facility.[236]

10. Until 2017, most cells lacked toilets or running water. In particular, there were no toilets in the basement cells and detainees were only allowed to use such facilities once a day for a few minutes. The detainees were often denied access to a toilet. Male and female detainees who did not have toilets inside their cells had to use an empty plastic water bottle or bucket to relieve themselves.[237] For privacy, female detainees relieved themselves directly under CCTV cameras installed in the cells so that they were out of shot.[238] Detainees were allowed to empty the bucket once every three days.[239] Detainees in one cell used a washbasin as a toilet and were allowed to empty it only once a week, which meant "it always stank in the cell."[240] Later in 2016, detainees could empty the bucket and washbasin daily. Other detainees said they were allowed to use the toilet outside only in the morning and in the evening. Some detainees said that at least one cell had sanitary facilities separated by a partition from the rest of the cell.[241]

11. In 2014 and 2015, detainees frequently were left without food for days as a form of punishment or to coerce a confession. A female held in 'Izoliatsiia' in 2015 said that during the first week of her detention, she was denied water, and for two weeks she did not receive sufficient food. She ate cigarette butts after smoking, because "cigarettes were more available than food."[242] Another former detainee said she was given only one meal a day.[243] Other detainees said they received two meals a day, mostly different types of grains and canned meat.[244] Detainees used cut up plastic water bottles as cutlery.[245]

12. The temperature in the cells was often cold and there was no proper ventilation during the early days of the armed conflict.[246] One former detainee said that although his cell had a working heater, it was still often cold. Once he asked for a blanket but he did not receive it.[247] The temperature and ventilation improved from late 2017 when the detention facility was renovated.[248] However, other detainees held

[233] OHCHR interview, 29 November 2016.
[234] Ibid.
[235] OHCHR interviews, 23 and 29 December 2017, 12 January, 8 February, 17 May and 22 June 2018, and 13 February 2019.
[236] OHCHR interviews, 29 December 2017, 12 and 16 January 2018, and 13 and 15 January 2020.
[237] OHCHR interviews, 29 December 2017, and 12 January and 15 May 2018.
[238] OHCHR interview, 15 May 2018.
[239] Ibid.
[240] OHCHR interview, 16 January 2018.
[241] Ibid.
[242] OHCHR interview, 25 August 2015.
[243] OHCHR interviews, 29 December 2017 and 12 January 2018.
[244] OHCHR interviews, 12 January 2018 and 23 June 2020.
[245] OHCHR interviews, 23 December 2017 and 13 February 2019.
[246] OHCHR interview, 16 January 2018.
[247] OHCHR interview, 22 February 2017.
[248] OHCHR interview, 16 January 2018.

in a basement cell in 2018 reported that the cell was cold and damp and lacked ventilation.[249]

13. Although some cells had windows, the glass was covered with paper or painted and barred, restricting access to natural daylight.[250] When detainees attempted to scratch off the paper, the guards would beat them.[251] Many detainees said the light was on all day long in the cells and the inmates were not allowed to turn it off.[252]

14. According to detainees interviewed by HRMMU, they were rarely allowed to walk outside, at least until 2018.[253] Detainees held in 'Izoliatsiia' in 2018 reported that they were allowed to have a short daily walk in a small court yard (3m by 6m) attached to the detention facility that was encircled by a concrete wall with barbed wire and covered with metal bars.

15. A former detainee, held in 'Izoliatsiia' in 2017, reported that detainees were not able to shower or bathe. At some point in late 2017, they could take a shower once a week.[254] According to another former detainee, in late 2017 inmates could take a shower twice a week.[255]

16. According to several former detainees, the doctor at 'Izoliatsiia' did not provide medical care and the available medical supplies had expired.[256] One former female detainee with a medical background was often approached by other detainees for medical assistance.[257]

17. A former detainee reported witnessing one of his cellmates brought back to the cell unconscious with signs of being subjected to physical violence. Other detainees tried to help him and called for a doctor, but the man died without receiving any medical assistance. The detainee also said he had seen around 30 unmarked graves in the territory surrounding 'Izoliatsiia'.[258]

III. Arbitrary and incommunicado detention

18. Many detainees, especially during the initial stages of the conflict, were held at 'Izoliatsiia' without any understanding of how long they would be held. Since 2015, detainees in 'Izoliatsiia' increasingly faced charges of 'espionage' or 'subversive activities'.[259]

19. Many detainees were initially held in 'Izoliatsiia' under a 30-day 'administrative arrest', which was often prolonged. Some detainees were held in 'Izoliatsiia' during 'investigation' and then transferred to other places of detention (usually, Donetsk SIZO and Makiivka penal colony No. 32). People were held in 'Izoliatsiia' for periods lasting from a few hours to more than two years.

20. In 'Izoliatsiia', most detainees were held incommunicado and not allowed contact with relatives or lawyers. Confirmation of the detention itself was also often withheld from the families of detainees. A few detainees, however, were able to phone relatives or receive parcels from them through 'mgb' investigators, but only while being taken out of 'Izoliatsiia' for 'investigative actions'.[260]

A. Detention at 'Izoliatsiia' at the initial stages of armed conflict

[249] OHCHR interviews, 17 May, 22 June and 22 August 2018.
[250] OHCHR interviews, 23 December 2017 and 13 February 2019.
[251] OHCHR interview, 10 August 2017.
[252] OHCHR interviews, 12 and 16 January, and 15 May 2018, 23 December 2017, 13 February 2019, and 23 June 2020.
[253] OHCHR interviews, 22 August and 12 September 2017, 12 January 2018 and 23 June 2020.
[254] OHCHR interview, 15 May 2018.
[255] OHCHR interviews, 23 December 2017, 16 January 2018, and 13 February 2019.
[256] OHCHR interviews, 29 December 2017 and 12 January 2018.
[257] OHCHR interview, 20 January 2020.
[258] OHCHR interview, 16 December 2018.
[259] OHCHR, Report on human rights in the administration of justice in conflict-related criminal cases in Ukraine, April 2014 – April 2020, paras. 100-139.
[260] OHCHR interviews, 29 December 2017 and 12 January 2018.

21. At the initial stages of the conflict, in 2014 and 2015, detainees were held at 'Izoliatsiia' without any charges against them, often being vaguely accused of espionage or aiding Ukrainian Forces taking part in the Anti-Terrorist Operation (ATO).

22. For example, on 22 July 2014, a man was detained for allegedly using his office as a sniper position. For several days, he was held in two places of detention, where he was tortured, before being transferred to 'Izoliatsiia'.[261] At 'Izoliatsiia' he was interrogated several times and then told that his detention was a "mistake", but he could only be released by the order of Igor Strelkov.[262] On the twelfth day of his detention, the victim recognized his former colleague's son among the men controlling 'Izoliatsiia' and asked him to deliver a message to his wife that he was still alive. He was released on 5 August 2014 and ordered by an armed group commander with call sign 'Doc' to leave Donetsk the next day.[263]

23. In another case, a Ukrainian journalist was detained in Donetsk on 7 August 2014 and held at 'Izoliatsiia' under suspicion of spying for the Government of Ukraine. Armed men interrogated him five times about his activities in Donetsk, during which, they kicked him in the head and fired their weapons behind his back, threatening him with execution. He spent part of his detention in a 2 by 3-meter cell with nine other detainees. They had no access to fresh air and were left without food, water or access to bathroom facilities for several days. He was released on 24 September 2014.[264]

B. Detention under 'administrative arrest'

24. On 8 August 2014, 'Donetsk people's republic' issued a decree authorizing the 'ministry of state security' to detain individuals suspected of 'banditry and other grave crimes, committed by organized criminal groups' for up to 30 days without charges.[265] On 12 December 2014, the 'people's council' of 'Donetsk people's republic' adopted a 'law' "On the ministry of state security" which allowed 'mgb' to apprehend and detain individuals for certain infractions.[266]

25. 'Administrative arrest' was mostly used to force detainees to confess to alleged 'crimes', usually related to spying for the SBU. Many detainees were subjected to torture while under 'administrative arrest' in 'Izoliatsiia'.

26. For example, on 12 June 2015, three 'mgb' officers in plain clothes took a 22-year old pregnant woman, who had cerebral palsy, and her mother from their home in Donetsk. The 'mgb' searched their home, looking for property documents, money and gold, threatened to plant weapons in the house, and were angered by Ukrainian symbols in the house. According to the mother, 'mgb' interrogated her and her daughter separately, and alleged that poems and photos on the daughter's social media accounts showed she was a sniper for the 'Right Sector'.[267] The daughter was further told that using Ukrainian language in her phone provided sufficient grounds to imprison her for many years. The interrogation lasted from 6 a.m. to 7 p.m., after which the mother was released. She was informed that her daughter had been detained

[261] OHCHR documented several cases where, prior to their transfer to 'Izoliatsiia', detainees were held in other locations in or around Donetsk, where they were also subjected to torture and ill-treatment.

[262] Ihor Strelkov (Girkin) was a former Russian army officer who participated in the armed conflict in eastern Ukraine and in the occupation of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine by the Russian Federation. He currently faces terrorism charges in Ukraine.

[263] OHCHR interview, 16 August 2014.

[264] OHCHR interview, 3 April 2015.

[265] 'Decree' of the 'cabinet of ministers' of 'Donetsk people's republic' No. 34 "On emergency measures aimed to protect the public from banditry and other manifestations of organized crime".

[266] The 'law' allows the 'ministry' to "carry out administrative arrest of persons, who had committed crimes, such as attempts to trespass or trespassing on territory of high security sites, closed administrative territories and other secured facilities", available at: dnrsovet.su/zakon-dnr-o-mgb/.

[267] 'Right Sector' is a right-wing movement, which consists of political party, paramilitary volunteer battalion and youth organization.

under 'administrative arrest' for 30 days on suspicion of being a member of the 'Right Sector' and fighting against 'Donetsk people's republic', and would be taken to 'Izoliatsiia' to be "re-educated to start loving DPR". The 'mgb' also informed her that detainees under 'administrative arrest' were not entitled to visits from family members. The daughter was held incommunicado at 'Izoliatsiia' until her release in August 2015.[268]

27. The 'mgb' also targeted entrepreneurs to force them to abandon their businesses and property in territory controlled by 'Donetsk people's republic' so that the 'mgb' could seize it. On 19 August 2017, a businessman was apprehended at a café in Donetsk, accused of paying taxes to the Ukrainian Government. He told OHCHR that they wrapped wires around his two big toes and electrocuted him for about five hours. They pressured him to sell his property in Government-controlled territory and forced him to sign a document that no physical pressure was used against him during the interrogation. He was released after the interrogation, but re-apprehended a month later, on 26 September 2017. After a brief visit to the 'general prosecutor's office', where he was accused of sponsoring the 'Azov' battalion,[269] he was taken to 'Izoliatsiia' and held there under administrative arrest for two months, until 26 November. During his detention, he was interrogated three times and was not allowed to contact a lawyer or his family. He was only allowed to talk to his wife on the phone towards the end of his detention at 'Izoliatsiia'.[270] According to him, many detainees were taxi drivers who had worked across the contact line. On 26 November 2017, he was taken to the contact line and told to cross into Government-controlled territory.

28. In another case, on 7 October 2017, several 'mgb' officers took a man from his home in Donetsk, placed a bag over his head and searched his apartment. Then they drove him to the 'mgb' building to question him about his business partner who was in SBU custody at the time. They told him he was under 'administrative arrest' for espionage.[271] They took him to 'Izoliatsiia' where he was held in solitary confinement in a tiny cell. After ten days, he was transferred to a bigger cell, where 19 other male detainees were held. He heard from other inmates that there were two cells in the facility holding around 15 women, but he did not see them. The man was not allowed to contact his family members or a lawyer. On 9 November 2017, he was released after signing a statement that he did not have any complaints about his detention.[272]

29. On 6 March 2018, a Donetsk resident was on her way to a shop when she was apprehended by 'mgb' officers. They handcuffed her, put a bag over her head and took her for interrogation to the 'mgb' building in Donetsk. She was accused of transmitting information against 'Donetsk people's republic' through her Twitter account. After an interrogation and house search, the 'mgb' interrogators told her that they were formally 'arresting' her. When she asked where they were taking her, they said "it is none of your business". She was taken to 'Izoliatsiia' where she was held for about 45 days. During this period, she was not allowed to contact her family. She asked for a lawyer but was told there were none. On the second day in 'Izoliatsiia', the 'mgb' interrogated her for ten hours, repeatedly questioning her about her "SBU recruiters", their call signs and activities implemented and planned. She was forced to sign a statement that she was a sympathiser of the volunteer battalions 'Donbas' and 'Pravyi Sector'. At some point during the interrogation, they left the room, and another person entered, hit her on the head and left. When the interrogators returned, they warned "If you continue to resist, he will come more often". On the 28th or 29th day of her detention, the interrogators ordered her to sign documents which she was not allowed to read. With a bag over her head, she blindly signed the paper against the cell wall. She later understood this was a warrant for her 30-day 'administrative arrest'. She was released on 14 April 2018, after several meetings with an

[268] OHCHR interview, 25 August 2015.
[269] Initially formed as a volunteer battalion in May 2014 in Mariupol (Donetsk region), 'Azov' was incorporated into Ukraine's National Guard in late 2014 as a regiment.
[270] OHCHR interviews, 23 December 2017 and 13 February 2019.
[271] OHCHR interviews, 22 August and 12 September 2017.
[272] Ibid.

'investigator', who told her that the allegations against her were not credible. She was told she had been initially charged under articles 321 (espionage) and 328.1 (incitement of hatred, personal insult) of the 'criminal code', but the espionage charge had been dropped. She told OHCHR that the majority of detainees at 'Izoliatsiia' were charged with espionage and 'Izoliatsiia' was called "a spy base".[273]

30. On 14 March 2018, 'mgb' officers apprehended three men who worked together and held them under 'administrative arrest' at 'Izoliatsiia' for 60 days. One of the men was not allowed to contact his family or a lawyer during his 60-day detention. The 'mgb' accused them of working for SBU. They were released on 13 May 2018 and ordered to leave territory controlled by 'Donetsk people's republic'. 'Mgb' officers ordered them to sign documents stating that they did not have any complaints against the 'mgb' and that they were leaving the territory voluntarily. They were banned from re-entering for five years, although their families remained there.[274]

C. Pre-trial detention on criminal charges

31. Since late 2014, members of armed groups and representatives of the 'mgb' began to charge detainees under the 'criminal code' of 'Donetsk people's republic' adopted on 19 August 2014,[275] most commonly under articles 320 (high treason), 321 (espionage), 329 (organization of an extremist group), and 330 (organization of extremist group's activity). Many detainees did not know the complete list of charges against them.

32. For example, a resident of Donetsk was detained in July 2016 and held in the Donetsk SIZO for several months on suspicion of 'espionage' for the Government and 'illegal storage of ammunition' to be used in a plot to assassinate leaders of 'Donetsk people's republic'. He was then transferred to 'Izoliatsiia' and detained there for about two years. Despite numerous requests to the 'mgb' by his family, they were not allowed to either see him or pass on medication and food.[276] He was ultimately convicted by a 'military tribunal' to eight years of imprisonment.[277]

33. In October 2016, 'mgb' officers took a woman from her workplace in Donetsk for suspicion of working for the SBU. She was driven to 'Izoliatsiia' and held there until September 2017, when she was transferred to the Donetsk SIZO. On 10 November 2017, there was a 'court hearing' and on 17 November, she was sentenced under article 321 (espionage) of the 'criminal code' to ten years in prison. Throughout her detention until her trial in November 2017, she did not have any information about the charges against her. On 27 December 2017, she was released as a part of a simultaneous release and transferred to Government-controlled territory.[278]

34. In February 2017, a Donetsk resident was apprehended and detained in 'Izoliatsiia'. After a few days, she was informed that a criminal case had been opened against her for providing information to the SBU on the places of residence of the leadership of 'Donetsk people's republic'. When she refused to confess, 'mgb' officers told her that if she confessed, she would be included on the simultaneous release list to be transferred to Government-controlled territory. She agreed and a journalist, allegedly from Rossiya 24, a state television channel of the Russian Federation, filmed her confession that she had voluntarily cooperated with the SBU against 'Donetsk people's republic.' She was detained in 'Izoliatsiia' for almost two months, and then transferred to Donetsk SIZO on 21 March 2017. While at 'Izoliatsiia', she was not allowed to contact her family or a lawyer. On 11 December 2017, a 'military tribunal' sentenced her to 17 years in prison for espionage. On 27

[273] OHCHR interview, 15 May 2018.
[274] OHCHR interviews, 17 May, 22 June and 22 August 2018.
[275] Available at: dnrsovet.su/zakonodatelnaya-deyatelnost/dokumenty-verhovnogo-soveta-dnr/ugolovnyj-kodeks-donetskoj-narodnoj-respubliki/.
[276] OHCHR interview, 22 June 2018.
[277] Articles 256.1 and 256.2 of the 'criminal code' of 'Donetsk people's republic'.
[278] OHCHR interview, 12 January 2018.

December 2017, she was released as a part of a simultaneous release and transferred to Government-controlled territory.[279]

IV. Torture and ill-treatment

35. The majority of individuals held in 'Izoliatsiia' and interviewed by OHCHR were tortured or ill-treated, or heard other detainees they believed were being tortured or ill-treated, to force them to confess or otherwise cooperate, or to punish them for their alleged affiliation with Ukrainian armed forces and special services, or for not cooperating with the 'investigation'. Detainees were also routinely subjected to verbal abuse and threats of torture, including threats of sexual violence, or death for them or their family members; prolonged solitary confinement; and forced labour. Together with deplorable detention conditions, especially at the initial stages of the conflict, this negatively affected their physical and psychological well-being and often resulted in coerced confessions.

36. 'Izoliatsiia' detainees were particularly vulnerable to torture and ill-treatment during the first hours and days of their detention, when interrogators wanted to extract confessions as quickly as possible.

37. The following methods of torture and ill-treatment were used against detainees:

a. Beating, punching and kicking with hands and legs;

b. Beating with wooden or metal sticks, gun butts or batons;

c. Suffocation by plastic bags and water bordering;

d. Electrocution of limbs, fingers, toes and genitals;

e. Mock executions;

f. Blindfolding and handcuffing for several days;

g. Pouring cold water over detainees during interrogations;

h. Forced nudity and other forms of sexual violence;

i. Verbal abuses and threats, including threats of sexual violence and violence towards relatives of detainees.

38. A woman detained in June 2015 and held in 'Izoliatsiia', was taken outside in the rain one night by guards who told her they were tasked to kill her. They beat her with metal rods on her body, legs and stomach. Then they pushed her on her back and poured cold water on her. She said they then repeated this four times, each time lasting about 40 minutes. Her skin was black and swollen from bruises. At the time of the interview, she said she still had scars on her buttock from beatings. She also said that some guards tried to rape her, but she told them that she had sexually transmitted diseases so that they would leave her alone.[280]

39. Another person, detained at 'Izoliatsiia' in the summer of 2015, described it as "the worst place on earth". He said that detainees were beaten several times a day, including surprise nightly beatings while they slept, by rapid response teams of the 'mgb'. The victim stated that during an interrogation, guards forced him to undress and to lie on a table. They wrapped electric wire around his fingers, toes and genitals, and turned on the electricity, causing severe pain. On one occasion, they put the electric wire into his anus. The victim also described a mock execution when he was forced to stay inside a closed coffin placed in a dug out grave for six hours. After 30 days, the victim was transferred to the Donetsk SIZO in September 2015, which he called "paradise" after 'Izoliatsiia'.[281]

40. Former detainees also reported that random, sudden beatings of prisoners during night time were especially brutal. On 16 October 2016, the night of the assassination of 'Motorola', many detainees were severely beaten as collective

[279] OHCHR interviews, 12 January 2018 and 23 June 2020.
[280] OHCHR interview, 15 May 2018.
[281] OHCHR interview, 16 December 2018.

punishment. At first, several detainees were taken to a separate room and beaten by 'mgb' officers. Other detainees could hear their screams. Later, guards and 'mgb' officers dragged several other detainees out of a cell and beat them with batons.[282] Then the guards forced the inmates to beat each other. The beatings lasted for almost six hours, during which the guards reportedly shouted at the detainees: "You're all ukrops[283] – you are responsible for Motorola's death! You are all terrorists and saboteurs!" The next day, the detainees were ordered to sign a statement in which they admitted to having organized a riot and attacked and beat other inmates.[284] One victim said that the right side of his body "was blue" from the beating for several weeks.

41. The same detainee told OHCHR about the routine use of electrocution of detainees at 'Izoliatsiia', which interrogators and guards called "to spread on a table".[285] A detainee was ordered to lie on a table and his hands and feet were bound together. A plastic bag was placed on a victim's head, electric wires were then attached on the victim's body and the guards turned on the electricity.

42. On 8 November 2016, the guards put a plastic bag over the head of a detainee and took him to a separate room. Interrogators ordered him sit on a chair and connected wires to his legs and neck. They wanted information about the Ukrainian military forces, the victim's connection to SBU, and the assassination of 'Motorola'. The victim told the interrogators he did not know anything about the assassination and had no links to SBU, but after his interrogators turned on the electricity, causing severe pain, he told them what they wanted to hear – that he was an SBU officer. He did not, however, confess to involvement in 'Motorola's assassination. The questioning lasted around two hours. On the next day, he was electrocuted and beaten once again. He fell on the floor because the electric shock was so severe, but the interrogators did not turn down the electricity and continued to electrocute him while he was lying on the floor. They asked him the same questions as the day before and he confessed to everything. Afterwards, he was constantly scared that the interrogators would come for him again. "It's a miracle that I didn't go mad [in 'Izoliatsiia']," he told OHCHR.[286]

43. A female medical worker detained in October 2016 was also electrocuted in order to force her to confess to having cooperated with the Government. She told OHCHR she felt extreme pain going through her entire body. After the second round of electrocution on a table, and the interrogators' threats to detain and torture her husband, she agreed to write a statement confessing to working for the Government.[287]

44. A man detained in October 2017 in Donetsk was taken to 'Izoliatsiia' immediately, where 'mgb' officers urged him to provide call signs and names of people he worked with and to explain what information he passed onto SBU. They hit him on his legs and arms, and beat his legs and feet with a hammer and a rifle. He was also electrocuted and subjected to waterboarding. All this time, he had a plastic bag on his head. He was tortured every day for a week, and also threatened with sexual violence.[288]

45. A man detained in March 2018 told OHCHR that interrogators beat him in the basement for several hours upon his arrival at 'Izoliatsiia'.[289] Several interrogators strapped him on a table with tape, wrapped electric wires around his right little toe and turned on the electricity. They threatened further harm to him and to his family if he did not tell them about his work for SBU, stating: "We will bring your wife here and ten of us will rape her while you watch!" and "we will put electric wires in your

[282] OHCHR interviews, 10 August 2018 and 15 January 2020.
[283] 'Ukrop' is a slur used against ethnic Ukrainians or individuals with strong pro-Ukraine position.
[284] OHCHR interview, 10 August 2017.
[285] Ibid.
[286] OHCHR interview, 22 February 2017.
[287] OHCHR interview, 29 December 2017 and 12 January 2018.
[288] OHCHR interview, 24 January 2020.
[289] OHCHR interviews, 17 May, 22 June and 22 August 2018.

ass and penis!" The next day, the victim was taken to the basement and electrocuted for an hour. On the third day, they fixed the electric wire to his ear and he lost consciousness when they turned on the electricity. This repeated on the fourth day as well. He said he thought then he was going to die. After he regained consciousness, the interrogators ordered him to stand with his hands up and forbade him to sleep although it was nighttime. After a couple of hours, he lost consciousness and fell down. When he regained consciousness, his cellmate told him that he should confess to everything and sign any document because "there was no other way" to stay alive. He called the guards and confessed to working for SBU and that the SBU forced him to sign a document about his voluntary cooperation with them.[290]

46. Two other men said interrogators had tortured them immediately after they were brought to 'Izoliatsiia' to force them to confess to working for SBU. Both victims were placed on the table and electrocuted for several hours. One victims said the interrogators attached electric wires to his genitals and poured water on him. Both confessed to working for SBU, and one agreed to record a video confession that he was an SBU operative.[291]

47. Several detainees reported that a health professional was present during their interrogations in 'Izoliatsiia'.[292] The man would examine the detainees before the interrogations; ask about their medical conditions;[293] measure their blood pressure or pulse;[294] and give injections of unknown substances,[295] allegedly psychotropic, to make detainees provide information or confess. For example, one detainee told OHCHR that a doctor had injected him with an unknown drug after which interrogators began asking him about his links to SBU and whether he was "a Ukrainian spy."[296] The doctor reportedly guided the perpetrators on how to inflict maximum pain without causing death and how to revive those who lost consciousness.[297] He told one detainee: "We can kill you anytime we want."[298]

48. Detainees in 'Izoliatsiia' were routinely insulted, humiliated and shouted at by guards and 'mgb' officers for their alleged pro-Ukrainian position or cooperation with SBU. Male detainees were called "Ukrainian faggots" and "shitheads",[299] and told "you're no one here!"[300] Female detainees were called "Ukrainian bitches."[301] Guards and interrogators often threatened detainees with death to scare them and to force them to provide information or to confess. [302] Detainees were threatened that they would be killed without leaving any evidence, or drowned in a nearby river because "it was easier to kill than exchange" (referring to a simultaneous release).[303]

49. Many 'Izoliatsiia' detainees were subjected to solitary confinement that lasted from several hours to several weeks.[304] One detainee told OHCHR that solitary confinement was the hardest because he lost all track of time.[305] Another former detainee said it was very cold in the cell and he saw icicles on the ceiling, as well as blood on the walls.[306]

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290 Ibid.
291 Ibid.
292 OHCHR cannot confirm whether this was one or several health professionals because detainees often had plastic bags over their heads.
293 OHCHR interviews, 10 and 23 January 2020.
294 OHCHR interviews, 13 and 15 January 2020.
295 OHCHR interview, 23 January 2020.
296 OHCHR interview, 10 August 2017.
297 OHCHR interview, 10 January 2020.
298 OHCHR interview, 13 January 2020.
299 OHCHR interview, 10 August 2017.
300 OHCHR interviews, 25 August 2015, 10 August and 22 February 2017, 12 and 16 January 2018, and 23 June 2020.
301 OHCHR interviews, 12 January 2018 and 23 June 2020.
302 OHCHR interviews, 25 August 2015, 10 August and 22 February 2017, 12 and 16 January 2018, and 23 June 2020.
303 OHCHR interviews, 14, 15 and 20 January 2020.
304 OHCHR interviews, 22 August and 12 September 2017, and 16 January 2018.
305 OHCHR interviews, 22 August and 12 September 2017.
306 OHCHR interviews, 17 May, 22 June and 22 August 2018.

50. Some detainees held in 'Izoliatsiia' were forced to perform work. According to one detainee held in 'Izoliatsiia' in 2017, "in order to eat, one had to work."[307] Some detainees reported that they volunteered to work in the kitchen, as it also allowed them to get access to better food.[308] Men were ordered to move heavy objects, including ammunition, and clean cars and military vehicles, often parked in the yard of the detention facility.[309] One detainee told OHCHR that he was forced to do work he was not physically fit to do. He said he "nearly died" while performing such work.[310] Detainees said if they agreed to work, they were better treated by the guards.[311]

V. Perpetrators

51. According to former detainees, 'Izoliatsiia' guards wore military-style uniforms without insignia and almost always covered their faces with balaclavas.[312] Those in charge of 'Izoliatsiia' and interrogators covered their faces less frequently and some could be identified. OHCHR was provided with several dozen names and call signs of 'Izoliatsiia' personnel (both guards and managerial staff), as well as those who investigated 'Izoliatsiia' detainees. Some detainees believed that many of them were from the Russian Federation.[313]

52. From July to early autumn of 2014, a commander with the call sign 'Mongol' was reportedly in charge of the facility.[314]

53. Between 2016 and February 2018, the person in charge of 'Izoliatsiia' was known by the call sign 'Palych'. Former detainees said that he personally beat and electrocuted them during interrogations. Several detainees believe that he beat detainees "for fun".[315] One detainee described him as "a cheerful sadist", because he appeared to enjoy violence and often beat and ill-treated detainees after interrogations were over.[316] When one detainee complained about their health condition, 'Palych' said: "Are you really in pain? I will call someone then who will make it even more painful".[317]

54. Several detainees alleged that 'Palych' subjected female detainees to sexual violence including rape.[318] One detainee told OHCHR that 'Palych' once summoned one of her cellmates, and afterwards she heard screams coming from his office on another floor. The cellmate returned hours later in torn clothes and crying uncontrollably. She refused to talk about what had happened.[319]

55. According to several detainees who were held at 'Izoliatsiia' during that time, one evening in early February 2018, 'Palych' opened the cells and began beating detainees. He ordered the guards to join, and the detainees to beat each other.[320]

56. On 11 or 12 February 2018, 'Palych' was replaced by a man with the call sign 'Kuzmich'.[321] Some detainees said that life at 'Izoliatsiia' became "calmer" and "more tolerable"[322] under his command, and others said that they were beaten less.[323]

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307 OHCHR interviews, 12 January 2018 and 23 June 2020.
308 Ibid.
309 OHCHR interview, 22 February 2017.
310 OHCHR interviews, 23 December 2017 and 13 February 2019.
311 OHCHR interview, 15 May 2018.
312 OHCHR interviews, 25 August 2015, 10 August and 22 February 2017, 12 and 16 January 2018, and 23 June 2020.
313 OHCHR, Report on the human rights situation in Ukraine, 16 November 2019 – 15 February 2020, Annex I, para. 15.
314 OHCHR interviews, 12 April and 18 December 2015.
315 OHCHR interview, 16 January 2020.
316 Ibid.
317 OHCHR interview, 13 January 2020.
318 OHCHR interview, 16 January 2020.
319 OHCHR interview, 24 January 2020.
320 OHCHR interviews, 13, 15 and 16 January 2020, and 31 March 2021.
321 OHCHR interview, 15 January 2020.
322 OHCHR interview, 21 January 2020.
323 Ibid.

57. Another person identified by former detainees had the call sign 'Lenin',[324] who was believed to be an 'mgb colonel'. 'Lenin' often oversaw interrogations of detainees, but did not take part in torturing them.[325] Detainees called him one of the 'Izoliatsiia' managers and said he visited the detention facility once a month.[326]

VI. Accountability

58. OHCHR has repeatedly raised concerns related to arbitrary and incommunicado detention, torture and ill-treatment of detainees in 'Izoliatsiia' during meetings with various actors in territory controlled by 'Donetsk people's republic', through referrals on cases of individual detainees, and in public reports.[327]

A. Actions by actors in 'Donetsk people's republic'

59. OHCHR is not aware of any actions taken by actors of 'Donetsk people's republic' to address allegations of arbitrary and incommunicado detention, torture and ill-treatment in 'Izoliatsiia', and to halt these practices. Detainees interviewed by OHCHR did not provide any information about internal inspections of the facility by 'prosecutor general's office' or by 'office of ombudsperson' or by any other actor of 'Donetsk people's republic'.

B. National investigations

60. According to the Office of the Prosecutor General, law enforcement agencies of Ukraine have identified 58 individuals believed to be involved in violations of laws and customs of war by 'mgb', such as illegal deprivation of liberty, torture and ill-treatment in 'Izoliatsiia'. Thirteen of them have been notified of suspicion under articles 149.1 (human trafficking), 258[3] (creation of a terrorist group or organization), 260 (creation of unlawful paramilitary or armed formations), 28.2 (committing a crime by a group) 438.1 (violations of laws and customs of war) of the Criminal Code.

[324] OHCHR interviews, 13, 15, 16, 20, 21 and 24 January 2020.
[325] OHCHR interview, 13 January 2020.
[326] OHCHR interview, 15 January 2020.
[327] OHCHR, Report on the human rights situation in Ukraine, 16 August to 15 November 2015, para. 36; OHCHR, Report on the human rights situation in Ukraine, 16 November 2015 to 15 February 2016, para. 57; OHCHR, Report on the human rights situation in Ukraine, 16 August to 15 November 2017, para. 54; OHCHR, Report on the human rights situation in Ukraine, 16 November 2017 to 15 February 2018, Annex I, paras. 20 and 23; OHCHR, Report on the human rights situation in Ukraine, 16 May to 15 August 2018, para. 54; and OHCHR, Report on the human rights situation in Ukraine, 16 November 2019 to 15 February 2020, paras. 65 and 67, and Annex I, paras. 16, 21, 23, 25, 26, 29, 35 and 37-41.