CRIMES WITHOUT PUNISHMENT:

Human Rights Violations in the Context of the Armed Conflict in Eastern Ukraine

This report was produced by the NGO Eastern-Ukrainian Centre for Civic Initiatives in cooperation with the Dnipro-based "Sich" Human Rights Group and Kyiv-based Civic Committee for the Protection of Constitutional Rights and Civil Liberties.

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CRIMES WITHOUT PUNISHMENT: Human Rights Violations in the Context of the Armed Conflict in Eastern Ukraine

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This report was developed to cover the situation involving official investigations of criminal offences committed against civilians and Ukrainian military personnel in the context of the armed conflict in Eastern Ukraine. Based on case studies, the report provides an account of certain systemic problems during the investigation and suggests viable solutions. Any person interested can draw conclusions whether the investigations are effective or not, based on the actual circumstances of individual criminal offences described in the report.

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CONTENTS

SUMMARY

The report provides a summary of the study that the Eastern-Ukrainian Centre for Civic Initiatives in cooperation with Dnipro-based "Sich" Human Rights Group and Kyiv-based Civic Committee for the Protection of Constitutional Rights and Civil Liberties carried out throughout January to August 2018.

The study aimed to identify key/systemic problems in the conduct of official investigations of criminal offences against the civilians and Ukrainian service personnel in the context of the armed conflict in Eastern Ukraine based on analysis of specific criminal proceedings.

It focused on the cases of intentional deprivations of life of civilians and service personnel in non-military situations, enforced disappearances of civilians and the disappearances of service personnel at their duty stations, rape, illegal deprivation of liberty and abduction on the temporarily occupied territory of Donbas. Particular attention was paid to cases of deaths and injuries of civilians during artillery shelling of the government-controlled territories and cases of destruction and damage to residential buildings caused by artillery shelling on both sides of the contact line.

The report provides an account of the actual circumstances of investigation of individual cases (considering legislative restrictions). It enables readers to independently conclude whether the investigations were effective.

At the same time, the authors identified a wide range of problems and deficiencies in official investigations that may prove their ineffectiveness. In particular, the common problems in investigations were as follows:

- Failure to enter information on criminal offences into the Unified Register of Pre-Trial Investigations;
- Territorial jurisdiction for pre-trial investigations of criminal offences committed on the occupied territories is assigned with the pre-trial investigations authorities located far away, or with poor transport accessibility from the crime scene/residence of the majority of witnesses and victims;
- The activities of law enforcement officers are not prompt enough;
- Lack of thoroughness in investigative/search activities, in particular, unjustified delays in organizing the necessary forensic assessments, failure to interrogate all witnesses, superficial interrogation, etc.
- Suboptimal use of forensic technology, tactics and techniques;
- Failure to conduct investigative activities at victim's request;
- Effective modality of investigation of crimes related to artillery shelling is missing;
- No unified approach to qualification of crimes related to infringements on inviolability of housing on the occupied territories;
- Lack of information exchange between various pre-trial investigation authorities on criminal proceedings;
- Law enforcement agencies do not provide a legal response to the use of civilian real estate for military purposes and the looting of residential houses;
- Lack of adequate procedural supervision over pre-trial investigations on the side of prosecutors.

To have these problems addressed the authors developed recommendations for the Verkhovna Rada of Ukraine, Ministry of Justice, Ministry of Defence, Ministry of Interior, Prosecutor General's Office and the National Police.

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The authors of the report and Eastern-Ukrainian Centre for Civic Initiatives express their gratitude to the victims, their family members and lawyers who shared their stories and contributed to these report, namely, to: Oleksandr Hryshchenko, Vitalii Dobrozhan, Anatolii Martynenko, Liubov Dovhal, Viktoriia and Oleksandr Kukharski, Iryna Kozodoi, Ivan Osypov and others whose names we keep confidential due to security considerations and for the sake of further investigations.

We hope that the publication of critical comments on the investigation of cases of these persons and submitting them to law enforcement officers will help more effective investigation and prevent impunity at large.

We express special gratitude to the Military Prosecutor of the United Forces Oleh Tsitsak and Deputy Head of Investigative Department of the Main Department of the National Police of Ukraine in Donetsk oblast Dina Lukianchuk who allocated their time to share ideas on this topic.

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Authors of the report,
Eastern-Ukrainian Centre for Civic Initiatives

ACRONYMS AND ABBREVIATIONS

AFU	–	Armed Forces of Ukraine
ATO	–	Anti-terrorist operation
CCP of Ukraine	–	Code of Criminal Procedure of Ukraine
CCU	–	Criminal Code of Ukraine
CMU	–	Cabinet of Ministers of Ukraine
'DPR'/'LPR'	–	So-called 'Donetsk People's Republic'/'Luhansk People's Republic'
ECHR/Convention	–	(European) Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR/Court	–	European Court of Human Rights
EUCCI	–	Eastern-Ukrainian Centre for Civic Initiatives
IAG/IAGs	–	Illegal armed group/ Illegal armed groups
ICC	–	International Criminal Court
IHL	–	International humanitarian law
IU	–	Investigative unit/police investigative department
MDNP	–	Main Department of the National Police
MIA	–	Ministry of Internal Affairs of Ukraine
NGO	–	Non-governmental organization
PACE	–	Parliamentary Assembly of the Council of Europe
SSU	–	Security Service of Ukraine
URPI	–	Unified Register of Pre-Trial Investigations
USRCD	–	Unified State Register of Court Decisions

KEY DEFINITIONS

Pre-trial investigation is the stage of criminal proceedings that starts when information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations (hereinafter: URPI) and ends with a criminal proceeding is closed; or when an indictment or a motion on mandatory medical or correctional measures, or a motion of release from criminal liability, is submitted to the court.

The Unified Register of Pre-Trial Investigations (UPRI) is an automated electronic database that provides collection, storage, protection, record, search and summary of data on criminal offences. The register is established and maintained in line with the requirements of the Code of Criminal Procedure of Ukraine (hereinafter: CCP of Ukraine). Its goals are: 1) to register criminal offences/proceedings and the recording of decisions made during the pre-trial investigations, persons that made the decisions and outcomes of court proceedings; 2) to provide timely control over the observation of laws in the context of pre-trial investigations; 3) to analyse the status of structure of criminal offences committed in Ukraine; and 4) to provide information and analytical support to the law enforcement agencies.

Criminal proceeding is the pre-trial investigation and court proceeding and other procedural activities with regard to an offence which is punishable under the criminal law of Ukraine. In certain cases – context-specific – it may refer either to a process (investigation and/or trial) or materials of pre-trial investigation. For the latter, a synonym term 'case' is occasionally used for the reasons of simplicity.

Occupied territories – temporarily occupied territories in Donetsk and Luhansk oblasts[1].

[1] According to Article 1 of the Law of Ukraine "On Peculiarities of State Policy on Ensuring Ukraine's State Sovereignty over Temporarily Occupied Territories in Donetsk and Luhansk "Oblasts," the temporarily occupied territories in Donetsk and Luhansk oblasts are parts of the territory of Ukraine over which the armed formations of the Russian Federation and occupational administration of the Russian Federation have established and carry out general control, namely:

1) the land territory and its internal waters within the limits of separate districts, cities, towns, settlements and villages of Donetsk and Luhansk oblasts;
2) internal sea waters adjacent to the land territory specified in paragraph 1 of this part;
3) subsoil under the territories specified in paragraphs 1 and 2 of this part and airspace above these territories.

The boundaries and the list of districts, cities, towns, settlements and villages, parts of their territories in the Donetsk and Luhansk oblasts that are temporarily occupied are determined by the President of Ukraine upon submission of the Ministry of Defense of Ukraine prepared based on the proposals of the General Staff of the Armed Forces.

Since the report does not focus on the investigation of criminal offences committed on the territory and/or related to the temporary occupation of the Autonomous Republic of Crimea, the term "occupied territories" used in the report does not apply to the temporarily occupied territory of the Autonomous Republic of Crimea.

INTRODUCTION

Since the outbreak of armed conflict, Ukraine has faced the necessity of carrying out the effective investigation of conflict-related criminal offences along with ensuring national security and defence.

The military aggression of the Russian Federation against Ukraine that broke out in early 2014 caused large-scale and systemic human rights violations all over Donetsk and Luhansk oblasts and in some instances – in other regions. Ukraine had never suffered this scale and impact of human rights infringements since its independence. The human being, his or her life and health, honour and dignity, freedom, inviolability, property and other rights and freedoms protected by law and recognized by a civilized world have been subject to long-term harm. It is only now that the joint efforts of the government, civil society and international organizations have helped to provide certain remedies.

The situation is particularly critical in the occupied territories, where numerous cases of intentional deprivations of life and summary executions, illegal deprivation of liberty and abduction, torture, looting and other crimes have occurred which directly related to the occupation of the region by the aggressor state. These crimes were committed by the members of illegal armed groups (hereinafter: IAGs), including local residents and mercenaries from Russia, and professional Russian military and officers of the special service agencies of the Russian Federation that were present in the region.

The flare-up in crimes did not bypass the government-controlled territory of Ukraine. Most of crimes were committed here at the height of the conflict in 2014-2015.

During this time, the Eastern-Ukrainian Centre for Civic Initiatives (hereinafter: EUCCI) and other human rights organizations have documented certain cases of deprivation of life, numerous enforced disappearances, infringements on inviolability and looting of civilian housing in the conflict area.

More recently, crimes have related to the deaths and injuries of the civilians, damage to property due to artillery shelling that law enforcement officers qualify as terrorist acts, as well as the looting of civilian housing in the conflict area are documented on government-controlled territory. A separate – and specific – group of offences are the so-called 'non-battle casualties' of Ukrainian service personnel, including 'mysterious suicides' (evidencing signs of deprivation of life) and cases of going missing at duty station (not directly related to the hostilities).

Unfortunately, law enforcement and the judicial systems of Ukraine proved to be unprepared for these developments. This has culminated in a widespread pattern of impunity – the overwhelming majority of persons who committed crimes have not been held accountable.

In its Resolution 2133 (2016) on Legal remedies for human rights violations on the Ukrainian territories outside the control of the Ukrainian authorities, the Parliamentary Assembly of the Council of Europe (hereinafter: PACE) stated that in the conflict zone in the Donbas region the civilian population, as well as a large number of combatants, were subjected to violations of their rights to life and physical integrity and to the free enjoyment of property, as a result of war crimes and crimes against humanity including the indiscriminate or even intentional shelling of civilian areas, sometimes provoked by the stationing of weapons in close proximity. […] The inhabitants also suffer from the prevailing climate of impunity and general lawlessness due to the absence of legitimate, functioning State institutions, and in particular access to justice (paras 10 and 11 of the Resolution). In addition, the Assembly urged the competent authorities of both Ukraine and the Russian Federation to: 1) **effectively investigate** all cases of serious human rights violations allegedly committed in all areas under their effective control; 2) prosecute their perpetrators, thereby also discouraging any such violations in future; 3) compensate their victims to the extent possible (para 17 of the Resolution).

Prompt, complete, impartial investigation and trial is one of key objectives of criminal proceedings. The idea is that anyone who has committed a criminal offence is prosecuted in the extent of his/her guilt, no one is accused or convicted, no one is subjected to unjustified

procedural coercion and that each party to the criminal proceeding enjoys the right to due process.

The impunity is a cause of new offences and entrenches distrust in the law enforcement system in Ukraine, both on the side of victims and their family members, and the community at large.

Most of the criminal proceedings are currently investigated by the police of Donetsk and Luhansk oblasts (apart from the artillery shelling, which is qualified as terrorist acts and is investigated by the investigative units of the Security Service of Ukraine (hereinafter: SSU)).

This study proves particularly relevant as the official investigations in many conflict-related cases fall behind the principles of official investigations. At the same time, the reasons for these problems and any viable solutions are out of focus of the community, human rights organizations and the mass media.

The goal of the study is to identify key/systemic problems in the conduct of official investigations of criminal offences against the civilians and Ukrainian service personnel in the context of the armed conflict in Eastern Ukraine based on analysis of specific criminal proceedings; and suggest viable solutions to these problems.

Scope of the study encompasses criminal offences that have been committed both on government-controlled and temporarily occupied territories of Ukraine in Donetsk and Luhansk oblasts[2] (not including the temporarily occupied territory of the Autonomous Republic of Crimea).

Victims of the crimes under scrutiny include the civilians and service personnel (as long as a crime has been committed outside the context of hostilities, for example – a service person was deprived of life at the military unit headquarters, a person went missing in a place other than in a combat zone, etc.) while the very crimes are related to the armed conflict.

The scope of study does not include offences committed against the service personnel in the context of hostilities[3] (deprivation of life on a battlefield, torture in captivity, etc.), violations of the laws and customs of war, since such offences occur within the scope of armed conflict directly and thus should be subject to a separate study.

The *conclusions* on the problems and drawbacks of investigations and recommendations of the authors on possible improvements are based on the scrutiny of pre-trial investigation materials of 35 criminal proceedings that were investigated by the investigative units of the National Police of Ukraine and SSU.

The sample encompasses cases on diverse types of crimes (enforced disappearances, deprivations of life, rapes, etc.). At the same time, these cases are not evenly distributed between the respective chapters of the report. For example, the report only provides an account on one case of rape and two cases of deprivation of life of civilians. The reason is that certain types of crimes entail large number of victims who do not conceal the fact and circumstances of crime against them[4], while in the case of other crimes, the victims tend to keep this information confidential and are reluctant to contact human rights defenders[5] which complicates the collection of necessary data.

The sample included both the cases in which the EUCCI or partner NGOs provided legal aid to the victims and the cases that were reported later during the data collection for this study. Priority was given to cases in which victims or their family members took sufficient steps to report the offence and request that it is investigated.

In certain cases, the researchers independently initiated official investigations and/or specific investigative activities in the interest and upon instruction of the victims. To this end, they submitted the respective motions/requests to law enforcement officers. This method is called '*an experiment*.'

The experiment as a method of data collection is relevant and necessary because analysis of the victims' materials was often not enough to impartially evaluate the performance or omission of law enforcement officers. For example, several victims submitted motions requesting from an investigator to set investigative/search actions, but these motions were not specific enough while properly justified. In these cases, the investigators dismissed the motions or conducted investigative/search actions other than those requested from them by a victim.

The experiment helped to identify and impartially evaluate how the law enforcement officers address specific and the well-drafted requests/motions of the victims.

Another method of data collection is semi-structured interviews with the prosecutors and police officers.

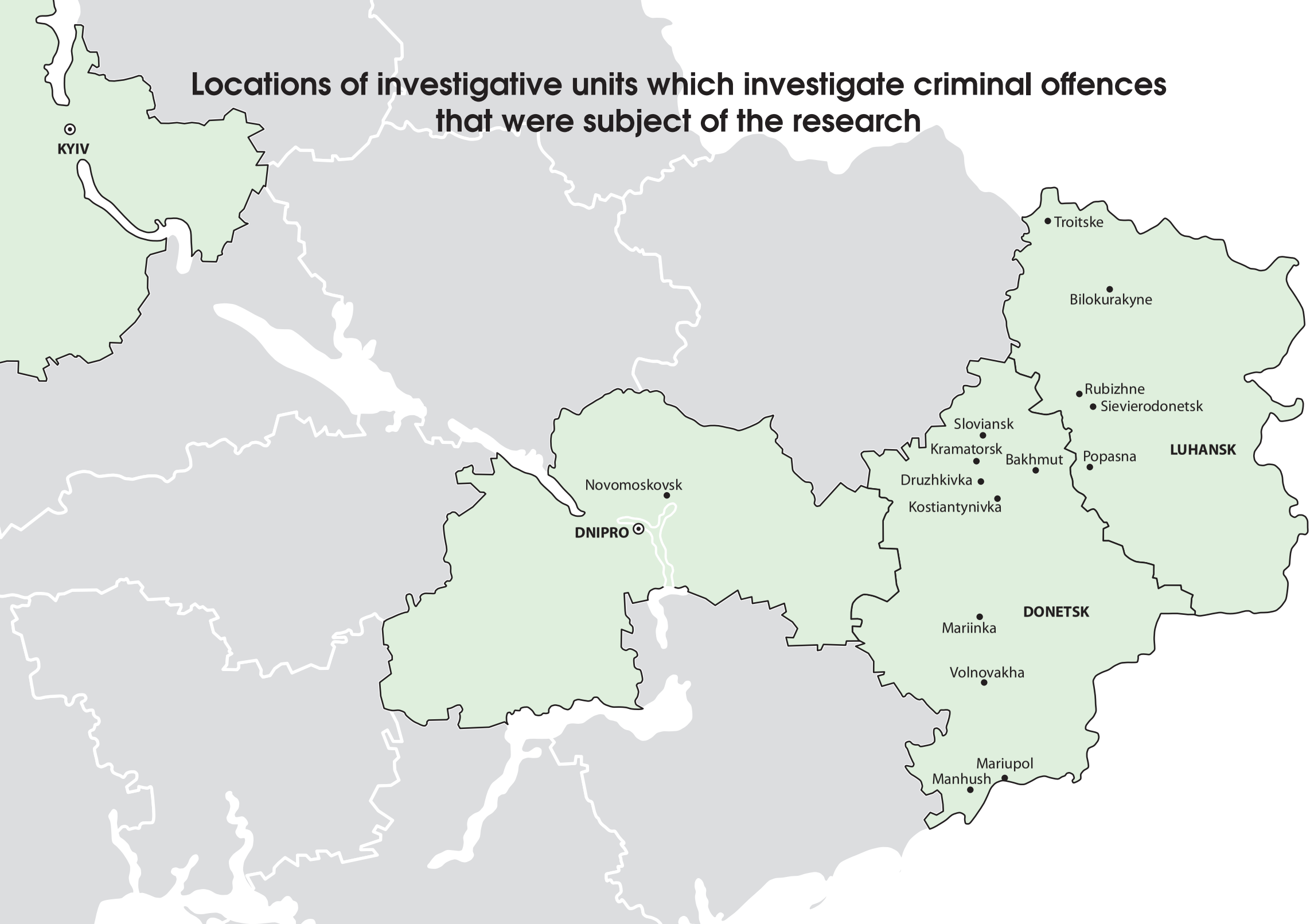
[2] The only conclusion drawn was made with regard to the *Makarenko* case (Dnipropetrovsk oblast), since the respective military unit was temporarily located outside the ATO area.

[3] The only conclusion drawn was made with regard to the *Hryshyn* case to demonstrate one of critical problems that the family members of killed service personnel face.

[4] For example: cases of illegal deprivation of liberty and abduction on the occupied territories that were frequently committed against civic activists who are still active in the community; cases related to artillery shelling in which victims often request compensation and contact human rights defenders on their own.

[5] For example: cases of rape and other gender-based violence, cases concerning deprivations of life on the occupied territories.

Locations of investigative units which investigate criminal offences that were subject of the research



Interviews were conducted with the Military Prosecutor of the United Forces Oleh Tsitsak (24 July 2018, Kramatorsk, Donetsk oblast) and Deputy Head of Investigative Department of the Main Department of the National Police of Ukraine in Donetsk oblast Dina Lukianchuk (20 July 2018, Mariupol, Donetsk oblast).

The study only focuses on the pre-trial investigation stage – official investigation before transferring a case to the court[6] – and sets aside the problems that might emerge at other stages of criminal proceedings. The reason is that every stage of criminal proceedings has a number of specific issues that have to be analysed individually. While the key task of pre-trial investigation is to establish all circumstances of a crime and the perpetrators, the court proceedings aim at impartial and objective consideration of an indictment against an accused person.

The list of problems and drawbacks that the authors identified in the investigations is not exhaustive and comprehensive. In particular, the report does not concern itself with the issue of the suboptimal professional competence of investigators, since a separate study is necessary to produce impartial conclusions on matter. Nor does the report concern various political (political climate), economic (wages of law enforcement officers, funding of law enforcement agencies, etc.) and social (high rate of crime and general aggravation of crime situation in the region, social conflict in society) reasons for the ineffectivenss of investigations. The authors were not able to analyse these issues due to limited scope, time and resources. At the same time, the authors do not deny these problems and acknowledge that they significantly affect the investigations. Other human rights NGOs have focused on these problems in their studies.

The preliminary findings of the study were shared with fellow human rights defenders, who mostly agreed that the identified patterns and flaws in investigations were common in Ukraine.

To prevent disclosure of information and do no harm to further investigations, the authors had to conceal certain details, investigative leads and sometimes the names of victims when elaborating on the circumstances of investigation of certain cases in the report.

The authors recognize their interest in effective investigations and the prompt restoration of justice for the victims. At the same time, we tried to be as impartial and objective as possible in presenting the circumstances, their interpretations and evaluation.

The organizations that authored the study highly appreciate the efforts made by the Armed Forces of Ukraine (hereinafter: AFU) and law enforcement agencies to ensure the independence, unity and territorial integrity of Ukraine, and to overcome impunity. At the same time, impartial presentation of the circumstances of the cases and the evaluation of investigations prompted the authors to make certain critical comments and sometimes recognize the omission of law enforcement officers or unlawful actions of the service personnel.

The authors hope that the target audience will consider and implement the recommendations in their further work.

[6] According to the law of Ukraine, criminal proceeding is composed of several stages including pre-trial investigation, court proceeding, and execution of court decision.

1. APPLICABLE LAW

1.1. Standards of investigation in the ECtHR case-law

The European Court of Human Rights (ECtHR) regularly considers individual claims related to ineffective investigation of grave violations of human rights established by the Convention for the Protection of Human Rights and Fundamental Freedoms. In its case-law, the Court emphasizes the need to comply with the standards of effectiveness of pre-trial investigation. Although the temporarily occupied territories are inaccessible to Ukrainian law enforcement and judicial authorities, the violations of human rights that take place there fall within the jurisdiction of the Convention. In considering future cases, the ECtHR will determine which State Party to the Convention *de facto* exercises control over these territories. Evidently, the Court will consider the possible responsibility of both Ukraine as the territory where the self-proclaimed republics are located and the Russian Federation in that it can exercise effective control there.

It is highly likely that the international courts will further recognize Ukraine's partial responsibility for violating human rights on non-government-controlled territories. To a greater extent, that will apply to non-fulfilment of the state's positive obligations – that is, Ukraine's failure to take necessary measures to ensure the protection of human rights. An important precedent is the ECtHR Judgment in the case of *Ilaşcu and Others v. Moldova and Russia* where the Court found that even in the absence of effective control, the State still has a positive obligation under Article 1 of the Convention to take all appropriate measures to protect the applicants' rights guaranteed by the Convention[7].

As regards official investigations of criminal offences committed against civilians and Ukrainian service personnel (in non-military circumstances) in Eastern Ukraine, they often lack adequate effectiveness. This is confirmed by the increased number of applications to the ECtHR. The plaintiffs have complained of violations of the Convention – in particular, Ukraine's failure to effectively investigate violations of the right to property, illegal detention, torture and deprivations of life[8]. The obligation to prosecute perpetrators of the most serious human rights violations is enshrined in the practice of the ECtHR as a **procedural aspect** of certain articles of the Convention. That is, the States Parties to the Convention have an obligation to carry out an effective investigation into violations of the substantive parts of these articles[9].

The following violations are the most common in this regard:
Article 2 (right to life) – ineffective investigations of alleged deprivations of life, as well as the whereabouts and fate of missing persons in circumstances that threatened their life;
Article 3 (prohibition of torture) – inappropriate investigation of cruel or degrading treatment where complaints or sufficient information is made available to suggest that such treatment took place;
Article 5 (right to liberty and security of person) – failure of state authorities of Ukraine to conduct an effective investigation of the whereabouts and fate of missing persons when there were reasonable suspicions that they were held in illegal detention when they went missing;
Article 13 (right to an effective remedy) – failure of state authorities of Ukraine to provide an effective remedy for the violation of human rights in investigations in accordance with Articles 2 and 3 of the Convention.

According to the ECtHR case-law, the obligation to protect the right to life under Article 2 of the Convention is determined in conjunction with the general obligation of the State under Article 1 of the Convention, which mandates the Parties "to secure to everyone within their jurisdiction the rights and freedoms defined in […] this Convention"[10] and also indirectly requires **effective**

[7] ECtHR Judgment in the case of *Ilaşcu and Others v. Moldova and Russia*, Application no. 48787/99, p. 331.

[8] ECtHR Communicated case of *Lefter and Others v. Ukraine and Russia*, Application no. 30863/14.

[9] ECtHR Judgment in the case of *Fedorchenko and Lozenko v. Ukraine*, Application no. 387/03, pp. 41-42.

[10] Convention for the Protection of Human Rights and Fundamental Freedoms, 04.11.1950.

investigation in any form if a person is deprived of his/her life as a result of the use of force[11]. The right to life has two components: the substantive component by virtue of which every person has the right not to be arbitrarily deprived of life, which thus imposes certain restrictions on the use of force, and the **procedural component** which requires a **prompt, independent and impartial investigation** and prosecution in cases where there is reason to believe that a person was arbitrarily deprived of life[12]. The main **aim** of such an investigation is to ensure the effective implementation and application of national law protecting the right to life. State authorities should act on their own initiative in each case that has become known to them irrespective of the form of investigation. State authorities cannot transfer this obligation to family members, wait for a formal complaint or transfer responsibility for the investigation to other persons[13]. **This is not an obligation of result, but an obligation to take measures.**

The state authorities should take all measures to preserve evidence related to the violation. Any gaps in the investigation that undermine its ability to determine the cause of death or perpetrators increases the risk of failure to comply with the standards established by the Convention[14]. Also, the standard indirectly implies the requirement of **reasonable promptness**[15]. While various difficulties and impediments may hinder the progress of investigation, it is critical that the state authorities promptly respond to the violation to boost public confidence in compliance with the rule of law in preventing any signs of conspiracy or leniency to unlawful actions[16].

The criteria for effective investigation of violations of *Article 3* of the Convention are similar to the criteria on procedurals aspect of Article 2. Article 3 sets an obligation to investigate **credible allegations** (so-called *prima facie*) **on torture or other cruel treatment.** State authorities should take all necessary procedural steps to investigate the facts of ill-treatment that a person complains of (for example, collecting eyewitness testimony, witness testimony, obtaining expert opinions, and – where feasible – conducting medical examination of a person to assess injuries, etc.)[17]. Investigations into ill-treatment must be thorough. This means that authorities should always try to find out in good faith what has happened and not rely on hasty and unreasonable conclusions to close a criminal case, or to use such conclusions as the basis for their decisions. They must use all reasonable and accessible measures to collect evidence relevant to the offence, including, witness testimonies, findings of forensic examinations. Any gaps of investigation that undermine its ability to determine the cause of bodily injury or perpetrators will increase a risk of failure to comply with the standard[18].

Immediate and effective investigation is also required under *Article 5* if there is **reasonable suspicion that a person has been arrested and has gone missing**. State authorities are obliged to provide a credible and justified explanation of the whereabouts and fate of the missing person after he or she was detained[19]. Also, the Court in its case-law emphasizes that even during an armed conflict and impossibility to identify those who were illegally deprived of liberty, the State Party should take additional investigative steps to find out the cause of the disappearances[20]. Failure of state authorities to officially address a person's detention is a complete denial of guarantees of the rights of detainees under Article 5 of the Convention.

Article 13 of the Convention *inter alia* guarantees the **availability of remedies at the national level for the exercise of the right to an effective investigation**. The boundaries of the State's obligations under Article 13 depend on a particular violation that a person complains about. In its case-law, the Court emphasizes that the requirements of Article 13 are broader than the State's obligation to conduct an effective investigation in accordance with Articles 2 and 3. For example, as regards alleged violations of Articles 2 and 3 of the Convention, Article 13 requests both providing compensation to victims and conducting thorough and effective investigation for identification and bringing perpetrators to liability, including a claimant's effective access to the investigation procedure. Ineffectiveness of investigation undermines effectiveness of other means, including the possibility to file civil suits for compensation of damages[21].

[11] ECtHR Judgment in the case of *Kaya v. Turkey*, Application no. 158/1996/777/978, p. 86.

[12] Office of the United Nations High Commissioner for Human Rights. Accountability for killings in Ukraine from January 2014 to May 2016. Available at: https://www.ohchr.org/Documents/Countries/UA/OHCHRThematicReportUkraineJan2014-May2016_EN.pdf.

[13] ECtHR Judgment in the case of *Ilhan v. Turkey*, Application no. 22277/93, p. 63.

[14] ECtHR Judgment in the case of *Gongadze v. Ukraine*, Application no. 34056/02, p. 176.

[15] ECtHR Judgments in the cases of *Yasa v. Turkey*, Application no. 63/1997/847/1054, pp. 102-104; *Cakici v. Turkey*, Application no. 23657/94, pp. 80, 87 and 106.

[16] ECtHR Judgments in the cases of *McKerr v. United Kingdom*, Application no. 28883/95, pp. 108-115; *Avsar v. Turkey*, Application no. 25657/94, pp. 390-395.

[17] ECtHR Judgment in the case of A.N. *v. Ukraine*, Application no. 13837/09, pp. 65-72.

[18] ECtHR Judgment in the case of *Karabet and Others v. Ukraine*, Applications no. 38906/07 and 52025/07, p. 259.

[19] ECtHR Judgment in the case of *Kurt v. Turkey*, Application no. 12815/1997/799/1002, pp. 128-129.

[20] ECtHR Judgment in the case of *Cyprus v. Turkey*, Application no. 25781/94, pp. 143-148.

[21] ECtHR Judgment in the case of Isayeva, *Yusupova and Bazayeva v. Russia*, Applications no. 57947/00, 57948/00 and 57949/00, pp. 236-240.

Investigation should be effective in a sense that it can identify and bring perpetrators to liability. This is not an obligation to achieve the result, but an obligation to take measures.

According to the minimum effectiveness requirements that the Court has established in its case-law, investigation must be **independent, impartial and subject to public scrutiny, and the competent authorities must act with exemplary diligence and promptness**[22].

To deliver on the Action Plan to Implement the National Human Rights Strategy of Ukraine by 2020 that was approved by the Decree of the Cabinet of Ministers of Ukraine (hereinafter: CMU) # 1393-r as of 23.11.2015, the Scientific and Research Laboratory for Countering Crime of Kharkiv National University of Internal Affairs has developed scientific and technical guidelines "Principles of Effective Investigation in accordance with the ECtHR case-law.""[23]

The researchers summarized essential **principles of effective investigation** in accordance with the international instruments and the ECtHR case-law and identified the following:
- the principle of avoiding unlawful use of coercive measures;
- the principle of responsibility and justice;
- the principle of legal justification of police measures and procedural actions;
- presumption of innocence and observance of reasonable terms;
- the principle of legal aid and adequate interrogation;
- the principle of justification of arrest or detention of a person[24].

Having analysed the ECtHR case-law on the requirements of investigations under Articles 2 and 3 of the Convention, the researchers outlined the following **requirements**:

Article 2 of the Convention:
- effectiveness – independent and impartial investigation that meets certain minimum effectiveness standards;
- independence – officers responsible for the investigation should be independent from those involved in the events under investigation;
- preservation of evidence – taking all measures to preserve evidence related to the event[25].

Article 3 of the Convention:
- diligence of investigation;
- effectiveness of collecting evidence in investigation;
- independence and impartiality of investigation[26].

Thus, an effective investigation of a criminal offence should meet the following minimum criteria under the Convention:
- independence and impartiality;
- involvement of a victim and civic control/openness and transparency in reasonable limits at all stages of the investigation;
- diligence (completeness) and promptness (timeliness);
- reasonable terms.

1.2. National law

The Criminal Code of Ukraine (hereinafter: CCU)[27] *inter alia* establishes criminal liability for intentional deprivation of life, bodily injuries of various severity, beating and torment, torture[28], deprivation of liberty or abduction of a person, terrorist act, involvement in the commission of a terrorist act, public appeals to commit or facilitation of a terrorist act, creating a terrorist group or a terrorist organization, and funding terrorism. Separate sections of the CCU refer to crimes against the established procedure of military service (military crimes[29]) and crimes against peace, security of humanity and international order (planning, preparing, starting and conducting aggressive war, violating the laws and customs of war).

The procedure for criminal proceedings in Ukraine is determined exclusively by the criminal procedural law of Ukraine that consists of the provisions of the Constitution of Ukraine, international treaties ratified by the Parliament, **the CCP of Ukraine[30] and other laws of Ukraine.**

Article 2 of the CCP of Ukraine states that the objectives of criminal proceedings are to protect the person, society and state from criminal offences, protect the rights, freedoms and legitimate interests of the parties to criminal proceedings, as well as to ensure *a prompt, complete and impartial investigation and trial* so that any person who has committed a criminal offence

[22] ECtHR Judgments in the cases of *Muta v. Ukraine*, Application no. 37246/06, p. 6; *Aleksandr Nikonenko v. Ukraine*, Application no. 54755/08, p. 44.

[23] Principles of Effective Investigation in accordance with the ECtHR case-law. Scientific and technical guidelines. K.Buhaichuk, Ye.Hladkova, T.Malynovska, I.Sviatokum, O.Fedosova. Kharkiv, Kharkiv National University of Internal Affairs, 2017, 81 p.

[24] Ibid, pp. 27-32.

[25] Ibid, pp. 38-39.

[26] Ibid, pp. 40-43.

[27] The CCU adopted on 5 April 2001, and effective from 1 September 2001.

[28] In Ukraine, torture is recognized as a crime of moderate gravity (maximum punishment is imprisonment for up to five years). In case of aggravating circumstances (the same action is committed repeatedly or by a group of persons in collusion, or on motives of racial, national or religious hatred) it is considered a grave crime (maximum punishment is imprisonment for up to ten years). In its Resolution 2112 (2016) "The humanitarian concerns regarding people captured during the war in Ukraine," the PACE urged the Ukrainian authorities to recognize torture as a grave crime.

[29] Hereinafter the effective definitions of the Criminal Code are used.

[30] The new CCP of Ukraine was adopted on 13 April 2012 and is effective from 19 November 2012.

is brought to justice, no innocent person was accused or convicted, no person was subjected to unjustified procedural coercion, and that every party to the criminal proceedings is subject to due process.

According to the objectives of criminal proceedings, **the investigation should first and foremost be prompt, complete and impartial.**

General principles of criminal proceedings:
1) the rule of law;
2) legality;
3) equality before the law and the court;
4) respect for human dignity;
5) protecting the right to freedom and integrity of a person;
6) inviolability of housing or other property of a person;
7) privacy of communication;
8) freedom from interference with privacy;
9) inviolability of property rights;
10) presumption of innocence and ensuring proof of guilt;
11) freedom from self-disclosure and the right not to testify against close relatives and family members;
12) prohibition of double jeopardy;
13) ensuring the right to protection;
14) access to justice and the binding nature of court decisions;
15) adversary justice system and freedom of parties to submit evidence to court and prove its credibility;
16) direct consideration of testimonies, statements and documents;
17) ensuring the right to appeal procedural decisions, actions or omission;
18) publicity;
19) discretion;
20) publicity and openness of court proceedings and its full record by technical means;
21) reasonable terms;
22) the language of criminal proceedings.

Currently, the CCP of Ukraine does not establish a concept of "ineffective investigation"/ "ineffective pre-trial investigation."

In November 2017, a draft law[31] was submitted to the Verkhovna Rada to supplement the first part of Article 3 of the CCP of Ukraine (*key definitions of the Code*) with paragraph 28 as follows:

"*28) **ineffective pre-trial investigation** is a status of pre-trial investigation featured by low quality of procedural activities and performance of the investigator/group of investigators, as proven by the fact that the results of criminal proceedings for certain period of time fall short of the reasonably justified expected results that could have been achieved during this period of time given the complexity and specificity of the investigated criminal offence (based on the analysis of materials of criminal proceedings).*"

Later, the author withdrew the draft law[32].

Criminal proceedings are composed of several stages including pre-trial investigation, court proceeding (preparatory proceedings, court proceedings, judicial review of court decisions), and the execution of the court's decision.

Pre-trial investigation starts when information on a criminal offence is entered into the URPI. It ends when the criminal proceeding is closed, or with an indictment or a motion on mandatory medical or correctional measures, or with a motion on release from criminal liability is submitted to the court.

The Code provides that an investigator or a prosecutor immediately (but not later than in 24 hours after s/he received a report as to an allegation of a committed criminal offence or identified circumstance that can be referred to a commission of a criminal offence), enter the respective information into the URPI and start an investigation. That is, all allegations on criminal offences are to be subject to verification through criminal proceedings[33].

As a general rule, a pre-trial investigation is carried out by an investigator of a pre-trial investigation authority that has jurisdiction over the location where a criminal offence is alleged to have been committed.

Investigators of the National Police conduct the pre-trial investigation of all criminal offences, except for those that fall under the competence of other pre-trial investigation authorities. For example, the SSU investigates crimes against the foundations of national security of Ukraine, crimes related to terrorism, crimes against peace, security of humanity and international order and certain other types of crimes.

According to the amendments introduced to the CCP of Ukraine in October 2017, pre-trial investigation is now limited to certain terms (6, 12 and 18 months depending on the crime severity, or 1 or 2 months if a notification of suspicion is given to a person).

After the armed conflict broke out in October 2014, the CCP of Ukraine was amended by a supplemental section 24-1, which regulates the particularities of special pre-trial investigation of criminal offences (*in absentia*).

[31] Draft Law on Amendments to the Code of Criminal Procedure of Ukraine (On Improvement of the Procedure of Pre-Trial Investigation). Available at: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62947.

[32] The draft law was initiated by an MP Yurii Tymoshenko (eight convocation).

[33] Unlike the 1960 CCP of Ukraine that provided for the preliminary (pre-investigative) verification of allegations and reports. Such a verification was carried out within 10 days. Upon a verification, a criminal case was opened, or a prosecution was denied.

A special pre-trial investigation is carried out based on the decision of an investigating judge in criminal proceedings concerning crimes against the foundations of national security of Ukraine, certain crimes against human life and health, against public safety (terrorism), certain misdemeanours in office and crimes against peace, security of humanity and international order, as well as certain other crimes (Article 297-1 of the CCP of Ukraine) regarding a suspect (unless a suspect is a minor) who flees from prosecution and court to escape from criminal liability and is put on an international fugitive list. At the same time, the CCP of Ukraine was supplemented by a provision on special court proceeding that sets forth that a trial in criminal proceeding for such crimes may be carried out in the absence of a defendant (*in absentia*).

Earlier, in August 2014, the CCP of Ukraine was supplemented with chapter IX that defines a special regime of pre-trial investigation in martial law, state of emergency or in the Anti-terrorist operation (hereinafter: ATO) area. Amendments stipulated that if an investigative judge is unable to consider motions on temporary access to belongings and documents, on a search, on covert investigative/search activities, and to decide on a measure of constraint in the form of detention for up to 30 days for persons suspected of crimes against the foundations of national security of Ukraine, against public safety (terrorism) and certain other crimes (on administrative territories where a special legal regime is established), these functions are performed by the respective prosecutor.

In April-May 2014, in some districts of Donetsk and Luhansk oblasts IAGs with support and under leadership of the Russian Federation seized the administrative buildings of judicial and law enforcement agencies of Ukraine. This made the administration of justice and criminal proceeding on the respective territories impossible.

In this regard, on 12 August 2014, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "**On Administration of Justice and Criminal Proceedings Due to the ATO**."

The law allowed changing the territorial jurisdiction of court cases and/or investigative jurisdiction of criminal offences that fell under competence of the courts and/or pre-trial investigation authorities located in the ATO area. Specifically, it created procedural conditions for trial and pre-trial investigation of such cases on the government-controlled territory. In addition, the law provided for the possibility to conduct a special pre-trial investigation and a special court proceeding with regard to persons who are in the ATO area.

The Joint Order of the Donetsk Oblast Prosecutor's Office and the Main Department of the National Police (hereinafter: MDNP) in Donetsk oblast # 10/72 "On Ensuring Effective Pre-trial Investigation in Criminal Proceedings and Procedural Supervision" of 20.01.2016 is currently effective in Donetsk oblast. It determines the pre-trial investigation authorities that have territorial jurisdiction over criminal offences committed on the occupied territory.

For example, in accordance with this Order, criminal offences committed on the territory of Leninskyi district of the city of Donetsk belong to the jurisdiction of Toretsk branch of Bakhmut police unit of the MDNP in Donetsk oblast, and criminal offences committed in Khartsyzk – to Dobropillia branch of Krasnoarmiisk police unit.

The investigative unit of the MDNP in Luhansk oblast responded to the EUCCI request that in Luhansk oblast, the territorial jurisdiction of the crimes committed on the occupied territory was determined in accordance with the Law of Ukraine "On Administration of Justice and Criminal Proceedings Due to the ATO," instructions of the Head of High Specialized Court of Ukraine for Civil and Criminal Cases "On Determining Territorial Jurisdiction of Cases" # 271/0/38-14 of 02.09.2014, # 29/0/38-14 of 12.09.2014, and # 56/0/38-14 of 08.12.2014 (these instructions determined the territorial jurisdiction of criminal proceedings under the competence of local general courts and courts of appeals located in the ATO area) and the Parliament's Resolution "On Changes in the Administrative and Territorial Structure of Luhansk oblast, Change and Establishment of the Boundaries of Novoaidar and Slovianoserbsk districts of Luhansk oblast # 1692-VII of 07.10.2014[34].

Territorial jurisdiction is regulated differently in the Donetsk and Luhansk oblasts. See paragraph 2 of chapter 3 of the Report for more details.

To supervise observance of the law during pre-trial investigation, a prosecutor performs procedural supervision of investigation. The CCP of Ukraine provides a prosecutor with the right to entrust investigative and operating teams with investigative/search activities, including covert and other procedural activities or to issue instructions, participate in these activities and – if necessary – perform these activities by himself/herself.

On 14 August 2014, the Law of Ukraine "On Amendments to the Law of Ukraine "On Prosecution" Regarding the Establishment of Military Prosecutors" restored the activity of military prosecutors. The new Law "On Prosecution" adopted on 14 October 2014 has finally established the separate status of military prosecutors in the system of the prosecution of Ukraine. So far, military prosecutor's offices of the Central, Southern and Western regions are functional. They manage the garrison prosecutor's offices. In the Prosecutor-General's Office of Ukraine, the Main

[34] Letter of the investigative unit of the MDNP in Luhansk oblast # O-45зі/111/18/-2018 of 26.07.2018, in response to the EUCCI request.

Military Prosecutor's Office is established as an independent structural unit.

In August 2015, the Prosecutor General of Ukraine ordered the setting up of the military prosecutor's office of the ATO Forces (having the same status as the regional prosecutor's office). After the ATO was completed and the Operation of United Forces started on 30 April 2018, it was renamed as the military prosecutor's office of the United Forces. It consists of the military prosecutor's offices of Kharkiv, Donetsk, Mariupol and Luhansk garrisons. According to the military prosecutor of the United Forces Oleh Tsitsak, it currently employs some 120 prosecutors[35].

In the context of this research, key functions of military prosecutors are providing procedural supervision of pre-trial investigation of military and other criminal offences committed by service personnel of military units and law enforcement agencies of Ukraine, supporting state prosecution in criminal proceedings of this category, and appeal against court decisions[36].

[35] Interview with authors of the report (24 July 2018, Kramatorsk).

[36] Order of the Prosecutor-General of Ukraine # 12-гн "On Particularities of Operation of Military Prosecutor's Offices of 29.08.2014.

2. OVERVIEW OF STATUS OF OFFICIAL INVESTIGATIONS BASED ON INDIVIDUAL CASES

2.1. General crime statistics

According to the report of the MDNP in Donetsk oblast, information on **23,227** criminal offences, including **7,387** grave and especially grave offences, was entered into the URPI in 2017[37, 38].

According to the investigative unit of the MDNP in Donetsk oblast[39], throughout **01.04.2014-30.06.2018** information on **7,341** criminal offences labelled "Offences related to the ATO" was entered into the URPI, **245** of these crimes have been solved.

By type of crimes:

Type of crimes	Quantity	Submitted to court
Intentional deprivations of life (statistics also include cases of natural death, accidents, suicides, disappearances)	1,272	14
Intentional grave bodily injury	14	13
Intentional moderate bodily injury	32	-
Intentional light bodily injury	43	-
Beating and torment	2	-
Torture	7	-
Illegal deprivation of liberty or abduction of a person	707	4
Violation of the inviolability of housing	8	-
Theft	348	-
Robbery	41	-
Membership of a gang	201	1
Fraud	52	-
Intentional destruction or damage to property	425	-
Assisting members of criminal organizations and harbouring their criminal activities	87	13
Terrorist act	108	-
Creating a terrorist group or a terrorist organization	2	-
Funding terrorism	2	-
Creating a paramilitary or armed unit not provided for by law	1,216	144
Illegal handling of weapons, ammunition or explosives	161	20
Unlawful appropriation of a vehicle	1,413	3
Seizure of state or public buildings or structures	708	1
Usurpation of power	68	-
Absence without leave from a military unit or a duty station	71	27

[37] Report on the MDNP in Donetsk oblast activities in 2017. MDNP in Donetsk oblast. Available at: https://dn.npu.gov.ua/activity/zviti/richni-zviti/.

[38] Report on the MDNP in Luhansk oblast activities in 2017. Not publicly available. https://lg.npu.gov.ua/activity/zviti/richni-zviti/.

[39] Letter of the Investigative Unit of the MDNP in Donetsk oblast # 44зі/20/02-2018 of 26.07.2018, in response to the EUCCI request.

At the same time, in March 2018, the head of the Organization and Technical Department of the Criminal Investigation Department of the MDNP in Donetsk oblast, Denys Priadkin, reported slightly different data. According to Priadkin, during the last four years the police investigative units in Donetsk oblast registered **3,243** crimes committed on the occupied territories, and **122** crimes have been solved[40].

The overburdening of police investigative units is also worth attention. During the twelve months of 2017, investigators of the MDNP in Donetsk oblast were examining around **143,000** criminal proceedings. This was 2.7% more than in 2016[41].

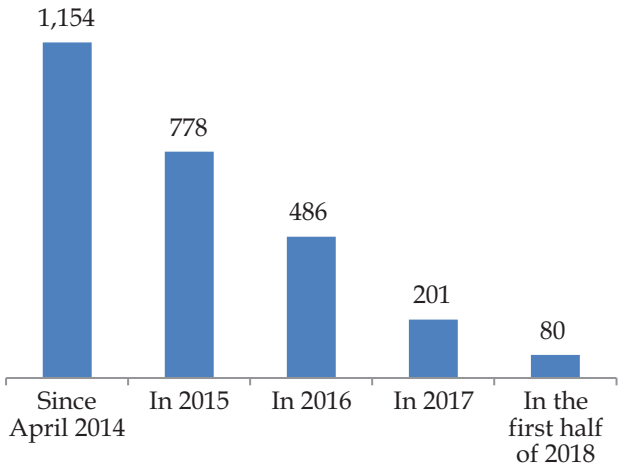
At the same time, they were examining **6,907** criminal proceedings labelled "Offences related to the ATO" in 2017 and **6,371** and in the first half of 2018[42].

On average, in 2017 one investigator was examining **1.2** criminal proceedings of the relevant category, or **15** proceedings per year. In the first half of 2018, one investigator was examining **2.4** proceedings, or **14.7** per half a year[43].

According to the Deputy Head of Investigative Department of the MDNP in Donetsk oblast Dina Lukianchuk, an investigator simultaneously examines about **300** criminal proceedings of various categories on average[44].

According to the MDNP in Luhansk oblast, information on **16,166** criminal offences, including on **6,793** grave and especially grave offences, was entered into the URPI in 2017[45].

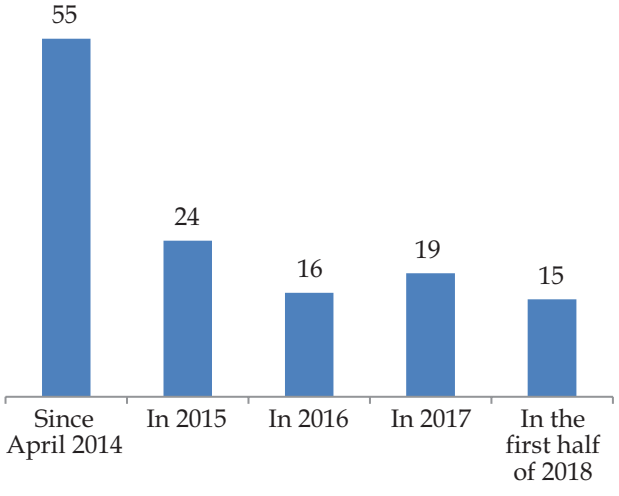
Total number of criminal offences committed on the occupied territory of Luhansk oblast throughout April 2014 – first half of 2018[46]:



By types of crimes (committed):

Type of crime	Since April 2014	2015	2016	2017	First half of 2018
Intentional deprivations of life	79	42	27	25	14
Illegal deprivation of liberty	163	35	18	15	6
Theft	111	91	96	25	7
Robbery	18	9	5	-	-
Membership of a gang	138	83	9	6	-
Fraud	17	68	44	30	8
Creating a paramilitary or armed unit not provided for by law	12	10	56	25	24
Unlawful appropriation of a vehicle	302	135	65	20	7
Seizure of state or public buildings or structures	89	89	55	16	7

The number of solved criminal offences that were committed on the occupied territory of Luhansk oblast throughout **April 2014 – first half of 2018[47] is as follows:**



[40] "In last four years, Donetsk police officers solved 122 crimes committed on the occupied territories." Source: http://police.dn.ua/news/view/za-chotiri-roki-politsejski-donechchini-rozkrili-122-zlochini-yaki-buli-vchineni-na-okupovanij-teritorii.

[41] Report on the MDNP in Donetsk oblast activities in 2017. MDNP in Donetsk oblast. Available at: https://dn.npu.gov.ua/activity/zviti/richni-zviti/.

[42] Letter of the Investigative Unit of the MDNP in Donetsk oblast # 44зі/20/02-2018 of 26.07.2018, in response to the EUCCI request.

[43] Ibid.

[44] Interview with authors of the report (20 July 2018, Mariupol).

[45] Letter of the Investigative Unit of the MDNP in Luhansk oblast # О-45зі/111/18/-2018 of 26.07.2018, in response to the EUCCI request.

[46] Ibid.

[47] Ibid.

By types of crimes (solved):

Type of crime:	Since April 2014	2015	2016	2017	First half of 2018
Intentional deprivations of life	8	-	-	-	-
Illegal deprivation of liberty	6	-	-	-	-
Intentional grave bodily injury	4	-	-	-	-
Theft	1	1	1	1	1
Robbery	5	-	-	-	-
Membership of a gang	7	2	-	-	-
Fraud	5	1	-	1	-
Creating a paramilitary or armed unit not provided for by law	5	16	12	11	14
Unlawful appropriation of a vehicle	2	-	-	-	-
Planning, preparing, starting and conducting aggressive war	-	1	3	4	-

Number of criminal proceedings that are being examined by the investigators of the MDNP in Luhansk oblast[48] is:

Year	Total number	Committed on the occupied territory
2017	66,175	2,254
First half of 2018	60,632	2,314
Average load per an investigator, first half of 2018	241.5 criminal proceedings	

2.2. Missing persons

The term "missing person" usually means a person whose whereabouts is unknown to his/her relatives and/or who – based on accurate information – was declared missing in accordance with national legislation due to an international or non-international armed conflict, a situation of violence or unrest inside the country, natural disasters or any other situation that may require interference by a competent public authority[49].

As of March 2018, according to the International Committee of the Red Cross, during the conflict in Donbas over 1,500 persons went missing and about 1,000 bodies remain unidentified. Some 50% of all missing persons are service personnel, the other half are civilians. 95% of the total number are men, the average age of such persons is about 40 years old[50].

Some of these persons were victims of enforced disappearances.

Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance (New York, 20.12.2006) defines enforced disappearance as arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Any act of enforced disappearance contravenes the respect of human dignity. It is condemned as a violation of the principles of the Charter of the United Nations and as a grave and blatant violation of human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights and confirmed and developed in the respective international instruments (Article 1 of the Declaration on the Protection of All Persons from Enforced Disappearance).

In its Resolution 2067 (2015), "Missing persons during the conflict in Ukraine," the PACE urged "Ukraine, the Russian Federation and the separatist groups controlling the occupied territories of Donetsk and Luhansk region" to "provide an effective response, in terms of investigation and support for families, to all reported cases of missing persons, in compliance with international humanitarian law" (para 6.1 of the Resolution).

Analysis of the materials of individual pre-trial investigations proves that enforced disappearances in the course of an armed conflict in Eastern Ukraine are usually pre-qualified and investigated by the pre-trial investigation authorities under parts 1, 2 or 3 of Article 146 of the CCU as illegal deprivation of liberty or abduction of a person. Depending on the alleviating and aggravating circumstances (for mercenary motives, committed by a group of persons, etc.), it is a moderate or grave crime.

In certain cases, the investigation is started under part 1 of Article 115 of the CCU as an intentional deprivation of life (an especially grave crime) and then re-qualified in accordance with the relevant part of Article 146 of the CCU (if the whereabouts of a person are identified).

[48] Letter of the Investigative Unit of the MDNP in Luhansk oblast # O-45зі/111/18/-2018 of 26.07.2018, in response to the EUCCI request.

[49] Guiding principles/Model law on the missing. Available at: https://www.icrc.org/en/document/guiding-principles-model-law-missing-model-law.

[50] "Over 1,500 persons went missing since the outburst of conflict in Donbas." Available at: https://ua.korrespondent.net/world/worldabus/3948230-z-pochatku-konfliktu-na-donbasi-znykly-ponad-pivtory-tysiachi-osib.

On 12 July 2018, the Verkhovna Rada of Ukraine adopted the Law "On the Legal Status of Missing Persons." This law defines a missing person as an individual the whereabouts of whom are not known at the point in time when a plaintiff files a request for his/her search.

2.2.1. Enforced disappearances of civilians

International humanitarian law (hereinafter: IHL) establishes that a civilian is any person who does not belong to the armed forces of a party to the conflict.

The Rome Statute[51] determines that enforced disappearance is a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack (Rome Statute, Article 7 (1)(i)[52]).

Sydorenko case[53]

In 2014, the village where Serhii Sydorenko lived (Telmanove district, Donetsk oblast) found itself next to the contact line. According to available information, as of October 2014 the village was under the control of the AFU.

On 23 October, Serhii was grazing cattle on the village outskirts. At around 11 a.m. camouflaged persons detained and took him away in an unknown direction.

Petro A., father of Serhii, managed to find out on his own that Serhii had been apprehended by one of the intelligence units of the AFU composed of PERSON_1 and PERSON_2. Their commander Colonel (PERSON_3) has personally verbally confirmed to him the fact of his son's apprehension and reported that Serhii had escaped from the car. Subsequently, the service person (PERSON_1) also verbally confirmed the words of the colonel (PERSON_3) in a conversation with Petro A.

On 27 October, the police started a pre-trial investigation into the illegal deprivation of liberty or abduction of a person (Article 146 of the CCU) upon Petro A.'s crime incident report. The father was questioned as an injured party.

In April 2015, an investigator of the regional police unit responded to the written request of Petro A. that the investigative/search actions were being carried out to locate Serhii.

On 28 April 2015, Petro A. applied to the investigator with a written request for materials of the pre-trial investigation to understand what investigative/search actions the police were taking. However, he was not provided with access to the materials.

As of today, Petro A. has no information about the interrogation of colonel (PERSON_3) and service personnel (PERSON_1) and (PERSON_2), although he referred to them in his initial crime incident report and when he was interrogated as an injured party.

The whereabouts of Serhii remain unknown.

Luhanskyi case[54]

In August 2014, the government forces regained control over a part of the administrative territory of Zhovtnevyi district on the outskirts of the city of Luhansk for a short time.

According to open public sources, as of August 2014, one of the Ukrainian voluntary battalions was deployed there.

On 18 August, Oleksii Luhanskyi with his friend Volodymyr (both being civilians) left his house in the village of N. and never returned home. On the next morning, Mykola A., the father of Oleksii, started searching for his younger son.

During the search he managed to find out that his son, along with Volodymyr, were detained in one of the houses in the village, as the situation in this house – broken window, traces of the search – suggested. The next day after his son disappeared, as well as on 20 August, he talked to a police officer (PERSON_1) who verbally acknowledged that on 18 August he had been the one who had detained Oleksii, who later allegedly escaped from a place of detention and went in an unknown direction. Mykola A. received the same information during a conversation with a service person of a voluntary battalion. A little later, he learned that on 17 August armed persons in the settlement of Novopskov of Luhansk oblast detained his eldest son Mykhailo along with his two friends. Mykhailo was detained for around two days in one of the villages of Novoaidar district. Then he was released, but the reasons for his detention were not reported to him. The questions asked of him during the interrogation at the place of detention indicated that Mykhailo was suspected of membership in an illegal armed group (hereinafter: IAG).

[51] Rome Statute of the International Criminal Court, Rome, 17.07.1998. The International Criminal Court (the Hague, the Netherlands) is a permanent body authorized to exercise jurisdiction over persons responsible for the most serious crimes that the international community is concerned about (crime of genocide, crimes against humanity, war crimes and the crime of aggression).

[52] Rome Statute of the International Criminal Court, Rome, 17.07.1998. Available at: https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf.

[53] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[54] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

Injured party Mykola A.: "*When my son's friend Volodymyr was released, he told me that on 18 August they both had come to a house where they found armed persons in balaclavas without military insignia who were riding the car the plate of which was covered with Ukrainian flag. The armed men first struck several times the civilians and put bags on their heads. My son was taken to an unknown destination by car, and Volodymyr never saw him after that. Volodymyr himself was first detained for one night in a basement of a private house in this village. The armed persons used physical violence against him to force him to confess that he had been instructed by the separatists to correct fire. Then he was brought to service personnel [he does not know where exactly – authors' note], and later [probably – authors' note] to the SSU department in Lysychansk. After being interrogated in the SSU department*[55]*, Volodymyr was released. All this time, Volodymyr stayed with a bag on his head, and thus he was not able to see the persons who were detaining him and conducted interrogations. These events caused Volodymyr significant psychological trauma. He is very frightened. I am sure that he does not tell all the circumstances known to him because he is afraid of something.*"

In August 2014, Sievierodonetsk police unit started an official investigation into the circumstances of the disappearance of Oleksii and Volodymyr upon receipt of the crime incident report relating to the victim, following the intervention by Oleksii's father, Mykola A.

The investigator only drew up an investigation plan on the third month after the investigation started. The investigative/search actions that he planned looked like they only were "to tick a box."

Notably, the first step he planned was to conduct an additional questioning of the complainant, Mykola A. to determine what he knew on the whereabouts of the missing persons. To this end, police officers were instructed to search for the victim.

At the same time, the pre-trial investigation materials do not specify whether an investigator instructed the police officers to search for the very missing person. It is now known whether the respective investigative/search actions were taken.

Notwithstanding that there was no progress in the investigation, during 2014-2017 the prosecutor only issued three instructions to an investigator on investigative/search actions in this case, and never supervised how the latter implemented these instructions. The investigator only implemented them partially.

The prosecutor *inter alia* focused the investigator's attention on the need to locate the place of deployment of the voluntary battalion. However, although this information is accessible even in public sources – including on the Internet – the investigator has never officially established its location. Similarly, the investigator was not able to locate the battalion commanders, though the same public sources had enough information to establish his place of residence and employment during the search.

In March 2016, for the first time since the pre-trial investigation began, the investigator has officially instructed police officers to find Oleksii – however, he did not specify the measures they should take.

Just three days after this order was given a police officer reported to the investigator that search activities had not helped to locate the missing person.

Injured party Mykola A.: "The report on alleged completion of the search activities was drafted only two days after the investigator had issued the respective instruction. I very much doubt that the police conducted any search activities."

In May 2016, the prosecutor transferred the criminal proceeding to the investigative unit of Troitske police unit (Troitske district, Luhansk oblast) for further investigation. This only seemed to complicate the investigation, since the settlement of Troitske is located some 230 kilometres from the place where the crime was committed – Zhovtnevyi district of the city of Luhansk – when the part of this district was still under the control of the government forces. Most witnesses who had to be found and interrogated resided and/or worked in the cities of Sievierodonetsk, Lysychansk and Rubizhne in an urban agglomeration of a trade and industrial centre of government-controlled districts of Luhansk oblast.

At that time, there was already sufficient evidence that Oleksii and Volodymyr had most likely been apprehended by police officers and certain service personnel of the voluntary battalion. This investigative lead requested robust scrutiny.

Thanks to the testimony of several interrogated police officers at the insistence of Mykola A. – they actually denied their involvement in the apprehension of Oleksii and Volodymyr – it was found out that on the day of disappearance, the military and police conducted a special operation in this village. However, since the interrogations were superficial, the investigator did not focus on the names of persons who took part in the special operation and the responsible commanders, not of its goals and objectives.

The new investigation plan compiled by the investigator only entailed verification of one lead – that Oleksii allegedly was being hidden in the occupied part of Luhansk oblast. It is not known why – according to the investigation lead – why Oleksii would have decided to hide in the occupied territory.

[55] The Main Department of the SSCU in Donetsk and Luhansk oblasts does not officially confirm the apprehension of this person in August 2014.

In the course of further investigations, the investigator repeatedly issued orders to police officers to locate Oleksii, without specifying the investigative actions to be taken. Each time, a police officer reported to the investigator that the police had not identified persons involved in Oleksii's disappearance among the residents of Troitske district. However, as was already noted, the settlement of Troitske is approximately 230km away from the place where the crime was committed. During the investigative actions, there were no reasonable grounds to believe that any resident of Troitske district could be involved in Oleksii's disappearance.

Injured party Mykola A.: *"So far, I identified on my own the names and nicknames of at least seven police officers and service personnel who were involved into the apprehension of my younger son. But the investigators do nothing to search for them. They conduct the investigation 'just to tick the box'."*

The complainant considers the investigation of his case has not been effective.

Location of Troitske police unit

The only relatively passable motor road from Troitske to Svatove connects the district centre located next to the contact line with other parts of Ukraine's territory, 23.02.2018.

Due to poor roads and lack of railway, there is almost no transport connection to Troitske.

2.2.2. Disappearance of service personnel at duty stations

A service person is a person who is in military service – a special civil service related to the defence of Ukraine, its independence and territorial integrity (According to the Law of Ukraine "On Military Duty and Military Service").

Chernov case[56]

Junior sergeant Andrii Chernov was mobilized into the AFU as a driver/grenade launcher operator in a mortar platoon.

In June 2016, Andrii was, upon instruction of the command, deployed in the military unit in the withdrawal area next to Soledar (Donetsk oblast).

In early June 2016, his wife lost contact with him. Three days later, the withdrawal area commander reported to the command that the junior sergeant Chernov was absent from the military unit and specified that the last time anyone saw him was two days ago, when he was allegedly drinking alcohol with fellow service personnel. Andrii's weapon did not disappear.

Two days later, the commander of the military unit instituted an internal investigation on Chernov's absence without leave. Thus, he assumed at the time that the only investigation lead was that by which Chernov's disappearance meant that he had tried to escape from military service, rather than it possibly be connected with unlawful activities of third persons.

A further four days later the police, upon receiving a report from his wife, then entered information pertaining to a criminal offence into the URPI and pre-qualified it under part 1 of Article 115 of the CCU (intentional deprivation of life).

There is no information that the command of Chernov's military unit has ever notified the law enforcement agencies of his disappearance.

The police investigator examined the deployment site of the military unit as an alleged crime scene and recognized the wife of the missing person as an injured party. In the six months after the pre-trial investigation began, a forensic genetic examination was arranged. Investigative actions mostly entailed verifying information in databases of missing persons and unidentified decedents, as well as in other automated police databases. As of November 2016 – when the complainant learned the materials of the pre-trial investigation – the investigator did not issue any other substantive instructions to the police officers to conduct open or covert searches. Service personnel who allegedly were the last ones to see the missing person while he was drinking alcohol were neither identified nor questioned as witnesses.

According to available information, although Andrii's mobile phone had disappeared with him, no covert investigative/search actions on locating it were instituted.

No reliable evidence that Andrii had actually left the duty station on his own has been identified so far.

Andrii left behind his wife, two young children and parents in his native city. According to the family members, the pre-trial investigation has been ineffective.

Yashchenko case[57]

Junior sergeant Vasyl Yashchenko served in the AFU, and in July 2015 he was at his duty station next to Mariinka (Donetsk oblast).

According to fellow service personnel, on 27 July in the afternoon he left the duty station unarmed and disappeared in an unknown direction. The respective report to the command was only made two weeks after that.

On 12 August, the commander of military unit arranged an internal investigation. The respective order specified only one investigation lead – absence without leave.

Upon a report made by his wife, the police investigator entered information about a criminal offence into the URPI and pre-qualified it under part 1 of Article 115 of the CCU (intentional deprivation of life). There is no information that the command of Yashchenko's military unit has ever notified the law enforcement agencies on his disappearance.

Police conducted the pre-trial investigation at a place of Vasyl's wife residence (the city of Dnipro, Dnipropetrovsk oblast) as she was recognized as an injured party.

Investigative actions mostly entailed interrogation of the injured party and taking biological sample from the relatives to arrange a forensic genetic examination. The investigators also requested a mobile operator to provide information on the calls made from Vasyl's mobile phone, but the injured party knows nothing of the results.

In January 2018, the injured party filed a motion to the investigator to initiate interrogation of service personnel who might know the circumstances of her husband's disappearance (as witnesses). The investigator upheld the motion. The interrogation has not yet been conducted.

[56] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[57] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

According to the family members of the mission person, pre-trial investigation is not effective.

COMMENTS

In both cases of enforced disappearances of the civilians, the investigators do not consider the lead related to the involvement of the agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State while the case-files have enough information to reasonably believe that such agents or persons could commit these crimes. Thus, this lead should be checked as a matter of priority.

In the cases of disappearance of service personnel from duty stations, it is worth noting that their direct commanders were highly probable trying to conceal the facts of their disappearance or did not adequately supervise their staff. As a result, investigations started with significant delays. In the Chernov case, his disappearance was only reported to the command in three days, and in Yashchenko case – in two weeks. Reasons for such delays are not known. In both cases, the command believed that the only possible reason for the disappearance of service personnel was the absence without leave from the duty station to escape military service. When it comes to the materials of pre-trial investigations, they lack completely clear possible explanations of the events.

2.3. Deprivations of life

The Constitution of Ukraine establishes that the human being, his or her life and health, honour and dignity, freedom and inviolability are the highest social value and guarantees that no person can be arbitrarily deprived of life.

According to Article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms, the right to life is protected by the law.

The CCU provides criminal liability for deprivation of life – a wilful unlawful causing of death to another person (Article 115), and attributes this crime to the category of especially grave crimes.

2.3.1. Deprivations of life of civilians

The Rome Statute[58] determines that murder is a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack (Rome Statute, Article 7 (1)(a)).

During an armed conflict of an international character, wilful murder of protected persons amounts to a grave breach of the Geneva Conventions of 12 August 1949. The Court has jurisdiction in respect of this war crime, in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes (Rome Statute, Article 8 (1) and 8 (2)(a)).

In the case of an armed conflict not of an international character, any deprivations of life committed against persons taking no active part in the hostilities amounts to serious violation of Article 3 common to the four Geneva Conventions of 12 August 1949. This act is considered a war crime and falls under the jurisdiction of the International Criminal Court (Rome Statute, Article 8 (2)(c)(i)).

Butenko case[59]

One evening in January 2015, Dmytro Butenko was driving his car in the government-controlled territory heading to Toretsk (Donetsk oblast). The passengers were two men, one of whom was Dmytro's brother. The area around the road was the under full control of the government forces. The men returned from temporarily occupied Donetsk where they worked as miners at one of the local mines[60].

A column of military equipment including the newest military armoured vehicles was moving from the opposite direction.

One of these armoured vehicles blocked Dmytro's car. Three service personnel (members of the crew of the armoured car) ordered the driver and passengers to leave the car and conducted personal searches and a search of the car. During the conversation the civilian men were accused of involvement in the IAGs. Having not found anything suspicious in the car or with the civilians, the service personnel took a navigation device, and threatened one man – Andrii – with firearms as they ordered him to run to a tree line. At the same time, one service person fired several shots at Dmytro's brother Serhii.

They told Dmytro to run to a field (to the other side of the treeline) and allegedly fired several unaimed shots at him. They also made several aimed shots at Dmytro's car.

After the service personnel departed, Dmytro and Andrii returned to the car to see Serhii lying prone next to the

[58] Rome Statute of the International Criminal Court, Rome, 17.07.1998.

[59] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[60] The mine was quite profitable before the conflict broke out, and salaries of the miners were higher than on other mines in Donetsk region. A lot of miners were commuting from other cities and towns every day. At the time of the events the mine has not yet been nationalized by the so-called "DPR" and remained under the jurisdiction of Ukraine. Some miners continued to work and crossed the contact line every day as they commuted from the government-controlled territory to Donetsk and back home.

car. As they came closer they saw gunshot wounds on his body. These wounds proved deadly[61].

The police started pre-trial investigation of these events in several hours upon a report from a hospital where the men brought Serhii's body.

At first, the police officers examined Serhii's body in a hospital, interrogated the civilian men and health workers, examined Serhii's car and recorded the traces of bullets. It is not known whether on the day of the deprivation of life the police took any action to apprehend the perpetrators.

The police only examined the crime scene the next day at 11 a.m. The reason for such a delay is not known. According to the family members of the deceased, no active combat operations were carried out on that day in the respective area.

It was only in late February that the investigator compiled a plan of investigative/search actions. At the same time, the police only set out to pursue one lead as to how the murder was committed "*on the ground of sudden hostile relations by the service personnel of the Armed Forces of Ukraine or one of voluntary battalions*" that were in the respective area on that day.

From February 2015 to August 2016, the investigator repeatedly sent inquiries to the ATO Headquarters and various structures of the AFU to establish the names of the units that were moving on the road on the day of the murder. The addressees either ignored or provided superficial and meaningless responses to the inquiries.

At the same time, in October 2016, it only took a little more than a month for the SSU officers to provide the investigator with exhaustive information on the name of the military unit of the AFU that was moving through the place of the murder around that day. The staff of the unit and the military equipment that was moving in the column were also established.

As early as in March 2015, during an additional interrogation Dmytro informed the investigator that he would be able to identify the model of a military vehicle of the perpetrators, but the investigator did not pay attention. It was only one year and seven months later – in November 2016 – that several vehicles were presented to Dmytro for identification. Among them, he recognized a car similar to the one on which the perpetrators were moving.

No investigative/search action has been taken since then.

In mid-2017, the military prosecutor's office in its instructions to the investigator stated that the pre-trial investigation was not actually completed and appears to have be protracted.

In September 2017, Serhii's wife Tetiana, who was acknowledged as a injured party to the crime, filed a motion to the prosecutor to conduct investigative actions such as to interrogate service personnel who could be eyewitnesses and/or parties to a crime (as witnesses). The investigator satisfied the motion. Later on, the injured party filed similar motions along with the complaints to the military prosecutor's office.

However, as of May 2018, the interrogation of the service personnel had not been conducted.

The investigator explained the delays in the interrogation in claiming that it is difficult to him to identify complete personal data and the place of residence of already-ex-service personnel on his own.

The deceased left behind a wife, a young child and elderly parents.

Serhiichuk case[62]

Oksana's father, Volodymyr O. Serhiichuk, who, despite his elderly age – he was almost 86 in August 2014 – took an active part in the community life of his village (Amvrosiivka district, Donetsk oblast). He actively supported Ukraine's sovereignty and territorial integrity, always publicly expressed and defended his civic position. In May 2014, he tried to prevent the "referendum" in his village that was unlawful according to Ukrainian law. He was actively encouraging fellow villagers not to vote at a pseudo-referendum, and publicly condemned the presence of armed persons in an illegally created polling station.

In August 2014, Oksana's brother Yevhen fearing for his father's life and health went to the village to take him to Kyiv. The hostilities around Ilovaisk – about 20km from the village – started at the same time. At some point the traffic suddenly ceased, and thus they could not leave the village in time.

According to public sources, on 24 August 2014 regular Russian troops entered the territory of Amvrosiivka district from the side of the Ukraine-Russia border.

Later on, Oksana, who at that time lived in Kyiv oblast, learned that on the night of 2 September 2014, her father and brother were killed in their apartment.

Injured party Oksana: "*I talked to my brother and father over the phone several times. Mobile connection was partially available. They told me that certain groups of Russian military personnel were stationed in the village and next to it. My father repeatedly went to communicate with the military. Of*

[61] The circumstances are presented as they were reported by the victims Dmytro and Andrii, who survived.

[62] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

course, during this conversation, he demanded that they leave the territory of Ukraine and publicly condemned the armed aggression of Russia. [...] My brother's body was found next to the front door (the door was open), and my father's body, in the bedroom. The police were called to come from the district centre, but they refused to come because of the fighting. However, in fact, there was no police at that time there. Due to the high air temperature, the police officers suggested over the phone to just bury the bodies. The neighbours made a burial on their own. I was not told anything more, although I assume that neighbours even know who exactly committed the crime. But they are afraid to tell."

Information about the crime was entered into the URPI only ten days after Oksana's call to the Oblast police unit in Mariupol (according to a report by a police officer, that was conducted on 15 October). Almost a month later, the investigator notified the public prosecutor on the commencement of pre-trial investigation.

It is worth noting from the excerpts of the URPI that the injured party received later reads that these were the police officers who allegedly identified the crime on their own on 25 October and entered the respective information into the URPI on the same day. It also reads that the police received Oksana's request on 2 September. Since Oksana was in a state of shock, she does not remember when she called police. She probably made several calls.

Since early February 2015, the criminal proceeding is being investigated by the investigators of the Investigative unit (hereinafter: IU) of Manhush police unit (Manhush, Donetsk oblast).

The investigator issued the first instruction on investigative/search actions to police officers only three months after the investigation had started. It concerned a general requirement to identify perpetrators.

In the next instruction he instructed the officers of police unit at the place of Oksana's residence (Kyiv oblast) to interrogate her as an injured party, establish the identity of neighbours of the deceased, interrogate them as witnesses, and take "measures to establish the perpetrators of the crime." As the crime was committed in the Donetsk oblast, it was clear that police officers of this unit could not implement this instruction in the Kyiv oblast (except for questioning Oksana).

In March 2016, the prosecutor provided an order to the investigator emphasizing that no investigative actions had been performed, no investigation plan had been produced, Oksana had not been questioned as an injured party, and that the investigator had not supervised the police officers in implementing his instructions. At the same time, the prosecutor probably also failed to properly supervise the investigator in implementing this order, since the prosecutor's order was not executed either.

In September 2016, Oksana filed a written motion to the police requesting to have her involved in the proceedings as an injured party. Two months later, the investigator sent her a letter requesting her to come in person to the police unit in Manhush (in the southern part of Donetsk oblast) along with a factsheet on the rights and duties of victims/injured parties. The trip from Kyiv to Mariupol by train takes around 18 hours in one direction. At the same time, the investigator reported that a "series of investigative actions" had been conducted, although the materials of pre-trial investigation did not contain evidence of any investigative actions.

2.3.2. Deprivations of life of service personnel at duty stations not related to their direct involvement into combat operations

Udovenko case[63]

As of July 2016, warrant officer Ruslan Udovenko served in the AFU. At that time, the military unit of Ruslan was stationed next to the contact line in the Donetsk oblast.

One day he was found with a gunshot wound to his head in a recreation room, though he was still alive. Ruslan died in an ambulance on the way to hospital.

The pre-trial investigation was started on the same day. Firstly, the police examined the crime scene.

As it turned out later, the description of crime scene in the report was superficial. It did not correspond to the gravity of the crime. No forensic examiner was involved in the examination. The report itself had many flaws. In particular, it lacked photos of the crime scene and the layout of the crime scene that would depict the posture of Ruslan's wounded body, who was still alive, in relation to the objects around him, a specific location of a gun (bullet/shell) and indicate the distance between the objects and the body, etc.

Injured party Olha (Ruslan's wife): "*Police told me that the photos from the crime scene are actually available but not added to the case-file. The investigator who examined the crime scene allegedly has them on his mobile phone. They promised me they would find them and add to the case-file. Later on, this investigator resigned, or lost his phone, or something. Eventually, the photos have never been found.*"

Investigative/search actions were limited to the interrogation of three service personnel (two of them shared the room with Ruslan), arranging a forensic medical examination to learn the reasons for the death, and a forensic ballistic examination to learn whether the bullet found at the crime scene was actually shot from the gun found there).

Ruslan's wife Olha was only involved in the criminal proceeding as an injured party six months after the

[63] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

crime had been committed, and she was interrogated as an injured party six months later.

From the very outset, the only investigative lead that was suggested was suicide. This lead was entered into the URPI. The investigator never tested others leads – including an intentional deprivation of life or a reckless deprivation of life, violations of the rules of handling weapons, etc. The formal attitude of the law enforcement officers is also proved by the fact that the investigators negligently reported in the crime scene report that they found Ruslan's dead body in the room, whilst Ruslan was actually still alive when found in the room – he died later in an ambulance on the way to a hospital. This innacurate information was found in many procedural documents, including in the information entered to the URPI, instructions on examinations, etc.

Injured party Olha: "*Two or three days later, my husband should have taken leave. We and our children were about to go to the seaside. The day before, I talked to him over the phone, we discussed some details of the leave. I did not feel that he was disturbed with something, he was okay. In general, he was quite resilient. He was a professional soldier and served in the army for many years. He has participated in United Nations peacekeeping mission abroad. I fully deny the lead that it was his suicide.*"

Since January 2017, the injured party, through her lawyer, has filed at least seven motions to the investigator requesting him to arrange investigative actions, in particular, to repeatedly interrogate the witnesses who provided conflicting evidence, to arrange a crime re-enactment at the crime scene involving a ballistic forensic expert to verify contradictory testimony of a witness, to examine Ruslan's mobile phone, to conduct a repeated examination of the crime scene and arrange additional comprehensive forensic medical and criminal examinations (including to verify the distance of the shot, and to test whether Ruslan was able to shoot at himself).

The first injured party's motion was satisfied in April 2017. The investigator decided to conduct the relevant investigative actions.

However, as of May 2018, investigative actions requested by the injured party and endorsed by the investigator have never been conducted, except for the questioning of the injured party.

Along with filing the motions, the injured party submitted complaints to the military prosecutor who provides procedural supervision of the pre-trial investigation. In one of his letters to the injured party, the prosecutor emphasized that "*the pre-trial investigation is ineffecive, non-systemic, methodless and protracted*."

The prosecutor instructed the investigator at least twice to arrange specific investigative actions, but they were only implemented partially. Thus, the prosecutor seems to not have properly controlled the implementation of his instructions.

In September 2017, the investigator arranged a posthumous comprehensive psychiatric examination to find out whether Ruslan was suicidal. Since then, any further investigative actions have been completely stopped, although, in accordance with the effective criminal procedure law of Ukraine, arranging an expert examination is not a ground for suspending the pre-trial investigation and does not relieve an investigator from the duty to carry out other investigative/search actions. As of May 2018, no expert conclusion was available (examination is still pending).

The injured party filed several more complaints on the violation of reasonable terms for taking investigative actions and the discontinuation of the pre-trial investigation, but that only resulted in the investigator's decision to arrange the repeated questioning of witnesses upon the prosecutor's instruction. As of May 2018, no repeated questioning was conducted.

In one of his responses to the injured party's motion on arranging specific investigative actions (namely, on the repeated examination of the crime scene and crime re-enactment), the investigator stated that he allegedly had to receive permit of the military prosecutor's office leadership for that, and that it takes extra time. So far it is not known whether the investigator ever sought such a permit from the leadership and whether he was granted the permit.

At present, there is no progress in the investigation of the case.

Ruslan left behind his wife and two young children.

Bondarenko case[64]

With the outburst of the armed conflict in Eastern Ukraine, Oleksandr Bondarenko had to flee his native Luhansk with his family. As from 2014, he took part in the hostilities. As of the end of 2015, he served in the AFU and was stationed with his military unit in Kramatorsk (Donetsk oblast).

On 2 January 2016, he was meant to be on a military mission in the ATO area.

On the evening of 1 January, the duty room of the local police unit received a message from the Law Enforcement Military Service in the Armed Forces that the dead body of Oleksandr, showing signs of a violent death, was found in the military unit.

On 2 January, the investigator entered information pertaining to a criminal offence into the URPI, and the pre-trial investigation began.

The forensic medical examination of the dead body found that Oleksandr's death was caused by a blunt

[64] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

gunshot injury of his chest and related complications. The forensic medical expert also found the traces on his body that could have been caused by an electric shock tool.

The forensic ballistic examination arranged by the investigator proved that the bullet extracted from his body and a shell found on the crime scene were fired from a gun other than the one that was found there.

Despite these and other facts, the investigation was biased from the very beginning – preference is given to the suicide lead – as Oleksandr's wife (who was recognized as an injured party) believes.

In particular, when service personnel of the unit were interrogated as the witnesses, the investigator mostly asked questions to verify the lead of suicide. The testimonies of different witnesses in the interrogation reports are almost identical. This might suggest that the investigator tried to adapt them to a certain lead. Instead of forensic ballistic examinations that are normally arranged in investigation of intentional deprivations of life, the investigator arranged a post-mortem forensic psychiatric examination to establish whether Oleksandr was suicidal. In addition, it is not known whether the investigator took any action to identify the circumstances of using an electric shock tool on Oleksandr.

In March 2016, the military prosecutor's office found significant deficiencies in the investigation, including the above question on the possible use of an electric shock tool, but these shortcomings were not addressed.

As of April 2018, materials of the pre-trial investigation were classified for unknown reasons.

Oleksandr left behind his wife and three children. The family considers that the pre-trial investigation has not been effective.

Makarenko case[65]

Junior sergeant Vitalii Makarenko was called to the AFU during the first wave of mobilization in March 2014. He served in part in the area next to Donetsk, and sustained injuries.

As of March 2015, Vitalii's military unit was stationed in Dnipropetrovsk oblast.

On 28 March, the dead body of Vitalii was found at the unit's location. It was found in a military tent, tied to the pillar, with a plastic cord around his hands and legs and a gag in his mouth.

On the same day, the police entered the information into the URPI and started the pre-trial investigation under Part 1 of Article 115 of the CCU (intentional deprivation of life), but the factual allegations specify that Vitalii suddenly died and did not refer to the signs of violent death.

The forensic medical examination found that Vitalii's death was caused by acute coronary arrest affected by alcohol intoxication. Bodily injuries were found such as an abrasion on the lips and cheeks and haemorrhages on the mucous membranes of the lips. According to the expert, these could be caused by blunt hard objects, or by a blow shortly before death.

In June, after having interrogated several individuals as witnesses, the investigator closed the criminal proceeding referring to the suspected absence of a crime having been committed. In July, the prosecutor quashed the decision of the investigator and underlined the shortcomings of the investigation and the fact that it was conducted superficially.

According to the unofficial lead, Vitalii was intoxicated with alcohol and committed hooligan-like actions, and thus he was tied to the pillar for "correctional purposes."

Vitalii's family members do not believe this assertion. The commander reported that Vitalii was a calm, balanced and disciplined person, and accounted well for himself.

During the pre-trial investigation, the investigator did not conduct investigative/search actions to establish who exactly tied Vitalii to the pillar and why. Neither did he investigate the possible lead of a reckless deprivation of life, nor did he investigate whether Vitalii was subjected to military hazing which would amount to a war crime.

The family considers that the pre-trial investigation is not effective.

Hryshyn case

In May 2014, nearby Sloviansk (Donetsk oblast) persons who have not yet been identified shot down an AFU helicopter that was most probably carrying Ihor Hryshyn, the brother of Iryna Hryshyn, and other crewmembers[66].

On the same day, dead bodies of two crewmembers were found on the site of the helicopter crash[67], and on the following day, fragments of the mortal remains of the other presumed crewmembers were discovered.

The DNA examination found that individual fragments of certain mortal remains most likely belong to Ihor.

However, Iryna believes her brother may still be alive. Her hope is reinforced by the fact that during the

[65] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[66] No information on the exact number of crewmembers is available.

[67] No dead body of Ihor Hryshyn was found among them.

armed conflict there have been repeated cases of false identification of the dead bodies. Moreover, Iryna has many doubts about the quality of the examination.

At the end of 2015, the search group *Chornyi Tulpan* (Black Tulip) found other fragments of mortal remains on the site of the helicopter fall. They were handed to Sloviansk police unit of the MDNP in Donetsk oblast.

After Iryna learned of this, she repeatedly requested the investigator of Sloviansk police unit to conduct a DNA examination of these remains, but no examination was carried out.

Injured party I.: "*Human remains that the search group found in late 2015 at the site of the helicopter fall must be identified. They may belong to my brother or to another person, or may not be related to the helicopter's downing and be a proof of a deprivation of life or another crime. Instead, they are still stored in the cabinet in the investigator's office and not properly documented. The investigator, who apparently is reluctant to start a new case, assured me that these mortal remains would be identified as part of another criminal proceeding.*"

In February 2018, Iryna filed a motion to Sloviansk police unit and local prosecutor's office requesting to arrange a DNA examination (referring to the criminal proceeding, to which – according to the police – the fragments of mortal remains were added). In response, the local prosecutor's office informed Iryna that the materials of the criminal proceeding were transferred to the SSU for further investigation. In his turn, the SSU investigator responded to Iryna's motion claiming that the materials of a criminal proceeding that she had mentioned did not refer to any information of the death of any person.

In April 2018, the prosecutor of Izium local prosecutor's office responded to Iryna that there were no grounds for claiming mortal remains from the Sloviansk police unit and to arrange a DNA examination of them, as the expert examination has already established that her brother Ihor was one of those who died during the downing of the helicopter.

Thus, as of May 2018, it is not known whether the DNA examination of fragments of mortal remains discovered at the end of May 2015 at the crash site of the helicopter has even been carried out.

At the time of drafting this report, Iryna has requested from the Sloviansk police unit and the local prosecutor's office that they provide information on the location of these remains.

COMMENTS

In case of deprivation of life on the occupied territory (Serhiichuk case), the investigators do not have a real opportunity to conduct an examination of the crime scene and take other investigative/search actions promptly. At the same time, it is difficult to justify significant gaps and delays in the investigation that undermine its ability to establish the perpetrators of the deprivations of life of civilians if the crimes were committed in government-controlled area (Butenko case). It is also worth noting that in 2014-2015, the police officers were often afraid to conduct investigative/search actions against the service personnel, in particular, to prosecute alleged perpetrators. One of the reasons for this fear is that they were afraid that the service personnel could use firearms against them. Conversely, the service personnel of the AFU and volunteer battalions had a high level of distrust towards the local police. This was due to the fact that a lot of local police officers violated their oath and started the service for the occupation administrations. As a result, the relations between these two groups of security forces were quite tense.

According to the Military Prosecutor's Office of the Joint Forces[68], in the area of responsibility of the ATO Military Prosecutor's Office, non-battle casualties in 2017 amounted to 827 servicepersonnel, including permanent losses (489 persons) and medical losses (338). The military prosecutor's office claims that the main reason for these casualties is alcohol consumption[69].

Apparently relying on this sad statistic of the military prosecutor's office, in cases of death of service personnel at duty stations (not related to their direct involvement in hostilities), they tend to focus on only one investigative lead: suicide. Most of investigative actions aim to confirm this lead. At the same time, the leads of intentional deprivation of life staged as a suicide, as well as reckless depivation of life caused by another service person or military hazing – that the family members often promote – are not properly verified.

However, the military prosecutor of the United Forces Oleh Tsitsak disagrees. According to the prosecutor, these events are being investigated extremely thoroughly and, in some cases, even more thoroughly than other crimes. He claims that in 2017, the investigators solved at least five cases of intentional deprivations of life staged as suicides. In all five cases, indictments were filed against suspects for the courts[70].

2.4. Rape[71]

The rape, or sexual intercourse with the use of physical violence, the threat of violence or use of a helpless condition of the victim, is a crime under the legislation of Ukraine and entails criminal liability.

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[68] Before the Operation of the United Forces Started, it was named the ATO Military Prosecutor's Office.

[69] Military Prosecutor's Office of the Joint Forces, official Facebook page. Available at: https://www.facebook.com/1919587998282693/videos/2025824134325745/.

[70] Interview with authors of the report (24 July 2018, Kramatorsk).

[71] The problems of gender-based violence are elaborated in details in the report **"War Without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine"** / A.Aliokhin, A.Korynevych, S.Kyrychenko, eds. V.Shcherbachenko, H.Yanova // NGO Eastern-Ukrainian Centre for Civic Initiatives, K.TsP "KOMPRINT", 2017. — 126 p.

In Article 27 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War states that women shall be especially protected against any attack on their dignity, in particular, against rape, enforced prostitution, or any form of indecent assault. Additional Protocols I (relating to the protection of victims of international armed conflicts) and II (relating to the protection of victims of non-international armed conflicts) to the Geneva Conventions also provide for separate provisions on the protection of women in armed conflicts.

The Rome Statute[72] determines that rape is a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack (Rome Statute, Article 7 (1)(g)).

During an armed conflict of both international and non-international character, rape is a war crime and amounts to a grave breach of the rules and customs of war applicable to these types of armed conflicted within the established framework of international law (Rome Statute, Article 8 (2)(b)(xxii) and Article 8 (2)(e)(vi). The Court has jurisdiction in respect of this war crime in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes (Rome Statute, Article 8 (1)).

The ECtHR considers rape committed by a state agent against a detainee (a person under the authority of a state agent) as a particularly grave and cruel form of ill-treatment, and in certain cases, as torture (see ECtHR Judgment in the case of *Aydin v. Turkey*, Application no. 23178/94 , pp. 80-87).

Nezhdanova case[73]

The village in Luhansk oblast where an underage girl Tetiana resided found itself in immediate vicinity to the contact line with the onset of an armed conflict. As of summer 2016, the village was controlled by the government forces.

In July 2016, in the evening, Tetiana accepted an offer of an AFU service person who was familiar to her to bring her home. Before the armed conflict, military service person Yevhen used to work as local police officer in the neighbour district and frequented Tetiana's village.

Instead of bringing her home, Yevhen drove her to a treeline where – according to the victim – offered to engage in sexual intercourse, which she refused. Being armed with firearms and threatening her with a knife, Yevhen forced the girl to enter into sexual intercourse with him (*i.e.*, he committed rape).

Upon arriving home, Tetiana told everything to her mother who immediately reported this case to the police.

It is known from unofficial sources that the service person was summoned to the local police station no later than the next morning. He arrived there with two service personnel subordinated to him. As no information on this is available in the case-file, it is reasonable to assume that he was summoned unofficially.

In the police station, Yevhen had a brief conversation with the head of the police station. He then escaped from there being armed and with support from his subordinates. One of the police officers tried to prevent the escape by blocking the way of Yevhen's SUV, but Yevhen ordered his subordinate not to stop the car, which made the police officer to step back and let the car go. The content of Yevhen's conversation with police officers on that day remains unknown, but police officers were most likely trying to examine the car where the victim was reported to have been raped.

As a former police officer, Yevhen certainly had knowledge in the field of criminal procedure, forensic examination and methods of investigative and search activities, and therefore could have quickly taken measures to destroy the evidence of his crime.

Arriving at the platoon's location and fearing prosecution, Yevhen instructed his subordinate service personnel to ensure his defence and urgently set fire to the soft parts of the seats and carpets of the car in which the victim was reportedly raped in order to prevent his arrest. He also burned the clothes that he wore during the crime and immediately took a shower (probably to destroy possible traces of a crime on his own body and clothing). After this, armed with a firearm and a grenade, he personally took up defence at the entrance to the platoon's location and readied himself against the armed resistance of the police.

On the basis of the above, it can be concluded that the service person took actions that are typical of someone who has committed a crime and tries to conceal their traces. That is, his actions clearly appear to confirm the veracity of the victim's testimony as regards the circumstances of the crime and the person who committed it.

Pre-trial investigation in the case has been pending for more than two years.

Police investigators produced a notification of suspicion against Yevhen of having committed an offence under Part 3 of Article 152 of the CCU (rape of a minor). Notwithstanding, the prosecutor of the military prosecutor's office that provides procedural supervision of the pre-trial investigation refused to endorse this notification and returned the case-file for further pre-trial investigation.

Victim Tetiana[74]: "*When my lawyer was reading the materials of the pre-trial investigation, he found that*

[72] Rome Statute of the International Criminal Court, Rome, 17.07.1998.

[73] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[74] The victim has already turned 18.

the prosecutor had not justified his decision to return the notification of suspicion and had not provided any guidance to the investigator regarding further investigation. I have the impression that he [the prosecutor – authors' note] simply does not know what to do in my case. Two years have gone by, and I don't believe that the investigation will be completed. Yevhen is the local "war hero," and apparently they are scared to mess with him [...]."

Examinations conducted during the investigation did not reveal any traces of the crime on the victim's body and clothing (this was probably the reason why the prosecutor refused to endorse the notification on suspicion). Notwithstanding this point, this does not mean that the crime was not committed. The rape was committed in a secluded area by an armed man, with a threat of murder that the victim perceived to be real, and thus, did not actively resist. The absence of traces on the victim's body stems from the way the rape was committed.

Yevhen has excercised his right not to testify against himself and refused to explain the circumstances of the event to the investigator.

During the pre-trial investigation, the victim's lawyer filed approximately 11 motions to the investigator requesting him to arrange certain investigative actions. Most of these motions were left without a written response, but the investigator did try to arrange the respective actions one way or another.

At the same time, the main challenge was to establish the identification and contacts of possible witnesses of the crime among the AFU service personnel, and to find and interrogate them.

The victim filed at least four complaints to the military prosecutor's office on the investigator's violation of the reasonable terms of pre-trial investigation. She received two responses to these complaints. The military prosecutor's office partially acknowledged the violation of reasonable terms and, in at least one response, explicitly stated that the *pre-trial investigation was not effective*. In particular, the military prosecutor's office reported that written instructions for further investigation had allegedly been provided to the investigator, but the case-file that the victim's lawyer read several times did not contain such instructions. In addition, after these instructions, the course of the pre-trial investigation was not changed, and new investigative/search actions were not initiated. This indirectly proves that these instructions of the prosecutor's office – if they were indeed given – were not specific, and the responsible prosecutor did not supervise their implementation.

COMMENTS

The CCU provides that the person is notified on suspicion in the following cases: 1) if s/he is detained at the place of commission of a criminal offence or immediately after its commission, (2) if a legitimate measure of constraint is applied to a perpetrator, 3) if there is sufficient evidence to suspect a person of a criminal offence.

Detremining whether the evidence is sufficient is the discretionary power of the investigator and/or the prosecutor.

At the same time, the investigator/prosecutor should not abuse their discretionary powers and must act in accordance with the rule of law and legality.

In the case described above, the military prosecutor has not taken actions to notify the suspect of the suspicion against him. An apparent reason is that the military prosecutor believes that the evidence available is not sufficient to make such a notification.

Moreover, the military prosecutor returned the notification of suspicion to the investigator without proper justification. This report's authors find this practice inacceptable. Neither does he issue instructions to collect additional evidence or verify the evidence available (if he believes that this evidence is contradictory or insufficient).

As a result, the reasonable terms of pre-trial investigation were violated, and the procedural supervision over the observance of the law in the pre-trial investigation is not effective.

Based on available information on a criminal offence, the authors believe that such a protracted pre-trial investigation – over two years – is unreasonable given the scope and complexity of investigative/search actions that are necessary.

2.5. Illegal deprivation of liberty and abductions of civilians related to torture and other crimes

The Constitution of Ukraine guarantees every person the right to freedom and personal integrity. The same provisions are enshrined by Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

In its Resolution 2112 (2016) "The humanitarian concerns regarding people captured during the war in Ukraine," the PACE stated that since the illegal annexation of Crimea by the Russian Federation and the beginning of military aggression in the Luhansk and Donetsk regions in eastern Ukraine, hundreds of Ukrainian service personnel and civilians have been reported captured or abducted (para 1 of the Resolution). Within the framework of legal actions, the Assembly urged the Ukrainian authorities to conduct effective investigations and prosecute all alleged

perpetrators in cases of abductions or taking of captives (para 12.1.2 of the Resolution)[75].

The CCU provides for that illegal deprivation of freedom or abduction of a person (Article 146), torture (Article 127), beating and torment (Article 126) constitute crimes. The gravity of these crimes depends on alleviating and aggravating circumstances, if any (committed by a group of persons in collusion, etc.).

On 12 July 2018, the CCU was supplemented with Article 146-1 "Enforced Disappearances"[76] that includes the detention, arrest, abduction or deprivation of liberty in any other form committed by *the agent of the state*, including foreign state, with further denial of the fact of such detention, arrest, abduction or deprivation of liberty in any other form or concealing information about the fate or whereabouts of such a person. The note to this Article sets forth that the agents of the foreign state referred to in this Article includes public officials of a foreign state, those serving in the armed forces, police authorities, state security agencies, intelligence agencies or local self-government bodies of a foreign state, are established in accordance with the law of this state or act upon instructions of such officials, as well as representatives of irregular IAGs, armed gangs and groups of mercenaries that are established, subordinated, supervised and funded by the Russian Federation and the representatives of the occupation administration of the Russian Federation composed of its public authorities and entities that are functionally responsible for governing the temporarily occupied territories of Ukraine and representatives of the self-proclaimed entities established and controlled by the Russian Federation that usurped the governance functions on the temporarily occupied territories of Ukraine.

The Rome Statute[77] determines that (1) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law and (2) torture are crimes against humanity when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack (Rome Statute, Article 7 (1)(e) and 7 (1)(f)).

During an armed conflict of both international and non-international character, torture or inhuman treatment, wilfully causing great suffering, or severe injury to body or health are war crimes (Rome Statute, Article 8 (2)(a)(iii), 8 (2)(a)(ii)), 8 (2)(c)(i) and 8 (2)(c)(ii). The ICC has jurisdiction in respect of this war crime in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes (Rome Statute, Article 8 (1)).

2.5.1. Illegal deprivation of liberty and abductions of civilians by the members of illegal armed groups

Avramov case[78]

In March 2015, Vitalii Avramov travelled from Kyiv to Makiivka (Donetsk oblast) to visit his mother. When in Makiivka he was detained by the members of the so-called "DRP" and put in a basement. The formal reason for the detention was the suspicion of Vitalii's engagement with Ukrainian military battalions.

Victim Vitalii: "*I had nothing to do with Ukrainian volunteer battalions. My only 'illegal' activity that damaged the "DPR" is making numerous statements on the Internet in support of the territorial integrity of Ukraine.*"

In May 2015, Vitalii's friend filed a report on his disappearance to one of the district police units in the city of Kyiv. They started the pre-trial investigation under part 1 of Article 115 of the CCU (intentional deprivation of life).

The only investigative action that the police officers took upon the instruction of the investigator was the interrogation of the plaintiff.

It is not known for sure whether a respective investigative/search case was produced and whether any search activities were taken to locate Vitalii.

In May, the members of the IAG released Vitalii. The police officer questioned Vitalii in the premises of police unit in Kyiv as a victim. The questioning was quite superficial. As of May 2018, the investigator has never spoken with the victim.

At around October 2015, the investigator sent the materials of pre-trial investigation to the prosecutor requesting him to determine the territorial jurisdiction over the crime as he entrusted the investigation with the investigative unit of Makiivka municipal police unit of the Main Department of the Ministry of Internal Affairs of Ukraine in Donetsk oblast (in the occupied territory). The prosecutor returned the case-file to the investigator and reported that it was impossible to determine the jurisdiction, because the crime was committed in the occupied territory. At the same time, he requested to take actions aimed at solving the crime.

In November 2015 and in January 2016, the investigator has twice instructed the police officers to establish

[75] Additionally see the PACE Recommendation 2090 (2016) "The Humanitarian Concerns with Regard to People Captured During the War in Ukraine," http://w1.c1.rada.gov.ua/pls/mpz/docs/2266_rec_2090.htm.

[76] On 19 July 2018, the law was submitted to the President of Ukraine for signature. As of the date of report drafting, the law has not been signed yet.

[77] Rome Statute of the International Criminal Court, Rome, 17.07.1998.

[78] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

identity and contacts of the victim's mother, to interrogate her as a witness, and to identify possible eyewitnesses of the crime. In both cases, the police officer responded in several days claiming that it was impossible to take these actions since the respective persons reside in the occupied territories.

Victim Vitalii: "*I am well aware of the difficulties in identifying the eyewitnesses of the crime. But I cannot understand what could prevent the police officers and the investigator from establishing the identity and contact details of my mother. Why not ask me? By that time it had been half a year since I had been released, they had taken my phone number. If it was really necessary, I could have brought my mother to Kyiv. Well, the investigator should at least want to meet me in person and question me on the circumstances of my detention. It seems that they are not actually interested in questioning my mother. Their only motivation is to produce more papers to put them in my case, because as of May 2018 it is only 27 pages in length.*"

The criminal proceeding is still being investigated by the investigative unit of one of district police units in Kyiv. The prosecutor has not established the jurisdiction of the crime in accordance with criminal procedure law. The crime was not re-qualified. As stated earlier, it is being investigated under part 1 of Article 115 of the CCU as an intentional deprivation of life.

Konievy case[79]

In 2014, spouses Oleksandr and Viktoriia Konievy resided in Luhansk oblast and provided food and essential items to the Ukrainian military. In June, during their regular visit to the military unit of the AFU, they mistakenly arrived at the checkpoint controlled by the members of the IAG and were detained there.

Victim Oleksandr: "*When I was detained, they used beating and mock executions against me, and my wife was suffocated by a plastic bag. They took away our car, documents, money, phone and bank cards. They brought me to some building that looked like a prison (cells, bars). As it turned out later, that was the police lock-up of Leninskyi police unit in Luhansk. I was put in a solitary cell. I stayed there for almost a month, then I was transferred to the "LPR" military police and put to the basement of Luhansk State Oblast Administration. In the basement, beating and torture was a part of the daily routine. They beat every person they 'admitted' to the basement. If they didn't like someone, they could beat him or her brutally and for a long time. Some people 'enjoyed' a less severe beating, but almost nobody could escape. I was also tortured when being 'admitted'.*"

Victim Viktoriia: "*During the 'interrogations,' I had my rib broken and my hair burned. They burned down the skin on my face with a cigarette. They also used specific methods of torture and torment. For example, when I was brought to the police lock up, I was interrogated by 'Dmytro A.' For some reasons, he made me take a pack of menthyl valerate, and then six capsules of barboval. He counted the dosage according to my weight or so. Then he asked me whether my heart is healthy? After that, he made me to drink three litres of water and eat the full loaf of bread. I felt blessed when the shelling started, and I didn't eat that much bread.*"

In late October 2014, Oleksandr and Viktoriia were released.

Back in June and August 2014, the Sievierodonetsk municipal police unit started the investigation of two criminal proceedings opened upon the requests of the victims' family members. In early September, the prosecutor instructed to join these two proceedings into one. In late October, this joined criminal proceeding was merged with another one that had been started in mid-October upon the request of the victims' friend.

The first investigative actions were limited to the interrogation of two plaintiffs.

The first plaintiffs were interrogated as victims almost in one month after the pre-trial investigation started. No information about the interrogation of the third plaintiff – the victims' friend – is available.

In mid-October 2014, the investigator took a sample of saliva from close relatives of Oleksandr and Viktoriia and arranged a DNA forensic examination to identify the sample of oral saliva. After the victims had been released, he promptly questioned the relatives as witnesses.

The investigator gave the first instruction on investigative/search actions to police officers on 1 September 2014. This was a quite general instruction that requested the officers of the traffic police and other police officers in adjacent areas to locate the missing persons and their car.

In October 2014, the investigator produced the first investigation plan, which was relatively superficial. In the opinion of the authors of this report, it looked like a model plan for investigation and ignored specific circumstances of the crime that Oleksandr and Viktoriia had suffered.

Namely, the investigation plan entailed the following investigative/search actions:
- "Locate the missing persons" (not specifying actions necessary for this);
- "Carry out a number of investigative, open and covert search actions" (without specifying them);
- "File a motion to the court" (not specifying what kind of motion);
- "Extract a video record on the crime scene and adjacent territory" and "identify eyewitnesses and question them as witnesses" (by the time of producing this plan, the crime scene was not known).

[79] The names (first name, patronymic, last name) of the victims and names of other participants of these events have been changed.

Only in July 2015 – *i.e.*, eight months after the victims had been released and interrogated did the investigator instruct that they search for and seize their vehicle, which remained in the possession of the IAG[80].

Beginning in approximately February 2017, the criminal proceeding was being investigated by the IU of Bilokurakyne police unit in Luhansk oblast. At the same time, the case-file lacks any documents (in particular, the order of the prosecutor) on determining the geographical jurisdiction of this police unit.

It is worth noting that Bilokurakyne police unit is around 90km away from Sievierodonetsk and around 150km from the crime scene. Viktoriia currently resides in Kyiv, and Oleksandr in Cherkasy oblast.

Location of Bilokurakyne police unit

Due to poor roads, it takes approximately 3 hours to get from Sievierodonetsk to Bilokurakyne. Railway transportation is not available to Bilokurakyne. The closest settlement with a more developed transport infrastructure is Starobilsk. It takes 1 hour to get to Bilokurakyne and 2 hours to Sievierodonetsk from there.

In February 2017, the investigator of Bilokurakyne police unit produced an investigation plan that was also superficial, similarly to the previous plan drawn up by the investigator of Sievierodonetsk police unit. The new plan entailed identifying the place of registered and actual residence of the victims, possible eyewitnesses of the crime and searching for information in social media networks (without specifying the scope of such search).

[80] As of May 2018, the section "Searched transport/vehicles" at the official website of the Ministry of Internal Affairs does not contain information on the search of the victims' vehicle, https://wanted.mvs.gov.ua/searchtransport/.

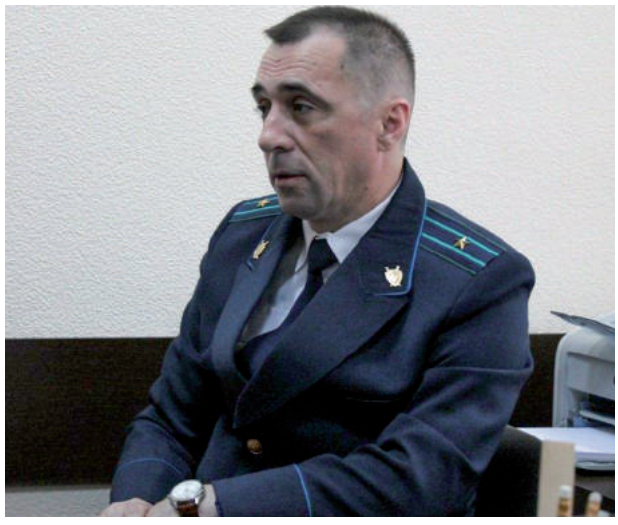
Victim Oleksandr: "*Back in October 2014, me and my wife were questioned as the victims. We gave our phone numbers and places of residence to the investigators. So, I don't understand what was the matter in identifying our place of registration and actual residence. Instead of looking for perpetrators, the police officers for some reason searched us as the victims!*"

Later on, the police officer reported to the investigator that he "constantly monitored social media networks in order to identify witnesses and perpetrators," and took other actions to identify the places of registered and actual residence of the victims that have not yielded results so far.

From August-December 2017, the investigator diligently submitted almost monthly instructions to police officers to identify witnesses of the crime, and the police officers almost monthly reported that it was impossible, including giving the reason as that the crime was committed on non-government-controlled territory.

Within the framework of other criminal investigation, in October 2017, the Main Military Prosecutor's Office transferred to Svatove district court of Luhansk oblast for consideration in absentia the indictment against a person who was reportedly involved in detention of persons in the "basement" of the Luhansk State Oblast Administration building – one of the places where Oleksandr and Viktoriia had been detained[81].

The person concerned is the ex-SSU officer Arkadii Kornievskyi. The military prosecutor's office accuses him of "*from the first half of July to at least 28 October 2014, he was serving as a so-called "investigator" of the illegal armed group "Separate Military Police Regimen of the Second Army Corps of the terrorist organization "LPR" in Luhansk*



Arkadii Kornievskyi

Source: website "Myrotvorets" https://myrotvorets.center/criminal/kornievskij-arkadij-yurevich/

[81] Information from the Unified State Register of Court Decisions. Available at: http://reyestr.court.gov.ua/Review/70218020.

where he contributed to the aggressive war against Ukraine, organized and personally committed a robbery, an attack to steal the firearms, abductions and illegal deprivation of liberty of the civilians who were illegally detained in the building of Luhansk State Oblast Administration and in the premises of the Executive Committee of Zhovtneve District Council in the city of Luhansk. During the illegal detention of the civilians, he interrogated them and ordered to use physical violence, beating and torture against them."

As the victims were not aware of this pre-trial investigation, in April 2018 they submitted the requests to the military prosecutor's office and the court to have them involved in the criminal proceedings as the victims. As of June 2018, they did not receive responses to their requests[82]. Another victim, Yevhen, is in the same situation (see Tokariev case below).

Tokariev case[83]

In August 2014, Yevhen Tokariev, a civilian, was apprehended in Luhansk by the members of an IAG of the so-called "LPR" and detained for approximately six days in the premises of the Luhansk State Oblast Administration. Then he was released with facilitation of his friend.

After his release and movement to the government-controlled territory, Yevhen applied to police.

Victim Yevhen: "*Police officers told me that there is no sense in filing a crime report until Luhansk is liberated, because they wouldn't be able to verify the circumstances of my abduction and detention, identify possible eyewitnesses, and the alleged suspects are on the non-government-controlled territory. Thus, I did not file a written crime report then*."

In April 2018, Yevhen did actually file a written crime report to police unit at his place of residence. The next day the investigator entered information on the crime to the URPI under part 3 of Article 146 of the CCU (illegal deprivation of freedom or abduction of a person committed by an organized group). Some time later Yevhen was interrogated as the victim.

At the same time, the police ignored his next request to report on the actions taken.

Dmytrenko case[84]

In May 2014, Kostiantyn Dmytrenko, a civilian, sustained a gunshot injury when the members of an IAG of the so-called "DPR" attempted to apprehend him in Makiivka (Donetsk oblast).

Victim Kostiantyn: "*After I sustained the injury, an ambulance took me to local hospital for emergency care. On the next day, they tried to evacuate me to the hospital in Dnipro, but the ambulance was shot at, and I was put to the basement in Horlivka for more than a month*."

On the next day after Kostiantyn's injury, Makiivka police unit[85] began a criminal proceeding on the attempted murder, and in June 2014, a criminal proceeding on his abduction (within the framework of this proceeding, Kostiantyn was put on a missing persons list as a missing person).

As Kostiantyn did not observe any progress in the investigation after his release, in February 2015 he filed a request to the Ministry of Internal Affairs of Ukraine (hereinafter: MIA of Ukraine). Upon his request, the IU of Kostiantynivka municipal unit of the Main Department of the MIA in Donetsk oblast[86] started new criminal proceedings (on an attempted deprivation of life and on abduction)[87].

In January 2016, Kostiantyn was interrogated as the victim. The investigator arranged a medical forensic examination to identify the nature of bodily injuries only in September 2016. In November 2016, the investigator arranged a forensic ballistic examination to identify the bullet extracted from Kostiantyn's body in a hospital in Kyiv[88].

In February 2016, the investigator instructed the police officers to identify persons involved in the crime (without specifying what actions should be taken).

As of May 2018, no progress in the investigation was observed, neither were investigative/search actions taken.

Hryshchenko case

In mid-July 2014, Oleksandr was detained in Luhansk by the members of the IAG "Batman emergency response group" while he was heading to the office.

During the first three months of staying in custody, Oleksandr was subjected to torture on daily basis. He was suffocated, tortured with electric current, he had his limbs sawed, and various parts of his body beaten. In late December 2014, Oleksandr was released.

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[82] As of June 2018, the trial is pending.

[83] The names (first name, patronymic, last name) of the victims and names of other participants of these events have been changed.

[84] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[85] As of May-June 2014, the bodies of the Ministry of Internal Affairs in Makiivka were still formally subordinated to the public authorities of Ukraine, but in fact, they were controlled by the IAG. According to official data, police administrative buildings in Makiivka were seized in July 2014.

[86] City of Kostiantynivka in Donetsk oblast, government-controlled territory.

[87] The police officers claimed that the reason for starting new investigations is that the materials of previous pre-trial investigations were left on the non-government-controlled territory of Ukraine.

[88] After his release, Kostiantyn received health care in a hospital in Kyiv.

The victim does not know whether the law enforcement agencies have started the official investigation of his disappearance. At the same time, the SSU was aware of his disappearance, as confirmed by the fact that in November 2014 it sent the letter to Oleksandr's friend reporting that the law enforcement officers take actions to release him from captivity.

After Oleksandr was released he requested the Obolon district police unit in the city of Kyiv to delete information that he was on missing persons list from the search records of the MIA. The police officers interrogated Oleksandr and kept the copies of his ID.

Notwithstanding this, in May 2015 the police officers came to the hostel where Oleksandr stayed. They referred to the fact that he was on a missing persons list. According to Oleksandr, they rudely and toughly tried to apprehend him and conducted a covert search of his room not sanctioned by the court.

In fall 2016, Oleksandr's lawyer advised him to file a written request to police to conduct official investigation of the circumstances of deprivation of his liberty and torture, which he did. It is not known how the law enforcement officers responded to this request. He did not keep a copy of the request with him.

In general, Oleksandr does not expect anything from the official investigation and is quite sceptical about the performance of the National Police of Ukraine and other law enforcement agencies.

In May 2018, the fact of his time in captivity by the IAG was confirmed by the court. It is worth noting though that the court refused to recognize that Oleksandr suffered harm to his health caused by torture, since no report of forensic medical examination was available. After Oleksandr was released from captivity, the law enforcement officers did not initiate such an examination.

Dobrozhan case

In 2014, Vitalii Dobrozhan resided in Rubizhne in Luhansk region. He spent all his leisure time working with children – he organized various sports and public events to promote the values of patriotism and sports among children. Since the onset of an armed conflict, he provided assistance to Ukrainian service personnel as a volunteer. His civic activity made him famous, and on 1 June 2014, the members of an IAG of the so-called "LPR" apprehended him at his home.

Victim Vitalii: *"I am a citizen of Ukraine, but that did not matter during the apprehension, nor did either my ethnicity or religion. They didn't take my baptismal cross away – they said, I am a Christian. I kept it with me after I was beaten. It means that the key reason for apprehension was my civic activity."*

Vitalii spent 20 days in the building of the ex-Luhansk SSU Department. He had a piece of his ear cut off, his legs cut by knife, and cigarette burns on his skin. He was constantly subjected to mock executions.

On 2 June 2014, criminal proceedings on Vitalii's disappearance were initiated. As of April 2018, the case is being investigated by the IU of Rubizhne police unit. Vitalii has submitted several written motions to the investigator requesting him to interrogate as injured parties his family members who witnessed his apprehension, as well as to interrogate persons whom he referred to as alleged perpetrators. As of now, these persons do not hide and reside openly in Rubizhne. All the motions were left unanswered. The investigative actions requested by the victim have not been taken.

On 3 April 2018, Vitalii submitted a motion to the investigator as he attempted to learn the material pertaining to the pre-trial investigation.

Victim Vitalii: "*I came to the investigator's office requesting to learn about the case-file. She was looking for my case in her office for some 15 minutes but didn't find it. She lifted her hands in dismay and said she didn't know where it was. Promised to look for it the next day. Is it the way the investigation should be carried out?*"

Vitalii believes that the investigation in his case is not effective.

Khorolski case[89]

Volodymyr Khorolskyi lived and worked in Luhansk almost all his life. He had his family, housing and a small business there. In September, the members of the IAG of the so-called "LPR" detained him and his wife for his support for the territorial integrity and independence of Ukraine and civic activism of his son.

Victim Volodymyr: "*We spent a total of 115 days in captivity. We were held in the basements, a garage, a cesspit while being subjected to torture. As result, I lost my teeth and developed severe health complication, and my wife got serious psychological trauma. Then I paid for all the treatment and document recovery*."

In October 2014, Starobilsk district police unit (Starobilsk, Luhansk oblast) started a criminal proceeding on the abduction of spouses upon the request of the Red Cross Society.

The investigator compiled an investigation plan only in a month after that. The plan was quite superficial, though ("locate the missing persons," "interrogate them as the victims," etc.) and did not refer to any specific investigative/search actions necessary for the investigation. The investigator came up with two investigative leads: 1) the crime was committed by the persons who reside in the settlement where it was committed; 2) the crime was committed by persons who

[89] The names (first name, patronymic, last name) of the victims and names of other participants of these events have been changed.

were sentenced for similar crimes earlier. For unknown reasons, a more specific lead – that the members of the IAG were involved in the disappearance – was not developed, even though the information on the place where the members of the IAG detained the victims was available in the case-file.

Investigative/search actions were limited to the investigator's instruction to police officers to identify persons involved in the abduction.

Later on, the prosecutor established the jurisdiction of Troitske police unit (Troitske, Luhansk oblast) over this case.

In June, the investigative unit of the MDNP in Luhansk oblast issued an instruction to recognize that the spouses as the victims in the criminal proceedings, since they have never been questioned as victims despite their release from custody back in late 2014.

It was only in August 2016 that they were interrogated as victims on the circumstances of the criminal offence against them.

In July 2018, the investigator started another criminal proceeding on stealing the belongings of spouses. Later on, the respective materials were merged with the criminal proceeding started earlier.

Except for the questioning of the victims, no other investigative actions have been taken since the investigation start.

2.5.2. Apprehension with unjustified use of force or excess of power during apprehension

Nefiodov case[90]

In March 2015, Andrii Nefiodov, who resided in Dnipro, found a job as a security guard. His company sent him to a 2-week secondment to Volnovakha, Donetsk oblast, to provide security to a local community enterprise. The town was controlled by the public authorities of Ukraine then.

Three days later, six camouflaged persons in balaclavas without insignia equipped with helmets and bulletproof vests and armed with automatic firearms broke into Andrii's leisure room in Volnovakha. Everyone in the room was told to lay down on the floor. Along with that, the armed men were firing in the ceiling, beating Andrii, and shot him in his leg.

On the same day, Andrii was taken to a hospital where doctors diagnosed a penetrating gunshot wound of his hip. When Andrii was admitted to the hospital he was in serious condition. In August 2015, he was assigned a disability in the second category due to his injury.

The investigators of local police unit started the pre-trial investigation upon receipt of the doctor's report. They pre-qualified the offence against Andrii as committing intentional bodily injury of moderate gravity.

In October 2017, the local prosecutor's office responded to the victim's complaint on the poor performance of investigators that during the pre-trial investigation the police had established that these were the SSU officers who committed bodily injuries during the apprehension. However, later on the prosecutor of military prosecutor's office did not find any evidence of the SSU officers' involvement in this criminal offence.

The victim considers that the pre-trial investigation of his case is not effective.

Since the investigation started, he was never called to be questioned and was never questioned as to the circumstances of the crime. The people who stayed in the room with the victim and witnessed the crime were questioned neither. The crime scene was not examined. The type of firearms from which the shots were made has not been identified, and the bullet and a shell were not extracted from the crime scene. In violation of the requirements of criminal procedure law of Ukraine, even a forensic medical examination to identify the gravity of bodily injury that Andrii suffered and other medical signs of the injury was not arranged[91].

COMMENTS

It is common for the crimes related to illegal deprivation of freedom and abductions of civilians by the members of the IAGs that some victims can identify/recognize certain perpetrators.

The investigators failed almost completely to use available forensic methods and tools to document the appearance of perpetrators:

- description of the appearance of perpetrators in procedural documents (reports of the interrogation of victims normally miss the detailed description of the appearance of perpetrators. At best, they refer to their membership in the IAG, nicknames, etc.);
- composite sketches/identikit images (the investigators do not take actions to produce identikit).

At the same time, the investigators for unjustified reasons neglect the opportunity that the victims can recognize the perpetrators and objects from photographs, video records (including videos from the Internet), from the forensic records, etc.

Graphic record of the evidence – drawing sketches, mapping, etc. – is used neither, as this method enables to record a lot of critical information about the place of detention.

[90] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[91] According to the victim's statement.

2.6. Artillery shelling

In its twenty-first report on the human rights situation in Ukraine (16.11.2017 – 15.02.2018) based on the work of the United Nations Human Rights Monitoring Mission in Ukraine, the Office of the United Nations High Commissioner for Human Rights (OHCHR) states that use of indiscriminate weapons and/or explosives remains the key reason for civilian casualties[92].

In total, over 3 thousand civilians were killed during the conflict[93], and between 7 to 9 thousand were injured[94].

A total of 11 civilians died and 32 were injured in May 2018 alone[95].

Attacking[96] or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives (Protocol Additional I, Article 85 (3)(d), breaches the 1907 Hague Convention, Article 2, the Rome Statute, Article 8 (2) (b)(v), customary international law, and Article 438 of the CCU).

2.6.1. Deaths or injuries of civilians

Dovhal case

On 27 January 2015, Toretsk (then it was named Dzerzhynsk, in government-controlled territory in Donetsk oblast) and adjacent villages came under artillery shelling. As a result, two civilians were killed, and one service person was injured. Numerous buildings suffered damage. One of the killed civilians was Volodymyr Dovhal. He and his wife Liubov were married for 36 years.

After the first phase of the shelling, the windows in their house were broken. Since that was winter, Volodymyr used the 'silence regime' – the neighbours helped him by get up by the ladder to the windows of the second floor to urgently cover them with wood planks so that the freezing air does not get inside the house. At this moment, the second phase of shelling started, and a shell directly hit the house roof. Volodymyr sustained shrapnel wounds and died on the spot. Neither an ambulance nor the police come to the location on that day.

Window at the second floor next to which Volodymyr sustained fatal injury
Photo credit: Liubov Dovhal, February 2018

On the same day, the investigators of local police unit entered the information on this event to the URPI. It was qualified under part 3 of Article 258 of the CCU (terrorist act that caused death of a person). Later, the materials were transferred for investigation to the investigative unit of the SSU.

During the investigation, Liubov Dovhal was not engaged in any investigative/search actions. Liubov's written request to the investigator for information on the progress of investigation remained unanswered.

Liubov does not expect the investigation to ever identify the persons who committed indiscriminate shelling of the

[92] OHCHR Report on the human rights situation in Ukraine (16.11.2017 – 15.02.2018). Available at: http://www.ohchr.org/Documents/Countries/UA/ReportUkraineNov2017-Feb2018_UKR.pdf.

[93] Including 298 civilians who were killed as a result of the MH17 plane crash on 17 July 2014.

[94] Stop immunity: UN calls for accountability for human rights violations. Available at: http://www.un.org.ua/en/information-centre/news/4312-stop-immunity-un-calls-for-accountability-for-human-rights-violations.

[95] According to OSCE. Source: https://twitter.com/OSCE_SMM/status/1005017719174025216.

[96] "Attack" means acts of violence against the adversary, whether in offence or in defense (Protocol Additional I, Article 49(1)).

residential area. At the same time, she expected that the government would provide at least some compensation for her suffering, as well as compensation to rebuild her house or any other assistance or psychological support.

Having not received any assistance from the government, in early 2018 Liubov Dovhal, supported by the EUCCI, filed a suit to the court for compensation for moral damage inflicted by the death of her husband. In May 2018, while considering whether the Russian Federation should be involved in the case, Dzerzhynsk city court of Donetsk oblast decided to send the court instruction to the competent authorities of the Russian Federation requesting them to submit the copy of lawsuit to the government of the Russian Federation and stopped proceeding with this case.

Kostenko case[97]

On the night to 18 August 2015, Mariinka (in the government-controlled territory in Donetsk oblast) came under artillery shelling. One of the shells exploded next to the house of Liudmyla Kostenko and caused the ceiling to collapse.

Liudmyla, her husband and two children (a girl aged 5 months and a boy aged 5 years) were in the house at that time. They all were covered by the fragments of the ceiling. Both children suffered injuries. The 5-month-old daughter sustained severe injuries to her abdomen. The service personnel helped to bring her to the hospital in the neighbouring town of Kurakhove. After she received emergency care there, a military helicopter took her to the hospital in Dnipro. The doctors did not manage to save her life.

The pre-trial investigation of this event was started more than a year – on 1 December 2016, after Liudmyla's report that she had filed on 21 November 2016. One more month later, on 29 December, Liudmyla was recognized as an injured party. The crime was pre-qualified under part 3 of Article 258 of the CCU (terrorist act that caused death of a person).

No information is available on the further investigation. Liudmyla has repeatedly contacted the investigative units of the Main Departments of the SSU in Donetsk and Luhansk oblasts only to receive no information on the progress in her case. In August 2017, she filed a written request to the investigator requesting him to establish the trajectory and type of the shell. She did not receive any response to her motion.

Atamaniuk case[98]

On 13 January 2015, the village of Hranitne (then – in Telmanove district in the government-controlled part of Donetsk oblast, now – in Volnovakha district of Donetsk oblast) came under artillery shelling. A direct hit to the house injured a two-year-old girl.

The girl died in the ambulance. The police investigators opened a criminal proceeding on the same day under part 1 of Article 115 of the CCU (intentional deprivation of life).

According to family members, the only investigative action taken so far was the visual examination of the girl's body.

In June 2015, the girl's mother received a response to one of her numerous complaints to the prosecutor's office of Volnovakha district. This response stated that the investigation is pending, without referring to any specific circumstances and progress.

In June 2015, the mother filed the written motion to the prosecutor requesting him to find and question witnesses who would specify who fired the mortar attack and from which side, to examine the scene, take photos at the place of explosion and arrange for the forensic medical examination. She did not receive a response to her motion. No progress in the investigation is observed.

Klymko case[99]

On 30 July 2014, a civilian Valerii Klymko came under artillery shelling and suffered injuries and a concussion in Popasna (in the government-controlled part of Luhansk oblast).

Approximately a day later, police officers came to his house to interrogate him on the circumstances of the artillery shelling. Valerii was not able to reply to most of their questions – including the direction of shelling, probable perpetrators, type of arms, etc. After that, no police officer ever talked to him. No investigative action with his participation was taken.

In 2018, Valerii tried to ask local police unit as to the progress of the investigation. The district police officer only told him that the case-file was most likely transferred to the SSU. He did not receive any detailed information from the police. According to the victim, he had an impression that the police officers do not know where the case-file on this shelling is.

Churenko case[100]

On 24 January 2015, a civilian Mykhailo Churenko was killed by the artillery shelling in Popasna (on the government-controlled part of Luhansk oblast). His

[97] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[98] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[99] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[100] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

son sustained burns as he tried to extinguish fire in the courtyard. The police officers questioned him in the hospital on the day of shelling.

The pre-trial investigation was started on this event. Except for the questioning of the injured party, no further investigative/search action was taken.

The police officers have verbally said to the injured party (the son of the deceased) that they would not actually investigate the case, because they do not believe they would be able to identify perpetrators. The injured party made several calls to the investigator to learn the progress and further perspectives of the investigation. According to the injured party, the investigator considers this case a blind alley, and is reluctant to take any further investigative/search actions.

2.6.2. Destruction or damage to civilian property

Kukharski case

In August 2015, the house of the Kukharski (in Toretsk on the government-controlled territory of Donetsk oblast) was hit by artillery shelling that caused a fire. The house and everything inside (household appliances, furniture, clothing, etc.) has burned down. Viktoriia and Oleksandr Kukharski and their old grandmother narrowly escaped death.

According to the victims, the house was then examined by representatives of various authorities who produced various documents. Viktoriia and Oleksandr do not remember whether police officers also came, because the entire family were in a state of shock.

Photo of the Kukharski house after the fire
Photo credit: Oleksandr Kukharskyi, August 2015

Since this time, Viktoriia and Oleksandr have not been called by the police nor questioned as the victims. They did not know whether an official investigation is taking place. According to them, they never expected that the perpetrators could be brought to justice and, thus, did not request the police officers to update them on the progress of the investigation.

It was only in February 2018 that the Toretsk police unit informed the Kukharski that the information on the criminal offence against them had been entered into the URPI under part 1 of Article 258 of the CCU (terrorist act), and the case-file was transferred to the investigative unit of the SSU.

As the authors analysed the investigations of crimes/offences qualified as terrorist acts, they helped the victims to produce and file a motion requesting the SSU investigator to take necessary investigative actions – as the law enforcement officers produced a report on the examination of the crime scene in which they did not conduct an forensic examination to identify the reasons of the house's destruction and the cost of repair/renovation. The SSU investigator satisfied this motion in full.

Kholodenko case[101]

Before the armed conflict, Dmytro Kholodenko ran a small hotel next to Horlivka (village of Zaitseve, Bakhmut district, Donetsk oblast, partially controlled by the government; the village was a part of Horlivka City Council).

In May 2014, the members of an IAG of the so-called "DPR" conducted a search in the hotel and stole several computers. The alleged reason for the search was Dmytro's support for Ukraine's territorial integrity and the attempt to extort money from him. Dmytro managed to flee from the occupied territory before it was too late.

In 2015, the AFU liberated the part of the settlement. The hotel found itself in the government-controlled territory. In fall 2015, the hotel building suffered several artillery hits. In December 2015, it was partially destroyed by the fire caused by another artillery shelling. Before the fire, the hotel was partially looted.

The police started the pre-trial investigation on the hotel building's destruction. The investigators qualified the actions of non-identified perpetrators as intentional destruction or damage to property (part 2 of Article 194 of the CCU). During the first months of investigation, the investigator questioned the plaintiff and two witnesses. Other investigative actions, including examination of the hotel building, were not taken.

Yemelianova case[102]

Throughout January-August 2015, numerous artillery hits completely destroyed the house of Viktoriia Yemelianova on the occupied territory of Donetsk oblast in the vicinity of Donetsk airport.

Upon her report, the law enforcement agencies started the pre-trial investigation under part 2 of Article 258 of the CCU (terrorist act). According to the victim, no investigative actions have been taken.

Also, Viktoriia referred to the effective control of the Russian Federation over the occupied territories of Donetsk and Luhansk oblasts and requested the Investigative Committee of the Russian Federation to initiate a criminal proceeding. She received a response from an investigator of the "Department for investigation of crimes related to the use of prohibited methods and means of warfare" of Investigative Committee of the Russian Federation that the Main Investigative Department had allegedly drafted the request for legal assistance to the competent authorities of Ukraine to verify the evidence that the plaintiff laid down in her request, in accordance with the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (22.01.1993).

Ivashchenko and Petrenko cases[103]

In July 2014, artillery shelling damaged the apartment of Mykhailo Ivashchenko in Donetsk (in the occupied territory). In September 2016, the pre-trial investigation under part 2 of Article 258 of the CCU (terrorist act) was initiated upon his request. The victim has no information about any progress in this investigation.

In August 2014, a two-storey multi-apartment building in which Dmytro Petrenko had his apartment (Shakhtarsk, in the occupied part of Donetsk oblast) was completely destroyed in similar circumstances. As in the above case, the pre-trial investigation was started, but Dmytro knows nothing on its further progress.

COMMENTS

Almost all victims in the cases of artillery shelling referred to above have not been updated on the progress of pre-trial investigations and only seek information from the investigators sporadically. Falling short of hope for the capacity of law enforcement system of Ukraine to restore justice, not being aware of the procedural rights and not having access to quality legal aid of lawyers, the victims do not fully enjoy their right to learn of the progress and information relating to pre-trial investigations and the right to file motions to the

[101] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[102] The name (first name, patronymic, last name) of the victim and names of other participants of these events have been changed.

[103] The names (first name, patronymic, last name) of the victims and names of other participants of these events have been changed.

investigator on arranging specific investigative actions. At the same time, the investigators often fail to consider and respond to the few motions that are indeed filed to them (mostly – through the support of human rights NGOs).

Referring to verbal communication with the investigators, most victims are sure that no investigation in their cases is beingeffectively carried out.

2.7. Infringements on inviolability of housing

2.7.1. Using civilian real estate for military purposes and looting of housing

Since the outbreak of the armed conflict, a number of settlements found themselves on the contact line. Some houses on both sides of the contact line were occupied by the AFU service personnel or the members of the IAGs and are most likely used as defensive buildings. Military positions were installed in the settlements, sometimes even in the courtyards of private houses. Most occupied houses were looted.

The IHL law expert professor E. David emphasizes: "Various types of the protected objects have one common feature: they cannot be used for military purposes, because otherwise they use certain degree – depending on the object – of protection from direct effects of the hostilities. In other words, it is not prohibited to use a civilian object or a hydroelectric power station for military purposes (except for the perfidy), but this use *ipso jure* causes the loss of immunity that this object normally enjoys"[104].

At the same time, pillage is prohibited (Fourth Geneva Convention, Article 33, Protocol Additional II to Geneva Conventions, Article 4 (2)(g)). Pillaging a town or place, even when taken by assault, amounts to a war crime (the 1907 Hague Convention, Rome Statute, Article 8, customary international law, Article 438 of the CCU).

Martynenko case

In March 2015, the house that belonged to Anatolii Martynenko in Popasna district on the government-controlled territory next to the contact line was looted by unidentified persons. Anatolii suspected two of his fellow villagers and the AFU service personnel from a military unit deployed in the village.

The police officers started the pre-trial investigation of the offence upon Anatolii's report. The investigative actions were limited to a crime scene examination and the questioning of Martynenko as the victim. Alleged perpetrators and commanders of the military unit were not questioned.

One year later, in April 2016, Anatolii attempted to come to the house to check the property that remained after looting.

At that time service personnel of Kyiv Rus 25th battalion were headquartered in the village. They lived in certain houses there. They arranged the fortified positions within a few houses from Anatolii's house, the road to his house was mined. Anatolii was denied access to his house.

In September 2016, the local prosecutor's office responded to the victim's complaint on inactivity of the investigator that the latter had questioned the witnesses and instructed the police officers to identify perpetrators. In general, the response was just "to tick the box." So far, the victim has not learned what witnesses were referred to.

Several requests that Anatolii made to the prosecutor's offices – in particular, to the prosecutor's office of Luhansk oblast, did not yield progress in the investigation.

Since Anatolii lives in Kyiv oblast and lacks the funds to go to the place of pre-trial investigation, he is not able to effectively control the course of investigation and to learn from the case-file available.

Case of Loboiko, Vasylenko and others[105]

In 2015, residents of Zelenyi Hai Street in Mariinka (in the government-controlled territory of Donetsk oblast) Loboiko, Vasylenko and others (57 families in total) had their houses used as defensive buildings during the hostilities.

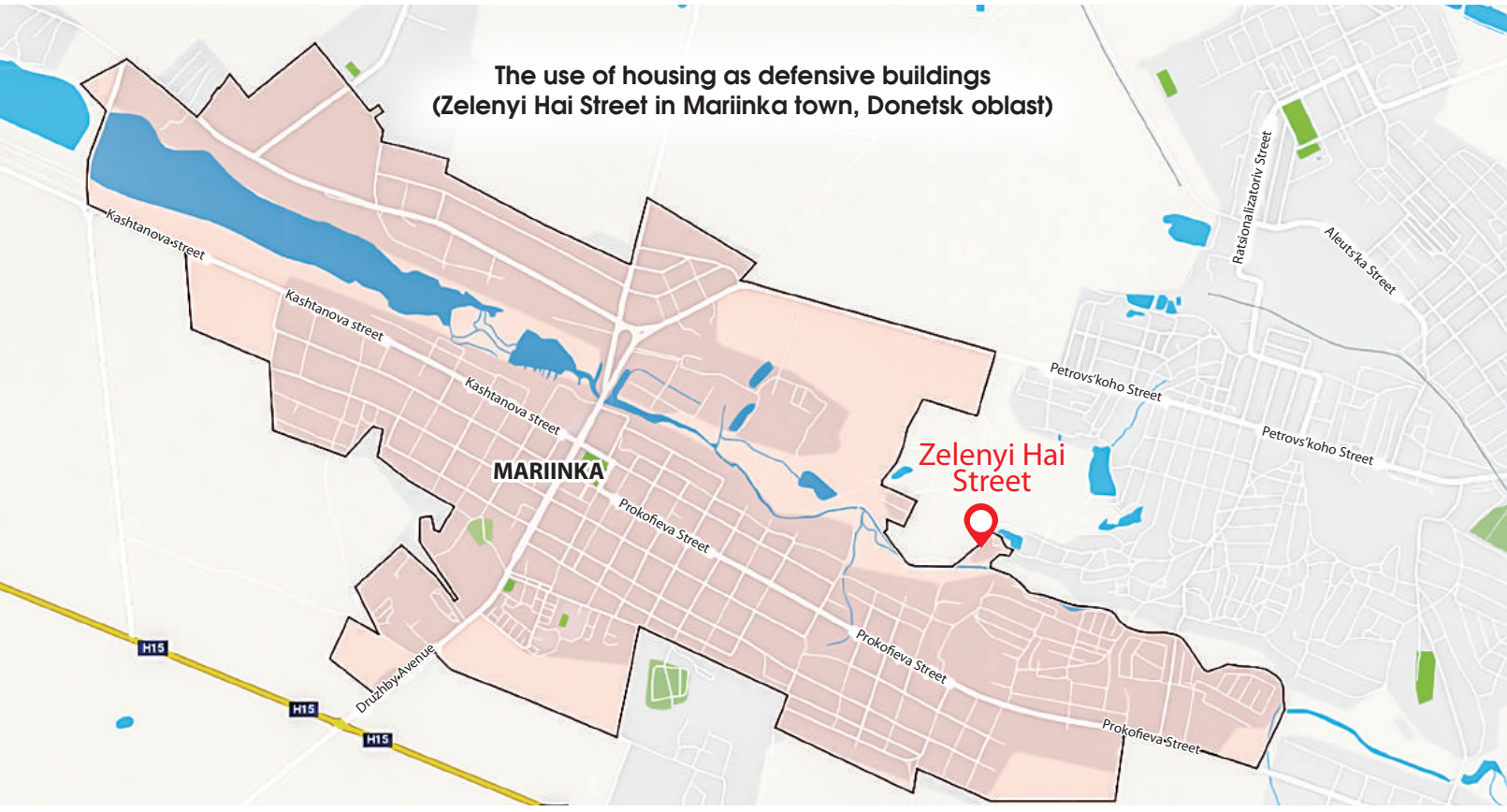
These were the AFU forces that installed their defence corps on this street in the eastern part of the town. Until summer 2015, the residents – some 57 families in total – enjoyed free access to their housing. At the same time, many building were destroyed by artillery shelling.

According to local residents, in spring 2015, service personnel of the AFU and voluntary battalions were placed in these houses without the consent of the respective owners. Unauthorized occupation of the houses was followed by widespread looting of personal belongings of the owners. Beginning in May 2015, access of the civilians to the street (to these houses) was banned. The service personnel explained that coming to this area was dangerous for the civilians.

Some residents were fine about these restrictions. However, the civilians are concerned with numerous incidents of looting of their houses.

[104] E.David. Principles of the law of armed conflicts: Course of lectures delivered at the Faculty of Law of Open Brussels University. Moscow, International Red Cross Committee, 2011 – 1144 p.

[105] The names (first name, patronymic, last name) of the victims have been changed. They are reluctant to make their names public because of the fear of retaliation on the side of service personnel headquartered in the settlement.



In July 2015, upon the collective request of the residents, the police investigators started the pre-trial investigation under part 3 of Article 185 of the CCU (burglary). Four days later, the investigator reported to one of the victims in writing that the crime had been committed by the AFU service personnel.

At the same time, the ATO Headquarters responded to the request of the representative of Ukrainian Parliament Human Rights Commissioner on the rights of internally displaced persons that the AFU service personnel had not been involved into any illegal actions against local residents, including pillaging their houses[106].

The commandant of the military police in Kurakhove also denied the AFU service personnel involvement in the looting of civilian property. In his letter to one of the victims he *inter alia* underlined that numerous houses had been occupied and looted by the members of the IAGs before the AFU units entered the town in May 2015.

In his letter to one of the victims, the Rear Services Chief of AFU Land Forces Command reported that the compensation for the AFU service personnel breaking into the housing and using it for defensive purposes in the context of the ATO does not fall within the Ministry of Defence remit.

Formally, the pre-trial investigation continues. At the same time, the investigator reports in his letter that taking investigative actions on Zelenyi Hai Street is impossible, as no official written permission from the ATO Centre leadership is available.

At the same time, this letter does not specify what investigative actions are indeed possible and which of them were/are taken.

The victims know from their correspondence with various public authorities that the military units such as the 28th Separate Guards Mechanized Brigade and the 20th Separate Mechanized Infantry Battalion were headquartered in the town. However, the investigator has taken no actions to interrogate the commanders of these units and individual service personnel.

A similar situation is also observed in certain other settlements on the contact line.

Case of Osypov, Boiko and others

Since September 2014, the village of Shyrokyne (in Volnovakha district[107] of Donetsk oblast, currently government-controlled territory) is one of the epicentres of armed clashes. The artillery shelling has destroyed many houses of the local residents. According to some residents, all the remaining movable property

[106] Letter of the Commissioner's representative on the rights of internally displaced persons of 20.05.2016.

[107] In 2014 – Novoazovsk district of Donetsk oblast.

(household appliances, clothing, furniture, etc.) was looted.

In June 2018, the NGO "Shyrokyne SOS" set up by local residents Ivan Osypov and Valerii Boiko advocating for the interests of its members and referring to the destruction and damage to housing has requested that Volnovakha police unit starts an official investigation, because no investigation was initiated in any individual case of destruction or damage to housing[108].

Volnovakha police unit refused to enter information into the URPI and start the respective investigation.

In July 2018, the investigative judge of Volnovakha city court of Donetsk oblast agreed with the NGO motion and obliged the police officers to enter the respective information into the URPI and start the investigation.

The police complied with the judge decision and started the investigation.

Шановний Іван Іванович

Повідомляю що Ваше повідомлення про те що в період з вересня 2014 року, і по теперішній час село Широкине неодноразово піддавалося артилерійським обстрілам, внаслідок яких було зруйновано житло членів організації «Врятуйте Широкине», та знищена інфраструктура села. та розкрадене вціліле рухоме майно, членів організації, та інших мешканців села.,
зареєстроване до ЖЄО Волноваського ВП ГУНП в Донецькій області за № 8118 від 07.06.2018 року.

Беручи до уваги вищевикладене, а також враховуючи те, що у вищевказаному факті відсутні конкретні наведені факти скоєння кримінальних правопорушень, немає жодних підстав для внесення вашого повідомлення в єдиний реєстр досудових розслідувань.

У разі необхідності Ви маєте право ознайомитися з матеріалами перевірки за адресою: м. Волноваха, пров. Енергетичний, 3, кабінет № 313.

У випадку незгоди з прийнятим рішенням Ви маєте право звернутись до суду в приватному порядку.

З повагою,

Начальник Волноваського ВП
ГУНП в Донецькій області
полковник поліції **О.В. Коломієць**

Letter of Volnovakha police unit in response to the NGO "Shyrokyne SOS" report of a criminal offence - robbery of housing of the civilian population on the territory of Shyrokyne.
Source: the NGO "Shyrokyne SOS"

[108] According to the NGO "Shyrokyne SOS" Head Ivan Osipov, the NGO members do not know of any criminal proceedings opened to investigate the cases of destruction and looting of their housing.

The decision of the investigative judge in case of the NGO "Shyrokyne SOS"
Source: the NGO "Shyrokyne SOS"

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У Х В А Л А
ІМЕНЕМ УКРАЇНИ

12 липня 2018 року м.Волноваха
Слідчий суддя Волноваського районного суду Донецької області Овчиннікова О.С.,
при секретарі судового засідання Фоміних С.В.,
за участю прокурора Темертея К.Ю.,
представника заявника не з'явився

розглянувши матеріали скарги громадської організації «Врятування Широкине» на бездіяльність слідчого, яка полягає у невнесенні відомостей про кримінальне правопорушення до Єдиного реєстру досудових розслідувань,

ВСТАНОВИВ:

19.06.2018 року до Волноваського районного суду Донецької області суду надійшла скарга громадської організації «Врятування Широкине» на бездіяльність слідчого, яка полягає у невнесенні відомостей про кримінальне правопорушення до Єдиного реєстру досудових розслідувань.

В обґрунтування скарги зазначено, що 05.06.2018 року громадська організація звернулася до Волноваського ВП ГУНП в Донецькій області із заявою про вчинене кримінальне правопорушення передбачене ст. 258 КК України, яку Волноваський ВП отримав 07.05.2018 року. Станом на 11.06.2018 року відомості про вказане у заяві кримінальне правопорушення до ЄРДР не внесено.

Вважає протиправною бездіяльність співробітників Волноваського ВП ГУНП щодо невнесення відомостей до ЄРДР та просить зобов'язати посадових осіб Волноваського ВП ГУНП у Донецькій області внести відповідні відомості про вчинене кримінальне правопорушення до ЄРДР.

Представник заявника у судове засідання не з'явився, надав до суду заяву про розгляд скарги за його відсутності, на задоволення скарги наполягає.

Прокурор судовому засіданні заперечував проти задоволення скарги.

Слідчий суддя, заслухавши думку прокурора та дослідивши матеріали скарги, приходить до наступного висновку.

У судовому засіданні встановлено, що 05.06.2018 року громадська організація «Врятування Широкине» звернулася о Волноваського ВП із заявою про вчинене кримінальне правопорушення, передбачене ст. 258 КК України, та просили внести відповідні відомості до ЄРДР.

Відповідно до ст. 2 КПК України, завданнями кримінального провадження є захист особи, суспільства та держави від кримінальних правопорушень, охорона прав, свобод та законних інтересів учасників кримінального провадження, а також забезпечення швидкого, повного та неупередженого розслідування і судового розгляду з тим, щоб кожний, хто вчинив кримінальне правопорушення, був притягнутий до відповідальності в міру своєї вини, жоден невинуватий не був обвинувачений або засуджений, жодна особа не була піддана необґрунтованому процесуальному примусу і щоб до кожного учасника кримінального провадження була застосована належна правова процедура.

Відповідно до ч.2 ст. 9 КПК України прокурор, керівник органу досудового розслідування, слідчий зобов'язані всебічно, повно і неупереджено дослідити обставини кримінального провадження, виявити як ті обставини, що викривають, так і ті, що виправдовують підозрюваного, обвинуваченого, а також обставини, що пом'якшують чи обтяжують його покарання, надати їм належну правову оцінку та забезпечити прийняття законних та неупереджених процесуальних рішень.

Відповідно до ч.4 ст. 38 КПК України, орган досудового розслідування зобов'язаний застосувати всі передбачені законом заходи для забезпечення ефективності досудового розслідування.

На підставі ч.1 ст. 214 КПК України, слідчий, прокурор невідкладно, але не пізніше 24 годин після подання заяви, повідомлення про вчинене кримінальне правопорушення або після самостійного виявлення ним з будь-якого джерела обставин, що можуть свідчити про вчинення кримінального правопорушення, зобов'язаний внести відповідні відомості до Єдиного реєстру досудових розслідувань, розпочати розслідування та через 24 години з моменту внесення таких відомостей надати заявнику витяг з Єдиного реєстру досудових розслідувань. Слідчий, який здійснюватиме досудове розслідування, визначається керівником органу досудового розслідування.

Згідно ст. 303 КПК України на досудовому провадженні може бути оскаржена бездіяльність слідчого, яка полягає у невнесенні відомостей про кримінальне правопорушення до Єдиного реєстру досудових розслідувань після отримання заяви про кримінальне правопорушення.

Слідчий, прокурор, інша службова особа, уповноважена на прийняття та реєстрацію заяв і повідомлень про кримінальні правопорушення, зобов'язані прийняти та зареєструвати таку заяву чи повідомлення. Відмова у прийнятті та реєстрації заяви чи повідомлення про кримінальне правопорушення не допускається.

Чинним законодавством України не передбачено жодних підстав, за яких уповноважена особа може прийняти рішення не вносити відповідні відомості до ЄРДР щодо заяви про злочин.

Проте, чинний Кримінальний процесуальний кодекс України не передбачає права посадових осіб ОВС виносити «листи», в яких повідомляти про невнесення даних до ЄРДР після отримання повідомлення про вчинення кримінального правопорушення.

Відповідно до ст. 19 Конституції України органи державної влади та органи місцевого самоврядування, їх посадові особи зобов'язані діяти лише на підставі, в межах повноважень та у спосіб, що передбачені Конституцією та законами України.

Відповідно до ст.12 Закону України «Про звернення громадян», дія цього Закону не поширюється на порядок розгляду заяв і скарг громадян, встановлений кримінальним процесуальним, цивільно-процесуальним, трудовим законодавством, законодавством про захист економічної конкуренції, законами України "Про судоустрій і статус суддів" та "Про доступ до судових рішень", «Кодексом адміністративного судочинства України».

Тобто дана заява (повідомлення) про вчинення кримінального правопорушення, відповідно до ст. 214 КПК України та Наказу Генеральної прокуратури України «Про єдиний реєстр досудових розслідувань» від 17 серпня 2012 року за № 69 підлягала реєстрації та подальшому розгляду в порядку кримінально-процесуального законодавства України.

Крім того перевіривши матеріали, додані до скарги, слідчий суддя приходить до висновку що існують обґрунтовані сумніви в правомірності відмови внесення заяви до ЄРДР, тому скарга підлягає задоволенню частково.

Відповідно до ст.307 КПК ухвала слідчого судді за результатами розгляду скарги на бездіяльність під час досудового розслідування може бути про зобов'язання вчинити певну дію.

Оскільки частиною 2 ст.307 КПК України не передбачено визнання слідчим суддею незаконною бездіяльності слідчого під час розгляду скарг на дії чи бездіяльність органів досудового розслідування, будь-які підстави для задоволення цієї вимоги скарги громадської організації «Врятування Широкине» відсутні.

Ураховуючи те, що невнесення відомостей про кримінальне правопорушення до Єдиного реєстру досудових розслідувань після отримання заяви про кримінальне правопорушення, є суттєвим порушенням слідчим вимог закону, суд приходить до висновку про наявність правових підстав для часткового задоволення скарги.

Керуючись ст.ст. 303-307 КПК України, слідчий суддя

УХВАЛИВ :

Скаргу громадської організації «Врятування Широкине» на бездіяльність слідчого, яка полягає у невнесенні відомостей про кримінальне правопорушення до Єдиного реєстру досудових розслідувань - задовольнити частково.

Зобов'язати посадових осіб Волноваського ВП ГУНП в Донецькій області внести відомості про кримінальне правопорушення за заявою громадської організації «Врятування Широкине» від 05.06.2018 року до Єдиного реєстру досудових розслідувань про вчинення злочину за ст. 258 КК України.

В іншій частині скаргу залишити без задоволення.

Ухвала остаточна, оскарженню не підлягає.

Слідчий суддя О.С.Овчиннікова

Волноваський районний суд Донецької області
З ОРИГІНАЛОМ ЗГІДНО
Суддя
Секретар

2.7.2. Seizure of real estate of civilians for using in personal purposes

On the occupied territory, there are numerous incidents that the members of the IAGs seize the real estate of civilians to use it for personal (for example, for accommodation) rather than for defensive purposes. The authors of the report did not manage to find victims of such illegal actions committed by service personnel of the AFU and voluntary battalions of Ukraine.

Oleksandrov case[109]

In September 2017, Volodymyr Oleksandrov reported to Druzhkivka police unit (in Donetsk oblast) that a proxy to the leadership of local occupation administration illegally occupied his house on the occupied territory and has used it for accommodation. Moreover, according to the victim, the alleged perpetrator has taken certain belongings from the house (furniture, household appliances) to an unknown direction.

As the police did not react within 24 hours, Volodymyr submitted a complaint to the investigative judge of local court. In this complaint, he requested to recognize the inactivity of the police investigators illegal and oblige them to enter information on this offence into the URPI.

Several days later, Volodymyr received the response to his report from the police. It read that since the offence had been committed on the occupied territory, it was impossible to verify the information in this report. Thus, the police officers do not see material elements of any crime.

The investigative judge satisfied Volodymyr's complaint in full and obliged the investigators to start a pre-trial investigation.

After the victim had complained to the local prosecutor's office, the police started the investigation as requested by the investigative judge. After another complaint, Volodymyr was questioned as the victim.

No other investigative/search action was taken, notwithstanding that the victim notified the police in his report that the name, date of birth, address and other information about the perpetrator was known to him.

It is worth noting that the police only qualified the crime under part 3 of Article 183 of the CCU (theft) and ignored the fact that after looting, the perpetrator used the house for living there (infringement on inviolability of housing, Article 162 of the CCU).

Surzhenko case[110]

In early October 2014, persons not known to Halyna Surzhenko broke into her private house (in Lutuhyne district on the occupied territory of Luhansk oblast) and misappropriated the property available in the house (household appliances, furniture, personal belongings of her family). Since Halyna had to flee from her settlement due to the armed conflict, later the same persons started using this house for living there. The neighbours told Halyna that a man who called himself "a Russian officer" and a woman lived there as a family.

In 2018, the victim filed a report to the police unit in her new place of residence (Sloviansk, Donetsk oblast). She requested police to start a criminal proceeding under part 3 of Article 185 (burglary) and part 1 of Article 162 of the CCU (infringement on inviolability of housing).

Later, the police updated Halyna that the information from her report was entered into the URPI, and pre-trial investigation was launched. She was questioned as the victim, and the case-file was then transferred for the prosecutor who was expected to establish that the case falls under jurisdiction of the pre-trial investigation authorities of Luhansk oblast.

Unlike in the similar case analysed above, the police only qualified the crime against Halyna under part 1 of Article 162 of the CCU (minor offence) and ignored the crime of theft from her house (serious/grave crime).

In March 2018, the victim filed a written request to the investigator to update her on the progress in investigation. She requested *inter alia* to tell her which pre-trial investigation authority the case-file was transferred to. Her request remained unanswered.

Zvieriev case[111]

In spring 2015, a Russian service person and a local woman settled in the house of the Zvieriev family on the occupied territory of Donetsk oblast without their authorization. During the next two years, they used the house for accommodation. In 2017, they moved out taking all the valuables with them.

The victim Nadiia Zvierieva filed a report to police. She knows nothing on the results of consideration of her report. At the same time, she independently identified the woman who was residing in her house based on the photos on social media networks.

One year before the unauthorized settling into the house, the members of the IAGs misappropriated the non-residential premises that also belonged to the Zvieriev family.

The family reported this fact to the police unit in Dnipro, only to receive the response that the police sees no material elements of a crime in this fact.

The family did not challenge the inactivity of police, since it was considered pointless.

[109] The name (first name, patronymic, last name) of the victim has been changed.

[110] The name (first name, patronymic, last name) of the victim has been changed.

[111] The name (first name, patronymic, last name) of the victim has been changed.

Повідомляю, що Ваше повідомлення було зареєстроване до ЖЄО за № [redacted] від [redacted] року, та розглянуто.

У зв'язку з тим, що у зв'язку з тим що вказаний у заяві факт мав місце за адресою: Донецька обл., [redacted] встановити свідків та очевидців, а також осіб причетних до даної події не виявилось можливим.

За результатами проведеної перевірки встановлено, що ознак кримінального правопорушення не вбачається.

Матеріали ЖЄО № [redacted] року списані до справи Бабушкінського РВ ДМУ ГУМВС України в Дніпропетровській області.

Якщо Ви вважаєте, що Вам спричинили моральну шкоду, відповідно до ст. 16 (Захист цивільних прав та інтересів судом), ст. 23 (Відшкодування моральної шкоди) Цивільного кодексу та в порядку ст. 4 Цивільно-процесуального кодексу України (Право на звернення до суду за судовим захистом) Ви маєте право звернутись до Бабушкінського районного суду (м. Дніпропетровськ, пр. Карла Маркса, 57) з позовною заявою про відшкодування завданої шкоди.

Letter of the police in response to a report of a criminal offence

COMMENTS

In the cases that concern using of the civilian housing as the defensive buildings by the AFU, some persons accept this because it is dictated by military purposes. At the same time, the community is concerned with the systemic looting and lack of adequate response on the side of law enforcement agencies, local authorities and military command to crime reports filed by the civilians. This compromises the authority of the AFU among the local population. The authors of the report also believe that in each individual case the military command should thoroughly investigate whether using civilian housing as defensive buildings is dictated by absolute military necessity, especially where such use causes major financial damage to the civilians. One main concern is that the mechanism of compensation for such damage is lacking in Ukraine.

In the cases of misappropriation of the civilian real estate on the occupied territory and using it for accommodation of the families of the representative of occupation authorities, the National Police often refused the victims to enter the information on the respective criminal offences to the URPI, referring to their inability to verify the victims' reports and to examine the respective housing. As the victims do not believe that restoration of justice is possible, they often disregard their opportunity to challenge the inactivity of law enforcement officers.

3. PROBLEMS AND DRAWBACKS OF OFFICIAL INVESTIGATIONS

1. Failure to enter information on criminal offences to the URPI

In the crimes committed on the occupied territories (in particular, infringements on inviolability of housing), the pre-trial investigation authorities sometimes fail to enter information from the victim's report to the URPI, referring to their inability to examine the crime scene and identify perpetrators. This is not in keeping with part 1 of Article 214 of the CCP of Ukraine[112].

The law sets forth that an investigator/prosecutor is obliged to promptly (not later than in 24 hours) enter information on a criminal offence in the URPI and start an investigation, and that the investigation can be closed later if an investigator finds out that the crime scene is not available or if other reasons for closing the investigation as provided for by the CCP of Ukraine are found. Lack of physical access to the crime scene cannot be referred to as the reason for refusing the victim in starting an official investigation.

2. Problems with establishing jurisdiction/identifying an authority responsible for pre-trial investigation

2.1. In a number of cases, territorial jurisdiction is established in a way that the pre-trial investigation of criminal offences committed on the occupied territories is entrusted with the authorities located far from the crime scene (for example, in a place of residence of victims or most of witnesses) or having poor transport accessibility (poor road or railway communications)[113]. For example, the crimes committed in Zhovtnevyi district of Luhansk are currently under territorial jurisdiction of Troitske police unit (Troitske district of Luhansk oblast is around 230km from the crime scene and 150km from Sievierodonetsk, which is currently the capital of Luhansk oblast). This causes unjustified complications for the investigation. The investigator cannot conduct most investigative/search actions on his/her own – for example, thoroughly question victims and witnesses who often are not able and willing to travel 100-200km along impassable roads or walk large distances by foot. That significantly affects the quality of investigation. Moreover, the victims' access to the case-file is complicated too.

In Luhansk oblast, the territorial jurisdiction over such cases is determined by the orders of the Head of High Specialized Court of Ukraine for Civil and Criminal Cases "On Identifying the Territorial Jurisdiction of the Cases" # 271/0/38-14 of 02.09.2014, # 29/0/38-14 of 12.09.2014, # 56/0/38-14 of 08.12.2014. These orders determine that the respective criminal proceedings are under territorial jurisdiction of local general courts and courts of appeals located in the ATO area. In Donetsk oblast, it is established by the joint order of the Prosecutor's Office of Donetsk oblast and the MDNP in Donetsk oblast "On Ensuring Effective Pre-trial Investigation and Procedural Supervision of Criminal Proceedings" # 10окв/72 of 20.01.2016. It was adopted based on the above-mentioned orders of the High Specialized Court (thus, if the orders are amended or new orders are adopted, the joint order will have to be amended, too).

In establishing territorial jurisdiction, priority should be given to pre-trial investigation authorities located in administrative centres/capitals of the respective oblasts and in the settlements that are as close to them as possible. In Donetsk oblast, these could be towns and cities such as Kramatorsk, Sloviansk, Bakhmut, Kostiantynivka, Mariupol. In Luhansk oblast, towns or cities such as Sievierodonetsk, Lysychansk, Rubizhne.

2.2. Certain criminal proceedings see unjustified delays in determining the responsible authority and/or re-qualification (additional qualification) of a crime.

For example, the *Avramov* case was investigated by police unit in Kyiv from May 2015-May 2018, while the

[112] See Oleksandrov case, Zvieriev case, case of Osypov, Boiko and others.

[113] See Luhanskyi case and Konievy case.

crime had been committed in Donetsk oblast. Moreover, although the victim was released in May 2015, as of May 2018, the case is still investigated under part 1 of Article 115 of the CCU (intentional deprivation of life). It proves that the investigator neglects the case since May 2015, and the prosecutor does not provide procedural supervision.

3. Failure of law enforcement officers to act promptly

3.1. Certain criminal proceedings observe that the law enforcement fail to promptly address the crime reports and/or come up with clear investigative leads that should be verified in the course of investigation. Moreover, the investigative/search action plans, including priority action plans, are often lacking at the initial stage of investigation[114].

3.2. The investigative/search action plans at the next stages of criminal proceedings analysed in this report often were very formal actions – so as just "to tick the box". They missed the list of specific investigative/search action to be taken and tended to ignore particularities of the crimes[115].

4. Delays in interrogating the victims

Some criminal proceedings see unjustified delays in interrogating the victims/injured parties and plaintiffs (as well as involving them to the criminal proceedings as the victims)[116]. For example, in *Serhiichuk* case, the plaintiff who had reported deprivation of life of her relatives in September 2014 was not interrogated as of September 2016. In *Konievy* case, the plaintiffs were only interrogated in almost a month after the pre-trial investigation had started.

5. Lack of diligence in investigative/search actions

5.1. In most criminal proceedings, the investigative/search actions were inconsistent, not targeted (not contributed to verification of certain investigative lead) or superficial. Sometimes they were absurd[117].

5.2. The investigators failed to question all persons who might know the circumstances of crime. In some cases, the questioning was superficial[118].

5.3. Investigators' instructions to police officers to carry out investigative/search actions were often superficial and senseless. The police officers also tended to implement these instructions only "to tick the box"[119].

5.4. The investigators made unjustified delays in taking certain investigative/search or procedural actions[120]. For example, in the *Konievy* case the investigator only instructed to seize their vehicle that remained under control of the members of the IAGs eight months after the victims had been released from illegal detention and interrogated.

5.4.1. Unjustified delays in arranging and conducting forensic examinations are observed too. Sometimes the investigators arranged examinations that seemed senseless at the respective stages of investigations[121].

For example, in the *Dmytrenko* case, the victim was released from illegal detention back in the summer of 2014. The investigation of crimes against him was renewed in February 2015[122]. The investigator only arranged forensic medical examination of his bodily injuries in September 2016, and the forensic ballistic examination to identify the bullet extracted from his body was only arranged in November 2016. In the case-file, there is no information that could have justified such delays. In summer 2014, the victim received health care in a hospital in Kyiv – specifically, he had a bullet extracted from his body. Thus, the circumstances of this crime were known to the law enforcement officers on the government-controlled territory back at that time.

5.4.2. Unjustified delays in interrogating the service personnel of the AFU and other military formations of Ukraine as the witnesses are observed too. One of the reasons is that the investigators and police officers lack access to information of the staff, location and movement of military units[123]. For example, in the *Udovenko* case, the investigator was unable for more than a year to repeatedly question the service personnel who were most likely the witnesses of the crime.

5.5. Law enforcement officers do not adequately use the opportunities offered by current forensic technology, tactics and techniques[124].

5.5.1. They almost always fail to use available forensic methods and tools to document the appearance of perpetrators (in particular, with regard to the members of the IAGs in the cases of illegal deprivation of liberty and torture):

- description of the appearance of perpetrators in procedural documents (reports of the interrogation of victims normally miss the detailed description of

[114] See Luhanskyi case and Butenko case.

[115] See Luhanskyi case and Konievy case.

[116] See Serhiichuk case and Konievy case.

[117] See Udovenko case, Luhanskyi case, Chernov case, Khorolski case.

[118] See Sydorenko case, Luhanskyi case, Nefiodov case.

[119] See Luhanskyi case, Serhiichuk case, Nezhdanova case, Konievy case.

[120] See Konievy case, Makarenko case, Chernov case.

[121] See Nefiodov case, Dmytrenko case, Bondarenko case, Udovenko case, Hryshyn case.

[122] To explain why they started the new investigation, the law enforcement referred to the fact that the case-file of the investigation started earlier remained on the non-government-controlled territory.

[123] See Udovenko case, Butenko case, Chernov case.

[124] See cases on illegal deprivation of liberty and abductions of the civilians.

the appearance of perpetrators. At best, they refer to their membership in the IAGs, nicknames, etc.);
- composite sketches/identikit images (the investigators do not take actions to produce identikits).

5.5.2. The law enforcement authorities only on occasion use the opportunity that the victims are able to recognize the perpetrators and objects from photographs, video records, from the forensic records, etc.

5.5.3. Graphic record of the evidence – drawing sketches, mapping, etc. – are rarely used either. This is particularly relevant to the crimes related to the detention of civilians in illegal detention places in which the sketch/mapping could help document a lot of critical information about the place of detention.

6. Failure to conduct investigative actions requested by the victims

In almost all criminal proceedings under review, the investigators satisfied the motions of the victims that requested specific investigative actions, but these actions have not been taken or were taken with significant delays[125].

7. Untimely removal from the missing persons list

After having been released from the detention places in the occupied territory, certain civilians were apprehended by police in the government-controlled territory because they were on a missing persons list. For a long time, the pre-trial investigation authorities were not updating the databases with information on locating the persons they searched[126].

For example, in the *Dmytrenko* case, the victim had been released from an illegal place of detention on the occupied territory in summer 2014. That became known to the law enforcement officers not later than in February 2015 when the investigation in his case was renewed. However, he was still on a missing persons list as of August 2016. He was twice detained on the checkpoints in Donetsk and Luhansk oblasts and taken to local police units.

8. Lack of effective methods of solving crimes related to artillery shelling

In the case of deprivations of life or injuries of civilians, destruction or damage to property caused by artillery shelling of the government-controlled territory, the investigative/search actions are usually limited to the examination of crimes scenes and the questioning of victims. The investigators qualify such offences under Article 258 of the CCU as terrorist acts. Later, the case-files are transferred to investigative units of the SSU that have jurisdiction over this offence. Sometimes, these are the SSU officers who conduct the initial examination of the crime scene. In most cases, the victims know nothing about the progress in investigations. At the same time, certain investigative actions are taken upon the victims' requests.

It would appear that one of the reasons why other investigative/search actions are not taken is that the forensic methods of solving these offences are not utilized. It is evident that bringing perpetrators to liability is problematic as there is no access to the occupied territory. At the same time, the investigators should properly document the crime scene and use forensic/military examination to at least identify the direction of shots – and the distance of shots, if possible – and document the facts to damage to the property and its amount.

Notwithstanding this, the authors of the report believe that due to large number of shelling and damage caused by shelling, documenting the facts of shelling and of the damage is impossible unless the procedure for examination and identification of the circumstances of artillery shelling is temporarily simplified. For example, procedure to determine the amount of damage could be simplified in a way so that it does not require the expert on-site visit and is based on photos and other materials that provide information about the property (the technical certificate of a house, certificate of damage, etc.), provided that the findings of such expert examinations can only be used for the purposes of criminal proceedings. This data could be lost over time – for example, if the housing is rebuilt. This simplification also seems to enable the government to summarize the respective information on the total cost of the destroyed/damaged housing[127].

9. Lack of investigators' access to the crime scene on the occupied territory

In the crimes committed on the occupied territories, the investigators are unable to examine the crime scene and take other investigative/search actions on temporarily occupied territories, which further complicates the investigation. This concerns the cases of infringement on the inviolability of housing of the civilians on the occupied territories, destruction of damage caused by artillery shelling, deprivations of life of the civilians, etc.

The authors of the report believe that in such cases the investigators should take at least those investigative actions that are possible without access to the occupied territory – for example, involving the victims in identifying the perpetrators and objects based on photographs, video records (including videos from the Internet), from the forensic records, through drawing sketches, mapping, etc. In most cases, the investigative actions are only limited to questioning of the victims[128].

[125] See Luhanskyi case, Udovenko case, Yashchenko case.

[126] See Dmytrenko case and Hryshchenko case.

[127] See cases on artillery shelling, including Dovhal case, Churenko case, Kukharski case.

[128] See Serhiichuk case.

10. Lack of a unified approach to qualification of crimes related to infringements on inviolability of housing in the occupied territory

The police investigators apply different approaches to qualifying the actions of the members of the IAGs related to looting of the civilian housing in the occupied territory and using this housing for accommodation. In some cases, they are only qualified as burglary (serious/grave crime), in others, as infringement on the inviolability of housing (minor offence).

According to the authors of the report, these cases entail multiple counts. Thus, they should be qualified cumulatively as the crimes stipulated by the respective parts of Articles 162 and 185 of the CCU (with a possibility to be further re-qualified under Article 433 "Violence against the population in the war zone" and Article 438 "Violation of the rules and customs of warfare"). Even if there is no person notified of suspicion in the criminal proceeding, correct legal qualification at the initial stages of the investigation is critical to address various civil and administrative cases involving the victims.

11. Lack of information exchange between various pre-trial investigation authorities on criminal proceedings

This problem is exemplified by the *Konievy* case – the military prosecutor's office transferred an indictment upon other criminal proceeding for trial *in absentia* of a person who was allegedly involved into maintaining a place of detention where the victims were kept in custody. At the same time, Oleksandr was not involved into this criminal proceeding as the victim or the witness. The investigator probably did not know that other pre-trial investigation authority conducted a proceeding on the illegal deprivation of liberty of Oleksandr.

12. Lack of proper procedural supervision of pre-trial investigations

In many criminal proceedings under review, the prosecutors did not provide adequate procedural supervision of the observance of the law in pre-trial investigations[129].

13. Lack of adequate response of the law enforcement agencies to looting of civilian housing by the service personnel

The police investigators are not able to identify elements of crime in the actions of the service personnel, because they lack access to the houses and information on staff of military units deployed in the respective settlements, and because the military command tends to deny these crimes[130].

14. Lack of the victims' awareness of the progress in the investigations

Most victims do not have complete information about the progress of pre-trial investigations. That is true for all types of the reviewed crimes. The victims do not use their right to learn the case-file in full. One of the reasons is that after the case was transferred to the new pre-trial investigation authority, the victims were not updated respectively. A pre-trial investigation authority that conducts the investigation is often located far from the crime scene or place of residence of a victim. That complicates access to the case-file[131]. At the same time, the investigators often ignored written requests of the victims. Moreover, the overwhelming majority of the victims were not assisted by the lawyer and did not benefit from free legal aid[132].

[129] See Luhanskyi case, Nezhdanova case, Udovenko case.

[130] See Chapter 2.7.1 of this report.

[131] See item 2 of this Chapter.

[132] See Tokariev case, Surzhenko case.

RECOMMENDATIONS

TO THE VERKHOVNA RADA OF UKRAINE:

1. To promptly consider the draft law on the State Bureau for Military Justice # 8387 of 21.05.2018 the final and transitional provisions of which stipulate amendments to Article 226 of the CCP of Ukraine – namely, the following crimes are meant to fall under jurisdiction of the new special law enforcement agency: 1) war crimes[133]; 2) crimes against peace, humanity and international order, 3) crimes committed by service personnel of military formations, intelligence and law enforcement officers of Ukraine, 4) crimes committed on the territory of military units, organizations, institutions, other locations of permanent and temporary deployment of the AFU and other legitimate military formations, etc.

When considering this draft law, the Parliament should bear in mind that the new special law enforcement agency should first of all comply with the criteria of independence, impartiality and accountability to civil society. At the same time, a reasonable approach to determining the staffing of the new agency, location of key investigative units and qualification requirements to the job candidates should be used. The authors of the report believe that the lack of staff and the qualifications of the investigators, and the remote location of the investigative units from the area of hostilities might prevent the new body from performing on the tasks entrusted with it by the law.

2. Establish the right of the natural person who is the victim of any crime to compensation at the expense of state budget of moral damage in case of ineffective pre-trial investigation of his/her case either by amending the Law of Ukraine "On the Procedure of Compensation of Damage Caused to a Citizen by Illegal Activities of the Investigative and Search Authorities, Pre-trial Investigation Authorities, Prosecutor's Offices and Courts," or by adopting a separate law. In addition, the legal term "ineffective pre-trial investigation" should be provided for in the respective law and in the CCP of Ukraine (Article 3) along with clear criteria that will help the courts evaluate the effectiveness of investigation.

3. To provide legal regulation to the mechanism for determining territorial jurisdiction in *the area of the Operation of United Forces* by entrusting the Head of the Supreme Court with determining the jurisdiction and obliging him/her to promptly review current jurisdiction taking into account the recommendations/positions of the State Court Administration of Ukraine, Prosecutor-General's Office of Ukraine, and the MIA of Ukraine (the Head of the Supreme Court currently has such powers only in the context of the ATO which was completed on 30 April 2018). To this end, the Parliament should either amend Article 1 of the Law of Ukraine "On Administration of Justice and Criminal Proceedings due to the ATO" and the Law of Ukraine "On the Peculiarities of State Policy on Ensuring Ukraine's State Sovereignty over Temporarily Occupied Territories in Donetsk and Luhansk Oblasts," or adopt a separate law.

This recommendation is explained by the need to review territorial jurisdiction as determined by the instructions of the Head of High Specialized Court of Ukraine for Civil and Criminal Cases, especially for Luhansk oblast (see para 1.2 of Chapter 1 of the report).

TO THE PROSECUTOR-GENERAL'S OFFICE OF UKRAINE / MAIN MILITARY PROSECUTOR-GENERAL'S OFFICE:

1. To approve a separate instruction to call the heads of regional and local prosecutor's offices in Donetsk and Luhansk oblasts, in particular, of the Military Prosecutor's Office of the United Forces (military prosecutor's offices of Donetsk and Luhansk garrisons) to strengthen supervision over the observance of the law in pre-trial investigations of criminal offences related to an armed conflict, namely:

- that the prosecutors should provide procedural supervision through issuing with reasonable intervals the mandatory instructions to the investigators on investigative/search and other procedural actions within the timeframe clearly specified by the law or the prosecutor, and closely supervise how the investigators implement these instructions;

[133] Hereinafter the term "war crimes" is used as stipulated by Chapter XIX of the CCP of Ukraine.

– that in the case of ineffective investigation, it should be proposed to the head of pre-trial investigation authority to remove the investigator from the pre-trial investigation and appoint another investigator.

TO THE PROSECUTOR-GENERAL'S OFFICE OF UKRAINE / MAIN MILITARY PROSECUTOR-GENERAL'S OFFICE AND THE MIA / NATIONAL POLICE OF UKRAINE:

1. Develop a unified approach to the legal qualification of criminal offences related to infringement on the inviolability of housing on the occupied territory (looting, settling in the house and using it for accommodation).

2. Provide training/further training to the staff of prosecutor's offices and police investigators on the basics of IHL and ECtHR standards in conducting official investigations.

TO THE MIA OF UKRAINE / NATIONAL POLICE OF UKRAINE:

1. Jointly with the Prosecutor-General's Office of Ukraine and research institutions of the MIA of Ukraine, develop the following forensic techniques to investigate conflict-related criminal offences, and train the investigative units on using them:
– on investigating crimes against life and health, liberty, honour and dignity of a person, crimes against property and infringements on the inviolability of housing (high priority), as well as other crimes committed on the temporarily occupied territory of Donetsk and Luhansk oblasts;
– on investigating crimes against the civilians committed by the service personnel of the AFU and other military formations of Ukraine in the context of ATO/Operation of the United Forces in Donetsk and Luhansk oblasts;
– on investigating crimes related to artillery shelling of the government-controlled territories of Donetsk and Luhansk oblasts.

The techniques should be based on international experience on documenting the respective types of crimes, including the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

2. To adopt a separate instruction to call the heads of the MDNP in Donetsk and Luhansk oblasts and heads of investigative units subordinate to them:
– to ensure obligatory, universal and timely entering of information on criminal offences committed on temporarily occupied territories of Donetsk and Luhansk oblasts into the URPI;
– to ensure that there is no unjustified delay in the investigative/search actions, including upon the motions relating to victims;
- to ensure that there is no delay in removal of the missing/abducted persons from a missing persons list after their whereabouts are identified.

TO THE MINISTRY OF JUSTICE OF UKRAINE:

1. Develop amendments to the Instruction on arranging and conducting forensic examinations and tests/ technical guidelines on arranging forensic examinations and tests (Order of the Ministry of Justice # 53/5 of 08.10.1998) to approve the simplified procedure of forensic examinations, including *ballistic examination* (examination of the traces of weapons, shots and circumstances of shots) and explosives examination) and *construction and technical examination* (in terms of determining the cost of repair works to fix the consequences of an explosion/fire) that the investigators arrange in criminal proceedings on artillery shelling of the government-controlled territories of Donetsk and Luhansk oblasts committed by the members of the IAGs. The authors of the report believe that the simplified procedure would enable to receive expert opinions on the distance and direction of shot, type of weapons, and cost of repair works to fix the house or its parts after the explosion/fire caused by shelling.

TO THE MINISTRY OF DEFENCE OF UKRAINE / GENERAL STAFF OF THE AFU:

1. Before the State Bureau for Military Justice or other special law enforcement authority is established and is functional:
– to carry out internal investigations of the known facts (including those reported by the citizens and NGOs) of the looting of civilian housing by the AFU service personnel (for example, with regard to the situation on Zelenyi Hai St. in Mariinka); in the context of pre-trial investigations, to verify whether the use of housing as defensive buildings was justified;
– to enable the police investigators to take investigative/ search actions for identifying the circumstances of the respective criminal proceedings and help them obtain information on the staff of military units that were deployed in the respective settlements.

2. To promptly conduct internal investigations and bring to disciplinary liability the commanders who failed to timely report the disappearances of their subordinate service personnel as long as that causes significant delays of pre-trial investigations.

JUSTICE FOR PEACE IN DONBAS
COALITION OF HUMAN RIGHTS ORGANIZATIONS AND INITIATIVES

https://jfp.org.ua/

The Coalition is an informal union of 17 human rights organizations and initiatives, which was founded in 2014 in response to the outbreak of the conflict in Donbas. Most Coalition members are public associations of Luhansk and Donetsk regions. The mission of the Coalition is to build a sustainable and just peace in Donbas by consolidating the efforts of civil society institutions to ensure proper respect for human rights and freedoms.

Coalition members cooperate to collect, systematize and save the evidence of human rights violations committed during the armed conflict in eastern Ukraine. According to members of the Coalition, bringing perpetrators to justice is a prerequisite for the restoration of peace and reconciliation in eastern Ukraine.

EASTERN-UKRAINIAN CENTRE FOR CIVIC INITIATIVES (EUCCI)

http://totalaction.org.ua/

The EUCCI is non-governmental, non-profit organization established in December 2002 in Luhansk. The mission of EUCCI is to develop and maintain the ability of the Ukrainian society to face current challenges based on the principles of democracy and the rule of law through education, advocacy and research.

Since the beginning of the armed conflict in Donbas, main activities of the organization include documentation of gross human rights violations that occurred during the conflict in eastern Ukraine; facilitation of the restoration of peace in the east of the country.

The EUCCI is one of the founders of the Coalition "Justice for Peace in Donbas."

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HUMAN RIGHTS GROUP "SICH"

The NGO "Human Rights Group Sich" was incorporated in July 2014 and is a legal successor of civic initiative 4REVA that united activists around the advocacy campaign for human rights of persons illegally detained in the case of "Dnipropetrovsk terrorists" back in 2012, and then of Euromaidan protesters who were beaten and detained in Dnipropetrovsk.

The **mission** is to contribute to the establishment of the model of relationships between the government and the community that will guarantee the observance of rights, freedoms and respect to dignity of every citizen of Ukraine.

Key directions of activities:

Human rights Group "Sich" provides free legal consultations for persons whose rights were violated on various legal issues: legal consultations and legal aid to disadvantaged populations, comprehensive legal aid to everyone affected by an armed conflict in eastern Ukraine, including the ATO participants and their family members, internally displaced persons, family members of the deceased and missing persons, former prisoners, hostages, victims of torture, volunteers who provided assistance to the armed forces and civilians, population at the contact line; legal aid to citizens in custody and in prisons; representation of our clients in national and international courts; developing and advocating for legal acts in the interests of those affected by an armed conflict in eastern Ukraine; raising legal awareness, legal education of population, training on the standards of work with target audiences.

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CIVIC COMMITTEE FOR THE PROTECTION OF CONSTITUTIONAL RIGHTS AND CIVIL LIBERTIES

The organization was founded in 1997. Prior to the onset of an armed conflict in Donbas, the organization was based in Luhansk.

Key goals of the activity are to contribute to the development of open, democratic, legal society, analysing human rights situation and providing legal aid. Since 2014, the organization is based in Kyiv.

Key directions of the activity are protection of those affected by the war, internally displaced persons, injured, detained persons and persons who lost their housing, and prevention of further violations.

The organization's methods are strategic litigation and advocacy.

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SCIENTIFIC-INFORMATION PUBLICATION

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