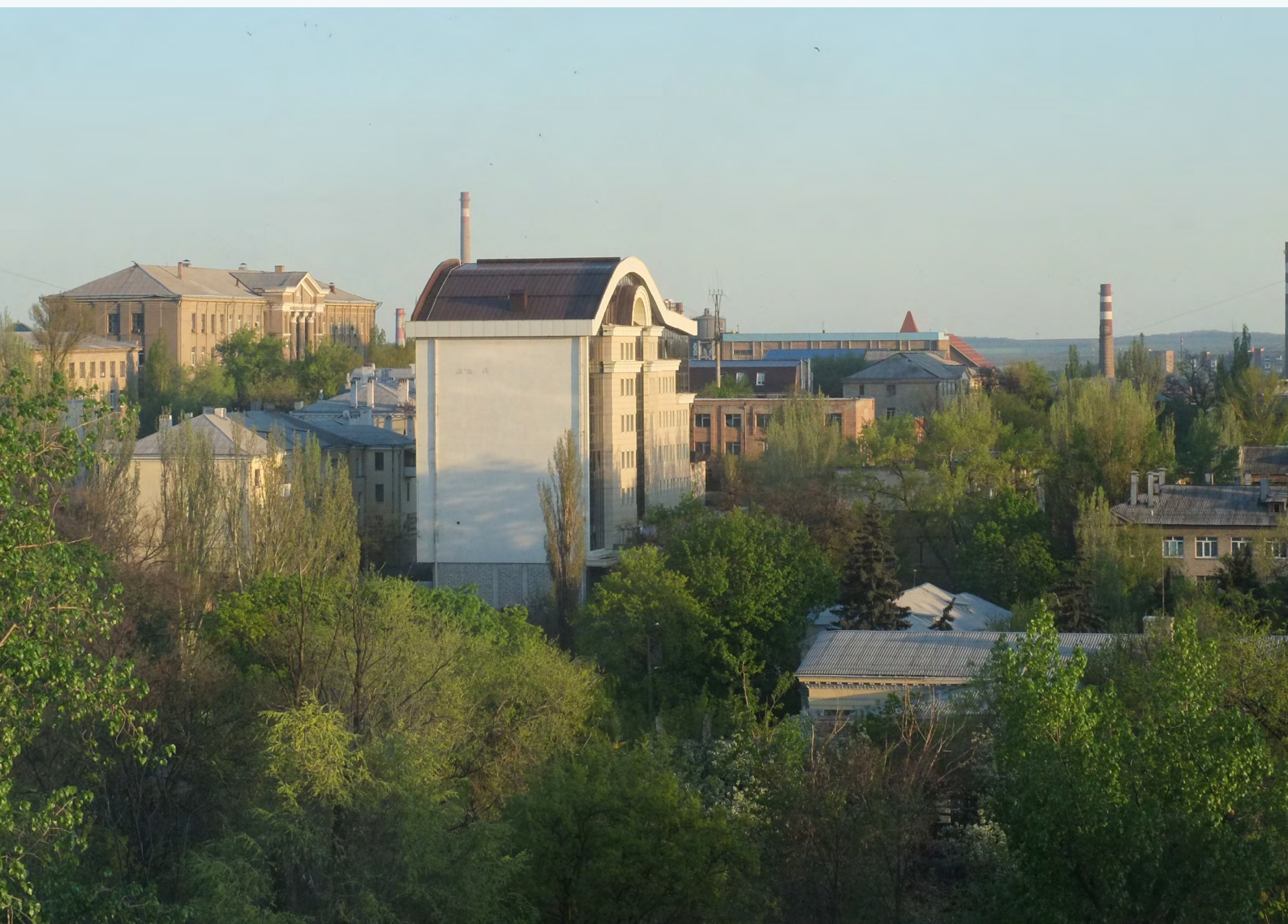


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Territory of lawlessness

Human rights violations in the occupied areas of Donetsk and Luhansk Regions

May - September 2018



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Territory of Lawlessness

Human rights violations in the occupied areas of Donetsk and Luhansk regions

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Introduction

As part of a project implemented with support from the Federal Foreign Office of Germany and in partnership with DRA e. V., VOSTOK SOS has been monitoring human rights in the areas of Donetsk and Luhansk regions not controlled by the Ukrainian Government. In the terminology of Ukrainian law these areas are called “occupied by the Russian Federation”. Hereinafter we will be applying terminology of the Ukrainian legislation. Data collected by this study, combined with findings from Vostok-SOS previous efforts, allows us to draw a number of general conclusions concerning the plight of the local population and the situation with regard to human rights and civil liberties in the occupied territories.

This monitoring effort is largely based on information available from public sources. Such an approach was applied out of necessity, as it is impossible for both Ukrainian researchers and independent observers from other countries to conduct on-site fieldwork in the occupied areas of Donetsk and Luhansk regions. Likewise, direct interactions are impossible with people in the occupied territory who could act as informants. Vostok-SOS chose not to seek information from people living in the areas controlled by the de-facto authorities of the so-called Donetsk and Luhansk People’s Republics (hereinafter DPR and LPR, respectively). First, such information could not be verified or corroborated by other sources, second, it could not be fully trusted for various reasons, ranging from the likelihood of intentional disinformation to the kinds of unconscious distortion of information or bias that are common in any unfree society and stemming from the psychological state of its people. But, most importantly, the monitoring team refused to place any such informers at risk for reporting information about the situation in the non-government controlled areas to the Ukrainian authorities and NGOs. If found to engage in such contacts, regardless of their nature, people could face arbitrary “arrests” by the de-facto authorities of the occupied territories and almost inevitable beating, torture, ill-treatment and long detention in inhumane conditions. However, Ukrainian mass media and individual users of social networks have been publishing messages received from residents of the occupied territories, and we have used such communications as an auxiliary source of information.

The only exception is made for first-hand reports to the Vostok-SOS hotline concerning forced disappearances of people (or arbitrary “arrests”), which often happen at checkpoints after

crossing the contact line. Most such reports come from close relatives and can be trusted.

A few reservations are necessary when speaking of public sources of information with reference to the DPR and LPR information space. There is no need to explain that the so-called “republics” do not have independent media, nor freedom of speech and expression, and local media outlets serve to disseminate propaganda rather than factual information. Indeed, it would have been unrealistic to judge the human rights situation in the Soviet Union based on publications in Pravda. Nevertheless, the Pravda newspaper was an important source for the analyses of official decisions made by the Soviet authorities. The same approach can be applied to the official media of DPR and LPR. Considering the overall ignorance of the human rights standards, the de-facto authorities in the occupied territory sometimes disclose important evidence via their quasi-official publications. In addition to this, a number of social network users, mostly anonymous, are publishing updates on the local developments. Such information is difficult to verify, and the study findings are presented with this understanding. Our review of violations cannot be comprehensive, as it includes only incidents which have been reported in public sources. Therefore, we need to make it clear that this study does not claim to be exhaustive.

Arbitrary arrests

So called “detentions” and “arrests” – i.e. abductions and subsequent illegal imprisonment, sometimes with clearly political motives, are among the most common violations consistently reported in the occupied territory. The de-facto DPR and LPR authorities use controlled mass media to generate and maintain high levels of public anxiety and additionally mobilise society from time to time by creating fake threats, some external and allegedly posed by Ukraine, and some internal. The propaganda machine intimidates the public by continuously telling stories about Ukrainian “subversives” and “spies”. In turn, the de-facto authorities’ “law enforcement officials” take advantage of this persistent search for “spies” and “subversives” to advance their own careers and affirm their relevance and importance for the de-facto authorities. In the absence of procedural safeguards and a fair trial, charges brought against an individual usually result in his or her conviction. Sometimes, representatives of the so-

called “investigative bodies” get in touch with the abducted person’s relatives to extort a ransom for his or her release but there is never a guarantee that this can really influence the victim’s fate.

These factors together lead to systemic repression. According to information available to us, arbitrary arrests have been triggered by any of the following: a report, which can be anonymous; a suspicion based on the person’s mobile phone history or social network profile, e.g. revealed at crossing an entry and exit checkpoint (EECP) from the Ukrainian government-controlled territory; expected material gain based on assumed wealth of the victim or their family; and even a mere dislike of someone. In addition to this, the ongoing redistribution of power and property in the self-proclaimed republics often results in repression against the losing groups, as was the case, e.g. in the occupied area of Luhansk region in late 2017 after the head of the de-facto administration Leonid Plotnitsky fled. Significant developments are often followed by waves of mass arrests, as was the case, e.g., after the head of the de-facto administration Alexander Zakharchenko fled the occupied area of Donetsk region on August 31.

Verifying reports of disappearances, which usually occur as a result of arbitrary arrests, in the non-government controlled areas is difficult. Despite appeals to the ICRC, to the OSCE Special Monitoring Mission and to the OHCHR Monitoring Mission, no reliable information on the fate of disappeared (arrested or allegedly arrested) persons may be available for months. The de-facto authorities of the occupied territory are extremely reluctant to grant international organisations access to places of unlawful detention (and usually deny such access) and often refuse to provide reliable information concerning a particular detainee’s whereabouts or even the fact of his or her “detention”. In many cases, the first and only reliable evidence of a person’s “arrest” is their “verdict” passed by an illegitimate “court” or their inclusion in the list of captives for exchange.

During the period covered by this report, the following information concerning unlawful detentions was published in open sources:

On May 3, the de-facto authorities of so-called DPR announced that “Ukrainian citizen Viktor Dzytsyuk, born in 1988, has been arrested on suspicion of espionage in favour of the Ukrainian security services.” They reported that the detainee had allegedly smuggled explosives into the territory of the so-called DPR. In addition to this, according to their report, he had also “collected, analysed and transmitted information to the Ukrainian security services which undermined the DPR’s security, and participated in the organisation and conduct of terrorist attacks in the DPR territory.” This detainee faces between 12 and 20 years of prison.¹

On the same day, members of the so-called “ministry of revenues and taxes” detained Semyon Kuzmenko in the courtyard of his home; between 2014 and 2016, Kuzmenko held the position of “the DPR minister of transport” in the de-facto administration of occupied areas of Donetsk region.² Semyon Kuzmenko was released on the next day as he wrote about it on his Facebook page.³

On May 5, it was reported that members of the so-called “LPR ministry of the state security” (MSS of LPR) at the Stanytsia

Luhanska EECP detained a resident of Luhansk with a large amount of amphetamines he had allegedly received from Ukrainian security agents in Kiev. The detainee’s name was not given in the publication.⁴

On May 28, two teenagers were detained by a so-called “patrol of LPR ministry of interior”. According to posts on Vkontakte, the children were found to carry Ukrainian symbols and were handed over to the so-called “MSS of LPR”.⁵

In June, officers of the Security Service of Ukraine (SSU) helped bring back home a student of Vinnitsa University who had been illegally detained by the so-called “law enforcement agencies” of the de-facto administration in Luhansk.⁶ The 18-year-old young man and his two friends raised the Ukrainian flag on the flagpole outside the main building of the former Dahl East Ukrainian National University, sprayed paint on the monument of Marshal Zhukov outside School No. 36 in Solnechny district of Luhansk and pushed the monument off the pedestal, and painted Ukrainian flags on the school building. They were unlawfully detained in August 2017.⁷

On June 6, the so-called “MSS of DPR” reported on its website having “arrested” Khaldun Nayef Sail Kharakhshekh, a citizen of Jordan born in 1986, who was allegedly an SSU agent. According to the website, he had provided information to the Ukrainian security services which “was used to prepare and conduct subversive and terrorist acts in the territory of the Republic” – in particular, “to prepare an assassination attempt on E.A. Basurin.”⁸ “Criminal proceedings” were initiated against the detainee under article 321 of the “DPR criminal code” for espionage. This detainee faces 12 to 20 years of prison.

On June 7, the website of the so-called “MSS of LPR” reported the detention of Tatiana Gorbulich accused of working for the SSU. Gorbulich faces charges under article 335 of the “LPR criminal code” for high treason, punishable by up to 20 years of prison and confiscation of property.⁹ According to “MSS of LPR”, Gorbulich was allegedly recruited by an SSU officer in 2016 and then followed his instructions, collecting military and other information on the territory of the self-proclaimed republics.

On June 12, a “military tribunal acting as a chamber of the DPR supreme court” found resident of Krasnogorovka Valery Sokolov, born in 1958, guilty of espionage under article 321 of the “DPR criminal code” and sentenced him to 10 years of strict-regime penitentiary colony.¹⁰ On June 19, the so-called “LPR military court” heard an indictment against 16 Ukrainian citizens accused of murders and terrorist attacks on the territory of the so-called LPR, including the murder of Colonel Oleg Anashchenko, head of the “LPR people’s police.”¹¹

On June 22, information was posted on Facebook that a resident of the occupied Bryanka complained to the “police” that his son, Valery Belitsky, born in 1995, had been dragged into a car by an armed man and driven away. On July 4, the “MSS of LPR” announced that Valeriy Belitsky had allegedly been recruited by the SSU and then voluntarily turned himself in to the “police” of the de-facto administration.¹²

On July 13, an information was published in the social media Vkontakte, stating that the LPR “ministry of interior” and “MSS” brought charges against Alexander Sirich, born in 1947, for allegedly distributing leaflets “that contained

public incitement to actions aimed at violating the territorial integrity of the Luhansk People's Republic."¹³

On August 2, the so-called "LPR military court" found Alchevsk resident Yuri Turchin, born in 1977, guilty of "high treason," allegedly for providing "material, technical, advisory and other assistance to representatives of a foreign organisation in carrying out activities aimed against the republic's security."¹⁴ According to the "MSS of LPR", Turchin, acting upon the SSU's instruction, had smuggled weapons, explosives and ammunition from Ukraine to the LPR and stored them in hiding places for use by Ukrainian subversive reconnaissance group (SRG). Turchin was "sentenced" to 12 years of prison.¹⁵

On August 2 the so-called "press service of the DPR prosecutor general's office" announced that the "DPR supreme court's" verdict against a Donetsk resident found guilty of espionage entered into force in end-July 2018. Reportedly, the woman was sentenced for using her mobile phone for taking photos and videos of DPR military facilities and personnel, allegedly upon the SSU's instruction, between December 2016 and February 2017.¹⁶

On August 10, the so-called "MSS of DPR" reported having "arrested" Dmitry Akinchin, born in 1956, on suspicion of espionage for the Ukrainian security services. Reportedly, between the summer of 2017 and January 2018, Akinchin performed various assignments for the SSU, and in January 2018 he was allegedly tasked with designing and managing a route from the DPR to the territory controlled by the Ukrainian authorities bypassing the EECs.¹⁷

On August 21, 2018, the information became available about the arrest of Nikolai Zhiganov, commander of the "Luhansk-1" national police battalion and a native of Luhansk, who took part in the armed conflict and was wounded. Zhiganov was arrested in the occupied territory "during an operation to search for those involved in destabilising the socio-political situation in the LPR."¹⁸

On August 29, 2018, the so-called "military tribunal acting as a chamber of the DPR supreme court" found a Donetsk resident guilty of espionage and "sentenced" him to 10 years. The man who worked as a taxi driver was allegedly acting upon SSU instructions "collecting data on the location of military facilities and other military information with a view to making this information available to foreign intelligence for use against the DPR."¹⁹

"Law enforcement" and "judicial" systems of DPR and LPR undertake to imitate application of international mechanisms and international humanitarian law. For example, a so-called "Ukrainian people's tribunal to investigate the war crimes of the Poroshenko regime against the citizens of Ukraine" was launched in occupied areas of Donetsk oblast in March. It is interesting that this "tribunal" imitated an examination of evidence based on articles of the Ukrainian Criminal Code, and its "judges" supported by a "jury" passed a two-stage "verdict" on June 22 and July 2, whereby the President of Ukraine and a number of military and political figures were "sentenced" in absentia to various prison terms. A total of 18 people were thus "convicted and sentenced," including President of Ukraine Petr Poroshenko "sentenced" to a life prison term and former leader of the "Right Sector", Member of Ukrainian parliament Dmitry Yarosh "sentenced" to twelve

years of prison term. Staged as an obvious propaganda show, the first "verdicts" were announced at a public rally on June 22 marking an anniversary of the Nazi Germany attack on the Soviet Union. The "verdict" was clearly timed to coincide with this important date in the collective Soviet historical memory, which the de-facto administrations have been working hard to revive and propagate. This appeal to the Soviet ideology's symbolic language associated with the Great Patriotic War (World War II) was meant to send a clear signal. Announcing the verdict on that particular date was, in our opinion, part of the propaganda framework designed to interpret the conflict as a "war against [Ukrainian] fascists."

Politically-motivated arrests, however, represent a minority of all cases of arbitrary detention – and it should be noted that any deprivation of liberty in the occupied territory is arbitrary and not based on law, notwithstanding the so-called "verdicts" pronounced by de-facto "courts" and arrests performed without even an imitation of due process.

Virtually all politically motivated arrests and detentions are accompanied by beating and torture in custody. Yet even "ordinary" citizens arrested on suspicion of criminal offences or failure to comply with certain rules and orders imposed by the de-facto authorities routinely face violence.

Restrictions of freedom of movement

Restrictions on people's movement at night (the so-called curfew) continue to be enforced in the territory controlled by the DPR and LPR de-facto authorities that periodically carry out raids to apprehend "curfew violators." Thus, on the nights of May 25 to 27, during the "Night City" raid, the so-called "police" apprehended 373 people for violating the curfew.²¹ The "police" in the area controlled by the de-facto DPR authorities apprehended 443 people on the nights of June 29 to July 1²² and 239 people on July 6 to 7²³ for violating the curfew. Likewise, 223 people were arrested on July 13 to 15²⁴ and 260 people on July 27 to 29.²⁵

On May 17, a local resident reported to Ukrainian media that the de-facto authorities of LPR had prohibited the employees of the so-called "district administrations" and "city councils" from traveling outside of the LPR, not only to the territory controlled by Ukraine but also to Russia.²⁶

Engagement of minors in political activity

The de-facto authorities in the occupied areas of Donetsk and Luhansk regions spread military and "patriotic" propaganda by engaging children, adolescents and young people in politically driven activities and by pushing them to join various de-facto administration-controlled "voluntary associations," including those with a military focus.

Public events held to mark the anniversary of the USSR's victory over the Nazi Germany included young children of school and preschool age dressed in military uniforms resembling those of the Red Army worn in 1941-1945 and those worn by Russian servicemen today. Children in such attire were seen at public events held outside the Grieving Mother monument in Perevalsk on May 7,²⁷ at a concert in Luhansk on May 9,²⁸ during the so-called Immortal Regiment March,²⁹ and more.

While such gestures are designed to revive the "Great Victory" cult propagated in Leonid Brezhnev's era – which is consistent with the de-facto administration's continuous appeals to the Soviet propaganda rhetoric and symbols – they also carry an additional meaning. The de-facto authorities have been trying to establish a link in the public mind between World War II and the current armed conflict. Within this framework, they present the Ukrainian side as "fascists" while associating the Russian army and the armed groups of the de-facto administrations with the victorious Red Army of 1945. They have effectively used this approach for public mobilisation in the face of the "fascist threat," for demonising and dehumanising the enemy represented by Ukraine and the broadly understood "West," and for building optimistic expectations as to the outcome of the armed conflict by reference to the Soviet Union's victory in 1945. Without doubt, celebrations of the war victory present an opportunity for militaristic propaganda and for creating a heroic aura around members of the illegal armed groups. This propaganda is targeted, in particular, at adolescents who have spent four of their formative years living in wartime conditions and being influenced by the war.

The de-facto authorities actively involve children in "military-patriotic" games. In mid-May, more than 150 students in Bryanka took part in a citywide Zarnitsa-2018 military sports game,³⁰ In Stakhanov, a two-day Victory military sports game was held on May 17 to 18.³¹

Children and explosive remnants of war

Uncontrolled import of weapons and ammunition into the occupied territory has resulted in numerous incidents of grenades and explosives becoming available to children and causing injuries and deaths.

On May 22 in Debaltsevo, Bus No.1 exploded while moving along Kurchatov Street,³² killing one and injuring two.³³ According to local residents, the blast resulted from a 14-year-old carrying a grenade in his backpack and accidentally dropping it inside the bus.³⁴

On May 25 in Gorlovka, two youngsters born in 2006 and 2007 found an RGD-5 grenade in a garbage dump. While playing with the grenade, they pulled the pin. Realising that an explosion was imminent, they threw the grenade away and dropped down on the ground. Both children survived: one had to have surgery to remove a fragment from his cheek and is now back home, and the other is in hospital with shrapnel wounds to his back and sacral-lumbar region.³⁵

Property Rights

Throughout the reporting period, the so-called "nationalisation" was ongoing affecting the facilities previously operated under the Ukrainian jurisdiction or owned by Ukrainian citizens who have, since the beginning of the conflict, resided in the territory controlled by the legitimate government. In practice "nationalisation" often means transferring of the property to the ownership of the representatives of the de-facto authorities, or people close to them. The process of the "search for owners" of the enterprises, attractive for such "nationalisation" is underway.

In a blanket effort to "search for owners," the so-called "state committee on taxes and charges" in the LPR published 11 announcements in May, 23 - in June, and 45 in - July calling for owners to claim their movable or immovable property.³⁶

Allowing owners 60 days following the announcement to file their claims, the de-facto authorities then confiscate the properties. On July 2, the so-called DPR "state property fund" reported having introduced "external state administration" of six real estate properties (external state administration in practice has the same meaning as the "nationalisation" described above).³⁷

Freedom of association

In June, the so-called LPR "ministry of justice" cancelled the registration of 21 NGOs.³⁸

At the same time, employees of enterprises, both state-owned and those in which the so-called "external administration by the state" has been introduced, are under pressure to join "voluntary associations" controlled by the de-facto administrations. By doing so, the de-facto administration in DPR has increased the membership in the so-called Donetsk Republic Movement to 200,000. The "jubilee" membership card was handed to Anna Grachyova, an "activist" from Khartsyzsk, by the leader of so called DPR Zakharchenko on June 12, 2018.³⁹

Religious freedoms

On June 13, the de-facto authorities in Luhansk issued regulations making registration mandatory for religious organisations. In practice, this gives the de-facto authorities wide discretion to ban any faith group.⁴⁰ On July 26, the "MSS of LPR" reported having "suppressed the destructive activities of an extremist religious organisation, the All-Ukrainian Union of Churches of Evangelicals Christian Baptists." According to the report, "this religious organisation with its headquarters in Kiev had evaded applying for mandatory state registration and carried out destructive activities in the Republic."⁴¹

On June 27, the de-facto DPR authorities reported having liquidated “a pseudo-religious Islamist organisation whose leadership was promoting the ideology of an international terrorist organisation, Al Ikhwan al Muslimin (Muslim Brothers) and disseminating extremist information materials.”⁴²

There is no reliable evidence to confirm the presence of a Muslim Brothers cell in Donetsk region either before the war or in the four recent years. One can assume that the de-facto authorities used the pretext of combating terrorism to destroy a Muslim community suspected of disloyalty or disposed of in favour of a more influential competing group.

Main conclusions and recommendations

Systemic violations of human rights and civil liberties continue to occur in the occupied territory on a daily basis. They are clearly part of a deliberate policy pursued by the de-facto authorities and their “law enforcement bodies” at all levels.

The idea of monitoring human rights violations in the occupied territory may be perceived as controversial. In the territory of Donbas, which is outside the Ukrainian government’s control, the entire legal system has been destroyed, leading to uncontrolled violence and pervasive arbitrariness. Any reference to a “legislative framework” formed in the self-proclaimed republics or to their quasi-state institutions set up in the occupied territory may serve, by implication, to legitimise these institutions. It is fairly obvious that the only way to put an end to the lawlessness and violence is through de-occupation and reintegration of the territory into Ukraine’s legal framework, following a transitional justice process to restore legality.

Under the circumstances, the only way **the international community can contribute** is by increasing all-round pressure on Russia, the country that, we firmly believe, exercises effective control over the so-called DPR and LPR. Evidently, it is hardly reasonable to negotiate directly with the de-facto DPR and LPR authorities the conditions of the peace and conflict resolution (since such decisions are made in Moscow rather than Donetsk or Luhansk); it is also counterproductive, because this could mean legitimising them. The direct engagement between international community and de-facto authorities is reasonable mainly when it comes to humanitarian concerns such as provisions for operations of international organisations at non-government controlled areas and adherence to international humanitarian law.

There are two areas of particular urgency in which demands should be raised for Kremlin to take immediate steps, namely a cessation of all hostilities and addressing the fate of Ukrainian citizens unlawfully detained in the occupied territories.

According to many observers, the fact that no changes have occurred in terms of continued hostilities and no progress has been made by the Trilateral Contact Group suggests

that Kremlin is trying to buy time before the presidential election in Ukraine in the hope of having a more agreeable negotiating partner after the election. However, the international community cannot accept this as a good reason. Peaceful civilians should not be made to pay with their lives and health just because Moscow seeks to influence political life in Ukraine. International pressure on Russia must increase, because in the current circumstances, only diplomatic methods and economic sanctions can be used to influence the aggressor country.

The process of exchanging prisoners held in the Ukrainian custody to persons illegally detained by the de-facto authorities in the occupied territory has been stalled once again since early 2018. Pushing for a release of Ukrainian prisoners of war and civilian hostages who fell into the hands of the illegal armed groups should be a priority for both Kiev and the international community, given the reports on torture, ill-treatment and inhumane detention conditions at illegal prisons in the occupied territory. Once again, any positive progress in this area requires more pressure on Russia.

Our recommendation to **the Ukrainian authorities** is to make every effort to establish and maintain humanitarian contacts and communication with the people living in the occupied territories, including making it possible for them to relocate to the government-controlled territory if they so wish, wherever possible.

Ukrainian law enforcement bodies should carefully document the crimes committed on the occupied territory, in particular committed by the de-facto authorities and by “law enforcement bodies” created by them, and where possible to establish the perpetrators..

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Territory of lawlessness

In May – September 2018 the following human rights violations were registered on the territory of the self-proclaimed Luhansk and Donetsk “people’s republics”: arbitrary detentions and “arrests”, arbitrary limitations of the freedom of movement, violations of the freedom of association and freedom of faith, violations of property rights and engagement of minors in propaganda and political events. While it does not aim to provide an exhaustive list of violations, this Report discusses events whose veracity we could confirm by analysing open sources. The facts listed in the Report provide sufficient evidence to draw conclusions about the systemic nature of the human rights violations being perpetrated on the territory of the so-called DPR and LPR.

The report provides the overview of the events in Donetsk and Luhansk “people’s republics” during May-September 2018. The research was conducted in the framework of the project “Human Rights Monitoring in the Eastern Ukraine” implemented by DRA e.V. and Vostok SOS and is based on the analyses of the open sources.

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