



# «The conflict is not frozen»:

Report on the results of the international  
monitoring mission



Federal Foreign Office



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## Introduction

From July 24 to 29, 2020, the German NGO DRA and the Charitable Foundation Vostok SOS, with the support of the Federal Foreign Office of Germany have conducted another international monitoring mission in eastern Ukraine. The participants of the eighth monitoring mission visited the areas directly affected by warfare, as well as the settlements located directly on the line of contact. Experts from five countries have participated in the mission: Kostiantyn Rieutskyi, Executive Director of the Charitable Foundation Vostok SOS (Ukraine), Yulia Krasilnykova, Chairman of the Board of the Charitable Foundation Vostok SOS (Ukraine), Yevhen Vasyliev, Coordinator of Monitoring and Documentation of Human Rights Violations of the Charitable Foundation Vostok SOS (Ukraine), Petro Andrusechko, journalist of Gazeta Wyborcza (Poland), Ivar Dale, expert of the Norwegian Helsinki Committee (Norway), Andreas Umland, expert of the Ukrainian Institute of the Future (Germany), and Hryhoriy Frolov, vice-president of the Free Russia Foundation (Russia).

The mission's task was to study the security and socio-economic situation in the zone of the armed conflict, paying particular attention to the following issues: shelling of settlements before and shortly after the declaration of the full and comprehensive ceasefire on July 27, 2020; the consequences of the Covid-19 pandemic; the issues connected to the crossing of the demarcation line; implementation of the decentralization reform in the region affected by the military conflict.

Throughout the field part of the mission, the monitoring group conducted more than 30 interviews with the representatives of local and regional military-civil administrations (MCA) and local governments, servicemen of the Armed Forces of Ukraine (AFU), local politicians, civil society organizations, and local residents. The monitoring group used partially structured interviews to collect information. The mission also carried out monitoring in several areas of disengagement of forces in the Donetsk and the Luhansk oblast and visited entry-exit checkpoints (EECP).



The data collected have been processed by the project experts and arranged in the present report. The authors of the study are primarily drawing the readers' attention to security issues, in particular, the prospects of "full and comprehensive ceasefire" observance, problematic issues of the decentralization reform amid the ongoing military conflict, humanitarian issues, and opportunities for the economic revival of the region, the right to freedom of movement in conditions of the armed conflict and quarantine restrictions due to the COVID-19 pandemic.

The project experts have elaborated recommendations to the Government of Ukraine and the international community to address some of the issues raised by the participants of the monitoring mission.

## **1. Security issues in the areas located directly on the line of contact**

*'The conflict is not frozen.' This is the conclusion made by the members of the monitoring group during field observations. Intense warfare had happened immediately before the entry into force of the complete ceasefire (July 27, 2020), and during the first two days after the declaration of silence. During this period, the monitoring group has recorded several cases of shelling coming from the non-government-controlled areas of the Donetsk oblast, when at least one civilian in the town of Mariinka had been injured. Amid this background, the statement of*

*the Head of the OSCE SMM that no facts of injuries or deaths of civilians as a result of hostilities have been recorded during the four months of the ceasefire is puzzling. As it became known during the compilation of this report, the OSCE Special Monitoring Mission has recorded 2,051 ceasefire violations. The Joint Forces Operation reports 224 cases of shelling by the illegal armed groups between July 27 and November 4, 2020, in which three Ukrainian servicemen were killed and 11 wounded.*

### **a) The security situation on the line of contact before the ceasefire went into force: field observations in Zolote-4 and Katerynivka**

Zolote-4 village, located in the Luhansk oblast, is one of the hotspots on the line of contact. In the autumn of last year, troops and forces were disengaged near this settlement, which in terms of administration belongs to Zolote. As a result of the disengagement of forces, a short section of the front line was demilitarized. Servicemen of the Armed Forces of Ukraine withdrew 300 meters from their positions on the contact line, while the armed formations of the so-called 'DPR' and 'LPR' moved 700 meters.

Observations of the monitoring mission on the situation in the area of Zolote-4, undertaken on Saturday, July 25, confirmed that the demilitarization of a small fragment of the contact line did not reduce the number of shelling of this settlement. Thus, at the town entrance, the mission members observed smoke, and in Zolote-4 itself, several echoes of



explosions were heard (probably the shelling was carried out using 120-mm mortars) from about 13.00 to 14.00.

According to residents, the day before, as well as from the morning of Saturday, July 25, there was heavy shelling near the village. However, in mid-July, the situation had been even worse, and the gunfire had been so intense that "bullets whistled among the leaves of the trees," as one of the mission's interlocutors noted.

Maryna Danylkin, a local activist who publicly opposes the withdrawal of the Armed Forces of Ukraine, also confirmed to the mission the daily nature of the shelling. Maryna herself fears that the armed formations of so-called 'DPR' and 'LPR' would use the disengagement of forces to take control over the territory.

During a conversation with Maryna in the park near the House of Culture in Zolote-4, the gunfire intensified. The members of the mission recorded some

shots by automatic weapons, grenade launchers, and mortars. At some point, the shelling became so intense that Maryna asked to move away from the place of the conversation somewhere else for security reasons. Having moved to a remote hill, where the OSCE observation post used to be, the monitoring mission continued to observe the fight, which lasted for another hour and a half.

It should be noted that about 500 people still live in Zolote-4. And while many of them link their hopes for peace to the prospect of a complete and comprehensive ceasefire, most of the residents share the skeptical mood. So, when asked how long the "silence" had lasted during previous attempts to establish a truce, one of the elderly residents answered - "it has never lasted".

According to residents of Katerynivka, located near Zolote, the security situation

has improved in their village after the withdrawal of forces and military equipment. However, shelling had been observed before the ceasefire agreement came into force. For example, on June 22, a local club was shelled: "The shelling started early in the morning, after 4 o'clock. They fired from large-caliber automatic weapons. Only the club was damaged. Its roof was partially damaged, as well as the windows and the building itself. Later, we requested assistance from the International Red Cross. They brought us construction materials, and we will repair the club on our own with the aid of the MCA of the city of Zolote", said one of the residents and a volunteer from Katerynivka.

## **b) The situation in the town during the first days after the entry into force of the ceasefire**

The decision of the ceasefire came into force on July 27, 2020. It should be noted that this is the twenty-ninth attempt to establish a silence regime on the demarcation line. The decision provides for the following points: a ban on offensive and reconnaissance/subversive operations, as well as a ban on the application of any types of aircraft by both parties; a ban on the application of any gunfire, including sniper fire; a ban on the deployment of heavy weapons in settlements and their vicinity, primarily on civilian infrastructure, including schools, kindergartens, hospitals and premises open to the public; effective application of disciplinary measures for violations of the ceasefire and notification of them to the Trilateral Contact Group (TCG) coordinator, who informs all its participants, as well as several other

points.

Despite the declared regime of silence, the OSCE Special Monitoring Mission recorded 111 cases of the use of weapons (including 21 explosions) on the first day of the establishment of the ceasefire. For their part, the participants of the joint Vostok-SOS / DRA monitoring mission recorded the injury of a civilian in the town of Mariinka of the Donetsk oblast, located on the demarcation line.

So, on the first day of the ceasefire, a mother and son, residents of Mariinka, decided to take advantage of the declared ceasefire and clean the garden plot adjacent to their house, directly on the line of fire.

"At first, I heard a whistle, and after a while - an explosion," a man who was injured told us on June 28, showing his bandaged hand. We can assume that the shot had been fired from a grenade launcher. Fortunately, the man was only slightly injured, but a piece was stuck in his hand, close to the nerve, and he would require surgery later.

Next to the man was his mother standing, who had worked with him on their plot that day. Since the beginning of the war, the woman had been wounded twice, and after the second injury, a shard has remained in her leg.

According to military servicemen and civilians, whom the mission has talked to, the security situation on the contact line has significantly improved. The number of gunshots has decreased. However, the situation does not allow us to talk about the full and comprehensive observance of ceasefire.



### **c) The situation at the pedestrian crossing past the EECP “Stanytsia Luhanska”**

It is not the first time that the participants of the monitoring mission have recorded an unclear situation with representatives of the so-called “Joint Center for Control and Coordination on ceasefire and stabilization of the demarcation line” (JCCC) by ‘LPR’ at the pedestrian bridge over the Siverskyi Donets river located behind the Stanytsia Luhanska EECP. It should be recalled that according to the Minsk Protocol of September 5, 2014, the JCCC includes representatives of the General Staff of the Armed Forces of Ukraine and the General Staff of the Armed Forces of the Russian Federation authorized to monitor compliance with the ceasefire. After the withdrawal of Russian representatives from the JCCC by the end of 2017, the monitoring is conducted exclusively by the Armed Forces of Ukraine. No representatives of the so-called ‘DPR’ and ‘LPR’ are taking

part in the operation of this center and have no authority to monitor compliance with the ceasefire.

However, starting from 2018, the self-proclaimed republics have created their own ‘JCCC,’ thus arrogating the right to monitor compliance with the ceasefire in violation of the Minsk Protocol of 2014. Representatives of so-called “JSCC LPR” are constantly present at the pedestrian crossing in Stanytsia Luhanska from the side of “LPR.” At the same time, their location, just behind the repaired part of the bridge, is also a violation of the Minsk agreements of 2014, according to which the territory controlled by the self-proclaimed Luhansk People’s Republic starts on the other bank of the Siverskyi Donets river, i.e., behind the pedestrian bridge.

When asked by the participants of the monitoring mission who they are and what they are doing on the bridge, the men with the signs of so-called “JCCC of



LPR” responded that they are observers. However, they refuse to continue the dialogue or start calling a “senior official” on the radio who also does not comment on their role and tasks.

#### **d) Other security issues in the zone of the armed conflict**

The participants of the monitoring mission have identified other problems in the zone of the armed conflict: fires, operations of subversive groups, and tensions related to the prospects of further disengagement of the armed forces and means.

According to Yurii Zolkin, head of the Stanychno-Luhanska district state administration, and Oleksiy Babchenko, head of the Zolote military-civil administration, some fires in the Luhansk oblast were caused intentionally by shelling that had ignited the grass. The first of such cases occurred in the spring

of 2020 when the fire was moving in the direction of Stanytsia Luhanska from the side of the Siverskyi Donetsk River, i.e., from the confrontation line. Another case was when the fire had been caused by mortar fire from the vicinity of the Ukrainian-Russian state border.

Luhansk Oblast Head of Administration, Serhiy Haidai, told the mission about the activities of diversionists in the oblast, which also complicates the security situation. Thus, in July 2020, the Security Service of Ukraine detected and stopped an attempt to blow up two railway tank-cars at the Azot chemical plant in Severodonetsk.

Observers of the international monitoring mission DRA / Vostok SOS found a grenade in the demilitarized zone in Stanytsia Luhanska that had been released from the automatic grenade launcher and has not exploded.

Prospects for further withdrawal of armed



forces and means from the confrontation line still provoke mixed thoughts and emotional reactions from governmental officials and the population of frontline settlements. Thus, Yuriy Zolkin, Head of the Stanychno-Luhanska District State Administration, advocates the withdrawal of troops near the pedestrian bridge for humanitarian reasons. It allows repairing a new section of the destroyed bridge. At the same time, he is against the withdrawal of Ukrainian troops in other areas along the confrontation line.

Ukrainian activists who live in towns and villages in the vicinity of the contact line have expressed concerns about the prospect of further demilitarization, believing that this could lead to Russian-controlled armed formations gaining control over the territories.

## **2. Decentralization and local elections vs. security**

*The current military-civil administrations (MCA) in the eastern frontline areas of Ukraine should be preserved, although it requires partial reform. After the liberation of the Donetsk oblast, they would be able to become an institutional model for a unique transitional regime of the administration in the temporarily occupied territories.*

On October 25, 2020, Ukraine held the first national local and regional elections after completing the first stage of the long-term decentralization reform, which has been going on since April 2014.

This vote was of more political importance than previous elections of the regional, district, and municipal councils and the city mayors. Especially local parliamentarians and village headmen (starostas) who had been elected in October as part of the newly arranged amalgamated hromadas (AH) were given new tasks, prerogatives, and responsibilities. These local and regional



elections have thus become a significant step forward in the democratization, reform, and Europeanization of Ukraine.

It should be noted that holding elections in the territories of the Donetsk oblast and the Luhansk oblast currently occupied by the Russian Federation and not controlled by Ukraine remains impossible. Contrary to the Kremlin's plans and the ideas of some Western politicians, Ukraine cannot and should not hold elections until the full restoration of sovereignty over these areas. After five years of intense discussion, it is still possible to find unrealistic interpretations of the Minsk agreements of 2014–2015, which propose to hold elections in territories that are non-controlled by the Government of Ukraine. At best, such demands are naive. At worst, they demonstrate a fragmentary commitment of their supporters to principles such as national sovereignty, the rule of law, and liberal democracy. The effective and exclusive control by the Government of Ukraine must be established over these territories before any further elections and decentralization. The promotion of local democracy and self-government in the occupied territories can be the subject of practical implementation only after the ultimate restoration of the territorial integrity of Ukraine.

At the same time, the DRA / Vostok SOS monitoring mission has examined the prospects of holding local elections in the government-controlled territories of the Luhansk oblast and the Donetsk oblast, in particular in district centers and villages located near the contact line.

Since 2015, there has been no local self-government in the Donetsk oblast

and the Luhansk oblast, and most front-line populated areas. These territories are managed by temporary military-civil administrations (MCA), directly subordinate to the Joint Operational Staff of the Armed Forces of Ukraine (JOS). Appointment to leading positions in these administrations is made by the President of Ukraine (MCA of the oblasts) or by the effective Commander of the Joint Forces. Before submitting the Law on the MCA to the Verkhovna Rada of Ukraine, then-President Petro Poroshenko stated in January 2015 that the Law 'will allow today to resolve the issue of lack of state power in the liberated territories, when virtually all elected deputies of local councils who held separatist positions, committed crimes, have run away, and now are hiding from justice.'

Initially, the Law "On Military-Civil Administrations" of February 3, 2015, has been intended to be valid for one year. However, since then, its action has repeatedly continued, and the number of the MCA at the local and district levels has gradually increased. The MCAs have many of the usual legislative and executive prerogatives of local councils and their administrative bodies (management of economic processes, housing, and municipal services, social and cultural policy), thus ensuring the livelihood of local communities in a situation of military conflict. They are also endowed with some extraordinary powers in the respective settlements, which offset the local self-government and political life on these territories.

As special municipal or regional hybrid regimes, with the characteristics of both

ordinary centralized civil management and military management, the MCAs are not completely the emergency administrations provided for in a state of emergency. Thus, the military-civil administration has been and still is a necessary intermediate solution to the local self-government which is unsuitable in areas of active or potential hostilities. In the conditions of regional political instability associated with war and deep economic deprivation, the MCAs have proved to be the appropriate tool for ensuring necessary order and preventing intervention by the Russian Federation across the so-called line of contact.

Simultaneously, the MCAs existence contradicts the decentralization reforms that have been carried out in Ukraine since 2014. As noted by Kostiantyn Rieutskiy and Iulia Shukan in one of the first works on this topic under the eloquent title ["The temptation of authoritarian rule: military-civilian administrations in the zone of military conflict in the government-controlled territories in eastern Ukraine"](#) (Kyiv / Berlin: Vostok SOS / DRA, 2019, p. 7): "in the absence of the deputy corps, which collectively makes decisions, and the division into legislative and executive functions, and hence the weakening of the system of checks and balances, the heads of the MCAs themselves organize the operation of the administration (Article 6 [of the Law 'On the MCA']): They appoint and dismiss the officials of the MCA, and bear personal responsibility for the execution of the functions assigned to the administration. Also, they are the sole managers of budget funds. The Law on Military-Civil Administrations also does

not provide for the establishment of a Public Council under the MCA, which strengthens, even more, the role of the head of the administration and removes all obstacles to the authoritarian style of government".

In a peaceful environment, local and regional elections in October 2020 would be an excellent opportunity to replace the MCA with duly elected councils, headmen (starostas), and mayors, especially with expanded prerogatives in the newly created amalgamated hromadas (AH). However, holding such elections in some frontline districts of the Donetsk and the Luhansk oblast seems to be premature for at least three reasons.

First, it is technically challenging to conduct an election campaign in settlements close to the line of contact. Many residents of these villages, towns, and cities have temporarily left their homes and moved to other parts of Ukraine out of fear or despair and now have the status of internally displaced persons. It seems impossible to engage all representatives from this category of citizens in the process of electing self-government bodies at their place of residence. Given the fact that the physical, social, and humanitarian infrastructure of the frontline regions is deeply impacted by war and other exceptional circumstances, the conduct of ordinary election campaigns and legitimate voting processes in frontline settlements is a significant challenge for the authorities.

Second, the frontline regions and settlements now governed by the MCA are favorite targets for Russian

infiltrations and manipulative operations. Television and radio of the Russian Federation and its two puppet pseudo-states, the so-called “Donetsk and Luhansk People's Republics,” are prevailing in the information space along the line of demarcation and shape the opinion and worldview of local residents. If Moscow manages to interfere in the voting process in the United States, the UK, or France, it can do the same in Russian-speaking villages and towns located just a few kilometers from their own proxy forces and puppet regimes in the Donbas.

Third, the main open issue for many, if not for most of the relevant settlements, remains the functioning of the newly elected legislative and executive municipal bodies after the local elections. One of the most critical areas of responsibility of classical local government is the collection and distribution of taxes and other incomes of

urban or rural communities and attracting domestic and foreign investment in the relevant areas. However, since the spring of 2014, these tasks have become insignificant or sometimes simply disappeared in settlements along the demarcation line, where economic, social, cultural, and political life remains significantly limited.

The prevailing problems along the demarcation line, from Stanytsia Luhanska in the north to Mariupol in the south, are neither economic nor social by nature. The most acute issues are those of security and war. In many frontline areas, there are entry-exit checkpoints (EECP), whose operation determines the local economic life. However, these checkpoints are run by Kyiv from the Ukrainian government-controlled side and by the Russian proxy authorities in Luhansk and Donetsk in the non-government controlled territories. Local governance in frontline settlements



thus boils down to making better use of small subsidies provided by the central government to address many competing infrastructure issues, such as electricity, water, heating, medicine, arranging care for children, retirees or the sick, as well as repair of damaged residential and public buildings. Some of these tasks have now been partially overtaken over by some foreign organizations such as the International Committee of the Red Cross, the Norwegian Refugee Council, and the international network of the “Médecins Sans Frontières /Doctors without Borders.” In such circumstances, it is unclear what exactly the future local government would do.

Amid this background, it becomes clear why Ukraine still partially retains the MCA for the required period. Moreover, Kyiv should develop and implement new legislation that would improve the functioning of these administrations. It may even be necessary to amend the Constitution of Ukraine to legislate for special intermediate local regimes, which were established in 2015 and which will probably have to continue functioning in the area of the Joint Forces Operation for some time. So far, the MCAs do not fully comply with the Constitution of Ukraine and have not been designed to operate for a more extended period.

The current special regime also requires improvement to develop and implement alternative feedback mechanisms between the MCA and local communities. Often, the heads of the MCAs are already in more or less close contact with government agencies such as hospitals and schools and with local NGOs, businesses, parties, and the media.

These relations could be formalized through the statutory establishment of permanent advisory councils to be assigned to the MCA. According to such amendments to the “Law on the MCA,” the heads of administrations should consider the opinion of public councils, which should include representatives of NGOs, businesses, political parties, and the media. The MCA may be required to consult these councils on all decisions relating to municipal issues, such as housing, transport, education, health care, etc. (and to a lesser extent on security and defense issues).

It may also be appropriate to involve these advisory boards, in one form or another, in the process of selecting suitable candidates for the MCA staff. It would also be useful to establish a formal complaint procedure through which local NGOs, business associations, the media, and political parties could report illegal actions by the MCA representatives to the JOS. Such complaints may relate to bribery cases, nepotism, or arbitrariness on the part of the MCA executives and staff. Although such a reconfiguration of the MCA's operation will still not be a properly democratic and decentralized administration, it will establish a more resilient state of emergency that the frontline areas may need as long as the aggression of the Russian Federation in Donbas continues.

And last but not least. These intermediate local regimes, consisting of centrally appointed MCA staff and local community councils, may become a typical mechanism in the future for responding to other emergencies. First of all, the MCA can provide Kyiv with a future

model for managing the now-occupied territories of the Donbas during the transition period between their liberation from Russian occupation and their subsequent inclusion in the general decentralization reform in Ukraine. This will be especially relevant if the occupied territories would not be temporarily managed as part of a UN international peacekeeping operation after Russia's withdrawal from the Ukrainian Donbas. Under this scenario, Kyiv must first impose a state of emergency on the territory of the former so-called "people's republics" to ensure comprehensive demilitarization and all-embracing political, legal, media, and public reintegration of the currently occupied parts in Ukraine. Only after the complete reintegration of the occupied territories into all-Ukrainian politics and economy, will it make sense to unite small communities in the AH and hold local elections in the new Ukrainian self-government bodies. At this point, the currently occupied territories will become

full parts of the decentralized Ukrainian state.

### **3. Social and economic situation of frontline territories**

*The monitoring group members have not noticed a significant improvement in the economic situation in the Luhansk and Donetsk oblasts in the year following the last field research mission. The situation is particularly dire in the five-kilometer zone along the contact line, except for a few settlements where several large industrial enterprises are located, directly or indirectly managed by the System Capital Management Group.*

The war destroyed the economic structure of the region; economic ties with the temporarily occupied territories are severed, while new connections with



businesses in the safe areas in Ukraine are being created slowly. The production volumes of industrial enterprises decreased several times. This was especially true of enterprises, whose production cycle depended on the capacity remaining in the non-government controlled territories. Several industrial enterprises have stopped working or even closed.

The volumes of cargo handling in the Sea of Azov ports of the Donetsk oblast have decreased significantly. In 2014, freight turnover was halved since many producers of industrial and agricultural products remained cut off from the freight corridors by the front line. Another sharp decline in cargo turnover occurred in 2018–2019 after the Russian Federation installed a bridge over the Kerch Strait and introduced a covert blockade of Ukrainian ports in Azov. The strengthening of Russia's military presence in the waters of the Sea of Azov has led to a significant reduction in fish capture by Ukrainian fishermen.

All coal mines that supplied coking coal, which is necessary for metallurgical production, remained in the occupied part of the Donbas, which increased the cost and reduced the production of metallurgical enterprises and chemical plants involved in their production chain.

The hostilities significantly complicated transport connections with some districts south of the Donetsk oblast and the north of Luhansk oblast. The railway transport corridor in the Azov Sea region was not designed for the volume of cargo that now goes through the Volnovakha-Kamysh-Zorya railroad haul

because the main railway branch connecting Mariupol industrial enterprises with their consumers and suppliers had been cut off in 2014 by the demarcation line, and any railroad transportation via the main branch was completely stopped in 2017. The Government of Ukraine has been discussing plans to increase the capacity of the railway haul for several years, but any work on this section has never begun. A similar situation is found in the Luhansk oblast. Here the railway branch Kondrashivska Nova – Lantrativka, leading from the contact line in the south of the government-controlled part to the Ukrainian–Russian state border in the north, has been cut off from the transportation system of Ukraine since the occupation in 2014. Thus, agricultural and energy enterprises located on one half of the government-controlled part of Luhansk oblast do not have the opportunity to transport their goods using the railway line, which significantly affects the cost of their products and deprives them of competitive advantages. Even the energy infrastructure asset owned by the monopolist Rinat Akhmetov, Luhansk thermal power plant, located in the city of Shchastya – could not withstand competition being in such conditions. Due to the lack of possibility to supply the coal necessary for its operation using the railway, Luhansk TPP reduced electricity production by two thirds and declared its intention to dismantle the enterprise in the next ten years.

Many coal mines in the government-controlled frontline areas of Ukraine are unprofitable, being on the verge of closure. Some of them have

already stopped coal mining and provide only for groundwater pumping, the inflow of which has increased dramatically due to the shutdown of many coal mining companies in the temporarily uncontrolled areas. The high cost of water pumping against the background of the production cost, which is already high, is gradually bringing the government of Ukraine to the decision of closing many coal mining enterprises. This strategy has been discussed for several years at the level of the Cabinet of Ministers of Ukraine.

These and other factors have already led to a sharp rise in unemployment, and in the coming years, in the absence of measures to improve the situation, this problem will only worsen. The issue of unemployment is especially acute in settlements near the demarcation line. In many of them, most of the adult working population does not have a permanent job, and many households survive on pensions and social benefits of their elder ones.

Since the start of hostilities in 2014, a capital outflow from the conflict region has been noticed. Small and medium business owners preferred to shut down their projects or move the assets to safer areas of Ukraine. After the surge in 2014, negative business migration has continued at a slower pace in the subsequent years. Proximity to the war operations does not help attract new investments in the region affected by the conflict. In previous years, the Government of Ukraine, despite the recommendations of experts, has not demonstrated any willingness to reduce the tax burden for the investors willing to

risk their capital by investing them in projects in the Donbas. Naturally, in the absence of a risk compensation guaranteed by the government to investors, investments in the region are declining.

The reduction in investment has logically led to a decrease in the income of local communities and, consequently, a reduction in the cost of implementing development programs, modernization of infrastructure, and local social projects. Also, the outflow of capital, the cessation of industrial enterprises, and rising unemployment have led to a general decline in social standards and quality of life in the region. The region is becoming increasingly dependent on central budget subsidies and international technical assistance, steadily declining in recent years. The social and economic situation of the residents of the areas adjacent to the confrontation line is dire. Many households here do not have a steady income source. They are highly dependent on humanitarian aid, which could lead to growing social tensions in the region over the next few years amid curtailing international humanitarian programs and the government's inability to provide for people's basic needs. It is evident that regional political elites affiliated with the Russian political leaders, traditionally using criticism of the central government of Ukraine to mobilize their electorate, will also provoke the increase of social tensions.

The government's plans to create a Free Economic Zone in the controlled frontline areas and reduce the tax rate for investors, voiced in the media, inspire cautious optimism and hope for

recovering the region's economy. However, the authorities have not yet presented a detailed strategy for the implementation of this economic policy.

#### 4. Situation with freedom of movement on the demarcation line

*The state of emergency during the COVID-19 pandemic and the restrictive measures imposed in March 2020 has led to new problems with freedom of movement on the demarcation line. The decision of the Trilateral Contact Group (Ukraine, the Russian Federation, and OSCE) about a peaceful solution of the situation in eastern Ukraine to open two new checkpoints on the demarcation line at the towns of Zolote and Shchastya in the Luhansk oblast was again blocked by representatives of the so-called "DPR" and "LPR."*

a) By November 2020, there were five entry-exit checkpoints (EEC) along the entire demarcation line: four in the Donetsk oblast (Hnutove, Maiorsk, Mariinka, Novotroitske), and one - in the Luhansk oblast (Stanytsia Luhanska), which provides only a pedestrian crossing, while the passage of road transport was impossible due to the partial destruction of the bridge over the Siverskyi Donets river. On November 10, 2020, Ukraine opened two additional checkpoints in the towns of Zolote (automobile communication) and Shchastya (pedestrian crossing walkway) in the Luhansk oblast within the framework of agreements reached by the Trilateral Contact Group (Ukraine, Russia, OSCE). Representatives of the so-called "DPR" and "LPR" have equipped checkpoints from their side but have not opened them till this time. It is also worth noting that on the Ukrainian side, the Zolote checkpoint has been working unilaterally since March 31, 2016. However, this EECP was crossed mainly





**by residents of two settlements - Zolote-4 and Katerynivka, which are territorially located behind the checkpoint. The functioning of the checkpoint was blocked by representatives of the pro-Russian administrations of the so-called "DPR" and "LPR."**

By the end of July, the Government of Ukraine declared a separate state-owned enterprise, Reintegration, and Reconstruction, which will be responsible for maintaining the checkpoints. This process can lead to positive changes in the functioning of the checkpoints. Although the entry-exit points have been operating since 2015, their legal status and subordination to a single state body responsible for targeted funding and ensuring the proper operation of the issues have not yet been defined at the legislative level. These are the checkpoints in the Donetsk oblast and the Luhansk oblast and the administrative border between the Kherson oblast and the temporarily occupied Crimea. Such a state-owned enterprise should ensure the unification of entry-exit checkpoints.

Another ambitious plan of the Ukrainian government is to create mobile service centers at all checkpoints, based on which administrative and banking services will be provided and mother and child rooms, recreation areas, medical centers, etc., will be arranged. According to the Head of the Luhansk oblast MCA Serhiy Haidai, at each point, they plan to equip a mobile point for collecting material for PCR testing, which will allow quick stop of the self-isolation for the persons crossing the demarcation line.

But it is still unknown where people would expect the results of PCR testing. The only laboratory in the region is located in Severodonetsk, 130 km away from Stanytsia Luhanska. Vice Prime Minister of Ukraine, Minister for Reintegration of the Temporarily Occupied Territories Oleksii Reznikov states in the media that the possibility of opening such a hub at one of the checkpoints in the Donetsk oblast is currently being considered.

#### **b) Restrictions related to the introduction of quarantine during the COVID-19 pandemic**

In connection with the COVID-19 pandemic, the function of the checkpoints was partially restricted in Ukraine from March 16, and from March 22, the traffic through the EEC was closed entirely. Exceptions were provided for representatives of the OSCE, UN, and ICRC monitoring missions. The Joint Forces Operation Commandment also reported that in exceptional cases, in the presence of critical life circumstances and relevant supporting documents, individuals may be allowed to cross the demarcation line. The occupation administrations of the so-called DPR and LPR also fully closed the EEC on their side: in the area of Donetsk oblast from March 21, in the area of Luhansk oblast from March 23.

Ukraine unilaterally resumed the work of the Stanytsia Luhanska and Mariinka checkpoints on June 10 and the Novotroitske checkpoint on June 22, but the self-proclaimed republics blocked *the crossings. On June 19, the restrictions for crossing the demarcation line were lifted in the so-called "LPR," and on June 25 - in the so-called "DPR."* At the same



time, on June 28, the so-called "DPR" occupation authorities again blocked the crossing of the line of demarcation at the crossings.

At the time of the monitoring mission's visit, only one checkpoint in Stanytsia Luhanska allowed people to pass. However, the number of those wishing to cross the demarcation line had decreased significantly: from about 12,000 per day before quarantine to about 1,000 per day by the end of July.

Other EECs were closed for crossing, as representatives of the so-called "DPR" announced the closure of their checkpoints "until the epidemic situation in the territories controlled by Ukraine normalizes." From the side of the so-called "DPR," the occupying power allowed people to cross the line of demarcation two days a week - on Mondays and Fridays - only through the Olenivka checkpoint, which borders the

Ukrainian checkpoint Novotroitske. At the same time, only those who are registered in the territories controlled by the Ukrainian government were allowed to leave the occupied territories, and entry to the self-proclaimed republics was permitted only to those who were on the lists of the so-called "coronavirus operational headquarters." However, the procedure for compiling the lists was non-transparent, and the processing of appeals could take up to 30 days, so people were allowed to pass slowly and selectively.

On July 28, the monitoring mission spoke with people who had been living at a bus stop at the Novotroitske checkpoint for several weeks, waiting for the occupation authorities to allow them to cross the line. At the time of the mission's visit, there were nine such people, including the elderly ones, the sick, and those with chronic diseases. The mission was deeply concerned about the situation of two older women, aged 70 and 80, who had

been at the Novotroitske checkpoint for two weeks. They did not seem to fully understand the reason why they had not been allowed to go home. There were also juveniles in appalling conditions, including a 17-year-old boy, who was waiting with his parents for permission to enter from the authorities of the so-called "DPR." According to people, a family with young children also lived at the bus stop until July 27.

The Border Guard Service of Ukraine organized an overnight stay for these people on the territory of the EECP, in the tent of the emergency services of Ukraine. Food was provided by humanitarian organizations. As of August 6, three of the nine people had not been let through and stayed open air, awaiting permission to return home from the so-called "DPR."

Representatives of the so-called "LPR" imposed another restriction: the militants allowed only persons registered in the self-proclaimed "DPR" and "LPR" into the territory non-controlled by the government, but everyone was allowed to leave the non-controlled territory, regardless of the registration address.

Concerning the work of the Ukrainian EECP, the monitoring group observed readiness to allow people to pass in full, without additional conditions and grounds for crossing the demarcation line. However, due to the abolition of mandatory observation, which was introduced in Ukraine, the condition for crossing was the installation of a mobile app "Dii Vdoma" (Act at Home) and 14-day self-isolation, which created severe problems when crossing the checkpoint for specific segments of the population.

One of the main problems is the lack of smartphones for people, especially the elderly, or the inability to install the mobile application. First, not every smartphone is suitable for installing the application; for example, older versions of the Android operating system do not support it. There are a significant number of cases when the installation of the application becomes impossible due to minor technical problems with the smartphone or application software. Problems also occur with older SIM cards that do not support 4G connection. A separate issue is a wrong mobile signal on the EECP, resulting from which SMS-messages with the program activation code do not arrive, and the lack of available Internet, which makes it impossible to download the program on the territory of the EECP. Representatives of the monitoring mission observed how at the Stanytsia Luhanska checkpoint, the border guards helped people waiting to enter the controlled area to install and activate the "Dii Vdoma" program, for which they created WI-FI access points using personal phones and mobile Internet. In July, free WI-FI access points were installed at the Novotroitske checkpoint. In August, the Proliska Humanitarian Mission also installed WI-FI access points at the Stanytsia Luhanska checkpoint.

On June 13, 2020, the Cabinet of Ministers of Ukraine abolished mandatory observation for persons leaving the temporarily occupied territories. As a result, all those who, for any reason, cannot install the application "Dii Vdoma" cannot be allowed to the government-controlled territory of Ukraine. In this regard, several dozen people for a period of one to three days

found themselves in the so-called "gray zone" between the Novotroitske checkpoint and the checkpoint in occupied Olenivka. The problem was caused by the crossing procedures established by the authorities of the so-called "DPR." As noted earlier, representatives of the self-proclaimed republic allowed anyone to leave the temporarily occupied territory without restrictions. Still, the entry from the government-controlled of Ukraine was allowed only on pre-approved lists. Thus, about 60 people who left the so-called "DPR" were unable to cross the Novotroitske checkpoint because they could not install the "Dii Vdoma" application. At the same time, they were also unable to return to permanent residence in the temporarily occupied territory. Their crossing of the Olenivka checkpoint had not been agreed in advance with representatives of "DPR" and "LPR."

People were forced to wait more than three days in the area between the checkpoints until their relatives or acquaintances brought them a smartphone or other SIM card. Only then were they allowed to register in the mobile application and cross the EECP. Ukrainian services and organizations provided such persons with the opportunity to spend the night in the state emergency services camp and provided them with drinking water, food, and hygiene items. But people were allowed to stay in the tent camp only at night. In the morning, people were taken to the demarcation line, to the so-called zero checkpoints.

After several days of talks with representatives of UN agencies, the

management of the Donetsk MCA decided to place in one of the detention centers 28 people from among those who could not cross the line of demarcation due to the impossibility of installing the "Dii Vdoma" app to undergo a two-week observation. This decision, which violates the procedure established by the Cabinet of Ministers of Ukraine, allowed to save people who found themselves in a dangerous situation.

People who cannot install the "Dii Vdoma" application in the Donetsk oblast continue to be placed for observation in one of the premises of the tuberculosis sanatorium for adults in the village of Hostre, which belongs to the Selidovo City Council. Representatives of the monitoring mission received information that the day before their visit, on July 27, 2020, seven people from the Novotroitske checkpoint had been taken for observation. On average, from 9 to 11 people who do not have the opportunity to install a mobile application are placed on mandatory observation in cases where the occupation authorities of the so-called "DPR" allow people to cross the demarcation line. Simultaneously, in the Luhansk oblast, all those who did not install the "Dii Vdoma" app return to the non-controlled territory.

Given the critical nature of the identified problems, the decision of the Government of Ukraine to abolish the mandatory two-week self-isolation from August 1 for citizens entering the territory controlled by the Ukrainian authorities from the temporarily occupied territories of the Donbas and the Crimea is extremely important. According to the resolution of the Cabinet of Ministers of Ukraine, persons crossing the checkpoint

on the line of demarcation and the administrative border with the peninsula do not need to install the app "Dii Vdoma." But, contrary to the resolution, according to the decision of the Commander of the Joint Forces Operation, for the period of quarantine, the crossing of the demarcation line is allowed only under the condition of self-isolation using a mobile application or observation. At the same time, self-isolation is not required for those who follow through with the EECF on the administrative border with the occupied Crimea.

## 6. Conclusions and recommendations

1. The preservation of the MCA institution is justified until the complete elimination of the threat of resumption of hostilities in the zone of armed conflict. In 2014–2015, most local governments had demonstrated an inability to meet the basic needs of local communities in the context of intense hostilities, which led to an increase in the number of victims in the civilian population in areas where the military conflict is going on. Some factors indicate that the risk of full-scale hostilities renewal in the Luhansk oblast and the Donetsk oblasts persists. And in this case, military–civilian administrations will be a much more effective tool for the livelihood of communities than local self-government.

At the same time, **the institution of military–civil administrations needs to be reformed.**

At the time of adopting the MCA law in 2015, legislators did not take into account that hostilities would continue for so long and that the operation period of "temporary" MCA could take years. Perhaps that is why MCAs in their current form are useful in times of crisis but not effective for sustainable development. It is to address these challenges, based on the likelihood of continuing military–civilian administrations operation terms, that the legislators should provide new legal tools for the participation of local community representatives in making essential community decisions. The current effective Law, unfortunately, does not provide mechanisms for public control over these administrations and also establishes a very non-transparent procedure for their formation.

Thus, to increase the effectiveness of the MCA, the legislators should provide, first, mechanisms for influencing local communities to choose the head and key employees of military–civil administrations, to assess the competencies and integrity of applicants, to participate in decision-making in the local community. Second, the Government should quickly develop and implement retraining programs for the heads and key staff of the MCA, who often have no administrative experience.

**2. Economic revival of the region will not be possible without creating conditions for attracting investment.** The experience of the last six years convinces us that it is almost impossible to attract investment to the region, engaged in war, without creating a particular environment. The Ukraine Government

needs to propose a balanced policy to compensate for the risks associated with hostilities for potential domestic and international investors. Such steps could be creating a Free Economic Zone or other models to reduce the tax burden for those businesses that are willing to risk investing their capital in a war-torn region. At the same time, it is essential to provide mechanisms that will create equal conditions for all bona fide market participants and will avoid making artificial preferences for monopolies fused with the state power.

**3.** The Russian Federation is using the "Minsk process" to exert political pressure on Ukraine and distract the world community from the root cause of the conflict, its hybrid aggression in eastern Ukraine and the AR Crimea. Therefore, security policy in the conflict region should not completely repeat the agenda imposed by the Russian government. Without abandoning attempts to establish peace and individual actions to implement this strategy, the Ukrainian government should not give Russia a strategic initiative, should not weaken the position of the Joint Forces Operation in the Luhansk oblast and the Donetsk oblast, and should not ignore the facts of violation of peace agreements by illegal armed groups, controlled by the Russian Federation.

Recognizing that the current political management of the Russian Federation intends to continue to use the threat of intensification of hostilities in the Donbas to exert political pressure on Ukraine, and the plight of Separate Districts of the Donetsk and Luhansk regions (ORDLO) residents to pressure the Ukrainian

government through international partners, Ukrainian authorities should use all available diplomatic tools to strengthening the political and economic isolation of the Russian Federation and preparing for a possible escalation of the conflict by the aggressor, strengthening its defense potential.

**4.** At the same time, the Government of Ukraine should pay attention to the situation of civilians affected by the conflict. Ukraine should develop and implement a logical and coherent policy to improve all aspects of the humanitarian situation, especially in government-controlled areas. Still, efforts to improve should be directed, as far as possible, to the inhabitants of territories controlled by illegal armed groups who subject to the Russian Federation.

**5.** Given the difficulties encountered in crossing the line of contact during the Covid-19 pandemic, it may be useful for the Ukrainian government to study best practices for respect for human dignity and the rights of citizens in other areas of frozen conflict. The situation with the so-called "DPR" and "LPR" has much in common with the situation in Abkhazia and the Tskhinvali region in Georgia, in Transnistria in Moldova, as well as in the enclave areas of the Fergana Valley, despite the differences in terms of the scale of the conflict. Over the past two decades, both Moldova and Georgia have gone through several stages of armed conflict - from open warfare to ending and freezing the conflict - and, like Ukraine, have faced challenges in guaranteeing human rights for the citizens living both sides of the conflict zone. For their part, the Georgian and Moldovan authorities could undoubtedly benefit from the experience of the Ukrainian government.