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Warsaw, 23 July 2018

FONINA V. UKRAINE AND RUSSIA AND 4 OTHER APPLICATIONS
APPLICATION NO. 66264/14

WRITTEN COMMENTS BY THE HELSINKI FOUNDATION FOR HUMAN RIGHTS AND THE EASTERN-UKRAINIAN CENTER FOR CIVIC INITIATIVES

1. Introduction. Scope of the intervention

Pursuant to the letter by the Section Registrar from 29 June, 2018 we would like to present a joint third-party intervention of the Helsinki Foundation for Human Rights with its seat in Warsaw, Poland (HFHR) and the Eastern-Ukrainian Center for Civic Initiatives with its seat in Kyiv, Ukraine (EUCCI) on the case *Fonina and Others v. Ukraine and Russia* before the Court.

In our third-party intervention we would like to present the scope of the problem related to the illegal places of detention in conflict-affected areas in eastern Ukraine, including statistical data on the number of places of illegal deprivation of liberty, their location, premises used as detention places and number of people held there. In this regard, we also would like to describe conditions as well as treatment of detainees in the places of illegal detention in Donbas. Finally, we would like to give an overview of circumstances and procedures of apprehension in cases of illegal deprivation of liberty by representatives of illegal armed groups (IAGs).

By filling these written comments with the Court we would like to contribute to the human rights protection in eastern Ukraine.

2. Background

In 2014, a wave of protests calling for federalization, the return to power of former President Viktor Yanukovich and the holding of local elections and referendums for special status for Donbas broke out in eastern Ukraine. Armed people took over government buildings in the Donetsk and Luhansk regions and proclaimed the establishment of the so-called Luhansk and Donetsk People's Republics (*LPR/DPR*) in April 2014. Different illegal armed groups (*IAGs*) gained real power in localities in Donbas. The so-called LPR and DPR declared their authority over territory outside of Ukraine's control. Due to the vacuum of authority in Donbas during the initial stage of the conflict the procedure of establishing places

of illegal detention by the so-called LPR and DPR armed groups became widespread.¹ However, pro-Ukrainian forces, in particular representatives of the Ukrainian Armed Forces (UAF) and volunteer battalions, also establish places of illegal detention. Even though the intensity of the conflict in Eastern Ukraine has decreased, arbitrary deprivation of liberty is still a common and widespread practice as of today in Donbas.

3. Scope of the problem

By July 2018, based on the testimonies provided by the victims², it was possible to identify 178 places of illegal detention established by the separatists (108 and 70 facilities in Donetsk and Luhansk regions respectively), as well as 12 facilities (1 and 11 facilities in Donetsk and Luhansk regions respectively) established by Ukrainian side.

The Ukrainian Armed Forces (UAF), fighters of volunteer battalions and every illegal armed group (IAG) established their own places of detention, which existence was related to their functioning. The majority of illegal places of detention existed in the temporarily occupied areas from the beginning of the conflict until the consolidation of power structures in the Donetsk and Luhansk regions. Certain detention facilities disappeared; others changed status and continued to operate after 2015.

The places of illegal detentions can be divided into two groups, namely places of short-term detention and long-term detention. The establishment of places of short-term detention was related to the activities of all sides of the armed conflict in Eastern Ukraine. The majority of interviewees who had been detained in these places stated that they were not equipped for holding people in custody at all.³ Temporal illegal detention facilities can be divided into several categories, such as: checkpoints of IAGs or the UAF and fighters of volunteer battalions; places used mostly for first interrogations and identification of detainees; outdoor detention places (field, pit, cage, sewage well), which were used as an intermediate place before further long-term detention.

In Donetsk region the Eastern-Ukrainian Centre for Civic Initiatives (EUCCI) identified 17 places of illegal short-term detention at the checkpoints and other small facilities over a period from May 2014 until August 2015 and 9 places of illegal short-term detention in outdoor detention places used as an intermediate place before further long-term detention over a period from August 2014 until September 2014. In August 2014, mass detentions of prisoners of war after the Ilovaisk “kettle” took place in an unknown field in Donetsk region (at least 300 persons) and fields next to the town of Ilovaisk and Starobieshevo in the same region (from 50 to 110 persons). People were held in a field, in the cavities or pits. Approximately the same detention conditions were in other localities in Donetsk region⁴

¹ The Coalition "Justice for peace in Donbas", Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, Kyiv 2015, p. 13; <https://jfp.org.ua/rights/analytika/reports/coalitionppp>, access on 23 July, 2018.

² All testimonies come from the database maintained by the Coalition „Justice for Peace in Donbas“

³ Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 27-30; <https://jfp.org.ua/rights/analytika/reports/coalitionppp>, access on 23 July, 2018.

⁴ 1) Dzerkalne village, Amvrosiivska district, Donetsk region (from 50 to 100 persons); 2) Chervonosilks village, Amvrosiivska district, Donetsk region (from 110 to 250 persons); 3) Novokaterynivka village, Starobeshevo district, Donetsk region (from 30 to 170 persons).

where up to 520 persons were detained in August 2014. Regarding the checkpoints and other small facilities, the released detainees could name a number of people which ranged from 1 to 4 persons who were held there at the same time.

In Luhansk region the EUCCI identified 7 places of illegal short-term detention at the checkpoints and outdoor detention places over a period from May 2014 until May 2015. The number of detainees in these places ranged from 1 to 5 people at the same time.

Nevertheless, the number of checkpoints in the Donetsk and Luhansk regions is significantly higher than that was identified by the EUCCI and represented above. Due to the military activities in Donbas, dozens of checkpoints were set up for mass short-term apprehensions.

For long-term detention purposes IAGs used all possible and accessible premises. Detainees were held in places with certain conditions for confinement of detainees and equipped for these purposes, in particular in pre-trial detention centers (SIZO), temporary holding facilities, correctional prisons, premises of law enforcement bodies (police, the SSU buildings, district and city units of the Ministry of Internal Affairs). On the one hand, former premises of Ukrainian law enforcement bodies were designed for temporal detention of people. However, not all law enforcement bodies had proper conditions for detention. Due to the mass detentions, the majority of captives in such places were kept in basements, archives, and shooting ranges. Based on the processing of information obtained, the EUCCI identified 22 places (11 places in each region) with certain equipment for holding people in custody over a period from April 2014 until December 2017.

According to the testimonies of the interviewees, in 2016, the large number of illegally detained persons were transferred to the Makiyivka correctional prison № 97 in Donetsk region. This prison is used as a location where captured Ukrainian soldiers in custody, as well as the punished militants are held. There are also testimonies that some Ukrainian military prisoners are still held there and in the Makiyivka correctional prison № 32.

Moreover, captives and hostages were held in premises which were absolutely not designed for these purposes. The variety of places used for confinement of detainees included buildings of former executive bodies, administrative buildings of former local authorities (regional, city, and district councils, state administrations), offices, private residences and hotels, industrial enterprises, public catering enterprises (cafes, restaurants) and other (hangars, sewage wells, cages, vehicle sheds etc.).

The EUCCI identified long-term detention places with the capacity:

- no more than 10 people - 48 detention places in Donetsk region (from May 2014 to July 2015) and 39 places in Luhansk region (from May 2014 to July 2015);
- from 10 to 50 people - 19 detention places in Donetsk region (from April 2014 to November 2016) and 16 detention places in Luhansk (from May 2014 to July 2015);
- more than 50 people - 5 detention places in Donetsk region (from May 2014 until February 2016) and 8 detention places in Luhansk region (from May 2014 until July 2017)

In interviews, former captives and hostages recalled a number of people they were held in the same premises with and the number of other prisoners they saw at the time when they were able to leave the premise of detention. However, testimonies on the number of detainees are fragmented. When estimating the number of detainees in a place of illegal detention,

released detainees describe the number of people from the day of their arrival at the places of illegal detention to the day of release. A large number of such places of illegal detention operated from the day of a capture of a certain person and continued to operate after their release. A composition of prisoners was constantly renewed. Consequently, it is not possible to establish the exact dates of the places of illegal detention operation or the precise number of detainees.

As at June 2018, according to the Security Service of Ukraine (SSU), 3,244 people had been released from captivity.⁵ Basically, these are only the released prisoners that the SSU has knowledge of. However, the number of people illegally detained in the “LPR/DPR” is significantly higher. The list released by the SSU do not include persons detained by the IAGs for administrative violations or local residents imprisoned for forced labour or ransom.

3. Use of torture and inhuman treatment

Numerous testimonies of witnesses and information contained in reports of international organizations and local human organizations monitoring the situation in conflict-affected area of Donbas demonstrate the widespread use of torture towards detained people. Office of High Commissioner for Human Rights (OHCHR) stated that since mid-April 2014 thousands of persons deprived of their liberty who have gone through detention facilities in the territory controlled by the armed groups were subjected to inhuman conditions of detention, torture and ill-treatment.⁶ According to the data collected as a result of monitoring studies conducted between June and September 2015 by the Coalition of public organizations and initiatives “Justice for Peace in Donbas” 86% of military and 50% of civilians were subjected to torture during detention.⁷

It should be highlighted that torture and other forms of ill-treatment have been used by both Ukrainian military and law-enforcement officials and illegal armed groups. Throughout the conflict duration, UN Human Rights Monitoring Mission to Ukraine (HRMMU) has been receiving allegations of use of torture and ill-treatment committed by Ukrainian law-enforcement towards people arbitrarily detained and held in unofficial places of deprivation of liberty (e.g. basement of SSU), as well as during arrests and the first hours of interrogations.

According to the testimonies of victims released from illegal places of detention established by IAGs, it can be stated that they were subjected to both physical and psychological violence. Former captives mentioned different kinds of physical assault. Victims were kicked and beaten with fists, weapons, clubs, metal tubes and cables.⁸ IAGs used

⁵ Ukrainska pravda. (2018, June 18). Hrytsak: SBU zvilnyla z polonu boiovykiv ponad try tysiachi osib [Hrytsak: The SBU released more than three thousand people from the captivity of the militants]. Retrieved from: <https://www.pravda.com.ua/news/2018/06/25/7184424/>, access on 23 July 2018.

⁶ Office of the United Nation High Commissioner for Human Rights, Accountability for killings in Ukraine from January 2014 to May 2016, (paragraph 50) https://www.ohchr.org/Documents/Countries/UA/OHCHRThematicReportUkraineJan2014-May2016_EN.pdf, access on 23 July, 2018.

⁷ Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 56.

⁸ “*They broke my ribs, and my body was all black. They beat me during and in between interrogations with hands, feet, and weapons [...]*”; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 59.

suffocation mostly with plastic bags or gas masks with blocked oxygen flow, so called “elephant torture”.⁹ In addition, they applied various techniques to cause injuries and long term damage to victims’ bodies, namely using pneumatic weapons towards detainees¹⁰, squeezing fingers with pliers and cutting off parts of the body¹¹, piercing a part of the body with a knife, cutting words on bodies, putting out cigarettes. Some detainees were hung up and poured cold water on.¹² Captives suffered from sleep¹³, food and water deprivation.¹⁴ Some detainees were permanently blindfolded and cuffed.¹⁵ Representatives of illegal armed groups repeatedly used electrocution towards detainees, for instance putting wires on the hand of detainee and regulating current, connecting a metal rod charged with electricity to sensitive parts of the body (genitalia, tongue, head).¹⁶

There also have been documented cases of sexual violence against persons deprived of their liberty. The EUCCI identified 38 illegal detention facilities¹⁷ established by illegal armed groups where sexual violence took place.¹⁸ On the basis of interviews with victims it can be stated that sexual violence in illegal detention facilities was selective. The primary victims of sexual violence were women, as well as certain categories of male detainees.¹⁹ This problem concerned mainly military servant and other people engaged in armed resistance.²⁰ Different

“There were constant beatings. Sometimes they used the gunstock, sometimes – a computer cord. They undressed me and hit me on the back and legs causing the skin to break. They also hit me with their feet and hands, but this is nothing [...]”; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 59.

⁹ *“[They] used suffocation. They used ‘the elephant’ – put a gas mask and blocked the oxygen flow, as well as hit with gun stocks”*; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op.cit., p. 58.

¹⁰ *“...He shot me with a pneumatic gun to the left arm, back, and bone of the right hand. The bullets stayed in my body [...]”*; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 58.

¹¹ *“They squeezed fingers with pliers, and cut the back with a knife. They intentionally pierced a leg with a knife causing severe bleeding [...]”*; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 58.

¹² *“[...] They hung me up to the ceiling, poured cold water in freezing temperatures [...]”*; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 59.

¹³ *In the SSU basement, they did not permit sleep at all. The light was always on. If a person fell asleep, they would use sticks and electric shockers”*; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p.61.

¹⁴ *“Among them, there was also *** whom I tried to feed at least a bit since prohibited feeding him. He wanted *** to die of starvation”*; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 61.

¹⁵ *“Eyes and hands were tied the entire time (for a month). We even ate with hands tied and eyes blindfolded”*; Monitoring report „Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 61.

¹⁶ *“[...] On the second day, they think, they used electricity, but not the shocker - just bare wires. It happened once. I almost died [...]”*; Monitoring report “Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 59.

¹⁷ 23 detention facilities in Donetsk region and 15 places in Luhansk region.

¹⁸ Eastern-Ukrainian Centre for Civic Initiatives, War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, Kyiv 2017, p. 53.

¹⁹ War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 47.

²⁰ *“These [cases of rape] happened when I was a prisoner in the Donetsk SSU (from 5 November until 29 December 2014). There were threats of rape. Four people - a point man, an infantry officer and tankmen - were regularly raped.”*; War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 52.

form of sexual violence included: rape²¹ and threats of rape (individual and multiple rapes often used on a regular basis²², penetration of the anal opening with different objects²³), enforced prostitution, forced disrobing and nudity²⁴, castration or attempts at it, forced sexual contact against one's will. According to interviews with released women, the administration of some illegal detention facilities created conditions that led to the rape of detainees by accommodating men and women representing different parties in the conflict together.²⁵

During the detention, the victims were also subjected to various forms of psychological violence. From the witnesses' testimonies, it follows that IAGs were arranging well-staged mock executions, which included reading a sentence, shooting near the victim with live bullets, forcing detainees to say a prayer and digging their own graves. Some detainees experienced the mock execution several times, sometimes even on the same day.²⁶

In addition to that, various kinds of threats were used towards detainees and were connected to use of torture, life deprivation and sexual violence. As another form of psychological pressure, witnessed the use violence towards other captives. In some cases they were forced to observe acts of torture, including sexual violences, and in other cases those kind of acts were committed in audible/visible areas.

Moreover, captives were forced to take part in so called "parades of war prisoners" and arranged press conferences for local media of so called DPR/LPR. Captured military servants were forced to march through the city center of Donetsk. Crowds of local inhabitants were lined the streets of "parade" route and were filming, screaming insulting or humiliating words (e.g. 'fascist'), as well as throwing eggs, bottles, tomatoes at captives.²⁷ In some case representatives of illegal armed groups enabled people from the crowd to attack detainees²⁸ or force them to beg for forgiveness on their knees.

During arranged press conferences detained people were forced to deliver predefined message, to defame the side of the conflict they represented, to show remorse and guilt. During the interviews, the victims were asked questions aimed at presenting the other side of

²¹ "One of the female prisoners told me she was raped after being tortured"; War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 49.

²² "Approximately 2-3 times a week, they took her [a woman] from the cell, gave her alcohol and raped her[...]"; War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 49.

²³ "[...] According what he and the separatists said, they used a drill on his anus"; War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 52.

²⁴ "One of the most dangerous, painful [memories] when I was naked, he cut my shorts and put a knife against my buttocks[...]"; War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 53.

²⁵ War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 42.

²⁶ They used mock execution on us [...] They took us to the courtyard; put facing the wall in front of 10-20 machine gunners in black balaclavas, who were ready to shoot. Before the execution, a senior officer of the execution unit read our sentence from a paper, "By the name of Donetsk People's Republic you are sentenced to execution by a firing squad" and the last names. They were shooting from AK's above our heads with live ammunition [...] Then, they laughed."; Monitoring report "Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas", op. cit., p. 60.

²⁷ <https://www.youtube.com/watch?v=JvRmArnJGok> - access on 11 July, 2018.

²⁸ <https://www.youtube.com/watch?v=FD15bxM3mTc> - access on 13 July, 2018.

the conflict in the worst possible light.²⁹ Giving response incompatible with prior arrangements resulted in the risk of tortures.

Another form of psychological violence was forced labor. Detainees were forced to perform military tasks, including digging trenches and demining, despite the fact that most of them were lacking appropriate skills. They were also involved to works which did not pose a threat to their life but caused negative psychological effects - exhumation, loading coffins, bury the dead and unloading weapon.³⁰

Torture and ill-treatment were used towards all groups of detained people, including civilians, military servants and people from vulnerable groups (pregnant women, elderly people and LGBT people). It should be highlighted that victims experienced variety of torture techniques and ill-treatment during detention at the same time. What is more important, we can differ some factors, which increased level of cruelty towards detainees. Among them, political views, status of a volunteer fighter or certain military occupation or type of army (e.g. snipers, machine gunners, artillerymen) can be mentioned. It also depended on the characteristics of each specific illegal armed group itself or events of the military conflict.³¹

Available sources indicate that torture and ill-treatment were regularly and commonly³² practised by government side. Modus operandi of Ukrainian law-enforcement towards detainees is very similar to actions of armed groups and in many cases is equally brutal and cruel. According to the information obtained from former detainees it can be stated that Ukrainian law-enforcement used the following torture techniques: beating (e.g. with rifle butts and whip), kicking, drowning in a water tank, using detainees as a human shields, fastening to a pole in the street for few days, forcing to construct military fortifications, threatening to cut tongue and ears, cutting ears and hands with knife and pouring boiling water over detainees' legs, as well as use of psychological violence (e.g. detainees were urinated on and forced to carry each other naked, covering in foam).³³ According to the regular reports of HRMMU, it can be stated that in 2014-2015 representatives of volunteer battalions (often in conjunction with Security Service of Ukraine) were frequent perpetrators. In cases from late 2015 to early 2016, gathered information implicated mainly SSU.³⁴

²⁹ <https://www.youtube.com/watch?v=245PdpOoZxY&t=556s> - access on 13 July, 2018.

³⁰ <https://www.youtube.com/watch?v=8WMtI-6pxw0> - access on 13 July, 2018.

³¹ Monitoring report "Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas", op. cit., p. 57.

³² Office of the United Nations High Commissioner for Human Rights, Report on human rights situation in Ukraine 15 November 2014 (para. 50) http://www.un.org.ua/images/stories/FINAL_OHCHR_seventh_report_Ukraine_20.11.14_before_launch.pdf, access on 23 July, 2018;

Office of the United Nations High Commissioner for Human Rights, Report on human rights situation in Ukraine. 16 May to 15 August 2015 (para 49) http://www.un.org.ua/images/stories/HRMMU_11th_report_08.09.2015.pdf, access on 23 July, 2018.

³³ Unlawful detentions and torture committed by Ukrainian side in the armed conflict in Eastern Ukraine, op. cit., <http://truth-hounds.org/wp-content/uploads/2017/11/ZVIT-engl.pdf>;

Amnesty International, Human Rights Watch, "You don't exist" Arbitrary detentions, Enforced Disappearances, and Torture in Eastern Ukraine, London 2016, https://www.amnesty.nl/content/uploads/2016/07/ukrainian_report.pdf?x65762,

Office of the United Nations High Commissioner for Human Rights, Report on HR situation in Ukraine 16 September 2014 paragraph 43 http://www.un.org.ua/images/stories/OHCHR_sixth_report_on_Ukraine.pdf

³⁴ Office of the United Nations High Commissioner for Human Rights, Report on human rights situation in Ukraine 16 February to 15 May 2016 (para 31)

4. Conditions of detention

Information about conditions of detention was obtained from witnesses' testimonies and monitoring visits conducted by the Coalition "Justice for Peace in Donbas" to former illegal places of deprivation of liberty³⁵. According to this information, it can be stated that that condition in illegal place of detention can be recognized as very poor. As it was mentioned in the first part of the written comments, premises used for imprisonment were not equipped for holding people in custody and did not meet standards for conditions of detention, even for temporary one.

Overcrowding, lack of daylight and artificial light, as well as ventilation, high level of humidity and inadequate temperature were mentioned by former captives. Moreover, while held in captivity detainees were deprived of basic equipments, namely beds and tables for eating food. People had to sleep on wooden benches, pallets, rags and carton boxes.³⁶ Detention facilities were described as dirty and smelly.

Captives were deprived of the possibility to maintain their personal hygiene. They did not have an opportunity to wash themselves and their cloths. Female detainees were not provided with hygiene units. There were also difficulties with fulfilling natural needs. Firstly, there were no toilets. Secondly, personnel of illegal detention facilities were ignoring detainees' requests related to their physiological needs or limiting possibilities to use toilet, e.g. one time per day. In majority of cases buckets and plastic were used as a toilet. Moreover, fulfilment of vital needs, including water and appropriate nutrition, was failed. Testimonies of former detainees reveal that the quality of food and its quantity were very low. It should be highlighted that detainees ate their meals in unhygienic conditions, because they were served meals from one bucket (e.g. from rusty bucket), without any cutlery and what is more in the same premises where captives fulfilled their natural needs.³⁷ Improper conditions also included detention of women and men in the same premises for a long period.³⁸ Therefore, they were forced to sleep and fulfill their natural needs in front of each other which resulted in serious invasion into privacy.³⁹

http://www.un.org.ua/images/14th_OHCHR_report_on_the_human_rights_situation_in_Ukraine.pdf, access 23 July, 2018.

³⁵ In localities which previously were under the power of IAGs and currently are controlled by Ukrainian government.

³⁶ Eastern-Ukrainian Center for Civic Initiatives, Places of illegal detention in Eastern Ukraine during the military conflict, Warsaw 2016, <http://www.hfhr.pl/wp-content/uploads/2017/03/Arbitrary-detention.pdf>, access on 23 July, 2018.

Monitoring report "Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas", op. cit., p. 49.

³⁷ "[...] There were problems with food: there was one big rusty bucket 130-140 cm long where they poured the porridge. They did not give us anything to eat with, so everyone used what they could – either their hands or 'spoons' made from thick paper"; Monitoring report "Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas", op. cit., p. 52.

³⁸ Monitoring report "Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas", op. cit., p. 51.

³⁹ "The woman was sleeping on the same pallets as us. She ate the same food. The militants did not take her to the toilet separately; she used the bucket in the same room where we went. We had to look down not to watch"; War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 40.

Detainees mentioned the lack of possibility to inform families about their detention and whereabouts.⁴⁰ Captives also indicated that they were not provided with medical assistance.⁴¹ This concerned chronic diseases and illnesses acquired in captivity, as well as providing necessary medical assistance to victims of torture.⁴²

It should be highlighted that representatives of vulnerable groups, namely pregnant women and persons with disabilities, including people who had lost their extremities were held in the same conditions.

5. Arbitrary detention

Within the monitoring conducted in 2015 the Coalition “Justice for Peace in Donbas” analyzed 165 cases of illegal deprivation of liberty by representatives of IAGs.⁴³ The arbitrary detention was used towards civilians (52,7%) and military personnel of Ukrainian Armed Forces, including fighters of volunteer battalions (47,3%).⁴⁴ Amongst civilians dominated cases of apprehension person dwelling in areas, where military action took place (79,3% of all detained civilians). Civilians temporarily staying in the conflict area constituted less than 21% of detained people.

Moreover, the interviews collected in 2015-2016 revealed the most common reasons of illegal apprehension and detention, namely: curfew violations, suspicion of drugs or alcohol consumption; political views and suspicion of supporting Ukrainian Armed Forces and volunteer battalions; extortion and belonging to Ukrainian Armed Forces and volunteers battalions.⁴⁵

On the basis of interviews with victims it can be stated that apprehension took place with no respect of any legal safeguards and access to justice:

- grounds of apprehension were not explained;
- there were no normal records of apprehension;
- there were no records of first interrogation after apprehension;
- detainees were not advised on their rights and obligations;
- detainees did not receive explanations for the grounds of apprehension and the nature of suspicion or accusation;
- third parties were not informed about the detention of both civilians and captured military personnel of AFU and fighters of volunteer battalions;

⁴⁰ “[...] there was one woman. They brought her. Her eight-month-old child stayed at home alone”; War Without Rules: gender-based violence in the context of the armed conflict in Eastern Ukraine, op. cit., p. 42.

⁴¹ Office of the United Nations High Commissioner for Human Rights, Report on human rights situation in Ukraine 16 November 2015 to 15 February 2016 (para.58), https://www.ohchr.org/Documents/Countries/UA/Ukraine_13th_HRMMU_Report_3March2016.pdf, access on 23 July, 2018.

⁴² “I witnessed a man die on the third day after the beatings. I called for medical help, but they did not provide it”; Monitoring report “Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 53;

⁴³ Monitoring report “Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 26.

⁴⁴ Ibidem, p. 26.

⁴⁵ Places of illegal detention in Eastern Ukraine during the military conflict, op. cit., <http://www.hfhr.pl/wp-content/uploads/2017/03/Arbitrary-detention.pdf>

- access to an attorney was not guaranteed for detainees or persons in captivity;
- there was no judicial review of the grounds, duration, and lawfulness of detention.⁴⁶

6. Conclusions

In the light of the above considerations, we would like to present the following conclusions to the Court:

1. Illegal detention in conflict-affected areas in eastern Ukraine is serious and widespread problem. This is indicated by considerable number of identified illegal places of detention maintained by IAGs and large number of released captives held there.
2. International organizations and local human rights NGOs do not have access to illegal places of detention maintained by IAGs. All information on those place comes from testimonies of detainees and monitoring visits to former illegal places of detention previously ruled by IAGs in localities currently controlled by Ukrainian government.
3. Study data indicates that everyone, regardless the status (military personnel or civilians) can be arbitrarily detained by IAGs. Any reason can be applied as a ground for apprehension. Although, any form of engagement in the conflict or even suspicion of being involved increase the risk to be arbitrarily apprehended.
4. The apprehension takes place with no respect of any legal safegurads and torture prevention guarantees.
5. Torture and other forms of ill-treatment are widely spread and used in illegal places of detention. Different and brutal torture techniques, including physical, psychological and sexual violence, are applied towards captives. Torture and other forms of ill-treatment are used by both side of the conflict.
6. Study data contains information that the vast majority of people were held in maladjusted facilities and in substandard conditions, which did not meet any standards of detention. Holding people in such conditions lead to inhuman and degrading treatment.

On behalf of the Helsinki Foundation of Human Rightst and the Eastern-Ukrainian Center for Civic Initiatives,



Lenur Kerymov,
Treasurer of the Board
Helsinki Foundation for Human Rights

⁴⁶ Monitoring report “Surviving hell: Testimonies of Victims on Places of Illegal Detention in Donbas”, op. cit., p. 26-27.