



“You Don’t Exist”

Arbitrary Detentions, Enforced Disappearances, and Torture in Eastern Ukraine

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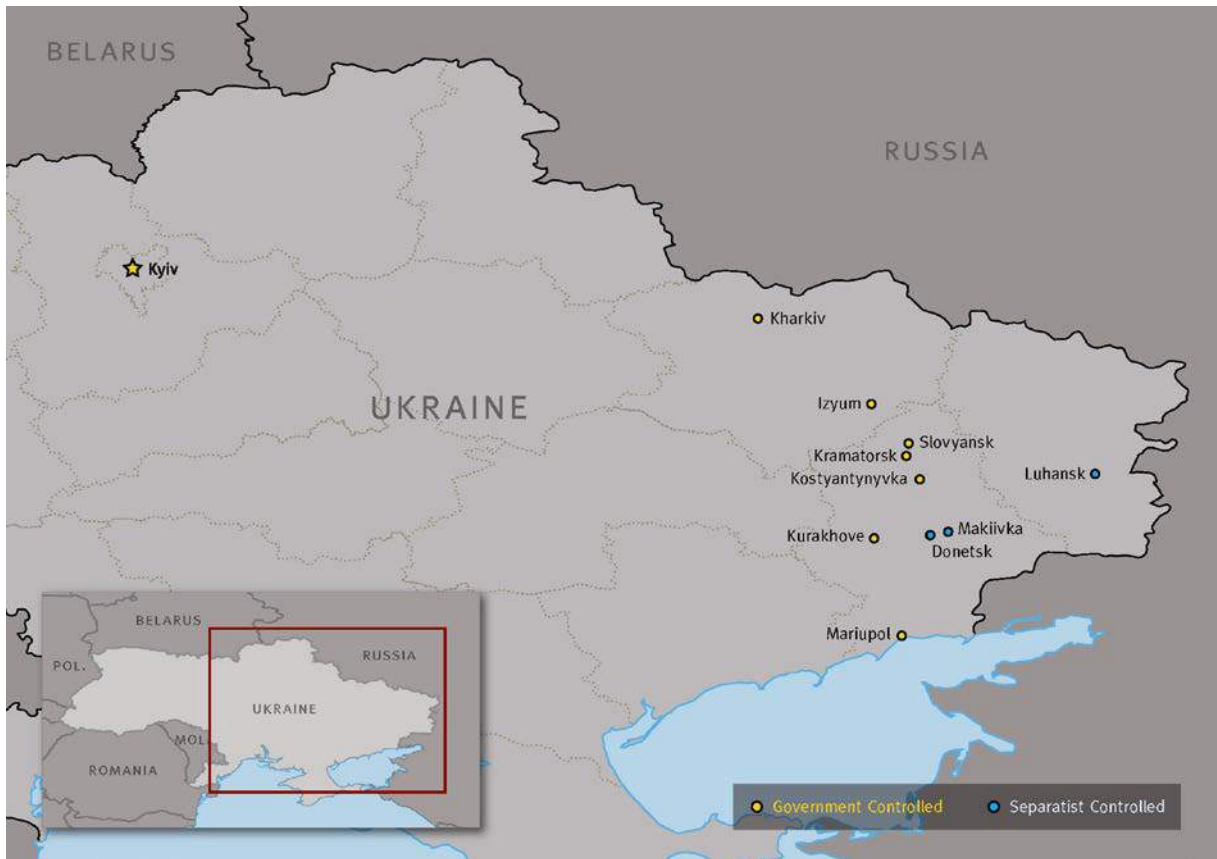
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MAP



SUMMARY

In April 2015, Vadim, 39, was traveling on a shuttle bus home to Donetsk, the capital of the self-proclaimed Donetsk People's Republic in eastern Ukraine. He had boarded in Sloviansk, which is under Ukrainian government control. At a checkpoint manned by Ukrainian forces, a gunman ordered him off the bus. Armed men in camouflaged uniforms without insignia tied Vadim's hands behind his back, pulled a bag over his head, pushed him to his knees, calling him a "separatist thug," and questioned him about his connections in Sloviansk. Then, they threw him into the back seat of a car and drove off to a base full of armed people, where he was kept in unacknowledged detention for three days, interrogated, and tortured. Then, his captors transferred him to another unlawful detention facility, apparently maintained by Ukraine's Security Service (SBU) personnel. Vadim spent another six weeks there in unacknowledged detention without any contact with the outside world. During his time in captivity, Vadim's interrogators tortured him with electric shocks, burned him with cigarettes, and beat him, demanding that he confess to working for Russia-backed separatists. Finally, they released him. Vadim returned to Donetsk and was immediately detained by local de facto authorities, who suspected him of having been recruited by the SBU during his time in captivity. He spent over two months in incommunicado detention in an unofficial prison in central Donetsk where his captors, again, beat and ill-treated him.

Both the Ukrainian government authorities and Russia-backed separatists in eastern Ukraine have held civilians in prolonged, arbitrary detention, without any contact with the outside world, including with their lawyers or families. In some cases, the detentions constituted enforced disappearances, meaning that the authorities in question refused to acknowledge the detention of the person or refused to provide any information on their whereabouts or fate. Most of those detained suffered torture or other forms of ill-treatment. Several were denied needed medical attention for the injuries they sustained in detention.

In cases documented by Amnesty International and Human Rights Watch, the Ukrainian authorities and pro-Kyiv paramilitary groups detained civilians suspected of involvement with or supporting Russia-backed separatists, while the separatist forces have detained civilians suspected of supporting or spying for the Ukrainian government. Vadim's case stands out because, of all the people we interviewed, he was the only one who was held in secret detention and tortured first by one side, then the other.

Amnesty International and Human Rights Watch investigated in detail nine cases of arbitrary, prolonged detention of civilians by the Ukrainian authorities in informal detention sites and nine cases of arbitrary, prolonged detention of civilians by Russia-backed separatists. This report details cases that took place mostly in 2015 and the first half of 2016.

Persons held by the warring sides in eastern Ukraine are protected under international human rights and international humanitarian law, which unequivocally ban arbitrary detention, torture, and other ill-treatment. International standards provide that allegations of torture and other ill-treatment be investigated, and that, when the evidence warrants it, the perpetrators be prosecuted. Detainees must be provided with adequate food, water, clothing, shelter, and medical care.

In almost all of the eighteen cases investigated, release of the civilian detainees was at some point discussed by the relevant side in the context of prisoner exchanges. In nine out of the eighteen cases, they were in fact exchanged. This gives rise to serious concerns that both sides may be detaining civilians in order to have "currency" for potential exchange of prisoners.

It is difficult to estimate the total number of civilians who have been the victims of the kinds of abuses documented in this report. However, *the Report on the human rights situation in Ukraine 16 February to 15 May 2016* published in June 2016 by the UN Office of the High Commissioner for Human Rights (OHCHR) stated that “arbitrary detention, torture and ill-treatment remain deeply entrenched practices” in the region, suggesting that these problems are more widespread than the limited number of cases investigated by Amnesty International and Human Rights Watch.

VIOLATIONS BY THE UKRAINIAN AUTHORITIES

In most of the nine cases Amnesty International and Human Rights Watch investigated, pro-government forces, including members of so-called volunteer battalions, initially detained the individuals and then handed them over to the Security Service of Ukraine (SBU), who eventually moved them into the regular criminal justice system. Some were later exchanged for persons held by separatists and others released without trial.

In three cases detailed in this report the SBU allegedly continued the enforced disappearances, keeping the individuals in unacknowledged detention for periods ranging from six weeks to 15 months. One individual was exchanged, the other two simply released without trial. With regard to two of the individuals, there is no record whatsoever of their detention.

The June 2016 UN report noted that the cases of incommunicado detention and torture brought to their attention in late 2015 and early 2016 “mostly implicate SBU” and specifically mentioned the SBU compound in Kharkiv as an alleged place of unofficial detention.

Based on the research findings detailed in this report, Amnesty International and Human Rights Watch believe unlawful, unacknowledged detentions have taken place in SBU premises in Kharkiv, Kramatorsk, Izyum, and Mariupol. We received compelling testimony from a range of sources, including recently released detainees, that as of June 2016 as many as 16 people remain in secret detention at the SBU premises in Kharkiv. Ukrainian authorities have denied operating any other detention facilities than their only official temporary detention center in Kyiv and denied having any information regarding the alleged abuses by SBU documented in this report.

Most interviewees told Amnesty International and Human Rights Watch they were tortured before their transfer to SBU’s facilities. Several also alleged that after being transferred to SBU premises they were, variously, beaten, subjected to electric shocks, and threatened with rape, execution, and retaliation against family members, in order to induce them to confess to involvement with separatism-related criminal activities or to provide information.

ABUSES BY RUSSIA-BACKED SEPARATISTS

Amnesty International and Human Rights Watch documented nine cases in which Russia-backed separatists detained civilians incommunicado for weeks or months without charge, including as recently as early 2016, and, in most cases, subjected them to ill-treatment. Two of the individuals remain in custody as of this writing, their respective “trials” pending.

In the self-proclaimed Donetsk People’s Republic (DNR) and Luhansk People’s Republic (LNR), local security services operate with no checks and balances, detain individuals arbitrarily and hold them in their own detention facilities. Four of the individuals whose cases Amnesty International and Human Rights Watch documented were at some point transferred to remand prisons, where two of them were allowed access to a lawyer, but overall the vacuum of the rule of law in separatist-controlled areas deprives individuals held in custody of their rights and leaves them without recourse to any effective remedies.

LACK OF ACCESS FOR INDEPENDENT MONITORS

In May 2016, a delegation from the UN Subcommittee for Prevention of Torture cut short a visit to Ukraine because they were unable to access some of the detention sites, under both SBU and separatist control, they wanted to visit. Speaking of the SBU sites, the delegation chief, Malcolm Evans, stressed that the team was prevented from visiting "some places where we have heard numerous and serious allegations that people have been detained and where torture or ill-treatment may have occurred."

Separatist authorities have not responded to numerous requests by the UN Office of the High Commissioner for Human Rights for access to places of detention, and representatives of other international organizations that have expertise on rights protection in places of detention told Amnesty International and Human Rights Watch that they do not have access to places of detention in separatist-held areas. The Council of Europe High Commissioner for Human Rights, Nils Muižnieks, also noted in his report of a visit in March 2016 that relevant interlocutors in Donetsk told him that the "local legislation' does not at present allow for this kind of supervision of the places of detention."

KEY RECOMMENDATIONS

Amnesty International and Human Rights Watch call on the Ukrainian government and the de facto authorities in self-proclaimed DNR and LNR to immediately put an end to enforced disappearances and arbitrary and incommunicado detentions, and to launch zero-tolerance policies with regard to the torture and ill-treatment of detainees. All parties to the conflict must ensure that all the forces under their control are aware of the consequences of abusing detainees under international law, and that allegations of torture and ill-treatment in detention are thoroughly investigated and those responsible are held to account.

METHODOLOGY

This report is based on the findings of joint research by Amnesty International and Human Rights Watch, which included a one-week joint mission to separatist-controlled areas of Donetsk region in May 2016, two missions to government-controlled areas of Donetsk region in February and March 2016, as well as extensive desk research and interviews conducted in person in Kyiv or by phone and Skype.

Amnesty International and Human Rights Watch conducted a total of 40 interviews with victims of abuses, their family members, witnesses of abuses, victims' lawyers, representatives of international organizations working in eastern Ukraine, Ukrainian government officials, representatives of the DNR, representatives of unofficial and official groups that are engaged in the negotiation of prisoner exchanges, and other sources.

All the interviews with victims were conducted after their release. Four of them asked Amnesty International and Human Rights Watch not to publish details of their cases for fear of reprisals but allowed use of the information they provided for background purposes and analysis. Our researchers spoke to all interviewees separately and in private in either Russian or Ukrainian. Wherever possible, Amnesty International and Human Rights Watch also gathered medical records, legal documents, and photographs from alleged torture victims and family members of the individuals still in custody. Each interviewee was made aware of the purpose of the interview and agreed to speak on a voluntary basis. Amnesty International and Human Rights Watch did not provide interviewees any financial incentives to speak with us. Most interviewees chose to remain anonymous for fear of reprisals against themselves or members of their families or due to privacy concerns.

This report focuses exclusively on abuses against civilians. It does not include cases of arbitrary detention that concluded prior to spring 2015 (both organizations have extensively reported on arbitrary detention and torture in the region in 2014 and early 2015).¹

During the joint research mission, Amnesty International and Human Rights Watch met with the chief of staff for the Ombudsperson of the DNR.² The organizations' delegates also sought to meet with the de facto Prosecutor's Office but were denied a meeting.

On June 3, Amnesty International and Human Rights Watch sent a letter to the head of the Security Service of Ukraine (SBU) summarizing some of our research findings, inquiring about SBU allegedly running unofficial prisons on its premises, and asking specific questions in connection with some of the documented cases. The SBU's written reply, dated June 17, 2016, is cited in this report.³

¹ See, for example, "Breaking Bodies: Torture and Summary Killings in Eastern Ukraine", 22 May 2015, and "Abuses and Crimes by the Aidar Volunteer Battalion in North Luhansk Region", 8 Sep 2014, by Amnesty International, and "Rebels Subject Civilians to Forced Labor", 4 Sep 2014, and "Rebel Forces Detain and Torture Civilians", 28 Aug 2014, by Human Rights Watch.

² The Ombudsperson was traveling and rerouted the meeting request to her chief of staff.

³ Letter, dated June 17, 2016, and signed by deputy head of SBU's chief investigative department, V. Mayakov, is on file with Amnesty International and Human Rights Watch.

1. BACKGROUND: THE ARMED CONFLICT IN EASTERN UKRAINE

The 2014 “EuroMaydan” protests led to the February 21, 2014 ousting of Ukrainian President Viktor Yanukovich. Following Yanukovich’s ouster, Russian forces seized and eventually occupied Crimea. Around the same time, violence sporadically broke out in several cities and towns in eastern Ukraine between crowds of people supporting the protests in Kyiv and those opposed to it.

By mid-March, armed anti-government militia, initially calling themselves “self-defense units,” seized and occupied administrative buildings in several cities and towns in Donetsk and Luhansk regions. Their demands ranged from regional autonomy within a federated Ukraine, to full independence, to joining Russia.

In April 2014, separatist forces announced the establishment of the “Donetsk People’s Republic” (DNR) and the “Luhansk People’s Republic” (LNR) and established control, to various degrees, in and around several other cities, towns, and villages in the two regions.

In mid-April 2014, the Ukrainian State Security Service and Interior Ministry began counter-insurgency operations, which the government called an “anti-terrorist operation.” On May 11, anti-Kyiv groups proclaimed victory in the “referenda” they organized on the independence of the Donetsk and Luhansk regions.⁴ On May 16, Ukraine’s First Deputy Prosecutor General Mykola Homosha announced that the “two self-proclaimed republics, the so-called Donetsk’s and Luhansk’s [people’s republics] are two terrorist organizations” under Ukrainian law.⁵

From the very beginning of the armed clashes, the Russian government made clear its political support for the separatists and clearly exercised influence over them. As hostilities continued into August, compelling evidence, including reports and satellite images from NATO and the capture of Russian soldiers within Ukraine, emerged that pointed to Russian forces’ direct involvement in military operations. Conflict between Russian and Ukrainian forces is an international armed conflict governed by the relevant rules of international humanitarian law.⁶

⁴ The separatist referenda were not internationally recognized.

⁵ “GPU declared DNR and LNR ‘terrorist organizations’ [ГПУ признала “ДНР” и “ЛНР” террористическими организациями] 112 TV, May 16, 2014, <http://112.ua/politika/gpu-priznala-dnr-i-lnr-terroristicheskimi-organizaciyami-63246.html> (accessed June 30, 2016).

⁶ “Eastern Ukraine: Questions and Answers about the Laws of War,” Human Rights Watch news release, September 11, 2014 <https://www.hrw.org/news/2014/09/11/eastern-ukraine-questions-and-answers-about-laws-war>.

In February 2015, the internationally brokered Minsk II accords established a ceasefire, which significantly reduced hostilities, but frequent skirmishes along the frontline and exchanges of artillery fire have continued.

The conflict led to the complete collapse of law and order in the areas controlled by Russia-backed separatists. Separatist forces attacked, beat, and threatened anyone whom they suspected of supporting the Ukrainian government, including journalists, local officials, and political and religious activists, and carried out several summary executions.⁷ They also subjected detainees to forced labor and kidnapped civilians for ransom, using them as hostages.⁸

Members of Ukrainian forces and paramilitaries also subjected detainees to torture and other ill-treatment and used detained civilians as pawns for prisoner exchanges between the warring sides.⁹ Credible allegations emerged of torture and other egregious abuses by Ukraine's so-called volunteer battalions Aidar¹⁰ and Azov.¹¹ By spring 2015, most volunteer battalions had been formally integrated into the official chains of command in the Ministry of Defense or the National Guard of Ukraine. However, Right Sector, a prominent far-right movement, as well as some other groups have retained their paramilitary structures. Their members operate in close cooperation with the official Ukrainian forces on or near the frontline, but remain outside any official chain of command or accountability.¹²

Between April 2014 and May 2016, mortar, rocket, and artillery attacks killed over 9,000 people—including civilians, Ukrainian government forces, and anti-government forces—in the Donetsk and Luhansk regions and injured over 21,000.¹³ Both separatist and government forces violated the laws of war by carrying out indiscriminate attacks in civilian-populated areas and placing civilian life at risk by not taking feasible precautionary measures when deploying artillery and other weaponry in or near civilian areas.¹⁴

In November 2014, the government of Ukraine withdrew social services support, including budgets for schools, hospitals, pensions, and social security, in separatist-controlled areas. Between July and December 2015, de facto authorities who exercised effective control over parts of the Donetsk and Luhansk regions

⁷ "Ukraine: End Politically Motivated Abuses," Human Rights Watch news release, April 28, 2014, <https://www.hrw.org/news/2014/04/28/ukraine-end-politically-motivated-abuses> (accessed July 15, 2017). Also see, "New evidence of summary killings of Ukrainian soldiers must spark urgent investigations," Amnesty International news release, April 9, 2015. <https://www.amnesty.org/en/latest/news/2015/04/ukraine-new-evidence-of-summary-killings-of-captured-soldiers-must-spark-urgent-investigations/> (accessed July 15, 2016).

⁸ "Ukraine: Rebel Forces Detain, Torture Civilians," Human Rights Watch news release, August 28, 2014 <https://www.hrw.org/news/2014/08/28/ukraine-rebel-forces-detain-torture-civilians>; Amnesty International, *Abductions and Torture in Eastern Ukraine* (London: AI, 2014), https://www.amnesty.nl/sites/default/files/public/ukraine_briefing_formatted_-_final.pdf (accessed July 8, 2016).

⁹ "Breaking Bodies: Torture and Summary Killings in Eastern Ukraine," Amnesty International report, May 22, 2015, <http://www.amnestyusa.org/research/reports/breaking-bodies-torture-and-summary-killings-in-eastern-ukraine> (accessed July 8, 2016).

¹⁰ "Abuses and Crimes by the Aidar Volunteer Battalion in North Luhansk Region", Amnesty International report, September 8, 2014, <https://www.amnesty.org/en/documents/EUR50/040/2014/en/> (accessed July 8, 2016).

¹¹ Amnesty International and Human Rights Watch have received numerous allegations of unlawful detention and the use of torture and other abuses by Azov battalion and will be reporting on them in the near future.

¹² On April 11, 2015, Stepan Poltorak, the Ukrainian Minister of Defense, announced that all military units on the frontline in eastern Ukraine had been put under official command of the Military Forces of Ukraine or the National Guard of Ukraine. See "There are no volunteer battalions left in the ATO zone, says Ministry of Defense [В зоне АТО не осталось добровольческих батальонов Минобороны]," ZN.UA, April 11, 2015 http://zn.ua/UKRAINE/v-zone-ato-ne-ostalos-dobovolcheskih-batalonov-minoborony-172741_.html (accessed July 8, 2016). However, on April 29, Poltorak acknowledged that not all volunteer battalions had been fully integrated into the official command structure, and the Right Sector in particular made an exception. See "Poltorak called volunteer battalions to join armed forces of Ukraine [Полторак призвал добровольческие батальоны]," http://news.liga.net/news/politics/5660214-politorak-prizval-dobovolcheskie-batalony_vstupit_v_ryady_vsu.htm (accessed July 8, 2016).

¹³ Office of the United Nations High Commissioner for Human Rights (OHCHR), "Report on the human rights situation in Ukraine 16 February to 15 May 2016," June 2016, http://www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report.pdf (accessed June 21, 2016).

¹⁴ Human Rights Watch, *Unguided Rockets Killing Civilians*, video, July 7, 2014, <https://www.hrw.org/video-photos/video/2014/07/24/ukraine-unguided-rockets-killing-civilians>; Mark Hiznay, *More Cluster Munition Use in Ukraine*, Human Rights Watch dispatch, February 4, 2015, <https://www.hrw.org/news/2015/02/04/dispatches-more-cluster-munition-use-ukraine>.

denied authorization to most humanitarian agencies and human rights groups and expelled leading humanitarian groups from DNR and LNR.¹⁵

PRISONER EXCHANGES

Prisoner exchanges are an important context for some of the abuses described in this report. One-off, unilateral releases and exchanges began early on in the conflict in eastern Ukraine. The warring parties agreed to exchange “all for all” as part of the February 2015 Minsk II accords.¹⁶ However, there was never any clarity as to the true numbers and the identity of all those in the custody of either side. The warring parties’ figures and lists were at odds with each other. The undertaking to exchange “all for all” did not resolve this, although sporadic exchanges of smaller groups of prisoners continued. Each side continued to see it as an advantage to have more prisoners to “trade” with the other. Although Minsk II implied exchange primarily of combatants, in reality the process was extended to civilians – typically those alleged by their captors to be complicit in spying or similar activities on behalf of the other side. This has led to systematic abuse.

In several reports, the UN Human Rights Monitoring Mission for Ukraine (HRMMU) noted the persistent connection between arbitrary detention of civilians and prisoner exchanges. In February 2015, for example, it noted that “arbitrary detention of civilians regrettably remains a feature of the hostilities, including for the purpose of prisoner exchanges.”¹⁷ Under international law the detention of civilians for the purpose of exchanges constitutes arbitrary detention but also hostage-taking, which is also clearly prohibited under international law.

Ukrainian law enforcement agencies have said their side was releasing “fighters suspected of terrorism or related crimes.”¹⁸ In legal terms such “exchanges” constituted a problem. Effectively, there was no legal basis for exiting criminal suspects from official remand before the criminal proceedings against them were completed. It appears that this issue lies at the heart of some of the abuses described below, and is likely to be the reason some individuals have been held in unofficial, unacknowledged detention by the SBU: they could be exchanged without creating a paper trail and without having to resolve the arising legal complications.

¹⁵ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Bulletin, Ukraine, Issue 5, December 2015, https://www.humanitarianresponse.info/en/system/files/documents/files/bulletin_december_2015_0.pdf (accessed January 6, 2016).

¹⁶ Full text of the Minsk II document is available at: <https://next.ft.com/content/21b8f98e-b2a5-11e4-b234-00144feab7de> (accessed July 8, 2016).

¹⁷ Office of the United Nations High Commissioner for Human Rights, Report on the human rights situation in Ukraine 1 December 2014 to 15 February 2015, <http://www.ohchr.org/Documents/Countries/UA/9thOHCHRreportUkraine.pdf> (accessed July 8, 2016), page 5.

¹⁸ Official language cited in http://www.ohchr.org/Documents/Countries/UA/OHCHR_eighth_report_on_Ukraine.pdf (accessed July 8, 2016), page 9.

2. LEGAL FRAMEWORK

2.1 INTERNATIONAL LEGAL STANDARDS

International humanitarian treaty law, as well as the rules of customary international humanitarian law, governs hostilities between the armed separatist groups and Ukrainian armed forces, as well as between Russian armed forces and Ukrainian forces. While there are differences in the sources and sometimes scope of the laws of war that apply to a non-international armed conflict and an international one, international humanitarian law is designed mainly to protect civilians and other non-combatants from the hazards of all forms of armed conflict, and applicable customary international humanitarian law reflects the large convergence of the two bodies of law that has taken place.

The conflict between the separatists (a non-state armed force) and Ukrainian forces is primarily a non-international armed conflict, which falls within the remit of Common Article 3 of the Geneva Conventions of 1949 and Protocol II relating to non-international armed conflicts, to which Ukraine is also a party. Protocol II provides further guidance on the fundamental guarantees for individuals during non-international conflicts to what is provided for in Common Article 3.¹⁹

Persons held by any party in connection with the armed conflict in eastern Ukraine are protected under international human rights and international humanitarian law. In both of these bodies of law, the ban on torture and other ill-treatment is one of the most fundamental prohibitions. Both Common Article 3 of the Geneva Conventions of 1949 and Protocol II require that anyone in the custody of a party to the conflict be protected against “violence to life of persons,” in particular murder, mutilation, and torture.²⁰ The provisions also bar “outrages upon personal dignity, in particular humiliating and degrading treatment.” Similarly, the International Covenant on Civil and Political Rights (ICCPR)²¹ and the European Convention on Human Rights (ECHR)²² specifically bar torture and cruel, inhuman, or degrading treatment or punishment.²³

Torture is also a war crime under international humanitarian law in all conflicts.²⁴ Both international human rights law and international humanitarian law require that cases of torture and other ill-treatment be

¹⁹ Ukraine became a party to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, on January 25, 1990 (<https://www.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AA0C5BCBAB5C4A85C12563CD002D6D09&action=openDocument>). Because of Russia’s support for the separatist forces, the question is often asked whether the conflict could also be considered an international armed conflict. The extent and form of Russia’s support is a factual determination that goes beyond the scope of this report, but if it is established that Russia exercises “overall control” over the separatist forces or part thereof, under international law the conflict would be deemed an international or internationalized armed conflict. Human Rights Watch, Eastern Ukraine: Questions and Answers about the Laws of War.

²⁰ See Article 4 of Protocol II and Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949, available at <https://www.icrc.org/ihl/WebART/365-570006> (accessed July 8, 2016).

²¹ Ratified by Ukraine in 1973. See OHCHR’s Status of Ratification Interactive Dashboard: <http://indicators.ohchr.org/> (accessed July 8, 2016).

²² Ratified by Ukraine in 1997. See Ukraine’s country profile at http://www.echr.coe.int/Documents/CP_Ukraine_ENG.pdf (accessed July 8, 2016).

²³ ICCPR, art. 7; see also ICCPR, art. 10, which provides that persons deprived of liberty “shall be treated with humanity and with respect for the inherent dignity of the human person.”

²⁴ See, for example, Rome Statute, art. 7.

investigated, and that, when the evidence warrants it, the perpetrators be prosecuted. Detainees must be provided with adequate food, water, clothing, shelter, and medical care.

International humanitarian law acknowledges that during times of armed conflict there may be security grounds for temporary detention of civilians, but arbitrary detention is always prohibited, and parties to an armed conflict are required to ensure a legal basis and framework as well as basic safeguards for the detention of civilians. Grounds for detention must be legitimate and nondiscriminatory. Under customary international humanitarian law, detaining parties must adhere to certain procedures; for example, they are obligated to bring a person arrested on a criminal charge promptly before a judicial authority, and to allow the person to challenge the lawfulness of the detention.²⁵ Under human rights law, which applies even during armed conflict, persons in the custody of the state are entitled to judicial review of the legality of their detention.²⁶

Enforced disappearances are serious crimes under international law and are prohibited at all times under both international human rights law and international humanitarian law. The prohibition also entails a duty to investigate cases of alleged enforced disappearance and prosecute those responsible.²⁷ An enforced disappearance occurs when someone is deprived of their liberty by agents of the state or persons acting with the state's authorization, support or acquiescence, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, placing that person outside the protection of the law.²⁸ Ukraine became a party to the International Convention on Enforced Disappearances on August 14, 2015. The Convention codifies the prohibition on enforced disappearances and, among other things, sets out the obligations of states to prevent, investigate, and prosecute all cases of enforced disappearances.

The ECHR and the ICCPR allow state parties to derogate from certain articles—in other words, to limit certain rights during emergency situations, including an armed conflict. In May 2015, Ukraine derogated from a number of articles in both conventions, including, as relevant to this report, articles relating to the right to liberty and security and fair trial in relation to terrorism suspects.²⁹ But the treaties also require any restrictions to be necessary, proportionate and non-discriminatory. Secretary General of the Council of Europe Thorbjørn Jagland issued a statement that the derogation “does not mean that Ukraine is no longer bound by the European Convention on Human Rights” and that the European Court of Human Rights will assess in each case whether the derogation is justified.”³⁰

²⁵ ICRC, Customary IHL Database, https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule99 (accessed July 8, 2016).

²⁶ See UN Working Group on Arbitrary Detention, Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of His or Her Liberty by Arrest or Detention to Bring Proceedings Before Court, May 2015.

²⁷ See the Declaration on the Protection of All Persons from Enforced Disappearance, General Assembly resolution 47/133, December 18, 1992; International Convention for the Protection of All Persons from Enforced Disappearance, December 20, 2006, United Nations, Treaty Series, vol. 2716, p. 3, Doc. A/61/448; Rule 98 of the ICRC rules on customary international humanitarian law (https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule98).

²⁸ See both the Declaration on the Protection of All Persons from Enforced Disappearance and article 2, International Convention for the Protection of All Persons from Enforced Disappearance, UN Doc. A/61/448, adopted December 20, 2006.

²⁹ On 21 May 2015, the Ukrainian parliament adopted a declaration on derogation from article 2, paragraph 3, and articles 9, 12, 14 and 17 from the International Covenant on Civil and Political Rights (ICCPR) and the corresponding articles of the European Convention on Human Rights (ECHR). The derogation notices concern the right to liberty and security, fair trial, effective remedy, respect for private and family life and freedom of movement, and are restricted geographically to the occupied Crimean peninsula and the areas in Luhansk and Donetsk where Ukrainian authorities are conducting an “anti-terrorist operation”. See ICCPR derogation notice: <https://treaties.un.org/doc/Publication/CN/2015/CN.416.2015-Eng.pdf> (accessed July 8, 2016); and ECHR: <https://wcd.coe.int/ViewDoc.jsp?p=&id=2331761&Site=DLAPIL-Conventions&direct=true> (accessed July 8, 2016).

³⁰ Jagland: Council of Europe standards still apply in Ukraine, UNIAN, available at <http://www.unian.info/politics/1087956-jagland-council-of-europe-standards-still-apply-in-ukraine.html> (accessed on June 23, 2016).

2.2 UKRAINIAN LAW

UKRAINIAN LAW CATEGORICALLY PROHIBITS TORTURE.³¹

According to the Ukrainian Criminal Procedure Code, the authorities can detain a suspect for up to 72 hours without official charges, after which a court has to approve detention in a pre-trial detention facility with an official warrant or release the suspect. Detainees have the right to be informed of the allegations or charges against them and to challenge their arrest in court. However, following the conflict in eastern Ukraine, on August 12, 2014, parliament introduced special amendments into Ukraine's law "on combatting terrorism" extending the period for which suspects accused of terrorism can be detained without charge, to 30 days. The decision to detain a person beyond 72 hours lies with law enforcement, and a copy of the "preventative detention warrant," endorsed by a prosecutor, is sent to a judge with a request to hold a custody hearing, which can take place at any time up to 30 days.³² This was the subject of the above-mentioned derogations from the ECHR and ICCPR.³³ The potential for a person to be detained for up to 30 days before they are brought before a judge violates the ECHR. While the European Court of Human Rights has yet to rule on this provision, it has held that detention without being brought before a judge for fourteen days, even with a derogation, violates the convention. The Court, acknowledging there was a legitimate state of emergency and derogation, held "it cannot accept that it is necessary to hold a suspect for fourteen days without judicial intervention." It noted that the period was exceptionally long, and leaves detainees vulnerable to arbitrary detention and torture.³⁴

Pre-trial detention is allowed only in pre-trial detention centers belonging to the State Penitentiary Service and disciplinary cells of the Ukrainian Armed Forces. In "certain cases," the law permits short-term detention of suspects "in temporary detention facilities for the purpose of conducting investigative activities."³⁵ According to article 38 of the Ukrainian Criminal Procedures Code, bodies with investigative authority in Ukraine are the National Police (part of the Ministry of Interior system), the Security Service of Ukraine (SBU), the Tax Police (part of the State Fiscal Service), and the State Investigation Bureau.³⁶ In reality, only the Ministry of Interior and the SBU operate temporary detention facilities. They are governed according to internal orders and guidelines.

Ukraine's SBU stated in a letter to Amnesty International and Human Rights Watch that it has only one such facility, located in Kyiv.³⁷ According to the SBU's Internal Guidelines on Temporary Detention Facilities, the maximum period of detention in this facility should not exceed 10 days.³⁸ Ukrainian law allows SBU officials to bring in people for questioning, but a questioning session can last no longer than eight hours per day and no investigative activities, including questioning, can be carried out from 10 p.m. to six a.m.³⁹

Pre-trial detention in other remand facilities cannot exceed six months for minor crimes and up to 12 months for serious crimes, among them those that are terrorism-related.⁴⁰

³¹ Constitution of Ukraine, Parliament of Ukraine, 1996, <http://www.ccu.gov.ua/doccatalog/document?id=12084> (accessed July 8, 2016), Article 28.

³² "Law on amendments to the law on combating terrorism," Parliament of Ukraine, 2014, <http://zakon0.rada.gov.ua/laws/show/1630-18> (accessed July 11, 2016), Article 1.

³³ Article 15-1 of Ukraine's "Law on Combating Terrorism", <http://zakon5.rada.gov.ua/laws/show/638-15/page2> (accessed June 21, 2016).

³⁴ See *Aksoy v. Turkey*, Application No. 21987/93, judgment December 18, 1996 paras. 78, 86. The Court further reiterated that "it is not persuaded that the exigencies of the situation necessitated the holding of the applicant on suspicion of involvement in terrorist offences for fourteen days or more in incommunicado detention without access to a judge or other judicial officer", para. 84.

³⁵ "Law on Preliminary Detention", Parliament of Ukraine, 1993, <http://zakon2.rada.gov.ua/laws/show/3352-12> (accessed June 21, 2016), Article 4.

³⁶ Ukrainian Criminal Procedures Code, Parliament of Ukraine, 2012, <http://zakon0.rada.gov.ua/laws/show/4651-17/page2> (accessed June 30, 2016), Article 38.

³⁷ Letter, dated June 17, 2016, and signed by deputy head of SBU's chief department, V. Mayakov, is on file with Amnesty International and Human Rights Watch.

³⁸ Guidelines on Temporary Detention Facilities, Security Service of Ukraine, <http://zakon0.rada.gov.ua/laws/show/z1013-08> (accessed June 21, 2016), Article 1.5.

³⁹ Ukrainian Criminal Procedures Code, Parliament of Ukraine, <http://zakon0.rada.gov.ua/laws/show/4651-17/page8> (accessed July 8, 2016), Article 224.

⁴⁰ Ukrainian Criminal Procedures Code, Parliament of Ukraine, <http://zakon0.rada.gov.ua/laws/show/4651-17/page7> (accessed July 11, 2016), Article 197.

3. ENFORCED DISAPPEARANCES, ARBITRARY DETENTIONS, AND TORTURE BY MEMBERS OF THE UKRAINIAN AUTHORITIES AND PARAMILITARIES

Amnesty International and Human Rights Watch investigated nine cases in which members of the Ukrainian authorities and paramilitaries held civilians in prolonged, secret captivity. Three of these—the most recent and egregious—are detailed below. Details of two others are withheld at the request of the victims, who fear retaliation. The remaining four are not detailed here as they pertain to arbitrary detentions that concluded prior to spring 2015.⁴¹

In most of the nine cases, pro-government forces, including members of so-called volunteer battalions, detained the individuals and handed them over to the Security Service of Ukraine (SBU) which eventually moved them into the regular criminal justice system; some were later exchanged for persons held by separatists and others released without trial.

In the three cases summarized in detail below, the SBU went on to hold these individuals from between six weeks and 15 months, without allowing them to see a lawyer or have any contact with the outside world. All of the individuals were suspected of involvement in pro-separatist activities.

The captivity involved periods during which they were forcibly disappeared or subjected to prolonged incommunicado detention. Most interviewees said they were tortured before their transfer to SBU's facilities. Several also alleged that after being transferred to SBU premises they were beaten, subjected to electric shocks, and threatened with rape, execution, and retaliation against family members.

⁴¹ Both organizations have extensively reported on arbitrary detention and torture in the region in 2014 and early 2015.

Most of the captives held by the Ukrainian authorities were eventually brought before a judge and moved into the regular criminal justice system.⁴² However, they did not stand trial but were at some point released as part of prisoner exchanges between the warring sides. In these cases a judge released them on their own recognizance and an undertaking not to leave their place of permanent residence, pending the investigation. This arrangement enabled the authorities to remove them from state custody for the purpose of exchange, however the individuals would face arrest upon return to government-controlled territory.

Those interviewed by Amnesty International and Human Rights Watch have described the SBU buildings in Kharkiv, Kramatorsk, Izyum, and Mariupol where they were held in terms that indicate these were places of unlawful, unacknowledged detention. There are well-founded concerns that some persons continue to be victims of enforced disappearances and are being detained at the Kharkiv SBU compound. Two of those who were held for months at the Kharkiv SBU, separately made lists of 16 other individuals (15 males and 1 female) who were still held there at the time of their release earlier this year. Researchers interviewed the two former detainees, Kostyantyn Beskorovaynyi and Artem (real name withheld), separately, and their stories are detailed below.⁴³ They separately shared their lists with Amnesty International and Human Rights Watch. The names on the two lists of 16 people are identical.

Beskorovaynyi and Artem also provided some basic details regarding the circumstances of detention for the individuals on their lists. Another individual, who was held in the same facility at the same time as Beskorovaynyi and Artem, but who asked for his case not to be included in this report, provided the same list of inmates to Amnesty International and Human Rights Watch and shared additional details regarding the circumstances of detention for the individuals on the list.⁴⁴ The UN report On the Human Rights Situation in Ukraine 15 February to 16 May 2016 described similar situation based on the research findings by members of the Office of the High Commissioner for Human Rights (OHCHR), stating that “as of March 2016, OHCHR was aware of the names of 15 men and one woman disappeared in Kharkiv SBU.”⁴⁵ In early June 2016, Amnesty International and Human Rights Watch sent a letter of inquiry to the SBU with regard to allegations of the enforced disappearances of individuals, in particular by members of the SBU on SBU premises in Kharkiv, Kramatorsk, Izyum, and Mariupol. The letter included specific questions on the cases of Beskorovaynyi and Artem documented in this section of the report. In their official response, dated June 17, 2016, SBU authorities denied operating any detention facilities with the exception of the temporary detention center in Kyiv (in respect of which no allegations of unacknowledged detention have come to Amnesty International or Human Rights Watch’s attention). They also stated that the SBU had never detained or investigated Beskorovaynyi and had no information about his case. The response did not address the discrepancy between the initial public acknowledgement by an SBU spokesperson of the arrest of a man whose details uniquely match Beskorovaynyi’s and the subsequent denial. As regards Artem, the response states that he has been under investigation by the SBU, and was on remand between February 7 and March 12, 2015, and released thereafter.⁴⁶

A delegation from the UN Subcommittee for Prevention of Torture, which began an official visit in Ukraine in May 2016, cut the visit short because the authorities failed to grant them access to some of the detention sites they wanted to visit. This is only the second time since it began its work in 2007 that the Subcommittee has chosen to cut short a country visit. The delegation chief, Malcolm Evans, stated that the team was prevented from visiting “some places where we have heard numerous and serious allegations that people have been detained and where torture or ill-treatment may have occurred.”⁴⁷

⁴² In the three cases summarized below, only one detainee was brought before a court. In most of the other cases documented as part of this research, including five cases in which the victims were initially detained and tortured by the Azov battalion at the Mariupol airport and which will be covered by Amnesty International and Human Rights Watch in a separate briefing late this year, court hearings on pre-trial custody measure eventually took place and the individuals were transferred to a remand prison (as in the case of Artem documented below).

⁴³ Interviewing Kostyantyn Beskorovaynyi and Artem separately allowed us to compare and corroborate their accounts of their treatment in custody.

⁴⁴ Interview with Kostyantyn Beskorovaynyi, Kostyantynivka, March 19, 2016; interview with Artem, Donetsk, May 15, 2016; telephone interview with Stas (real name withheld), May 16, 2016.

⁴⁵ Report on the human rights situation in Ukraine 16 February to 15 May 2016.

⁴⁶ Letter, dated June 17, 2016, and signed by deputy head of SBU’s chief department, V. Mayakov, is on file with Amnesty International and Human Rights Watch.

⁴⁷ UN panel against torture cuts short Ukraine visit, Associated Press, May 25, 2016, <http://bigstory.ap.org/article/0e1da71723894eeca9204372121d7bf3/un-panel-against-torture-cuts-short-ukraine-visit> (accessed July 8, 2016).

In response to the Subcommittee announcement, the head of the SBU, Vasylyi Hrytsak, told the press on May 26: "We are not holding any people in our territorial divisions. (...) I'm convinced we have not violated anything."⁴⁸ The subcommittee has not disclosed the locations of the alleged places of detention to which it was denied access; but as the most recent OHCHR's report specifically mentions Kharkiv SBU as an alleged place of unofficial detention,⁴⁹ this facility may have been on the Subcommittee's list of sites to visit.⁵⁰

The cases detailed below illustrate the unlawful practice of prolonged incommunicado detentions in unofficial prisons on the premises of SBU facilities.

KOSTYANTYN BESKOROVAYNYI (LOCATIONS OF DETENTION: KRAMATORSK, IZYUM, KHARKIV)

Kostyantyn Beskorovaynyi, 59 at time of writing, was an active member of the Communist Party of Ukraine (CPU) and an elected member of the local council in his hometown of Kostyantynivka, where he also worked as a dentist. Kostyantynivka had been under separatist control for several weeks in 2014 until it was retaken by the Ukrainian forces in July 2014.

Beskorovaynyi was the victim of an enforced disappearance, spending 15 months in unacknowledged and unlawful SBU detention in Kramatorsk, Izyum, and Kharkiv, most of it in the Kharkiv SBU building.⁵¹

ABDUCTION AND TRANSFER TO KRAMATORSK SBU COMPOUND

According to Beskorovaynyi, at about 4 pm, on November 27, 2014, masked men broke into his apartment, violently seized him, and searched his home with no warrant, claiming they had evidence that he planned to poison the local water supply:

"Five or six masked men, one of them armed with an AK-47 automatic rifle, broke my door with a sledgehammer and threw me to the ground. They didn't introduce themselves but accused me of being a terrorist and a separatist. One of them held me down with his foot and occasionally kicked me in the ribcage while the others searched my apartment...."⁵²

The search completed, they forced Beskorovaynyi into a van with no license plates and tinted windows. Inside, they handcuffed Beskorovaynyi and pulled a bag over his head. After a relatively short drive, they led Beskorovaynyi into a basement. There, his captors gave him a phone and forced him to call his wife and read a prepared statement stating that he had been detained for "speaking at a rally" and for "further clarifications." In the evening, Beskorovaynyi was subjected to his first interrogation:

"A group of four or five masked men questioned me. They were all aged 30-35, based on their voices, and all had local accents, except one. They told me that I was being charged with aiding a terrorist organisation but did not present any documents. Then, one of them punched me in the face and threatened to send "bearded fellows from Right Sector" to my wife and daughter... They struck me with something heavy, and threatened to rape and shoot me if I didn't confess."⁵³

Beskorovaynyi became so ill during the interrogation that his captors took him to a cell where two medical workers gave him an injection, which helped stabilize his condition. Then, he said, he was ready to confess to anything. His interrogators dictated a confession to him that he had allegedly planned to poison the local

⁴⁸ "SBU head commented on the scandal with the UN mission [Глава СБУ прокоментировав скандал с миссией ООН]," RIA Novosti Ukraine, May 27, 2016, <http://rian.com.ua/society/20160527/1010660047.html> (accessed July 8, 2016).

⁴⁹ Report on the human rights situation in Ukraine 16 February to 15 May 2016.

⁵⁰ Ibidem.

⁵¹ Interview with Kostyantyn Beskorovaynyi, Kostyantynivka, March 19, 2016.

⁵² Ibidem.

⁵³ Ibidem.

water supply and that he consented to work as an SBU informer. They then made him read it aloud on camera.

The next day, he overheard his wife talking with a guard outside, asking if he was there and begging to pass him some food and clothes. The guard claimed that Beskorovaynyi was “not there.” Later his relatives told him, and confirmed to our researchers, that the facility was in fact the SBU building in Kramatorsk, some 35 km from Kostyantynivka.⁵⁴

TRANSFER TO IZYUM AND KHARKIV

Several days later, on December 3, several armed men in masks drove Beskorovaynyi to a different building, where he spent the night in the basement. The next morning, armed personnel again put him in a vehicle that already held two other detainees, and put a bag over his head.⁵⁵ As they drove away, Beskorovaynyi managed to make out a sign for the Izyum bus station, leading him to believe he had spent the night at the Izyum SBU building.

After what seemed like a couple of hours, the vehicle stopped in a city. The guards took Beskorovaynyi and the two other captives into a building and to a cell where he learned from one of the inmates that he was in the Kharkiv SBU building. The inmate told Beskorovaynyi he recognized the building because he had done an internship in it.

ALMOST 15 MONTHS IN KHARKIV SBU

Beskorovaynyi was held in Kkarkiv for nearly 15 months. Until his release in February 2016, the SBU held Beskorovaynyi on the second floor of the facility, moving him to a different cell five times. The total number of inmates in the facility ranged from around 70 when he first arrived, to 17, including himself, at the time of his release.⁵⁶ Inmates were held in eight cells, the first four of which held up to around 15 detainees; while the other four were used for smaller groups of up to three people.⁵⁷ Between December 2014 and May 2015 Beskorovaynyi never left his cell for fresh air or exercise. From May 2015 onwards guards began to allow inmates a brief a walk in a small fenced yard twice a month.

Because the facility is small, inmates from different cells had ample opportunity to get to know one another, including during walks and doing kitchen duty. Beskorovaynyi and Artem met while detained in the SBU premises in Kharkiv.⁵⁸

When Beskorovaynyi arrived at the facility, it was full. The inmates had to cook meals for around 70 people. The guards would grumble that they were paying for prisoners’ food “out of their own pockets.” The guards frequently told Beskorovaynyi and other inmates, “you don’t exist,” and “we don’t even have a budget for you.”⁵⁹

At least twice during his 15 months in custody—in February and October 2015—unidentified SBU officials said he would be exchanged soon, though this never happened.

In the first half of February 2015, the guards rounded up all the inmates, told them to gather their belongings and put the bags over their heads. Then the guards led them several floors upstairs and told them to keep quiet. When they returned to their cells several hours later, the detainees found that their cells

⁵⁴ Interview with Kostyantyn Beskorovaynyi, Kostyantynivka, March 19, 2016; interview with Kostyantyn Beskorovaynyi’s wife, Kostyantynivka, March 19, 2016.

⁵⁵ Kostyantyn Beskorovaynyi and other individuals mentioned in this report, who had bags over their heads for long periods of time while in detention, explained to Amnesty International and Human Rights Watch that their captors did not tie the bag around the neck, so as not to cut off the air flow.

⁵⁶ 17 being the number of inmates by the time of Kostyantyn Beskorovaynyi’s release in February 2016.

⁵⁷ This information was also corroborated to Amnesty International and Human Rights Watch by Artem, interviewed in Donetsk on May 15, 2016, and Stas interviewed over the phone from Donetsk on May 16, 2016.

⁵⁸ Interview with Kostyantyn Beskorovaynyi, Kostyantynivka, March 19, 2016; interview with Artem, Donetsk, May 15, 2016; telephone interview with Stas May 16, 2016.

⁵⁹ Interview with Kostyantyn Beskorovaynyi, Kostyantynivka, March 19, 2016; interview with Artem, Donetsk, May 15, 2016; telephone interview with Stas May 16, 2016.

had been cleaned and appeared uninhabited. Beskorovaynyi maintains that he overheard the guards talking about representatives of an international organisation having visited the facility on that day.⁶⁰

RELEASE

Several days before his release in February 2016, Beskorovaynyi was instructed by a short, bespectacled investigator who introduced himself as Andrei, to remain discreet about his time at the SBU:

“ ‘Andrei’ told me that I had to tell everyone that I had left Kostyantynivka and gone into hiding for 15 months for personal reasons. He threatened to come for me and my family, even to send the Right Sector to get us in case I talk about what really happened.”⁶¹

On 24 February 2016, Andrei told Beskorovaynyi that although prisoner exchanges had stopped, the authorities were ready to let him go on the condition that he repeated his “confession” on camera. Beskorovaynyi did as he was told. He was again warned not to talk about his captivity. The following day he was given UAH 200 (just over U.S. \$7) for transport, driven to a bus station in Kharkiv, and made to buy a ticket home.⁶²

OFFICIAL DENIAL OF KOSTYANTYN BESKOROVAYNYI’S DETENTION

During Beskorovaynyi’s detention, his family members repeatedly approached various Ukrainian authorities for information about his fate and whereabouts. They were consistently told that the authorities were not holding Kostyantyn Beskorovaynyi, although on at least one instance the SBU indirectly acknowledged his detention. The denial of Beskorovaynyi’s detention, and the repeated refusal to provide information on his whereabouts and fate renders his arbitrary detention an enforced disappearance.

On December 19, 2014, Markiy Lubkivskiy, the then-SBU spokesperson, said at a press briefing that counter-intelligence services and the SBU had detained an “insane Communist council member” from Kostyantynivka who had planned “terrorist attacks.”⁶³ There is little doubt Lubkivskiy was referring to Beskorovaynyi even though he did not name him: according to the records of Kostyantynivka town council, which were examined as part of this research, he was the only male Communist Party member on the town council at that time.

Nonetheless, the authorities officially denied to Beskorovaynyi’s family, on repeated occasions, that they were holding him. On the day of Beskorovaynyi’s detention, his wife filed a complaint with the local police authorities about his abduction by a group of unknown men. She also filed inquiries with several other government agencies. The reply she received from the SBU in Kharkiv, dated December 28, 2015, stated that in 2014-2015 Beskorovaynyi was not in official custody, nor under any investigation, nor a suspect in any criminal case.⁶⁴

In June 2016, Amnesty International and Human Rights Watch received similar information in reply to their joint letter of inquiry, which stated that as of June 17, 2016, the central SBU directorate had no information about Beskorovaynyi’s detention or any criminal allegations against him.⁶⁵

Two criminal investigations were opened following Beskorovaynyi’s wife’s complaints: one into illegal deprivation of liberty and the other abuse of official authority by law-enforcement agencies. On April 13,

⁶⁰ This information was also corroborated by Stas, telephone interview, May 16, 2016.

⁶¹ Interview with Kostyantyn Beskorovaynyi, Kostyantynivka, March 19, 2016; interview with Artem, Donetsk, May 15, 2016; telephone interview with Stas May 16, 2016.

⁶² Notably, Vadim, another individual allegedly held by SBU whose case is documented below in this report, received the same amount of “transport” money when released by his captors

⁶³ Video of SBU’s press briefing on December 19, 2014, fragment between 24:50 and 25:04 (screen shot on file with Amnesty International and Human Rights Watch), <https://www.youtube.com/watch?v=Qq-cW0Vfdog> (accessed July 12, 2016).

⁶⁴ This document as well as all the other documents received by Beskorovaynyi’s wife from official authorities in connection with Beskorovaynyi’s disappearance were examined by Amnesty International and Human Rights Watch.

⁶⁵ The letter is on file with Amnesty International and Human Rights Watch.

2016, the prosecutor's office in Kostyantynivka informed Beskorovaynyi's wife that the two investigations had been merged into one and transferred to the Military Prosecutor's Office for the Donetsk region.⁶⁶ She is not aware of any subsequent progress in the case.

Beskorovaynyi received several warnings to keep silent about his ordeal. On 4 March, two men who introduced themselves as investigators from the local police precinct visited him at home. They insisted on questioning him and taking photos. He let them photograph him and said he would come to the police station the next day to provide an official statement. On 5 March, at the police precinct, he told his full story to three law enforcement officials. They warned him that trying to sue the Ukrainian authorities could get him in trouble and tried to convince him to sign and backdate to the first day of his detention a letter of resignation from his job at the local hospital. Beskorovaynyi refused to sign it and believes that the officials wanted the on-going investigations closed and planned to use the letter as evidence that he went missing of his own free will.⁶⁷

At the time of writing, Beskorovaynyi is trying to get reinstated in his job and to have his allegations officially investigated.

ARTEM (REAL NAME WITHHELD; LOCATIONS OF DETENTION: MARIUPOL, KHARKIV)

Artem, a pro-separatist activist in Mariupol, was forcibly disappeared while walking along a street by masked armed men on January 28, 2015. Artem spent the next 11 days detained in a basement, where he says he was subjected to torture and other ill-treatment. He was then handed over to the SBU. At this point, his detention was formally recognized and he was officially charged with aiding a terrorist organization.⁶⁸ After 31 days in pre-trial detention, a judge ordered his release from custody under his own recognizance. Notably, the request to release him came from the SBU. However, instead of releasing him, SBU officials transferred Artem to the Kharkiv SBU compound, where he was held incommunicado for another 11 months before being exchanged as part of a "prisoner swap" in February 2016.⁶⁹

DETENTION AND TORTURE

Artem said his captors stopped him on 50-richnaya Oktyabrya street in Mariupol, pulled a plastic bag over his head, threw him into the back of a car and brought him to the basement of a building. Months later, when Artem described this building to fellow detainees in Kharkiv, some of them said they too had also been held and tortured there, and identified it as the sports school near Soyuz cinema, which was used as a base by the volunteer battalion Azov.

According to Artem, his captors handcuffed him for long periods of time to a metal rod hanging from the ceiling in the basement, and hit him repeatedly on his head and stomach demanding that he tell them "everything." The beating sessions continued for two days with short intervals in between. Artem's torturers also instructed the guards to keep him from sleeping at night.

Artem provided a detailed description of some of the worst moments of his ordeal:

" On the third day... they brought two stripped electric wires and ran electricity on my stomach. I was convulsing so heavily that they had to chain me to a wooden ladder, but it broke from my convulsions. Then they turned me over and applied the wires to my back. After I lost consciousness several times, they pulled down my pants and applied the wires to my genitals... They wanted to know something about a handgun but I told them that I'd never held a weapon in my entire life. They threatened to cut my thumb and then placed a wet mop on my face and started pouring water on it. I felt like I was drowning. There was this official in charge, everyone called him Polkovnik ["colonel" in Russian]. [He] wanted to know about my family and when I said my son was just six years of age, he

⁶⁶ Interview with Kostyantyn Beskorovaynyi, Kostyantynivka, May 17, 2016.

⁶⁷ Beskorovaynyi requested that their identities be withheld in this report.

⁶⁸ Interview with Artem, Donetsk, May 15, 2016.

⁶⁹ Both Kostyantyn Beskorovaynyi and Stas confirmed meeting him there among other inmates.

shouted to the others, “Bring him here, I’ll tear the kid apart in front of him!” After this I told them I’ll confess to anything, do anything they want.”⁷⁰

TRANSFER TO MARIUPOL SBU AND TO REMAND PRISON

On February 7, the guards moved Artem from the basement to a makeshift cell in the same building, where he was allowed to take the bag off his head for the first time. Several hours later, two officers who said they were from the SBU, told Artem that they had been looking for him for six days and instructed the guards not to touch him. They took Artem to the SBU building in Mariupol, where he spent two days in incommunicado detention. On February 9, SBU officials informed Artem that the Zhovtnevyi court in Mariupol had ordered his pre-trial detention for 60 days on charges of “aiding a terrorist organization.” On the same day, Artem was transferred to a pre-trial detention center in Kamensk. Upon arrival, Artem was examined by medical personnel, as the law requires, who noticed multiple bruises and abrasions on his body. A law enforcement official present during the examination told Artem: “It’s impossible to find the people who did this to you because of the [chaotic] situation in town, and it’s in your best interests to have them recorded as injuries during your arrest.” Artem agreed to do as he was told.⁷¹

TRANSFER TO KHARKIV SBU COMPOUND

On 12 March, Artem was brought before a judge who considered and approved a request submitted by an SBU investigator to lift Artem’s remand.⁷² However, on 13 March, instead of being released, Artem was again forcibly disappeared, together with nine other inmates, and held at the SBU compound in Kharkiv. He was not presented with any official paperwork, nor given any explanation.

Artem spent the next 11 months forcibly disappeared – in unacknowledged detention – on the premises of the SBU compound in Kharkiv and was finally exchanged for detainees held by the separatist forces on 20 February 2016.

He described his cell at the SBU compound in Kharkiv:

“ The cell was about eight by eight meters with bars on the windows and a plastic sheet behind the bars so we could not see anything on the street. There were 11 other people in the cell when I arrived. I stayed there until 20 February 2016. They fed us three times per day, two spoons of oats and a tiny slice of bread with tea. On Saturdays and Sundays for breakfast we had only tea... At the end of August 2015, the canteen refused to cook for us, so we started doing it on our own... They allowed doctors in only when something was very urgent. But once, when a person had a stroke and half of his body was paralyzed, they did not call a doctor. A person with diabetes was given insulin only once every two weeks. If there were some altercations between us, the guards used pepper-spray in the cells. They did not allow us to contact our relatives or anyone else.”⁷³

Artem claims he met Kostyantyn Beskorovaynyi at the SBU compound in Kharkiv and gave a similar description of the conditions there.⁷⁴

Once in the DNR-controlled territory, Artem underwent a forensic medical examination. His medical records documented visible scars from deep wounds on his wrists, consistent with his claims of being suspended by

⁷⁰ Interview with Artem, Donetsk, May 15, 2016.

⁷¹ Ibidem.

⁷² The request is cited in the ruling as filed on February 9, 2015, at the Zhovtnevyi court in Mariupol. Amnesty International and Human Rights Watch examined this document and other documents pertinent to the case.

⁷³ Interview with Artem, Donetsk, May 15, 2016.

⁷⁴ Interview with Kostyantyn Beskorovaynyi, Kostyantynivka, March 19, 2016; interview with Artem, Donetsk, May 15, 2016.

handcuffs for a long period of time, and a broken tooth.⁷⁵ These scars were visible during his interview with Amnesty International and Human Rights Watch researchers.

Artem has not filed any complaints with the Ukrainian authorities regarding his enforced disappearance and ill-treatment due to fear of reprisals against his wife and child, who are still in Mariupol. For the same reason, he is afraid to contact his wife and does not know if she has contacted any official agencies about his fate and whereabouts.

The official response received by Amnesty International and Human Rights Watch from the SBU and dated June 17, 2016, stated he has been under investigation by the SBU, and was on remand between February 7 and March 12, 2015 and released thereafter.⁷⁶

VADIM (REAL NAME WITHHELD TWO UNOFFICIAL PLACES OF DETENTION IN GOVERNMENT-CONTROLLED TERRITORY, EXACT LOCATIONS UNKNOWN)

Pro-Kyiv forces forcibly disappeared Vadim, 39, a real estate agent from Donetsk, in April 2015 next to government-controlled Kurakhove. He spent around six weeks in unacknowledged detention—the first three days, on the premises of an alleged base of Right Sector, then on the premises of an alleged SBU base in an unknown location. His interrogators subjected Vadim to various forms of torture.⁷⁷

DETENTION AT CHECKPOINT AND TRANSFER TO ALLEGED RIGHT SECTOR BASE

On the morning of April 9, 2015, Vadim boarded a Donetsk-bound shuttle bus in government-controlled Slovyansk, where he had spent the previous day on real estate business. At the Georgievsky checkpoint near Kurakhove, checkpoint personnel collected all the passengers' passports, which is routine checkpoint procedure. A gunman holding Vadim's passport ordered Vadim to get off the bus with his belongings and instructed the driver to proceed without him.⁷⁸

Three men in camouflaged uniforms without insignia led Vadim into a small cabin at the checkpoint, took away his phone, and searched him thoroughly. When going through his papers, they found a badge identifying him as one of the organizers of the May 2014 separatist referendum in Donetsk. They tied his hands behind his back with his own belt, pulled a bag over his head, pushed him to his knees, calling him a "separatist thug," and questioned him about his connections in Slovyansk. They threw him into the back seat of a car, and drove off with him sandwiched between two gunmen.

According to Vadim, after a two-hour drive his captors dragged him out of the vehicle and led him through a gate with a checkpoint next to it. They put Vadim next to a wall in a yard. One of the gunmen punched him hard in his lower back, saying, "Hello from Pumpkin!"⁷⁹ At that point, Vadim realized that the detention was related to his acquaintance Marina (not her real name), or "Pumpkin," who was affiliated with the DNR intelligence service and whose sister, Natalia, (not her real name) he was courting at the time. Vadim told Amnesty International and Human Rights Watch that several weeks earlier Natalia had hinted to him that any military activity by the Ukrainian forces he saw during his travels in Ukrainian government-controlled territory would be of interest to her sister. He called Natalia on his way to Slovyansk on April 8 and told her that he had seen several Ukrainian tanks and personnel carriers on the road.

⁷⁵ His medical documents were seen by Amnesty International and Human Rights Watch researchers. The researchers also took photos of the scars on his wrists.

⁷⁶ The letter is on file with Amnesty International and Human Rights Watch.

⁷⁷ Interview with Vadim, Donetsk, May 15, 2016.

⁷⁸ Telephone interview with the driver, May 16, 2016.

⁷⁹ Nickname changed.

TORTURE AT ALLEGED RIGHT SECTOR BASE

According to Vadim, his captors handed him over to other Ukrainian gunmen who took him to a basement and interrogated him for hours, asking about his connections with Pumpkin and some other people whose names did not sound familiar. They beat him with sticks on his arms, legs, and back, kicked and punched him, and tortured him with electric shocks. Twenty grams of gold, which he had bought to make a ring, had been found on him, along with some cash a client had paid him in Slovyansk, and the torturers wanted to know where he had his “cache” with money and gold supposedly used for separatist activities. Vadim described his torture in detail:

“They attached two stripped wires to my fingers and turned a knob on some kind of device... There were crackling sounds and electric current went through me. I was howling from pain... The bag [on my head] was blocking my vision, so I could not see them. They kept asking their questions. One of them demanded I kneel and sing the Ukrainian anthem.... They put out their cigarettes on my back and torso. It must’ve gone on for hours. I lost count of time. Finally, they left me alone, handcuffed to a bar on the wall. In the morning, a guard came up to me, un-cuffed me, gave me some water, and took me to the toilet. He asked if I could move my left hand. I tried and it was clear two fingers were broken... Then, it started all over again. Judging by their voices, they were different people. They un-cuffed me from the bar, threw me to the floor and kicked me. Then, they cuffed me again and gave me shocks, then they beat me again.”⁸⁰

According to Vadim, during a break in the interrogation, a sympathetic guard un-cuffed one of his hands, allowed him to remove the bag, gave him a cigarette, and left him alone for a while. He saw that there was a table in the room, close to where he was tied to the bar, with a sheaf of papers on it. Stretching his free hand, he could look at some of the papers, and realized that his captors had a full print out of his April 8 telephone conversation with Natalia and what appeared to be his phone billing for a month, with a long list of numbers and names of people who had called him and whom he had called. He recognized some of the names his torturers were inquiring about and understood that they were among the individuals he had been in touch with on real estate business. “As a realtor, I talk to lots of people but I don’t remember their full names, just the properties and their [first] names. So naturally, the interrogators called out those names and said they were separatist something or other – and I had no idea who those people were before seeing that paper,” he said.⁸¹

According to Vadim, towards the end of his second day of detention, the guards took him to a small, dark shed. He had to crawl to get inside. The ceiling was so low he could not stand straight. The shed had a partition in the middle and there was another captive behind it. Vadim’s section of the shed had a bed in it, a slop bucket and a pail of water. The man behind the partition told Vadim that he had been there for two months already and that from what he could gather from overheard snatches of conversations between guards, they were being held in a Right Sector compound.

TRANSFER TO AN UNKNOWN LOCATION

The next day, Vadim and the other inmate were given some bread. Then, two gunmen came for Vadim, telling him to put the bag back on and to crawl out of the shed with his hands behind his head. They said they were transferring him “to another place,” and he “would live” provided he was “on his best behavior.”⁸²

They hid Vadim on the back seat of a car and drove for about ninety minutes. They brought him to a compound with lots of armed servicemen on the premises, and handed him over to the personnel based there. Vadim was marched into a basement, where he spent the next several weeks, handcuffed to the radiator by one hand. According to Vadim, the basement was bare, but he talked one of the guards into giving him a woolen blanket to sleep on. Guards took him to interrogations several times, and the interrogators beat him but were not as “vicious” as at his first place of confinement. They also asked him about his trip to Slovyansk, his connection to Pumpkin, his phone conversation with Natalia, his alleged

⁸⁰ Interview with Vadim, Donetsk, May 15, 2016.

⁸¹ Ibidem.

⁸² Ibidem.

collaborators, and where he was “hiding money and weapons.”⁸³ His interrogators used an electric shock device on him once but mainly resorted to kicks and punches.

Vadim's head was covered by a bag during interrogations and whenever the guards or other servicemen entered his cell. Often, he heard screams of other prisoners under interrogation. Sometimes, the guards brought food to him twice a day, sometimes only once a day and on a several occasions they left him without any food for a couple of days. Throughout his six-week confinement, despite his numerous requests, Vadim had only two opportunities to shower and shave. Based on snatches of conversations of the guards and the interrogators he overheard, Vadim believed that he was held in an SBU compound.

According to Vadim, in early morning of what proved to be the last day of his detention (May 22, 2015) three servicemen entered his cell. One of them, whom Vadim said seemed more senior, had a video camera. He told Vadim to take off the bag and say on camera that he had been “recruited by Natalia, the sister of Marina, code name Pumpkin, to carry out intelligence activities in Ukraine’s territory” and to call on the Ukrainian authorities to hold them both to account.⁸⁴ The more senior servicemen indicated that Vadim would be released if he cooperated. Vadim did precisely as asked. The more senior serviceman turned off the camera and instructed Vadim to put the bag back on. Then, the servicemen led him out of the building, hid him on the back seat of a car, and drove for a while, going through several checkpoints. Finally, they stopped and ordered Vadim to get out of the vehicle, lie flat on the ground with his face down and count to a hundred before getting up. They told him they had put 200 UAH and his passport in his pocket, so that he could make his way home.

A few minutes after they left, Vadim got up, finding himself next to a major road, and managed to flag a taxi. The driver told him it was nearly 8 a.m. on May 22 and he was close to Kurakhove. On May 23, he returned to Donetsk, where he was promptly detained by DNR security services on suspicion of having been recruited by Ukraine’s SBU.

⁸³ Interview with Vadim, Donetsk, May 15, 2016.

⁸⁴ Interview with Vadim, Donetsk, May 15, 2016.

4. DISAPPEARANCES, INCOMMUNICADO DETENTION, ILL- TREATMENT AND TORTURE IN SEPARATIST- CONTROLLED AREAS

OVERVIEW

Amnesty International and Human Rights Watch documented nine cases in which Russia-backed separatists held civilians in arbitrary, incommunicado detention for weeks or months without charge and, in most cases, subjected them to ill-treatment. Six of these cases are documented below.⁸⁵

Four of the six individuals were detained in 2015, two in early 2016. At the end of June 2016, two of the six individuals remained in custody, awaiting trial. The others were released, most of them in exchange for individuals held by Ukrainian authorities.

De facto authorities accused the six of, variously, spying for the Ukrainian government, possessing weapons, and membership of pro-Ukrainian “extremist” organizations.

The facilities where de facto authorities held these individuals include: in Donetsk, the former SBU building currently used by DNR defense structures; the headquarters of what is known as the Ministry of State Security (in the Russian abbreviation, MGB) in the former location of the Donetsk Administrative Appeals Court; the Donetsk State Financial Inspection office; and the Donetsk Tax Inspectorate; and in Luhansk, on the premises of the MGB (formerly the tax inspectorate building) and on the grounds of the local bullet factory.

After the DNR authorities or the LNR authorities finally “charged” the individuals, either on clearly fabricated evidence or without any tangible evidence at all, they were transferred to remand prisons, where some of

⁸⁵ The other three cases were not included in the report as in one of the victims asked not to publish his case summary for fear of reprisals and in the other two cases the alleged violations ended earlier than spring 2015.

them were allowed access to a lawyer. At the time of writing, two of the six were still detained in the Donetsk pre-trial detention facility, awaiting trials that, in the absence of a functional criminal justice system, stand little chance of being fair. One of the six, the leader of a Donetsk-based humanitarian organization, was expelled from DNR-controlled territory. Another was released without charge after over two months of detention. Two others were released by LNR as part of “prisoner exchange” with the Ukrainian government.

LACK OF ACCESS FOR INDEPENDENT MONITORS

In its most recent Ukraine report, the UN OHCHR spoke of new allegations of killings, arbitrary detention and torture in the areas controlled by DNR and LNR and deplored the de facto authorities’ refusal to grant the Office of High Commissioner on Human Rights “access to places of deprivation of liberty on the territories they control.”⁸⁶

Representatives of other international organizations, including the OSCE, also expressed to Amnesty International and Human Rights Watch their regrets about not having access to places of detention in DNR and LNR controlled territories. Nils Muižnieks, the High Commissioner for Human Rights of the Council of Europe, noted in his report of a visit in March 2016 that relevant interlocutors in Donetsk told him that the ““local legislation” does not at present allow for this kind of supervision of the places of detention.”⁸⁷ As of the end June 2016, the ICRC also had no access to places of detention in DNR and LNR.

LOCAL REGULATIONS GOVERNING THE DETENTION OF CRIMINAL SUSPECTS IN DNR AND LNR

The de facto authorities in DNR have issued regulations that delegate powers of detention on a variety of grounds to locally-created structures. For example, a special DNR cabinet decree allows the MGB to hold individuals for up to thirty days without charge.⁸⁸ In some of the cases documented below, Amnesty International and Human Rights Watch reviewed materials—letters from the prosecutor’s office and the like—that referred specifically to DNR Cabinet Decree #34 , of August 8, 2014 “On emergency measures aimed at protecting the public from banditry and other manifestations of organized crime.”⁸⁹ Also, a DNR law “On the Ministry of State Security” states that this agency may administratively detain people who try to enter “specially protected territories with secure facilities, restricted [areas] and other protected objects, and check identity papers, demand explanations, conduct a body search, check and confiscate personal belongings and documents.”⁹⁰

In LNR, the work of security services is regulated by a special decree entitled “Temporary Regimen for the Work of State Security Agencies in the Luhansk People’s Republic,” issued by the de facto head of the self-proclaimed republic, which gives the local MGB overwhelmingly broad powers and authority.⁹¹

Numerous interlocutors in the DNR told Amnesty International and Human Rights Watch that the MGB is “the most powerful and the most feared organization,” which “operates without any checks and balances.”⁹²

⁸⁶ Report on the human rights situation in Ukraine 16 February to 15 May 2016.

⁸⁷ Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe Following His Visit to Ukraine from 21 to 25 March 2016; Strasbourg, 11 July 2016, CommDH (2016)27.

⁸⁸ The chief of staff for the DNR ombudsperson confirmed the existence of this decree. HRW/AI interview date.

⁸⁹ See, for example, the case of Igor Kozlovsky in this section of the report. Amnesty International and Human Rights Watch were unable to find the decree’s full text – only references to it in oral and written form.

⁹⁰ Article 17 “On the rights of MGB’ agencies,” clause 19, see <http://dnrsovet.su/zakon-dnr-o-mgb/> (accessed July 8, 2016).

⁹¹ Temporary Regimen for the Work of State Security Agencies in the Luhansk People’s Republic, *Head of the Luhansk People’s Republic*, January 31, 2015,

https://mgblnr.org/content/uploads/docs/prilozhenie_ukaz_37_01_01_15_31012015.pdf (accessed July 8, 2016).

⁹² Interview with N, resident of Donetsk, (name withheld), Donetsk, May 17, 2016. Also, interviews with two officials from different international organizations working in DNR-controlled territory, May 14, 2016 (names of organizations and interview venues withheld).

Amnesty International and Human Rights Watch heard a similar assessment of LNR's MGB from residents of Luhansk.⁹³

ABUSES IN DNR

YURI (REAL NAME WITHHELD; LOCATION OF DETENTION: DONETSK)

Yuri, a 23-year-old blogger, arrived in Makiivka from Kyiv on December 26, 2015, to spend the winter holidays with his father and mother. A former resident of Makiivka, Yuri had moved to Kyiv in 2014, as the conflict was beginning, to continue his higher education there. MGB servicemen detained him on January 4, 2016, at his parents' apartment in Makiivka. He spent the next two months in incommunicado detention at the MGB headquarters in Donetsk, and in early March was "charged" with illegal possession of weapons, based on apparently fabricated evidence. As of the end of June 2016, he was being held in Donetsk remand prison, pending "trial." He faces up to four years of imprisonment.⁹⁴

Yuri's father told Amnesty International and Human Rights Watch researchers that his son was home alone when three MGB officers came for him at around 3 p.m. on January 4:

"My wife returned home at around 3.30 or 4 p.m. and saw our desktop computer in the hall, next to the door. She entered the living room, and there was our son with three armed servicemen. One was in fatigues, his face concealed by a black mask. The other two were in civilian clothing. Our son's t-shirt was torn and his face bruised. The servicemen said they were from the MGB. They neither provided any form of identification nor gave their names. They said that they came to take Yuri to their quarters for a conversation."⁹⁵

According to Yuri's father, MGB officers searched the apartment using two neighbors as witnesses to the search. Yuri's father arrived at around 5 p.m. when the search was almost over. He and his wife signed a search protocol which indicated that the officers were removing their family desktop computer, Yuri's cell phone, and several Ukrainian flags Yuri kept in the apartment. The officials did not provide a copy of the protocol. They said that the flags were "bad news" and escorted Yuri downstairs. His mother begged them to allow her to accompany her son, but the officers refused.⁹⁶

Yuri's parents followed the MGB officials to Donetsk in another car, until the MGB vehicle entered the gates of the MGB headquarters in central Donetsk.

At around 7 p.m., they saw their son being led across the yard by two armed officials. Yuri was handcuffed and a dark hood covered his head. The parents asked the guard at the gate for information. He eventually told them that they should leave because their son would be "held in custody for the next three days."

Three days later, MGB officers told the parents they were planning to hold Yuri for another week. They allowed food parcels but provided no information as to the grounds for Yuri's detention. On January 11, his parents filed a petition with the DNR prosecutor's office asking for an inquiry into the detention of their son. They also met with a representative of the DNR ombudsperson's office who told them the ombudsperson could not be of any help in this case as "the laws of wartime allowed the MGB to hold people without charge for one month or even up to two if necessary."

Yuri's parents continued to visit MGB headquarters every three days, bringing food parcels for their son and pleading for information. They repeatedly asked MGB officials to let them get a lawyer for their son but their requests were denied, as were their requests to see him.

⁹³ Interviews with X and Z (names withheld), Luhansk, May 19, 2016.

⁹⁴ Interview with Yuri's father, Makiivka, May 14, 2016.

⁹⁵ Ibidem.

⁹⁶ Ibidem.

On February 11 they received a letter from the DNR prosecutor's office saying that Yuri had been detained by MGB "on suspicion of affiliation with an extremist organization."⁹⁷ The parents asked MGB officials to confirm this but they refused to provide any information.

Finally, on February 23, Yuri's parents received a phone call from an MGB investigator who said that Yuri was suspected of being a member of Svoboda party (a right-wing party registered in Ukraine) and of unlawful possession of weapons. The investigator explained that when they had searched Yuri upon his arrival at MGB headquarters they found two hand grenades in his jacket pocket, which he had supposedly brought from Kyiv. He also emphasized that Yuri had confessed to the possession of the said grenades.⁹⁸

According to his parents, Yuri was wearing a t-shirt at home, and he put on his jacket only when leaving the apartment with MGB officials after the search, during which no weapons were found. As the grenades were supposedly "found" in the pocket of that jacket, and since it is very unlikely that Yuri would have chosen to wear a jacket to MGB headquarters if it had grenades in the pocket, the MGB's version of events seems highly questionable. The fact that Yuri confessed to the possession of those grenades gives grounds for concern that the confession may have been coerced under duress, for example through threats or even torture.

On March 2 or 3 the de facto authorities brought charges against Yuri based on his written confession and the supposed physical evidence (i.e. the two grenades) and transferred him to the Donetsk remand prison. Once registered there, Yuri finally got access to a lawyer hired by his parents. The lawyer told the parents that the authorities dropped the charge of membership in an extremist organization and Yuri would go on trial solely for possession of weapons. She also confirmed that Yuri had signed a confession of weapons possession and was not planning to withdraw it. Despite numerous requests by Yuri and his parents, the prison officials have not allowed a family visit. At the time of writing Yuri's trial was scheduled for later in the summer at the Makiivka court.⁹⁹

⁹⁷ The letter was examined by Amnesty International and Human Rights Watch.

⁹⁸ Yuri's lawyer later confirmed to his parents that Yuri had confessed to possession of the grenades.

⁹⁹ Interview with Yuri's father, Makiivka, May 14, 2016.

IGOR KOZLOVSKY (LOCATION OF DETENTION: DONETSK)

Igor Kozlovsky, 63, spent a month in incommunicado detention following his arbitrary detention on January 27, 2016 and is currently facing charges of illegal weapons possession and, possibly, of espionage.¹⁰⁰ Before his arrest he taught anthropology and humanities at Donetsk University.

Dr. Kozlovsky was known for his pro-Ukrainian views and for having been an active participant in the Donetsk ecumenical prayer marathon for united Ukraine in 2014. At the time of his detention Dr. Kozlovsky was working on an article about the influence of the armed conflict on religious communities in separatist controlled territories in eastern Ukraine, with a particular focus on the persecution and consequent exodus of minority groups.

On January 27, 2016 between 2 and 3 p.m., MGB personnel surrounded Kozlovsky near his apartment building in Donetsk, threw him into a jeep and drove off. According to eyewitnesses, six officers stayed behind and forcibly entered Kozlovsky's apartment.

Dr. Kozlovsky's son, Svyatoslav (born 1979), who has severe and multiple disabilities, including Down Syndrome and physical paralysis, was alone when MGB personnel entered the apartment. According to Dr. Kozlovsky's spouse, Valentina Kozlovskaya, Svyatoslav was unable to move and may not have been able to fully understand what was happening. He still experiences trauma and often recalls how "bad men came and made noise."¹⁰¹

Without any regard for Svyatoslav, MGB personnel proceeded to search the apartment. Dr. Kozlovsky's spouse, who was in Kyiv on business, eventually became worried that Dr. Kozlovsky was not answering her phone calls and called a distant relative, asking her to check the apartment. MGB personnel were still at the apartment when the relative arrived at around 10 p.m. They let her in and allowed her to attend to Svyatoslav's health needs. They did not introduce themselves but told the woman that Dr. Kozlovsky had been detained.

Valentina Kozlovskaya filed an inquiry with local police immediately upon her return to Donetsk on the evening of January 28, but police told her that the detention "bore the hallmarks of the MGB" and advised her to speak to the MGB.¹⁰² In the morning, she went to the MGB compound, where MGB personnel confirmed that Dr. Kozlovsky was in their custody and informed her that a decision had been made to detain him for 30 days. They provided no information as to the reasons behind the detention and did not allow her to see her husband or pass on food and clothing.

Valentina Kozlovskaya filed an inquiry with MGB regarding her husband's detention and the unlawful search (MGB personnel had seized all electronic devices, some of the valuables, and most of the documents kept by the Kozlovskys in the apartment). The next day, she also filed a complaint with the office of the DNR ombudsperson. For the next two days she made repeated inquiries with the Donetsk remand prison, hoping that her husband would be transferred there.

She also gave an interview to Russian independent Internet-based Dozhd TV.¹⁰³

On January 31, she went back to the MGB, where an MGB officer told her that giving interviews was "a bad idea." He said Dr. Kozlovsky was still in their custody and was being treated well. He told Valentina Kozlovskaya that Dr. Kozlovsky had been detained on account of his connections with "Ukrainian nationalists" and that he had posted some "problematic" comments on social media. He agreed to accept a

¹⁰⁰ Interview with Igor Kozlovsky's spouse, Valentina Kozlovskaya, Donetsk, May 15, 2016. See also "Insurgents in Minsk claimed that UN employee Suprun "is charged for war crimes," and historian Kozlovsky is "a spy" [Боевики в Минске заявили, что сотрудник ООН Супрун "осужден за военные преступления", а историк Козловский – "шпион"]," Segodnya, June 15, 2016, <http://www.segodnya.ua/politics/pnews/boeviki-v-minske-zayavili-chto-sotrudnik-oon-suprun-osuzhden-za-voennye-prestupleniya-a-istorik-kozlovskiy-shpion-i-delal-boepripasy-725040.html> (accessed July 8, 2016).

¹⁰¹ Ibidem.

¹⁰² Ibidem.

¹⁰³ "Prominent historian is arrested in "DNR." His wife gave all the details [В «ДНР» схватили известного историка. Жена рассказала подробности]," Dozhd TV, January 31, 2016, <https://tvrain.ru/articles/zhen402745/> (accessed July 8, 2016).

parcel with food and clothing for Dr. Kozlovsky. Valentina Kozlovskaya was denied access to her husband for next four weeks, and he was unable to speak to a lawyer.¹⁰⁴

Dr. Kozlovsky was transferred to a remand prison only on February 26, a month after his detention, and charged with membership in an extremist organization and weapon possession. At this time his wife was able to hire a lawyer to represent him. One of Dr. Kozlovsky's cellmates had a cell phone, so he managed to contact his wife. He told her the MGB kept him in a basement cell in "awful conditions" with only a mattress on the floor and no other conveniences. The guards brought food to him twice a day and took him to the toilet twice a day. He also said that his leg had been "hurt" and was "healing slowly." According to his wife, he had been in good health before his detention, with no leg injury, and therefore, the injury to his leg could only have occurred during his time in the hands of MGB personnel.

Soon after her husband's transfer to the remand prison, Valentina Kozlovskaya received her first formal response from MGB regarding her inquiry. The letter, dated February 26 (the day of Kozlovsky's transfer) and signed by the "acting minister for state security", stated that Dr. Kozlovsky "had been arrested by DNR's state security officials through administrative arrest procedure based on paragraphs 1, 3, and 5 of article one, part one, of the August 8, 2014 Decree by DNR Cabinet 'On emergency measures to protect the public from banditry and other manifestations of organized crime.'"¹⁰⁵

On March 11, Valentina Kozlovskaya also received a response from the DNR administration in response to her petition to the head of DNR, which informed her that on January 27 Dr. Kozlovsky had been taken under "administrative arrest" for 30 days "on suspicion of [unspecified] crimes provided for by DNR Criminal Code" also indicated that the "administrative arrest had been carried out in line with DNR Cabinet Decree 'On emergency measures...'" The letter also said that on February 26, when his 30 days of "administrative arrest" were about to expire, Dr. Kozlovsky was charged with unlawful acquisition and/or possession of weapons "under Article 256 of DNR Criminal Code."¹⁰⁶

In April 2016, Valentina Kozlovskaya, who maintained correspondence with DNR prosecutor's office regarding her husband's case, received a letter from prosecutor's office informing her that the charge of membership in an extremist organization had been dropped but the weapon possession charge remained.¹⁰⁷ In June, when discussing exchanges of prisoners with Ukrainian officials at a meeting of the humanitarian sub-group of the tripartite contact group on Donbass at Minsk, DNR representatives mentioned Igor Kozlovsky, saying he was a Ukrainian "spy" and a "weapons-manufacturer."¹⁰⁸ It is likely that the DNR authorities continue to hold Dr. Kozlovsky as a bargaining chip for exchange purposes.

As of the end of June, Dr. Kozlovsky remained in the Donetsk remand prison. His wife quit her job, to become the sole caregiver for their son.¹⁰⁹

MARINA CHERENKOVA AND RESPONSIBLE CITIZENS GROUP

Marina Cherenkova is a leading activist and a founding member of Responsible Citizens, a humanitarian group created by activists in DNR-controlled territory in 2014 to coordinate the distribution of humanitarian aid to civilians affected by the war. Operating out of Donetsk, the group established links with Ukrainian and international aid organizations, which made DNR authorities increasingly suspicious.

¹⁰⁴ Interview with Igor Kozlovsky's spouse, Valentina Kozlovskaya, Donetsk, May 15, 2016.

¹⁰⁵ The document also indicated that Dr. Kozlovsky's administrative arrest had been endorsed by DNR chief military prosecutor and that MGB officials had carried out a search at Dr. Kozlovsky's place of residence, supposedly "in presence of witnesses" and with "search protocols duly filled out" (letter on file with Amnesty International and Human Rights Watch).

¹⁰⁶ The letter is on file with Amnesty International and Human Rights Watch, along with other case-related correspondence.

¹⁰⁷ The letter is on file with Amnesty International and Human Rights Watch, along with other case-related correspondence.

¹⁰⁸ "Insurgents in Minsk claimed that UN employee Suprun "is charged for war crimes," and historian Kozlovsky is "a spy" [Боевики в Минске заявили, что сотрудник ООН Супрун "осужден за военные преступления", а историк Козловский – "шпион"]," *Segodnya*, June 15, 2016, <http://www.segodnya.ua/politics/pnews/boeviki-v-minske-zayavili-chto-sotrudnik-oon-suprun-osuzhden-za-voennye-prestupleniya-a-istorik-kozlovskiy-shpion-i-delal-boepripsy-725040.html> (accessed July 8, 2016).

¹⁰⁹ Interview with Valentina Kozlovskaya, Donetsk, May 15, 2016.

In early 2016, MGB detained and expelled five founding members of Responsible Citizens group – Marina Cherenkova, Enrique Menendez, brothers Evheniy and Dmitry Shibalov, and Olga Kosse – from DNR-controlled territory. While MGB accused the activists of providing intelligence “to western security services,” none of the five was charged with any crime.¹¹⁰

On January 29, 2016, the MGB detained Cherenkova, held her for 24 days, and then expelled her. The other three men were expelled on February 2, right after MGB investigators interrogated them, and Olga Kosse was expelled several days later.¹¹¹

In the evening of January 29, MGB officers took Cherenkova from her home to the MGB headquarters. She managed to send a text message to her colleagues that the MGB was detaining her. For the next three days she was forcibly disappeared, as MGB held her at their premises but denied she was there. Olga Kosse explained: “After we got [Marina’s] text message, we immediately went to the MGB building but they denied that they were holding her, so we were looking everywhere...”¹¹²

According to Kosse, on February 2, apparently on MGB orders, Cherenkova called Menendez, the Shibalov brothers, and her, and told them to come to MGB without providing any additional information:

“ We needed to know what was going on with Marina, so we all did as we were told. They [MGB officials] brought us to the fourth floor of the building put me in a room by myself and the others into another room. An investigator who introduced himself as Vadim Vasilyevich took my phone and started going through its contents. He asked me about our international partners, our contacts in DNR, what I think of the conflict. Then, a second investigator, who they called Zampolit [a Soviet term for deputy commander in charge of ideology], started threatening me and accusing me of espionage, conspiracy, of preparing another Maydan [anti-government protests].”¹¹³

In the other room, MGB “investigators” also bombarded Menendez and the Shibalov brothers with questions about their international contacts and accused them of espionage. After about seven hours of interrogation, the investigators told the three that they were being “deported from DNR.” MGB personnel drove the three men to their respective homes, gave them 15 minutes to collect their belongings, then took them to the Oleniivka checkpoint and told them to cross to government-controlled territory and never return to DNR.¹¹⁴

Meanwhile, Olga Kosse was allowed to return home. One of the MGB “investigators” told her that Cherenkova had been placed under “administrative arrest” for 30 days and allowed her to pass on to her colleague packages with food and clothing.¹¹⁵ On 12 February, however, when Kosse called the investigator to inquire if she could bring another package to the MGB compound he agreed to accept the package but told Kosse she would be deported on the same day:

“ I went to the MGB [compound] with another package for Marina. Then, some men in uniforms with automatic rifles, whom I had never seen before, escorted me home, allowed me to pack my belongings, and drove me to the Oleniivka checkpoint. They didn’t show any documents. At the checkpoint, they ordered me to cross [to the government controlled side] and said I was “on the list” and therefore, should make no attempts to come back.”¹¹⁶

¹¹⁰ “DNR MGB reports about its decision to deport arrested head of the “Responsible Citizens” to Ukraine [Сообщение МГБ ДНР о решении передать украинской стороне задержанную главу ОО «Ответственные граждане»],” Donetsk News Agency, February 22, 2016, <http://dan-news.info/official/soobshhenie-mgb-dnr-o-reshenii-peredat-ukrainskoj-storone-zaderzhannuyu-glavu-oo-otvetstvennye-grazhdane.html> (accessed July 8, 2016).

¹¹¹ Telephone interview with Enrique Mendez, February 5, 2016; interview with Olga Kosse, Kyiv, April 29, 2016; telephone interview with Marina Cherenkova, May 10, 2016.

¹¹² Interview with Olga Kosse, Kyiv, April 29, 2016.

¹¹³ Ibidem.

¹¹⁴ Telephone interview with Enrique Mendez, February 5, 2016.

¹¹⁵ This confirmation of Cherenkova’s “arrest” effectively marks the end of her enforced disappearance, which was therefore just over three days in duration.

¹¹⁶ Interview with Olga Kosse, Kyiv, April 29, 2016.

Cherenkova spent the next ten days in detention at the MGB compound. On 22 February, MGB personnel expelled her from DNR-controlled territory in the same manner as her colleagues. In a statement on Cherenkova's "deportation," MGB emphasized that "as a gesture of good will...before the expiration of her term of administrative arrest and without opening a criminal case against her."¹¹⁷ The statement also said that "prompt reaction by Ukraine and US representatives to Cherenkova's arrest serves to confirm that western security services paid special attention to the activities of Cherenkova and her organization" and that she was "used by foreign security services to undermine the security of the [Donetsk People's] Republic."¹¹⁸

Responsible Citizens had to discontinue its work despite the considerable humanitarian needs of the population.¹¹⁹ In April 2016, the group resumed humanitarian aid distribution, but only in government-controlled territory of eastern Ukraine.

VADIM (REAL NAME WITHHELD, LOCATION OF DETENTION: DONETSK)

Vadim is the 39-year old realtor from Donetsk whose detention and torture ordeal in government-controlled territory is described above. On May 25, 2015, DNR de facto authorities detained him as soon as he returned home following his release by the Ukrainian side, and he spent over two months in incommunicado detention in an unofficial prison maintained by DNR in the former SBU building in central Donetsk, on suspicion of having been recruited by Ukraine's SBU while in captivity in government-controlled territory. He was released on August 3, 2015. Representatives from the DNR Defense Ministry's intelligence unit and the MGB were involved with his prolonged arbitrary detention, which included ill-treatment and beatings.¹²⁰

INCOMMUNICADO DETENTION AND TORTURE

On May 24, 2015, an acquaintance of Vadim's in Donetsk who was affiliated with the intelligence unit of DNR's Ministry of Defense told him that DNR intelligence officers needed to de-brief him the next day, supposedly "a standard procedure for all those released from Ukrainian captivity."¹²¹ Vadim complied, forgoing a doctor's appointment to have a thorough check-up and get a medical record of his torture-related injuries.

On May 25, Vadim arrived at the former SBU building in central Donetsk. A DNR intelligence investigator, who introduced himself as "Dmitry," asked him a few questions about his experience in captivity and told him he would be taken into custody. He provided no reasons behind this decision.

Vadim was locked in a small cell with three other cellmates, one of whom had a phone on him and let Vadim make a quick call to his mother. Immediately afterwards, several armed men ran into the room screaming, "What the... do you think you're doing?" They kicked Vadim with booted feet and punched him several times.¹²²

Although Vadim had no access to a lawyer and was not allowed any contact with the outside world, the guards at the gate of the building accepted food parcels for him from his mother. The cell was approximately 3.5 square meters in size and accommodated up to four inmates. According to Vadim, some of his cellmates would stay there for a few days, others for two or three weeks; one had already been there for several months (since before Vadim's detention). Among his cellmates were other suspected "spies," young men caught drunk after curfew, and an elderly man who left his house after dusk without an ID.

For the next month, the guards took Vadim to several interrogations carried out by the same investigator, Dmitry, and several other armed officials in camouflaged uniforms. The interrogators accused Vadim of

¹¹⁷ "DNR MGB reports about its decision to deport arrested head of the "Responsible Citizens" to Ukraine [Сообщение МГБ ДНР о решении передать украинской стороне задержанную главу ОО «Ответственные граждане»]," Donetsk News Agency, February 22, 2016, <http://dan-news.info/official/soobshhenie-mgb-dnr-o-reshenii-peredat-ukrainskoj-storone-zaderzhannuyu-glavu-oo-otvetstvennye-grazhdane.html> (accessed July 8, 2016).

¹¹⁸ Ibidem.

¹¹⁹ See, for example, Tanya Lokshina (Human Rights Watch), "War in Eastern Ukraine Brings Lasting Misery for Elderly" commentary, Moscow Times, May 27, 2016, <https://www.hrw.org/news/2016/05/27/war-eastern-ukraine-brings-lasting-misery-elderly>.

¹²⁰ Interview with Vadim, Donetsk, May 16, 2016.

¹²¹ Ibidem.

¹²² Ibidem.

having been recruited by Ukrainian forces to spy on DNR forces. According to Vadim, one of them, whom the others addressed as Denis, was particularly vicious. He screamed at Vadim, punched him on the head, kicked him, tore a chain with a cross off his neck, and threatened to kill him.

Vadim told our researchers:

“ I kept asking them to let me undergo a medical check-up. I explained that it was my intention to file a complaint against Ukraine with the European Court of Human Rights and I needed a full medical record of my injuries, but they would not listen... They kept accusing me of having been recruited as a spy and spotter for Ukraine. ‘Stop spinning your tales! Why would they return your documents and even give you transportation money, if they haven’t recruited you? Why would they let you go at all? You should better confess if you want to live!’ The physical abuse and the psychological pressure were pretty bad.” ¹²³

Towards the end of June, an investigator from the DNR MGB nicknamed Grandpa [Ded in Russian] interviewed Vadim asking him the same questions as the previous interrogators. When Vadim asked how much longer he would be in custody, the investigator yelled, “As long as necessary! Shut your trap!” Vadim mumbled a sarcastic comment, and the investigator threw himself on Vadim, kicking and punching him and threatening to kill him.

On July 31, another detainee with a phone on him moved into Vadim’s cell. Vadim called his mother, the first contact he had with family or loved one for nearly two months. He found out that unidentified armed men in camouflaged uniforms had searched his office following on his detention and seized all the electronic equipment there.

Vadim’s mother also told him that she had promptly filed inquiries about his detention with the DNR ombudsperson’s office, the DNR prosecutor’s office, and the DNR Ministry of State Security. The latter got back to her with a written response, dated July 14, confirming that Vadim “is held at 62 Schors St. in Donetsk without explanation as to the reasons behind [his] detention.” The letter, which is now on file with Human Rights Watch along with other case-related documents, also indicated that MGB had forwarded the case file to the DNR military prosecutor’s office “for a procedural decision to be made.” Vadim’s mother also wrote the DNR military prosecutor enclosing the MGB letter and asking for her son’s release.

RELEASE AND AFTERMATH

On the evening of August 1, a female MGB investigator met with Vadim, and told him she got his situation “sorted out” and he was free to go. On August 3, Vadim had his check-up at a hospital in Donetsk. By that time his bruises (those inflicted by Ukrainian servicemen and those inflicted by DNR investigators) had cleared up but an x-ray confirmed that two fingers on his left hand had been fractured in recent past.¹²⁴

In December 2015, Vadim lodged an application with the European Court on Human Rights alleging arbitrary detention and cruel and degrading treatment by both Ukrainian forces and the de facto DNR authorities. The case is pending.¹²⁵

ABUSES IN LNR

ANATOLY POLYAKOV (LOCATION OF DETENTION: LUHANSK)

Anatoly Polyakov, 43, a Russian citizen and vocal critic of Vladimir Putin, travelled to Ukraine in 2014 to support the EuroMaydan protests in Kyiv. After the protests ended, he organized anti-war protests in Russia, and in Ukraine participated in a volunteer organization helping civilians affected by the conflict. Unknown

¹²³ Interview with Vadim, Donetsk, May 16, 2016.

¹²⁴ Copies of the medical documents are on file with Amnesty International and Human Rights Watch.

¹²⁵ Amnesty International and Human Rights Watch reviewed the application in May 2016, examined the supporting documents, and discussed the case with Vadim’s lawyer.

individuals seized Polyakov in March 2015 in Luhansk and he was held in secret detention for more than nine months, during which he was tortured.¹²⁶

INITIAL DETENTION

Polyakov arrived in Luhansk on 12 March 2015, to facilitate a prisoner exchange between LNR and Ukrainian authorities and organize a transfer of children for medical care to government-controlled territories. He was in LNR at the invitation of representatives of Igor Plotnitski, the de facto head of LNR. On 14 March, he was scheduled to meet with Plotnitski, but instead was arrested and spent the next nine months in captivity. He told our researchers:

“ I was heading to my meeting [with Plotnitsky] when someone hit me on the back of the head. I lost consciousness. When I came to, I had a bag on my head, and my hand were handcuffed and locked to a [pipe], and my legs were locked to it by another pair of plastic hand-cuffs, so I could only sit in a crouched position. On that first day, no one talked to me or asked me anything. The next day, interrogators hit me on the head, ears and crotch, talking in Ukrainian, which I don’t speak, and hitting me harder when I didn’t understand.”¹²⁷

Initially, Polyakov’s captors told him that they were pro-Ukrainian saboteurs and that they wanted a U.S. \$100,000 ransom to release him. They questioned him about his Ukrainian contacts, especially in eastern Ukraine. Polyakov, however, suspected that these men were in fact from LNR security services who resorted to this farce to make him turn over his contacts.¹²⁸

These captors held Polyakov for a month in the basement of an unidentified facility, repeatedly interrogated him and subjected him to vicious beatings and a mock execution. He was often allowed no more than 15-20 seconds in the toilet. At night, his captors removed the cuffs from his legs, and he could sleep on his side while still chained to the pipe by his hands. In the morning, someone would cuff him back in a sitting position.

After about a month a guard told Polyakov that they were going to release him because “people were looking” for him. They put him in a car, drove for several minutes, and threw him out in the street, with the bag still on his head and his hands and legs still cuffed.

SECRET DETENTION AT BULLET FACTORY

Several men who said they were LNR fighters immediately picked up Polyakov. They accused him of being a Ukrainian spy and took him to another basement prison facility where he would later be subjected to torture during interrogations, including beatings and a mock execution:

“ They told me that I’m an “information soldier” because I participated in the EuroMaydan and accused me of being an enemy because of my protest activities in Russia. They said that I’m against Putin, so I’m a criminal. They made me write a will and then carried out a mock execution. They told me to write a note to my family, then took me out into the yard, I could hear them recharging, then a bullet swished close to my ear. I was deafened by the shot.”¹²⁹

Polyakov was not totally blinded by the bag his captors kept on his head most of the time. After his release months later, having spoken to other former LNR prisoners and residents of Luhansk, Polyakov came to a firm conclusion that the basement where he had spent his second month in captivity is located on the premises of the Lenin bullet factory in Luhansk which is used as a military base by LNR forces.

¹²⁶ Interview with Anatoly Polyakov, Kyiv, April 26, 2016.

¹²⁷ Ibidem.

¹²⁸ About a month later, when Polyakov was in custody of the LNR MGB he mentioned to the interrogator that the Ukrainian-speaking torturers were drunk. The MGB interrogator exclaimed, “This is not true! I know it wasn’t the case.” His spontaneous reaction led Polyakov to believe that the MGB interrogator knew them and most likely, they were part of the same agency.

¹²⁹ Interview with Anatoly Polyakov, Kyiv, April 26, 2016.

After Polyakov had spent a month at the bullet factory, Boris Petrenko, deputy head of the MGB investigative agency told Polyakov he was being charged with espionage and attempted subversion against LNR. Petrenko then took Polyakov to the local MGB headquarters in the former Ukrainian Tax Inspectorate building in Luhansk. There, Petrenko handed Polyakov a “confession” to sign, in which Polyakov was described as working for the Ukrainian Defense Ministry, planning “terrorist attacks” in LNR and child kidnappings. After Polyakov refused to sign the documents, he was moved from the MGB premises to a remand prison in Luhansk where he shared a cell with 15 detainees, all of them local residents or separatist fighters accused of looting or petty crimes. Polyakov spent a month there, without being interrogated or subjected to ill-treatment. Then, MGB officers returned for Polyakov and without any explanation, moved him to a basement cell on the MGB premises. Polyakov described his protracted confinement:

“ The room was very dusty and dark. Sometimes it got so hot, that I had to lie down next to the door, gasping for a breath of air. They never took me out for a walk. My health severely deteriorated because of the earlier beatings— I had several inflamed wounds, with pus coming out of them, but they would not let me see a doctor. Sometimes they brought visitors and paraded me in front of them – look what we have here, the fifth column, a EuroMaydan fighter!”¹³⁰

On 29 July 2015, his captors briefly transferred Polyakov from the MGB basement back to the Luhansk remand prison and told him that he was to be exchanged. That exchange was suspended however,¹³¹ and they returned Polyakov to the MGB basement for another five months before his release on December 29, 2015, most likely in exchange for some captured pro-Russian separatists.

MARIYA VARFOLOMEeva (LOCATION OF DETENTION: LUHANSK)

Mariya Varfolomeeva, 31, a freelance journalist from Luhansk, was arrested by LNR security personnel in January 2015 and held for 14 months in incommunicado detention, first on the premises of LNR’s Ministry of Internal Affairs, then on the premises of LNR MGB headquarters before being transferred to the Luhansk remand prison on charges of being a member of an illegal armed group. She was released as part of an exchange with the Ukrainian side in March 2016. Varfolomeeva’s captors repeatedly threatened her with beatings and electric shocks, pushed her roughly, manhandled and harassed her.¹³²

On January 9, 2015, LNR security officers caught Varfolomeeva photographing a residential building used by separatist fighters in Luhansk. They accused her of being an artillery spotter for Ukraine, forced her into a car, took her to the building occupied by LNR’s Ministry of Internal Affairs, and kept her there for the night. She recounted:

“ When they first detained me, they took me to the basement of the Interior Ministry. There, the interrogators showed me batons and electric shocker devices and threatened to use them on me if I don’t tell them what they want to hear. They asked who sent me and how long was I working for the Ukrainians. One of them said that he’d love to hit me if not for me being so thin that I could break.”¹³³

On January 10, Varfolomeeva’s captors moved her to the MGB building in Luhansk (former Tax Inspectorate building). The guards tried to reassure her that “they don’t torture people there” but in the hall, she saw a man escorted from an interrogation, his face “all bloody and bruised.” During the several weeks that she spent in a basement cell, other inmates described to her how they were tortured by MGB officers who applied electric wires to their ear-lobes, saying in jest they were making a “a call to [president] Obama.”¹³⁴

On March 27, LNR MGB announced through its website that a “criminal investigation” into Varfolomeeva’s actions was completed and it “fully proved” that she was a member of Right Sector and a spotter for

¹³⁰ Interview with Anatoly Polyakov, Kyiv, April 26, 2016.

¹³¹ During the failed exchange operation, when all the individuals meant for exchange by LNR were gathered in one place, Polyakov saw Mariya Varfolomeeva, whose case is also documented in this report. He told our researchers that according to him she was deeply stressed and worn out, and the guards constantly harassed her and called her a “murderess.”

¹³² Interview with Mariya Varfolomeeva, Kyiv, June 13, 2016.

¹³³ Ibidem.

¹³⁴ Ibidem.

Ukrainian forces. Around that time, MGB personnel told Varfolomeeva she would be offered for exchange. They also filmed her interrogation and provided the video to Russian TV station Lifenews and LNR television.¹³⁵

Varfolomeeva spent the next year in a women's cell of the Luhansk remand prison. Most of the time, there were no other female detainees, and Varfolomeeva was on her own. During that time, she was allowed no contact with the outside world, though she regularly received parcels with food and clothing from her father. To the best of her knowledge, LNR authorities never transferred her case to a court. Instead, they sent her on several failed exchanges (on 29 July and 19 November 2015, and on 26 February 2016) and finally released her in exchange for one captive held by Ukrainian authorities on March 3, 2016.¹³⁶

¹³⁵ See, for example, Life News, "Masha Varfolomeeva, hostage of the LNR insurgents, asks for help [Маша Варфоломеева, заложница боевиков ЛНР, просит помощи]," May 19, 2015, video clip, YouTube, <https://www.youtube.com/watch?v=zcMSfWfNifM> (accessed July 8, 2016) and News Front, "Right Sector spotter Maria Varfolomeeva – who is she? [Наводчица из «Правого сектора» Мария Варфоломеева - кто она на самом деле?]" May 22, 2015, video clip, YouTube, https://www.youtube.com/watch?v=NNDb_we_kWA (LNR) (accessed July 8, 2016).

¹³⁶ Interview with Mariya Varfolomeeva, Kyiv, June 13, 2016.

RECOMMENDATIONS

TO THE GOVERNMENT OF UKRAINE

Amnesty International and Human Rights Watch call upon the Ukrainian government to:

- Take immediate steps to end any and all enforced disappearances, including unacknowledged detentions for any period of time and irrespective of who is the detaining body;
- Investigate all allegations of enforced disappearances and bring those responsible for such crimes to justice through fair trials;
- Conduct immediate, effective and impartial investigations of the allegations of unacknowledged detention of individuals at the SBU facilities in Kharkov, Kramatorsk, Mariupol, and Izyum during the whole of the period since the beginning of the conflict in eastern Ukraine in April 2014;
- Take immediate steps to ensure that no individual held by any law enforcement and security agency and other official forces is subjected to torture or other ill-treatment;
- Undertake prompt, thorough and impartial investigations into all well-founded allegations of torture or other ill-treatment, report publicly on the findings of those investigations, and bring all those responsible for violations against detainees to justice through fair proceedings;
- Immediately end all practices of arbitrary detention, including detention by members of paramilitary forces and by members of any government agencies which do not have the authority to hold individuals in custody, detention of individuals outside of officially designated places of detention, and incommunicado detention;
- Investigate all credible allegations of arbitrary detention by forces and agencies under their control; identify and, where evidence permits, prosecute in conformity with international standards of fairness all those implicated in such practices, including law enforcement and military officials who condone, or are complicit in, such practice;
- Suspend officials implicated in any of the above unlawful practices, including commanding officers suspected of condoning or tolerating such practices; prevent these officials from having any further contact with detainees until investigations have been completed; where there is sufficient evidence that these officials have committed a crime under international law or other serious violation of human rights, prosecute them in conformity with fair trial standards;
- Immediately reveal, or promptly establish, the fate and whereabouts of all missing persons, and specifically those who have been allegedly taken into custody or otherwise forcibly disappeared by members of forces under the Ukrainian government's control;
- Either charge any individual in the custody of the Ukrainian government with an internationally recognized crime, in which case give them an immediate access to lawyers of their choice and inform their family accordingly, or immediately release them;
- Introduce and consistently enforce, with immediate effect, a policy of "zero tolerance" of torture throughout the criminal justice system;

- In all remand hearings and other court proceedings, when detainees are brought before a judge, ensure that members of the judiciary and prosecution and government officials are attentive to indications and allegations that prisoners have been subjected to torture or other ill-treatment; if signs of ill treatment are observed or if such allegations are substantiated by other credible evidence, order prompt, thorough and impartial investigations;
- Ensure that all those involved in military and law-enforcement operations are made fully aware of the provisions of national and international law applicable to their actions and their potential personal and command responsibility for any breaches of these provisions;
- Fully cooperate with the relevant special procedures mechanisms of the United Nations, specifically the Special Rapporteur on Torture, the Working Group on Arbitrary Detentions, and the Working Group on Enforced or Involuntary Disappearances; allow these special procedures mechanisms to undertake visits to Ukraine, issue invitations to their members and provide access to both official places of detention and other places where unofficial detention of individuals has been alleged;
- Fully cooperate with the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), established under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; in particular host and facilitate a repeat visit by its delegates to Ukraine under guarantees of unhindered access to all detention facilities, including those that the subcommittee had been prevented from inspecting on their suspended visit in May 2016, in full conformity with Ukraine's obligations under this instrument;
- Investigate the allegations of arbitrary detention of individuals for the purpose of "prisoner exchange", and bring to justice the alleged perpetrators of such practice in proceedings that meet international standards of fairness.

TO THE SEPARATIST FORCES

Amnesty International and Human Rights Watch call upon the de facto authorities in the self-proclaimed Donetsk and Luhansk People's Republics to:

- Take immediate steps to ensure that no individual in their custody is subjected to torture or other ill-treatment;
- End the alleged practice of arbitrary detention of individuals for the purpose of "prisoner exchange";
- Prohibit any form of arbitrary detention by members of forces under their control, including detention in secret locations and incommunicado detention;
- Investigate, promptly, thoroughly and impartially, all allegations of enforced disappearances and incommunicado detention, including in the facilities named in this report, and of torture or other ill-treatment by forces under their control and ensure suspected perpetrators are brought to justice through fair trials;
- Suspend persons suspected or accused of crimes involving individuals in their custody from their duties and prevent them from having further contact with detainees during investigations and any further proceedings;
- Ensure that all those involved in military and law-enforcement operations are made fully aware of the provisions of international law applicable to their actions and their potential personal and command responsibility for any breaches of these provisions;
- Fully cooperate with the relevant special procedures mechanisms of the United Nations, specifically the Special Rapporteur on Torture, the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Working Group on Arbitrary Detentions, and the Working Group on Enforced or Involuntary Disappearances should they be willing to visit territory and all places of detention, as requested, under the control of the de facto authorities.

TO THE INTERNATIONAL COMMUNITY

Amnesty International and Human Rights Watch call on Ukraine's international partners to:

- Monitor and report on human rights abuses by both parties of the conflict in Ukraine;
- Raise findings and concerns with the Ukrainian authorities at every opportunity, in the relevant bi- and multi-lateral fora. Ensure that recommendations to all parties are reflected in relevant multi-lateral decisions and resolutions addressing human rights in Ukraine. In particular insist on “zero tolerance” policy with regard to enforced disappearances and incommunicado detention, as well as torture and other ill-treatment by members of military, security, and law enforcement agencies.

Amnesty International and Human Rights Watch call on the authorities of the Russian Federation to exercise their leverage over the de facto authorities in the DNR and LNR to ensure that disappearances, arbitrary and incommunicado detention, as well as torture and other ill-treatment practices are stopped immediately and all alleged perpetrators of such abuses are held accountable.

“You Don’t Exist”

Arbitrary Detentions, Enforced Disappearances, and Torture in Eastern Ukraine

Both the Ukrainian government authorities and Russia-backed separatists in eastern Ukraine have held civilians in prolonged, arbitrary detention, without any contact with the outside world, including with their lawyers or families. In some cases, the detentions constituted enforced disappearances. Most of those detained suffered torture or other forms of ill-treatment.

The Ukrainian authorities and pro-Kyiv paramilitary groups detained civilians suspected of involvement with or supporting Russia-backed separatists, while the separatist forces have detained civilians suspected of supporting or spying for the Ukrainian government.

In almost all of the cases investigated, release of the civilian detainees was at some point discussed by the relevant side in the context of prisoner exchanges. In many instances, they were in fact exchanged. This gives rise to serious concerns that both sides may be detaining civilians in order to have “currency” for potential exchange of prisoners.

Persons held by the warring sides in eastern Ukraine are protected under international human rights and international humanitarian law, which unequivocally ban arbitrary detention, torture, and other ill-treatment. International standards provide that allegations of torture and other ill-treatment be investigated, and that, when the evidence warrants it, the perpetrators be prosecuted.

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