

# **SUMMARY KILLINGS DURING THE CONFLICT IN EASTERN UKRAINE**

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Amnesty International Publications

First published in 2014 by  
Amnesty International Publications  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)

© Amnesty International Publications 2014

Index: EUR 50/042/2014  
Original Language: English  
Printed by Amnesty International, International Secretariat, United Kingdom

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# INTRODUCTION

Amnesty International has received a growing number of allegations of execution-style and other deliberate killings of civilians in eastern Ukraine since April 2014, in addition to those that have been reported in Crimea since its annexation by Russia and in Odessa on 2 May 2014.<sup>1</sup> Initially these reports primarily focused on de facto separatist authorities in the territories in Donetsk and Luhansk Regions under their control. It is only in recent months that allegations of extra-judicial killings by Kyiv-controlled forces have come to Amnesty International's attention.

This briefing does not present an up to date or definitive total of credible allegations of extra-judicial killings by either side on the conflict, or even attempt to estimate these. More cases have been reported, occasionally involving large numbers of supposedly killed victims, than credible evidence has been presented for. Indeed, none has been presented to date that points to the commission of mass killings by either side. At the same time, compelling evidence of actual cases of extra-judicial killings is inevitably hard to come by. It has typically become available only in areas that have changed hands. It is possible, perhaps likely therefore, that more cases of isolated and individual extra-judicial killings have occurred than have currently been reported on and that some extra-judicial killings have been deliberately misrecorded as accidental or as having occurred in the course of hostilities. This briefing documents only the handful of cases that Amnesty International has been able to report on with confidence. These do, however, point strongly to the commission of at least some extra-judicial killings by both sides in the conflict. It is essential that these, and other allegations, are investigated effectively and that those responsible are held accountable, if the number of extra-judicial killings is not to grow as the conflict drags on.

The evidence of extra-judicial killings presented in this briefing is based primarily on the findings of two Amnesty International research missions to eastern Ukraine (Donbass), undertaken in late August and late September 2014, respectively. The Amnesty International delegations gathered the testimonies of local residents in both the Luhansk and Donetsk Regions, including victims of human rights abuses and humanitarian law violations, members of their families, eyewitnesses, local officials, medical personnel, an Aidar battalion commander, pro-Russian combatants and journalists.

# I. BACKGROUND

In April and May 2014, following the annexation of the Crimean peninsula by the Russian Federation, pro-Russian insurgents occupied buildings belonging to the local administrations and law enforcement agencies in different towns in the Donetsk and Luhansk Regions of Ukraine. The insurgents, who demanded increased autonomy or independence and closer ties with Russia, justified their actions by raising concerns about the rights of the Russian-speaking population of eastern Ukraine. In response, the central authorities in Kyiv launched what they characterized as a “counter terrorist operation” (*anti-terroristicheskaya operatsiya – ATO*) aimed at retaking control of the two regions.

By June, the violent clashes had developed into an armed conflict, triggering the application of the laws of war. The conflict intensified in early July, when insurgents withdrew from the town of Slavyansk and the Ukrainian army and other pro-Kyiv forces began retaking control over further territory.

The advance of the Kyiv-controlled forces was halted and then rolled back in late August, when pro-Russian forces made a successful counter attack with the help of the Russian military support.<sup>2</sup> A cease-fire agreement between the Ukrainian government and the insurgents was reached on September 5 at negotiations in Minsk, Belarus, but it did not stop the fighting. Additional protocols, aimed at ensuring the implementation of the cease-fire, were signed on September 19, but they have not been fully respected by the forces on the ground. The conflict continues, albeit in a more fragmented and sporadic way.

## CHALLENGES OF RESEARCH IN THE CONTEXT OF THE ONGOING CONFLICT AND “PROPAGANDA WAR”

Each side has made allegations against the other of extrajudicial killings and other grave human rights abuses, which have been extensively broadcast in the Ukrainian and Russian media. Many of these reports, however, have been poorly substantiated or unsubstantiated. Even in cases where the allegations have some basis in reality, their scale has often been considerably exaggerated.

For instance, senior Ukrainian military and civilian officials in Lysychansk told an Amnesty International delegate that pro-Russian separatists had killed up to three wounded Ukrainian officers in Lysychansk’s Titov hospital during the final days of fighting for that town.<sup>3</sup> Amnesty International learned from medical staff, however, that, to the best of their knowledge, no such killings had occurred. The hospital staff knew of two of the named officers. They described how one had died from shrapnel injuries before reaching the hospital, and how another had been brought to hospital by the separatists, and later medically evacuated to Dnipropetrovsk.<sup>4</sup> The exaggerated claims made by Russian media and authorities in relation to graves found near the village of Komunar, in the Donetsk Region are examined below.

A further complication stems from how both sides in the conflict deliberately obscure their actions. Amnesty International encountered this problem, for example, during interviews with

medical staff and administrators in Severodonetsk and Lysychansk, in Luhansk Region. Medical staff are required by law to inform the police of injuries caused by violence. Yet a trend of misrecording the causes of traumatic injury seems to have become ingrained in recent months. Victims of beatings during the period of separatist rule in these towns attributed their injuries to accidents, typically saying that they “fell into the garage pit.” Separatist militias, similarly, did not let Lysychansk hospital staff officially register their wounded fighters as having suffered gunshot wounds.

Worryingly, there are indications that this culture of misrecording persisted after the area was brought under Kyiv’s control, in an effort to hide war crimes committed under Kyiv’s aegis. For example, a medical worker told Amnesty International that 41-year-old Yevgeny Ivanovich Ostapenko, a worker in UkrTelekom, was admitted to Severodonetsk hospital on 15 August with extensive injuries to his skull, and that he died. The death was officially registered as accidental, the cause being a fall from a trolleybus. However, the medical worker observed ligature marks around the man’s wrists, indicating that his hands had been bound prior to his death.

Because residents and even professional staff understandably fear reprisals from the perpetrators, they are afraid to document evidence of human rights and humanitarian law violations. The problem of misrecording is likely to continue until these people feel protected by the law. Ordinarily, it is the role of the police to enforce the law and provide such protection. However, police in both separatist-controlled areas, and in areas recently retaken by Ukrainian government forces, appear to lack sufficient capacity, organisation and authority to do so. This is the case even with regard to investigating crimes perpetrated previously by “the other side” after territory has changed hands. In some cases, particularly after territory has changed hands, the police are viewed as unreliable, or as traitors, and have been stripped of their authority. For example, in a July 25 Facebook post, commander Semyon Semchenko of the Donbass volunteer battalion wrote of the Lysychansk police: “We confiscated their weapons; they don’t belong in such hands.”

## II. KILLINGS OF DETAINEES BY INSURGENT GROUPS IN EASTERN UKRAINE

Amnesty International has received several allegations of deliberate, execution-style killings of civilians — primarily pro-Ukrainian activists — by insurgent groups in the areas of eastern Ukraine under their control, but has only seen hard evidence in a small number of cases.

Beginning in April 2014, armed fighters supporting the self-proclaimed Donetsk People's Republic (Donetskaya Narodnaya Respublika, DNR) and Luhansk People's Republic (Luganskaya Narodnaya Respublika, LNR) held captive hundreds of civilians in the areas they control, including pro-Ukrainian activists, journalists, international (OSCE) monitors, and others. Many have since been released, but the number of remaining captives remains unknown.<sup>5</sup> Former detainees have told Amnesty International that some prisoners may have been killed. For instance, a pro-Ukrainian activist and member of a local electoral committee who was held by separatist fighters in Donetsk for six days in late May, and severely ill-treated, told the story of another prisoner who reported being subjected to two “mock executions” and on one of these occasions, while blind-folded, had heard others being executed or mock-executed next to her, and had found traces of blood on her own clothes immediately afterwards.<sup>6</sup>

The first apparent confirmation of these allegations of summary killings came with the 19 April 2014 discovery of two bodies in the river Torets, near the town of Raigorodok in the Donetsk Region. The bodies were later identified as the remains of Volodymyr Rybak, a local elected council member and pro-Ukrainian activist of the *Batkivshchyna* (Fatherland) party, and Yury Popravko, a student from Kyiv. Both men had been missing since 17 April. Their bodies showed signs of torture and, according to a statement by the Ministry of the Interior, they had drowned while they were alive but unconscious.

There are also reports of execution-style killings by insurgent groups in eastern Ukraine that have been widely reported in the media and not contested by the alleged perpetrators. In late May, for example, the Russian media reported that the DNR's self-proclaimed Minister of Defence, Igor Strelkov (Ghirkin), had ordered the execution of two local commanders by a firing squad - for looting, armed robbery, kidnapping and desertion - and that the two had been put to death. Strelkov was quoted in the media as confirming the account, and copies of his written order for the killings, dated 26 May 2014, were circulated.

However, in at least one instance evidence of an execution-style killing turned out to be misleading. On 5 June, a local insurgent commander from Gorlovka, Igor Bezler (Bes), appeared on a video that showed him issuing an ultimatum to the Ukrainian authorities, and then showed two captured Ukrainian officers being killed by a firing squad. In a later video, however, Bezler said that this had been a mock execution prompted by the Ukrainian

authorities' refusal to exchange prisoners, with one of the Ukrainian officers, who was obviously not dead, confirming his statement.<sup>7</sup>

Amnesty International is concerned that summary executions may be carried out under the pretext of legal authority. In August, the media reported that the DNR *de facto* authorities had introduced a document that they referred to as a criminal code and that included provisions for imposing the death penalty for the "gravest crimes." The "criminal code" was passed on 17 August in the first session of the DNR's so-called Presidium of the Council of Ministers. The same session also saw approval given to the establishment of military "courts" in the territories under the DNR's *de facto* control.<sup>8</sup> Amnesty International is not aware of this "legal provision" having been used to date.

## KILLINGS OF SUSPECTED DRUG DEALERS BY INSURGENTS NEAR SEVERODONETSK, LUHANSK REGION

Amnesty International has found circumstantial evidence of summary killings of suspected criminals by LNR fighters in the conurbation of Severodonetsk, Rubizhne and Lysychansk, in the Luhansk region. A run-down industrial area in western Luhansk Region, the conurbation was controlled by LNR forces from May until late July 2014.<sup>9</sup>

The LNR's rule was characterised on the one hand by an epidemic of crime, including armed robbery, carjacking and kidnappings, much of which was perpetrated by LNR fighters, and on the other by the institution of harsh summary punishments for acts deemed damaging to the fabric of society, such as drug dealing and drunk-driving.

On 3 June, local LNR commander Aleksei Mozgovoy delivered a speech on the Lysychansk television channel Accent in which he discussed a number of issues, including crime. Mozgovoy stated that in close coordination with the police, his forces were bringing order to the town and the surrounding villages, cracking down on "mass alcoholism and drug addiction." He announced that with regard to drunk drivers, "we shall not exact fines, but these people are going to get seriously worked over to prevent there being any more victims on the roads." He went on to warn drug dealers: "Either you quit your business or we shall come for you. We already have all the addresses, and the names ... You have three days to get out of town. If you don't leave, your fate will be your own fault."<sup>10</sup>

Mozgovoy did not specify what the fate of suspected drug dealers would be. However, only 10 days later, on 13 June, the bodies of three men were discovered. An anonymous caller alerted the Severodonetsk police to three corpses lying in the shallow waters of a small lake by a roadside near Syrotine, a village between Severodonetsk and Lysychansk. In an interview with Amnesty International, a member of the local police force noted that the bodies had damaged faces and gunshot wounds to the head and chest.<sup>11</sup> Spent 5.45 mm and 7.62 mm cartridges were found nearby. Police identified the three men, who were 25-40 years old, as suspected drug dealers from Privolye, a village north west of Lysychansk. They shared photos made at the crime scene with Amnesty International. Taken on 13 June between 11:00 am and 11:40 am, according to the camera's timer, the photos showed three bodies—one snagged on the bank, one floating, and one submerged. A gas mask, transparent plastic bag and cigarette packet, all blood-stained, were visible nearby, and might have been torture instruments (asphyxiation with the help of gas masks and plastic bags is a well-known

method of torture in Ukraine and the wider region of the former Soviet Union). Photographs taken later in the morgue demonstrate signs of torture, including ripped off fingers. At the time of the interview, no suspects had been identified.

Although it is not clear who was responsible for their deaths, the timing and circumstances suggest that the men may have been killed as a summary punishment for alleged drug-dealing.

## SUMMARY KILLING OF CAPTIVES BY INSURGENTS IN SEVERODONETSK

Amnesty International collected evidence of the killing of detainees held by LNR fighters in Severodonetsk, Luhansk Region.

By 22 July pro-Kyiv forces had retaken Rubizhne. In the face of their advance, LNR forces in Severodonetsk withdrew in a convoy of commandeered vehicles. The Severodonetsk police had continued to operate during the period of LNR control. According to a local middle-ranking police official, the police were uneasily co-habiting with the LNR yet also recording crimes committed by their forces, for possible action later. The police remained in control of their headquarters on Partisanskaya Street, but the LNR had taken over the two storey police temporary detention facility (*izolyator vremennogo soderzhaniya* – IVS) next door.<sup>12</sup>

The middle-ranking police official told Amnesty International what happened on the morning of 22 July:

*I was on duty. It was around 5am. We heard shots fired inside the IVS. They were all leaving and we waited until the army arrived, about 10 or 11am, to enter the IVS. It has offices on the ground floor, cells on the top floor. It seemed empty. Then upstairs we found four men in a cell—they had been detained for not having IDs, and said “they forgot about us.” After that, in two other cells, at either end of the corridor, we found a corpse in each. One was naked, camouflage trousers draped over him, freshly shot through the neck. The other had been shot in the head.<sup>13</sup>*

Police showed Amnesty International the building and the cells in which they said the bodies had been found. They also showed Amnesty International photos that were taken of the scene. The camera’s timer recorded the shots as having been taken at 11:30 am on 22 July. The pictures matched the cells seen by Amnesty International. One of the victims, a man possibly in his thirties, lay face up on the floor in a green camouflage uniform, with tattoos showing on his chest and shoulders (a tattoo of Christ on his chest and a swastika emblem on each shoulder). He had been shot in the top of his head, which was shattered. Blood and brain matter was visible. The other victim, a man who looked to be in his twenties, was naked and face down on a table, with camouflage trousers draped over his buttocks. He had been shot through the neck, and had purple marks on his buttocks, shoulders and arms.

In a separate interview, a Severodonetsk businessman who had been detained in his office by LNR fighters on 21 July for suspected links with the Batkivshchyna party, told Amnesty International that he was taken to the police lock-up and placed in a cell near the exit. The next morning he was woken by shouts and gunshots. He recounted:

*At 4.30 am a fighter woke us, shouting "Up! Evacuation!" They opened three or four cell doors, and in all I heard six to eight gunshots. First they fired one shot, then another to finish off, and then moved to the next door. I heard them shooting in the cell right next door to mine. Then it was my turn; my door opened. I thought that was going to be the end of me. "Quickly, down to the exit!" he said. Down there a fighter looked me over, ordered me handcuffed and put in a vehicle ... It was like roulette – some were shot, some released, some taken away.<sup>14</sup>*

Together with some other prisoners, he was evacuated in a convoy of cars to Stakhanov, where Pavel Dryomov, a local commander, interviewed him twice. On the second occasion, on the twelfth day of captivity, the same commander drove him further south-east through Alchevsk to Perevalsk and handed him over to Nikolay Kozitsyn, another local separatist leader. After a further 12 days of detention in Perevalsk, efforts made by the businessman's family to secure the intercession of the Orthodox Church bore fruit. Nikolay Kozitsyn sent for the businessman and, after the three met in his office, allowed a priest to take him home.

### III. ALLEGED EXTRA-JUDICIAL KILLINGS BY KYIV-CONTROLLED FORCES IN KOMUNAR AND NYZHNYA KRYNKA, DONESTK REGION

On 23 September, the Russian media reported the discovery of “mass graves” in Komunar and Nyzhnya Krynka, two adjacent villages northeast of Makeevka, in the Donetsk Region. The area had been held, until two days previously, by Kyiv-controlled forces (according to those reports, the Aidar battalion and parts of the 25<sup>th</sup> Paratrooper Brigade). The initial accounts of the sites were dramatic. A TV broadcast by the national NTV channel showed two graves which, according to the reporter and the DNR fighters accompanying him, each contained two women’s bodies with signs of torture and with their hands tied behind their backs (the holes containing the bodies were shown but the images of the bodies were blurred).<sup>15</sup> Other media reports, citing DNR sources, claimed that one of the bodies was that of a pregnant woman.<sup>16</sup> On 25 September, the “Prime Minister” of the DNR, Aleksandr Zakharchenko, claimed in a media interview that three burial sites had been found in the area, one containing the bodies of “around 40 peaceful residents” and the others containing the bodies of DNR captives and Ukrainian soldiers.<sup>17</sup> Russia’s Foreign Minister, Sergei Lavrov, was reported later as saying that more than 400 bodies had been discovered in the graves in this area.<sup>18</sup>

An Amnesty International delegation visited the area on 26 September, shortly after the graves were discovered. Interviewing local residents, a local official, DNR fighters operating in the region, as well as journalists who witnessed some of the exhumations, the delegation did find strong evidence implicating Kyiv-controlled forces in at least four extrajudicial executions. It is clear, however, that some DNR sources, Russian media outlets and, indeed, Russian authorities have significantly exaggerated the number of bodies found and the scale of the possible war crimes committed. Amnesty International was able to identify three grave sites, containing a total of nine bodies, five of which appear to have been DNR fighters killed in the course of hostilities. There is strong evidence pointing to the conclusion that the four remaining bodies, found in two grave sites, were extra-judicially executed by Kyiv-controlled forces.

The first burial site was located in Nyzhnya Krynka, next to an abandoned military check point. It consisted of a dirt mound with flowers and a handwritten sign on top of a makeshift grave post. Under the heading “died for Putin’s lies,” the sign listed four male names, with birthdates, as well as a Russian military ID number.”<sup>19</sup> The grave was exhumed after Amnesty International’s visit to the site.

According to a reporter for the Russia Today TV channel present during the exhumation, who

was interviewed by Amnesty International subsequently, the five bodies found in the grave appeared to be soldiers in military fatigues. A DNR fighter known as “Yakut,” whom Amnesty International interviewed on 26 September, gave more detail. According to Yakut, the five men had been part of his military unit: they were members of a scout team that had been conducting a reconnaissance operation near a Ukrainian army outpost. Yakut said the men had been missing for about 15 days, presumed killed in action. No evidence was presented to Amnesty International at the time to suggest that they had been killed while in captivity, nor has any emerged since the exhumation of their bodies.

The two other graves were located close together on the grounds of Mine 22 (also known as Komunarskaya Mine), near the village of Komunar. Each grave held two bodies. Caterpillar tracks from a large construction vehicle, likely an excavator, could still be seen during Amnesty International’s visit to the site, but the bodies had already been exhumed.

Pavel Strukov, Chief Investigator of Kalininskiy District in the town of Makeevka, in charge of the investigation, confirmed to Amnesty International the discovery of the four bodies. He and others said that all of them were male.

Local residents from Komunar village told Amnesty International that Mine 22 and Nyzhnya Krynka had been used by different pro-Kyiv military units between 16 August, when the area came under the control of Ukrainian government forces and 22 September, when it was retaken by DNR forces. Witnesses claimed that the Dnipro-1 volunteer battalion was stationed at Mine 22, while Nyzhnya Krynka had been used as a base by the 25<sup>th</sup> Paratrooper Brigade from Dnipropetrovsk. There is no doubt that the graves date from the period when Komunar village was under the effective and exclusive control of the Ukrainian army and pro-Kyiv forces. At least one of the bodies belonged to a man who was killed during this period. While the remaining three have not yet been identified, it is likely that they are the bodies of three local residents last seen around the 11 or 12 September and whose disappearances have all been credibly linked to pro-Kyiv forces.

The residents identified one of the bodies found at Mine 22 as that of Nikita Kolomeytsev, a 21-year-old local resident. Kolomeytsev was a volunteer with the DNR forces. His family said he had staffed a check-point but had not been engaged in active fighting. Before the conflict he had worked as a miner.

According to his family and neighbours, Nikita Kolomeytsev had been in hiding since 16 August, using a variety of addresses in the area, as he feared reprisals at the hands of pro-Kyiv forces. He was last seen alive on 12 September. He left the house of a neighbour where he had temporarily been staying at three am that morning. His last contact with his family was at around 2 pm that afternoon when he answered a phone call from his brother. His mother, who was out of town when her son disappeared said that a neighbour had seen his arrest, but Amnesty International delegates were unable to speak to the witness.

A few days after Kolomeytsev was last seen by his family, Ukrainian soldiers came to his family’s house, questioned his father, the only family member present at the time, and tried to access information on his computer. “They destroyed our house,” Kolomeytsev’s mother said. “They broke our furniture and shot their guns indoors.” The soldiers reportedly bore the insignia of the Dnipro-1 battalion on their uniforms.

Kolomeytsev's mother identified his body: she recognised his neck tattoo and the t-shirt she had bought for him. She said that his hands were taped behind his back, which photos from the exhumation confirm. She also said that she was informed by the police that he was killed by gunfire. Tatyana Lepskaya, a local police officer interviewed by the Russian TV channel Lifenews, said that bullet casings from a Makarov pistol were found next to Kolomeytsev's body.

Local residents said three other villagers had also gone missing around 11 and 12 September. Two of them lived opposite from one another on Krasnaya Street, close to Nikita Kolomeytsev's house; the third lived on a nearby street. One was Sergey Tsarenko, a 26-year-old man who, according to his aunt and guardian, had a mild mental disability. She said that he had been growing cannabis and had been frequently seen visiting a military outpost at the end of their street staffed by either soldiers belonging to the regular Ukrainian army or pro-Kyiv forces (she could not tell which). He had previously visited the outpost when it had been occupied by DNR affiliated fighters. According to his aunt, he went missing after one of these visits around 11 or 12 September.

The second person to have gone missing is Igor Shpilka, aged 60, who was last seen by a neighbour while being taken away from his house by Ukrainian soldiers on 12 September. According to a local resident, he had also been involved in growing cannabis and was a friend of Sergey Tsarenko.

Vladimir Yashenko, aged about 55, has also been missing since around the same time. According to neighbours, Ukrainian soldiers took over his house for a few days after his disappearance.

At the time of writing, Amnesty International is not aware of any further information regarding the men's fate and possible whereabouts if the discovered bodies belonged to other individuals.

Three of the bodies that were found need to be identified, and the circumstances of all four deaths need to be promptly, thoroughly and impartially investigated. It is clear, however, that at least one of the victims, Nikita Kolomeytsev, who was restrained at the time of his death, is a victim of extrajudicial execution; the available evidence implicates Kyiv-controlled forces in his killing.

Other violent deaths have also been reported in other areas recently retaken by Ukrainian government forces in eastern Ukraine. For instance, on 9 September local media in Severodonetsk reported the discovery of the mutilated corpse of 38-year-old Aleksandr Lebedinets, whom witnesses saw taken away by three soldiers on 27 August.<sup>20</sup> While the media reports as such are not a conclusive evidence as to whether or not these were carried out by Kyiv-controlled security forces and in what circumstances, , these cannot be merely brushed aside by the Ukrainian authorities as unfounded: they require an urgent and impartial investigation, with public findings.

## IV. INTERNATIONAL STANDARDS PROHIBITING SUMMARY KILLINGS

International humanitarian law (IHL), which applies in situations of armed conflict, is binding on all parties to the conflict. Its rules and principles seek to protect anyone who is not directly participating in hostilities, notably civilians, as well as anyone who is wounded, surrenders or is captured. Its central purpose is to limit, to the extent feasible, human suffering during armed conflict. It has been applicable in eastern Ukraine since at least May or June 2014, when the conflict in the region began.

The deliberate and summary killing of people in captivity—be they civilians, soldiers, members of militias, or suspected “informers” or “collaborators”—is a flagrant and serious violation of international humanitarian law, constituting a war crime.<sup>21</sup>

Under international humanitarian law, individuals can be held personally and criminally responsible for war crimes. Military commanders and civilian authorities can be held responsible for crimes committed by their subordinates if they ordered such acts or if they knew, or had reason to know, such crimes were about to be committed and did not take the necessary measures to prevent their commission, or to punish crimes that had already been committed.<sup>22</sup> Individuals can also be held criminally responsible for assisting in, facilitating, aiding or abetting the commission of a war crime.<sup>23</sup>

## V. RECOMMENDATIONS

### **Amnesty International calls upon the insurgent groups and *de facto* authorities in the Donetsk and Luhansk Regions to:**

- Undertake prompt, thorough and impartial investigations of all allegations of summary killings, including of killings by DNR and LNR forces, and report publicly on the findings of those investigations;
- Denounce the death penalty and refrain including it in any regulations that are adopted;
- Ensures that forces under their control do not subject any person to enforced disappearance or carry out summary killings or any form of execution of any persons.
- Ensure that nobody is subjected to torture or other ill-treatment; and,
- 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.

### **Amnesty International calls upon the Ukrainian government to:**

- Undertake prompt, thorough and impartial investigations of all allegations of summary killings, including by Ukrainian military forces and pro-government militia; report publicly on the findings of those investigations, and bring to justice the alleged perpetrators in proceedings that meet international standards of fairness;
- Integrate volunteer battalions and other pro-government militia into clear chains of command, control and accountability;
- Ensure that all those involved in military and law-enforcement operations, including members of volunteer battalions, 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.
- Ensure that arrest and detention practices respect due process: in no circumstances should they carry out acts of arbitrary detention or enforced disappearance
- Ensure reparations to victims of unlawful killings, including through disclosure of the truth, and taking steps toward ensuring that such abuses are not repeated.
- Effectively protect victims and witnesses of abuses under investigation against reprisals.
- Ensure that the police in areas affected, or earlier affected, by the conflict have all the necessary resources, capacity and authority – vis a vis any security forces operating in the area – to conduct prompt, effective and impartial investigations into all allegations of

abductions, unlawful detention and torture and other ill-treatment, and unlawful killings, irrespective of who is the suspected perpetrator, including when the allegations concern members of pro-Kyiv volunteer battalions;

- Ensure that the police are adequately resourced, and operate under clear and strict instructions, to provide protection to all alleged victims and witnesses of grave human rights abuses, to ensure that the respective crimes are timely reported and effectively investigated;
- Create a single and regularly updated register of incidents of reported unlawful killings;
- Ratify the Rome Statute of the International Criminal Court;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearances and take the necessary steps to implement the Convention at national level soon after ratification; and,
- Seek technical assistance and expertise from relevant UN Special Procedures in implementing its treaty and other international legal obligations pertaining to the protection of individuals in eastern Ukraine, by, inter alia, engaging with the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Working Group on arbitrary detention to discuss the possibility for their visits, monitoring and reporting.

#### **Recommendation to the United Nations:**

- The UN Human Rights Monitoring Mission to Ukraine (HRMMU) to continue its mission and seek extension of its mandate beyond November 2014;
- The relevant UN Special Procedures, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Working Group on arbitrary detention, to monitor the situation in Ukraine within their respective mandates, and request visits to Ukraine at the first available opportunity.

#### **Recommendations to the European Union and its member states with representation in Ukraine:**

- Pursuant to the EU Guidelines on Promoting Compliance with International Humanitarian Law (IHL), work with the Ukrainian government toward ensuring its compliance with IHL in Donbass, through reporting, assessing and making recommendations for actions, including those toward assigning individual responsibility for IHL violations.

# ENDNOTES

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<sup>1</sup> For more on Crimea, see Amnesty International, “Ukraine: Harassment and violence against Crimean Tatars by state and non-state actors”, public statement (AI Index: EUR 50/023/2014), 23 May 2014, <http://www.amnesty.org/en/library/info/EUR50/023/2014/en>; on allegations of deliberate killings in Odessa on 2 May 2014, see Amnesty International and Human Rights Watch, “Ukraine: Amnesty International and Human Rights Watch call for impartial inquiry into events in Odessa on 2 May” (AI Index: EUR 50/019/2014), 8 May 2014, <http://www.amnesty.org/en/library/info/EUR50/019/2014/en>.

<sup>2</sup> See Amnesty International, “Ukraine: Mounting evidence of war crimes and Russian involvement”, 7 September 2014, press release, available at <http://www.amnesty.org/en/for-media/press-releases/ukraine-mounting-evidence-war-crimes-and-russian-involvement-2014-09-07>.

<sup>3</sup> Interviewed on 2 September 2014, respectively in Severodonetsk and Lysychansk.

<sup>4</sup> Head of department and other staff, interviewed on 3 September 2014, Lysychansk.

<sup>5</sup> According to estimates by Amnesty International in June 2014, over 200 individuals had been subjected to abduction by the insurgents since the beginning of the conflict. See Amnesty International, *Ukraine: Abductions and torture in Eastern Ukraine*, 11 July 2014 (AI Index: EUR 50/034/2014), p. 12, available at <http://www.amnesty.org/en/library/info/EUR50/034/2014/en>. The UN Human Rights monitoring Mission in Ukraine (UN HRMMU) published similar estimates at the time, and in its latest report published on 8 October, the UN HRMMU reported that, as of 11 September, it was aware of over 400 persons, mainly civilians, allegedly abducted by the insurgents, and that the overall number of the captives held by the DNR, including Ukrainian servicemen, included hundreds, and possibly over 1,000, individuals. See UN HRMMU, *Report on the human rights situation in Ukraine*, 16 September 2014, paragraph 34, available at [http://www.ohchr.org/Documents/Countries/UA/OHCHR\\_sixth\\_report\\_on\\_Ukraine.pdf](http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf).

<sup>6</sup> In interview with Amnesty International, 27 June 2014, Kyiv. The interviewee requested to remain anonymous.

<sup>7</sup> For instance, see report by *112.UA*, 11 June 2014, at <http://112.ua/politika/uchastniki-inscenirovki-rasstrela-plennyh-bezlerom-rasskazali-o-prichinah-sozdaniya-video-73906.html>.

<sup>8</sup> Amnesty International, “Ukraine: Armed group introduces ‘Criminal code’ permitting execution-style killings in eastern Ukraine” (AI Index: EUR 50/038/2014), 22 August 2014, <http://www.amnesty.org/en/library/info/EUR50/038/2014/en>.

<sup>9</sup> It is worth noting that the LNR’s chain of command is fractured and mutable. For most of the LNR’s period of control and defence of the conurbation against a Ukrainian army offensive from the north that commenced on 22 May, Lysychansk was run by Aleksey Mozgovoy, commander of the Prizrak (“Ghost”) brigade and self-styled leader of the local LNR militia. He left Luhansk city after his supporters clashed with those of the then leader of the LNR, Valery Bolotov, on 21 April. The commander in Severodonetsk and Rubizhne was Pavel Dryomov, leader of a Cossack group. Both Mozgovoy and Dryomov appeared loosely to subordinate to Cossack ataman Nikolay Kozitsyn, based initially in Stakhanov, later in Perevalsk and Pervomaisk, and by early June all three were under the sway of self-styled DNR Defence Minister Igor Strelkov until the latter withdrew his forces from Slavyansk and departed for Russia. Early May gestures of reconciliation between Bolotov and Mozgovoy were not consolidated. In mid-June LNR leader Bolotov publicly denounced Kozitsyn’s units for, as he alleged, pillaging markets and car parks in rear areas rather than fighting on the front, and later criticised the withdrawal from the Rubizhne-Severodonetsk-Lysychansk conurbation.

<sup>10</sup> At the time of writing a recording of it was accessible on Youtube, at

<https://www.youtube.com/watch?v=sCQEGStY7Co>.

<sup>11</sup> On 2 September 2014, Severodonetsk.

<sup>12</sup> Interviewed on 2 September 2014, Severodonetsk.

<sup>13</sup> Ibid.

<sup>14</sup> Interviewed on 1 September 2014, Severodonetsk. He asked to remain anonymous.

<sup>15</sup> Compilation of reports in the Russian media on alleged mass graves in Ukraine, 23 September 2014, <http://news-mail.by/2014/09/24/massovyie-zakhoroneniya-mirnykh-zhitelej-so-sledami-pytok-foto-video-18-doneck-ukraina-ajdar-nacgvardiya-pravyjsektor/>.

<sup>16</sup> See, for example, Ruslan Melnikov, "Pod Donetskomb obnaruzheno zakhoronienie mirnykh zhitelei", *Rossiyskaya Gazeta*, 23 September 2014, available at <http://www.rg.ru/2014/09/23/zakhoronienie-site.html>.

<sup>17</sup> ITAR-TASS, "Premier DNR: na meste massovykh zakhoroneniya naideny tela 40 mirnykh zhitelei i plennykh", 25 September 2014, available at <http://itar-tass.com/mezhdunarodnaya-panorama/1465607>.

<sup>18</sup> Russia Today, "Sergei Lavrov: RF budet dobivatsia obyektivnogo rassledovaniya massovykh zakhoroneniya pod Donetskomb", 1 October 2014, available at <http://russian.rt.com/article/52409>.

<sup>19</sup> The photo of this sign has been repeatedly posted on the internet, for instance at <http://www.online812.ru/2014/09/25/009/>.

<sup>20</sup> On 4 September, the shallowly buried corpse of Aleksandr Lebedinets, a 38-year-old driver at the Azot chemical factory, missing since 27 August, was found in the forest near Shchdrisheve village, just north of Severodonetsk. The corpse was said to exhibit traces of severe torture: fingers were missing from one hand, and the hand itself from the other arm. Citing the testimony of the barman and owner of Café Shchedrinka in Shchedrishcheve, and a further witness who saw part of the incident, the article said that Lebedinets, who was drunk and aggressive, picked an argument with three soldiers from one of the Ukrainian territorial battalions billeted around Severodonetsk. Outside the cafe the soldiers beat him up and pushed him into the boot of a silver Daewoo car. Lebedinets' wife reported him missing to the police on 29 August. The article said that the police were not able to interview the three soldiers the witnesses identified because they had subsequently deserted. *Today in Severodonetsk*, "Pravo na ubiystvo?", 9 September 2012, <http://svsever.lg.ua/2014/09/pravo-na-ubiystvo/>. The report by *Today in Severodonetsk* went on to cite four more cases in the same area of violent death in August.

<sup>21</sup> International Committee of the Red Cross study, Customary International Humanitarian Law: Volume 1: Rules, J-M Henckaerts and L Doswald-Beck, eds, 2005 ("ICRC Customary IHL Study"), Rule 89 and Rule 156. It also violates the right to life, a right that is non-derogable (and which continues to be applicable in armed conflicts) under the International Covenant on Civil and Political Rights, to which Ukraine is a state party. International Covenant on Civil and Political Rights, art. 6.

<sup>22</sup> ICRC Customary IHL Study, Rule 153.

<sup>23</sup> Rome Statute of the International Criminal Court, art. 25.

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