

CIVIL SOCIETY RECOMMENDATIONS TO THE PARTICIPANTS OF THE OSCE MINISTERIAL COUNCIL MEETING IN VIENNA

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CONDITIONS FOR PEACE IN THE GREY ZONE OF THE DONBAS CONFLICT: HUMANITARIAN AID, HUMAN RIGHTS PROTECTION, BUILDING TRUST

According to data from the UNHCHR Monitoring Mission in Ukraine, since the start of the armed conflict in eastern Ukraine in April 2014 to 15 May 2017, there have been 34,056 casualties amongst the civilian population, Ukrainian soldiers and members of illegal armed units.¹³⁷ This figure includes 10,090 deaths (of which at least 2,479 are civilians) and 23,966 injured. In the period 2014-2017, 314 people have been reported missing on both sides of the demarcation line according to data from the Ukrainian civil organisation 'Mirnyi bereg' ('Shore of Peace').¹³⁸ Non-governmental organisations of the coalition "Justice for the Sake of Peace in Donbas" report that in 2014 over 14,864 buildings/facilities in Ukrainian government controlled territory and more than 3,665 on territory controlled by illegal armed units in Donbas were destroyed. These figures have been confirmed by the Norwegian Refugee Council.¹³⁹

All these losses are accompanied by numerous war crimes and crimes against humanity, which have been recorded by non-governmental organisations, as well as official law enforcement agencies. These events have a pronounced negative effect on the lives of the civilian population across Ukraine, especially in the so-called "grey zone" – areas situated close to the line of contact and in the districts of the Donetsk and Luhansk oblasts not controlled by the Ukrainian government, or PDDL.¹⁴⁰

Violations of the ceasefire continue on both sides: OSCE Special Monitoring Mission (SMM) reports that so far in 2017 some 411 civilian casualties have been recorded.¹⁴¹ OSCE observers' access to monitor the ceasefire is limited in many places on both sides of the line of contact, particularly in the PDDL on the border with the Russian Federation.

The intensity of shelling, which decreased after the signing of the Minsk-2 agreement in February 2015, increased again in 2016. Field missions run by International Partnership for Human Rights (IPHR) and Truth Hounds in areas under Ukrainian government control, interviewed some 80 people from 10 towns in Donetsk and Luhansk oblasts who had been subjected to shelling a total of more than 60 times from December 2016 – March 2017 alone. The missions also collected information on victims of shelling and analysed 113 shell craters.¹⁴²

The priority **issue of control of the border with Russia** – an essential prerequisite for the reintegration of the uncontrolled districts into Ukraine – remains unresolved.

The humanitarian situation in the conflict zone remains very troubling: key sources of danger for inhabitants, other than direct shelling, include mines, unexploded shells and the remnants of explosives. According to the Norwegian Refugee Council's "Humanitarian Responses Plan", the armed conflict affected around 4.4 million people in 2017, of whom around 4 million required humanitarian aid (an increase of 200,000 people since the start of the year). Civilians living in the "grey zone" on both sides of the contact line are most in need of humanitarian aid. Many people have left the conflict zone and live as internally displaced people elsewhere in Ukraine and as refugees abroad. As of November 2017, there were around 1,494,806 internally displaced people registered or 1,219,467 families from eastern Ukraine and Crimea (data from the Ukrainian Ministry of Social

¹³⁷ http://www.ohchr.org/Documents/Countries/UA/UAReport19th_EN.pdf

¹³⁸ The report "Executed in Donbas: The facts of torture and executions in the East of Ukraine", 2017 <https://mb.net.ua/wp-content/uploads/2017/09/angl.pdf>

¹³⁹ <https://www.nrc.no/countries/europe/ukraine/>

¹⁴⁰ This abbreviation denotes "Particular districts of the Donetsk and Luhansk oblasts" (Rus: ОПДЛО) and is used in the text of the Minsk agreements regarding areas which are not under Ukrainian government control.

¹⁴¹ SMM OSCE report as of 1 November 2017, <http://www.osce.org/ru/special-monitoring-mission-to-ukraine/354631?download=true>

¹⁴² The report "Hot Winter 2016-2017: Analysis of shelling of towns in Eastern Ukraine" <http://truth-hounds.org/wp-content/uploads/2017/08/%D0%A1%D0%BF%D0%B5%D0%BA%D0%BE%D1%82%D0%BD%D0%B0-%D0%B7%D0%B8%D0%BC%D0%B0-2016-2017-1.pdf>

Politics).¹⁴³ IDPs' political rights are currently restricted and they are subjected to discrimination. A clear strategy for their re-integration and return is still lacking in Ukraine.

Vital services have been disrupted in many populated areas that have suffered from the armed fighting, especially in zones on the front line; civilians in some settlements have limited access to employment, medical care¹⁴⁴, and supplies such as food, heating, electricity and water.

Freedom of movement across the contact line remains a serious problem: up to 36,000 civilians cross the contact line daily at five checkpoints to see family, maintain properties, access health care and social benefits on Ukrainian-controlled territory. Freedom of movement is complicated due to damaged infrastructure, but also due to a strict system of permits that has been introduced for crossing the line of demarcation, leading to lengthy waiting times for those wishing to cross.

Human rights are not protected in the conflict zone. According to the Irina Herashchenko, the Ukrainian Presidential Representative for peaceful resolution of the conflict in Donbas, the authorities of the so-called 'LPR' and 'DPR' continue to illegally detain 152 Ukrainian citizens, and 402 people are unaccounted for in Donbas.¹⁴⁵ Such 'arrests' are sometimes accompanied by attempts by the authorities of the so-called 'LPR' and 'DPR' to imitate trials based on hybrid law, comprised of the criminal codes of Ukraine and Russia, but generally fair trials or due legal process are not guaranteed to the population of PDDL. Since the Ukrainian judicial system is no longer used on the territory¹⁴⁶, the population of PDDL has to cross the demarcation line in order to access it. Freedom of speech, association, religion and the right to peaceful protest are no longer guaranteed as FIDH reports.¹⁴⁷

It is difficult to assess the scale of human rights violations in PDDL. Illegal armed units have obstructed independent monitoring of the situation by Ukrainian and international human rights organisations. The monitoring and humanitarian work of international organizations including the UN, the International Committee of the Red Cross and the OSCE, has also been blocked by the de-facto authorities of the PDDL and Russia. Although the UN Human Rights Mission in Ukraine has an office in Donetsk, their capacity to carry out monitoring in PDDL is extremely limited.

In the 'grey zone' on Ukrainian-controlled territory, a civilian-military administration has been introduced, but it is unable to effectively cover all populated areas near the contact line due to a lack of qualified personnel and also the fact that some places are inaccessible due to damaged infrastructure. As internet and news services are inaccessible in the 'grey zone', the inhabitants of these areas lack information about their rights.

The international community is also paying now much less attention to the situation in Donbas. International media barely cover developments in the dramatic humanitarian and legal situation, giving the impression that the conflict in the east of Ukraine is frozen or solved, despite the fact that the confrontation in this region continues. Only selected political and diplomatic representatives of Western countries have certain information about the current situation, thanks to the active information and advocacy work of international and Ukrainian non-governmental organisations.

Work to mitigate the consequences of the armed conflict and ensure the protection of human rights in the east of Ukraine has only just begun. Numerous international and humanitarian organisations in cooperation with Ukrainian, Russian and European humanitarian initiatives, are working to minimise the humanitarian consequences of the conflict for civilians. Several associations of Ukrainian and international human rights organisations have been created to document violations of human rights and war crimes, to search for missing persons and to provide legal support for victims. In addition, a special government agency, the "Ministry for the

¹⁴³ <http://www.msp.gov.ua/news/14396.html>

¹⁴⁴ https://jfp.org.ua/system/reports/files/76/uk/Justice_for_peace_in_Donbas_Alternative_Healthcare.pdf

¹⁴⁵ <http://portal.rada.gov.ua/news/Povidomlennya/150688.html>

¹⁴⁶ <http://ccl.org.ua/en/reports/report-justice-in-exile/>

¹⁴⁷ <http://ccl.org.ua/en/reports/zvit-tsyvilne-naselennya-pid-perehresnym-vohnem/>

Temporarily Occupied Territories and the Affairs of Internally Displaced People”, has been set up in Ukraine, and new legislation adopted to mitigate the consequences of the conflict.

Based on their experience of work in the conflict zone in eastern Ukraine, members of the Civic Solidarity Platform agree that the necessary prerequisites to restore human rights and peace in the conflict zone in the east of Ukraine include:

1. Restoration of security by ensuring a lasting ceasefire, demilitarisation of the territory and the restoration of Ukrainian control over the border with the Russian Federation.
2. Restoration of fundamental rights and freedoms and provision of minimum levels of socio-economic protection of the population in the conflict region.
3. Release of all prisoners and amnesty of participants in the conflict in line with international practice.
4. Active work of civil and human rights organisations to engage all actors in the conflict zone in dialogue on the prospects of restoring justice and peaceful coexistence.

We call on all OSCE participating States, particularly Italy as the country holding the OSCE Chairmanship in 2018, to use their influence to translate the following recommendations into action:

1. Within the framework of both the regular work of the OSCE and the Minsk process, motivate all parties involved in the resolution of the conflict to achieve concrete improvement in the situation for the civilian population and create preconditions for long-term peace.
2. Obtain guarantees from the authorities of the so-called ‘LPR’ and ‘DPR’ that international monitors of the security regime and the human rights situation will be allowed unhindered access to all the territory of PDDL0 and that deliveries of humanitarian aid will be allowed unhindered to the territory of PDDL0.
3. Strengthen international political and public pressure on the Russian government to cease its military, financial and political support for the de-facto authorities of PDDL0.
4. Strengthen international political and public pressure on Ukraine to guarantee legal and social protection of the population in the conflict zone.
5. Support the work of civil society organisations advocating for the resolution of problems connected with the armed conflict and promoting accurate reporting and coverage of the situation in Donbas in their countries.
6. Support the development of civil society in the conflict region by providing financial, informational and technical support to civic organisations, through projects aimed at strengthening trust and dialogue between different groups of the population, with the participation of both national and international partners, including collaboration with local government structures.

We call upon the OSCE political bodies, institutions, and participating States to influence the authorities of the Russian Federation to ensure that they:

1. Cease military, financial and political support for the de-facto authorities of PDDL0.
2. Guarantee the release of prisoners of war and civilians illegally detained by the authorities of the so-called ‘LPR’ and ‘DPR’ and free Ukrainian political prisoners who are being held in prisons in Russia and Crimea.
3. Guarantee access of international organisations to PDDL0 with the aim of effective monitoring of the security regime and human rights violations as well as providing humanitarian aid.
4. Guarantee the possibility for Ukraine to control the border with the Russian Federation.
5. Cease systematic media efforts to escalate aggression and misunderstanding, as well as the language of hate in the zone of armed conflict.

6. Cease persecution of human rights organisations as well as their individual members, whose work is aimed at peaceful transformation of the conflict as well as at support of international projects in this sphere.

We call upon the OSCE political bodies, institutions, and participating States to influence the authorities of Ukraine to ensure that they:

1. Guarantee the observation of constitutionally guaranteed fundamental rights and freedoms in the conflict zone and the provision of necessary socio-economic support to victims of the conflict.
2. Bring the Criminal and Criminal Procedural Codes in line with international humanitarian law and international criminal law, and ratify the Rome Statute of the International Criminal Court.
3. Guarantee the effective and independent investigation and prosecution of perpetrators of all serious violations of human rights and international crimes in the conflict zone, guarantee fair trials to the alleged perpetrators, regardless of their side, and guarantee adequate redress to all victims.
4. Cease detention of individuals in unofficial and extra-judicial places of imprisonment and carry out effective investigations into cases of illegal detention reported by international human rights organisations.
5. Adopt a comprehensive national strategy regarding the territory of PDDL0 which is under the effective control of the Russian Federation, guaranteeing educational, medical, legal and other services for people there, including job creation on territories under Ukrainian jurisdiction to facilitate re-integration for these populations in the future.
6. Eliminate discriminatory legislative provisions which disproportionately limit the rights of internally displaced persons and inhabitants of occupied Crimea and parts of the Donetsk and Luhansk oblasts, which are under the effective control of the Russian Federation, in particular the resolutions of the Government of Ukraine №1035 from 16.12.2015 and №509 from 01.10.2014. Provide a mechanism to guarantee voting rights for internally displaced persons.

Work on joint analysis and recommendations on various aspects of conflict management in Donbas continues, in particular in the framework of the European civil platform CivilMPlus.