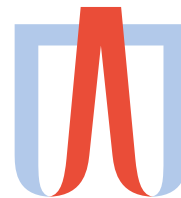




USAID
FROM THE AMERICAN PEOPLE



UKRAINIAN HELSINKI
HUMAN RIGHTS UNION

MY HOUSE – SOMEONE'S FORTRESS: THE RIGHT TO PROPERTY UNDER CONDITIONS OF THE ARMED CONFLICT IN THE EAST OF UKRAINE



Kyiv 2016

УДК 342.739 + 343.9
ББК 66.061.461
М 57



The report contains information obtained during field monitoring missions conducted under support of the U.S. Agency for International Development (USAID) in the framework of the “Human Rights in Action” Project implemented by the Ukrainian Helsinki Human Rights Union. The contents are the responsibility of the authors and do not necessarily reflect the views of the USAID or the United States Government.



USAID
FROM THE AMERICAN PEOPLE

The American people, through the USAID, have provided economic and humanitarian assistance worldwide for 50 years. In Ukraine, USAID's assistance focuses on three areas: Health and Social Transition, Economic Growth and Democracy and Governance. USAID has provided 1.8 bln technical and humanitarian assistance to Ukraine since 1992.

For additional information about USAID programs in Ukraine, please visit our website: ukraine.usaid.gov or our Facebook page at www.facebook.com/USAIDUkraine.

М 57

My house – someone's fortress: the right to property under conditions of the armed conflict in the East of Ukraine / O. A. Bida, A. B. Blaga, O. A. Martynenko, M. G. Statkevych; ex. Chief Editor A.P. Bushchenko / Ukrainian Helsinki Human Rights Union. – Kyiv, 2016.

The publication provides a comprehensive analysis of property rights protection in the current situation of armed conflict in the east of Ukraine. It explains the international legal understanding of the essence of the right to peaceful enjoyment of property and its legal nature; analyzes the case-law of the European Court of Human Rights and the formation of European standards for property rights protection in the situation of armed conflict. Also it considers peculiarities of property rights protection amid armed conflict in the East of Ukraine.

УДК 342.739 + 343.9
ББК 66.061.461

ISBN 978-966-97584-0-8

© O.A. Bida, A.B. Blaga, O.A. Martynenko, M.H. Statkevych, 2016
© Ukrainian Helsinki Human Rights Union, 2016

CONTENTS

| | |
|--|-----|
| Foreword | 4 |
| 1. INTERNATIONAL LEGAL MECHANISMS FOR PROPERTY RIGHTS PROTECTION | 5 |
| 1.1. The right to peaceful enjoyment of property in international documents | 5 |
| 1.2. European Court of Human Rights case-law regarding property rights | 10 |
| 1.3. Protection of property in international humanitarian law | 14 |
| 2. MILITARY CONFLICT AND STATE OF AFFAIRS ON PROPERTY PROTECTION IN THE EAST OF UKRAINE | 19 |
| 2.1. Military conflict in the East of Ukraine and the state of affairs on protection of civilians and civilian property from indiscriminate attacks | 21 |
| 2.2. Military conflict in the East of Ukraine and the state of affairs on protection of the right to peaceful enjoyment of property | 37 |
| 2.3. Authorities' response to violations of property rights in the ATO zone | 75 |
| 3. RESULTS OF MONITORING VISITS OF UKRAINIAN HELSINKI HUMAN RIGHTS UNION | 84 |
| 3.1. Results of monitoring visits to Mariupol and Sartana of Donetsk region on October 3-8, 2015 | 84 |
| 3.2. Results of monitoring visit to Stanytsia Luhanska District of Luhansk region on October 15-20, 2015 | 91 |
| 3.3. Results of monitoring visit to Stanytsia Luhanska on December 26-28, 2015 | 96 |
| 3.4. Results of monitoring visit to Kramatorsk in Donetsk region on January 25-29, 2016 | 98 |
| Conclusions and recommendations | 115 |
| APPENDICES | 122 |



**Arkadiy
Bushchenko,**

UHHRU Executive Director

UNDERSTANDING of property rights, respect for and protection of the institution of property owning passed through several often polar interpretations during its development: from implementation of an individual freedom to robbery and exploitation of others. Finally, the international practice recognized the need to respect and protect this right as the other human rights. Due to historical circumstances and the current practices our country can not serve as a worthy successor of the best traditions of respect for property rights. Intellect piracy which resulted in “top” of the corresponding rankings, unlawful deprivation of property and business, combined with dependent judiciary are the symptoms that will frighten rather than encourage potential investors.

Military conflict in the East of Ukraine further aggravated the problem of total disregard for property and ownership further on, and along with that for human dignity. Shelling of public buildings followed by installation of military positions in residential areas, illegal seizure of houses and businesses has unfortunately become the status quo and a traditional background of the confrontations. Besides, cases of obvious robbery of locals by the National Guard volunteer battalions’ representatives are difficult to be equated with the struggle for the “minds” of residents of Donbas.

The proposed analytical report reveals the most typical violations of property rights in the territory of the military conflict. Based on the evidences of local residents, monitoring missions to the cities of Donetsk and Lugansk regions, we attempted to assess the extent of caused damage to the institution of ownership and the government’s ability to influence the mitigation of such losses.

We expect that the presented analyzes of the issues and elaborated recommendations will be useful for the national authorities for developing strategies and programs to protect human rights in the context of the ATO operations.

The Ukrainian Helsinki Human Rights Union expresses its grateful acknowledgment to the experts who contributed into this analytical review. In addition, we are thankful to the public institutions and local initiatives for the information provided.

We express special gratitude to the U.S. Agency for International Development (USAID), which provided financial assistance to prepare this publication. The contents are the responsibility of the authors and the Ukrainian Helsinki Human Rights Union and do not necessarily reflect those of the USAID or the United States Government.

1. INTERNATIONAL LEGAL MECHANISMS FOR PROPERTY RIGHTS PROTECTION

1.1. The right to peaceful enjoyment of property in international documents

THE ISSUE OF MERITS of the property human right, its legal nature and the required degree of protection remains a subject of debate for a long time. Thus, the realization that the right to peaceful enjoyment of own possessions / property (or property rights) is one of human rights, was rather slow. It is well known that for thousands of years in the society dominating was the idea that not all people can own property. Other approaches account for only a few centuries¹.

In particular, John. Locke believed the relationship of the individual freedom with private property is indissoluble, “Life, freedom and possessions’ - these are concepts that can be identified with one common name – ‘property.’” In his view, an individual by his nature has the power to protect his property, that is his life, freedom and possessions, and that the supreme power can not deprive people of some of their property without their consent². We shall add that in Anglo-Saxon legal system the property rights are still provided with special role. As noted by S. Shevchuk, in English law already in the middle of XVIII century, it was recognized that a great goal, for which people formed the society, is protection of property. This right is sacred and inviolable in all circumstances, while it is not limited by public rights for the good of society. Thus, as noted by the scientist, property for the purposes of constitutional law is not a thing in itself, and serves for more profound goals such as: improving welfare, protection of privacy and personal fulfillment³.

Instead, a French socialist, one of the founders of anarchism, Pierre Joseph Proudhon in his book «What is Property?» (1840) wrote that property is theft, since it allows to have «income without labor.» Accordingly, it contradicts to justice, because you can not find any principle on which we could justify it⁴.

In turn, Karl Marx, and with him, the socialists and communists defended the idea of antagonism between capital and wage labor, between relations of production and productive forces that strive to move forward, and this antagonism will inevitably lead of the historical necessity for revolution⁵.

Historical analysis of the development of law leads to the conclusion that in the early development stages mankind for thousands of years has used **collective forms of ownership**, first in the form of tribe, and then - commune property. The low level of develop-

- 1 Yakovlev A.A. International legal cooperation in the protection of property rights in the system of the Council of Europe [Electronic resource]: Thesis on candidate of Legal. Sciences degree.: 12.00.11 / Andrey Yakovlev. - Kharkiv, 2009. – Access mode: <http://www.disslib.org/mizhnarodno-pravove-spivrobitnytstvo-u-zakhysti-prava-vlasnosti-v-systemi-rady.html>
- 2 Political Science of human rights [Electronic resource]: textbook / G.K. Iskakova. - 2nd ed. - Astana: [L. Ed.], 2007. – 407 c. – Access mode: <http://politics.ellib.org.ua/pages-7243.html>
- 3 Shevchuk S. Judicial protection of human rights: the European Court of Human Rights practice in the context of the Western legal tradition / S. Shevchuk. – 2nd Ed. Revised - K.: Abstract 2007. - P. 685.
- 4 Pierre Joseph Proudhon [Electronic resource] / Wikipedia, the free encyclopedia – Access mode: https://ru.wikipedia.org/wiki/Прудон,_Пьер_Жозеф
- 5 Neuhaus N. Values of Christian Democracy [Electronic resource] / N. Noyhauz. – Access mode: http://sd.net.ua/2010/02/20/print:page,1,neuhaus_vlasnist.html

ment of productive forces predetermined that people could only jointly (collectively) procure means of living and consumed them together in order to survive.

Subsequently, the development of productive forces, the development of people themselves and change of life conditions led to a appearance of a new type of ownership – **private**. These two types of ownership (communal and private) at various stages of historical development of the society manifested in a variety of specific historical forms, reflecting the social and economic nature of the dominant social order.

The **primitive communal form of ownership** is featured with equal rights of all members of the community to the main object of property - land and the means of labor and production results.

The **Slave-holding form of ownership** is featured with the absolute concentration of slave owner property rights to the means of production, the results of the work and the worker (slave).

The **Feudal form of ownership** provides absolute property rights of a feudal to land and limited rights to workers.

The **Capitalist form of ownership** is featured with concentration of property rights of the entrepreneur to means of production and the results of work and lack of property right to employees who have personal freedom⁶.

At that L.A. Ivershenko notes that in XX century the view to property rights was slightly altered and now is seen as a set of features that can divide indefinitely, be combined and re-combined⁷. Norbert Neuhaus notes that the ownership issue is not just about a bunch of things and goods, but the right, the moral right to dispose of them, as well as the inalienable from this right duties and responsibility of the individual on the attitude to foreign goods and their use. He believes that the property rights can not be regarded as absolute. They include a dual responsibility. First, it must take into account the internal intended use of goods, in other words this right requires an appropriate attitude to things from the world of things. For example, even if a person owns a dog, it does not give him the right to torment the animal. A person is not the absolute owner of a creature but its manager. Second, the right to dispose of the property is limited in the sense that the property can not be used to harm others or even the entire community; Conversely, this property should bring as much benefit to society as possible⁸.

As of now, most researchers agree that the property rights are classified as fundamental subjective rights that belong to the individual, and means the possibility to carry out or not carry out any activities on own property, i.e. subject of possession. This right is understood as independent of the presence or absence of possessions possibility, which always present. Unified model of property rights is fixed at the constitutional level⁹.

At that it is pointed at the diversity of constitutional values and interests related to property that may serve both to achieve certain economic goals and for personal development. The concept of property rights is determined by culture, history and

6 Economic theory, Political Economy [Electronic resource] : textbook / V. D. Bazilevych, V. M. Popov, K. S. Bazilevych, N. I. Grazhevskaya. – C. : «Znannia-Press», 2007. – 719 p. – Access mode: <http://www.ex.ua/16914185>

7 Ivershenko L.A. constitutional human and civil right to private property in Ukraine and ensuring its implementation by the Interior Affairs Authorities [Electronic resource]: Thesis. on Legal. Sciences candidate degree: 12.00.02 / Lydia A. Ivershenko. - Kyiv, 2006. - Access mode: http://dysertaciya.org.ua/disertaciya_1_906.html

8 Neuhaus N. Values of Christian Democracy [Electronic resource] / N. Noyhauz. - Access mode: http://sd.net.ua/2010/02/20/print:page,1,neuhaus_vlasnist.html

9 Vasilyanskaya A.I. Constitutional right to private property in modern Russia [Electronic resource]: Author. Tesises on Legal Sciences PhD degree: 12.00.02 / Vasilyanskaya Anna I. - M., 2011. - Access mode: <http://lawtheses.com/konstitutsionnoe-pravo-na-chastnuyu-sobstvennost-v-sovremennoy-rossii>

politics in their broadest sense. Therefore, analyzing the issues of international law, those constitutional guarantees of property rights, as to principles and norms, relating to property should not be approached as a constant and exhaustive, because they are always considered in a certain context. As long as property rights is a cultural and legal phenomenon, constitutional standards for their protection and development of appropriate doctrine are inevitably marked by legal and social traditions, values and functions of the respective society¹⁰.

In international law formation of the rule on human right to peaceful enjoyment of possession of property also had social, legal and political conditionality. From social aspect this right as a universal natural inalienable human right has been formed together with the development of the ideology of democratic constitutionalism. This meant that the right to peaceful enjoyment of possession of property began to be considered in the society as one that has the greatest value to human beings. It is in such form the rule on the human right to peaceful enjoyment of possession of property found its place in bourgeois constitutions and developed both as constitutional and legal and as civil and legal rule. This concept eventually became the basis of international legal understanding of the institution of private property: in the sense of private law the property rights were known in international law long before its public and legal understanding as a right of an individual to peaceful enjoyment of possessions – for that internationally recognized concept of human rights had to be developed first, which is at the heart of representative democracy as a certain type of political regime¹¹.

As it is well known, the consolidation of the right to peaceful enjoyment of possession of property as a human right was preceded by fierce political and ideological debates. As noted by A. Yakovlev, the confrontation of two world socio-economic system after World War II was objectively reflected in the general international human rights instruments. This situation is still present in general international law. Among the general international human rights treaties the property rights are rarely mentioned, due to that common conventional international law not often contains interpretation of the human right to possession of personal property¹².

In particular, during the preparation of the Universal Declaration of Human Rights, which took place in a complex diplomatic struggle, the Western countries and the Soviet Union held various positions as to inclusion to the declaration the right of everyone to property. The Soviet Union for ideological reasons opposed the inclusion of this right to the draft. To reconcile fundamentally different views of the same issues when approving the declaration states with different social systems deliberately not specified the content of many of its concepts, as the result their definitions has general democratic and common human sense that was acceptable to all parties¹³.

Now the Universal Declaration of Human Rights (1948) is the only international act of a general nature, which enshrines the human right to peaceful enjoyment of possession of property. Article 17 of the Universal Declaration of Human Rights directly proclaims

10 Shevchuk S. Judicial protection of human rights: the European Court of Human Rights practice in the context of the Western legal tradition / S. Shevchuk. – Publ. 2nd ed., revised. - C.: Abstract 2007. - P. 685-686.

11 Yakovlev A.A. International legal cooperation in the protection of property rights in the system of the Council of Europe [Electronic resource]: Tesises on Legal. Sciences degree candidate: 12.00.11 / Andrey Yakovlev. - Kharkiv, 2009. - Access mode: <http://www.disslib.org/mizhnarodno-pravove-spivrobitnytstvo-u-zakhysti-prava-vlasnosti-v-systemi-rady.html>

12 Yakovlev A.A. International legal cooperation in the protection of property rights in the system of the Council of Europe [Electronic resource]: Tesises on Legal. Sciences degree candidate: 12.00.11 / Andrey Yakovlev. - Kharkiv, 2009. - Access mode: <http://www.disslib.org/mizhnarodno-pravove-spivrobitnytstvo-u-zakhysti-prava-vlasnosti-v-systemi-rady.html>

13 The basic international human rights instruments [Electronic resource]. - Access mode: <http://ua.textreferat.com/referat-6558.html>

the right of private ownership as a fundamental and inalienable human right and states that «1. Everyone has the right to own property both individually and in association with others. 2. No one shall be arbitrarily deprived of his property.» In addition to this direct reference in Art. 2 of the Declaration, also indirectly (in the form of non-discrimination, including on grounds of property status), but that right is also recognized¹⁴.

Other international instruments on human rights, which were concluded after the adoption of the Universal Declaration, again influenced by political and ideological contradictions, do not set the human property rights. For example, because of the strong opposition of the USSR and other socialist countries of the International Covenant on Economic, Social and Cultural Rights (1966) all mentioning of the right of everyone to own property and prohibition of forced and arbitrary deprivation of that right has been deleted¹⁵. It is limited to only with focus on the inadmissibility to link measure of human rights with a property status (art. 2)¹⁶. Similarly, the International Covenant on Civil and Political Rights (1966) states that listed therein basic rights and freedoms must be given in each State to all persons who are within its territory and subject to its jurisdiction, without any discrimination on the property status (Art. 2)¹⁷.

European Convention on Human Rights (ECHR) is one of the main documents of the Council of Europe, which establishes inalienable rights and freedoms of every person. Because of the existing contradictions in the development of this document, the right to peaceful enjoyment of possessions was not set in the main text of the Convention. Only later it was set in the First (or Additional) Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms (remember that some protocols that complement and develop its provisions are part of this Convention). The background of the appearance of this Protocol is quite interesting. Thus, when signing the text of the Convention suddenly the Council of Europe Committee of Ministers decided to withdraw from the Draft Convention three rights: the right to private property; the right of parents to choose the education they want to give their children; and the right to free elections. Because of this, representatives of the Standing Committee of France and Germany in protest refused to be present at the time of signing of the Convention. Opponents of inclusion of these provisions of the Convention believed that property rights can not be absolute; they can not be proclaimed without reasonable restrictions and before declaration of everyone's right to property the right to employment and labor must be set, without which there will be no property. After lengthy discussions, all three of these rights with editorial refinements have been included to the Additional Protocol to the Convention¹⁸.

The official translation of paragraph 1 of Article 1 "Protection of property" of the said Protocol in Ukrainian language is: «Кожна фізична або юридична особа має право мирно володіти своїм майном. Ніхто не може бути позбавлений своєї власності інакше як в інтересах суспільства і на умовах, передбачених законом і загальними принципами міжнародного права...»¹⁹. At that O.A. Miroshnichenko notes that in the

14 The Universal Declaration of Human Rights [Electronic resource] Adopted and proclaimed by resolution 217 A (III) of the UN General Assembly on December 10, 1948.

- Access mode: http://zakon3.rada.gov.ua/laws/show/995_015

15 The basic international human rights instruments [Electronic resource].

- Access mode: <http://ua.textreferat.com/referat-6558.html>

16 International Covenant on Economic, Social and Cultural Rights [Electronic resource].

- Access mode: http://zakon3.rada.gov.ua/laws/show/995_042

17 International Covenant on Civil and Political Rights [Electronic resource].

- Access mode: http://zakon0.rada.gov.ua/laws/show/995_043

18 V. Lytvyn European Convention on Human Rights: Lessons and Prospects / V. Lytvyn // Law of Ukraine. - 2010. - № 10. - P. 6.

19 Protocol to the European Convention on Human Rights [Electronic resource].

- Access mode: http://zakon1.rada.gov.ua/laws/show/994_535

original English-language text of the Convention is used the following formula: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law...”. Accordingly, the difference between the terms “property” and “possession” related to the specificity of the translation²⁰.

In paragraph 2 of this article is stated that «... The preceding provisions shall not in any way limit the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the common interest or to secure the payment of taxes or other charges or penalties»²¹.

The adoption of the abovementioned Protocol led to appearance of the following novelties in international public law: a) Protocol №1 to the ECHR was the first international legal act that enshrined the right to peaceful enjoyment of possessions as a human right, and the international legal understanding of the right to enjoy the possessions has been significantly refined compared to Art. 17 of the Universal Declaration of Human Rights; b) there was raised the valuable importance of international legal enshrinement of the right to peaceful enjoyment of possessions, which has primarily a social value associated with the preservation of a socio-economic system in the states; c) there was specified the international legal understanding of the right to peaceful enjoyment of possessions - from human right to personal right of everyone, individual or legal entity, which greatly expanded the limits of the possible application of this rule of international law; d) there was clarified the concept of «property» because of its interpretation by the European Court of Human Rights (ECtHR), which discriminated the content of this concept from the concept enshrined in the Universal Declaration of Human Rights; e) as a result of the interpretation of the ECtHR there have been established internationally recognized limits of property rights; f) to Contracting Parties of the Convention there was laid international legal obligation to bring the legislation in line with Art. 1 of Protocol №1 to the ECHR; g) international public and law remedy at the ECtHR was distributed to the right to peaceful enjoyment of possessions (in common public international law, such mechanisms are not available)²².

In such way, international legal understanding of the right to respect private property includes its recognition, observance and protection. Characteristics of the sources of international law can define in them the following key provisions: the declaration of integrity and security of private property rights; the allocation as a part of the private property rights the competence of possession, use, disposal; expansion of object scope of property rights to be protected; emphasizing balance of private and public interests; destabilization of rules for the withdrawing of property in the public interest; the possibility of legal restrictions on the property rights do not violate the very essence of the right²³.

20 Miroshnichenko A.A. Ownership within the meaning of the European Court of Human Rights (general description) [Electronic resource] / Miroshnichenko O.A. // Law Forum. - 2013. - № 2. - P. 371-374.
- Access mode : <http://www.pravnik.info/fomum-pr/1935-pravo-vlasnosti-v-rozuminni-yevropejskogo-sudu-z-prav-lyudini-zagalna-xarakteristika.html>

21 Protocol to the European Convention on Human Rights [Electronic resource].
- Access mode: http://zakon1.rada.gov.ua/laws/show/994_535

22 Yakovlev A.A. International legal cooperation in the protection of property rights in the system of the Council of Europe [Electronic resource]: Tesises on Legal Sciences degree candidate: 12.00.11 / Andrey Yakovlev. - Kharkiv, 2009. - Access mode: <http://www.disslib.org/mizhnarodno-pravove-spivrobitnytstvo-u-zakhysti-prava-vlasnosti-v-systemi-rady.html>

23 Vasilyanskaya A.I. Constitutional right to private property in modern Russia [Electronic resource]: Author. Tesises on Legal Sciences PhD degree: 12.00.02 / Vasilyanskaya Anna I. - M., 2011.
- Access mode: <http://lawtheses.com/konstitutsionnoe-pravo-na-chastnuyu-sobstvennost-v-sovremennoy-rossii>

1.2. European Court of Human Rights case law regarding property rights

Based on the European Court of Human Rights Case Law, Article 1 of Protocol N°1 is namely about private property, since subjects are the natural and legal persons of private law. According the subjects of property rights within the meaning of that article can not be public establishments, state-owned enterprises (created by the state and subordinated to it) when the State is a holder of the right. Based on these considerations, the European Court did not consider disputes involving public law entities. O.V. Shupinska underlines that in the decisions of the European Court of Human Rights the institute of protection of property rights received a special development that can be defined as a departure from the proprietary legal concept of property rights that is typical for Ukrainian property rights. For qualification of a certain object of legal relationships as «property» the first and main feature is an «economic value». In the interpretation of European Judges the institute of property rights protection should apply to all freely transferable objects, featured with economic value regardless of material or immaterial nature²⁴.

The Court notes that the «property» within the meaning of the Convention and its Protocol is an autonomous phenomenon, which in no way connected with its national understanding and has independent from national interpretation. Therefore, the concept of possessions or «property» is interpreted by the European Court rather widely and includes a wide range of economic interests. To determine what actually is in the concept of possession in the Court practice there were introduced several important criteria, which however, continue to evolve. These criteria are:

- *the economic value of the right or interest.* If the economic value of the rights or interests included into the concept of possession is absent or state measures do not affect such value, then the responsibility under Art. 1 of Protocol No 1 does not arise;
- *the object of possession should be adequately defined.* For example, as for retirement plans and welfare plans, the Commission has always made a distinction between these two types of plans. Plans under which the person, making the payments, gets a share in the fund, the amount of which can be determined at any time, establish property rights, and are covered by Art. 1 of Protocol No 1. The second type of plans, where the relation between contributions and rewards is not mediated, «is based on the principle of social solidarity, which is the epitome of the whole society», and therefore the right to claim can not be considered as the right to receive a specific amount, as these amounts can vary (case *Mrs. X. v. the Netherlands* of 18.12.1973.²⁵; report of the Commission on the case *Christian Muller c. Autriche* of 01.10.1975 p.²⁶);
- *right or interest must be properly enshrined in domestic law.* According to the constant jurisprudence of the Court «possession» within the meaning of Article 1 may include existing property rights, in particular the right to claim for which the person has a «legitimate expectation» regarding their satisfaction (case *Stran Greek Refineries and Stratis Andreadis v. Greece* of 12.09.1994.²⁷). Accordingly, the requirement should be specific and adequately defined²⁸.

24 Shupinska A. International legal mechanisms for the protection of property rights, the European Court of Human Rights practices [Electronic resource] / O. Shupinska.

- Access mode: <http://www.justinian.com.ua/article.php?id=3060>

25 *Mrs. X. v. the Netherlands* [Electronic Resource]. – Way of access : <http://hudoc.echr.coe.int/eng?i=001-3178>

26 *Christian Muller c. Autriche* (5849/72) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-104128>

27 *CASE OF STRAN GREEK REFINERIES AND STRATIS ANDREADIS v. GREECE* (13427/87) [Electronic Resource]. – Way of access : <http://hudoc.echr.coe.int/eng?i=001-57913>

28 Shevchuk S. Judicial protection of human rights: the European Court of Human Rights practice in the context of the Western legal tradition / S. Shevchuk. – Publ. 2nd ed., revised. - C.: Abstract 2007. - P. 691–693.

Now, case law **includes to the scope of Article 1 the following objects**: movable and immovable property; tangible and intangible interests such as shares, patents, the arbitration decision; right to a pension; homeowner's right to collect rent; economic interests associated with doing business; the right to engage in one or another profession; legitimate expectations of the use of certain terms to a particular situation; which requires legal solutions; legal claim and issues of visiting the cinema by audience.

However, guarantees of Art. 1 of the Protocol №1 are not entered into effect until there is no possibility to state a claim on the possessions that is the subject of the dispute, **subject to legal protection are actually existing possessions**, but not the right to acquire possessions in the future. It implies that the expectation of inheriting possessions in the future, for example, is not subject to protection under Art. 1. With regard to pension rights and social insurance, according to the ECtHR case law, it is guaranteed by Art. 1 of Protocol №1 in cases where the Domestic Law of States contains the basis for the payments. In such way, the payment of mandatory contributions to the pension fund can create a property right guaranteed by the said rule, but does not give a person the right to request a specific amount (case *Christian Muller c. Autriche* of 10.01.1975.²⁹).

At that **corporate formations may refer to art. 1 in protecting of their rights and interests along with individuals**³⁰.

Made at the European Court decisions interpretation of Art. 1 of Protocol №1 allowed to conclude that the said article establishes three distinct rules. This analysis of the article was first proposed by the ECtHR in its judgment in the case of *Sporrong and Lonnroth v. Sweden* of 23.09.1982. In particular, § 61 of the decision the Court offered its analysis of art. 1 as formed by three rules: «The first rule, which is of a general nature, announces the principle of peaceful enjoyment of possessions; second rule applies to cases of deprivation of property and subjects it to certain conditions - it is contained in the second sentence of the first part. The third rule recognizes that States are entitled, in particular, to control the use of property in accordance with the general interest, by enforcing such laws as they deem necessary for such purpose; this provision is contained in the second part»³¹.

However, as noted by S.V. Shevchuk, these principles are not separated from each other. The second and the third rule «relate to specific cases of interference with the right to peaceful enjoyment of possessions» and should be interpreted in the sense of the common principle of the first sentence of Article 1. Thus, the second and the third rule relate to three main sovereign powers of the state:

- the rights to withdraw property in the public interest;
- the rights to regulate the use of property;
- the rights to set tax system³².

Decelerated in the first sentence of Article 1 **rule on the «peaceful enjoyment»** means that a violation of this principle can occur in the absence of direct or physical interference in the right to possession of a person. For example, violations may take the form of deprivation of the ability to use the property, not providing appropriate permissions (the Commission's decision in the case of *Paul Henry Wiggins v. The United Kingdom* of 02.08.1978.³³), or

29 *Christian Muller c. Autriche* (5849/72) [Electronic Resource].
– Way of access : <http://hudoc.echr.coe.int/eng?i=001-104128>

30 European Convention on Human Rights. Article 1 of Protocol No. 1. The Property rights [Electronic resource]: a textbook / M. Karss-Frisk, A.N. Zherebtsov, V.V. Merkulov, A. G. Oertel. - M., 2002. – Access mode: http://www.docme.ru/doc/639901/pravo-na-sobstvennost_---evropejskaya-konvenciya-o-zashhite-prav

31 Case of *Sporrong and Lonnroth v. Sweden* [Electronic resource]. – Access mode: <http://www.yur-info.org.ua/doc/1882132/Sprava-Sporrong-i-Lonnroth-proti-Shvetsii-Case-o-Sporrong-and-Lonnroth-v-Seden>

32 Shevchuk S. Judicial protection of human rights: the European Court of Human Rights practice in the context of the Western legal tradition / S. Shevchuk. – Publ. 2nd ed., revised. - C.: Abstract 2007. - P. 687–688.

33 *Paul Henry Wiggins v. the United Kingdom* (7456/76) [Electronic Resource].
– Way of access : <http://hudoc.echr.coe.int/eng?i=001-74362>

other rules of obstruct the property rights resulting from the application of laws or actions of public authorities. In such way, in the case of *Loizidou v. Turkey* of 12.18.1996³⁴, which concerned the complaint of the owner of land plots that after the civil war in Cyprus happened to be in that part of the island controlled by Turkish Cypriot shadow government, the Court found that the absence of over 16 years of physical ability to use property constituted a violation of the right to peaceful enjoyment of possessions³⁵.

Dispossession provided for in the second rule is the most serious limitation of property rights. It requires not only to establish whether there had been formally alienation or transfer of property, but also real circumstances in order to determine whether there has been a de facto seizure of property³⁶. Illustrative examples of restrictive measures, which form the alienation of property de facto, there are circumstances *Papamichalopoulos and others v. Greece* of 24.06.1993.³⁷ The applicants were the owners of a large valuable land plot in Greece. The land included a beach area, and applicants from the Greek ministry of Tourism received permission to build a hotel complex in that area. But then control passed to Greece's military dictatorship, and the land of the applicants (incl. beach plot) was transferred to the naval forces without any compensation. The applicants tried to return the land, but all their attempts were in vain. Navy forces built a naval base and resort for recreation of marine officers. Although domestic courts subsequently admitted property rights of the applicant to that land plot, for over 20 years it was not returned and no compensation has been paid. Thus, the applicant, although according to the law was considered as owner of the land, but in fact could not manage it. The ECtHR held that the interference with property rights is continuing violation and formulated the standard of de facto expropriation.

In addition, the second sentence of the Art. 1 of Protocol №1 requires that such withdrawal was in the public interest. According to the standard, developed in the Court Case Law, to define whether the specific government measures comply with requirements of this principle three criteria should be studied:

- *whether withdrawal pursued «public interest»;*
- *whether the measure was proportionate to persecuted objectives;*
- *whether the measure was lawful.*

In determining the public interest of the state a great field of appreciation is used. The supervision of the European Court is only limited with cases of clear abuse of power and arbitrariness. The criterion of proportionality is understood by the term of «fair balance between the protection of property rights and the requirements of public interest». This means in particular that «...there should be reasonable relationship of proportionality between the measures applied and the objectives pursued, to be accomplished by measures of withdrawal of property» (case *James and Others v. The United Kingdom* of 21.02.1986.³⁸). The third criterion is legitimacy that means that expropriation should be in accordance with national law, or (usually in the case of protection of property rights of foreign citizens and stateless persons) common principles of international law³⁹.

34 CASE OF LOIZIDOU v. TURKEY (15318/89). [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-58007>

35 Shevchuk S. Judicial protection of human rights: the European Court of Human Rights practice in the context of the Western legal tradition / S. Shevchuk. – Publ. 2nd ed., revised. - C.: Abstract 2007. - P. 695, 700.

36 European Convention on Human Rights. Article 1 of Protocol No. 1. The Property rights [Electronic resource]: a textbook / M. Karss-Frisk, A.N. Zharebtsov, V.V. Merkulov, A. G. Oertel. - M., 2002. – Access mode: http://www.docme.ru/doc/639901/pravo-na-sobstvennost._---evropejskaya-konvenciya-o-zashhite-prav

37 CASE OF PAPAMICHALOPOULOS AND OTHERS v. GREECE (14556/89) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-57836>

38 CASE OF JAMES AND OTHERS v. THE UNITED KINGDOM (8793/79) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-57507>

39 Shevchuk S. Judicial protection of human rights: the European Court of Human Rights practice in the context of the Western legal tradition / S. Shevchuk. – Publ. 2nd ed., revised. - C.: Abstract 2007. - P. 701–706.

The third rule **control of the use of property** concerns not the withdrawal of property, but sovereign authority of the state to regulate property relations. The issue of control over the use of property can take many forms: urban planning (case *Jacobson v. Sweden* of 25.10.1989, the⁴⁰; *Pine Valley Developments Ltd and Others v. Ireland* of 29.11.1991.⁴¹), regulation of rental relations (case *Mellacher and Others v. Austria* of 19.12.1989⁴²; *James and Others v. the United Kingdom* of 21.02.1986⁴³), regulation of foreign economic activity (Commission report on the case *Allgemeine Gold und Silberscheideanstalt AG against United Kingdom* of 11.10.1984⁴⁴) etc.

According to Court Case Law standards the State in cases of appeal of controls measures over the use of property must prove «reasonable relationship of proportionality» between these measures and pursued legitimate objective (case *Jacobson v. Sweden* of 25.10.1989⁴⁵). In any case, the Court finds appropriate for states to use quite wide field of discretion. However, the use of state powers must comply with substantive and procedural guarantees arising from the principle of the Art. 1 of Protocol №1⁴⁶.

Application of property rights guarantees provided for in Art. 1 of Protocol №1 is not limited to cases of interference with property rights associated with the transfer of any benefits to the state. This article is also used on the measures taken by the state (or a state agency) and affect the rights of individuals as they pass them to another private person or otherwise create benefit for another person(s) or otherwise regulate the person's possessions. For example, decisions on matters of *James and Others v. the United Kingdom* of 21.02.1986⁴⁷, *Sovtransavto Holding v. Ukraine* of 25.07.2002⁴⁸, *Shmalko v. Ukraine* of 20.07.2004⁴⁹ These and other precedents evidenced established by the Court presence of a positive link of violation of the applicant's right to respect for his property (Article 1 of Protocol №1) to the right to a fair trial (Article 6 of the Convention).

In addition to the mentioned articles, in some way to property rights is also applied Article 13 of the Convention, which guarantees the right to an effective remedy before a national authority. Authors of Encyclopedic Guide for future lawyer noted that Article 13 may be the only acceptable provision in cases where the question is about the lack of effective remedies in violation of the rights, which under the Convention are not defined either as a criminal or as civil⁵⁰.

The foregoing shows that the Court recognizes the presence of a **positive duty of the State to establish good guarantee system for property rights and justice**.

40 CASE OF ALLAN JACOBSSON v. SWEDEN (10842/84) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-57423>

41 CASE OF PINE VALLEY DEVELOPMENTS LTD AND OTHERS v. IRELAND (12742/87) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-57711>

42 CASE OF MELLACHER AND OTHERS v. AUSTRIA (10522/83; 11011/84; 11070/84) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-57616>

43 CASE OF JAMES AND OTHERS v. THE UNITED KINGDOM (8793/79) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-57507>

44 AGOSI (ALLGEMEINE GOLD- und SILBERSCHNEIDANSTALT A.G.) v. THE UNITED KINGDOM (9118/80) [Electronic Resource]. – Way of access : <http://hudoc.echr.coe.int/eng?i=001-73551>

45 CASE OF ALLAN JACOBSSON v. SWEDEN (10842/84) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-57423>

46 Shevchuk S. Judicial protection of human rights: the European Court of Human Rights practice in the context of the Western legal tradition / S. Shevchuk. – Publ. 2nd ed., revised. - C.: Abstract 2007. - P. 708–709.

47 CASE OF JAMES AND OTHERS v. THE UNITED KINGDOM (8793/79) [Electronic Resource].

– Way of access : <http://hudoc.echr.coe.int/eng?i=001-57507>

48 The case of «Sovtransavto Holding» v. Ukraine» (48553/99) [electronic resource].

– Access mode: http://zakon4.rada.gov.ua/laws/show/980_043

49 CASE OF «SHMALKO v. UKRAINE» (60750/00) [Electronic resource].

– Access mode: http://court.gov.ua/userfiles/file/court_gov_ua_sud5010/Konvenciya_z_prav/st_6/Shmalko.pdf

50 Encyclopedic guide for future lawyer: 2 books. [Electronic resource] / O. D Svyatotsky, T.G. Zakharchenko, S.F. Safulko and others. ; gen. edit. of S.F. Safulka. - C. Publishing House «In Jure», 2008. - Book 1 - 616 sec.

– Access mode :<http://radnuk.info/posibnuk/advokatyra/470-dovidnuk.html>

1.3. Protection of property in international humanitarian law

As part of the legal system of rights and freedoms is respect for human rights in armed conflicts. Key issues related to armed conflicts (both international and non-international nature), are governed by international humanitarian law. International humanitarian law, both contractual and customary, imbued with the basic idea on the task of affect during warfare least possible damage. In this regard, the most important are the following principles: *the principle of distinction, the principle of necessity and the principle of proportionality*.

The principle of distinction is a generally recognized rules of the contractual and customary international humanitarian law (IHL), under which *the parties to the conflict must always distinguish between civilians and combatants and civilian and military objects and accordingly shall direct their operations only against military objects*

The principle of necessity requires that parties to the armed conflict *have used only those measures which are necessary to achieve a military victory*.

The principle of proportionality in IHL means that *the concrete and direct military advantage obtained as a result of military operations shall prevail damage caused during its conduction to civilians and civilian objects*⁵¹. In other words, any unnecessary, that are not caused by the need to achieve legitimate military objectives, human losses and destruction of property should be avoided⁵².

Geneva conventions protect property from damage due to armed conflict. This protection is not limited to installation of the protection of certain categories of assets to ensure the normal functioning of the economy during the conflict. On the contrary, this protection is based on the belief that it is *necessary to protect from the effects of combat operations the property that is required for sustenance of civilians and implementation of the requirements of individual protection*⁵³.

Now let's more detail stop on the main provisions of international humanitarian law concerning protection of property rights in situations of armed conflict.

1. *The Parties to the conflict shall at all times distinguish between civilian objects and military objectives. Attacks may be directed only against military objectives. Attacks can not be directed against civilian objects.*

It is generally recognized by the International Committee of the Red Cross (ICRC) and codified in Articles 48 and 52(2) of Additional Protocol №1 to the Geneva Conventions of August 12, 1949 relating to the Protection of Victims of International Armed Conflicts⁵⁴. The distinction between civilian and military objects was included in the Draft Additional Protocol II, but at the last moment it was released as part of measures to simplify the text. As a result, the Additional Protocol II contains neither this principle no the prohibition of attacks on civilian objects. However, it is believed that the concept of common defense in Article 13 (1) of the Additional Protocol II is rather broad and includes these principles⁵⁵.

51 Guidebook for Lawyers of Legal offices / M.M. Hnatovskyy, T.R. Korotkiy, N.V. Hendel. - Odessa: Phoenix, 2015. - P. 28–29.

52 International humanitarian law [Electronic resource] : Textbook for University students / A. N. Zherebtsov. - Rostov at/D: Phoenix, 2001. - 223 p. - Access mode: http://www.adhdportal.com/book_3373_chapter_12_Glava_11_Mezhdunarodnoe_gumanitarnoe_pravo.html

53 International humanitarian law. Ч. 2 [Electronic resource]. – Режим доступа : <http://www.studd.ru/lib/2/83/11/>

54 Additional Protocol to the Geneva Conventions of August 12, 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977 [Electronic resource]. - Access mode: http://zakon3.rada.gov.ua/laws/show/995_199/print1444915939586086

55 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross. - Access mode: <http://www.icrc.org/rus/assets/files/other/customary.pdf>

The prohibition of attacks on civilian targets in armed conflicts of international and non-international nature as enshrined in Article 3 (7) of the Protocol II as amended⁵⁶ and Article 2 (1) of the Protocol III to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons⁵⁷. In addition, under Article 8 (2) (b) (ii) of the Statute of the International Criminal Court, «deliberate attacks on civilian objects, in other words the objects which are not military objects» constitute a war crime⁵⁸.

It should also be noted that direct attacks on military objectives, which indirectly result in damage to civilian objects, are not unlawful if the collateral damage done to civilian objects is not excessive.

2. *Military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a defined military advantage.* This definition of military objects enshrined in Article 52 (2) of the Additional Protocol №1 to the Geneva Conventions of August 12, 1949⁵⁹ and the practice of States recognized as a rule of customary international law, which is used during both international and non-international armed conflicts. In the military statutes and guidelines on military affairs of many countries it is assumed that the presence of civilians on military objectives or next to them does not provide such objectives immune from attacks. However, such attacks are subject to the principle of proportionality and the requirement to take measures diligence in an attack.

3. The definition of civilian objects is enshrined in Article 52 (1) of the Additional Protocol №1 to the Geneva Conventions of August 12, 1949: «*Civilian objects are all objects which are not military objectives*»⁶⁰. The same definition was used in subsequent contracts: in Article 2 (5) of Protocol II, Article 2 (7) of Protocol II as amended, Article 1 (4) of Protocol III to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons. In the practice of States civilian objects are considered primarily civilian areas, towns, villages, residential areas, apartment buildings, houses, schools, civilian vehicles, hospitals, medical institutions and medical offices, historical monuments, places of worship and cultural values and the environment, provided that in the end they do not become military objectives. Attacks on such objects usually are condemned⁶¹.

4. *Civilian objects are protected against attacks, unless and that period of time when they become military objectives.* In this case, it is believed that civilian objects are «used for military purpose» or «used to organize military action» and they lose their right to protection. If the nature of the object is in doubt it must be carefully evaluated, subject to the conditions and restrictions imposed by the situation, whether signs that may be

56 Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Amended Protocol II) [Electronic resource]. - Access mode : <http://systemaby.com/docs/bitqm/dk-5v45da.html>

57 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects [Electronic resource]. - Access mode: http://zakon2.rada.gov.ua/laws/show/995_266/page

58 Rome Statute of the International Criminal Court [Electronic resource]. - Access mode: http://zakon2.rada.gov.ua/laws/show/995_588

59 Additional Protocol to the Geneva Conventions of August 12 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977 [Electronic resource]. - Access mode: http://zakon3.rada.gov.ua/laws/show/995_199/print1444915939586086

60 Additional Protocol to the Geneva Conventions of August 12 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977 [Electronic resource]. - Access mode: http://zakon3.rada.gov.ua/laws/show/995_199/print1444915939586086

61 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross. - Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

grounds for attack are significant. It is impossible to automatically assume that any object that seems suspicious, may be a target of a legitimate attack⁶².

5. *Indiscriminate attacks are prohibited.* Indiscriminate attacks prohibition is enshrined in Article 51 (4) of the Additional Protocol №1, and in article 3 (3) of Protocol II and Article 3 (8) of Protocol II as amended to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons. In addition, this prohibition was included also to other documents relating to international and non-international armed conflicts⁶³.

6. *Indiscriminate attacks include:*

- a) *attacks not directed at a specific military target;*
- b) *attacks which employ a method or means of combat which can not be directed at a specific military target; or*
- c) *attacks which employ a method or means of combat the effects of which can not be limited as required by international humanitarian law; and that therefore, in every such cases without distinction will strike military objectives and civilians or civilian objects*⁶⁴.

State practice enshrined this provision as a rule of customary international law applicable during both international and non-international armed conflicts. It is enshrined in Article 51 (4) (a) of Additional Protocol I⁶⁵ and, with the exception of clause (c) also in Article 3(3)(a) of Protocol II and Article 3(8)(a) of Protocol II as amended to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons⁶⁶.

7. *Illegal attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects* (So-called «bombardment on an area»). This prohibition is enshrined in Article 51(5)(a) of the Additional Protocol №1 and is recognized as a rule of customary international law applicable during both international and non-international armed conflicts. The words «clearly separated and distinct» in the definition of bombardment on an area require that the distance between objects was «at least large enough to ensure that each of these military objectives could be subject to a separate attack»⁶⁷.

Implicit threat of opportunities of indiscriminate use of weapons lies in: a) wrong identification of military objectives before an attack on them; b) attacks, which can accidentally cause extremely high losses among civilians, damage to civilian objects. In this regard, great responsibility lays on administrator of law, a military union commander who gives battle order. He is obliged to determine the possibilities of weapons on the application of a surgical strike on military targets without causing damage to civilian objects⁶⁸.

62 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross.
- Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

63 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross.
- Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

64 Hnatovskyy N.N. International humanitarian law. / Guidebook for Lawyers of Legal offices / M.M. Hnatovskyy, T.R. Korotkiy, N.V. Hendel. - Odessa: Phoenix, 2015. - P. 52

65 Additional Protocol to the Geneva Conventions of August 12, 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977 [Electronic resource].
- Access mode: http://zakon3.rada.gov.ua/laws/show/995_199/print1444915939586086

66 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross.
- Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

67 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross.
- Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

68 Lenshin S.I. Legal regime of armed conflict and international humanitarian law [Electronic resource] / S.I. Lenshin.
- Access mode: <http://vs-ra.org/library/ПРАВОБОЙ%20РЕЖИМ%20ООРУЖЕННЫХ%20КОНФЛИКТОВ%20И.pdf>

8. *The destruction or seizure of enemy property is prohibited, unless required by imperative military necessity.* Violation of this rule during military conflicts of both international and non-international nature is considered a war crime under the Rome Statute of the International Criminal Court (Art. 8 (2) (a) (xiii), 8 (2) (e) (xii)). Regarding the requirement that the destruction must be carried out on a large scale in order to be recognized as a serious violation of the International Criminal Court for the former Yugoslavia said in the case of Blashkych that «the scale is estimated based on the circumstances of the case, - a single act, such as the destruction of hospitals, can be sufficient for a crime began to fall under that item of charge»⁶⁹.

9. *In occupied territory:*

- a) *it is allowed to confiscate movable public property that can be used for military operations;*
- b) *immovable public property must be administered according to the rule of usufruct; and*
- c) *private property must be respected and may not be confiscated;*

*except where destruction or seizure of such property requires total military necessity*⁷⁰.

By customary international law this rule is generally applicable in international armed conflicts.

According to the Fourth Hague Convention (Article 53) Convention on the Laws and Customs of upland war: «The army that occupies region can seize only money, funds and active debts, which are owned by the State, arms depots, means of transportation, shops and stocks of supplies and generally all movable property of the State, which may serve for military action. All means are adapted for transmitting data on land, at sea and in the air to transport people and things, except cases that subject to the Law of the Sea, arms depots and in general all sorts of ammunition, even if they belong to private individuals, can also be seized, but are subject to return with reimbursement of damage after the conclusion of peace»⁷¹.

Provisions concerning that public real property of the enemy can be managed, it can be used, but can not be confiscated is enshrined in Article 55 of the Fourth Hague Convention: «The government, which seized the region must recognize for itself only rights to manage and use in respect of public buildings, real estate, forests and agricultural lands that are in it and belong to a hostile state. It is required to keep the main value of these types of property and manage them according to the rules of their use»⁷².

Protection of private property from seizure is an ancient rule of customary international law and was codified in Article 46 of the Fourth Hague Convention, according to which «... private property ... must be respected. Private property can not be confiscated»⁷³.

The experts of the International Committee of the Red Cross found no rule that would prohibit, under international law, the confiscation of private property during non-international armed conflicts; the international law rule that would permit such confiscation also was not found. However, it is assumed that this matter is covered by domestic law⁷⁴.

10. *Robbery is prohibited.* This rule applies at both international and non-international armed conflicts. The prohibition of robberies is an old rule of customary international law,

69 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross.
- Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

70 Hnatovskyy N.N. International humanitarian law. / Guidebook for Lawyers of Legal offices / M.M. Hnatovskyy, T.R. Korotkiy, N.V. Hendel. - Odessa: Phoenix, 2015. - P. 58.

71 Convention on the Laws and Customs of Land War (IV Hague Convention) [Electronic resource].
- Access mode: http://zakon5.rada.gov.ua/laws/show/995_222

72 Convention on the Laws and Customs of Upland War (IV Hague Convention) [Electronic resource].
- Access mode: http://zakon5.rada.gov.ua/laws/show/995_222

73 Convention on the Laws and Customs of Upland War (IV Hague Convention) [Electronic resource].
- Access mode: http://zakon5.rada.gov.ua/laws/show/995_222

74 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross.
- Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

which was later enshrined in such legal acts as the Lieber Code (1863), Brussels Declaration (1874), Oxford Guide (1880). Fourth Hague Convention (1907) prohibits robbery under any circumstances. For example, Article 28 states that «It is forbidden to give the city or area for looting, even combined by attack», and 47 - that «Robbery is strictly prohibited»⁷⁵. Similarly, Additional Protocol II to the Geneva Conventions of August 12, 1949 in Article 4 (2) (g) specifies, that robbery is prohibited and will remain prohibited at any time and in any place. Robbery is defined as a war crime in the report of the established after World War II Commission on responsibility and punishment of perpetrators of war as well as in the Charter of the International Military Tribunal (Nuremberg), created after the World War II. The Fourth Geneva Convention also prohibits robbery. According to Article 8 (2) (b) (xvi) and Article 8 (2) (c) (v) of the Statute of the International Criminal Court⁷⁶, «Looting of a city or town, even if it captured by storm» is a war crimes in international and non-international armed conflicts respectively. Robbery is also included in the list of war crimes contained in the Statute of the International Criminal Court for the former Yugoslavia and Rwanda and the Special Court for Sierra Leone⁷⁷.

11. *Each party to the conflict must take all possible measures to protect the wounded, sick and people shipwrecked from robbery of their personal property. Each party to the conflict must take all possible measures to prevent the robbery of the dead. It is prohibited to take personal belongings from imprisoned persons, with the purpose of their misappropriation.* These rules meet the requirement to respect the rights of persons deprived of combat capability, imprisoned and died. The State practice establishes this rule as a rules of customary international law applicable in armed conflicts both of international and non-international nature. In a codified form these rules are currently set out in p. 1, Art. 15, p. 1, Art. 28 of the First Geneva Convention; p. 1, 2 Art. 18 of the Second Geneva Convention; Art. 18 of the Third Geneva Convention; p. 2, Art. 16, p. 2, Art. 33, p. 97 of the Fourth Geneva Convention; Art. 34 (1) of Additional Protocol I and 4 (2)(g) of Art. 4, p. 8 of Additional Protocol II to the Geneva Conventions of 1949.

As we can see, international humanitarian law is based on human rights, but has its differences. Thus, human rights and respect for these rights by UN-Member states is one of the most important tasks of this organization. The Universal Declaration of Human Rights (of December 10, 1948), two International Covenants of December 16, 1966 (on Civil Rights and on Economic, Social and Cultural Rights) and other agreements on human rights ensure protecting of human rights from encroachment of states. These guarantees are applied always and under all circumstances. Only under conditions of martial law or a state of emergency and under strictly defined circumstances (which are called extreme, exceptional circumstances), these contracts allow derogation from some of their provisions on human rights and civil rights observance, insurance of the inviolability of person and property rights⁷⁸. And while some human rights, applied in peacetime and may be limited during armed conflict, derogations from the rules of international humanitarian law is not permitted ever, under any circumstances of armed conflict.

75 Convention on the Laws and Customs of Upland War (IV Hague Convention) [Electronic resource].
- Access mode: http://zakon5.rada.gov.ua/laws/show/995_222

76 Rome Statute of the International Criminal Court [Electronic resource].
- Access mode: http://zakon2.rada.gov.ua/laws/show/995_588

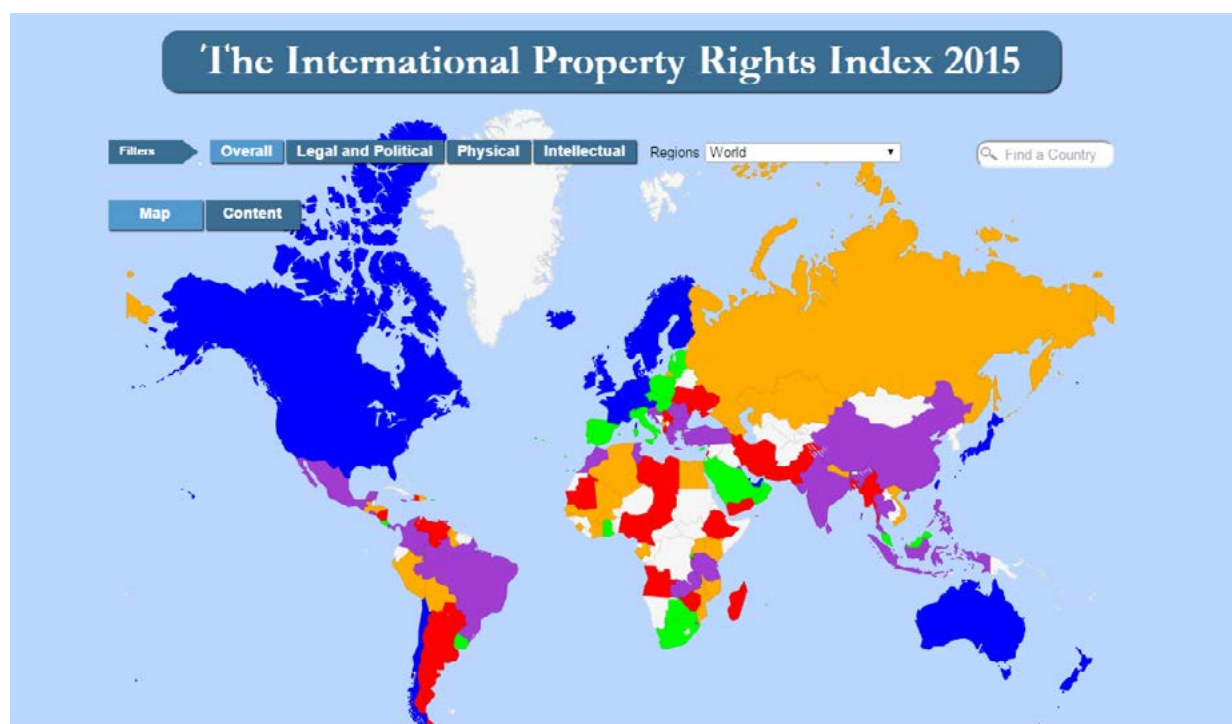
77 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross.
- Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

78 Lenshin S.I. Legal regime of armed conflict and international humanitarian law [Electronic resource] / S.I. Lenshin.
- Access mode: <http://vs-ra.org/library/ПРАВОВОЙ%20РЕЖИМ%20ВООРУЖЕННЫХ%20КОНФЛИКТОВ%20И.pdf>

2. MILITARY CONFLICT AND STATE OF AFFAIRS ON PROPERTY PROTECTION IN THE EAST OF UKRAINE

“**PROPERTY** rights is one of the most important factor in determining economic freedom and prosperity for the country - said Hernando de Soto, the President of the Institute for Liberty and Democracy (Lima, Peru). - Strong property rights are protected by a stable political environment, for western civilizations they became the second nature. For other countries ... failure to observe property rights is a matter of human rights”⁷⁹.

This statement fully applies to Ukraine. Property Rights Alliance since 2007, annually prepares and publishes the International Property Rights Index. The index evaluates rights and opportunity of citizens to have and protect private property around the world. Ranking countries is carried out in three main components: Legal and Political Environment (LP), Physical Property Rights (PPR), and Intellectual Property Rights (IPR). In turn, the LP component has four subcomponents: Judicial Independence, Rule of Law, Political Stability, and Control of Corruption. PPR component has three subcomponents: the Protection of Physical Property Rights, Registration of Property and the Ease of Access to Loans. Finally, IPR component also has three subcomponents: the Protection of Intellectual Property Rights, Patent Protection, and Copyright Protection. Following the 2015 ranking the level of our country, unfortunately, is very low, it received 3.9 points out of 10 possible, and is in the lowest «red zone» and takes 109th place among 129 world countries surveyed⁸⁰.



The International Property Rights Index: Map

⁷⁹ The International Property Rights Index 2015 [Electronic Resource].
– Way of access : <http://internationalpropertyrightsindex.org/introduction>

⁸⁰ The International Property Rights Index 2015 [Electronic Resource].
– Way of access : <http://internationalpropertyrightsindex.org/regions>

Its intraregional index is also low: from 19 countries of Central/Eastern Europe and Central Asia Ukraine is in 16th place⁸¹.

країни

Регіон Фільтр: СХІДНОЇ ЄВРОПИ ТА ЦЕНТРАЛЬНОЇ АЗІЇ ▼

Натисніть на назву країни, щоб побачити його окремі сторінки профілю.

| країна | рахунок | глобально | регіонально |
|-----------------------------------|---------|-----------|-------------|
| ALBANIA | 3.7 | 115 з 129 | 18 з 19 |
| БОЛГАРІЯ | 4.9 | 68 з 129 | 12 з 19 |
| ХОРВАТІЯ | 4.9 | 71 з 129 | 13 з 19 |
| ЧЕСЬКА РЕСПУБЛІКА | 6.3 | 31 з 129 | 2 з 19 |
| ЕСТОНІЯ | 6.6 | 27 з 129 | 1 з 19 |
| УГОРЩИНА | 5.8 | 46 з 129 | 6 з 19 |
| ЛАТВІЯ | 5.5 | 52 з 129 | 7 з 19 |
| ЛИТВА | 5.9 | 44 з 129 | 5 з 19 |
| MACEDONIA | 5.0 | 66 з 129 | 11 з 19 |
| МОЛДОВА | 3.6 | 116 з 129 | 19 з 19 |
| ЧОРНОГОРІЯ | 4.5 | 82 з 129 | 15 з 19 |
| ПОЛЬЩА | 5.9 | 41 з 129 | 3 з 19 |
| РУМУНІЯ | 5.3 | 55 з 129 | 8 з 19 |
| РОСІЯ | 4.5 | 81 з 129 | 14 з 19 |
| СЕРБІЯ | 3.9 | 110 з 129 | 17 з 19 |
| СЛОВАЧЧИНА | 5.9 | 43 з 129 | 4 з 19 |
| СЛОВЕНІЯ | 5.2 | 61 з 129 | 10 з 19 |
| ТУРЕЧЧИНА | 5.3 | 58 з 129 | 9 з 19 |
| УКРАЇНА | 3.9 | 109 з 129 | 16 з 19 |

The International Property Rights Index, the countries of Central / Eastern Europe and Central Asia

Significantly worsened is the state regarding property rights in the East of Ukraine situation of armed conflict because of the increased risk of its loss and significantly reduce the possibility of protection of rights, incl. in court. In addition, along with the property in situations of armed conflict damage to life and health is often caused. This is particularly evident in the case of indiscriminate shelling.

⁸¹ The International Property Rights Index 2015 [Electronic Resource].
– Way of access : <http://internationalpropertyrightsindex.org/countries?r=CEECA>

2.1. Military conflict in the East of Ukraine and the state of affairs on protection of civilians and civilian property from indiscriminate attacks

According Rian.com.ua information, during the warfare in the East of our country there were killed at least 7,000 civilians, which is 3 times more than the number of dead military (at least 2300)⁸². Regarding caused physical damage, according to various estimates losses from the destruction of infrastructure are in the range of from 469 million⁸³ to 15 billion⁸⁴ US dollars. The main part of damage was caused to the transport and energy sectors. Substantial damage was caused to water and sanitation systems, as well as residential houses and public buildings. In general, negative consequences for the physical infrastructure and providing the associated services can be divided into three categories: a) damage caused by intense military actions and shelling near the main facilities; b) loss of facilities that came under the control of anti-government armed groups; c) damage to services and supplies infrastructure that make it impossible to provide services to the affected inhabitants⁸⁵. At that there was a violation of both national rules and international humanitarian law.

1. *There was a failure to observe immunity of civilian objects by the parties to the conflict. Civilian objects were used for military purposes, and as a result were transferred to the category of military objectives.*

In current practice civilian objects include civilian areas, cities, towns, villages, residential areas, residential houses, buildings, schools, civilian vehicles, hospitals, clinics and medical offices, historical monuments, places of worship and cultural values and the environment⁸⁶.

The domestic regulatory framework meets international standards on this issue: in p. 562 of the Battle statute of the Upland Military Forces it is stipulated that «During the organization of the warfare in the city (settlement) a unit commander must consider: stay in a city (settlement) of the civilian population and the presence and location of objects that are essential to the survival of the civilian population, and other objects (zones), which are protected under IHL. Particular attention should be paid to prevention of transformation of civilians to the objective of attack and conducting indiscriminate attacks»⁸⁷.

However, in the territory of school №32 in Pryvillia town of Luhansk region during 2014-2015 there was located the base of separate company of patrol special police service «Tornado»⁸⁸. The school at the hottest point on the front lines the village of Pisky near the Donetsk airport suffered considerable damage. One of the comments posted

82 Victims of the war in the Donbass [electronic resource].

- Access mode: <http://rian.com.ua/infografika/20150825/372643495.html>

83 Ukraine. Evaluation of recovery and peace building. Analysis of the impact of the crisis and needs in eastern Ukraine, March 2015. [Electronic resource]. - Access mode: http://www.ua.undp.org/content/dam/ukraine/docs/PR/RPA_V2_Ukr_4Web_lowres.pdf

84 Consequences of War: Will the Donbass become a dead Economic Area? [Electronic resource].

- Access mode: <http://link.ac/4XgB7>

85 Ukraine. Evaluation of recovery and peace building. Analysis of the impact of the crisis and needs in eastern Ukraine, March 2015. [electronic resource]. - Access mode: http://www.ua.undp.org/content/dam/ukraine/docs/PR/RPA_V2_Ukr_4Web_lowres.pdf

86 Henckaerts J. M. Customary international humanitarian law. Standards [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross. - Access mode: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

87 Combat statute of the Land Armed Forces of Ukraine. Part III (Platoon, Department crew tank) [electronic resource]. - Kyiv, 2010. - Access : <http://www.studfiles.ru/preview/1583748/>

88 Soldiers of Special Forces «Tornado» left the base in the Luhansk region - MIA [Electronic resource] // Radio Svoboda, 23.6.2015. - Access mode : <http://www.radiosvoboda.org/content/news/27088258.html>

on the Facebook page post says that in this school «guys from the 1st Chernihiv tank brigade, mortar gunners, legendary mortar gunners...» kept the defense⁸⁹.



School in Pisky (Donetsk region) destroyed by shelling. Photo: Maya Mykhalyuk



School in Pisky (Donetsk region) destroyed by shelling. Photo: Jana Sedova

Such violations became of mass nature from the party of so-called DPR and LPR. In particular, the terrorists have repeatedly placed their bases, heavy weapons, multiple rocket launchers BM-21 «Grad» in the territory of hospitals, schools, kindergartens, residential quarters.

For instance, the head of the ATO press center Vladislav Seleznev on June 4, 2014 said to «Ukrainian Truth» that combatants deploy their bases in hospitals, kindergartens, in recreation centers, sanatoriums. «If we start to beat on these sites immediately the hysteria in the Russian media will begin that the Ukrainian military fire at peaceful citizens who sit in hospitals. But no one says that in the hands of these civilians are RATLs, AGTs, RATLs «Flies», and at the window there is NONA that is bombing our positions,»- said Seleznyov. «Combatants from Sloviansk equipped their base in the hospital. This is the operationally confirmed information,»- he said⁹⁰.

⁸⁹ Broken windows and furniture. Ukrainian military showed how school in Pisky looks like [Electronic resource] // New time. - 2015 – October 4. - Access mode: <http://nv.ua/ukr/ukraine/events/vibiti-vikna-i-rozlamana-mebli-ukrajinskij-vijskovij-pokazav-jak-vigljadaje-shkola-v-piskah-72183.html>

⁹⁰ Seleznev: The terrorists are hiding in kindergartens and hospitals [Electronic resource] // Ukrainian Pravda. - 2014 – June 4. - Access mode: <http://www.pravda.com.ua/news/2014/06/4/7027980/>

The same time in the Internet was posted the video, in which it is seen how pro-Russian terrorists fire from grenade launchers, settled on the roof of a residential building in Luhansk. Also the video presents frames of fire from small arms from the cover of residential buildings on the ground⁹¹.



Terrorist shooting at the border guards with a grenade launcher (Screenshot Youtube)

July 2014: «In Severodonetsk on the roof of the block house №25 in Budivelnkyiv Highway separatists installed launchers on the roof. It happened today after the units of National Guard came to the city and located a few kilometers from the city from the side of Novoaydar»- wrote the local MP Serhiy Samarskiy on his Facebook page. Attempts of residents to prevent the mounting of launchers failed. At gunpoint the weapons was mounted. The launcher mounted on the roof jeopardizes residents of the quarter 79, near the trolley-bus depot, within which there are two schools - №14 and №20 - and kindergarten №41⁹².



In Severodonetsk terrorists set a mortar launcher on the roof of the house

91 There was posted a video of shelling of border guards in Luhansk from residential areas [Electronic resource] // UNIAN. - 2014 - June 4. - Access mode: <http://www.unian.net/politics/925302-poyavilos-video-obstrela-pogranichnikov-v-luganske-iz-jilyih-kvartalov.html>

92 In Severodonetsk terrorists set mortars on the roof of the house [Electronic resource] // Details. - 2014 - 11 July. - Access mode : <http://podrobnosti.ua/984355-v-severodonetske-terroristy-ustanovili-minomety-na-kryshe-doma.html>

In the beginning of May 2015 in Donetsk aerial reconnaissance platoon «Dnipro-1» through drones recorded that the base of the terrorists, where they are holding military equipment, located 440 meters from the kindergarten №355 «Rodnichok» and 565 meters from the mainstream secondary school №118. Directly near the children's educational institutions there were recorded 18 tanks, one infantry fighting vehicle, 46 «Urals», two ATCs⁹³.



Terrorists hide their tanks near schools and kindergartens (Screenshot Youtube)

In November 2015 representatives of the volunteer organization InformNapalm reported that in Stakhanov there was found the terrorist military base, located near the local school №28 and children's clinic⁹⁴.



Photo: InformNapalm

⁹³ Terrorists hide their tanks near schools and kindergartens - the data of aerial reconnaissance [Electronic resource] // Ukraine Under Attack. - 2015 – May 3. - Access mode: <http://ukraineunderattack.org/8797-terroristi-hovayut-svoyi-tanki-poblizu-shkil-ta-ditsadkiv-dani-aviarozvidki.html>

⁹⁴ Militants placed a military base near schools and hospitals in Stakhanov [Electronic resource] // Press Ukraine. - 2015 - 5 November. - Access mode : <http://uapress.info/uk/news/show/103589>

Since the end of November 2015 building of school №15 in the village Zaitsevo of Donetsk region is used to store weapons and ammunition, as well as barrack for DPR combatants. The report of the Special Monitoring Mission (SMM) of OSCE on the basis of the visit to this school stated that SMM has seen the presence of well-armed members of the «DPR» inside the school building; the available signs they were billeted at the school. Also inside the school SMM saw the ammunition depot of different caliber and small arms and light weapons. The school was connected with trench of 1.5 m depth with a neighboring DPR checkpoint, which is 100 meters from the building of the educational institution. There were no teachers or pupils in the school. SMM saw no textbooks, visual aids or any other indication that the school is used for educational purposes. Locals told to SMM that the school is closed⁹⁵.



School in the village Zaitsevo. Photo: telesyk.livejournal

2. During the military conflict in the territory of Donetsk and Lugansk regions the direct attacks on military objectives conducted by parties to the conflict caused excessive collateral damage to civilian objects.

During one of his investigations in the conflict zone the Human Rights Watch found that both pro-government forces and combatants backed by Russia unnecessarily put in jeopardy civilians placing military objectives and using explosive weapons with a large radius of destruction in residential areas, including the areas adjacent to schools, which violates international humanitarian law⁹⁶.

November 5, 2014 in Donetsk shelling covered school №63, as a result two children were killed and four were wounded, writes UNIAN with reference to Natalya Yemchenko: «A rocket hit the stadium near the school №1 in Donetsk (near the airport). This was told us by a volunteer from the humanitarian headquarter «Help». At that time there were children in the stadium. The children were taken to the school and expect

⁹⁵ The latest news from the Special OSCE monitoring mission in Ukraine on the basis of the information received, as of 19:30, December 9, 2015 [Electronic resource]. - Access mode : <http://www.osce.org/ru/ukraine-smm/209106>

⁹⁶ Ukraine: Rising Civilian Death Toll [Electronic Resource]. - Way of access : <https://www.hrw.org/news/2015/02/03/ukraine-rising-civilian-death-toll>

ambulance. According to our man there are killed, both children and adults»⁹⁷. In the National Council of Security and Defense of Ukraine they believe that the emergence of the Russian filming crew shortly after combatants shelled the school in Donetsk evidences that the crime was planned. Foreign Ministry spokesman Yevhen Perebiynis said that shelling of the school in Donetsk, resulting in killed children, was conducted from Makeyevka, controlled by combatants⁹⁸. He wrote about that in his Twitter and posted as a photoevidence materials of an analytical journalist with the nickname Ukraine@war on Twitter, which conducted the investigation on his blog⁹⁹.



Photo: Ivan Prikhodko / facebook.com

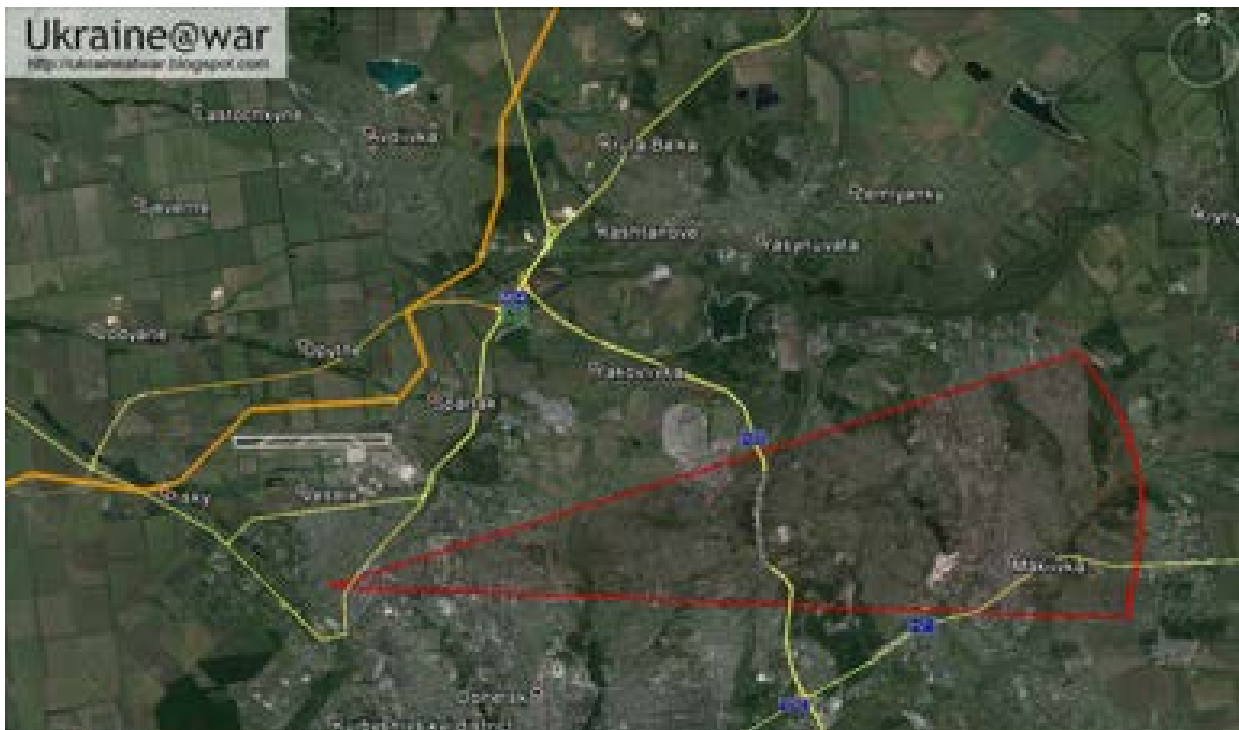


Photo: @DajeyPetros/ Twitter

⁹⁷ In Donetsk projectile vluchiv school: zaginuli Dvi ditini, four - in reanimatsii [Electronic resource]. - Access mode: <http://www.unian.ua/society/1005635-u-donetsku-snaryad-vluchiv-v-shkolu-zaginuli-dvi-ditini-chetvero-v-reanimatsiji.html>

⁹⁸ The shelling of the school in Donetsk, as a result of which children were killed, was conducted by militants who occupied Makeyevka [Electronic resource]. - Access mode: <http://www.unian.ua/politics/1005879-obstril-shkoli-v-donetsku-vnaslidok-yakogo-zaginuli-diti-vivsya-z-okupovanoji-boyovikami-makijivki.html>

⁹⁹ Rocket that hit School No63 did not come from Peski [Electronic Resource]. - Way of access: <http://ukraineatwar.blogspot.nl/2014/11/rocket-that-hit-school-no63-did-not.html?m=1>

January 13 and 20, 2015 there was shelled Granitne village, due to shelling there was killed a 2-year-old girl, a woman was injured. According to locals Ukrainian military based right in the center of the village, perhaps because of that the combatants are trying to hit them, but due to that civilians are affected¹⁰⁰.

January 22, 2015 in Rovenky there was shelled the school, where the lesson was held. One of the pupils took a chance of shooting video of shelling moment. Later it turned out that the school suffered from artillery duel of Cossacks and LPR combatants in the town center¹⁰¹.

3. Parties to the conflict are not always carried the distinction between civilian objects and military objectives. There have been instances of deliberate attacks against civilian objects.

May 26, 2014 there were shelled residential quarters of Sloviansk and Semenivka, (Donetsk region) from self-propelled artillery platform «Nona». As a result civilians were killed. According to the Head of ATO Information Department the colonel Vladislav Seleznev combatants fire at residential areas from the previously seized Ukrainian artillery platform to discredit the Ukrainian military¹⁰².

January 13, 2015 combatants shelled the village Maloorlivka of Shakhtarsk district, Donetsk region. «7 mines fell on residential houses. As a result of shelling there was killed a local resident,» - said «Tsenzor.net» referring to the ATO press center¹⁰³.

January 13, 2015 near Volnovakha town of Donetsk region from artillery weapon there was shelled a regular bus Zlatoustivka-Donetsk (BS «Pivdennyi»), as a result 10 civilians were killed, another 13 were wounded¹⁰⁴. According to the Chief of police of Donetsk region Vyacheslav Abroskin, the stroke was caused by combatants. This version is supported by the Human Rights Watch organization¹⁰⁵.



Photo: Reuters

100 Ukraine: Rising Civilian Death Toll [Electronic Resource]. – Way of access : <https://www.hrw.org/news/2015/02/03/ukraine-rising-civilian-death-toll>

101 «We took the bait of the junta» - during a firefight between militants in Rovenky pupils were covered with shelling. VIDEO [Electronic resource]. - Access mode: http://censor.net.ua/video_news/321236/my_poddalis_na_provokatsiyu_hunty_vo_vremya_perestrelki_mezdu_boevikami_v_rovenkah_pod_obstrel_popali

102 On May 26 rebels shelled residential quarters of Sloviansk and Semyonovka, there are victims among civilians. Seleznev [Electronic resource]. - Access mode: <http://112.ua/politika/opolchency-26-maya-obstrelyali-zhilye-kvartaly-slavyanska-i-semenovki-sredi-mirnyh-zhiteley-est-postradavshie-seleznev-68033.html>

103 Terrorists shelled Maloorlovka: seven mines fell to the residential buildings, there are victims. Press center of ATO [Electronic resource]. - Access mode: http://censor.net.ua/news/319717/terroristy_obstrelyali_maloorlovku_sem_min_upali_na_jilye_doma_est_jertvy_presstsentr_ato

104 Combatants under Volnovaha covered with artillery shelling a public bus: 10 victims [Electronic resource]. - Access mode : http://zn.ua/UKRAINE/boeviki-pod-volnovahoy-nakryli-artilleriyy-reysovyy-avtobus-23-zhertvy-163905_.html

105 Human Right Watch accused the combatants of shelling Mariupol and a bus near Volnovakha [Electronic resource]. - Access mode: http://zn.ua/UKRAINE/human-right-watch-obvinyat-boevikov-v-obstrele-mariupolya-i-avtobusa-pod-volnovahoy-165834_.html

January 18, 2015 the Head of the Ministry of Interior of Ukraine in Donetsk region Vyacheslav Abroskin on his page on the social network Facebook, wrote: «This morning, combatants fired from mortars the residential sector of Krasnogorivka, Maryinka district. As a result of a direct hit in the private household in the Suvorov Str. a young woman was killed, her civilian husband received injuries. In the area of the Radgospna street as a result of shelling from 11:00 to 12:00, a father and a daughter born in 1997 received shrapnel wounds,» - said «Tsenzor.net»¹⁰⁶.

Also, January 18, 2015 at least three shells hit a residential area in the Communards street of Kirov region of Donetsk, having killed one civilian and heavily wounded another one. The Human Rights Watch could not determine any military objectives in the vicinity.

January 19, 2015 at least five shells hit houses in the controlled by militants Tekstilnyky area, located in the western part of the city of Donetsk. Also shells affected market and courtyards of two schools, as informed by the Human Rights Watch in its report. Local assured human rights activists that they saw the combatants fired of «Grads» on the eve in close proximity to one of the schools. 2 more shells fell on that day in the residential Kuibyshev district, one person was killed. The Human Rights Watch was unable to determine any military objectives in the vicinity.

January 22, 2015 in the Leninsky district of Donetsk city public transport stop was shelled. According to the DPR from 9 to 13 people were killed.

The so-called «Donetsk City Administration» gives a list of events: shelling in the Bosse district, tram №3, train 115 damaged, female driver injured, route №3 canceled; direct hit to trolley №17, 7 people killed; break on the line of trolleybus №17, route ends at «Shlakolechebnytsya» stop; bus-stop «18th Partsiezhda Str.» was shelled, route of tram №1 is limited to the «Planetarium» stop; shelling of terminal stop of trolley №5, traffic on the route completely stopped; shelling of a bus on route №37, there are killed and wounded. Ukrainian party accused of shelling the DPR combatants^{107, 108}.



Photo: JuMistress

106 Combatants have fired Krasnogorivka: a civilian was killed [Electronic resource].

- Access mode : <http://fakty.ua/194105-boeviki-obstrelyali-krasnogorovku-pogib-mirnyj-zhitel>

107 Ukrainian authorities said that combatants have fired a bus-stop in Donetsk on purpose [Electronic resource].

- Access mode : http://zn.ua/UKRAINE/ukrainskie-vlasti-zayavili-chto-boeviki-specialno-obstrelyali-ostanovku-v-donecke-164726_.html

108 In Donetsk, the shell exploded at the bus stop, the rebels say that there are 13 killed [Electronic resource]. -

Access mode : http://zn.ua/UKRAINE/v-donecke-snaryad-razorvalsya-na-ostanovke-boeviki-govoryat-o-13-pogibshih-164715_.html

January 27, 2015 combatants shelled from the MLRS «Grad» the hospital in Svetlodarsk town, Artemivsk district, where there were treated both wounded military and civilian residents of neighboring settlements. As a result, the hospital came out of service, one employee was killed¹⁰⁹.

In January 2015, after shelling of the village Troitske the mainstream school was damaged. It was shelled the second time in March 2015. According to Gennady Moskal, in a radius of several kilometers from the school there was no Ukrainian military located¹¹⁰.



Photo: <http://www.moskal.in.ua>

As NV.ua informs, journalists gathered evidence of shelling of Donetsk on July 21, 2015 by the DPR party¹¹¹. As evidence is meant an interview of a local resident, who said that before the attack near the shelled houses appeared Russian TV channel journalists and prepared for filming, and then shelling began. On that day a shell hit the multi-storey residential building in the Kuibyshev Str.¹¹². As a result a young woman was slightly wounded.

¹⁰⁹ In Svetlodarsk combatants fired hospital, there are victims [Electronic resource].

- Access mode : <http://www.unian.net/war/1036941-v-svetlodarske-boeviki-obstreljali-bolnitsu-est-jertvyi.html>

¹¹⁰ In Troitske a secondary school was fired - the second time in a few months [Electronic resource].

- Access mode: http://www.moskal.in.ua/?category=news&news_id=1530

¹¹¹ Journalists gathered evidence of shelling of Donetsk by terrorists [Electronic resource].

- Access mode: <http://nv.ua/ukraine/ZHurnalisty-sobrali-dokazatelstva-obstrela-Donetska-terroristami-6848.html>

¹¹² On the morning of July 21 Donetsk was shelled. There a is wounded (PHOTOS, VIDEO) [Electronic resource].

- Access mode: http://reporter.dn.ua/news/incidents/utrom_21_iyulya_donetsk_podvergsya_obstrelu_ranen_rebenok/



Photo: <http://reporter.dn.ua>

In the evening, August 5, 2015, according to the press officer of Sector «B» Eugene Silkin DPR military shelled civilians of Marinka town, Donetsk region: «At 20:30 the combatants struck firing shots from automatic tank grenade launchers, in half an hour of work on destroying of the houses of civilians the enemy mortar battery of 120 mm caliber joined the process, the shelling lasted nearly an hour»¹¹³.

At night, September 5, 2015 from midnight the military again shelled residential quarters of Marinka town, Donetsk region. 5 buildings were demolished¹¹⁴. «Shelling started at around 00.30 and lasted about an hour. Shells hit the Ordzhonikidze street, Shevchenko street, Zelena street. 5 houses were destroyed, 2 of them completely burnt. According to preliminary information there were no injured», - the press service of the City Department of Ministry of Interior of Ukraine in Donetsk region. On the facts of destruction of houses there was opened the criminal proceedings under Art. 194 (intentional destruction or damage of property) of the Criminal Code of Ukraine.

January 1, 2015 LPR combatants from Kirovsk suburb shelled residential houses of Zolote town of Popasnaja district, Luhansk region. The shelling was carried out with the use of artillery and multiple launch rocket systems «Grad». Hit fell on the quarter Soniachnyi, direct hit to the apartment on the fourth floor of building №2; shell exploded in the playground near the house №4; a huge crater near a house № 8. Many apartments has no windows, balconies are destroyed, gas pipes and power lines damaged¹¹⁵. In the shelling two children were slightly injured¹¹⁶.

¹¹³ Combatants shelled about an hour residential quarters of Marinka of 120 mm mortars. Press officer of the sector «B» [Electronic resource]. - Access mode: http://censor.net.ua/news/346664/boeviki_pochti_chas_obstrelivali_jilye_kvartaly_marinki_iz_120mm_minometov_pressofitser_sektora_b

¹¹⁴ Combatants attacked the residential areas of Marinka: 5 houses destroyed [Electronic resource]. - Access mode: <http://www.segodnya.ua/regions/donetsk/boeviki-udarili-po-zhilyim-rayonam-marinki-5-domov-razrusheno-646977.html>

¹¹⁵ Photos of the devastation after the «New Year» shelling of Zolotoy - updated [Electronic resource]. - Access mode: <http://informator.lg.ua/archives/58324>

¹¹⁶ During shelling of Zolotoy in Luhansk region combatants wounded two children [Electronic resource]. - Access mode: <http://ru.tsn.ua/ukrayina/vo-vremya-obstreliv-zolotogo-na-luganschine-boeviki-ranili-dvuh-detey-403795.html>

4. During the military conflict in the East of Ukraine there took place indiscriminate attacks that are not directed at a specific military objectives and are, therefore, in each such case strike military objectives, civilians and civilian objects without distinction.

In the report of the UN High Commissioner for Human Rights of October 8 it is indicated that some of the reports of indiscriminate shelling of residential areas can be attributed to the Ukrainian armed forces. According to the UN experts, «apparently, most civilian casualties were caused by indiscriminate shelling of residential areas and the use of heavy artillery». Meanwhile, experts noted that «continuing reports of indiscriminate shelling of densely populated areas on the part of armed groups, and Ukrainian armed forces.» The rebels are also blamed on that they hide among civilian objects that «put in jeopardy the local population»¹¹⁷.

Later, July 9, 2014, the OSCE mission reported that taking into account the abundance of evidence, Slovyansk really has been subjected to indiscriminate artillery and mortar attacks¹¹⁸.

July 14, 2014 with the MLRS «Grad» there were shelled residential quarters of Luhansk: Mirny, Stepovyi and Olkhovskiy. As a result cafe «Korefan» caught fire. People died¹¹⁹.



Photo: twitter/ @euromaidan

117 The theme of mass graves near Donetsk was not reflected in the UN report [electronic resource].

- Access mode : <http://tass.ru/mezhdunarodnaya-panorama/1492784>

118 The OSCE Mission has confirmed indiscriminate shelling of Slavyansk [Electronic resource].

- Access mode : <http://vz.ru/news/2014/7/9/694837.html>

119 Terrorists have fired residential areas of Lugansk [electronic. resource].

- Access mode: <http://www.pravda.com.ua/rus/news/2014/07/14/7031914/>

January 24, 2015 at approximately 9:20 Eastern District in Mariupol and the surrounding area were shelled. About 100 rockets were launched, many of them hit private and public buildings, shops, pharmacies, shopping areas, banks, schools and kindergartens. As a result of the shelling 31 civilians, including 2 children, were killed and more than 100 civilians were wounded. There were no military objectives in the area, shelling was conducted from Grad MLRS to the village of Dzerzhinske, where combatants are based. The International Partnership for Human Rights on the basis of its own investigations conducted during the field mission in Mariupol, said that the attack can be qualified as indiscriminate shelling¹²⁰.



Photo: Vasyssualyy Nechiporenko via Facebook

In February 2015 an international organization the Amnesty International said that the situation in Debaltsevo, Donetsk region is catastrophic: attacks do not stop, in addition the only road is shelled by which local residents leave the city. Also, the organization noted that some attacks of the city were indiscriminate¹²¹.

January 21, 2015 Stakhanov town experienced a massive shelling. The main blow fell on the Lobochevskogo street, where six residential houses were damaged: three - in the Lenin side street, two on Peremogy Square, another one in the 60 Let Zhovtnia street. There was completely destroyed a house in the Maisky side street. Without the glasses appeared the kindergartens «Horobynka» and «Golden Key». Significant destruction is in the Partisanska, Telman, Izotov streets. Two residential houses and several barns were almost completely destroyed, power line, pipeline, building of the kindergarten «Sonechko» were partially damaged. The victims of the shelling of residential quarters in Stakhanov were 15 civilians, 12 people received mine-explosive injuries, 3 were killed¹²².

¹²⁰ Mission report on Mariupol shelling in Ukraine [Electronic Resource].

- Way of access : http://iphronline.org/wp-content/uploads/2015/09/mariupol_mission_report_febr_2015.pdf

¹²¹ OSCE Chairman called for a ceasefire in Debaltsevo for three days to conduct evacuation [Electronic resource].

- Access mode: http://zn.ua/UKRAINE/boeviki-dolzny-prekratit-obstrel-y-i-pozvolit-evakuaciyu-v-debalcevo-amnesty-international-165923_.html

¹²² Stakhanov continues to be shelled (PHOTOS) [Electronic resource].

- Access mode: <http://www.0642.ua/article/717811>

February 6, 2015 in Stakhanov the bus station was shelled. Mortar fire was opened at a time when there were the greatest number of people waiting for departure of transport. During shelling there was damaged a gas station, located near the «Bus Station» stop and an unfinished store. There is information about one killed person¹²³.

February 12, 2015 Luhansk civilian objects were again shelled. The eastern part of the city was subjected to shelling. Residents reported about several attacks with small intervals of time. As a result of falling shells fire started near the knitting factory «Lutri» (area of burned «Epicentr»), a car that was in the territory burned. There were damaged a milk plant, a number of residential buildings in the Dzerzhinsky street, Gagarin, Volkov, Molodizhnyi, Shidnyi quarters. In the 50 Ritchia Zhovtnia quarter, a projectile hit the store «Rush Hour.» After the attack in the eastern part of the city disappeared electricity, but after a few hours electricity was restored. The shelling killed three people¹²⁴.

May 26, 2015 village Slavyanoserbsk was subjected to shelling, namely the Agricultural College building and multi-storey building in the Gagarin street. In Kirov Street 143-a due to direct hit into the roof of a residential building fire started through flammable materials building, despite the efforts of the fire brigade, burned almost completely. Several shells fell in the private sector of Kirov and Lenin streets in gardens¹²⁵.



Photo: Maks Tisha

123 In Stakhanov «Cossacks» have shelled a bus station at rush hour [Electronic resource].

- Access mode : <http://hvylya.net/news/digest/v-stahanove-kazaki-obstrelyali-avtovokzal-v-chas-pik.html>

124 Video of shelling of residential areas of Lugansk 12/02/2015. [Electronic resource].

- Access mode: http://www.dialog.ua/news/41622_1423781681

125 Consequences of shelling Slavyanoserbsk college and residential buildings (PHOTOS, VIDEO) [electronic resource]. - Access mode : <http://slavyanoserbsk.com/?p=9975>



Photo: slavyanoserbsk.com

June 10, 2015 combatants shelled the village Trohizbenka, Lugansk region. As a result of shelling projectiles hit two private houses and severely damaged them. In addition, a mine exploded in the garden near the kindergarten. No one was injured¹²⁶.

In July 2015 it became known about the selling of Novotoshkyivka village with mortars and anti-tank guided missiles. 12 mines exploded directly at Novotoshkyivka, one anti-tank rocket hit a water tower in the center, another exploded in the yard of a private house, where a large family lived¹²⁷.

August 13, 2015 Bolotenne village, Stanichno Luhansk region was subjected to artillery shelling, houses of civilians appeared to be in the zone of destruction. Shells exploded in yards and gardens, having left craters more than half a meter deep. Glass fragments killed domestic animals. One of the shells broke through the basement, the owner, who tried to hide there got concussion¹²⁸.

From 21 to 22 August 2015 Popasna residential neighborhood between the Lenin, Mendeleev and Pervomaiska streets undergone shelling of mortars. Overall about 15 shots were made. According to the ATO speaker in Lugansk region Ruslan Tkachuk, at 21:00 some shells of 152 mm were launched from self-propelled guns, shelling covered residential houses in the Pervomajskaja, Pivnichna and Polarna streets.¹²⁹

August 28, 2015 as a result of shelling villages Orekhovo Popasnaja district in the Tsentralna street fire occurred in a summer kitchen. At several houses glasses were broken, Glass fragments cut a pensioner¹³⁰.

126 Combatants have shelled a kindergarten in the Donbas [Electronic resource]. - Access mode: <http://www.segodnya.ua/regions/donetsk/boeviki-obstreljali-detskiy-sadik-na-donbasse-622609.html>

127 Luhansk Regional State Administration: Local resident and military were wounded in the shelling of Novotoshkyivka [Electronic resource]. - Access mode : <http://gordonua.com/news/war/Luganskaya-OGA-V-rezultate-obstrela-Novotoshkovki-raneny-mestnaya-zhitelnica-i-voenny-90178.html>

128 Shelling of Bolotenne: APU military was wounded, yards of civilians are destroyed (video) [electronic resource]. - Access mode : <http://informator.lg.ua/archives/112356>

129 In Lugansk region terrorists used at civilian quarters of Popasna town 152-mm self-propelled guns (official summary as of 22.08.15) [Electronic resource]. - Access mode: <http://ato.lisichansk.in.ua/na-luganshhini-teroristi-zastosuvali-po-mirnix-kvartax-m-popasna-152-mm-sau-oficijne-zvedennya-stanom-na-22-08-15.html>

130 Combatants covered civilians and military with heavy artillery: the commander was wounded [Electronic resource]. - Access mode: <http://www.segodnya.ua/regions/donetsk/boeviki-nakryli-mirnyh-zhiteley-i-voennyh-tyazhelyo-artilleriy-ranen-komandir-644803.html>

5. During the military conflict in the East of Ukraine indiscriminate attacks took place, which employed methods or means of combat which can not be directed against specific military objectives and therefore, in each such case, strike military objectives, civilians and civilian objects without distinction.

During a research mission in the end of September and beginning of October 2014 the Amnesty International documented over 20 deaths among the civilian population as a result of shelling and rocket attacks in the eastern cities of Ukraine: Donetsk, Avdeevka and Debaltseve. Most of them were the result of indiscriminate shelling by the attackers, who used weapons, low accuracy of which makes it impossible to provide a distinction between civil and military targets¹³¹.

In its report on the results of field missions to the Kramatorsk town the international organization International Partnership for Human Rights found that the shelling of air-base and the town on February 10, 2015 was indiscriminate. A rocket attack killed 9 civilians, another 35 were injured, 5 of them children. Shelling covered not only military objectives but also residential houses, town hospital and children's hospital, a school where the children stayed. The shelling was recognized indiscriminate on the basis of a nature of used weapons, and due to ways of its use: according to information from the ATO headquarters the shelling included 32 rockets launched from four different "Smerch" rocket launch systems. Monitors confirmed the version of the headquarter based on the own study of the remnants of rockets in the town¹³².

September 3, 2014 the town of Schastie was shelled from the MLRS Grad. The shelling damaged the checkpoint, shop, bar and a hairdresser's, as well as residential houses in front of the town hospital^{133, 134}.

September 27, 2014 between 14:10 to 14:20 from the city of Pervomaysk combatants carried out a mortar attack in the direction of Girske town. Combatants launched 13 mines. In the shelling the building in the Chernyshevskogo street №11, five-story building in the Chernyshevsky street №38 and №13, two-storey house in the Gagarin street were damaged; two local residents of 1971 year of birth were wounded.¹³⁵

November 12, 2014 as a result of shelling of the Slav'yanoserbsk village there was damaged children's camp named after Gagarin, there was destroyed the ambulance station. There were hits in the area of lemo-section in Lenin street and the «Oschadbank» department. In the latter it resulted in three locals killed, at least two injured¹³⁶.

On the night of January 19 to 20, 2015 from 20:30 to 4:00 combatants continued shelling of residential areas of Schastie town. The artillery, self-propelled guns, mortars and MLRS «Grad» were used. There were recorded hits to houses in the Radianska street, №14 (a wall of the building), Radianska street, №16 (two shells fell in the yard), Druzhby street, №30 (three shells fell in the yard, one near the entrance, another one hit the third floor, many balconies are damaged and windows knocked out), the Druzh-

131 Amnesty International: Both sides of the conflict in Donbas are guilty of civilian deaths [electronic resource]. - Access mode: <http://www.unian.ua/politics/1006220-amnesty-international-obidvi-storoni-konfliktu-na-donbasi-vinni-v-zagibeli-tsvilnih.html>

132 Mission report: Rockets hit residential area in Kramatorsk, Ukraine [Electronic Resource]. - Way of access : http://iphronline.org/wp-content/uploads/2015/05/rockets_hit_residential_area_in_kramatorsk_ukraine.pdf

133 Schastie city in Luhansk region underwent a massive shelling [Electronic resource]. - Access mode: http://censor.net.ua/news/300890/gorod_schaste_na_luganschine_podvergsya_massirovannomu_obstrelyu

134 Schastie city was shelled. Residential houses were damaged (photo) [Electronic resource]. - Access mode: <http://informator.lg.ua/archives/27639#more-27639>

135 LPR Combatants have shelled Gorsk town [Electronic resource]. - Access mode: <http://informator.lg.ua/archives/34393>

136 Consequences of shelling of Slavyanoserbsk. There are killed [Electronic resource]. - Access mode: <http://informator.lg.ua/archives/47107>

by street, 30 (garage), the Voroshilov street, №22, in preventive clinic DTEK, the private sector, the crossing of the Lenin and Radianska streets¹³⁷.

January 27, 2015 the city of Luhansk was subjected to shelling. About 17:45 combatants carried out the shelling near the Repair Operation plant. According to users in social networks, several shells fell in the Fifth Railway lane. According to preliminary reports, five people were injured, two killed¹³⁸. In its report the OSCE monitoring mission reported that the rocket attacks affected the Vapniak str., Korolenko str. Dekabrist str. and also Michurina str. and Sumska str. - residential areas, where small private houses locate. According to monitors, shelling was conducted from MLRS «Smerch» of 300 mm caliber with the use of cluster munitions^{139, 140}.



Photo: <http://lugansk.co.ua>

6. During the military conflict in the East of Ukraine the prohibited «bombardment on the area» is prohibited (any attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated distinct military objectives located in a city, town, village or other area containing concentration of civilians or civilian objects) was not applied.

137 Schastie turning into ruins, Stanitsa Luganska have been shelled from «Grads» by combatants from the territory of the a maternity home: Videofact [Electronic resource].

- Access mode : <http://obozrevatel.com/politics/19756-schaste-prevrashaetsya-v-ruinyi-stanitsu-luganskuyu-obstrelyali-gradyi-boevikov-s-territorii-roddoma-videofakt.htm>

138 Urgent! Combatants have shelled Lugansk. There are wounded (screen, card) [Electronic resource].

- Access mode: <http://informator.lg.ua/archives/64876>

139 Spot report by the OSCE Special Monitoring Mission to Ukraine (SMM), 3 February 2015: Civilians killed and wounded in strike with cluster munitions in Izvestkova Street in Luhansk city [Electronic Resource]. – Way of access : <http://www.osce.org/ukraine-smm/138906>

140 As a result of the shelling of Stakhanov Lugansk region 3 people died, 12 were hospitalized [electronic resource]. - Access mode: http://www.unn.com.ua/ru/news/1428548-vnaslidok-obstrilu-stakhanova-na-luganschini-3-osib-zaginulo-12-gospitalizovano?_part=main&_print=1

2.2. Military conflict in the East of Ukraine and the state of affairs on protection of the right to peaceful enjoyment of property

As it is known, the seizure of property (both public and private) during the military campaigns for a long time was considered a matter not only permitted, but honorable. But now, according to common rule, private property is inviolable, including during armed conflict. The purpose of such enhanced protection of the property rights is prevention the consequences of military operations for the property necessary for the sustenance and the individual protection of civilians, as well as the observance of the requirement to respect the rights of persons deprived of combat capability, or imprisoned or died. As a result the military conflict in the East of Ukraine almost all affected individuals not only experienced severe psychological stress, but also suffered rather significant damage, kidnapping, injury or death of relatives; destruction or damage to housing; robbery or seizure of their property; loss of business or employment. At that these illegal actions were recorded by all parties involved in the conflict.

Kidnapping and unlawful seizure of property of persons deprived of liberty (captured, detained)

Unlawful capture of civilians of Donetsk and Lugansk regions by pro-Russian armed formations often were accompanied by brutal violations of human rights - the right to life, the peaceful enjoyment of possessions, prohibition of torture and ill-treatment and so on.

June 4, 2014, about 12 o'clock in Stakhanov town of Lugansk region unidentified combatants in camouflage kidnapped a local businessman Ilya Balashov of 1986 year of birth together with his car, as reported by his sister Daryna



Post of East activists about disappearance of Ilya Balashov on Facebook

She said four armed men in camouflage came into a brother's store and took him away by his own car. The same day, because of disclosure and resonance of that case in the Ukrainian and foreign, some Russian mass media, Balashov was released. The seized car, computer, phone and other property were returned, but a large sum of money they took for «LPR needs»¹⁴¹.

On May 3, 2014 a private businessman and civic activist Leonid Alpatov was kidnapped by combatants from nearby of his house, having hit him over the head with a re-bar. He was handcuffed and thrown into a «torture chamber» in the seized SSU building. There he came into the hands of «Leshyi» unit (the leader of the gang with nickname Leshyi - Olexiy Pavlov, a resident of Stakhanov, a former member of the «Kazaks» organization). *«I spent 9 days in captivity and think that their tortures are not only a questioning element, this is an element of fun and regulations. ... Next was the known procedure: handcuffs, beating with sticks, kicks, re-bars, gun-buts, clubs. Tortured with electric shock. And at the same time there were about eight men near me and one of them hit me on the foot with gun-but about 20 times without stop. To this day I wake up in the night from the pain in the left foot. It was all in cracks»*. After the first worst days, the combatants probably realized that will not receive any valuable information from the prisoner, and began to wait for redemption. Unlawful detention ended after Alpatov's parents paid «DPR» supporters ransom of 10 thousand dollars. The leader of the terrorists Bolotov, getting money, explained that they will go «to the revolution needs.» The same as pocket money, the watch and chain with a cross that bandits stole from Lienia during detention¹⁴².

The owner of Kramatorsk Airport Dmitry Podushkin was probably the most extraordinary prisoner of the local TDC. He was captured for the help to Ukrainian army and active antyDPR position. At that he was not beaten, was not tortured. It was like an exemplary punishment by the local «elite». In total he spent in separatist detention 56 days. *When asked what the owner of the air gates of the city felt when saw half-ruined, looted buildings, he said: «I thought that there are all ruins there. But there are only some losses of three million. The property was pulled away not only by «barricaders» but by our military as well. But I do not mind. Otherwise «barricaders» would have got it.» There is one Voronkin Denis, who stole my heavy rarity chair of my office. Done of poplar. Not lazy. But Babay drove the car, which I was seized of during the arrest - red either «Opel», or «Volkswagen». It had the inscription «Strength of Speed». But the letter «S» was one for two words. So it was read as: the Strength of peed. And Babay drove this «Peed» throughout the Donetsk region. There is even a video in Youtube where he wipes it with a cloth. My brother asked to return the car, but he said, I will drive it as long as I am killed or until we win»*¹⁴³. Also, they took from the entrepreneur a considerable amount of money in different currencies, personal belongings, phone, bank card.

141 In Stakhanov an activist was kidnapped [Electronic resource].

- Access mode: <http://www.pravda.com.ua/rus/news/2014/06/4/7028012/?attempt=1>

142 Spitting in the back, or «Why I do not want to defend Ukraine any more» [Electronic resource]. - Access mode: http://antikor.com.ua/articles/66313-plevok_v_spinu_ili_pochemu_ja_boljshe_ne_hochu_zashchishchatj_ukrainu

143 Owner of the Kramatorsk Airport Dmitry Podushkin stayed in the separatists prison for 56 days [Electronic resource]. - Access mode: http://hi.dn.ua/index.php?option=com_content&view=article&id=48676&catid=55&Itemid=147



Babay near stolen car

September 29, 2014 «Informator» informed that in Lugansk the owner of «Toyota» car dealership was held a few weeks in captivity, to the time her husband has given consent to «rewrite» all property and assets to combatants¹⁴⁴.

Victims of unlawful detention, who on condition of anonymity were interviewed by the «Justice for Peace in Donbas» coalition, said that they were subjected to physical and psychological violence and deprived of their property.

In particular in the beginning of August 2014 four members of Cossack formation under the command of Pavlo Dr'omov smashed face, nose, beaten with hands and feet over the head, torso, arms and legs a civilian from Luhansk region S. (**Note:** hereinafter abbreviated names are conventional for security reasons) during his unlawful detention. Additionally they took his phone and laptop. After his relatives' talks with some people in a few days of illegal detention S. was released and ordered to «help» militia with one ton of diesel fuel

In early August 2014 the Grocery storehouse which belongs on the ground of private ownership to businessman A., without any penalties and decisions of the competent authorities was raided by the armed militants' battalion «Ghost» under the command of Alexis Mozgovyi. After the search the warehouses were «sealed» and A was told that property that is there and owned by the businessman is confiscated, and he is detained «for a conversation». After the detention of the businessman his family began to look for all possible connections to influence the management of the armed group and get A. released. They succeeded, and next day unlawfully detained was released, but the food, which was at the storehouse accounting approximately 500 000 hryvna later was «confiscated» and, according to available information, was sold through former «ATB» stores that already belonged to the leadership of the battalion «Ghost».

In the end of July 2014 representatives of LPR armed group formed from citizens of Ukraine detained an individual entrepreneur N in the office of his own company on false grounds. As N. himself explained: «*The main purpose of my detention was enrichment on my expense, all the combatants were look for what can be “wrestled” from me: even before my arrest they used to come to my ... store, interviewed employees about the situation*». After nearly a month of illegal detention in places of captivity, the businessman was re-

¹⁴⁴ In Lugansk LPR combatants trade with «wrestled» cars for 3-5 thousand dollars. [Electronic resource].
- Access mode: <http://informator.lg.ua/archives/34881>

leased, but the «Subaru» car, documents, everything that was valuable in the office was taken away.

In March 2015 wealthy farmers family was kidnapped - Lyudmila Sokol and Mykola Yasinsky, villagers of Komuna village near the occupied Debaltsevo town (Donetsk region). Having seized power, combatants and members of the occupation administration came to the farmers and inspected the farm, said that now they are required to pay. The couple disappeared when they went to the Debaltsevo to sell products of the farm. After their disappearance military vehicle «Ural» drove to their home and unknown loaded something. Their youngest son Oleksandr was found dead after brutal torture. *«The neighbors have all heard how he was beaten and he shouted: «I give you, take equipment, money.» I do not know, whether he gave them money or not,»*- said his sister Natalia. Farm equipment of the farmers was taken by DPR combatants¹⁴⁵.



In the Photo: Lyudmila Sokil, Mykola Jasynski and their son Oleksandr

Looting

Facts *looting in the narrow sense of the word* (i.e. theft of things that are at the dead or wounded on the battlefield) after our investigation of various sources (surveys, documents study, court databases analysis and electronic sources) was not found.

¹⁴⁵ How «DNR» «dekulakize». Family of farmers was kidnapped and son killed after torture [Electronic resource].
- Access mode : <http://novosti.dn.ua/details/268843/>

Instead, it was found that *cases of looting in the broad sense* (misappropriation of another's property in an atmosphere of impunity, usually in emergency situations, such as during natural disasters or warfare) during counter-terrorist operations have become increasingly disclosed. In particular, during the hostilities in Donbas, almost all volunteer battalions and soldiers of the National Guard of Ukraine, combatants of so-called DPR and LPR and even locals were accused of looting.

In particular, the story of ViceNews about Komsomolsk showed locals who claim that the National Guard of Ukraine was engaged in robbery and looting. When asked about who destroyed the ATB supermarket, the woman in the video said that the National Guard.

“In fact, National Guard. They took as much as they need, and then let the people in, said: «This is humanitarian help for you’,» - said the woman¹⁴⁶.



Photo: frame from video

According to the edition «Zerkalo Nedeli», after new 2015 year Ukrainian security forces began clearing of terrorists in Stanitsia Luganska. But clearing turned into looting and destruction of property of local residents.

Volodymyr Martin in his article gives anonymous testimonies of residents about how events happened: armed with guns camouflaged people having knocked the doors out, broke into private houses, carried out searches (without a court order), «requisitioned» valuables, humiliated and beat the hosts, threatening them with execution.

Volodymyr presents several officially documented facts from the «cleaning»:

«According to the statement of a citizen V., security forces, having broken windows and knocked the doors (although there were owners close to the house with the keys, who asked not to destroy property), broke into the house and threatened with execution took valuables - watches, silver jewelry, mobile phone, laptop...».

«Armed with guns people, having knocked out doors, broke into the office of irrigation

146 «They robbed us!» Residents of Komsomolsk about the National Guard - reporting of VICE News [Electronic resource]. - Access mode: <http://korrespondent.net/ukraine/politics/3414892-ony-nas-hrabiati-zhytely-komsomolskoho-o-natshvardyy-reportazh-VICE-News>

systems (although the keeper was close and offered to open the door with keys). They broke the door to the office and took office computers and personal belongings of employees. Then beat boiler operators.»

According to statement of a citizen Ch, the military broke the door and windows in his house, came inside and took out winter clothes, blankets, pillows, gasoline generator». According to documented cases criminal proceedings were opened¹⁴⁷.

Evidence of looting were also recorded by the monitoring mission of Ukrainian Helsinki Human Rights during its visit to Stanytsia Luganska. Local residents have repeatedly testified about looting during the clearing or absence of owners at home. For instance, according to S., he personally saw the Ukrainian military were bringing out a computer from his neighbor's, while he went to buy bread.

As of May 12, 2014 in Mariupol there were recorded numerous cases of looting. This was reported in the press-service of the Donetsk Regional State Administration, as UNIAN informs. «The city of Mariupol was covered with the wave of looting. Looted shops and cafes. Militia do not respond people's calls», — is stated in the message¹⁴⁸.

For several days from May 28, 2014, local residents and combatants looted the «Metro» supermarket in Donetsk. As reporters of «Gordon» edition informed, terrorist battalion «Vostok» claim that the attack on the store was conducted by the supporters of the self-proclaimed «Donetsk People's Republic.» Journalists, having got to the store in 3 days, photographed drunken marauders, who were still at the counters of alcohol. In addition, the city police caught citizens who were taking in wheelchairs stolen goods¹⁴⁹.

Later, Metro Cash & Carry Ukraine has estimated losses from the lost goods in the Metro Mall in Donetsk in one million euro¹⁵⁰.



Photo: Sergey Ponomarev / Twitter

147 «Stripping» of Stanitsa [Electronic resource]. - Access mode : http://gazeta.zn.ua/internal/zachistka-stanicy-_.html

148 Mariupol under wave of looting - Donetsk Regional State Administration [Electronic resource]. - Access mode : <http://korrespondent.net/ukraine/politics/3361497-mariupol-zakhlestnula-volna-maroderstva-donetskaia-oha>

149 Looting the store «Metro» in Donetsk. Photo report [electronic resource]. - Access mode : <http://gordonua.com/news/localnews/Razgrablennyy-magazin-Metro-v-Doneske-Fotoreportazh-24985.html>

150 Shop Metro in Donetsk was robbed on a million euros [Electronic resource]. - Access mode : <http://korrespondent.net/ukraine/3387035-mahazyn-Metro-v-donetske-razhrabyly-na-myllyon-evro>



Photo: Sergey Ponomarev / Twitter

August 16, 2014 Ukrainian military liquidated near Anthracite, Luhansk region a group of separatists who were engaged in looting of civilians. Told reporter of Inter TV channel Roman Bochkala on his Facebook page «Each combatant had at him an amount of from 7 to 12,000 hryvnas, jewelry, goldware. Apparently, stolen from local residents. How else to explain women's earrings and pendants in the pockets of terrorists. However, they are no longer needed, «- wrote Bochkala¹⁵¹.

July 10, 2014 in the settlement of Cherevkvka, near Sloviansk locals looted the ATB supermarket ATB.¹⁵²



Photo: informator.lg.ua

¹⁵¹ Military liquidated under the Anthracite a group of marauding Cossacks [Electronic resource]. - Access mode: <http://korrespondent.net/ukraine/3406736-voennye-lykvydyrovaly-pod-antratsytom-hruppu-kazakov-maroderov>

¹⁵² Weekdays of DPR: Destroyed supermarket in Donetsk region (photo-report) [Electronic resource]. - Access mode: <http://informator.lg.ua/archives/7927>



Photo: Group «Slavyansk» in Twitter

January 30, 2016 the newspaper «Segodnia» (Today) informed that in the Donetsk region there will be proceeding on the case of a soldier who is accused of committing a series of serious crimes. According to prosecutor's, 34-year-old soldier of Armed Forces of Ukraine of reconnaissance platoon of mechanized battalion of the military unit, dressed in camouflage and balaklava, with a gun and grenade entered the shop in the village Zaitseve of Artemivsk district. «After a few shots in the air, the soldier seized personal belongings of two employees of the store and cash of more than 13 thousand UAH. Then driving the stolen car he took two employees of the store and the owner of the vehicle in an unknown direction.» Now the soldier faces up to 12 years imprisonment¹⁵³.

¹⁵³ In Donbass military robbed a store and stolen people [Electronic resource]. - Access mode: <http://ukr.segodnya.ua/regions/donetsk/na-donbasse-voenny-ograbil-magazin-i-pohitil-lyudey-687387.html>



Military robbed a store. Photo: AFP

July 17, 2014 armed men in camouflage robbed the «Epicenter» in Luhansk in the Vidrodzhennia Street. According to witnesses, they was «bolotov's» (*Valery Bolotov - former «supervisor» of small illegal coalmines of Luhansk Regional State Administration of O. Efremov, the first Head of pro-Russian terrorist group of «Luhansk People's Republic»*). They came in the store a few minutes before closing. The staff did not want not let them in. As a response visitors threatened to shoot show-windows. LPR combatants have taken several generators, tents, shovels and field equipment¹⁵⁴.

Since the occupation there was completely looted the ATB in Donetsk. A resident Irina Minchenko published photos of what remained of the former supermarket¹⁵⁵.



154 Bolotov fighters robbed Lugansk «Epicenter» [Electronic resource].

- Access mode : <http://informer.lg.ua/archives/10149>

155 Photo fact: in Donetsk the former «ATB» was completely looted [Electronic resource].

- Access mode : <http://informer.lg.ua/archives/130849>



Photo: informator.lg.ua

July 26, 2014 in Pervomaisk town of Luhansk region combatants robbed the store of electronic engineering «Allo» - the consequences were shot on video by eyewitness and posted on Youtube¹⁵⁶.



Screenshot from Youtube page

July 29, 2014 at 22:00 unidentified combatants in camouflage (about 20 people) entered the territory of the food warehouse, which is owned LLC «Slavyanka Trade» in the Centralno-Mistskiy district of Gorlovka town, where threatening with firearms they seized food, alcohol and office equipment worth about 2 million hrn., reported the press-center of the National Security Council¹⁵⁷.

¹⁵⁶ In Pervomaisk July 26 «rebels» robbed the «Allo» store (video) [Electronic resource].
- Access mode: <http://informator.lg.ua/archives/14086>

¹⁵⁷ Combatants in Gorlovka robbed the mall on 2 million hryvnia [Electronic resource].
- Access mode : <http://informator.lg.ua/archives/15979>

As the «Informants» informed in the end of 2015, in the villages of Stanitsia Luhans'ka there was recorded the increase of robberies of temporarily abandoned buildings and property. According to local villagers of Valuyske, late at night, unidentified people in unmarked camouflage drove to the temporarily abandoned house a truck and loaded it with different things: furniture, a washing machine and other things. The situation is similar in the neighboring Makarove village: «Unclear who in military uniform arrived, cut the doors right with the grinder and brought everything they could away» - told the locals¹⁵⁸.

October 17, 2014 it was reported that the Ministry of Interior of Ukraine disbanded the volunteer battalion «Shahtarsk» because of their engaging in looting in the ATO zone. Fifty marauders of 700 soldiers of thee battalion could tarnish the honor of the whole special unit. This was said in the in the «Right to power» TV program by the Interior Minister Arsen Avakov. «Battalion «Shahtarsk», which perfectly fought at Ilovaisky was dissolved by me by order of the Minister due to numerous cases of looting in Volnovakha and in other situations have occurred ...» - he said¹⁵⁹.

March 17, 2015 there was posted a photo of looted garages in Donetsk.



July 5, 2015 have yet another photo of the same garage. Now the gates of all compartments are cut away, and everything inside is cleared¹⁶⁰.

158 In Stanitsa Luganska unknown in military uniform are robbing abandoned homes [Electronic resource].
- Access mode: <http://informator.lg.ua/archives/134189>

159 Interior Ministry disbanded special battalion «Shakhtersk» because of looting [Electronic resource]. - Access mode :
<http://korrespondent.net/ukraine/3432617-mvd-rasformyrovalo-spetsbatalon-shakhtersk-yz-za-maroderstva>

160 The car market at DPR: Photos [Electronic resource].
- Access mode : <http://www.autoconsulting.com.ua/article.php?sid=34006>



«June 23, 2015, police arrested five residents of Marinka aged 27 to 36 years old who looted abandoned houses of neighbors,» - said the regional Ministry of Interior of Ukraine. As it turned out, three of the detainees have been tried. Residents are suspected of theft of other people's property and subsequent sale of it from September 2014. «Marauders found their way into the abandoned houses through windows, doors, roofs of the houses took away the belongings of owners,» - said the press service. According to police information, the thieves sold the loot in the local district. During the arrest the suspects were withdrawn of computer equipment and jewelry worth of 100,000 UAH¹⁶¹.



Residents of Marinka looted houses of co-villagers

Photo: press service of Ministry of Interior

¹⁶¹ In the Donetsk region there were detained robbers of abandoned houses [Electronic resource]. - Access mode : <http://korrespondent.net/ukraine/3530996-na-donetchyne-zaderzhaly-hrabytelei-broshennykh-domov>

July 2, 2015 «LPR law enforcement» found and took out of a garage of «Crystal» co-operative in Zhovtnevyi district of Lugansk city the loot of «rebels» property. Marauder has collected about 15 tons of various goods and food products, household equipment, plastic pipes, electrical and plumbing tools in the factory packaging, sanitary products, and several boxes of children's toys. In addition in a garage basement there was found a large number of humanitarian goods marked «not for sale». Also in the basement rice, wafer cookies, cans of mashed potatoes fast food, bags of pasta, juice and boxes of canned food were stored¹⁶².



Garage with stolen things

Photo: Informator.lg.ua

¹⁶² LPR dekulakize «rebels» In one of the garages 15 tons of stolen things were found (photos) [Electronic resource].
- Access mode : <http://informator.lg.ua/archives/102337>

July 11, 2015 combatants of so-called «DPR military police» revealed the store of armed group that was engaged in looting, robbery and the sale of stolen things. In one of garages they have found remains of cash, automatic gun of one of the gang members, spare parts for a cash registers and ATMs, taxi checker pattern, documents and other things. DPR combatants also detained 11 people allegedly involved in robberies¹⁶³.



Plastic bags with stolen money

Source: Informator.lg.ua

August 12, 2015 the State officers at the checkpoint in the village Mangush, Donetsk region detained a driver of FIAT Ducato, who carried things from the abandoned houses of the village Shyrokyne. This was informed by the press service of regional police. Law enforcement officers during checking the cargo compartment found sanitary ware, plastic chairs, a scooter, bike, garden accessories, lamps, water heater, kitchen utensils and household equipment. At that the driver did not have any documents proving ownership of the goods. During a detailed examination it was revealed that all these things the driver took away from Shyrokyne village, residents of which have fled their houses due to constant shelling¹⁶⁴.

November 26, 2015 «Obozrevatel» published the text of a letter in which workers of the Fish Farming Enterprise «Donfiltr», located in the zone of separation of ATO asked the President of Ukraine Petro Poroshenko to stop looting from the party of some military of Armed Forces of Ukraine. «November 19, 2015 in the territory of the land plot for fish farming in Pavlopil village armed people emerged, who obviously were military of AFU.– Having entered in the territory of the company, the military completely removed the company's employees from the control over it, took on the ground of military expe-

¹⁶³ Rob the robbers. DPR combatants opened the warehouse of marauders (photo) [Electronic resource]. - Access mode : <http://informator.lg.ua/archives/104715>

¹⁶⁴ Looter was detained who was stealing toilet seats and chandeliers in Shirokino [Electronic resource]. - Access mode: <http://korrespondent.net/ukraine/3550553-zaderzhan-maroder-vorovavshyi-unytyazy-y-luistry-v-shyrokyne>

diency. Further there were discovered the facts of entering of unknown persons to the buildings located it the territory of the facility «- said in the letter. In particular, from the territory of the company there was stolen a tractor, and equipment among which motors and pumps is disassembled for scrap and transported to an unknown destination. Workers are concerned that after that it will be impossible to recover the company¹⁶⁵.

In the summer community Karlivka in Donetsk the survived buildings are robbed. Of this reasonably suspected are police officers who were not reregistered and still serve in the ATO zone. This is written on his Facebook page by volunteer Roman Donyk. He claims that the police come to Karlivka to search for hideouts, and these actions can be performed by members of the AFU and the SSU. After dark the policemen carried out of the survived buildings things¹⁶⁶.



Роман Доник

9 марта в 18:54 · 49

После выхода из района ДАП 93 бригады, пользуясь неразберихой и не знанием местности и особенностей, можно сказать неопытностью зашедших ребят, участились случаи мародерства в дачных поселках. Как ни странно звучит, но там есть целые нетронутые дома, из которых есть что брать. Есть дома в которых уже живут, есть те которые сохраняют, а есть те которым повезло.

Паскудство ситуации в том, что шакалят сотрудники милиции. Именно милиции (до переаттестации), из подразделений милиции несущих службу в АТО на блокпостах. Кто ездит, то видит их на блокпостах 3-4 линии в одинаковой отшитой форме расцветки германского полевого камуфляжа.

Заезжают в дачный поселок под предлогом поиска тайников, обходят дома. По форме с оружием. Хотя в красной и оранжевой зоне, только ВСУ и СБУ может заниматься такими мероприятиями. Вечером с наступлением темноты, выносят из домов вещи. Ездят на обычных автомобилях с синими ментовскими номерами. Последний случай был замечен в дачном поселке Карповка (не путать с селом).

Очень не хотелось бы, чтоб опять обвиняли ВСУ в том, где они совсем не при делах.

Seizure and robbery of banks

July 7, 2014 at 14-00 in Lugansk there was an armed seizure of the «Privatbank» central office, located in the Chelyuskintsev street, 14 and its employees by LPR combatants. As the press-service of bank informed the rebels seized equipment and property of the bank office and took hostages bank employees. Later, all employees were released, no one was injured¹⁶⁷¹⁶⁸.

165 Farmers ask Poroshenko to stop looting in the ATO zone [Electronic resource]. - Access mode: <http://obozrevatel.com/crime/06784-fermeryi-prosyat-poroshenko-ostanovit-maroderstvo-v-zone-ato.htm>

166 Volunteers have recorded cases of looting near Donetsk [Electronic resource].

- Access mode: <http://informator.lg.ua/archives/148100>

167 In Lugansk, the central office of Privatbank was seized [Electronic resource].

- Access mode In Lugansk, the central office of Privatbank was seized [Electronic resource].

- Access mode: <http://korrespondent.net/business/companies/3389541-v-luhanske-zakhvatyly-tsentralnyi-ofys-pryvatbanka>

168 In Lugansk combatants seized Privatbank [Electronic resource].

- Access mode : <http://vostok.dozor.com.ua/news/lugansk/1163055.html>

July 2, 2014 the Speaker of the National Security Council Andriy Lysenko said that in Donetsk another branch of PrivatBank was seized and storehouse of weapons was arranged there¹⁶⁹.

November 15, 2014 in the Voroshilov district of Donetsk city combatants seized the premises of the PJSC «First Ukrainian International Bank».

Combatants seized the property of the bank, including a valuable and damaged a significant part of the property, having caused material damage. «The criminal proceedings under Part. 3. Art. 187 CC of Ukraine (robbery, combined entry into the apartment, other premises or storage) was opened» – informed the press service of the Interior Ministry of Ukraine in Donetsk region¹⁷⁰.

November 20, 2014 Popasnaja district police department received a statement from the managing staff of the Board of JSC «Savings Bank» that in the period from August to October, unknown persons illegally possessed firearms from the premises the «State Savings Bank of Ukraine» in the street Makushkina in Pervomaisk town. In particular, there were stolen 4 «Makarov» guns, 3 «TT» pistols, 2 «FORT-17» Guns and 1832 cartridges¹⁷¹.

December 4, 2014, the press service of Privatbank reported that the «PrivatBank» department in the areas controlled by DPR and LPR combatants, self-proclaimed government of unrecognized republics uses for allocation of their «financial institutions». Thus, in eight offices of Horlivka, Donetsk, Yenakiyev, Makeyevka, Snizhne, Khartsyzsk there was located so-called «Republican Central Bank of the DPR.» For this institution one of the branches of «PrivatBank» in Perevalsk district of Luhansk region was seized. In Zuhres in the seized office of the Bank there was opened a DPR police station. «All departments in the occupied Donbas were seized by combatants. Most premises war looted, equipment, incl. ATMs and terminals was stolen and destroyed»- said the press service of «Privatbank».

Prior to the armed conflict in the Luhansk region there were operating 694 bank branches, in Donetsk - 1590, including the branches of «PrivatBank», «Savings Bank», «Raiffeisenbank Aval», «UkrSibbank», the bank «Nadra». In the Donetsk and Lugansk regions before the active hostilities there were more than 400 branches of «Privatbank». As of December 2014, in the occupied territories 232 offices of the bank were remained. Finally, «PrivatBank» ceased to work in the territory of the self-proclaimed DPR and LPR in mid-July 2014 after a series of armed attacks on bank branches and offices¹⁷².

December 9, 2014 combatants of DPR and LPR terrorist organizations seized the department of «Finance and Credit» bank on Donbas. In Lugansk combatants seized the central branch of «Finance and Credit» bank: sealed central office and part of premises of the central branch in Donetsk, were made the description of property and seized the keys of the branch in Yenakiyev, Donetsk region¹⁷³.

Also on December 9, the press service of the Donetsk Regional Police reported that in Donetsk in the result of seizure by combatants a department of «Bank Forum» more than 50 000 US dollars was stolen from the premises. Based on this fact, the criminal proceedings under Part. 3. Art. 185 of CC of Ukraine (theft, combined with entry into the apartment, other premises or storage) was opened¹⁷⁴.

169 In Donetsk, terrorists seized a bank and plant, in Luhansk - a hotel [Electronic resource].

- Access mode : <http://www.pravda.com.ua/rus/news/2014/08/2/7033742/?attempt=1>

170 Terrorists seized the Akhmetov's bank in Donetsk [Electronic resource].

- Access mode : http://censor.net.ua/news/312134/terroristy_zahvatili_bank_ahmetova_v_donetske

171 From the premises of the «State Savings Bank of Ukraine» in Pervomaisk weapons were stolen [Electronic resource].

- Access mode : <http://www.citynews.net.ua/news/38797-iz-pomescheniya-gosudarstvennogo-sberegatelnogo-banka-ukrainy-v-pervomayske-pohitili-oruzhie.html>

172 PrivatBank told, how DPR and LPR combatants hosted in its offices [electronic resource]. - Access mode:

<https://privatbank.ua/news/privatbank-rasskazal-v-kakih-jego-otdelenijah-khoz-ajnichajut-bojeviki-dnr-i-lnr/>

173 Terrorists seized the «Finances and Credit» Bank in Lugansk [Electronic resource].

- Access mode : <http://uapress.info/ru/news/show/51422>

174 In Donetsk «Forum» bank branch was seized and robbed [electronic resource]. - Access mode:

<http://korrespondent.net/ukraine/3453732-v-donetske-zakhvatyly-y-obokraly-otdelenye-banka-forum>

December 12, 2014 militants seized the branch of PJSC «Ukrsotsbank» in Khartsyzk city. This was reported in the Donetsk region Department of the Ministry of Interior. The police said that in connection with the seizure of the premises employees do not have access to records and property of the bank. The criminal proceedings under Art. 341 of the Criminal Code of Ukraine (seizure of state or public buildings or structures) was opened¹⁷⁵.

December 20 from by the press service of the Ministry of Interior of Donetsk region it was reported that the combatants of the self-proclaimed «DPR» robbed a department of «Nadra» bank in Donetsk. Combatants under the threat of weapon use forced the PJSC CB «Nadra» departments employees to open storage and seized the cash that was there - reported the police¹⁷⁶.

December 29, 2014 the Svativskyy district police station received with land mail the statement from the management of the bank security department of PJSC CB «Nadra» stating that on August 18 unidentified armed individuals seized the department of Luhansk regional administration of banking institution located in the Rostovska street, Antratsit town, and illegally seized a large sum of money. This fact was added to the URSI (Unified Register of State Investigations)¹⁷⁷.

On December 31, 2014 press service of the Chief Department of the Ministry of Interior in Lugansk region reported that in the Stanislavsky street in Alchevsk town on December 9 unknown group of armed people seized the premises of the «Ukrsotsbank» department¹⁷⁸.

On February 2, 2015 in Luhansk unknown people have stolen two cars «Volkswagen Transporter», belonging to JSC «Raiffeisen Bank Aval»¹⁷⁹.

On February 19, 2015 in Yenakiyevo (city, under the control of «DPR») gunmen seized the premises of «Express-Bank»¹⁸⁰.

March 12, 2015 the press service of the Chief Department of the Ministry of Interior in Donetsk region reported that in uncontrolled by government Donetsk there was seized a bank department. «The Prosecotor's office of Donetsk region submitted to the police the document on the fact of the application of the PJSC «Raiffeisen Bank Aval» representative that on February 19 this year in Donetsk combatants seized the building of Donetsk regional directorate of the bank» - said in the report of the police. On this fact the criminal proceedings under the Art. 341 «Seizure of state or public buildings or structures» of the Criminal Code of Ukraine was opened¹⁸¹.

April 20, 2015 the Severodonetsk Cite Police station received by land mail a statement from the management of the PJSC «GOROD Bank» Board that the on February 2, 2015 unidentified armed individuals occupied the premises of Eastern directorate of JSC «GOROD Bank» in Gorky Street of Alchevsk city (under the control of «LPR») and arranged there their own guard, having deprived the representatives of the bank of access to the premises, equipment and property¹⁸².

175 MoI: «Terrorists seized the branch of Ukrsotsbank in Khartsyzsk» [Electronic resource]. - Access mode: <http://gordonua.com/news/war/MVD-Terroristy-zahvatili-otdelenie-Ukrsobanka-v-Harcyzske-57185.html>

176 MoI: Pro-Russian combatants robbed department of the «Nadra» bank in Donetsk [Electronic resource]. - Access mode: <http://gordonua.com/news/war/Prorossiyskie-boeviki-ograbili-otdeleniya-banka-Nadra-v-Donecke-57246.html>

177 In Anthracite bank branch was seized [Electronic resource]. - Access mode: <http://www.citynews.net.ua/news/40112-v-antracite-zahvatili-otdelenie-banka.html>

178 Combatants seized a department of «Ukrsotsbank» in Alchevsk [Electronic resource]. - Access mode: <http://gordonua.com/news/war/V-Alchevske-boeviki-zahvatili-otdelenie-Ukrsobanka-58805.html>

179 In Lugansk two vehicles belonging to the «Aval» bank were hijacked [Electronic resource]. - Access mode: <http://www.citynews.net.ua/news/41082-v-luganske-ugnali-dva-avtomobilya-prinadlezhazhie-banku-aval.html>

180 In Yenakiyevo armed men seized the bank - the Ministry of Interior [Electronic resource]. - Access mode: <http://donbass.comments.ua/news/111337-v-enakievo-vooruzhennie-lyudi-zahvatili.html>

181 In Donetsk combatants seized a bank and a restaurant [Electronic resource]. - Access mode: <http://news.bigmir.net/ukraine/881115-V-Donecke-boeviki-zahvatili-bank-i-restoran->

182 Terrorists seized the bank in Alchevsk [Electronic resource]. - Access mode: <http://www.citynews.net.ua/news/43432-terroristy-zahvatili-bank-v-alchevske.html>

Robbery and seizure of business

Considerable part of businessmen left the occupied territories; those who stayed were put before the fact: to pay a «tax» into the «national budget» or occur on the verge of closure. A large number of shops, shopping centers and even factories were «nationalized» in the style of 1917.

July 30, 2014 by armed men in masks and camouflage uniforms broke into the storehouse of a private businessman in the central town district of Gorlovka. The premises was the storehouse with the household chemical goods located in Pershotravneva str., 50. Combatants started to take away valuables and consolidate in the new place. At approximately 23:15 the burglar alarm system of «Patriot» state protection service went off, informing the opening of the storehouse. After the call of the owner two police patrols left to place. In 7 minutes policemen called back, saying that in the warehouse there were about 12-15 armed men taking away goods. Security service did not have any communication with the outside world, so could not resist bandits armed with automatic weapons with several pistols. Actually, they were «asked» not to interfere and leave the premises. The owner tried to apply to the appropriate authorities, but the «102» service did not work. The same as taxi services and post offices. Almost all shops, except for «Furshet», were also paralyzed. Only «Service to combat robbery and looting» after several attempts to dial replied that the request is accepted, «will investigate.» An hour later the owner received a call. They said: «Everything is fine, it is war now, do not apply anywhere. If you will apply, you will be passed to militia. Decide for yourself what you like more – your life or goods and storehouse. Do not get in the way.» DPR representatives in such way openly hinted that nothing will be turned back to the businessman¹⁸³.

The day before that event a grocery warehouse on the second storey of the same building was robbed. At 22:00, about 20 people in camouflage entered the territory of the grocery warehouse owned by LLC «Slovyanka Trade» in the central town district of Gorlivka, where under the threat of firearms they seized food products, alcohol, office equipment worth about 2 million UAH¹⁸⁴. It is possible that the combatants decided to adapt the warehouse for their needs or a base. The warehouse was near the exit from Horlivka to Donetsk, controlled by terrorists.

In the summer of 2014 the unrecognized republics got into «nationalization» of business, which remained in their territories. In particular, as the locals say in Antratsit in September 2014 there was held the «re-registration» of all businesses. They all had to come to the municipality, but not to the register, but personally to Tkalenko (Oleksandr Tkalenko «people's mayor»). All stores that opened in the city are «wrestled» by the combatants and Cossacks from the former owners of objects. Among the «wrestled» facilities in Antratsit are the following: TC «Russia», «Zoloti vorota» cafe «Komfort», 2-storey shop of detergents opposite the central mail, «Real» and others¹⁸⁵.

Also, due to the marked decline in demand for advertising, one of the companies decided to move its business to Kyiv. At the time of the dismantling of one of the signage displays workers were approached by armed men in camouflage with a demand to stop work. After a brief conversation and threats combatants said that the advertising business is «nationalized» and is possessed by «LPR»¹⁸⁶.

183 Another major robbery in Gorlovka, possible new terrorist base [Electronic resource].
- Access mode: <http://informer.lg.ua/archives/16244>

184 Combatants in Gorlovka robbed mall on 2 million hryvnia [Electronic resource].
- Access mode : <http://informer.lg.ua/archives/15979>

185 In Anthracite business is wrestled and authorities are shared – Mass Media [Electronic resource].
- Access mode : <http://www.0642.ua/article/617625>

186 LPR supporters decided to «nationalize» the outdoor advertising market (photo) [Electronic resource].
- Access mode: <http://informer.lg.ua/archives/4017>



Public signage displays on the houses in the Oboronnaya street

Source: Informator.lg.ua

In September 2014 Ordzhonikidze DD of Mariupol town department of MoI of Ukraine received a statement by land mail from a 31-year-old private businessman, a resident of Gorlivka, that in the end of June, unknown in the amount of 20 people in camouflage, under the threat of automatic firearms seized the property such as food, refrigerators and so on, that he owned from the territory of his private company located in Gorlivka in Pervomayskaya street, having caused material damage in the amount of 500 000 UAH. It was reported by PR department of Chief Administration of the Ministry of Interior of Ukraine in Donetsk region¹⁸⁷.

Also in September 2014 in Lugansk combatants arrived at the territory of private warehouse of building materials in the Rudnev street and announced about its «nationalization». They have taken out all available in stock goods and advised to contact the so-called «government building» if the owner would have any questions. The owner of at the time was outside the Luhansk region. According to witnesses, when the owner get known about the incident, he rushed to Luhansk. At a meeting with the combatants he was told, «Thank you for your contribution to the development of the «LPR».» The businessman tried to explain that the money invested to the business, were taken in a bank as a loan. And he got the answer that in the «LPR» at the moment, banks do not work and that the leaders of the «Republic» forgives him his debt¹⁸⁸.

September 29, 2014 in Luhansk radio controlled by terrorists broadcasted a message for the citizens about the «nationalization» by combatants a supermarket network. Stores of trade network «ATB» combatants will use for their own purposes. According to local residents, the terrorists took this decision in order to «create jobs.» According to the «rebels», such requests to the «government building» of LPR were regularly receives from the trade network employees. «Nationalization» of the «ATB» network

187 Armed men robbed an individual entrepreneur on the amount of half a million hryvnia [Electronic resource]. - Access mode: <http://novosti.dn.ua/details/233719/>

188 Combatants robbed an individual entrepreneur and thanked «for the contribution to the development of LPR» [Electronic resource]. - Access mode: <http://www.0642.ua/article/626466>

stores combatants also explained with the location of management office «in the enemy territory» in Dnepropetrovsk¹⁸⁹.

In total in the Luhansk region outside the control of the Ukrainian authorities, there are 50 «ATB» stores, says a woman employee of PR-service of retail network «ATB» Tatiana Ermakova. According to her, in Lugansk, Krasnodon, Lutugin, village Yubileine trading activity in their stores is carried by the «LPR» representatives¹⁹⁰.

October 10, 2014 «Argument» published answers of a Lugansk resident with a nickname «wereman» to the questions asked by the internet forum ukraine.d3.ru participants. The question whether the locals are deprived of business the man replied: «Business is wrestled on one-two-three, this is what the LPR supporters are busy right now, they come and say that they nationalize. The former companion was deprived of a warehouse and household equipment, and at the man with whom I worked in the computer sphere, just blew out the warehouse door and pulled out all the laptops; when he went to beat out, he was told that it was already like that»¹⁹¹.

November 10, 2014 the management of LLC «West-Line» wrote a statement to the Starobelsky district police station. It was reported that on October 13th there was a call from unknown, who introduced himself as a supposedly «The Health Minister FSC» and said that the «Zdravytsya» pharmacy building in the Volkov quarter in Lugansk was nationalized by «LPR»¹⁹².

Also in November 2014 a young Donetsk businesswoman Hanna Sergienko was taken as a hostage due to her activity and collecting signatures for a reduction of rent fee around the local shopping complex «Sokol». «First the meeting of tenants of «Sokil» was convened, attended in addition to tenants by the administration representatives and Cossacks. We, the tenants, asked to reduce the rent and give the possibility of postponing or break due to the complicated military situation ... « A few days later, Hanna and her husband were captured by the Cossacks, who at that time already ruled «Sokil». «The car, documents and money were taken away immediately. Gold was taken off later, kindly offered to exchange my healthy, not shot through feet on jewelry.» Also conducted interrogations. «They carried out various «conversations» with me among them those in which they were interested in the property, offered to rewrite property to their name, to grant the car ... To give addresses of friends who have money ...». One of the Cossacks whom she knew used to tell to Hanna: «We will de-kulakise you, Ania, and others like you»¹⁹³.

189 Lugansk combatants «wrestled» the «ATB» network supermarket [Electronic resource].

- Access mode : <http://vostok.dozor.com.ua/news/donetsk/1167322.html>

190 The Hunger Games of LPR [Electronic resource].

- Access mode : <http://www.pravda.com.ua/rus/articles/2015/04/3/7063514/>

191 Life in the captured by combatants Lugansk questions and answers [Electronic resource].

- Access mode : <http://argumentua.com/stati/zhizn-v-zakhvachennom-boevikami-luganske-v-voprosakh-i-otvetakh>

192 The «DNR» continue «wrestle» business objects and vehicles [Electronic resource].

- Access mode : <http://vostok.dozor.com.ua/news/donetsk/1169879.html?PHPSESSID=k18mthicbobrg8esf452nntrk6>

193 How «Cossacks» kidnapped and tortured Donetsk businessman [Electronic resource].

- Access mode : <http://www.politnavigator.net/kak-kazaki-pokhitili-i-pytali-doneckogo-predprinimatelya.html>



The moment of kidnapping of Serhiyenko Hanna and her husband by Cossacks

Screenshot from video «Vkontakte»

February 4, 2015 the «Kyivstar» mobile network operator announced the temporary shutdown of a segment of mobile network in the part of the territory of Donetsk and Lugansk regions outside the control of the Ukrainian authorities. The press service of the company noted that the operator disconnected the connection in the ATO zone due to lack of physical control of the network capabilities, «following the requirements of the law, the interests of safety and security of customer data.» Later, the company announced about the seizure by armed persons the «Kyivstar» technical center in Donetsk.

The so-called «DPR» government took away all available property of the «Kyivstar» and decided to create on its basis their own operator. It was reported by one of the sites of Donetsk separatists. «The Presidium of the Council of Ministers of the DPR» even issued a decree «On the introduction of the interim administration» in the company. «This resolution introduced interim administration in the PJSC Kyivstar as at the part of a property complex, which is located in territory of the DPR, and the branch establishment Republican operator is created. «All assets of the Kyivstar mobile operator, which the branch establishment Republican operator takes under control is transferred to the balance of the Ministry of Communications of DPR», - said the illegal government of DPR¹⁹⁴.

¹⁹⁴ Combatants seized all available assets of the Kyivstar company [electronic resource]. - Access mode : <http://biz.liga.net/all/telekom/novosti/2993349-boeviki-otobrali-vse-dostupnoe-im-imushchestvo-kompanii-kiyivstar.htm>

In May 2015 workers of the recreation center near Mariupol accused the «Donbass» battalion of raider attack. In such way, May 10, 2015 soldiers of «Donbass» battalion invaded the recreation center «Svetlana» of state company «Makeyevvugillia» in the village of Melekino, Donetsk region. Security service of the recreation center refused to let members of the battalion in, claiming the that the management didn't give such instructions. Having been refused, one of the soldiers using scrap to brake the lock on the front gate to «check for separatists.» One of the guards took the video of the moment of the entering by a mobile phone camera¹⁹⁵.

12 September 2015 DPR combatants in the occupied village of Illyria of Lutuhyne district robbed the store in the Pervomayskaya street. As informed by a source to informator.lg.ua correspondent, two unknown persons in camouflage entered the store and demanded money, threatening to use weapons. The seller gave terrorists proceeds in the amount of 12,000 rubles¹⁹⁶.

Yulia Flyaschenko, the director of the «Comod» company, which deals with sewing underwear, said to «Ukrainian Truth» how combatants seized her business: «To the factory territory armed men drove and just took away



Source: Youtube

equipment worth over 100 thousand hryvna, and the raw materials from which the underwear was sewed worth about 700 thousand hryvna.» After this incident Flyaschenko realized that it will be difficult to conduct business in the «young republic». Now her company works in Kiev¹⁹⁷.

In the interview to «Sehodnya.ua» Donetsk businessman Oleksiy told his story: «I have an own shop in one of the city districts. I had a competitor - same grocery store in a hundred meters from mine. In fact, part of our district bought goods in my shop and the rest - in that one. We peacefully worked side by side. But in the autumn of that year, my neighbor closed. A few days later some people came, introduced that they were from the prosecutor's office and offered to buy the pavilion. I knew immediately that it was unclean business, referred that there is no money. And as they went - called my former competitor, and he said to me: «Sasha, I went to Russia, they wrestled everything from

¹⁹⁵ Rectiation center Employees next to Mariupol accused «Donbas» battalion of raider seizure (Video) [Electronic resource]. - Access mode : <http://informator.lg.ua/archives/90476>

¹⁹⁶ LPR Combatants robbed the store [Electronic resource]. - Access mode : http://informator.lg.ua/archives/119152#disqus_thread

¹⁹⁷ Hunger Games of LPR [Electronic resource]. - Access mode : <http://www.pravda.com.ua/rus/articles/2015/04/3/7063514/>

me.» He also had a car wash... I was surprised, because he always supported the «DPR» visited all their meetings, even nearly became a kind of MP, shackled hands with their leaders. In the end, he told me that somewhere he crossed the way of some Combat of «DPR», and well, they seized everything of him. And not to keep the outlet just decided to shove it to someone».

In Gorlivka businessmen face similar situations: «Over the past couple of weeks they wrestled all pawnshops in the town and it is put mildly - says the owner of one of the pawnshops Alla. - In fact, I was seized of an outlet. The so-called «police» visited me and began to inspect. Seized a seal, took away all mortgaged things: gold, mobile phones, notebooks. They said that my work is over on this. Of course, the outlet works, but now the hostess is not me anymore there. As for those things that people have handed over to the shop, I even do not know. I was recommend just to calm down, even threatened, they say, that they check, the way I paid taxes. There is nowhere to complain, You will not go to their police¹⁹⁸.

The singer Kamalia complained of seizure property. «We had an own plant in Luhansk, in Donetsk - a plant and a hotel where now settled DPR supporters. They divide our property among themselves. It is the stalemate situation: we just were seized of the business, and you can't sue anyone, there is complete anarchy there. Such a new racket»¹⁹⁹.

November 25, 2015 the Member of the «DPR» Parliament Anatoly Koval came to wrestle land in Donetsk from an owner of one of Donetsk shops that was against Zakharchenko program - «to bring the situation into their own hands.» In protest of the owner Koval threatened: «He (Zakharchenko) will do everything, to take the city away from you»²⁰⁰.



«Member of the Parliament of the DPR» Anatoliy Koval came to wrestle out the land from the owner of one of the Donetsk stores Screenshot of video

198 Business of combatants in Donbas: they take away shops, kill for earnings and saw airport for scrap [Electronic resource]. - Access mode : <http://www.segodnya.ua/regions/donetsk/biznes-boevikov-na-donbasse-zabirayut-magaziny-ubivayut-iz-za-vyruchki-i-pilyat-aeroport-na-metallolom-669763.html>

199 Kamaliya told how Donbas combatants has stolen her husband's business [Electronic resource]. - Access mode : http://joinfo.ua/showbiz/1109193_Kamaliya-rasskazala-separatisti-otobrali-muzha.html

200 In the Internet was posted the video «Racket» in DPR [Electronic resource]. - Access mode : http://24tv.ua/u_merezhu_potrapilo_video_reketu_v_dnr_n668856

In October 2015 to the territory of the largest Dog Training Center in Donetsk a group of armed combatants came who demanded the owner of the center, Volodymyr Kolganova, to clear the territory of the nursery. To the owner, they said that the documentation for land plot is not valid since been published at the Ukrainian government time. It is interesting that the Kolganov family initially supported the anti-Ukrainian coup in Donetsk and helped the separatists: it were his dogs guarding the boundaries of the new state - the nursery territory is in the south of the city, and nearly a dozen of strong trained shepherds daily guarded its perimeter. However, this did not save him from punishment. The Kolganov's Center occupied a large territory with the water pond in the suburb which, apparently, combatants liked. He had to obey force. The Kolhanovs left the territory, and only had time to grab inventory and took it out of the nursery territory to a nearby abandoned land plot. There they continued exercises with the animals, because taming and training can not be stopped for long. At the same time they tried to achieve a just resolution of the situation, because at some point they still had hope that in the young people's republic cases of legal harassment are impossible and unacceptable. But February 14, 2016 to his land plot the «Member of the People's Council» and in addition one of the field commanders of the DPR Grygoriy Belyaev came. In her explanatory not Svetlana Kolganova sais: «Belyaev staggered out of the «Range rover» car, demanded the keys to our car, began to shoot, together with armed men to beat my husband. As ordered - the face against the asphalt. They beat with hands, kicked, with machinegun butts over the head, throughout the body. They were murdering him in the eyes of all passers-by. At my request and the question «what are you doing?» he opened fire in the air, and his bodyguards fired into the ground before our feet. Belyaev came up to me struck in the stomach so hard that I fell and my head against the asphalt. Threatened me with a gun. Then pointed the gun to the side of my daughter, who came to help her father. He hit her in the abdomen with a foot, twisted arms and fired, but the bullet passed far» (from a blow to the abdomen the pregnant Kolganov's daughter lost her baby). The Kolganovs moved from Donetsk to safety. They believe that there they can wait out the trouble and seek justice²⁰¹.

In March 2016 at the DPR established the commission to investigate the activities of former Secretary «of the Security Council of the Republic» Oleksandr Khodakovsky. The basis for the creation of the commission bacame numerous complaints from citizens on illegal actions of Khodakovsky on their property and business, as well as the threat to their life and health. One more reason are the repeated statements of the Khodakovsky posted on the Internet that he and his confidants were engaged, in fact, in misappropriation of another's property (including gas stations network), theft of state property in a large scale, cutting of tanks at the railway station «Yasinuvata» and other unlawful actions²⁰².

201 Paid back for the support. DPR combatants severely beaten and kicked out of Donetsk the family of the owner of dog training center [Electronic resource]. - Access mode : <http://vlada.io/otplatili-za-podderzhku-boeviki-dnr-zhestoko-izbili-i-vyignali-iz-donetska-semyu-vladeltsa-kinologicheskogo-tsentra/>

202 In DPR there was created a commission on Khodakovsky affair [Electronic resource]. - Access mode : <http://ua.korrespondent.net/ukraine/3637011-u-dnr-stvoryly-komisiui-schodo-khodakovskoho>

Seizure of housing

In June 2014, in the social network Twitter appeared an account, which offered to rent or to buy or reserve an apartment in the «DPR». In micro blog it was written that living space is available in Donetsk, Mariupol, Sloviansk and other towns of the region. All apartments are equipped with furniture and appliances. According to those who owned the account, in these apartments “lived owners, who moved to Ukraine».

The Vgorode decided to check the story of apartments on the web and found at least one of them on the site of tenants search. The announcement was posted after the outbreak of hostilities, so you can only guess what happened to the owners of the apartment²⁰³.



Source: Twitter/DNrielt

203 Moneymakers of DPR rent out abandoned apartments in Donetsk region for nothing [Electronic resource]. - Access mode : <http://dn.vgorode.ua/news/sobytyia/226065-deltsy-dnr-za-bestsenok-sdauit-broshennyye-kvartiry-v-donetskoi-oblasty>

June 23, 2014 in Luhansk terrorists kidnapped the head of the local «Prosvita» Volodymyr Semystyah. A day after bringing him to the basement of the seized SSU building he called home and asked to bring documents to the apartment. So in that way the man was seized of the two-bedroom apartment in the city center²⁰⁴.

September 5, 2014 during the evening briefing, the spokesman of the Information and Analytical Center of the National Security and Defense Council Andriy Lysenko said the following: «The Federal Migration Service of Russia gave representatives of the so-called «LPR» the lists of Ukraine citizens from Luhansk region, who have issued refugee status on departure to Russia during ATO. Future on leaders of terrorist organizations plan to use apartments and houses of refugees for temporary accommodation of combatants and Russian military and the subsequent «nationalization», - he said²⁰⁵.

As the female resident of Lugansk who lives in a city controlled by «LPR» informed a correspondent, that combatants show interest in abandoned housing. «My relatives live in the private sector near the Central Market. Recently in this district armed men were walking around, they introduced themselves as «quarterly» and that they are of «LPR.» They demanded to give them a list of houses abandoned by residents. They said that the abandoned property will be nationalized. The same was talked at the points of distribution of humanitarian aid, and that the lists for humanitarian aid are a sort of unofficial census basis from which they draw conclusions about who remained in Lugansk who can be brought to the work. People who are not in these lists are at risk of losing housing in the city.» Also, she said, that combatants make similar lists of abundant housing in the eastern districts of Lugansk, particularly for residential houses near the East Ukrainian National University, academic buildings and dormitories of which are converted to base NZF²⁰⁶.

September 11, 2014 in Luhansk there was seized a private house in Chelyuskintsev str., 30, reported Informator. According to the accounts of witnesses outside the building two cars stopped. Armed men came out of them, citing «the order of Plotnytskiy « (the leader of LPR). Said that now they will live there, demanding from a guard to free the premises. Then they took away the things of former owners.

On the same day five houses were «nationalized» in the private sector between the Gayove ring and «Burevesnyk» cinema. According to witnesses, the information about the empty house was received from «quarterlies». As specified by the Informator, houses as those who are on the territory of Ukraine, and those who went to Russia are occupied²⁰⁷.

In such way, any property that has no owner or which owner is unknown, is transferred to the possession of DPR under the «Interim order of detection, recording, storage, evaluation of ownerless, confiscated and other property that becomes the property of the Donetsk People's Republic, and its disposition». Management of this property is done by its sale, disposal, recycling, destruction or donation. As reported the «Dialog. Ua» portal, DPR combatants send directors of Donetsk housing offices and condominiums letters of request to inform about «ownerless property» that should «be transferred to the possession of the DPR»²⁰⁸.

204 Terrorists seized from kidnapped Leader of «Prosvita» an apartment in the center of Lugansk [Electronic resource]. - Access mode : http://zaxid.net/news/showNews.do?teroristi_vidibrali_u_vikradenogo_nimi_lidera_prosviti_kvartiru_v_tsentri_luganska&objectId=1313116

205 Those who left for Russia will face with the «Nationalization» of apartments by terrorists - NSDC [Electronic resource]. - Access mode : <http://informator.lg.ua/archives/27859>

206 In Lugansk people «from L3K» make lists of apartments and houses for «nationalization» [Electronic resource]. - Access mode : <http://www.0642.ua/news/611949>

207 LPR combatants start to seize homes from Luhansk inhabitants [Electronic resource]. - Access mode : <http://informator.lg.ua/archives/30189>

208 DPR combatants looking for abundant apartments in Donetsk for the «nationalization». Document [Electronic resource]. - Access mode : http://www.dialog.ua/news/60762_1435211486

Also, the police received information that on September 24, 2014 around 21:00 unknown persons in masks broke into the house of 79-year old resident of Donetsk. «Under the threat of weapons bandits seized housing and property of the applicant» - told the police. On this fact criminal proceedings was opened²⁰⁹.

December 24, 2014 the Severodonetsk city police department a fifty year old man turned to. He told law enforcement that is a resident of Stakhanov and the Chief editor of «Tel-e-gazeta.» November 14, 2014 his apartment, which is in Stakhanov in Odesskaia street, was seized by an armed man. He wore camouflage clothing. Introduced as commandant of the city. At the moment unknown persons live in the apartment of the applicant.

In November 2014, a 42-year-old female resident of Sverdlovsk turned to police. She claimed the seizure of her housing by the Cossack guard representatives. According to the woman, it occurred on November 14. Armed with automatic weapons representatives of the Cossack Guards arrived on the «Jeep» to the woman's house, located in Sverdlovsk in the Central district. They entered the house, having broken an entrance door²¹⁰.

In January 2016 one of Lugansk female residents reported that combatants seized her apartment after she published ads on social networks about the lease of her apartments. The woman reported that she received a call and unknown started to ask about the price and other nuances. After a brief conversation terrorists introduced themselves and offered to transfer housing voluntarily, so to speak, «in an amicable way.» If the owner minds, «she will have to regret it»²¹¹.

January 8, 2016 the so-called «Ministry of State Security» «nationalized» apartment at Geroiv Brestskoi fortetsi (Heroes of Brest Fortress) square., 8, Apt. 15. Photo of sealed Lugansk apartment was published in the «Lugansk - City, where I live!» group. «MSS» warned that now the apartment is in their ownership and access is forbidden²¹².



Source: Informator.lg.ua

209 In Yenakiyevo terrorists seized «Mercedes» from a woman, and in Donetsk left a pensioner without an apartment [Electronic resource]. - Access mode : <https://ukr.media/ukrain/212170/>

210 In Stakhanov at the newspaper editor was seized of an apartment [Electronic resource]. - Access mode : <http://lg-news.net/kriminal-i-chp-luganska/item/6073-v-stahanove-u-redaktora-gazety-otobrali-kvartiru.html>

211 In LPR combatants seize «extra» apartments from the owners of the [Electronic resource]. - Access mode : http://tehnopolis.com.ua/index.php?option=com_content&view=article&id=21831:lr-lr-&catid=74:donbass&Itemid=34

212 Photo fact: «The Ministry of State Security,» «wrestles» apartments in Lugansk [Electronic resource]. - Access mode : <http://informator.lg.ua/archives/137998>

Illegal seizure of private cars

As the «Informator» reported in September 2014, in Lugansk in Oboronna street terrorists organized a «fair». In the occupied territory of one of the car dealers cars, which combatants seized from the population were displayed for sale. Terrorists sold cars of Chinese and European production. Some cars - without number plates and they were stolen from the car dealers of the city. New cars of foreign production terrorists sell for 3-5 thousand dollars At the site there were about 100 vehicles²¹³.

May 23, 2014 in Luhansk unknown people, who called themselves the «militia» seized 5 Volkswagen T5 CIT vehicles of «Yunison» bank. As the press service informed the bank immediately turned for operational assistance to law enforcement agencies of Lugansk, however, the statement was ignored. As a result, the bank employee was forced to go to negotiate, taking the keys to all the cars. Then the connection with him was lost²¹⁴.

July 9, 2014 in the end of the working day a group of armed men in balaklavas of about 40 people stormed into the territory of the «Talisman» auto center, located in Kramatorsk. Having threatened with weapons and physical violence, the gang seized 22 cars. Then for 3 hours they were downloading and took out the property of the company: computer equipment, server, TV sets, coffee machines, tools, spare parts, car keys and documents of customers' cars which were in the service territory, etc. During this procedure a full devastation was made: doors, safes, show windows, walls were shot. Then, all employees were ordered to leave the premises and not to return any more there. Since then the management completely lost control over the auto centers. Only after release of Kramatorsk the managers managed to get access to the car dealership, but nothing left there²¹⁵.

During just one day, July 10, 2014, armed men in camouflage uniforms seized from the enterprises in the Donetsk region 9 cars. In particular, the armed men who identified themselves as representatives of the «DPR» have stolen from the parking of the CE GTO in Donetsk three cars - «Ford Fiesta», «Skoda Octavia», «Volkswagen Polo». Donetsk CE «Trucking Company» threatened with machine guns were seized of five cars, including «Mitsubishi Lancer» and minibus «Volkswagen Multiven.» From Debaltsevo district electric networks, which is a part of the «DTEK «Donetskoblenerho» of a businessman Rinat Akhmetov, combatants in masks have stolen «UAZ-3909»²¹⁶.

In July, 2014, a group of men in camouflage military uniforms attacked the resident of Kurakhovo, Donetsk region, have beaten him, stolen the money and the car Mitsubishi Pajero. The victim himself was tied up and taken outside the city, and a few days later he was released. In February 2015 the family from Dzerzhinsk applied to the police. Camouflaged men broke into their house in front of the children they have taken the couple from the house and drove them away. The victims were seized of a minibus, money, phones and other valuable things. In January 2016 police have established one of the suspects, a resident of Poltava region, who was at the appointed time in the area of anti-terrorist operations as a member of a volunteer units. When the police raided his house, they discovered the things of the family from Dzerzhinsk and also the car of a resident of Kurakhovo, which was used for several months by the wife of the suspect. Now it appears in the criminal proceedings

213 In Lugansk LPR combatants trade in «wrestled» cars for 3-5 thousand dollars [Electronic resource]. - Access mode : <http://informator.lg.ua/archives/34881>

214 In Lugansk representatives of LPR seized seven CIT vans of Unison Bank [Electronic resource]. - Access mode : <http://korrespondent.net/ukraine/politics/3367891-v-luhanske-predstavytely-lnr-zakhvatyly-sem-ynkassatorskykh-mykroavtobusov-banka-yunyson>

215 Car business at DPR. The Story of one car dealership [Electronic resource]. - Access mode : <http://www.autoconsulting.com.ua/article.php?sid=30986>

216 DPR continues to «wrestle» cars from Donetsk business [Electronic resource]. - Access mode : <http://www.ostro.org/general/criminal/news/450065/>

under Part. 2, Art. 146, part 3. Art. 187 and part 3. Art. 289 of the Criminal Code of Ukraine, the investigation is conducted and the whole circle involved in these events is determined²¹⁷.

August 21, 2014 the Head of the police in Luhansk region Anatoliy Naumenko said that in the territory controlled by the terrorist organization «Luhansk People's Republic» bandits massively seize cars from local residents. «Those who now run with guns - I know most of them. They are my «clients» - they tend to commit crimes. They wrestled so many cars that we only in Lisichansk withdrew 21 vehicles. Total is more than 1000 cars in the territory of Luhansk region»²¹⁸.

October 1, 2014 the information and analytical group «Autoconsulting» posted photos of Nissan car dealership «Alex» in Kievskiy Avenue of Donetsk city.



Nissan Car dealership «Alex» before the appearance of «DPR». Source: Autoconsulting



Nissan Car Dealership «Alex» after the appearance of «DPR». Source: Autoconsulting

²¹⁷ The detained «cyborg» is suspected of kidnapping [Electronic resource]. - Access mode : <http://www.segodnya.ua/regions/donetsk/zaderzhannogo-kiborga-podozrevayut-v-pohishcheniyah-lyudey-700287.html>

²¹⁸ «LPR Terrorists «wrestled» fro locals more than 1,000 vehicles,» - the Ministry of Interior [Electronic resource]. - Access mode : http://censor.net.ua/news/298993/terroristy_lnr_otjali_u_mestnyh_jiteleyi_bolee_1000_mashin_mvd

The photo shows that all its windows are smashed and the building itself is looted.²¹⁹.

November 22, 2014 «LPR» intended to distribute more than 200 cars confiscated from looters to families of killed and seriously wounded rebels. This was informed on the website of the rebels «News of the Donetsk Republic». «What you see in this site are cars that was collected from abandoned yards, hided in garages, the cars that marauders seized, “wrestled” with the purpose to sell,» - said the acting LPR People’s police commander Oleg Bugrov. At hat he pointed for reporters at the parking lot near one of the car dealers of Luhansk. According to Bugrov, these cars will not be re-sold or assigned by the officials. «These cars will soon be transferred to the families of killed, wounded soldiers and the people who earned this in the battle for our Motherland. Of course, it will not pay back to the families of bereaved the pain of loss, but that is at least a share of some attention to the people who defended our young state,»- said the LPR Interior Minister Igor Cornet. For his part, Deputy Commander of the Military Police Denis Kolesnikov stated that in case someone tries to take away the presented cars from LPR residents, security forces leave, special phone numbers. According to the source, the cars transferred to the families can be used only in the territory of the Luhansk People’s Republic²²⁰.

December 2, 2014 at the checkpoint in the Petrovskiy district of Donetsk city combatants seized 5 vehicles with carrying capacity of 20 tons. The on duty station of Chief Department of the Ministry of Interior of Ukraine in Donetsk region received a statement of CEO of the Group of Companies «Delivery» about carjacking²²¹.

December 25, 2014 in an interview of a former “rebels” Maksim Videtskih from Ekaterinburg to the Znak he told how cars in Lugansk were seized . «*There is such a man Marat, and there is such a man Yuriy Ravinskiy, there is such a man Denis, and there is*» *Combat*». *These people wrestled cars in tens and took no hell no Russian-made cars – they took Germans, mostly «BMW», «Mercedes», there are few Japanese at all. ... Everything is easy. People come, come into the house, they see a good car and take it*». According to Maksim, locals tipped to neighbors with cars themselves and got money for that. A BMW in a good condition is paid \$500. After that cars go to Russia. As Videtskih told, the commander with the nickname «Hooligan» earned at resale of cars about 1.5-2 million dollars²²².

September 18, 2015 the management of the Luhansk regional neuropsychiatric boarding institution reported that armed combatants seized their car. «*Rebels stopped our car near Artemivsk, and when we came out, they just carjacked it,*» - told the boarding institution employee²²³.

January 21, 2016 in the Internet appeared photos of the former Honda car dealership, which reopened some days before. There were no new cars in the car dealership, all cars were old and of different brands with number plates and documents both of Ukraine and Russia, or of DPR itself.

219 Car business at DPR: Nissan Car Dealership in Donetsk is completely destroyed [Electronic resource].

- Access mode : <http://www.autoconsulting.com.ua/article.php?sid=31729>

220 Officially. LPR will give confiscated cars to families of the bereaved rebels [Electronic resource].

- Access mode : http://www.dialog.ua/news/28983_1416665238

221 MoI: In Donetsk combatants hijacked five trucks [Electronic resource]. - Access mode : <http://gordonua.com/news/war/mvd-v-donecke-boeviki-ugnali-pyat-gruzovyh-avtomobiley-57088.html>

222 «Those how have a longer trunk make Law» [Electronic resource]. - Access mode : https://www.znak.com/2014-12-25/chem_zanimayutsya_opolchency_na_yugo_vostoke_ukrainy_intervyu_pokayanie

223 Ventured too far: LPR combatants seized car from the disabled [Electronic resource].

- Access mode: <http://news-ukraine.com/18291-sovsem-obnagleli-boeviki-lnr-otobrali-avtomobil-u-invalidov#>



Source: Facebook / Alexander Belinsky

According to the author of photo - Oleksandr Belinsky – Opel Vectra was seized from the former owners, and for friendliers not seized them again the frame on the number plate has become a kind of «indulgences.»

According to AUTO-Consulting, it was not the only auto dealership, which began to work in the DPR. But there are no new cars in showrooms, because Ukrainian distributors have stopped shipping cars to the occupied territories. Now the latter-day car dealers try to establish the supply of cars from neighboring Russian regions²²⁴.

In the Donetsk region there was reported a suspicion of a criminal offense from the party of a Ukraine National Police colonel. According to the regional prosecutor's office,

²²⁴ In Donbass police officer traveled by «wrestled» car [Electronic resource]. - Access mode: <http://ukr.segodnya.ua/regions/donetsk/na-donbasse-oficer-policii-razezzhal-na-otzhatom-avtomobile-688119.html>

it is connected with the investigation of the criminal proceedings on the facts of seizure of citizens' property and illegal possession of weapons by law enforcement officers. Within the investigation a series of searches at the residence of defendants and persons associated with them was conducted. In particular, in a household of the 34-year-old lieutenant colonel - an employee of one of units of the Department combating drug crimes of the Ukraine National Police there was found a car, which in 2014 was illegally seized from a resident of Sloviansk, in addition there was found a Kalashnikov rifle and 200 cartridges²²⁵.



The prosecutor's office is busy with a policeman.
Photo: Anatoly Boiko, "Segodnia" (Today)

In the LPR business of selling confiscated from residents of Luhansk district cars was deployed. This was reported by a local resident Savely Wasserman on Facebook. *«Formula1 offers the best conditions of reception and sale of wrestled from Lugansk residents cars. Best prices, execution of purchase and sale of wrestled car – from a piece of paper, LPR letters of attorney. Give Money - takes wheels. You can drive in LPR only, just in case. It is better not show up in Donetsk - had experience, it is tough there for now,»* – said in a statement²²⁶.

²²⁵ In Donbass police officer traveled by «wrestled» car [Electronic resource].

- Access mode: <http://ukr.segodnya.ua/regions/donetsk/na-donbasse-oficer-policii-razezzhal-na-otzhatom-avtomobile-688119.html>

²²⁶ LPR terrorists launched business of selling of «wrestled» cars: photo-fact [Electronic resource].

- Access mode: <http://obozrevatel.com/crime/63294-terroristy-lnr-razvernuli-biznes-na-prodazhe-otzhatyih-avtomobilej-fotofakt.htm>



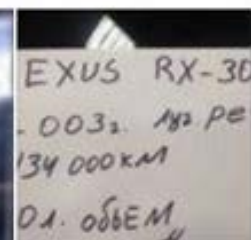
Terrorists launched business of selling of «wrestled» cars Photo: Capital.ua



Savelyi Vasserman добавил 4 new photos.

17 ч · 18

ОПОЛЧЕНЕЦІ! ХОЧЕШЬ ПРОДАТИ ОТЖАТУЮ ТАЧКУ? Приходи к нам, автосалон на Авиациентре ФОРМУЛА1 предложит лучшие условия приема и продажи отжатых у луганчан тачек. Самый ВЫГОДНЫЕ ЦЕНЫ, оформление факта купли-продажи отжатой тачки - по бумажке доверенности ЛНР, напишем сразу в блокнотике. Дайошь бабки - забираешь тачку. /ездить можно только в ЛНР если че. В Донецк: лучше не соваться - были опыты, пока там сложно/ кстати тачка знакомого там стоит одна. а вот своей пока не вижу



Seizure and Robbery of Companies

On May 31, 2014 at 05.30 people armed with automatic weapons and wearing camouflage clothing came to the test and monitoring station of Luhansk Cartridge Manufacturing Plant. They called themselves “LPR Self-Defense” and demanded the guard should leave the plant territory. After the guard refused to follow their instructions, they started to fire their weapons and forced the guard to leave his post saying from that time on, they would “guard” the territory of the plant²²⁷.

As Andrii Lysenko reported later, according to the available information, the trucks that entered Ukraine as humanitarian assistance were used by the Russians to load the equipment of Donetsk-based plant “Topaz”, which manufactures Radio Detection and Ranging Stations “Kolchuga”, and a Luhansk-based plant manufacturing cartridges for small arms²²⁸.

On 23 June 2014 approximately at 12:00, an organized group of six persons wearing camouflage clothing intruded the territory of the Scientific Production Association “Sieverodonetskyi Fiberglass” LLC. Threatening the plant guards with automatic weapons, the combatants stole two company vehicles, a black Toyota Land Cruiser and Lexus GX (both with Kyiv number plates), as they said – for the needs of the southern-east army. The attackers also brought their own van and forced others to load the finished products into it. According to modest estimations, the price of the stolen finished products prepared for export totals 0.5 million hryvnias. Company employees were forced to stay in the territory until approximately 16:00, and then they were allowed to leave. This information was provided to the periodical “Segodnya in Sieverodonetsk” by one of the readers. The editors claim the information was checked – another source provided the same information, and added that a monthly volume of products was stolen. The separatists promised to return it “after the war”²²⁹.

On 25 June 2014 in Horlivka, Donetsk Region, armed people attacked Novohorlivskiy Machinery Plant and depredated it. “On 24 June in Horlivka, upon the order of one of the terrorists’ leaders, *Bis* [demon- transl.], armed combatants cynically attacked Novohorlivskiy Machinery Plant and stole nearly 5 tons of diesel fuel, 4 vehicles, and took almost 300, 000 UAH from the company’s cash desk”, a representative of the Information Center of the National Security and Defense Council, Volodymyr Chepovyi, informed²³⁰.

On 20 October 2014, it was reported that a brick making plant was robbed in the occupied territory of Stakhaniv. “*I was informed by people whom I know that combatants took away all brick making equipment. They also beat the guard. We don’t understand why they do this since they already control the territory. They could organize the production process. Perhaps, they decided to make money on scrap metal*”, a plant investor, Serhii Shakhov, said. He filed a statement on robbery with the police. Currently, investigation is in progress²³¹.

On 22 October 2014, the Main Department of the Ministry of Interior in Luhansk Region reported that combatants dismantled and moved out equipment of Luhansk Elec-

227 Terrorists seized Luhansk Cartridge Manufacturing Plant [Electronic resource].

– Access mode: <http://delo.ua/ukraine/terroristy-zahvatili-luganskij-patronnyj-zavod-237682/>

228 “Russian Trucks Move Equipment for Kolchuga Production Out of Ukraine”, – National Security and Defense Council of Ukraine [Electronic resource].

– Access mode: http://lb.ua/news/2014/08/23/277044_rossiyu_vernulos_184_gruzovika.html

229 Separatists Robbed Fiberglass plant [Electronic resource].

– Access mode: <http://svsever.lg.ua/2014/06/separatisty-ograbili-stekloplastik>

230 Machinery Plant Robbed in Horlivka [Electronic resource].

– Access mode: <http://korrespondent.net/ukraine/politics/3383630-v-horlovke-ohrabyly-mashynostroytelnyi-zavod>

231 Brick Making Plant Robbed in Stakhaniv [Electronic resource].

– Access mode: <http://www.ostro.org/lugansk/society/news/456635/>

tronic Machinery Plant *Mashzavod-100* (which designed and produced equipment for manufacturing mono-crystals of sapphire, silicon and other hard and superhard mono-crystals) as well as *Yunist* plant (which manufactured specialized products for missile and aerospace industries) in Krasnodon. According to the preliminary information, the stolen industrial equipment is transported to the territory of the Russian Federation. From *Chervonopartyzanska* and *Kharkivska* mines that belong to the *DTEK Sverdlovantratsit* LLC, combatants already took away more than 500 tons of coal. According to police, coal is also transported to the territory of the Russian Federation²³².

On 3 November 2014, *Livyi Bereh* informed that in Makiivka combatants were taking away the equipment from a footwear factory. As the periodical was informed by police, the combatants seized the production and administrative premises of “Makiivska Footwear Factory Aspekt” OJSC. The factory staff was not allowed to go to work, and in the meantime all factory equipment was taken away²³³.

On 14 December 2014, iPress.ua referring to the Main Department of the MoI in Donetsk Region reported that a plant was robbed in Torez. According to the information provided by the MoI, during the seizure of the hard-facing carbide materials plant, terrorists illegally took the plant’s products from warehouses in the amount exceeding 700, 000 UAH. Police furthermore informed that DPR terrorists seized the buildings of Donetskhirmash and Donetskteplokomunenerho. “Police received information that *Donetskhirmash plant in Donetsk has been seized by terrorists since August, and that in September combatants seized warehouses of a furniture making company in Budionivskiy District*”, the report reads²³⁴.

On 9 February 2015, Novoaidar District Police Department received a report from a local citizen, born 1950, saying that in the night of 9 February an unknown person stole five computers, a printer, and a microwave oven from the premises of the repair shop of Luhansk Combined Heat and Power Plant²³⁵.

On 13 March 2015, Sieverodonetsk Town Police Department received by mail a statement saying that in the night of 8 - 9 February 2015, unknown individuals illegally took the property of Stakhaniv Technical Carbon Plant OJSC located on Chaikovskoho Street in Stakhaniv²³⁶.

At a briefing on 21 May 2015, the Spokesperson of the Presidential Administration on ATO Issues, Colonel Oleksandr Motuzianyk, informed that combatants cut the steel structures of the mine named after Lenin for scrap metal. “According to the information of Ukrainian intelligence agencies, in the occupied Horlivka combatants cut the steel structures of the mine named after Lenin for scrap metal (we are talking about lifting and pumping equipment, power cables, etc.). This can lead to a rise of the level of groundwater and methane coming to basements of the houses, and it also creates a threat for the environmental situation in the east of Ukraine and a risk for its citizens”, Motuzianyk said²³⁷.

232 Two Plants Taken from Luhansk Oblast to Russia [Electronic resource].

– Access mode: http://economics.lb.ua/business/2014/10/22/283362_luganskoy_oblasti_rossiyu_vivezli.html?utm_source=local&utm_medium=cpm&utm_campaign=bymaterial

233 In Makiivka, Equipment is Taken Away from Footwear Factory – MoI [Electronic resource].

– Access mode: http://society.lb.ua/accidents/2014/11/03/284833_makeevke_boeviki_vivozyat.html?utm_source=local&utm_medium=cpm&utm_campaign=bymaterial

234 “In Torez, DPR Terrorists Robbed Plant for 700, 000 UAH” – MoI [Electronic resource]. – Access mode: http://ipress.ua/ru/news/v_toreze_terrorysti_dnr_ograbyly_zavod_na_700_tis_grn__mvd_100281.html

235 Equipment Stolen from Repair Shop of Luhansk CHP Plant [Electronic resource]. – Access mode: <http://www.citynews.net.ua/news/41319-iz-remontnogo-ceha-luganskoy-tes-pohitili-oborudovanie.html>

236 In Stakhaniv, Technical Carbon Plant Robbed [Electronic resource].

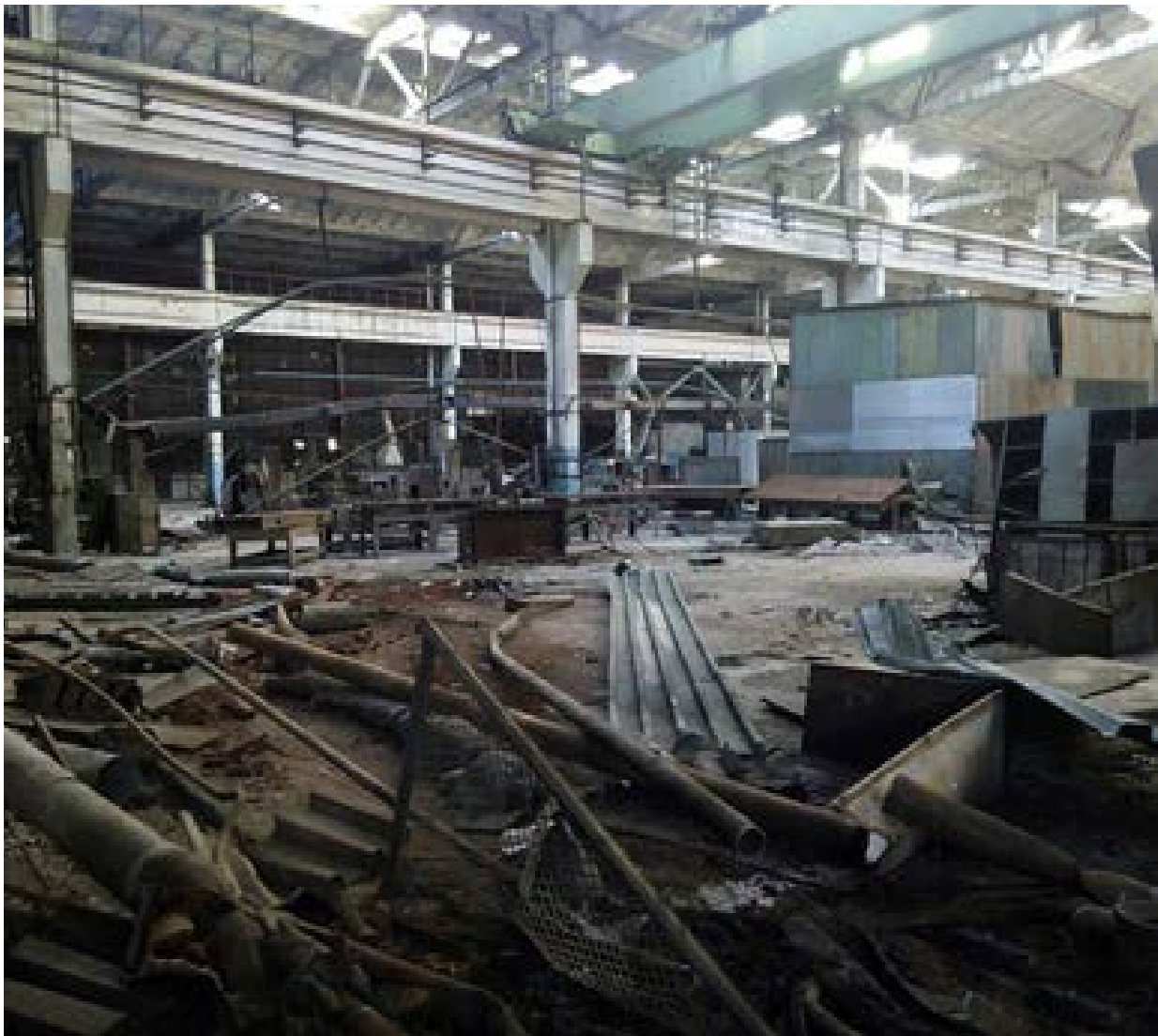
– Access mode: <http://www.ostro.org/lugansk/criminal/news/466400/>

237 Combatants cut the mine named after Lenin in Horlivka for scrap metal [Electronic resource].

– Access mode: http://society.lb.ua/war/2015/05/21/305682_boeviki_rezhut_metallolom_shahtu.html?utm_source=local&utm_medium=cpm&utm_campaign=bymaterial

On 5 October 2015, LPR combatants stole equipment and money from the Khitkarbon integrated plant in the occupied village of Hirskiy, Luhansk Region. The fact was reported by the Ukrinform quoting a local citizen. He said that a dozen of armed people broke into the integrated plant and locked the guards in a booth. The attackers took away all available assets, a T-170 bulldozer, and a ZIL-130 truck, loaded the equipment on a platform, and moved out. Employees of the integrated plant complained to the so-called “LPR Commandant’s Office” but there was no reaction²³⁸.

On 3 December 2015, it became known that in Luhansk, equipment of non-functioning *Luhanskteplovoy* plant was illegally dismantled and taken away. This fact was reported by the *Informator*. According to the data provided by “LPR police”, the criminals used a fake purchase and sale agreement of the real property owned by Termo CJSC to illegally dismantle and move out the plant equipment. At the same time, they did not specify where the fake agreement was received, and in which way it was different from other similar “documents”, the press service of the so-called LPR MoI informed. It was reported that the thieves took away machine tool frames, machine tools, oxygen containers, and fences²³⁹.



Source: Informator.lg.ua

238 Combatants robbed an integrated plant in an occupied village in Luhansk Oblast [Electronic resource]. – Access mode: <http://ru.tsn.ua/ato/boeviki-obokrali-kombinat-v-okkupirovannom-poselke-na-luganschine-499347.html>

239 Production facilities of Luhanskteplovoy Plant are cut for metal [Electronic resource]. – Access mode: <http://informator.lg.ua/archives/133381>

Individual Decisions Adopted by Executive Bodies That Violate the Right to Peaceful Enjoyment of Possessions

In addition to the damage that was caused directly by military activities to property of the citizens living in the temporarily occupied districts of Donetsk and Luhansk Regions, certain decisions of executive bodies also violate their right to peaceful enjoyment of possessions. For instance, *Resolution of the Cabinet of Ministers of Ukraine “On Social Payments to Internally Displaced People”* № 637 dd. 05.11.2014²⁴⁰ provides for specific limitations of the citizens’ exercise of the right to receive social assistance, namely:

- allocation and prolongation of pensions and other social payments only if a person has a certificate confirming his/her registration as an IDP;
- received only at the place of registration of such individuals;
- only during the period of validity of the certificate of registration of an IDP;
- only in the network of facilities and machines of PJSC “State Savings Bank of Ukraine” [Oschadbank];
- emission of payment cards that simultaneously work as a pension certificate and contain graphic and electronic information about the holder and his/her digital signature, and are valid for up to three years subject to the client’s undergoing the physical identification process in a department of the PJSC “State Savings Bank of Ukraine” – every six months for the first two times, and every 12 month afterwards;
- termination by the “State Savings Bank of Ukraine” of debit transactions on the current account without the physical identification of a pension recipient until the customer’s personal request (para 1 of the Resolution).

The aforementioned provisions violate both the applicable laws of Ukraine and the human rights guaranteed by the ECHR. Thus, the Laws of Ukraine “On Pension Provision”²⁴¹ and “On Mandatory State Pension Insurance”²⁴² do not connect emergence of the right of citizens of Ukraine (including those coming from other countries) to receive pension support and pension payments with availability of a certificate of IDP registration” as envisaged by the Resolution of the Cabinet of Ministers of Ukraine №509 adopted on 1 October 2014. Similarly, the certificate mentioned above, according to the Fundamental Principles of Ukrainian Legislation on Mandatory State Social Insurance, is not a precondition for receiving other types of the state social support²⁴³.

Furthermore, the text of the Resolution contains an unclear definition of the legal status of the newly emitted “payment cards that simultaneously are a pension certificate containing graphic and electronic information about the card holder and his/her digital signature”: will these cards be valid parallel to the pension certificates these people already have, or will they replace the pension certificates?

According to the aforementioned Laws, pensions are paid at the pensioner’s place of residence regardless of the place of registration or are transferred to a bank account specified by the person (and not by the Cabinet of Ministers of Ukraine). Therefore, even when a pensioner lives in a territory of another state, he/she has a right to receive

240 On Social Payments to Internally Displaced People [Electronic resource] / Resolution of the Cabinet of Ministers of Ukraine №637 dd. 05.11.2014. – Access mode: <http://zakon2.rada.gov.ua/laws/show/637-2014-п>

241 On Pension Provision [Electronic resource] / Law of Ukraine №1788-XII dd. 05.11.1991. – Access mode: <http://zakon4.rada.gov.ua/laws/show/1788-12/page>

242 On Mandatory State Pension Insurance [Electronic resource] / Law of Ukraine № 1058-IV dd. 09.07.2003. – Access mode: <http://zakon5.rada.gov.ua/laws/show/1058-15>

243 Fundamental Principles of Ukrainian Legislation on Mandatory State Social Insurance [Electronic resource]. – Access mode: <http://zakon0.rada.gov.ua/laws/show/16/98-вп>

pension he/she is entitled to in Ukraine. As it was properly described in the Decision of the Constitutional Court of Ukraine, “following from the legal and social nature of pensions, the citizen’s right to receive pension he/she is entitled to cannot be stipulated by such requirement as permanent residence in Ukraine; the state, in accordance with the constitutional principles, must guarantee this rights regardless of where the person receiving the pension lives - in or outside Ukraine”²⁴⁴.

Furthermore, *such actions of the state demonstrate the signs of not only violation of the property rights but also discrimination. The European Court of Human Rights mentioned it in its decisions.*

Therefore, in the case of *Pichkur vs Ukraine* it is said that “the rise of population mobility, the higher levels of international cooperation and integration, as well as developments in the area of banking services and information technologies no longer justify largely technically motivated restrictions in respect of beneficiaries of social security payments...” (para 53). The ECtHR further states that different treatment based on the place of residence is discriminatory and violates Article 14 of the Convention together with violation of Article 1 of Protocol № 1 to the Convention (para 54)²⁴⁵.

Furthermore, in the case of *Ilascu and Others vs. Moldova and Russia* as of 08.07.2004 the ECtHR recognized that the Government of Moldova, which is the only legal Government of the Republic of Moldova under international law and which did not have power over part of its territory that is under the effective control of the “Moldovan Republic of Transdnistria”, however, even in the absence of effective control over the Transdnistrian region, still has a positive obligation under Article 1 of the Convention to take measures that it is in its power to take and are in accordance with international law to secure to the applicants the rights guaranteed by the Convention²⁴⁶.

Therefore, we can conclude that *the Government must stop discriminatory treatment and resume payment of pensions and other social benefits to residents of the occupied territories as well as pay these benefits to internally displaced persons regardless of the place of their registration. Another efficient mechanism of discovering persons who ineligibly receive various types of assistance from the state should be developed.*

²⁴⁴ Decision of the Constitutional Court of Ukraine on the constitutional petition of the Supreme Court of Ukraine concerning compliance with the Constitution of Ukraine (constitutionality) of provisions of Paragraph 2 Part 1 Article 49, and the second sentence of Article 51 of the Law of Ukraine “On Mandatory State Pension Insurance” № 25-пп/2009 dd. 07.10.2009 [Electronic resource]. – Access mode: <http://zakon0.rada.gov.ua/laws/show/v025p710-09>

²⁴⁵ *Pichkur vs Ukraine* (10441/06) [Electronic resource]. – Access mode: http://zakon5.rada.gov.ua/laws/show/974_984

²⁴⁶ Decision of the Grand Chamber on the case “*Ilascu and Others vs. Moldova and Russia*” (48787/99) [Electronic resource]. – Access mode: http://zakon2.rada.gov.ua/laws/show/980_344

2.3. Authorities' response to violations of property rights in the ATO zone

Liability for criminal violation of the right to peaceful enjoyment of possessions during the armed conflict in Eastern Ukraine

Criminal liability of violation of the right to peaceful enjoyment of possessions during the armed conflict depending on the conflict status, degree of severity, nature and specific characteristics of such actions can occur in accordance with the international legal acts and the national criminal legislation.

However, until today there is no unambiguous perception of the status of the armed conflict and certain territories controlled by the so-called DPR and LPR. For instance, our government still has not decided who they are: separatists, terrorists, collaborators, rebels or something else. Ukraine's representative in the political subgroup in the Minsk process, Roman Bezsmertnyi, voiced his opinion in an interview, "... I believe this is an ongoing Russian-Ukrainian war, and we have a huge number of collaborators who went over to the enemy. If Kyiv had earlier recognized this status of the conflict, much more things would have been clarified. We would know now who prisoners of war are, who collaborators are, we could be talking about the procedure of citizenship restoration since the collaborators in fact terminated their Ukrainian citizenship and went over to the enemy. The current unclearness both helps and prevents us to resolve this situation. On the one hand, the unclear status enables us not to be limited by the framework of Geneva Conventions where the status of such persons is clearly defined. This can help if the parties have a positive attitude toward the prospects. Yet, at the same time, this unclearness blocks development of the situation. They call this territory sometimes occupied and sometimes – the territory with an undefined status; we call the same persons sometimes illegally detained, sometimes prisoners of war, sometimes hostages, and so on... In my opinion, the notion of the 'hybrid war' that we constantly hear completely fails to correspond to the reality. In reality, this is a war. A war between two countries. This fact had to be officially recognized. This should have been the start; the martial law should have been introduced from the beginning. And today, we can say whatever you want, but it is too late – the train is gone"²⁴⁷.

Pursuant to the Rome Statute, *the International Criminal Court* has jurisdiction over the following crimes: a) the crime of genocide; b) crimes against humanity; c) war crimes; d) the crime of aggression. It is recognized that the Court's jurisdiction is only complementary to the national jurisdiction and is applied independently only when the national justice systems do not work. According to the complementarity principle, it will be applied only in those cases when national courts are not able or willing to fight the crimes against peace and safety of the humanity. More specifically, when the state is not interested in prosecuting high-ranking officials or when the judicial system of the country has been ruined²⁴⁸. With regard to the situation in the East of Ukraine, it should be mentioned that *our country has not yet ratified the Rome Statute*. Consequently, the International Criminal Court is not able to carry out efficient investigation of individual

²⁴⁷ Roman Bezsmertnyi: There will be no elections in Donbas this or next year [Electronic resource].
– Access mode: <http://www.eurointegration.com.ua/interview/2016/04/28/7048541/>

²⁴⁸ On Ukraine's participation in the Rome Statute of the International Criminal Court [Electronic resource].
– Access mode: <http://www.niss.gov.ua/articles/1471/>

cases of violation of the international humanitarian law during the war in Ukraine.

However, the possibilities of *the national criminal law*, unfortunately, are limited at the moment. For instance, currently such category of crimes subject to the jurisdiction of the International Criminal Court as *crimes against humanity is not provided for in the Criminal Code (CC) of Ukraine*. Analysis of the norms of the applicable Criminal Code of Ukraine gives us grounds to conclude that crimes directly related to violation of the right to peaceful enjoyment of possessions during an armed conflict can be divided into the following categories: a) general crimes against property (Articles 185, 186, 187, 189, 191, 194, 194-1, 195, 196, 198, 289, and 292 of the CC); b) economic crimes (Articles 233, and 206-2 of the CC); c) military crimes (Articles 432, 433, and 438). In addition to this, there is a whole group of crimes, which indirectly infringe the property right. More specifically, these are actions provided for in Articles 109, 110, 111, 113, Clause 6 Part 2 Article 115, 162, 258, 294, 341, 360, 365, 366, and 388 of the CC of Ukraine.

Analysis of the information available in the open sources about destruction or damage of property as a result of shelling by separatists discovered one more problem – the problem of determining such actions. Even from the examples quoted above, one can see that in some cases they are determined as a crime against property under Article 194 of the CC (Deliberate destruction or damage of property), whereas in others – as a crime against public safety under Article 258 (Act of Terrorism). Still, the criminal law experts interviewed by us emphasized that in fact the attacked entity in these cases is state safety, constitutional order, sovereignty, territorial immunity, defense capacity – i.e. the fundamentals of the national security of Ukraine. Furthermore, from an objective perspective these actions are significantly different from an act of terrorism. For this reason, there is a need to raise a question concerning the need to eliminate gaps in the national criminal legislation taking modern realities into consideration. For instance, the Criminal Code of the Republic of Kazakhstan that came in force on 1 January 2015 contains a range of crimes, which are absent in the Criminal Code of Ukraine but are relevant for our country: Article 180. Separatist Activities (“Propaganda or public incitement to breach the unity and integrity of the Republic of Kazakhstan, inviolability and inalienability of its territory or to disintegrate the state as well as manufacturing, possession with the intent to distribute or distribution of materials with these contents...”); Article 181. Armed Rebellion (“Organization of armed rebellion to overthrow or change the constitutional order or to violate the unity and integrity of the Republic of Kazakhstan as well as the inviolability and inalienability of its territory, and to seize or retain power...”)²⁴⁹.

At present, it is not possible to assess real volume of the committed actions to this effect using statistic data. The first reason is a significant level of latency of the aforementioned crimes (many of the victims did not contact the police at all since there were facts of disclosure of confidential information by law enforcement officers to members of illegal armed groups or since there is a lack of trust in law enforcement’s efficiency); second, this is a result of the absence of separation of the crimes committed in the ATO zone in statistics reports – there is only information on registration of crimes in Donetsk and Luhansk regions; third, in many cases data on the crimes committed in the ATO zone are registered in other neighboring regions (Kharkiv, Dnipropetrovsk, Zaporizhia); fourth, when checking the statement law enforcement officers can come to a conclusion that there are no sufficient grounds to initiate criminal proceedings. Nonetheless, even the available data discussed below give us grounds to evaluate the scale and dynamics of the crimes falling within this category²⁵⁰.

²⁴⁹ Criminal Code of the Republic of Kazakhstan № 226-V dd. 3 July 2014 (as subsequently amended as of 09.04.2016) [Electronic resource]. – Access mode: http://online.zakon.kz/Document/?doc_id=31575252#pos=1;-235

²⁵⁰ Response of the Office of the Prosecutor General of Ukraine to a request for public information № 19/4-374 Ref. No.16 dd. 14.03.2016

For the purposes of our research, three years were selected: in 2013 in the country in general and in Donetsk and Luhansk regions in particular, economic social and criminal situation – although deteriorating (especially in the end of the year) – was still stable. However, 2014 became for Ukraine a year of political and social transformations, public protests, Russia's occupation of the Autonomous Republic of Crimea and the City of Sevastopol, and beginning of the armed conflict in the East of Ukraine (the “minister of defense” of the self-proclaimed DPR, Russian citizen Ihor Hirkin admitted that it was him who started the war by seizing administrative buildings with the help of his people in Sloviansk and Kramatorsk²⁵¹). Accordingly, the criminal situation and respect for human rights significantly worsened in the country in general, and in Donetsk and Luhansk regions. In 2015, aggression of the Russian Federation against Ukraine continued as well as the occupation of certain parts of Luhansk and Donetsk regions in Ukraine, the Autonomous Republic of Crimea and the City of Sevastopol, which had an impact on respect for human rights and on the criminal situation.

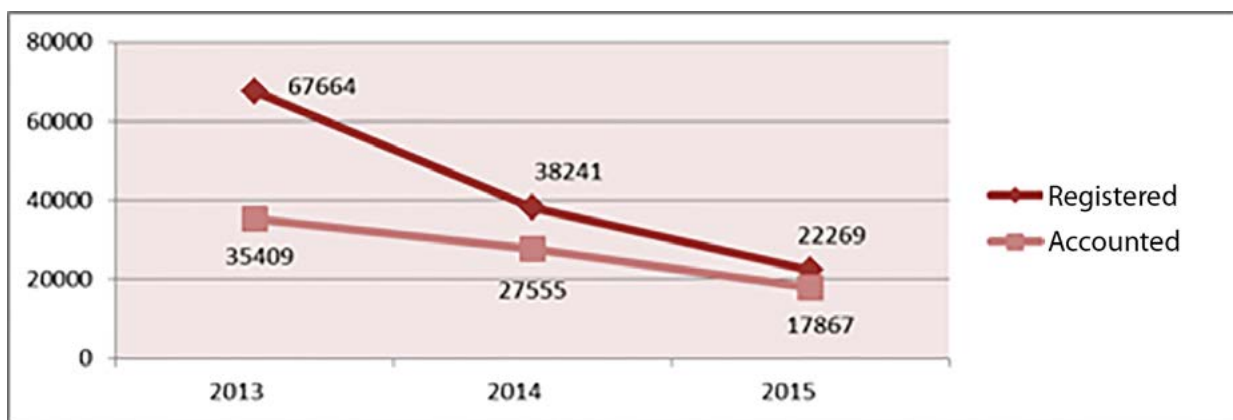


Figure 1. Number of registered and accounted crimes against property in the territory of Donetsk region in 2013–2015

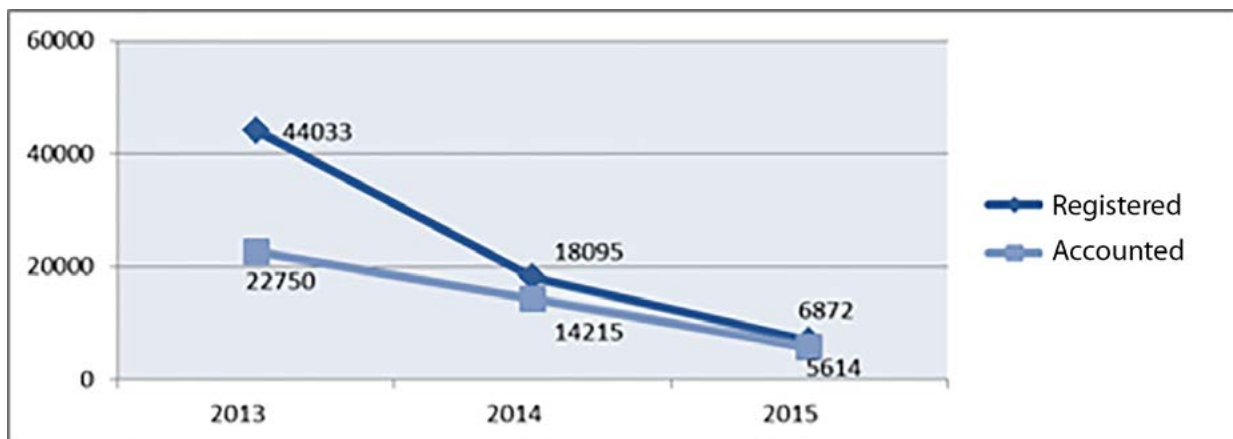


Figure 2. Number of registered and accounted crimes against property in the territory of Luhansk region in 2013–2015

As one can see from the Figures above, the total number of registered and accounted crimes against property in 2013–2015 was rapidly decreasing: in Donetsk region – three and two times, respectively, and in Luhansk region – six and four times. Yet, in reality such a sharp decrease of the indicators is not a reason for optimism. In accordance with the laws of statistics, such dynamics are unnatural and caused, in the first place, by artificial factors: a significant part of these regions since mid-2014 because of the military conflict was no longer controlled by the Ukrainian government. So at present, the crimes committed in the

251 – Who are you, “Shooter”? – A. Prokhanov's interview with I. Strelkov [Electronic resource].
– Access mode: <http://politikus.ru/articles/36116-kto-ty-strelok.html>

territory of the so-called DPR and LPR are not accounted for in the official statistics.

Based on the statistic data regarding the size of the population published by the State Statistics Service of Ukraine²⁵², as well as the “State Statistics Committee of LPR²⁵³” and the “Main Statistics Department of DPR²⁵⁴”, we calculated the size of the population living during this period on the territories controlled by the official government. Immediately, there is a disclaimer concerning possible errors in calculations since each of these bodies stated the data they provided were not absolutely accurate and can be further corrected. After that, the secondary calculation was done to establish how many accounted crimes against property during this period were committed per 100, 000 of the population. As a result, the following figures were received.

Table 1 Number of crimes against property accounted in 2013–2015 per 100, 000 of population of the Ukrainian government-controlled area of Donetsk and Luhansk regions

| | 2013 | 2014 | 2015 |
|----------------|------|------|------|
| Donetsk region | 813 | 1133 | 900 |
| Luhansk region | 1008 | 2031 | 785 |

This gives us grounds to claim that in reality, the number of crimes against property did not decrease, but on the contrary – it increased in 2014 and then again decreased in 2015.

Now let us look at the breakdown by types of crimes.

Table 2 Data on the number of individual types of crimes related to offences against property committed in Donetsk region in 2013–2015

| | 2013 | | 2014 | | 2015 | |
|--|------------|-----------|------------|-----------|------------|-----------|
| | registered | accounted | registered | accounted | registered | accounted |
| Theft Article 185 | 43442 | 27288 | 26395 | 20023 | 16223 | 13709 |
| Robbery Article 186 | 2554 | 2008 | 1835 | 1645 | 885 | 813 |
| Robbery with use of force Article 187 | 416 | 386 | 1000 | 981 | 406 | 401 |
| Racketeering Article 189 | 271 | 76 | 140 | 101 | 44 | 23 |
| Misappropriation, embezzlement Article 191 | 1043 | 647 | 573 | 471 | 305 | 235 |
| Deliberate destruction or damage of property Article 194 | 9233 | 320 | 3940 | 1476 | 1455 | 521 |
| Deliberate damage of electricity generating facilities Article 194-1 | 152 | 120 | 102 | 85 | 21 | 19 |
| Threats to destroy property Article 195 | 37 | 2 | 14 | 4 | 0 | 0 |
| Negligent destruction or damage to property Article 196 | 7 | 1 | 2 | 1 | 0 | 0 |
| Acquisition, acceptance, storage or sale of property obtained by crime Article 198 | 153 | 106 | 67 | 52 | 61 | 44 |
| Damage of transmission facilities or industrial oil, gas, condensate and oil pipelines Article 292 | 4 | 2 | 4 | 3 | 0 | 0 |

252 State Statistics Service of Ukraine [Electronic resource]. – Access mode: <http://www.ukrstat.gov.ua/>

253 State Statistics Committee of LPR [Electronic resource]. – Access mode: <http://gkslg.info/>

254 State Statistics Department of DPR [Electronic resource]. – Access mode: <http://glavstat.govdpr.ru/>

The statistical data show that in the territory of Donetsk region during the entire period of study the most frequent type of general criminal offences against property were thefts; the second frequent was deliberate destruction or damage of property; the third – robbery. The fourth place in 2013 belonged to the cases of misappropriation, misuse and embezzlement of property. However, with the beginning of the armed conflict, economic and social instability, the situation changed and in 2014 and 2015, the number of violent robbery attacks more than doubled bringing this type to the fourth place.

At the same time, analysis of court rulings demonstrates that in a large number of cases one person committed several illegal actions, which form a totality of cases. For instance, *Kramatorsk Town Court of Donetsk Region for perpetration of the crimes provided for in Part 1 Article 258-3, Part 3 Article 186, Part 1 Article 263 of the CC of Ukraine convicted a criminal investigator of the Criminal Investigation Unit of Kramatorsk Regional Office of the Main Department of the MoI of Ukraine in Donetsk Region. In mid-May 2014, he started to work in the DPR as the head of the criminal investigation unit. While working for this organization he, together with other men armed with firearms on 19 May 2014, participated in the seizure and open larceny of property belonging to “Talisman” car dealership*²⁵⁵.

The trends characterizing the dynamics of general criminal offences against property in Luhansk region as can be seen from the table below are similar to the trends characterizing the dynamics of crimes in Donetsk region.

Table 3 Data on the number of individual types of crimes related to offences against property committed in Luhansk region in 2013–2015

| | 2013 | | 2014 | | 2015 | |
|--|------------|-----------|------------|-----------|------------|-----------|
| | registered | accounted | registered | accounted | registered | accounted |
| Robbery Article 186 | 27476 | 16952 | 12742 | 10287 | 4520 | 3858 |
| Robbery with use of force Article 187 | 1624 | 1356 | 889 | 814 | 210 | 191 |
| Racketeering Article 189 | 241 | 226 | 548 | 541 | 217 | 211 |
| Misappropriation, embezzlement Article 191 | 206 | 57 | 55 | 41 | 9 | 8 |
| Deliberate destruction or damage of property Article 194 | 816 | 419 | 357 | 309 | 96 | 84 |
| Deliberate damage of electricity generating facilities Article 194-1 | 5701 | 201 | 968 | 373 | 401 | 100 |
| Threats to destroy property Article 195 | 40 | 25 | 32 | 25 | 14 | 11 |
| Negligent destruction or damage to property Article 196 | 35 | 2 | 5 | 2 | 1 | 1 |
| Acquisition, acceptance, storage or sale of property obtained by crime Article 198 | 12 | 0 | 1 | 0 | 1 | 0 |
| Damage of transmission facilities or industrial oil, gas, condensate and oil pipelines Article 292 | 130 | 58 | 34 | 22 | 20 | 14 |
| Robbery Article 186 | 5 | 5 | 6 | 5 | 0 | 0 |

²⁵⁵ Verdict of Kramatorsk Town Court of Donetsk Oblast in case 234/378/15-к dd. 28 May 2015 [Electronic resource]. – Access mode: <http://www.reyestr.court.gov.ua/Review/44720401>

With regard to some types of crimes infringing the person's right to property, during the period studied here there were either no registered cases or the figures were insignificant.

Illegal taking of property of a company, institution, organization (Article 206-2 of the CC): in Donetsk region – 1 registered case in 2014 and 3 cases – in 2015; in Luhansk region – no registered cases.

Illegal privatization of state and municipal property (Article 233 of the CC): Donetsk region: 2013 – 5 cases, and 2014– 3 cases; Luhansk region – 3 cases in 2013 and 1 case – in 2015.

Marauding (Article 432 of the CC): in Donetsk region, there was one case registered in 2014; in Luhansk, there were no registered cases.

Violence against population in the area of military actions (Article 433 of the CC), the objective part of which includes, among other things, illegal destruction of property, illegal taking of property under the pretext of military needs, and robbery committed against the population in the area of military actions: Donetsk region – 4 cases registered in 2014 and 4 cases – in 2015; Luhansk region – only 1 crime registered in 2015.

Violation of the laws and customs of war (Article 438 of the CC): in Donetsk region, one crime was registered in 2014 and 4 crimes – in 2015; in Luhansk region – no crimes were registered.

With regard to the crimes provided for in *Article 289 of the CC (Larceny of a vehicle)*, in 2014 and 2015 quite a lot of these offences were registered: in Donetsk region – 3, 056 and 942 cases, respectively, and in Luhansk region – 1, 852 and 495. It should be mentioned here that in 2014 these figures were the highest in Ukraine.

Judicial Practice of Courts

The fact of registration of such crimes by itself does not mean restoration of justice and reimbursement of the damage incurred to the victims: according to the available statistics, almost 2/3 crimes remain unsolved. Of those crimes that were solved, an even smaller share comes to the courts. For instance, judicial statistics demonstrate that all first instance courts in Donetsk region in 2015 received only 2, 902 criminal proceedings on crimes against property, and courts in Luhansk region – 961 criminal proceedings. Out of this number, in 2, 416 (Donetsk region) and 857 cases (Luhansk region) verdicts were rendered and 2, 889 and 972 persons²⁵⁶. respectively were sentenced. The analysis of the database of court decisions available in open sources (the Unified State Register of Court Decisions) demonstrated that it contains only a few individual court decisions in criminal cases on the instances of illegal violation of the right to peaceful enjoyment of possessions during the armed conflict in the East of Ukraine.

Analysis of court decisions on the crimes related to violation of the right to peaceful enjoyment of possessions during the armed conflict in the East of Ukraine showed that the share of persons who received a guilty verdict with the real service of sentence is rather low due to a humane treatment to the defendants (presence of mitigating circumstances), to a certain extent – resulting from the amendments introduced by the so-called “Savchenko’s Law” to the Criminal Code, according to which the period of pre-trial detention is counted by the court as one day of pre-trial detention being equal to two days of imprisonment²⁵⁷.

²⁵⁶ Letter of the State Judicial Administration of Ukraine № інф/Б 298-16-296/16 as of 04.05.2016

²⁵⁷ On amending the Criminal Code of Ukraine on improvement of the procedure for the counting of the period of pre-trial detention by a court as the sentence period [Electronic resource] / Law of Ukraine № 838-VIII dd. 26.11.2015. – Access mode: <http://zakon4.rada.gov.ua/laws/show/838-19>

For instance, Lysychansk Town Court of Luhansk Region for the crimes provided for in Part 3 Article 185 (Repeated theft committed in collusion involving penetration in the premises); Part 2 Article 260 (Participation in activities of the armed groups not provided for by law); Part 2 Article 28, Part 2 Article 437 of the CC of Ukraine (Conducting aggressive war in collusion with a group of persons) sentenced a citizen of Ukraine, Person_3, for the totality of crimes by absorbing the less severe punishment by a more severe to three (3) years in prison²⁵⁸. The beginning of the period of imprisonment was counted from 21 August 2014 taking into consideration the period of pre-trial detention (21 August 2014– 15 February 2016 included) counting one day of pre-trial detention as two days of imprisonment (i.e. 1 year 4 months 26 days – 2 = 2 years 9 months 22 days). Hence, out of the three years the defendant was sentenced to, the length of the real punishment left was 2 months 9 days.

The same Lysychansk Town Court of Luhansk Region rendered a verdict concerning two servicemen of a reconnaissance and sabotage squadron of a military unit field post office B2950 of the Armed Forces of Ukraine, who on 19 February 2015 approximately at 18.15 in Lysychansk wearing camouflage clothing and having automatic weapons threatened to use the weapons, i.e. violence that is dangerous for life or health, under the pretense of examination took away mobile phones from two minors. After this, still carrying their weapons, they brought the minors to a garage area and ordered they should run toward the arch leading to the house yard, stop there, go down on their knees and wait for the arrival of their car, which the victims followed. Using the absence of the victims, the perpetrators left the crime scene with the stolen property and then disposed of the property at their discretion. Having examined the case materials, the court administered punishment (for one defendant – in the form of arrest for six (6) months without confiscation of property serving the sentence in military custody, and for the other – in the form of arrest for six (6) months without confiscation of property) and, taking into consideration the period of pre-trial detention counting one day of pre-trial detention as two days of imprisonment, released the convicted defendants from custody in the court room immediately²⁵⁹.

Compensation for Inflicted Damage

Carrying out of the anti-terrorist operation in eastern regions of Ukraine resulted in damage of property of a significant number of individuals and legal entities. The authorities at all levels receive numerous requests for compensation for damage, namely of citizens' residential property. This issue is usually solved at the expense of budget funds, but often donor and volunteer assistance is also involved.

Furthermore, as of today at all levels of administration there is no centralized and systematic collection of information about the damages of residential and administrative buildings.

Besides, quite frequently, the subject of disputes is distribution of compensations for the damaged or lost property. More specifically, owners of wealthy households (constructed using expensive construction and roofing materials, with ecological wooden frames, etc.) complain that the received amounts would not compensate even repairs of the windows broken by shrapnel whereas for the owners of poorer houses the same amount would suffice to build three houses instead of the damaged one. "Allocated money as if

258 Verdict of Lysychansk Town Court of Luhansk Oblast in the case 415/3253/14-к dd. 15 February 2016 [Electronic resource]. – Access mode: <http://www.reyestr.court.gov.ua/Review/56771349>

259 Verdict of Lysychansk Town Court of Luhansk Oblast in the case 428/5259/15-к dd. 24 December 2015 [Electronic resource]. – Access mode: <http://www.reyestr.court.gov.ua/Review/54608919>

to tick the box. I received approximately 30, 000 hryvnias, and the former village mayor said ‘Yes, this is enough!’ And I have damages for 170–200 000 hryvnias only to repair my house alone”.

Besides, citizens are not always able to learn to whom and which amounts were allocated to restore and compensate for the incurred losses. *This is leading to the growth of social tension and displeasure of local residents with the Ukrainian authorities.* However, there is a positive example of the web-site of Sartana village that contains rather detailed information about the assistance provided for victims of shelling. Yet, it is quite difficult for the residents of other localities to find respective information regarding compensation for damage.

Furthermore, there are *certain gaps in the legislative framework with regard to compensations.* For instance, Article 1177 of the Civil Code of Ukraine reads that the damage inflicted on an individual who is a victim of criminal offence is compensated as provided for by law. The damage inflicted on a victim as a result of a criminal offense is compensated from the State Budget of Ukraine in the case and pursuant to the procedure provided for by law²⁶⁰. *However, at present such a law is absent.*

In addition to this, pursuant to Part 1 Article 13 of the Law of Ukraine “On Fighting Terrorism” the losses and damages that occurred as a result of the anti-terrorist operation are compensated as provided for by law. However, *as of today there is no normative legal document that would regulate the procedure for compensation of the losses and damages inflicted on individuals and legal entities as a result of the anti-terrorist operation.*

Article 19 of the Law of Ukraine “On Fighting Terrorism” stipulates that the damage incurred by the citizens because of an act of terrorism is compensated from the State Budget of Ukraine as provided for by law with the following recovery of the amount of compensation from the persons who inflicted the damage pursuant to the procedure provided for by law. The damage suffered by an organization, institution, or an enterprise because of a terrorist act is compensated pursuant to the procedure provided for by law²⁶¹. *Similar, there is no law specifying the procedure for such compensation.*

This situation has the most critical impact in the cases of destroyed or damaged houses since it brings the majority of victims to the verge of survival, especially in autumn and winter. For instance, in Krasnohorivka – a small town in Donetsk region – during the period of hostilities 22 persons were killed: 16 men and 6 women. 22 individuals were wounded – including 15 men and 7 women. “77 apartments were completely destroyed as well as 158 private houses and 12 administrative buildings, 1199 apartments were damaged as well as 641 houses and 70 administrative buildings. None of the industrial enterprises is working here, and out of five schools only two are functioning. A hospital and one agricultural company are operational”, – police stated²⁶².

On 11 November 2015, a draft law was submitted to the Verkhovna Rada of Ukraine on amending the Law “On Fighting Terrorism” regarding compensation for houses damaged as a result of the ATO (№3434)²⁶³. The bill suggests Article 13-1 “Compensation of damage of citizens’ housing resulting from anti-terrorist operation” should be added to the Law “On Fighting Terrorism” and the wording of the effective Article 19 should be extended.

260 Civil Code of Ukraine [Electronic resource]. – Access mode: <http://zakon0.rada.gov.ua/laws/show/435-15>

261 On Fighting Terrorism [Electronic resource] / Law № 638-IV dd. 20.03.2003.

– Access mode: <http://zakon0.rada.gov.ua/laws/show/638-15>

262 22 individuals killed in Krasnohorivka [Electronic resource].

– Access mode: <http://ukr.segodnya.ua/regions/donetsk/v-krasnogorovke-pogibli-22-cheloveka-702612.html>

263 On amending the Law of Ukraine “On Fighting Terrorism” regarding compensation for houses damaged as a result of the ATO [Electronic resource] / Draft Law of Ukraine № 3434 dd. 09.11.2015.

– Access mode: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=57001

Article 19 reads that “Damage is compensated ... from the State Budget of Ukraine ... with the following recovery of the amount of compensation from the persons who inflicted the damage pursuant to the procedure provided for by law”. However, it should be mentioned that *so far, no organization has taken the responsibility for identifying the entity guilty of killing civilians and damaging property items*. The OSCE Mission to Ukraine, for instance, clearly states that its function is to report the facts of shelling and ceasefire violations, and not to identify the perpetrators. In the best case, the OSCE reports the direction from which a site was shelled without stating who occupies the respective position even when it is known²⁶⁴. Hence, *it is impossible to identify specific individuals who inflicted damage for the following recovery of the amount of compensation from them*.

The idea of the aforementioned legislative initiative and strengthening of the social protection of persons who suffered during the anti-terrorist operation was positively assessed by the Main Science and Expert Department. However, in its conclusion, specialists of the Department presented a number of justified concerns²⁶⁵.

First, they point out that it is not clear from the proposed formulation of Article 13-1 “Compensation of damage of citizens’ housing resulting from anti-terrorist operation” which specific cases are covered by the phrase “resulting from anti-terrorist operation”:

- damage of housing resulting only from military actions;
- all other cases, including common, which occurred in the ATO zone during the operation (e.g. damage of the infrastructure or a heating system).

Second, the subject of the inflicted damage should be specified as well so that the person could receive complete compensation from the State Budget of Ukraine:

- only as a result of actions of the Armed Forces of Ukraine or other armed groups of Ukraine;
- as a result of actions both of the Armed Forces of Ukraine or other armed groups of Ukraine, and of terrorists;
- as a result of actions by any party.

Third, effective Article 19 of the Law envisages compensation of damage resulting from an act of terrorism and not as a result of the ATO as in new Article

13-1. Thus, adoption of Article 13-1 will significantly expand the grounds for granting compensation for the damaged housing. Therefore, the conclusion is that the main issue of compensation for the damaged housing from the State Budget of Ukraine is the financial capacity of Ukraine to fulfil the respective obligations. Thus, the experts emphasized that the claim saying implementation of this bill does not require additional expenses from the State Budget of Ukraine is not true, and there is a need to carry out financial and economic justification of this proposal (including respective calculations).

However, as long as these issues are not resolved at the highest level, lawyers of the UHHRU Strategic Affairs Center prepared a detailed memo for the persons who are going to appeal to the European Court of Human Rights for a remedy of the violated property right and the right to respect for housing during the events in the ATO zone. The guidelines contain templates of applications to be submitted to the ECtHR and to law enforcement bodies. Additionally, it describes the recommended complainant’s actions before and during submission of the applications to the Court (see Appendices A – C)²⁶⁶.

²⁶⁴ UN reports will mention those guilty of killing civilians in Donbas– CMI [Electronic resource].

– Access mode: http://zn.ua/UKRAINE/v-otchetah-oon-budut-ukazyvat-vinovnyh-v-gibeli-mirnyh-zhiteley-v-donbasse-smi-188062_.html

²⁶⁵ Conclusion for the draft Law of Ukraine “On amending the Law of Ukraine “On Fighting Terrorism” regarding compensation for houses damaged as a result of the ATO” [Electronic resource].

– Access mode: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=57001

²⁶⁶ Guidelines on protection in the European Court of Human Rights of the property right and the right to respect for housing violated during the events in the ATO zone [Electronic resource]

– Access mode: http://precedent.in.ua/index.php?id=1459026277#_1

3. RESULTS OF MONITORING VISITS OF UKRAINIAN HELSINKI HUMAN RIGHTS UNION

IN OCTOBER 2015 – JANUARY 2016, members of the UHHRU monitoring mission conducted four visits to Donetsk and Luhansk regions in order to explore the presence of indiscriminate shelling of residential areas in the ATO zone and the incurred damage as well as to interview the victims of violent loss of private property as a result of military activities in the East of Ukraine with the help of the special questionnaire (Appendix D).

Below, we describe the results of these visits for you.

NOTE: all personal data of civilians are mentioned only upon their consent. For security reasons, some personal data and information that can lead to unacceptable identification of certain individuals were de-personalized.

3.1. Results of monitoring visits to Mariupol and Sartana of Donetsk region on October 3–8, 2015

October 5, 2015 – October 6, 2015, Mariupol

**Interviews with residents of Shyrokyne village, Volnovakha district
of Donetsk region**

On 5–6 October 2015, members of the UHHRU monitoring mission interviewed **43 local residents**.

According to the locals, the first shelling of their village started in September 2014, yet despite this, the majority of residents stayed in their houses. Until February 2015, Shyrokyne residents witnessed constant firefights between the parties to the armed conflict. Approximately on 9–10 February 2015, intensive shelling of the village began. As a result, many residential houses, a shop, a school, and a kindergarten were damaged, and a window was broken in a local church. According to the local residents, approximately 15 persons were wounded, and 8 civilians were killed – by artillery attacks, snipers shooting, and vehicles shelling. Nadia Lohosynska, for instance, was killed by a sniper when she was getting into her son's car so that he could bring her out of the village.



Not all residents saw military personnel in their streets, and people offer confusing evidence as to the direction from which the blows were coming.

On 12 February 2015, Ukrainian soldiers were evacuating civilians, but not everyone was able to leave the village by motor vehicles. **Female resident S.** is one of the few who did not leave their houses on that day. According to her, *before she left in late March 2015, absolutely all houses and all traffic were shelled. During the entire period, she lived in a basement while people from DPR who did not conceal their affiliation with Russia stayed in her house. Also the woman witnessed how "Ural" trucks belonging to DPR loaded with civilian's possessions – boats, scooters – took it all in the unknown direction. DPR people took away her gold and her son's car, Moskvich.*

Female resident K. anonymously testified that her husband was killed during robbery:

"I was evacuated from Shyrokyne on 12 February by the Armed Forces of Ukraine. They said, it was for three days, but then we could neither enter nor exit. My husband stayed to look after the house.

On 21 February, a godmother of my child phoned and told me my husband was in hospital in Novoazovsk. She heard about it from her friend working in that hospital. I have another friend working in the same hospital. I called her and said my husband was in hospital, and I asked her to bring him some food. In the morning, my daughter told me that my husband died in hospital. He was able to tell a nurse in the hospital that he did not allow the military men to steal food from his cellar, so they beat him and threw into the cellar. I don't know how long he was lying in the cellar.

In the end of March, my neighbor phoned and told me he saw our car that had been earlier stolen from our garage, in Bezimenne village. I went to the commandant's office in Bezimenne to find my car. My daughter told me that she heard from friends there was a sign of some unit on the car. It could be found out on phone from the son. A soldier at the gate told me that the car ... with the number plate ... has just left through the gate. Then a commander came and began to ask where I was from.

When he heard the address he said that in February he was based in Shyrokyne with his unit in a house opposite to ours, and it was him and one of his soldiers who were carrying my husband out of the cellar. They supported him with food, and bought eggs from him. When they entered the yard, the house was locked, and the cellar was open. They heard moaning, and found an old man in the cellar. On the same day they sent him to hospital in Novoazovsk together with three wounded DPR soldiers. He had no information about the call sign or any other data of the commander or his unit.

Female resident O. during the interview said that in January 2015 armed people came to her house and demanded she should give them money and values



Picture: Certificate of husband's death. Person 2.

threatening to shoot her husband. Later, the resident said, she saw herself from the neighbor's house how members of Azov regimen were robbing her house: taking away pillows, blankets, valuable 18 century icons. The woman did not go to the police.

The evidence of marauding was also provided by female resident R.: *“When I came to the village in May, there was a DPR checkpoint near the house. The fence was absent, the roof was torn off, and there was a tank on the side of the vegetable garden; shells were brought to it from my house. They used my house to store shells for the tank in it! All cabinets were emptied, a TV set, microwave oven, blender, kettle, washing machine, water heater, and a stereo system – all home appliances and even toys were taken away!”*

Female resident B. said when she came to her place in March, it had been robbed: *“Three windows were broken, and the door was locked. Two lanterns disappeared. One with music, high and low beam. The second was a hand torch. An Izhevsk pneumatic gun. 25 kg sugar. An ancient Nikolas the Wonderworker icon. Everything in the house was a mess... There was a hole in the bathroom roof [in the house]. Canned food disappeared. A driver came running and said a sniper was shooting at the car, and we had to go. I ran out of the house without taking the documents or the clothes”. In April, my neighbor phoned and said he saw the house, and there were three shells on the roof, and another one – on the garage. On 16 June the neighbor phoned again and said the house was burnt down, it was burning all night.*

Residents also said they saw their possessions in neighboring villages and towns. For instance, a car belonging to **male resident N.** It was stolen in May 2015. Some time later, he saw his car in Novoazovsk, it was driven by young people in civilian clothing. The man was able to return his car on his own. Later, his son saw in Novoazovsk a person wearing his clothes.

According to the village residents, robbery was committed by everyone: DPR, Ukrainian soldiers, and residents of neighboring villages. They took away house appliances, warm clothes, dishware, all valuables and motor vehicles, bicycles. In fact, everything was taken – even refrigerators. People learn about their losses from their neighbors who were not afraid to go back to the village after February to take necessary things. The majority are not ready to talk about marauding in more detail because of fear.

Today, it is impossible for residents of Shyrokyne to come to the territory. The only channel through which they can learn at least something about the fate of their houses is the OSCE pictures and video stories posted by separatists channels in Youtube.

NOTE: Shyrokyne village is located on the Azov Sea coast, 23 km away from Mariupol railway station. Before the hostilities, the size of the population was 1, 411 persons. One of the local attractions is the Shpyl Mountain near which, according to the stories, Alexander Pushkin stayed on his way to exile.



Coat of arms of Shyrokyne village

During the hostilities in the East of Ukraine, the village several times was controlled by DPR combatants and by the units of the Armed Forces of Ukraine. As a result of heavy fighting, nearly 60 % buildings in the village were partially or completely destroyed, and the majority of citizens left the village. As of mid-April 2015, there were 40 residents still staying in Shyrokyne.

Fights for Shyrokyne continued after the signing of Minsk agreements. On 9 April 2015, Spokesperson for the OSCE Special Monitoring Mission to Ukraine Michael Bociurkiw called for demilitarization of Shyrokyne, and on 15 April the same proposal was presented by the negotiation group led by ex-president Leonid Kuchma on the strict condition of the OSCE presence. Yet, as soon as on 17 April, Azov regiment spoke against demilitarization motivating their objection by the fact that “withdrawal of the Ukrainian troops and organization of a station for monitoring ceasefire in Shyrokyne means the loss of this territory even if the OSCE mission is present there. And giving up Shyrokyne means voluntary opening of the gate to Mariupol”. Residents of Mariupol also took a stand against demilitarization. More specifically, in an open statement of NGO “Mariupol Defense” it was said that “There is a strategic height located in the territory of Shyrokyne, which was seized by the defenders of Mariupol from the aggressor and where the combatants should not be, according to the Minsk agreements. In the past, our town was repeatedly shelled from this firing point. Precisely from the positions of the Shyrokyne – Kominternove line, the DPR terrorists attacked the “Eastern” residential neighborhood on 24 January of the current year”^{267 268}.

On 20 April 2015, the OSCE Mission started round-the-clock control of Shyrokyne, yet already on 27 April reports started coming on OSCE Mission shelled by the DPR combatants. The position of the Ukrainian forces were shelled by terrorists in the following months, also using large-caliber artillery. As of early June 2015, there were only approximately 20 residents left in the village. On 30 June 2015, the OSCE monitors in Donbas stated there was no population left in Shyrokyne.

A new wave of protests against demilitarization of Shyrokyne started on 26 July 2015, after instructions came from the General Staff on withdrawal of Donbas battalion and Azov regimen from Shyrokyne²⁶⁹.

In mid-September 2015, the head of Donetsk military-civil administration, Pavlo Zhebriivskiy said that the front-line villages of Shyrokyne and Pisky in Donetsk region cannot be restored. This was reported by Espresso.TV referring to the “Donbas News”. In the official’s opinion, it is easier to build new villages in the place of the destroyed ones²⁷⁰.

07.10.2015, Sartana village, Donetsk region

Interview with the mayor of Sartana S.H. Makhsmat

For the first time, the village was shelled on 14 October 2014. The shell hit a funeral cortege on General Kurkchi Street. 7 persons were killed and 16 wounded. 12 residential buildings were damaged on Krainia Street, and a part of General Kurkchi Street. This event was reported by the web-site 0629²⁷¹.

²⁶⁷ Residents of Mariupol ask to leave soldiers in Shyrokyne. Turchynov explained the meaning of demilitarization [Electronic resource]. – Access mode: http://www.newsru.ua/ukraine/22apr2015/mariupolcy_pro_shyrokino.html

²⁶⁸ Address of the residents of Mariupol regarding the initiative on demilitarization of Shyrokyne [Electronic resource]. – Access mode: https://www.facebook.com/mariupol.oborona/photos/a.492952414175030.1073741829.492506714219600/614245478712389/?type=1&__mref=message_bubble

²⁶⁹ Shyrokyne [Electronic resource] / Material from Wikipedia – the free encyclopedia. – Access mode: <https://uk.wikipedia.org/wiki/Широкине>

²⁷⁰ “Shyrokyne and Pisky cannot be restored,” Zhebriivskiy [Electronic resource]. – Access mode: http://espreso.tv/news/2015/09/16/shyrokyno_i_pisky_ne_pidlyagayut_vidnovlennyyu_zhebriivskyy

²⁷¹ Names of people killed and wounded I Sartana shelling are known [Electronic resource] / Web-site of the Town of Mariupol, 17.10.2014, 18:53. – Access mode: <http://www.0629.com.ua/news/644923>



For the second time, it was shelled on 19 January 2015. Approximately 53 residential buildings on Radianska and Apatova Streets were damaged as well as several buildings on 1 May and Dobrovol'skoho Streets. In the majority of buildings, windows were broken, facades damaged, and roofs pierced with pieces of shells. Cars were also damaged. At present, statements describing the inflicted damages were prepared, and compensation paid to the victims. Information about the persons whose property was damaged, the volume of destroyed property with confirming pictures as well as the data on provided assistance is posted on the web-site of the village, address: <http://sartana.dn.ua/postradavshie/>. In general, owners of 49 buildings received financial support from the local budget totaling 181, 831, 576 UAH and building materials for repairs. It is stated on the local web-site that funds are expected for compensation for the damaged cars and furniture. One family received a refrigerator from the International Committee of the Red Cross.

During shelling for the third time on 5 February 2015, the fire hit Krainia Street again as well as Ohorodnia and Stepova Streets. Nearly 27 residential houses were damaged. Based on the prepared documents, victims received compensation, and building materials were provided for repairs. All information is also posted on the web-site, address: <http://sartana.dn.ua/postradavshie-05-02-2015>. More specifically, 22 houses received financial assistance from the local budget. Building materials were also provided, namely: film, slate, tent cloth, glass, building sand. The owners of the most damaged house received financial assistance from the budget totaling 44, 244 UAH, 25 kg building sand, 1 sheet of plywood and tent cloth. One family also received a refrigerator from the International Committee of the Red Cross. Hence 193, 384 UAH were allocated from the local budget for restoration of damaged real estate objects. Furthermore, additional financial assistance was provided by Harvest Holding and Mariupol Metallurgical Complex named after Ilich.

On 14 February 2015, a shell from MLRS "Grad" fell near School №8. One person was killed. Four houses on Partyzanska Street were damaged.



As a result of shelling in the night of 16 and 17 August 2015, three persons were killed, and seven were wounded. 122 households on Chervonoarmiiska Street, Hromova Lane, Zhovtneva, Partyzanska, Zakhidna and Zvyvysta Streets were damaged.

A female resident of Sartana whose house was damaged during shelling on 16 August 2015 was interviewed. During the shelling, she was at home together with her grandchildren. According to her, a shell fell five meters away from the house having grazed a gas pipe. The window glass was broken, pieces of the shell damaged the roof and part of the roofing slate, and the front part of the garage was also damaged. Strong explosions that caused ground shaking created big cracks in the house. The woman was able to save herself and her family, and at present all damages had been repaired with the help of the local authorities and sponsor support from “Metinvest”.

According to the available information posted on the web-site of Sartana village, experts from the Ministry of Defense proved that on 16 August the village was shelled from the territory controlled by DPR. The deputy commander of the M Sector, Valerii Vodolazskyi, reported that in total 39 craters created by 120 mm howitzer shells were found in the village. No other shells were found. The primary information about the presence of mines was not confirmed. No tail parts typical for this kind of ammunition were found in Sartana. The same applies to the ammunition itself ²⁷².

²⁷² Ministry of Defense: Sartana was shelled from the east [Electronic resource].
– Access mode: <http://sartana.dn.ua/minoborony-sartanu-obstrelyali-iz-vos/>



Source: <http://sartana.dn.ua/minoborony-sartanu-obstrelyali-iz-vos>

Later, the SSU reported that it detained the center of artillery shelling of Sartana near Mariupol in the early hours of 16 August 2015. “The shelling was immediately directed by a combatant with the call sign ‘Zharik’. The shelling of civilian houses of his neighbors was adjusted from Mariupol by a resident of Sartana – an employee of the fire rescue unit of the State Emergency Service of Ukraine in Donetsk Region”, the statement reads²⁷³.

NOTE: Urban-type settlement Sartana is one of the places of compact settlement of the Greeks near the Sea of Azov subordinate to Illichivsk Council of Mariupol; distance to the district center – approximately 17 km²⁷⁴.



Coat of arms of Sartana

²⁷³ SSU detained the Sartana shelling centerer [Electronic resource].

– Access mode: <http://sartana.dn.ua/sbu-zaderzhali-korrektirovshhika-obstr/>

²⁷⁴ Sartana [Electronic resource] / Material from Wikipedia – the free encyclopedia.

– Access mode: <https://uk.wikipedia.org/wiki/Сартана>

3.2. Results of monitoring visit to Stanytsia Luhanska District of Luhansk region on October 15–20, 2015

17 October 2015, Stanytsia Luhanska village, Luhansk region.

Interview with Deputy Head of Stanytsia Luhanska District State Administration Yu. V. Hrytsenko

According to the information provided by the Head of District State Administration, since late August 2014 the village has been controlled by the Armed Forces of Ukraine. To the south of Stanytsia Luhanska, armed groups of separatists are based. The two parties to the conflict are divided by Siverskyi Donetsk river located 500 m to 1 km away from the village. It is prohibited for the local residents and civilians to go to the territory between the village and the river both to prevent violations of the procedure for crossing the contact line, and to ensure their personal safety.

Military units of the Ukrainian Armed Forces and the State Border Service of Ukraine are partially located in the central part of the village, and there are checkpoints at the entrance and exit roads of the village.

As of 15 October 2015, the following numbers of the items of damaged (destroyed) residential property in Stanytsia Luhanska district of Luhansk region were reported:

| Damaged, pcs | | | Restored, pcs | | |
|------------------------|-----------|---------|-------------------------|-----------|---------|
| total | including | | total | including | |
| | municipal | private | | municipal | private |
| 3,405 | 77 | 3328 | 384 | 54 | 330 |
| Works in progress, pcs | | | Cannot be restored, pcs | | |
| total | including | | total | including | |
| | municipal | private | | municipal | private |
| 186 | 16 | 170 | 321 | — | 321 |



Location of the inspected houses in the village

The majority of damaged (destroyed) residential buildings is located in the village of Stanytsia Luhanska, but the numbers were not specified according to the individual settlements.

According to the information provided by the Deputy Head of District State Administration, the absolute majority of residential buildings and public objects was damaged during the period from late August 2014 to late August 2015. During this period, the village was controlled by the Ukrainian Army. Since the end of August 2015, the village has not been shelled.



The heaviest shelling attacks that caused human deaths in the village took place on:

1. 2 July 2014 – two missile and bombing plane raids. The first took place around the center at the local police building, and then – on Ostrovskoho street near Kindrashivska railway station. The majority of village residents, separatist mass media and Russian media emphasize that the attack was carried out by the Ukrainian Army Airforce. However, the leadership of the Ukrainian Armed Forces deny its Airforce was involved in the shelling referring to the fact that in the night of 1-2 July 2014 in Milove village in Luhansk region (approximately 200 km away from the contact line yet close to the Russian Federation state border) diversionists by mortar fire rendered inoperable the radar system of the air defense military unit, which could identify the plane involved in the Stanytsia Luhanska attack. Separatist media confirm the fact and the time of the radar system deactivation (Example: <http://rusvesna.su/news/1404316417>).

As a result of this event, public and residential buildings were significantly damaged, including the premises of the MoI and the local court; several residential houses were completely destroyed; local civilians were killed – according to various sources, from 9 to 14 individuals.

2. From the middle until the end of August 2014, after Stanytsia Luhanska was taken by the Ukrainian Army and after an increase of military activities and intensiveness of artillery shelling because the Ukrainian Army tried to hold the village. During this period, Stanytsia Luhanska secondary school № 2 was destroyed, and other public and residential buildings were significantly damaged or destroyed.

3. In January–March 2015 during the escalation of military actions.

In August–December 2014 and in April–August 2015, nearly every day single-shot shelling from heavy and light artillery weapons took place resulting in damage and destruction of buildings and human deaths.

During the visit to Stanytsia Luhanska, *the monitoring group interviewed 20 owners of damaged and destroyed houses, inspected and photographed the damaged property and results of shelling.*

Thus, **male resident V.** made the following statement about the shelling of his house: “On 10 June 2015 approximately at 23.00, I was at home with my paralyzed wife whereas my son, daughter-in-law and my granddaughter were in the basement. At that time, a mortar shell hit the house: the damage was insignificant, but the house was set on fire immediately. I woke up my son, and we took my wife out of the house, switched on a motor pump and started to extinguish the fire. Unfortunately, our effort was in vain, and the house burnt down almost completely. I don’t know who was shooting, but the shelling was very intensive. Later on, I found a rake in the garden with a bullet stuck inside – even the rake got it”.



Female resident H. witnessed the shelling of Kondrashivka from the air: “On 2 July 2014 at 11.00 there came a plane; I heard the noise, and people went to the street to watch where it was going. I was standing at the terrace, and during the explosion, I probably fell down and lost consciousness. When I recovered consciousness, I went to the street. There I saw that seven persons were killed, four were wounded, and three of them died later in hospital. It was terrible. More than eight houses were destroyed, and the rest were less damaged”.



Female residents of Tiulenina and Ostrovskoho Street (near Kindrashivska railway station in Stanytsia Luhanska) confirmed the information provided by the Deputy Head of District State Administration and said that the shelling, which damaged their property looked unmotivated and indiscriminate.

As a result of inspection of the destroyed property it was discovered that in those cases when it was possible to determine the direction from which it was shelled, it corresponded to the southern, south-western and south-eastern direction.

The monitoring group also inspected and photographed the outline plans of the destroyed public buildings in the village and destroyed private houses that were abandoned by the owners:

- the building of Stanytsia Luhanska District Court;
- the building of Stanytsia Luhanska District Department of Interior;
- the building of Stanytsia Luhanska Tax Office;
- the building of Stanytsia Luhanska Training and Production Center;
- the building of Stanytsia Luhanska School № 2;
- houses № 3, 4, 19, and 28 on Bukaieva Street;
- a house on the corner of Bukaieva Street on uneven numbers side, and the Second Line Street on uneven numbers side;
- a house on the corner of Bukaieva Street on uneven numbers side, and the Second Line Street on even numbers side;
- a house near the previous house;
- a house on the corner of Bukaieva Street on even numbers side, and the First Line Street on even numbers side;
- a house near the corner of Lenina Street on uneven numbers side, and the First Line Street on uneven numbers side;

- the second house after Lenina Street on the Second Line Street on even numbers side;
- house № 49 on Moskva-Donbas Street;
- a house on Moskva-Donbas Street next but one from Stanytsia Luhanska Training and Production Center, and two nearest buildings;
- a house on Moskva-Donbas Street opposite to School № 2 – corner of Moskva-Donbas Street on uneven numbers side, and Lenina street on even numbers side;
- public buildings between School № 2 and police building on even and uneven numbers sides;
- a house on the corner of Moskva-Donbas Street on uneven numbers side, and Barabashova Street on even numbers side. According to the information provided by the Deputy Head of District State Administration on 2 July 2014, one person was killed inside;
- houses № 8 a, 10 on Ostrovskeho Street;
- houses in the beginning of Ostrovskeho Street.

NOTE: Stanytsia Luhanska is an urban-type settlement in Ukraine, one of the two Don Cossack villages in the lands of contemporary Ukraine.



Coat of arms of Stanytsia Luhanska

According to the mass media, even in February 2015 around Stanytsia Luhanska, the positions of combatants and the Armed Forces of Ukraine were located at a distance up to 2 km. Often, close-in fights took place here. Every day positions of the 17th tank brigade which was based there were shelled by combatants, and every day people were wounded. Sometimes, a morning began with the anthem of the Soviet Union switched on the side of the so-called “DPR” to irritate and provoke Ukrainian soldiers.²⁷⁵

In general, for Luhansk region: *“The estimated losses totaled 5 billion UAH, more than 7, 000 residential buildings were damaged, and nearly 500 residential buildings were completely destroyed...”*, – the First Deputy Head of Luhansk region Military-,Civilian Administration Yelyzaveta Pushko-Tsybuliak, said at a briefing in Kyiv on 22 October 2015.

According to her, a general plan of reconstruction of the objects in Luhansk region will be developed. “It will help us to understand clearly the scope of damage and which resources we need for the reconstruction”, Yelyzaveta stated.

Furthermore, Pushko-Tsybuliak informed that currently in Luhansk region reconstruction takes place at 315 social objects and at more than 50 objects of the public road system. She expressed confidence in the fact that the work will finish by the end of the year.

According to her, the amount of funds allocated for reconstruction works from the region and local budgets is 186 million hryvnas, subventions from the state budget total 145 million UAH, and funds of charitable international and Ukrainian organizations total 101 million UAH.

²⁷⁵ “Stalingrad”. Stanytsia Luhanska [Electronic resource].

– Access mode: <http://www.hromadske.tv/politics/-stalingrad--stanitsya-luganska/>

Pushko-Tsybuliak also said that schools and kindergartens in Lysychansk and settlements of Popasna and Novoaidar districts had been restored and are now functioning; they were severely damaged because they are located close to the contact line.²⁷⁶

3.3. Results of monitoring visit to Stanytsia Luhanska on December 26–28, 2015

On 27 and 28 December 2015, a group of monitors interviewed **12 persons who suffered violent loss of private property due to military operations in the East of Ukraine**. The survey was conducted in the premises of Stanytsia Luhanska District State Administration and Stanytsia Luhanska volunteer center.

During the monitoring visit, the group of monitors visited a Ukrainian-language pre-school education institution “Teremok” and conducted numerous meetings with the residents of the non-controlled territory, who reach the urban-type settlement of Stanytsia Luhanska through the currently functioning crossing point. Every day, several hundreds of residents of Luhansk and other settlements get to the village through this point.

It was established during **an interview with the Head of Stanytsia Luhanska District State Administration Yu. O. Zolkin** that a significant number of temporarily displaced persons, residents of the occupied territories and the contact line are reluctant to contact the authorities and employees of human rights organizations for providing information on violation of their property rights as they do not believe in effective assistance from the state and human rights activists, and they are afraid that their contact information and personal data will be disclosed. To a great extent, this category of the population does not expect that the conflict will end soon, they feel a threat to their life, to health and life of their relatives, including those on the occupied territories. Besides, **there is credible information on provision of confidential information (statements about a crime, etc.) by officers of the Ukrainian law-enforcement bodies (MoI, public prosecutor’s office) to representatives of the security agencies of the so-called “LPR”**.



Out of 12 people who took part in the survey, 8 are female, and 4 – male. In terms of age: 4 persons are aged 20 to 30; 5 persons – 30 to 50; 3 persons – 20 to 30. 9 persons who participated in the survey came to Stanytsia Luhanska from Luhansk city, 2 persons – from Krasnodon, 1 – from Lutuhino in Luhansk region. All respondents are civilians. The majority of them stated that *the reason for their departure was the war and abrupt social deterioration*, 4 people emphasized that *the reason for their departure was threat to their life due to their pro-Ukrainian position*.

All 12 persons participating in the survey stated that they could not freely own and dispose of their real estate (houses, apartments, summerhouses). Four of them know for sure that *premises they own were robbed by unknown armed and civilian persons*.

²⁷⁶ Due to the war, 500 houses destroyed, and 7 000 damaged in Luhansk region [Electronic resource].
– Access mode: <http://www.pravda.com.ua/news/2015/10/22/7085837/?attempt=1>

Two people state that they lost a possibility to conduct business (a shop, a hairdresser's shop); unknown individuals took personal money and a bankcard from one person.

None of the respondents contacted officers of the Department of the MoI because people do not believe in an effective investigation, do not see any prospects of return of the lost property, are afraid of disclosure of their personal information, and so.. The majority of the respondents mention permanent emotional stress, fear for their lives, and disbelief in assistance from the state and non-governmental international organizations.



Some of them receive support from R.Akhmetov's Fund, protestant churches, the Armed Forces of Ukraine, and charitable organizations. The majority wants to come back home after the end of the conflict, as they do not have work now, and do not see their prospects. Almost all of them witnessed violence against civilians, marauding by the armed persons, other criminal manifestations.

The key problems mentioned by the respondents include receiving social benefits, employment, access to medical services, discrimination by local residents, difficulties related to travelling to big settlements (the closest one is Schastia). Among the other problems faced by the residents of Stanytsia Luhanska observed during the trip, one should also mention large crowds on both sides of the checkpoint, unsolved issues related to repairing and reconstruction of the damaged housing, low level of the social infrastructure (ATMs, pharmacies, medical facilities, supermarkets), absence police, no Ukrainian TV channels and newspapers.

3.4. Results of monitoring visit to Kramatorsk in Donetsk region on January 25–29, 2016

26.01.2016: Interviews with residents of Sloviansk in Donetsk region

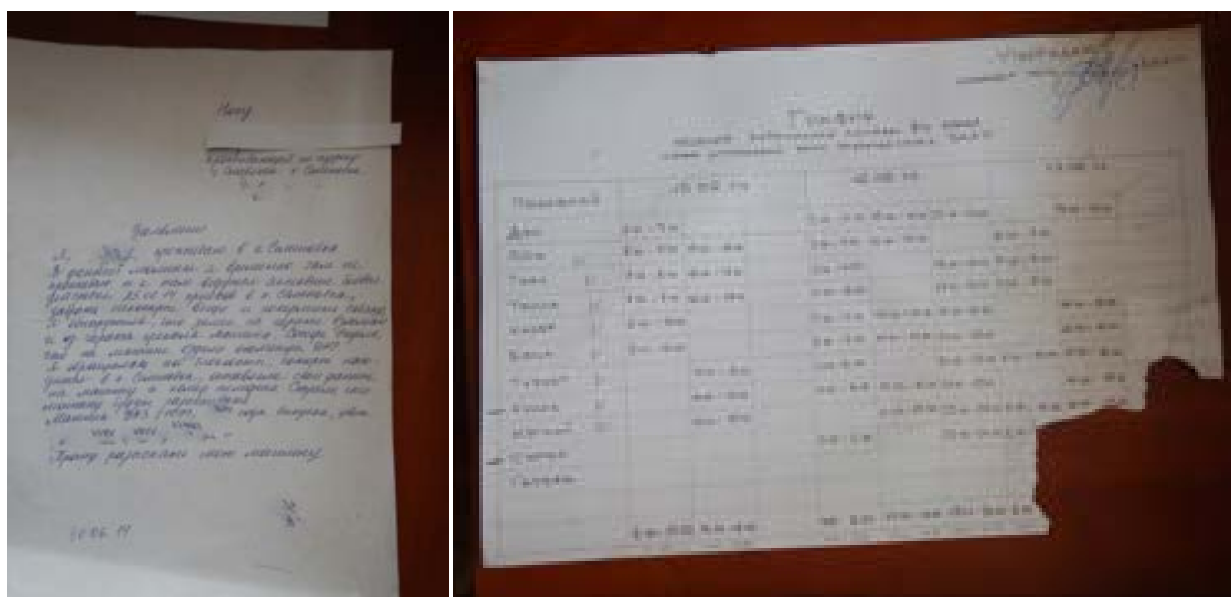
During the meeting, *the Head of Internal Policy Department of Sloviansk Town Council, D.Bihunov*, provided contacts of entrepreneurs–transport operators who lost some of their busses during the withdrawal of separatist forces from Sloviansk on 5 July 2014.

Entrepreneur Yu. refused to make a statement and provided contacts of his female acquaintance O. whose house was destroyed as a result of artillery shelling. The woman refused to make a statement as well. She received a consultation and contacts of a lawyer specializing in such cases.

During that time, another entrepreneur S. was on vacation in Morshyn. There was a preliminary agreement to meet with him in Kyiv after he returns from vacation.

In addition, D.Bihunov provided contacts of other persons who were interviewed later. He also said that after liberation of Sloviansk some local residents brought certain documents to a local history museum.

During a meeting with *the museum employee, female K.*, she said that such documents really exist. There are citizens' complaints to the separatist commandment office on the crimes addressed to a person with the pseudonym "Nos" ([“Nose”]) as well as duty schedules.



Besides, the residents found and gave to the museum chevrons and insignia of the illegal armed groups and units of state bodies of the Russian Federation.



The chevron without an inscription is of the greatest interest. It was identified as a sleeve insignia of a criminal police unit.



Note: Description of the sleeve insignia for criminal police unit officers:

“A black sleeve insignia has a form of the shield in a white frame. In the shield field, there are crossed swords in a golden sheath with a black round shield with a golden trim put on them. The round shield is in the frame of a golden laurel wreath, tied with a stripe at the bottom. In the field of the round shield, there are crossed images of a white torch and a sabre, symbolizing search and service to the law”²⁷⁷.

Furthermore, the museum employee provided pictures of medicines produced in Russia, which were found in her husband office. The man refused to provide information about the fact of seizure of the office premises by separatists for in order to locate their unit there.

²⁷⁷ Departmental emblems of the Russian Federation [Electronic resource].
– Access mode: <http://www.heraldicum.ru/russia/vedom003.htm>

RESULTS OF MONITORING VISITS



During the interviews and questionnaire surveys, V., the Head of Siverskyi Donets Basin Administration of Water Resources of the State Agency for Water Resources of Ukraine, reported the following.

Several days after occupation of Sloviansk by illegal armed groups (the IAG) (approximately on 18 April 2014) persons from those armed groups whom he considers

to be citizens of Ukraine who joined the IAG broke into the premises and the territory of Siverskyi Donets Basin Administration of Water Resources of the State Agency for Water Resources of Ukraine (hereinafter – the SDBA) located in Sloviansk. Threatening employees with automatic weapons these persons seized a vehicle YA3-452, which belonged to the enterprise. Later on, this car was seen among vehicles used by the IAG – the roof was cut off, and a machine gun was placed on it. The car was used in military operations. Simultaneously with the car seizure, the combatants broke the doors in the premises of the Administration and the company warehouses and took movable assets such as spare parts, tools, special clothing, and extinguishers totaling approximately 140, 000 UAH. While committing those actions they just threatened with weapons a female employee on duty, but they did not beat or injured her.

During the fight between the Armed Forces of Ukraine and the IAG in Sloviansk in spring-summer 2014, IAG members tried to use the territory and garages of the SDBA for placing a self-propelled artillery system 2C9 “Nona” there.

In early July 2014, IAG members broke into the territory of the SDBA again and, threatening employees with automatic weapons, seized four cars belonging to the company. In the respondent’s opinion, these cars were used by the IAG members to escape from Sloviansk during the Ukrainian Army’s offensive. The interviewee knows nothing about the fate of the cars and other property seized by the IAG members.

Regarding the IAG actions described above he, in the capacity of the company head, addressed law enforcement authorities. Criminal proceedings were initiated, which are currently in progress, yet they are ineffective. According to him, this is a result of the fact that individuals from the IAG who seized the specified property, as well as the property itself, are on the territory that is not controlled by Ukraine.

Besides, V. stated that some property belonging to the SDBA remained on the territory not controlled by Ukraine (in Luhansk, Donetsk, and Horlivka), and the company officials do not have access to it. In particular, there are cars, laboratory equipment, office equipment, spare parts, stationery, etc. totaling nearly 1, 120, 000 UAH. Copies of the documents prepared by the chief accountant of the SDBA and confirming the presence of the described property on the occupied territory were provided. According to him, due to the SDBA inability to perform its functions, there is a sanitary and epidemiological risk for the residents of the southern part of Luhansk region and Luhansk city, as tap water is not checked for compliance with the sanitary and epidemiological norms.

He said that he might consider a possibility to address international judicial institutions with a claim against the Russian Federation for compensation of the aforementioned violations. However, he does not think it is possible or necessary to submit a respective claim against Ukraine (as he is a state servant and a head of a state institution).

Also V. informed that he knew about an illegal seizure by the IAG of vehicles and other property of “SYS-Soda” LLC based in Sloviansk, but he did not provide contact information of “SYS-Soda” LLC leaders who could be interviewed about those violations, and he expressed his doubt as for the willingness of «SYS-Soda” LLC to provide information on the violations. According to V., citizens living in Sloviansk and Sloviansk district are frightened by military operations and possible return of the IAG, and that is why they are reluctant to share information on offences committed against them.

A meeting with *the Head of Local Department of the Security Service of Ukraine (SSU) in Sloviansk, Donetsk region, Ye.Yu. Afonin* for collecting information on the status of investigation of violations of property rights of citizens during ATO. Ye.Yu.

Afonin mentioned during the conversation that he could not disclose such information without a permission of the head of the SSU Department in Donetsk region, O. I. Kuts, and suggested a written request should be sent to the latter asking for the respective data or for a permission for Ye.Yu. Afonin to provide it. Also, Ye.Yu. Afonin facilitated establishing a contact with the leadership.

Meeting with *Deputy Head of Sloviansk Police Department of Kramatorsk Territorial Unit of the Main Department of National Police in Donetsk region Lieutenant colonel A. V. Hadiatskyi, and Deputy Head of Investigation Department A. D. Petrov.*

A. D. Petrov informed that 382 criminal proceedings were initiated on the claims of thefts of vehicles by the IAG during the period of Sloviansk occupation from 12 April to 5 July 2014. All proceedings were initiated after the city liberation by the Ukrainian Army. Some cases refer to several vehicles stolen from one owner or within the framework of one episode. A.D. Petrov could not name the exact number of the stolen vehicles, but he estimated this number to be approximately 500.

In addition, citizens submitted claims saying that reinforced concrete blocks were taken away from entrepreneurs to build the IAG checkpoints.

He said that many robberies of gas stations, shops and enterprises were committed with the aim to seize property, money, and fuel (he could not specify the exact number). During the attacks, weapons were used to threaten, but reports on injuries or deaths are rare. Following up the citizens' claims, criminal proceedings were initiated on these facts.

Cases of armed attacks on apartments and residential houses with the aim to seize property and living space were registered. Under the threat of weapon, inhabitants of residential houses and apartments were evicted, and the living space was occupied by the IAG members and persons affiliated with them. In total, about 70 cases were registered. All individuals who illegally obtained the living space and lived there escaped during the IAG retreat. Cases of inability of the owners to come back to their home after the city liberation were not registered.

Operative investigation measures are taken with regard to stolen property (including vehicles). About 30 vehicles were returned to the owners, but the majority of the stolen items are likely to be kept in the territory that is not controlled by Ukraine.

Currently, criminal proceedings related to crimes committed in Horlivka on the territory that is not controlled by Ukraine are in the jurisdiction of Sloviansk police department. Residents of Horlivka may address Sloviansk police department, but to do this they have to leave the occupied territory. Criminal proceedings are initiated on all submitted claims, but investigation, detection of criminals and stolen property are largely not possible due to their staying on the territory that is not controlled by Ukraine.

Many complaints were submitted by the citizens concerning the fact of destruction of their house during military activities. In these cases police (at that time – militia) can only identify the direction from which the shells came and provide this information to the citizens.

According to A.V. Hadiatskyi and A.D. Petrov, during the period of Sloviansk occupation from 12 April to 5 July 2014, some of the police officers left the premises of the district department because the premises were seized by the IAG, moved to other premises and continued to carry out operative investigation activities in accordance with the Ukrainian legislation. Among other things, they received complaints from the citizens about offenses such as stealing of property, robberies, assaults, larceny of vehicles, and other violations of citizen's property rights.

27 January 2016, Kramatorsk in Donets region

Meeting with the *Head of Kramatorsk Office of the Main Department of the MoI in Donetsk Region Police Colonel V.V. Maksymiv*. He informed the interviewers that during the occupation of Kramatorsk by illegal armed groups (IAG) the latter committed numerous crimes against property, including open stealing of vehicles owned by citizens and organizations, takeover of residential premises, robbery of gas stations, shops and other objects accompanied with threats of using weapons, and in individual cases – with violence in the form of beating and bodily injuries.

During the period of occupation, law enforcement bodies were virtually absent in the town; citizens' complaints about offences were not received, and offences were not registered. After liberation of the town on 5 July 2014, law enforcement bodies focused in the first place on finding the IAG members who stayed in the liberated territory and bringing them to justice. At the same time, the work on citizen's complaints concerning crimes against property was carried out, but not sufficient attention was paid to it. Citizens' complaints were received, criminal proceedings were initiated, but the investigation process was overextended. Besides, the citizens being apprehensive about possible return of the IAG did not immediately report the crimes committed against them. At presents, such claims are still coming. In V.V. Maksymiv's opinion, a significant number of victims of IAG's illegal actions still has not come to the law enforcement bodies.

In order to improve the situation, all complaints (more than 500) were combined into unified criminal proceeding involving investigators who were seconded for two months from other territorial units of the MoI.

Some members of the IAG were detained by the law enforcement on the liberated territory and brought to justice, also for the crimes against property. According to V.V. Maksymiv, more than 1, 000 persons were detained and approximately 2, 000 still are searched for. All who were detained had to be officially identified, evidence had to be collected, and forwarded to the court. Some of the detained combatants were exchanged for captured Ukrainian soldiers and local patriots.

During the town occupation in April 2014 some of police officers in Kramatorsk (in V.V. Maksymiv's opinion – more than a half) joined the illegal armed groups and personally participated in the committed crimes. At the same time, those police officers who refused to join the IAG (nearly 20 persons, including the head of the Main Department of the MoI and all heads of units) were illegally detained in the premises of local police and SSU where they were beaten. At present, some of the former police officers who joined the IAG are arrested and subject to criminal liability, and some are now in the non-controlled territory and wanted by the authorities. The officers who refused to join the IAG now returned to work.

Unfortunately, when military actions started near and in Kramatorsk, law enforcement bodies were in an extremely difficult situation. Neither the Main Department of the MoI in Donetsk region, nor Kyiv, nor the ministry gave any orders, instructions or guidance. Police officers themselves risking their lives moved out and hid part of the weapons kept in the local unit of the MoI.

Police of Kramatorsk after liberation of the town received complaints from the citizens about the crimes committed by the Ukrainian Army soldiers, members of volunteer battalions and other security agencies, among others, crimes against property. Criminal proceedings were initiated on the basis of these complaints, and minimum one person serving in the Armed Forces of Ukraine was detained and became subject to criminal liability. According to V.V. Maksymiv, in the beginning crimes were not in the focus of attention because there was war, and the main task was to liberate the town from the occupants.

Kramatorsk Town Department of the MoI is responsible for investigation of crimes committed in Makiivka controlled by DPR. However, one cannot speak about full-fledged investigation – only registration of a crime.

V.V. Maksymiv could not provide the exact statistics as to the number of complaints, initiated proceedings, guilty verdicts, etc. saying he did not have the respective information at hand during the interview. He promised to prepare and provide this information within several days and send it by e-mail or ordinary mail.

V.V. Maksymiv also informed the interviewers that he knew about an entrepreneur who was abducted by the IAG members in Sloviansk, was illegally detained, and his wife was required to pay 20, 000 USD for his release. When she collected the necessary amount of money and brought to the criminals, they told her that her husband had been killed.

During *the interview and questionnaire survey, director of a car dealership V.* said the following. His dealership was robbed by the IAG members three times. In the opinion of V. and other employees of the car dealership, the robbers in all cases were members of the IAG, citizens of Ukraine and the Russian Federation.

The first robbery took place on 4 May 2014 when three members of the IAG came to the car dealership, one of whom – in the interviewee's words – looked and behaved as a regular officer of the Russian army. Threatening the dealership employees with automatic weapons, these persons took six passenger cars. They stated the vehicles were confiscated to the needs of the "republic" and threatened that in the case of resistance they would shoot the employees' legs. The attackers promised they would return the cars in three weeks.

The interviewee said he knew that one of the vehicles seized on 4 May was used in military activities as a firing point for man-portable air defense systems. From it, a MPADS missile was launched that shot down a Ukrainian Army's helicopter. Furthermore, the interviewee said that one of his staff members saw how the IAG members were loading the MPADS to the seized vehicle.

For the second time, the IAG members came to the car dealership on 19 June. In the interviewee's opinion, they were citizens of Ukraine, among whom she recognized also former customers of the dealership wearing military uniforms and carrying weapons. Also, the interviewee thinks there were former Kramatorsk police officers among them who joined the IAG. These persons threatened the car dealership employees with weapons and took 19 passenger vehicles that were taken with tow trucks to unknown destination.





For the third time, the car dealership was robbed on 15 June when more than 20 IAG members broke into it led by a chieftain known from the media as a citizen of the Russian Federation, Alexander Mozhaiev aka 'Babai'. After their arrival to the car dealership, the IAG members led by 'Babai' took 20 vehicles that were still left in the car dealership, spare parts, equipment, tools, computers, office appliances, and other property that belonged to the car dealer. When they were doing this, the employees who tried to move the spare parts out of the premises were captured and humiliated. One of the staff members was beaten with the assault rifle butt stock. The IAG members announced that all property of the car dealership was "nationalized" and belonged to "Donetsk People's Republic". The car dealership staff was told that if they came to work again they would be executed by shooting "according to wartime laws".

After they took the cars, the IAG members stole other property. More specifically, they took computers, office machines, appliances, equipment, and tools. Employees of the car dealership who came to the scene in order to save some of the property were captured and humiliated. One person was beaten. After this, the car dealership managers were forced to cease their activities, fire the staff and go to the Ukrainian government-controlled territory. The territory and the premises of the car dealership were occupied by the IAG members.

The interviewee had no information about what was going on the car dealership from 15 June to the moment of the town liberation on 5 July 2014. Yet, she provided pictures made from the neighboring house on which one can see faces of the IAG members staying in the car dealership. Namely, a person who looks like 'Babai' can be seen on the pictures. According to the interviewee and other employees of the car dealership, there were representatives of the so-called "Cossacks" from the Russian Federation among the invaders.

After Kramatorsk was liberated on 5 July 2014, employees of the car dealership came back and found out that the dealership's property (computers, office machines, appliances, spare parts, tools, devices) had disappeared. The furniture and interiors were smashed and broken. As a result of military activities, a facade window was broken, and the walls of the car dealership and the parking area were damaged with bullets and shrapnel. The premises were significantly dirty. In the parking area, there were two armored transport vehicles one of which had a Russian Federation flag on its top. When the car dealership employees arrived, one of the armored vehicles was on fire. After the fire was extinguished, it was established that there were explosive item of ordnance inside both vehicles which, if exploded, would have destroyed the building of the car dealership and damaged the surrounding houses. The interviewee estimated the value of stolen and destroyed property as exceeding 11 million hryvnas.

A complaint was submitted to law enforcement on the facts described above, and criminal proceeding was initiated, which is currently in progress. Within the framework of this criminal proceeding, a former Kramatorsk police officer who joined the IAG was arrested and convicted. No other persons were detained. The car dealership employees on their own found nearly 15 vehicles stolen by the IAG from the car dealership and abandoned in Kramatorsk. Five more cars were found and returned by police. The fate of the rest of vehicles and other property is unknown.

After the complaints were submitted to police, an alert was issued for all stolen cars. The returned cars were excluded from the list, yet as a result of bureaucratic errors at least in one case one of the cars that was legitimately bought from a car dealer was detained as per the alert. This necessitated the repeated exclusion of the car from the list, but the honest buyers temporarily could not use their property.

The interviewee has no complaints about the actions of the Armed Forces and other security agencies of Ukraine. She said the Ukrainian Army helped with the car dealership demining and restoration, and the dealership employees in their turn volunteered to repair equipment of the Ukrainian Army and other security agencies free of charge or at a cost price.

The interviewee additionally informed that she knows about the IAG attacking a person who supported the Ukrainian Army with food. This person's car was stopped, the person was illegally detained and brought to the local police office. At present, there is no information about the fate of the missing person.

Furthermore, the interviewee said that information about robberies of car dealers in the occupied territory of Donetsk and Luhansk regions can be found in the forum of the web-site: <http://www.autoconsulting.com.ua/>, where the users among other things discuss the issues related to conducting business of selling cars in the occupied territories.

During *the interview and questionnaire survey*, H. said that he is an owner of a re-broadcasting radio station that rebroadcasts in Donetsk and Luhansk regions a number of Ukrainian foreign radio stations (including "Russkoye Radio", "Europa Plus", "Radio Roks"). The radio station's property was located in the cities of Donetsk and Luhansk as well as on the antennae tower on Karachun Mountain in the suburbs of Kramatorsk.

Since the moment of the occupation of part of the territory of Donetsk and Luhansk regions by the IAG, the interviewee has not had an access to the property located in the cities of Donetsk and Luhansk. Since 18 April 2014, he has had no access to the property located on the antennae tower on Karachun Mountain.

In early June 2014, two IAG members whom the interviewee believes to be local residents broke into the interviewee's office. Threatening him with weapons, they tied his hands and forcibly brought to an office on the second floor of the building of Kramatorsk unit of the Department of the Security Service of Ukraine in Donetsk Region.

H. was kept sitting on a chair with his hands tied and a sack put on his head for 24 hours. During this time he was beaten, as the IAG members said, for his pro-Ukrainian position. They demanded he should give them the keys from his car, Mazda 7, black color. H. had to do what they wanted, and after this they released him in the morning next day after his abduction. No other property was taken away from him. Because of the fear of a new attack by the IAG, he did not go to hospital but received assistance from a doctor he knew who diagnosed cerebral concussion.

After liberation of Kramatorsk on 5 July 2014, the interviewee received access to the property located on Karachun Mountain. This property was actually ruined as a result of military activities, and - in the interviewee's opinion - as a result of deliberate destruction by unknown individuals. More specifically, metal constructions were broken, radio equipment smashed, and metal wire was missing.

The stolen car was later found abandoned in Kostiantynivka. The vehicle was not damaged and was operable. As H. explained, a special device was installed in the car that made it impossible to use it if it was stolen, and perhaps this is why the IAG members abandoned it.

The interviewee estimates the value of property lost on Karachun Mountain to be 100, 000 hryvnas. The value of property that is not accessible in the cities of Donetsk and Luhansk, in his opinion, totals approximately 200, 000 hryvnas.

Monitoring of work of the public reception office providing legal aid to IDPs. №of-ice was found at the address mentioned on the web-site of the organization – Kramatorsk, Myru Ave. 10. Later, it was possible to establish that the public reception office providing legal assistance to IDPs is located at another address: Kramatorsk, Maia-kovskoho Street 9, Apt. 1, in the Builders' Recreation Center. A person on duty in the recreation center did not know anything, but he said there were volunteers working with IDPs. The corridor wall near office № 1 was covered with information posters bearing UNICEF emblems.

Volunteers Mykhailo and Iryna who were working with citizens said they were IDPs from Kirovske, Donetsk region. They said the center for support of IDPs “SOS-Kramatorsk” started its work in late July 2014, immediately after liberation of Kramatorsk when evacuated people started coming from the battle zone. The center was organized by Oleksandr Voroshkov, an IDP and an advisor to the Minister of Social Policy. The center provides information, legal, and humanitarian support to internally displaced persons from the ATO zone. The Center cooperates with Rinat Akhmetov's Fund, UNICEF, UNDP, and other international organizations.

The Center employees said that, according to the statistics of the Department of Social Protection of Population, there were nearly 67, 000 IDPs coming through Kramatorsk, and 5, 965 of them are currently registered and monitored by “SOS-Kramatorsk”.

The main problems IDPs come with are employment, getting a place for children in a kindergarten, social programs, financial assistance, accommodation, and legal issues.

Volunteers also mentioned that in the premises of the Center, there also representatives of the public reception office of Ukrainian Helsinki Human Rights Union work. However, since the office is very small and there is no space even for another chair in it, the lawyers provide advice by phone, and when necessary, they come for personal consultations. Mykhailo said the office's lawyers had won a lot of cases in the interests of IDPs. Many of these cases were related to issuance of birth certificates for children born in the DPR-LPR territory.

The volunteers also said that at present the largest problem was confusion and absence of clear information about the law on the migration service's stamp in the IDP certificate. Explanations were provided only to the Pension Fund and to “Oschadbank”. The rest of governmental and non-governmental institutions do not know how to work and what to do.

The law was adopted on 13 January 2016, and on 25 January 2016 the certificates were no longer stamped. People faced a lot of problems and questions.

Volunteers of SOS-Kramatorsk believe it is their merit that medical services for IDPs in Kramatorsk are provided free of charge.

Mykhailo said that Inna – a lawyer – had information about seizure, takeover and destruction of civilians' residential property by separatists.

28 January 2016, Druzhkivka in Donetsk region

Monitors visited a court hearing at Druzhkivka Town Court on the claim of the mayor of Druzhkivka, Valerii Hnatenko, against a local activist, Iryna Kyrkova. The claimant accuses Iryna Kyrkova of an alleged encroachment upon his honor and dignity. *“I knew this would happen since I have always been talking against this mayor who openly supported the occupation regime in the town and organized the so-called referendum, Iryna Kyrkova said. – When our town was occupied, Hnatenko collaborated with the DPR regime; in the yard of the town council, the commandment’s office was functioning where people were maimed. During this time, he built virtually Mezhyhiria in a park zone of Druzhkivka. I said this, and I will be saying this”.* Hnatenko’s affiliation with the occupation regime and proof of his anti-Ukrainian views are confirmed with photo and video materials. Iryna said that there were several judicial proceedings initiated against the mayor, including a case under a separatism article.

A court hearing took place in Druzhkivka, but the notorious mayor did not come. Many people came to support Iryna Kyrkova - both local and representatives of “Slovianska Sich” from Sloviansk. After a court hearing which was postponed till 3 March, a spontaneous pro-Ukrainian rally took place on the court building stairs. During this spontaneous rally on the court building stairs Iryna Kyrkova said, *“I was openly fighting and I will continue fighting against what happened in our town in 2014 and what is happening now. This case has to demonstrate to all country that there are a lot of patriots here how are not afraid and who are defending their Motherland. We deserve living in a free country, and not in a feudal society. With this case, the mayor probably wants to show to the residents of Druzhkivka that serfdom still exists here. But we will not let him! The statement of claim reads that I inflicted irreparable damage on the mayor’s business reputation by calling him a separatist. This is utmost cynicism! He demands I should publicly apologize to him. This will not happen because I did not do anything against my Motherland, against my Druzhkivka compatriots! The one who betrayed should think why he hung the flags of terrorists and the occupant state in the town. On 5 July, immediately after our town was liberated I rushed to Sloviansk to support our soldiers. I saw our boys who were killed. I met with President Poroshenko there, and I asked him, “Petro Oleksiiovych, I pray you to help Druzhkivka get rid of these authorities that brought war here”. I brought this folder with me now, which is full of materials about criminal proceedings initiated against our town mayor under Article 110 of the Criminal Code of Ukraine for separatism. Answering our requests, the SSU and police say that investigation is currently in progress, and the cases have not been completed yet. And now, on the contrary, we are persecuted. But we are not afraid! If I was not afraid of Kadyrov’s people whom I encountered face-to-face, and now doubly so! At that time, they did not liberate us completely. Still, I think that this litigation - not against me but against separatists in power - will help us to finally liberate our town!”*

Dmytro Korobko, Kyrkova’s lawyer, stated: *“They refused without a valid reason to provide the case materials to us for examination. They also did not give us an audio disc they received from the claimant. When we receive all this, we will finally be able to inform the public what the accusations against my defendant are...”*

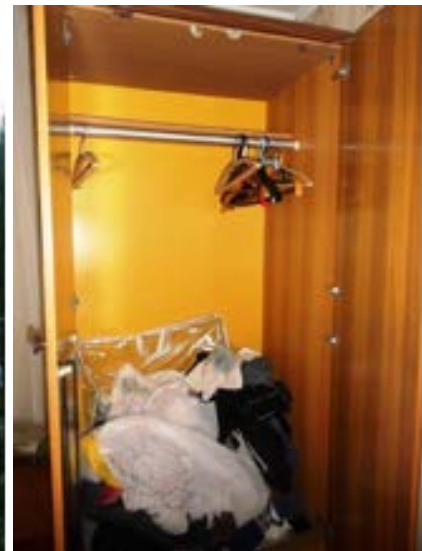
This legal process drew attention of both local and national press.

During **the interview and questionnaire survey**, Ye. and N. said the following. They supported the developments during the Revolution of Honor in Kyiv. In the end of winter - beginning of spring 2014, groups of people came to their village; in the interviewees’ opinion, these people were not local. These people were brought to the village by buses. Besides, the “Don Cossacks” movement had been developing in the village during the last five-six years with support from the mayor of Druzhkivka and the Orthodox

Church of Moscow Patriarchate; members of the movement were local residents. The movement propagated patriotic education, also in schools. In March 2014, members of the movement received automatic weapons, and they began to construct checkpoints on the roads. At these checkpoints, they illegally stopped vehicles to check documents. At the same time, they carried out propagandistic work to spread separatist ideas. Law enforcement officers did not prevent them from doing this and supported them. Ye, who was a member of a village council, spoke against these developments trying to persuade members of the “Don Cossacks” movement to stop their illegal actions.

In the night of 3 - 4 May 2014, unidentified individuals attacked a house of the family of Ye. and N. throwing bottles with flammable mixture in the windows damaging the windows and external walls. Around midnight, N. heard thumps against the house wall. In the morning, she saw that the house walls were dirty and at some places burnt, and there were shatters of bottles with inflammable mixture in front of the windows. Inside, the house was not damaged. N. thinks the attack was organized by a village resident, Maksym Yuriiovych Vereschaha who passed the house of the Ye. and N. family twice in a car the day before the attack watching it. Maksym Yuriiovych Vereschaha and his brother Volodymyr Yuriiovych Vereschaha were members of the “Don Cossacks” movement.

The interviewees informed police about the attack. Police officers examined the scene, but passively, and they did not carry out any other investigative actions, neither did they take the necessary effort to find the attackers. When interviewing N., investigator Batrachenko hinted that the attack was a result of “some views” of the family, and that it could be a “revenge” for destruction of a DPR checkpoint near the village by the Armed Forces of Ukraine.



After that event, the interviewed persons together with their children left the place of their permanent residence to stay with their relatives in Kharkiv region, having left all their property in the house.

On 8 May 2014, Ye. received a phone call from this neighbors who said that members of illegal armed groups came to the house by cars, started shooting in the street, and broke into the house. In the interviewees' opinion, the IAG members were looking for people since they searched the house opening all the doors and closets. In the house, they stole an Asus laptop, food and alcohol products. The interviewees informed police by phone about the attack. Police officers came to the scene and examined it. Criminal proceedings were initiated on Ye.'s application.

On 25 May the IAG members came to the house led by M.Yu. Vereschaha and a self-proclaimed “commandant” of the village, Oleksandr Vlasenko, cut off the entrance door and took the property from the house, garage, and backyard buildings. More specifically, they stole furniture (sofas, cabinets, closets), office and household appliances, clothes, linens. The interviewees estimate the total value of stolen property to be 53, 000 hryvnas in terms of the 2014 prices. It is not known what happened to this property.

According to the information provided by neighbors, on 4 June 2014 members of the IAG and their families from Sloviansk came to live in the house and stayed there until the village was liberated. According to the neighbors, the IAG members tried to sell the house illegally.

After the village was liberated by the Armed Forces of Ukraine, the interviewees returned to their house and found it with broken windows, very dirty and contaminated with garbage. They found and gave to the police an abandoned gun, a jacket stained with blood (in the interviewees’ opinion – because one of the IAG members was wounded), bags and packages bearing marks of stores located in the Russian Federation.

In addition to the property in the house, a GAZ-3302 (“Gazel”) vehicle belonging to the interviewees and used by Ye. for his entrepreneurial activities was stolen. When the interviewees were leaving the village, Ye. left the vehicle for storage with a car mechanic whom he knew and who performed current repairs of the vehicle. In mid-May 2014, the IAG members whom Ye. knows (the names of persons are mentioned in the criminal proceeding materials) visited the person with whom the vehicle was left, threatened him with weapons, and took the car.

The IAG members also illegally abducted the person with whom the car was left and brought him to a basement of the building on Lenina Street in Druzhkivka which the IAG members themselves called ‘Gestapo’ where he was beaten and received moderately severe bodily injuries. Around 2 a.m. next day, the abducted person was released.

The IAG members used the vehicle for their activities, namely to deliver water. Then, it was used as a vehicle at a checkpoint on the road. After the village was liberated, the car was found near the checkpoint abandoned by the IAG. They took away the vehicle battery, electrical equipment, tools, and a spare wheel. The total value of the stolen vehicle, according to the interviewees, is 7, 000 hryvnas.

The interviewees informed police about the stolen car, and criminal proceedings were initiated.



Additionally, Ye. and N. provided the following information. Among the IAG members, there were persons who openly stated they were citizens of the Russian Federation brought from Rostov, including military personnel serving in the General Intelligence Department of the General Staff of the Russian Federation. One of them said he was from Volgograd. In Druzhkivka, the persons whom the interviewees believe to be servicemen of the Armed Forces of the Russian Federation lived on Teatralna Street in warehouse premises owned in the past by entrepreneur L.

With regard to other violations of human rights, the interviewees said the following. In Druzhkivka, the IAG members abducted citizen V. He was brought to the SSU building in Kramatorsk and beaten so that he received moderately severe bodily injuries because he went to the street with a Ukrainian flag. They forced the abducted person to perform heavy work despite his elderly age, and released him three days later.

In Druzhkivka, the IAG members abducted citizen Z. He was brought to a basement of the building of Druzhkivka town executive council and beaten until he ceased to show signs of life. After this, Z. was brought to ambulance doctors who saved him.

The IAG members also abducted citizen M. in Druzhkivka who was as well kept in a basement of the town executive council and received bodily injuries.

In the interviewees' opinion, other citizens also suffered from the criminal actions of the IAG, yet they are intimidated and afraid to report the crimes committed against them.

The interviewees have no complaints concerning violations of their rights by the Ukrainian Army, National Guard, and other security agencies of Ukraine.

They expressed their desire to appeal to the European Court of Human Rights for protection of their violated rights.

Sloviansk, Donetsk Region

Monitoring of the UHHRU public reception office in Sloviansk. The public reception office is located in an easily accessible place not far from the town center at the address: 49 Vasylykivska Street (Zhovtnevoi Revolutsii/October Revolution Street). The entrance is from the street, the window and the entrance to the office have sign plates. There was no sign plate on the entrance door, and a comment on that was made for the lawyer.



The lawyer and his assistant were in the office. In the office, there is a safe, window grates, and a door lock. Inside, there are also cabinets, and an MFD. During the conversation, the lawyer and the assistant demonstrated they are experienced specialists who have been working for many years in the sphere of protection of human rights and social protection of the population. The lawyer has a wide view of the political situation in the state and systematic violations in the judicial system. The reception office prepares documents for submission to the ECtHR. In general, the team leaves a good impression: competent, polite, and friendly.

The office staff did not receive any applications regarding robbery and property stolen by separatists. The lawyer said the locals were apprehensive that separatists would return to the town and revenge for bringing the matter to the court.

Druzhkivka, Donetsk Region

Interview and questionnaire survey of female respondent M. was carried out, and the following answers were received.

She, together with her husband and daughter, lived in Druzhkivka. On 1 July 2014, her husband stayed at his parents' place. Approximately at 15:00, 8-10 unknown indi-

viduals who called themselves “rebels” and were wearing camouflage clothing came to the house. They were led by an officer of the town police unit, Shuliak. The unknown individuals entered the yard, put handcuffs on M.’s husband and, threatening him with automatic weapons, took his vehicle, Toyota Prado. The “rebels” also took away money, valuables, documents, and a laptop. After this, M.’s husband was shoved into the car boot and brought to the building of the non-departmental security department (former town police unit) in the yard of the building of the town executive committee. There, the kidnappers pushed M.’s husband into the basement room which they called the “death ward” where he was kept without water and food.

Next day, he was visited in the ward by a person known as ‘Vasyliovych’ who coordinated actions of the IAG members in Druzhkivka, and he began to demand a transfer of the property rights for a café and a shop owned by M.’s husband. ‘Vasyliovych’ stated he would be “dispatched” anyway, but if he refused to transfer the ownership of the shop and the café, he threatened that violence would be used against his wife and children. Afraid for the fate of his relatives, M.’s husband agreed to transfer ownership for the shop and the café, yet it was impossible to do this because notary offices in the town were closed at that time.

During the entire period of illegal detention by the IAG members of her husband, M. every day came to see ‘Vasyliovych’ and ask him to release her husband and to return the stolen property. In response, ‘Vasyliovych’ said that he needed the stolen vehicle, and that her husband would be released after some time. During her visits, M. saw entrepreneurs who brought money to ‘Vasyliovych’ as ransom for the property stolen from them.

On the third day of detention, they painted a brilliant green stain on the forehead of M.’s husband, which they used to mark persons condemned to death. Together with M.’s husband, there were two citizens of the Russian Federation (father and son) kept in the same room who, according to M. came to Druzhkivka to see their relatives. The IAG member took the car belonging to these citizens of the Russian Federation. In response to their indignation and promises to complain to Russian law enforcement authorities, these two persons were executed by shooting in the yard of the town executive committee.

On 1 June 2014, Shuliak and another man (M. believes he was of Chechen nationality) came to the apartment where M. stayed with her daughter at that time. They forced M. with threats to open the door. After this, threatening her with weapons, they ordered she and her daughter should stay with their faces to the wall while they robbed the apartment having taken valuables, household and electric appliances.

On 2 July, ‘Vasyliovych’ came to the café owned by M.’s husband. He inspected the premises and the basements and said they were suitable for keeping persons detained by the IAG. ‘Vasyliovych’ together with those who accompanied him broke the safe and took the documents confirming ownership, and the company documents. Household items were stolen from the café.

On 5 July 2014, Druzhkivka was liberated by the Armed Forces of Ukraine. M. came to the building where her husband was kept. Near the building, there were IAG members aged 17-18 who said they were order to “stay”, and that her husband would be shot.

M. had to go home from where she called Druzhkivka Town Mayor, V. Hnatenko who stayed in office both during the entire period of the occupation and at present. However, the town mayor refused to help to release her husband.

After this, the interviewee again came to the building where her husband was kept, and by chance saw there an administrative manager of the executive committee of the town council who let her husband out. The latter was exhausted and morally depressed. After his abduction by the IAG, a chronic disease developed, and he died from it on 4 July 2015.

Immediately after Druzhkivka was released by the Armed Forces of Ukraine, M. submitted a complaint about the committed crime to the local militia unit. However, no action was taken on it. The total value of the property stolen from her house, the apartment, and the car is estimated by the interviewee to be 1, 170, 390 hryvnas. As to the further fate of the stolen property, M. said she has information that the stolen vehicle, Toyota Prado, was used by one of the leaders of illegal armed groups known as Ihor Bezler ("Bis").

As to the property stolen from other persons, M. knows that prosecutor A. Symonienko announced he was the "self-defense prosecutor", and he organized collection of the items stolen from the citizens in the prosecutor's office.

M. also knows that the IAG took the property of a member of Ukrainian parliament, Yevhen Semenovych Konstantynov stored in garages in Druzhkivka, namely three vehicles. Ye.S. Konstantynov was illegally detained by the IAG until his relatives paid ransom to release him.

Additionally, M. provided the following information. Approximately three years before the seizure of Druzhkivka by the IAG, three persons came to the town whom she believes to be officers of the Main Intelligence Department of the RF General Staff led by 'Vasyliovych'. These people made acquaintances, including becoming friends with V. Medvedko (during the occupation – the "commandant" of Druzhkivka), head of Traffic Police O.V. Zemskyi, prosecutor A. Symonienko. 'Vasyliovych' married a local resident who worked as a nurse in local hospital. During the seizure of Druzhkivka by the IAG, 'Vasyliovych' in fact coordinated activities of all IAG chieftains. When the IAG were escaping from Druzhkivka, 'Vasyliovych' was killed in action.

The interviewee has no complaints concerning violation of her rights by the Ukrainian Army, National Guard, and other security agencies of Ukraine.

The interviewee expressed a desire to appeal to the European Court of Human Rights for protection of her violated rights.

Kramatorsk, Donetsk Region

During *the interview*, a male respondent S. said that on 26 August 2014 at

7 a.m. he was coming back home from Kyiv to the place of his residence in Makiivka in his own car, when he was stopped at a checkpoint at the entrance to Makiivka. During the inspection of his car, separatists found things that identified him as a parishioner of the Greek Catholic church. S. was detained, his personal belongings, a phone, a laptop, and the car were taken away. S. was accused of relations with the "Right Sector", and the officers of the LPR Ministry of State Security were beating him and illegally detained him for four days. During his detention he was kept in "Isolation" with three other hostages. During the period of detention, S. performed compulsory labor cleaning rooms, barracks, and the kitchen. Due to deterioration of his health resulting from high blood pressure and heart problems, S. was released and went to the territory controlled by Ukraine. He did not submit a complaint to police. His personal belongings were not returned. He received back only his documents.

The interviewee expressed a desire to appeal to the European Court of Human Rights for protection of her violated rights.

CONCLUSIONS AND RECOMMENDATIONS

1. For thousands of years, a widespread opinion existed in the society that not all people can own property. In XX century, securing a right to free possession of property as a human right because of political and ideological reasons was rather slow. In the general international treaties on human rights, it is mentioned not often and this is why general conventional international law quite rarely contains its interpretation.

International treaties proclaim guarantees and immunity of the right to private property; the property right encompasses powers of possession, use, and disposal of property; understanding of the ownership (property) right subject to protection is constantly extended; a balance of private and public interests is established; the rules of property confiscation for the public benefit are detailed; a possibility is guaranteed to legally limit the property right by the framework that does not violate the essence of this right as such.

The norm of Article 1 of Protocol 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms is the minimum European standard of protection of the right to free possession of one's property, and its contents are constantly clarified, extended and transformed. Nonetheless, in the majority of cases in our country both ordinary citizens and lawyers understand this right rather narrowly – in a civil law sense. Hence, when it is violated the victims do not often consider a possibility to appeal to the ECtHR for international public law judicial protection. Furthermore, domestic court practice of applying the ECtHR precedents remains unsystematic, and the mechanism of reference to the precedents is not finalized while in individual cases there is no clear understanding of the reasons of such referencing. Consequently, ***there is still a relevant proposal concerning the need for a presentation of the position of the High Specialized Court of Ukraine for Civil and Criminal Cases on using the ECtHR precedents under Article 1 of Protocol 1 to the Convention in a respective Plenum Resolution.***

2. The European Court of Human Rights recognizes the existence of a positive obligation of the state to introduce an appropriate system guaranteeing the right to property and justice. At the same time, positive obligations of the state also include introduction of efficient and accessible for the applicants procedures not only of judicial protection but also of investigation by the authorized state authorities of complaints about the crimes related to violation of property rights, namely in those cases when a person lost property. ***It is suggested that:***

- ***the Ministry of Interior, the Prosecutor General Office, the Security Service of Ukraine should consider a possibility to use the right to respect for property as a criterion for evaluation of the procedures of criminal proceedings and the respective practice of administration of the law;***
- ***the Ministry of Interior, the Prosecutor General Office, the Security Service of Ukraine should take necessary measures in order to ensure proper investigation of the crimes committed in the East of Ukraine.***

3. International humanitarian law – both contractual and customary – protects civilian persons and objects from damage as a result of an armed conflict. This protection is not reduced to establishing protection of individual categories of property in order to ensure normal functioning of economy during a conflict. On

the contrary, such protection is based on the persuasion that *it is necessary to protect from the consequences of military operations civilian objects and property that are necessary to ensure vital activities of civilians and observation of the individual protection requirements*. Geneva Conventions specifically emphasize the obligation of the state parties to provide such training of individuals from the armed forces that under any circumstances they act in accordance with the IHL [international humanitarian law] norms. A failure to comply with these norms strengthens displeasure of civilian population in the ATO territories with the security agencies of Ukraine, decreases the authority and positive attitude to the Ukrainian government in general.

It is suggested that:

- *military personnel (reservists, draftable individuals) and staff of the Armed Forces of Ukraine, the Security Service of Ukraine, the National Guard of Ukraine, and other military groups created as provided for by law, police officers, ordinary soldiers, commanders, officers of the Ministry of Interior of Ukraine, the State Service of Ukraine on Emergency Situations, the State Penitentiary Service of Ukraine should study the IHL norms;*
- *disciplines on the fundamentals of human rights and basic principles of international humanitarian law should be included in curricula of higher military education institutions (higher educational institutions with specific terms of study);*
- *strict compliance with the requirements of military statutes, the Guidelines for application of the international humanitarian law norms in the Armed Forces of Ukraine should be envisaged in order to ensure that military actions are carried out with unfaltering observation of the IHL norms, the rules of treating the victims of armed conflicts, medical and spiritual personnel of the enemy taking into consideration the specific features of application of the IHL norms in domestic armed conflicts.*

4. The international index of property rights based on the 2015 results evaluated the rights and the possibility of citizens to have and to protect private property in Ukraine as 3.9 out of 10 points. Thus, the rating of our country, unfortunately, is very low: it is in the lowest “red zone” holding the 109th place among 129 countries studied worldwide. More specifically, the IMF places Ukraine among the countries of the lower groups with an average income level. Compared to 2014, indicators characterizing legal and political environment deteriorated, namely: regarding independence of a judicial system, rule of law, political stability and control of corruption. The level of the material property right in general remained at the previous level: property registration became easier and more accessible, however protection of material property rights and accessibility of loans deteriorated. Evaluation of the intellectual property right decreased: protection of intellectual property and protection against “pirate” copies are at a low level; yet, the patent right is rather well protected.

It is suggested that:

- *a respective Resolution of the Plenum of the High Specialized Court of Ukraine for Civil and Criminal Cases “On some aspects of applying Article 1 of Protocol 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms” should be drafted;*
- *judicial practice of examination of cases on protection of property by court should be analyzed and generalized in order to develop a uniform approach to outstanding issues, avoid violation of “reasonable” terms of examination of cases, identify and eliminate the reasons for non-implementation of court decisions;*
- *efficient fight against corruption should be carried out not only at a mundane*

level (ordinary citizens and officials) but also at an official level (government and business) as well as the top level (political leadership and high courts);

- *conditions should be identified and possible actions taken to alleviate the standards for granting loans to households and the corporate sector;*
- *conditions should be identified and efficient actions taken to protect the intellectual property rights, stop production of counterfeit products, ensure transparent distribution and payment of royalties to the authors, control piracy in the Internet.*

5. The armed conflict in the East of Ukraine significantly deteriorates the situation with protection of the property right due to an increased risk of its loss and a significant decrease of the possibility to protect the violated right, including legal means. Besides, simultaneously with propriety, the armed conflict often threatens life and health of people. It is especially obvious in the case of indiscriminate shelling. According to the published information, during the hostilities in the east of our country at least 7, 000 civilians were killed, which is three times more than the number of killed soldiers (at least 2, 300), and the amount of losses resulting from the damaged infrastructure, according to various estimations, varies from 469 million to 15 billion US dollars. *Although no cases of prohibited “bombing of the area” during the military conflict in the east of the country were established, still one has to acknowledge existence of the following violations of the norms of both national and international humanitarian law both by separatists and by the governmental forces.*

- A) *There were cases of non-respect by the conflicting parties of the immunity of civilian objects. Civil objects were used for military purposes and thus were transferred to the category of military objects.*
- B) *During the military conflict in the territory of Donetsk and Luhansk regions direct attacks of the conflicting parties at the military objects caused excessive incidental losses of civilian objects.*
- C) *The conflicting parties not always differentiated civilian and military objects. There were cases of intentional attacks aimed against civilian objects.*
- D) *During the military conflict in the East of Ukraine there were instances of indiscriminate attacks that were not aimed at specific military objects and, therefore, in each of these cases military objects, civilians, and civilian objects were hit without differentiation.*
- E) *During the armed conflict in the East of Ukraine there were indiscriminate attacks during which methods or means of military actions were used that cannot be aimed against specific military objects and thus, in each of these cases, they hit military objects, civilians, and civilian objects without differentiation.*

Regardless of the significance of this problem, so far, no organization has taken the responsibility for identifying the entity guilty of killing civilians and damaging property items. The OSCE Mission to Ukraine, for instance, clearly states that its function is to report the facts of shelling and ceasefire violations, and not to identify the perpetrators. In the best case, the OSCE reports the direction from which a site was shelled without stating who occupies the respective position even when it is known. Hence, it is impossible to identify specific individuals who inflicted the damage for the bringing them to court and restoring justice. *This situation results in bad attitude of residents of the ATO territory to the defenders of the territorial integrity of Ukraine and the state authorities in general developing their feeling of injustice and insecurity, impossibility to protect their violated right because of fear.*

It is suggested that:

- *norms of the Ukrainian criminal legislation should be analyzed to explore the gaps and compliance with the IHL norms in order to ensure efficient persecution*

of persons guilty of separatist activities, indiscriminate shelling, and deliberate attacks;

- efficient investigation and judicial prosecution should be carried out against the persons guilty of delivery of incriminatory attacks and attacks against military objects that caused excessive incidental damage of civilian objects;*
- social and psychological climate in the region should be monitored in order to timely identify the risks of escalation of the accumulated uncertainty, nervousness, and resentment;*
- the most efficient areas of influence should be identified in order to change the distorted perception of a large number of residents of Donetsk and Luhansk region of the reasons, conditions and consequences of the armed conflict, ways to resolve it, and the capacity of the state authorities to solve social problems of the population.*

6. It is a general rule that private property is immune, also during an armed conflict. The purpose of such strengthened protection of the right to free possession of property is to protect from the consequences of military operation the property necessary to ensure vital activities and individual security of civilians as well as to observe the requirement to respect the rights of persons deprived of combat capability, imprisoned, and deceased. The results of our study of various sources (surveys, examination of documents, analysis of the judiciary framework and electronic sources) demonstrate that as a result of the military conflict in the East of Ukraine, almost all victims not only experienced serious psychological stress but also incurred quite significant losses: abduction, injury, or death of relatives and friends; destruction or damage of houses; seizure or robbery of their property; loss of business or employment.

With regard to the mentioned above, illegal actions were committed by all parties to the conflict:

- a) abduction and illegal takeover of property of imprisoned individuals (captured, detained) – illegal detentions of civilians in Donetsk and Luhansk regions by pro-Russian armed groups were often accompanied by brutal violations of human rights (the right to life, peaceful enjoyment of possessions, prohibition of torture and ill-treatment, etc.);*
- b) instances of marauding in a narrow sense of the word (i.e. stealing things from the killed or wounded persons in the battle field) were not found. Instead, it was established that accusations of marauding in wider understanding (i.e. illegal taking of somebody else's property in the atmosphere of impunity, usually in emergency situations – i.e. natural disasters or military actions) referred to virtually all volunteer battalions as well as the soldiers of the National Guard of Ukraine, the Armed Forces of Ukraine, combatants of the so-called DPR and LPR and even local residents;*
- c) seizure and robbery of banks;*
- d) robbery and seizure of business;*
- e) taking away of housing;*
- f) illegal taking of vehicles;*
- g) seizure and robbery of companies;*
- h) making of individual decisions by executive bodies that infringe the right to peaceful enjoyment of possessions.*

Such actions contain the risks of strengthening the feeling of the local population and internally displaced individuals of “financial hopelessness” of their existence; of being discriminatorily treated as the “third grade” people; of displeasure with behavior of soldiers and representatives of the uniformed agencies, action (inaction) of the state authorities.

It is suggested that:

- the Government should stop discriminatory attitude and resume payment of pen-*

sions and other social benefits to residents of the occupied territories, and to ensure that IDPs can receive such payments regardless of the place of their registration. Another efficient mechanism of discovering persons who ineligibly receive various types of assistance from the state should be developed;

- effective investigation should be carried out and criminal prosecution ensured for all persons guilty of abduction and illegal detention as well as extortion, bribery and corruption related to release of the detained individuals;
- effective investigation should be carried out and judicial prosecution ensured for all persons guilty of criminal violation of the right to peaceful enjoyment of possessions;
- normative legal framework should be developed on the procedure for provision of psychological assistance and psychological rehabilitation of victims of the armed conflict.

7. There are instances of violation of freedom of opinion in the occupied territory. Local residents have to leave their homes because of their pro-Ukrainian position. People also experience infringement of their property rights: they cannot use their real estate; individuals, houses, and private businesses are robbed. Internally displaced persons as well as residents of the occupied territory cannot complain to police and court due to the fear for their life or lives of their family members because there are facts of disclosure of confidential information by law enforcement officers to members of illegal armed groups.

It is suggested that:

- the Law of Ukraine “On Temporary Measures for the Period of Anti-Terrorist Operation” № 1669-VII dd. 02.09.2014 should be extended in the part related to exemption from submission of reports and payment of the property tax for real estate other than the land plot owned by an economic entity operating in the territory of the anti-terrorist operation, and persons residing in the anti-terrorist operation zone or displaced during the ATO.

8. Criminal liability for an illegal violation of the right to peaceful enjoyment of possessions during an armed conflict, depending on the status of the conflict, degree of severity, nature and specific features of respective actions can occur in accordance with the norms of international law and the national criminal law. However, until today there is no unambiguous definition of the status of this armed conflict and specific territories controlled by the so-called DPR and LPR. Since Ukraine has not yet ratified the Rome Statute, the International Criminal Court is not able to carry out efficient investigation of individual cases of violation of the international humanitarian law during the war in Ukraine. However, the possibilities of the national criminal law, unfortunately, are limited at the moment. More specifically, such category of crimes that are subject to jurisdiction of the International Criminal Court as crimes against humanity, is not provided for in the Criminal Code of Ukraine. Furthermore, there is still an unresolved problem of appropriate definition of destruction or damage of property resulting from separatists’ shelling: in some cases they are defined as a crime against property under Article 194 of the CC, while in other cases – as a crime against public security under Article 258. The interviewed criminal law experts disagree with this definition.

It is suggested that:

- the status of the military conflict and the specific territories controlled by the DPR and LPR as well as the participants of the conflict should be officially defined;
- discrepancies between the constitutional norms and the Rome Statute should be eliminated;

- *national criminal legislation should be harmonized with the provisions of the Rome Statute, namely the contents of crimes against humanity should be explained, collisions related to non-application of the period of limitation and identification of the maximum duration of punishment in the form of imprisonment should be eliminated;*
- *gaps in the domestic criminal legislation should be eliminated taking the contemporary realities into consideration, namely criminal liability for separatist activities should be envisaged;*

9. *Assessment of the real volumes of the committed criminal violations of the right to peaceful enjoyment of possessions during the armed conflict in the East of Ukraine using statistical data is at present impossible.* The first reason is a significant level of latency of the aforementioned crimes (many of the victims did not contact the police at all because of the lack of trust in their ability to find and punish the perpetrators, and because there were facts of disclosure of confidential information by law enforcement officers to members of illegal armed groups); second, this is a result of the absence of separation of the crimes committed in the ATO zone in statistics reports – there is only information on registration of crimes in Donetsk and Luhansk regions; third, in many cases data on the crimes committed in the ATO zone are registered in other neighboring regions (Kharkiv, Dnipropetrovsk, Zaporizhia); fourth, when checking the statement law enforcement officers can come to a conclusion that there are no sufficient grounds to initiate criminal proceedings. Yet, even the fact of registration of such crimes by itself does not mean restoration of justice and reimbursement of the damage incurred to the victims: according to the available statistics, almost 2/3 crimes remain unsolved. Our analysis of the database of court decisions available from an open source demonstrated that it contains only very few decisions in criminal cases related to the instances of criminal infringement of the right to peaceful enjoyment of possessions during the armed conflict in the East of Ukraine. The share of persons who received a guilty verdict with the real service of sentence is altogether meager, partly due to a humane treatment to the defendants (presence of mitigating circumstances), to a certain extent – resulting from the amendments introduced by the so-called “Savchenko’s Law” to the Criminal Code, according to which the period of pre-trial detention is counted by the court as one day of pre-trial detention being equal to two days of imprisonment.

Such state of affairs entails the risks of development of a feeling of impunity of criminals, loss of the authority of judicial and law enforcement bodies in the eyes of victims of such crimes, of ordinary residents of Donetsk and Luhansk regions, and the entire population of Ukraine.

It is suggested that:

- *necessary measures should be taken to fill the vacant staff positions with competent police officers on a competitive basis;*
- *the most progressive forms and methods of work and management of security forces should be used in activities of police in Donetsk and Luhansk regions, among other things, the results of “Sambir experiment” on improving the response to the reported crimes, restoration of public trust, cooperation with local communities, increasing police presence in the area of provision of services;*
- *revision of disputable aspects of the so-called “Savchenko’s Law” should be considered, and respective amendments or additions should be made.*

10. *As of today at all levels of administration, there is no centralized and systematic collection of information about the damages of residential and administrative buildings. Quite frequently, the subject of disputes is distribution of compensations for the damaged or lost property. Citizens are not always able to find out to whom and which funds were allocated for restoration and compensation for the inflicted damage. This leads to the increase of social tension and displeasure of the local residents with the Ukrainian authorities. There are certain gaps in the legislative framework with regard to compensations, for instance, with regard to the application of Article 1177 of the Civil Code of Ukraine, Part 1 Article 13, and Article 19 of the Law of Ukraine “On Fighting Terrorism”. Provisions of the draft law on amending the Law “On Fighting Terrorism” are recognized disputable and imperfect with regard to compensation of residential property damaged as a result of the ATO (№3434).*

We suggest that:

- *centralized and systematized collection of information about damages of residential and administrative buildings should be organized at all levels of administration of Donetsk and Luhansk regions;*
- *a transparent mechanism of identification and distribution of compensations for damaged and lost property should be developed with mandatory publication of the results on local communities’ web-sites;*
- *gaps in the legislative framework should be eliminated concerning reimbursement for losses inflicted as a result of military actions.*

APPENDICES

APPENDIX A

GUIDELINES FOR PROTECTION IN THE EUROPEAN COURT OF HUMAN RIGHTS OF THE RIGHT TO PROPERTY AND RESPECT FOR HOUSING VIOLATED DURING THE ATO

1. GENERAL REMARKS

In view of numerous violations of the property right and the right to respect for housing of citizens of Ukraine in the area of the anti-terrorist operation (parts of Luhansk and Donetsk regions), namely damage, demolition or destruction of real estate objects (houses, apartments) resulting from military actions as well as the property inside the objects, there is a need to protect the violated rights in the European Court of Human Rights (hereinafter – the Court or the ECtHR).

When submitting an individual application to the ECtHR the applicant can complain about violation of Article 1 of Protocol № 1 (protection of property), Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (right to respect for housing), and about violation of Article 13 ECHR concerning the lack of available and effective domestic remedies.

When preparing an application to the ECtHR that can be lodged independently or through a lawyer, an attorney or a human rights organization, one should carefully describe in detail all the facts that resulted in the alleged violations of the Convention and the Protocol thereto. An ECtHR application form with the respective description of facts and alleged violations that are common for all situations is attached. It has to be duly personalized and specified.

Please note that in an ECtHR application form, only those fields are filled out that are related to the facts and alleged violations as well as the fields that are presumed to be filled out. The applicant or his/her representative has to personalize the form by filling out the remaining empty fields and adding the respective specific data and descriptions the application form section on facts presentation.

General requirements for preparation of the ECtHR applications can be found at: http://www.echr.coe.int/Documents/Application_Notes_UKR.pdf.

2. APPLICANT'S ACTIONS BEFORE LODGING THE APPLICATION

Since in the situation taking place in the ATO zone one can claim there is an “effective control” of the Russian Federation, the application is lodged against two states: Russia and Ukraine.

Russia as the state exercising “effective control” in the parts of Luhansk and Donetsk regions not controlled by Ukraine is responsible for all violations taking place in this territory since, pursuant to Article 1 ECHR, it is obliged to guarantee the rights and freedoms of all persons under its jurisdiction. However, Ukraine also has certain positive obligations under Article 1 ECHR, even if it has no control of the parts of Donetsk and Luhansk regions (for instance, to take all possible steps to regain control of the currently non-controlled territories), and hence the application is lodged against it as well.

Before applying to the ECtHR, the applicant normally **must exhaust all available domestic remedies, i.e. enable the state to correct the violation**. However, as it can be seen from the Court decisions on similar cases, in this situation the only potentially ef-

efficient method of legal protection can be official investigation of the disputed events by law enforcement bodies of Ukraine and/or Russia since only these bodies can establish the respective facts and perpetrators. Although law enforcement bodies should initiate investigation since they know or are supposed to know about the disputed events, the applicant is still required to take certain actions.

In order to exhaust available domestic remedies, the applicant has to submit to the law enforcement bodies of Ukraine and Russia complaints about the crime (see the attached templates) asking them to provide information whether official investigation has been launched and what the results are. If no investigation was launched, it should be stated that in this case the complaint should be seen as a report on the crime and the law enforcement bodies should be requested to inform the applicant on the results of its examination. We recommend you should wait for the response from the law enforcement bodies in both cases (which can take from several days to several months) and then attach the received response to your application.

Since in some cases there may be no response, we recommend you should send your complaints about the crime by registered mail with information on delivery, which will be your proof to the Court that you sent such complaint or that you requested information about the initiated investigation.

If in response to your complaint you received information that based on the results of its examination criminal investigation was launched, we recommend you should wait till the end of this investigation, which can take several months, and after this apply to the ECtHR. If no response comes in several months after submission of the application, you can apply to the ECtHR.

The ECtHR application form requires an explanation why the applicant believes that the potentially single efficient remedy – official investigation by law enforcement bodies – in practice was inefficient, and hence the applicant has no other available efficient remedies guaranteed by Article 13 of the Convention, which exempts the applicant from exhausting any other possible remedies.

On exhausting available domestic remedies:

The applicants have to exhaust only domestic remedies that are available in theory and in practice at the respective time, which they can count on by independently initiating legal proceedings – that is, remedies that are accessible, can ensure compensation with regard to their complaints, and have reasonable chances to be successful (*Sejdovic v. Italy*[GC], §46; *Paksas v. Lithuania*[GC], §75). A national remedy that has no time limits thus creating uncertainty cannot be seen as efficient (*Williams v. the United Kingdom dec.*). Information about acceptance of the application can be found at: <http://precedent.in.ua/?p=1355>.

Available domestic remedies:

Article 1177 of the Civil Code of Ukraine

Property damage inflicted to the property of an individual as a result of a crime is indemnified by the state, unless the person that committed the crime is identified, or in the event when he/she is insolvent. 2. The terms and conditions of indemnification for the property damage inflicted to the property of an individual that became a victim of a crime are provided for by the law.

No such law has been adopted.

Article 19 of the Law of Ukraine “On Fighting Terrorism”

Damage inflicted on citizens by an act of terrorism is compensated from the State Budget of Ukraine as provided for by law, with the following recovery of the amount of compensa-

tion from the persons who inflicted the damage pursuant to the procedure envisaged by law.

Damage inflicted on an organization, enterprise or institution by an act of terrorism is compensated pursuant to the procedure envisaged by law.

Likewise, no law providing for the compensation procedure has been adopted.

Therefore, taking into consideration the ECtHR conclusions in the cases of Esmukhambetov v. Russia, Khamidov v. Russia, and Imakaeva v. Russia, in which the Court with regard to the similar law on preventing terrorism stated that because the norms concerning responsibility for the damage incurred as a result of anti-terrorist operation are general and unclear, and that destruction of property can not be seen as legal interference, and thus this formulation does not provide respective protection to a victim of arbitrary actions of military personnel, one can conclude that the Ukrainian legislation does not contain an efficient way of compensation for the damage resulting from the ATO, and hence there is no obligation to exhaust domestic remedies.

However, this does not mean that the applicant should not appeal to the state authorities at all. This includes, inter alia, courts. You should use your right to fair justice and describe in your complaint all violations stating which damage was inflicted and which domestic norms and international principles provide for this. In the case of a refusal to grant the claim, you have to continue to appeal to the higher court instances even when an application has been already lodged with the ECtHR. In this case, copies of the claim, complaint, and a decision of the national court should be forwarded to the ECtHR to confirm your position described in the application previously submitted to the ECtHR.

3. APPLICANT'S ACTIONS DURING THE APPLICATION LODGING: ESTABLISHING THE FACTS, EVIDENCE AND PROOF

While preparing an application to the ECtHR, special attention should be paid to establishing the facts, evidence and proof.

First, the applicant has to prove his/her identity since some applicants as a result of the ATO actions do not have all documents confirming identity, and the respondent government during the case examination can dispute the applicant's identity. For instance, the respective documents may have been left by a potential applicant inside the property that was damaged/destroyed during the event in question, when he/she was escaping to save his/her life, or the documents may have been destroyed as a result of the events in question.

If for some reason a passport of a citizen of Ukraine or a travel passport is absent, other proof of identity can be: a birth certificate (of the applicant, of his/her children), a marriage certificate, a work record book, an excerpt from a military service card, a driving license or any other document or proof that can directly or indirectly confirm your identity. Normally, the Court recognizes such evidence as sufficient. Therefore, in order to lodge an application with the ECtHR you should have any kind of proof of your identity.

Second, when lodging an application you should also prove that as of the moment of the event in question you owned the respective real estate (apartment, house, etc.) as you state in your application.

The evidence for the purposes of an application under Article 1 Protocol № 1 can be any "sufficient" proof that is deemed valid "at a first glance", and which the respondent government would not be able to convincingly disprove during the Court proceedings. Direct evidence is the copies of original agreements on purchase and sale of real estate, and certificates of the state registration of real estate property. Yet, when these are not available, indirect evidence can be: building permit, certificates issued by the Technical

Inventory Bureau and civil registration offices, confirmations issued by local administrations on the real estate existence, documents for the land plot, excerpts from land or tax registers, documents issued by local administrations, layouts, registration certificate for a house or an apartment, a decision on land allocation, real estate photos, including the photos of damages, paid utility bills, mail delivery notifications, testimony by witnesses, former neighbors and “any other relevant evidence”. With regard to the witnesses who provided no proof of ownership, the Court in some cases established their rights to the property on the basis of other evidence, for instance, confirmation of residence issued by a local administration.

The applicant will also have to explain in the application what happened to the primary title documents for the real estate (if not available), and why the applicant was not able to preserve them (i.e. due to impossibility to return to the apartment in the event of a forced leaving because of military actions), which the Court can take into consideration provided other (though indirect) proof of ownership is available. The Court can also take into consideration a general context of the military conflict in the ATO zone. Therefore, it can consider as valid the applicants’ statement that all the documents that could confirm their ownership rights to the property were destroyed during the military actions in the ATO zone or that they were lost during forced displacement or left inside the property when leaving in a hurry.

However, if you do not attach to your application any proof of your property ownership right, the Court may reject your application. In some cases, the Court stated that the applicant complaining about destruction of his/her property has to provide “at least a brief description of the property”. If you fail to provide any documents confirming your ownership rights or detailed complaints, your application under Article 1 Protocol № 1 will likely be recognized unacceptable.

In general, the Court practice demonstrates a flexible approach of the ECtHR to the evidence that applicants have to provide when claiming their real estate property was damaged or destroyed in the situations of international or domestic military conflicts. The most important thing is that in the very beginning (when lodging the application) you should provide as detailed statements as possible about existence of the property and attach all available documents or evidence that directly or indirectly confirm your ownership of the real estate.

If the applicant proves that he/she owned the real estate there is no need to provide further evidence that he/she lived in it in order to prove that the real estate was the place of “residence” in the sense of Article 8 of the Convention. It is presumed that the applicant lived there, while the respondent government has to disprove it.

Third, when lodging an application you have to prove the fact of damage or destruction of your real estate and property inside it as well as the nature of such damage or destruction. More specifically, the application should contain as detailed description as possible what and who (presumably) caused the damage or destruction of your real estate and property inside it, and you should describe in detail the property that was inside the real estate, and the nature of damage.

In addition to the maximum detailed descriptions and explanations, other evidence can be: photos (videos) of the real estate before and after the events in question, photos (videos) of the real estate interior (property inside it) before and after the events in question, detailed photo- and/or video records of individual interior items or what was left of it, detailed testimony of your neighbors, relatives, friends, etc. If you have any bills (checks, invoices) for the damaged or destroyed property that was inside the real estate, their copies should be submitted to the Court together with the application. If any expert assessment of damage of the real estate or the property is available, it should

also be submitted to the Court together with the application.

The final assessment of material damage as of the moment of lodging the application with the Court is not required since the claims concerning fair satisfaction (that include, among other things, also the claims for compensation of material damage) are submitted by the applicant after the Court informs the respondent governments about the application, together with submission of the applicant's comments in response to the comments of the respondent governments.

In some cases, the Court can require provision of certain evidence on its own (for instance, in one of the recent cases the Court ordered expert analysis by an independent foreign association, which, among other things, stated how many buildings were ruined and described the nature of damage in the applicant's case). Yet, you should not expect that the Court would take these steps since the applicant bears the primary burden of proof, and thus together with your application you have to submit all available evidence of the facts of damage of the real estate and property, the nature and the scope of damage or at least as detailed description of the said above as possible.

4. GENERALIZED RECOMMENDATIONS

Therefore, the algorithm of actions for protection of the rights under the Convention and the Protocol thereto violated during the armed conflict in the ATO zone is as follows:

- a) to write a complaint about the crime to law enforcement bodies of Ukraine and Russia (see Appendices B and C);
- b) to wait for the response;
- c) to collect evidence confirming the identity of the applicant, his/her ownership of the real estate and the property inside it as of the moment of the events in question as well as the evidence confirming the facts of damage/destruction of the real estate and the property inside it, the nature and the scope of damage/destruction;
- d) to prepare an application to the ECtHR – personally or through a representative (lawyer, attorney, human rights organization) using the application form above, which already contains the basic and common for all applications information. You only have to personalize the application by filling out the respective fields of the application or specifying the fields containing information common for all applications;
- e) to attach all collected evidence to the application as well as other necessary documents, including copies of requests to law enforcement bodies, their responses, and in the absence thereof – postal notifications on delivery of your letters to law enforcement bodies;
- f) to send the applications with attachments to the ECtHR by registered mail.

Sample Complaint to Law Enforcement Bodies of Ukraine

Main Investigation Department of the Security Service of Ukraine

33 Volodymyrska Street, Kyiv, 01061

Office of the Prosecutor General of Ukraine

Address: 13/15 Riznytska Street, Kyiv, 01011

From: Full name

Address, phone number

COMPLAINT

On Criminal Offense (as provided for in Article 214 of the Criminal Procedure Code)

I, full name ..., ... year of birth, am a citizen of Ukraine currently residing in ...

On (date) during military activities ... (where and when), namely (describe how) unidentified individuals (or state the alleged perpetrator) damaged/destroyed/ruined the real estate (state and describe) which belongs to me under ownership right as well as the property inside the real estate (state and describe in detail).

Therefore, these facts demonstrate that a crime was committed as provided for in Article 194 of the Criminal Code of Ukraine (deliberate destruction of property by arson, explosion or in any other generally dangerous way that caused property damage on an especially large scale), Part 2 Article 258 of the CC (an act of terrorism that caused significant property damage), Article 258-3 of the CC (creation of a terrorist group or a terrorist organization). Furthermore, I believe that my rights guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the right to respect for housing) and Article 1 Protocol № 1 (protection of property rights) were violated.

Since law enforcement bodies of Ukraine were aware or have to be aware of the described crimes in view of the anti-terrorist operation conducted by the Government of Ukraine in the territory where I live, I am asking you to inform me within the timelines provided for by law whether any official investigation of the aforementioned facts was initiated, and if yes what the results of it are.

If such investigation has not been initiated by law enforcement bodies of Ukraine, then **pursuant to Article 214 of the CPC of Ukraine I request that:**

1. the complaint on the criminal offence committed by unidentified individuals should be registered in the pre-trial investigation register with the preliminary legal classification under Article 194, 258, 258-3 of the Criminal Code of Ukraine, and I should be informed on the number of pre-trial proceedings.
2. pre-trial investigation should be launched to inquire into the fact of destruction/damage of my property, within the framework of which: perpetrators of the crime should be identified, witnesses should be interrogated.
3. I should be recognized as a victim within the framework of the respective criminal proceedings;
4. The results of examination of this complaint should be sent to me at the following address:

.....

Attachments (if available; list and attach to the complaint)

I am aware of criminal liability provided for in Article 383 of the CC of Ukraine.

Date, signature/full name

Sample Complaint to Law Enforcement Bodies of Russia

Investigation Committee of the Russian Federation

2. Tekhnicheskoy Lane, Moscow, Russia 105005

From: Full name

Address, phone number

COMPLAINT On Criminal Offense

On (date) during military activities... (state the exact location) namely (describe how) unidentified individuals damaged/destroyed/ruined the real estate (describe) which belongs to me under ownership right as well as the property inside the real estate (describe).

These facts demonstrate that a crime provided for in Article 167 of the Criminal Code of the Russian Federation (deliberate destruction or damage of property) was committed.

According to the available data, this crime was committed directly or in response to provocation by the participants of “Donetsk People’s Republic”/ “Luhansk People’s Republic”, activities of which are organized and financed by the Russian Federation. Therefore, the Russian Federation by supporting the self-proclaimed DPR/LPR “republic” exercises “effective control” in this region and as such is responsible, according to Article 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, for violation of my rights guaranteed by the Convention and the Protocols thereto.

I believe that the criminal proceedings on this complaint should be carried out in accordance with the CPC RF since the crimes described above were committed in the territory controlled by the RF, which fact is recognized by the world community. Thus, according to the Resolution of the Parliamentary Assembly of the Council of Europe as of 2 October 2014, “Russia provides support to armed rebels in the East of Ukraine, including direct military intervention in the conflict”.

According to Part 1 Article 2 of the CPC RF, “Proceedings on a criminal case in the territory of the Russian Federation regardless of the place of perpetration of the crime are carried out as provided for in this Code if an international treaty of the Russian Federation does not provide otherwise”.

According to Part 1 Article 3 of the CPC RF, “Proceedings on criminal actions perpetrated by foreign nationals or stateless individuals in the territory of the Russian Federation are carried out in accordance with the rules of this Code”.

In view of this, I am asking you to inform me within the timelines provided for by law whether law enforcement bodies of the RF initiated any official investigation of the fact described herein, and if yes what the results of it are.

If such investigation has not been officially initiated, then pursuant to Articles 140, 141 of the CPC RF, I am asking you herewith to:

1. initiate criminal proceedings on the fact of perpetration of the aforementioned crimes;
2. recognize me as a victim;
3. inform me on examination of this complaint and send a copy of the resolution on initiating criminal proceedings to me together with a copy of the resolution on recognizing me as a victim at the following address:

Attachments (if available)

I am aware of the criminal liability as provided for by Article 306 of the CC of the RF for knowingly false denunciation.

Date, signature/full name

QUESTIONNAIRE

for persons who became victims of violent loss
of private property as a result of military activities
in the East of Ukraine

- 1.** Family name, first name, patronymic
- 2.** Gender: a) male; b) female
- 3.** Date and year of birth
- 4.** Place of birth
- 5.** Phone number
- 6.** Current place of residence
- 7.** What was your status at the moment of the loss of your property: a) civilian; b) illegally imprisoned (detained) person; c) legally imprisoned (detained) person; d) wounded, sick; e) other
- 8.** Which property (property right) did you lose (not as a result of shelling):
a) housing (apartment, house, summerhouse) that was taken away; b) non-residential premises (garage, shed,); c) commercial non-residential premises (hotel, restaurant, holiday center, recreation center, office, building for worship and religious activities, trade, industrial, transport, means of communication, medical and health rehabilitation facilities, warehouse, etc.); d) motor vehicle ;
e) financial resources ; f) household appliances ;
i) furniture
j) other personal assets ; k) other
- 9.** Approximate value of the inflicted damage (in hryvnas, taking into consideration the property depreciation factor)
- 10.** Do you know who took your property: a) yes; b) no
- 11.** If yes, specify: a) military person(s) serving in the Armed Forces of Ukraine; b) military person(s) serving in the National Guard of Ukraine; c) member(s) of a volunteer battalion of Ukraine ;
d) military person(s) serving in the Armed Forces of the RF; e) citizen(s) of Ukraine – member of an illegal armed group ;
f) citizen(s) of Russia – member of an illegal armed group ;
g) other
- 12.** How was your property taken: a) secretly stolen when no one was there; b) openly taken by robbery; c) it was a robbery attack with the use of weapons;

d) the owner or another person was illegally detained and kept until the property they demanded was transferred to them; e) illegally (using violence, in the absence of the owner, etc.) prepared the title documents for the property; f) because we left, they openly broke (opened) the doors and took everything they wanted (lived, etc.);
g) other

13. Was anyone's life or health endangered because of it: a) yes; b) no

14. If yes, what was the outcome of it: a) death ; b) bodily injuries
.....; c) torture, beating;
d) other

15. Do you know what happened to your property: a) no; b) it was returned after I paid the ransom; c) they apologized and returned it to me; d) it was brought to the non-occupied territory of Ukraine; e) it was brought to the occupied territory of Ukraine; f) it was brought to the territory of the Russian Federation; g) it is now owned (used);
h) it was later destroyed; i) part of the property was taken away by means of, and what could not be taken was destroyed; j) it is used for military purposes; k) other

16. Did you inform law enforcement bodies concerning illegal taking of your property: a) yes; b) no

17. If no, explain why

18. If yes, then what was done: a) complaint was not accepted; b) complaint was accepted but nothing was done; c) criminal proceedings initiated; d) perpetrator was found and prosecuted;
e)

19. Did you consult with a lawyer (attorney)

20. What would you like to add about the situation with the loss of your private property

21. Do you know the facts of robbery of:

- a) cultural, religious, historical values
- b) property of wounded and sick people
- c) property of deceased people or desecration of dead bodies
- d) imprisoned persons (detained, sent "to the basement")

Thank you for your assistance!

Наукове видання

Біда О. А. , Блага А. Б.,
Мартиненко О. А., Статкевич М. Г.

Гуманітарна катастрофа чи гуманітарна голка –
дві сторони однієї медалі: доступ до гуманітарної допомоги
в умовах збройного конфлікту на сході України

Комп'ютерний дизайн і верстка: Боднар В. А.
Редагування: Буценко А. П.

Формат 60x84 1/8. Ум. друк. арк. 6,05. Тираж ____ прим. Зам. № ____.

Видавнича компанія «КІТ»

вул. Кирилівська(Фрунзе19-21), м. Київ, 04080, тел.: (044) 482-55-16, 482-50-68
Свідоцтво суб'єкта видавничої справи ДК №861 від 20.03.2002 р..